

Employer arranging transportation facility for their employees does not fall under the definition of business

The AAR, Maharashtra in the matter of *M/S. Integrated Decisions and Systems (India) Pvt. Ltd. [Advance Ruling No. GST-ARA-116/2019-20/B-113 dated December 16, 2021]* held that, arranging the transport facility for the employees is not an activity which is incidental or ancillary to the activity of software development, nor can it be called an activity done in the course of or in furtherance of development of software as it is not integrally connected to the business in such a way that without this the business will not function.

Facts:

M/S. Integrated Decisions and Systems (India) Private Limited, (“**the Applicant**”), is engaged in providing software development and support services to its holding company located outside India. The Applicant provides transportation facility to its employees, for which the Applicant avails 'renting of motor vehicles service', 'cab services' through third party. The Applicant initially pays the entire amount to the third party and subsequently recovers the partial amount from the respective employees availing such facility.

Issue:

Whether the partial amount recovered from the employees for facilitating transport would be construed as supply of service by the Applicant?

Held:

The AAR, Maharashtra in *Advance Ruling No. GST-ARA-116/2019-20/B-113 dated December 16, 2021* held as under:

- Analysed Section 7 of the Central Goods and Services Tax Act, 2017 (“**the CGST Act**”), and noted that, the provision of transport facility to the employees by the Applicant is a welfare, security and safety measure and is not at all connected to the functioning of their business. Further, the said activity is not a factor which will take the Applicant's business activity forward.
- Noted that, the Applicant is not supplying any transport or lease/rental of vehicle service to its employees in the instant case. Further, the transport or lease/rental of vehicle service is also not the output service of the Applicant since they are not in the business of providing transport service. Rather, this transport facility is provided to employees by the third party vendors and not by the Applicant.
- Observed that, the GST is discharged on the gross value of bills raised on the Applicant by the third party vendors and the partial amounts recovered by the Applicant in respect of use of such transport facility are a part of the amount paid to the third party vendors which

has already suffered GST. Therefore, the Applicant is not providing transportation facility to its employees, in fact the Applicant is a receiver of such services.

- Held that, the Applicant, arranging the transport facility for their employees is not an activity which is incidental or ancillary to the activity of software development, nor can it be called an activity done in the course of or in furtherance of development of software as it is not integrally connected to the business in such a way that without this the business will not function.

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.