

No GST on issuance of Prepaid Payment Instrument vouchers

The Hon'ble Karnataka High Court in *M/s Premier Sales Promotion Pvt Limited v. Union of India [Writ Petition No. 5569 of 2022 (T-RES) dated January 16, 2023]* has set aside and quashed the order passed by AAAR, Karnataka, which upheld the ruling passed by AAR, Karnataka, ruling that the vouchers are leviable to tax as goods. Held that, the issuance of vouchers is similar to pre-deposit instruments, which have no inherent value of their own and therefore, it does not fall under the category of supply of goods or services. Hence, vouchers being neither goods nor services, are exempted from the levy of tax.

Facts:

M/s Premier Sales Promotion Pvt Limited ("**the Petitioner**") is engaged in the transactions of procuring Pre-paid Payment Instruments of Gift Vouchers, Cash Back Vouchers and E-Vouchers from the issuers and supplying them to its clients for specified face value. The Petitioner's clients issue such vouchers to their employees in the form of incentive or to other beneficiaries under promotional schemes for use as consideration for purchase of goods or services or both. The Petitioner receives orders for supply of vouchers wherein the Petitioner sources vouchers for such clients as per the orders received and acts as an intermediary.

This petition has been filed against the ruling passed by the AAR, Karnataka ("**the AAR**") in the matter of the Petitioner, vide *Advance Ruling No. KAR ADRG 37/2021 dated July 30, 2021* ("**the Impugned Order**"), holding that the supply of vouchers are taxable as goods and the time of supply would be governed by Section 12(5) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") and 18% Goods and Services Tax ("**GST**") would be applicable as per Entry No. 453 of Schedule-III of *Notification No. 1/2017- Central Tax (Rate) dated June 28, 2017* ("**the Goods Rate Notification**"). Further, on appeal, the Impugned Order was affirmed by the AAAR, Karnataka.

The Petitioner contended that, the RBI has issued a master direction on issuance and operation of Pre-paid Payment Instruments, according to which, the vouchers are Pre-paid Payment Instruments which do not disclose the goods and services at the time of issuance, since the goods are not identifiable at the time of issuance, as per Section 12(4)(b) of the CGST Act, the time of supply shall be the date of redemption and the voucher can be considered as an actionable claim defined in Section 2(1) of the CGST Act till it is presented for redemption hence such actionable claim is neither goods nor services as defined in Schedule-III of the CGST Act. Therefore, the Impugned Order passed by the AAR is contrary to law.

Issue:

Whether the vouchers themselves are chargeable to tax at the time of supply or chargeable when goods and services are redeemed?

Held:

The Hon'ble Karnataka High Court in ***Writ Petition No. 5569 of 2022 (T-RES)*** held as under:

- Noted that, as per the definition of 'vouchers' in the CGST Act, they are mere instruments accepted as consideration for supply of goods or services and have no inherent value of their own thus, they would fall under the definition of 'money', defined under the CGST Act, which excludes 'money' from the definition of goods and services and therefore, not leviable to tax.
- Observed that, the Pre-paid Payment Instruments do not permit cash withdrawal, irrespective of whether they are issued by banks or non-banking Companies and they can be issued only with the prior approval of RBI.
- Opined that, the transaction between the Petitioner and its clients is procurement of printed forms and their delivery, which are like 'currency'. Further, the value printed on

the form can be transacted only at the time of redemption of the voucher and not at the time of delivery of vouchers.

- Held that, the issuance of vouchers is similar to pre-deposit and not supply of goods or services, hence, vouchers are neither goods nor services and therefore they are exempted from levy of tax.
- Set aside and quashed the Impugned Order passed by the AAR and the order affirmed by the AAAR.

Our comments:

The taxability of vouchers has always been in cloudiness in the GST regime as well as in the Service Tax regime. Thus, the above judgment has provided much-needed clarity to the taxpayers and businesses.

In this regard, the AAAR, Tamil Nadu in ***Re: Kalyan Jewellers India Ltd. [Order-in-Appeal No. AAAR/1/2021(AR) decided on March 30, 2021]*** had held that, Prepaid Payment Instruments fall under the definition of vouchers, which are neither goods nor services but instrument of consideration for future supply.

Further, the Hon'ble Supreme Court in ***Sodexo Svc India Private Limited v. State of Maharashtra & Others [2016 (331) E.L.T. 23 (SC) dated December 9, 2015]*** had also held that the vouchers are not goods.

Moreover, the Hon'ble Delhi High Court in ***Union of India vs. Delhi Chit Fund Association (W.P. (C) 4512/2012, dated April 23, 2013)*** had held that, a mere transaction in money represents the gross value of the transaction. But what is chargeable to service tax is not the transaction in money itself, since it can by no means be considered as a service.

It is pertinent to note that, if the vouchers are considered as an instrument for payment that means, the same are covered under the definition of 'Money' under the CGST Act, which is specifically excluded from the definition of both "Goods" and "Services" and hence not chargeable to GST. Further, in the service tax regime also, the definition of 'Money' was essentially same as under the CGST Act.

Therefore, as per our view, there should not be any GST implications on the issuance of vouchers in the nature of Pre-Paid Instruments.

Relevant Provisions:

Section 2(52) of the CGST Act:

(52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

Section 2(118) of the CGST Act:

"(118) "voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;"

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