

 सत्यमेव जयते	<b>RAJASTHAN AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX</b>  <b>NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN)</b>	
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ADVANCE RULING NO.RAJ/AAR/2018-19/20

Nitin Wapa Joint Commissioner	:	Member(Central Tax)	
Hemant Jain Joint Commissioner	:	Member(State Tax)	
Name and address of the applicant	:	M/s K. K. Polymers (Prop. Advantage Agency Pvt. Ltd), 201-202, 2 <sup>nd</sup> Floor, Girnar Colony, Gandhi Path, Vaishali Nagar, Jaipur- 302021	
GSTIN of the applicant	:	08AABCA2414Q2ZL	
Clause(s) of Section 97(2) of CGST / SGST Act, 2017, under which the question(s) raised	:	a. Classification of any goods or services or both; b. Applicability of a notification issued under the provisions of this Act; d. Admissibility of input tax credit of tax paid or deemed to have been paid; e. Determination of the liability to pay tax on any goods or services or both; g. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.	
Date of Personal Hearing	:	08.10.2018	
Present for the applicant	:	Shri Hemendra Choudhary, CA (Authorised representative)	
Date of Ruling	:	13.10.2018	

**Note:** Under Section 100 of the CGST/SGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act 2017, within a period of 30 days from the date of service of this order.

The Issue raised by M/s K. K. Polymers (Prop. Adventage Agency Pvt. Ltd) 201-202, 2<sup>nd</sup> Floor, Girnar Colony, Gandhi Path, Vaishali Nagar, Jaipur- 302021 {hereinafter the applicant} is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) (b),(d),(e) and (g), given as under:

- a. Classification of any goods or services or both;
- b. Applicability of a notification issued under the provisions of this Act;
- d. Admissibility of input tax credit of tax paid or deemed to have been paid;
- e. Determination of the liability to pay tax on any goods or services or both;
- g. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Further, the applicant being a registered person (GSTIN is 08AABCA2414Q2ZL, as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the application is '**admitted**' to pronounce advance ruling.

1. **SUBMISSION OF THE APPLICANT:**

1.1 The applicant is a Del Creder Agent (DCA) of Supplier of Goods. The applicant takes order from the customers and places these orders with the Principal (actual supplier of goods to customers and receiver of payments). Collection of payment from customers is the responsibility of DCA.

1.2 Normally, Principal takes Bank Guarantee (BG) and / or Security Deposit against which principal assigns certain limit to the DCA in their system. Within that limit, DCA is allowed to place orders of the customers. At the end of the month, for the orders booked through DCA and goods supplied by the principal, DCA gets the commission from principal for which DCA raises invoices on the principal along with GST.



1.3 If payment is made directly by the DCA before due date (before 10 days credit period) on behalf of customer, the Principal gives Additional Commission to the DCA as per the agreement between Principal and DCA.

1.4 The role of the DCA is to promote the sale and book order and ensure payment to the principal in case of default from the customer. In the entire transaction, neither principal supplies the goods to DCA nor does DCA supply the goods to customers. Goods are directly supplied by Principal to the customers at the price declared by the principal from time to time by charging applicable GST on the invoice. On the due date, the customer pays to principal directly for the material supplied to them. In case of any delay in payment from the customer, principal charges interest along with GST from customer.

1.5 Further, as per the pricing policy of Principal, customers can avail dispatches either on cash or credit (10 days) basis. Wherever the payment is directly made by the customer before due date (before 10 days credit period), early Payment Incentive is given to the customer as per the pricing policy of Principal.

1.6 In case of any delay in supply or any quality issue, it is principal who directly compensates the customer. DCA does not buy, store or sale any material of principal to any customer and therefore there is no transaction of any purchase or sale of goods in his books.

1.7 On some occasions, when the buyer is not in a position to pay to principal on the due date, he approaches DCA to extend short term loan and the loan is extended by the DCA by making payment to the principal on behalf of the customer. The loan is repaid to DCA by the customer along with agreed interest.

1.8 If a customer makes the payment to DCA earlier than 10 days then the customer ask for the reimbursement towards early payment at a predetermined rate, as is being offered by the Principal.



2. **QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT**

Applicant has sought ruling to be pronounced under section 97(2) (a) (b), (d), (e) and (g) of the CGST Act 2017, on the following questions:

1. The amount passed on to the customer by DCA on account of the early payment before credit period allowed by principal as referred in Para 8 of Sr. No. 12 (B) of the application (para 1.8 above). Whether any "supply" arises in this transaction? Who is the supplier and receiver in the transaction?
2. If yes, what will be the classification of such Supply and its HSN/SAC Code and applicable GST Rate?
3. If the transaction is termed as "Supply", whether the aforementioned supply is exempted from Goods and Service Tax under CGST Notification No. 12/2017 Central Tax (Rate) dated 28th June 2017, applicable w.e.f. 01.07.2017, as amended from time to time and corresponding Raj.GST Notification issued by Government of Rajasthan or any other notifications/rules under GST law?
4. If GST is charged by the customer on invoice for such transaction, Whether the dealer/DCA can take credit of the ITC of the GST charged on such supply considering the fact that dealer has outward supply as(i) Commission Agent Service on which GST is paid @ 18% (ii) the Finance in terms of Loan and advance on which interest income arises which is exempt under CGST Notification No. 12/2017 Central Tax (Rate) dated 28th June 2017, applicable w.e.f. 01.07.2017, as amended from time to time and corresponding Raj. GST Notification issued by Government of Rajasthan?

3. **Personal Hearing (PH)**

**3.1** In the matter personal hearing was given to the applicant. Mr. Hemendra Choudhary, CA (Authorised representative) of applicant appeared for personal hearing on 08.10.2018. During the PH he reiterated the submissions made in the application. He was requested to produce



the copy agreement between the DCA and the Customers and also to produce billing commission papers between Reliance and the DCA within two days of hearing. He agreed to provide the documents and requested that the case may be decided on above submission at the earliest.

3.2 In this context, the jurisdictional officer submitted that work of DCA is basically to act as a mediator between the principal and the customer. Further as per policy the principal allows early payment incentives to their customers. As per Section 15(3) of CGST Act:

*“The value of the supply shall not include any discount which is given—*

- (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and*
- (b) after the supply has been effected, if—*
  - (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and*
  - (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.”*

In this case when the payment is made by DCA, the said incentive is given to the DCA which is demanded by the customer from the DCA. It appears that discount offered towards early payment is not a new supply but is part of the original supply between Principal and Customer.

From the above position it appears that the said reimbursement is not covered under the definition of Supply. A similar view has also been taken by the Gujarat Authority for Advance Ruling Goods and Service Tax enclosed with the application for Advance Ruling submitted by the applicant.



**4. Findings , Analysis and Conclusion:**

**4.1** We have gone through the contents of the application filed by the applicant, submission made at the time of personal hearing and comments of the jurisdictional officer and find that the applicant and Reliance Industries Ltd. ( in short RIL) are in agreement vide dated 13.10.2017 for Agreement of Agency on Del Credere Basis. As per pricing policy of RIL dated 15.06.2018 regarding supply of goods for sale, the cash discount of Rs.800/MT/Day is applicable on all grades except plant sweepings and waste grades and will be deducted from the basic price as per price Circular for payment of GST. Further, an additional bonus / discount of Rs. 80/MT/Day is available on early payment made by the applicant or the customer against such supplies made by the RIL, if such payment is made within 10 days of supply of the goods.

**4.2** In normal course of supply between the Customer and RIL, RIL supplies the goods or services to the Customer. If the customer makes the payment against such supply within the specified time limit of 10 days of invoicing, the customer is eligible to claim an additional bonus at the applicable rate. However, if the customer requests the applicant (DCA) to make payment against the supplies of goods on his behalf within 10 days then the applicant can claim additional bonus from RIL, and the applicant is raising invoices for claiming such additional bonus and paying GST thereon.

**4.3** The question arises that when the customer request the applicant to make early payment to RIL against the supplies, the applicant makes immediate payment and the customer also make payment within prescribed time limit of 10 days. In this situation the applicant is required to pass on the bonus to the customer as per rate allowed by the principal. The applicant has sought clarification whether such passing on the bonus is in the nature of any supply.

**4.4** To clarify the situation, the applicant was asked at the time of personal hearing to submit the DCA- customer agreement also. The



applicant vide their letter dated 10.10.2018 submitted that there is no separate agreement with customer in relation to supply of goods or services from the RIL.

**4.5** We are of the view that the transaction made between DCA and the Customer for passing on the specified bonus given by the principal is nothing but an additional discount given for early payment made by the customer. In this case there is only one supply made by the principal to the customer. The additional discount relates to supply already made by the principal and passing on such bonus to the customers by DCA is in the nature of pure agent. However, any amount retained by the DCA on account of early payment is in the nature of supply made to the principal as business support services on which the DCA is already paying GST. When the reply of first question is in negative, there is no need to answer question No. 2, 3 and 4 of the applicant.


4.6 The applicant also sought clarification if GST is charged by the customer on invoice for such transaction, whether the dealer/DCA can take credit of the ITC of the GST charged on such supply considering the fact that dealer has outward supply as (i) Commission Agent Service on which GST is paid @ 18% (ii) the Finance in terms of Loan and advance on which interest income arises which is exempt under CGST Notification No. 12/2017 Central Tax (Rate) dated 28th June 2017, applicable w.e.f 01.07.2017, as amended from time to time and corresponding Rajasthan GST Notification issued by Government of Rajasthan. In this regard we find that invoices can be issued by the supplier of the goods and services only. In the instant case, the customer is recipient of the goods supplied by the principal and any amount due to him can be adjusted by credit notes/ debit notes in relation to that supply. As the customer is recipient of the goods or services, he is not liable to issue invoices in respect of goods or services supplied by the principal. When there is no supply to DCA by customer, the DCA is not entitled to take ITC of GST passed on to the DCA in any manner.




5. In view of the foregoing discussion, we pronounce the ruling as under:-

RULING

1. The additional bonus passed on by the applicant (DCA) to the customer, is not in nature of a supply in accordance with GST Act, 2017.
2. Not applicable.
3. Not applicable.
4. Since, the said transaction is not a supply by the customer; invoice cannot be raised/issued by the customer and if any amount passes on to the DCA in any manner, the DCA is not entitled to take ITC of the said amount passed on by the customer.

  
NITIN WAPA  
Member  
(Central Tax)



  
HEMANT JAIN  
Member  
(State Tax)

**SPEED-POST**

M/s K. K. Polymers  
(Prop. Adventage Agency Pvt. Ltd),  
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Gandhi Path, Vaishali Nagar,  
Jaipur- 302021, Rajasthan.

F.No. IV (4)20/AAR/RAJ/2018-19/102-106

Dated:- 30.10.2018

o/c

Copy to:-

1. The Chief Commissioner of CGST & Central Excise (Jaipur Zone) & Member, Appellate Authority for Advance Ruling, NCR Building, Statue Circle, Jaipur-302005.
2. The Commissioner of SGST & Commercial Taxes Rajasthan & Member, Appellate Authority for Advance Ruling, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur-302005.
3. STO, Special Circle-4, Zone-3, Jaipur, Commercial Taxes Dept., Kar-Bhawan, Jaipur, Rajasthan.
4. Dy./Asstt. Commissioner, CGST Division -G, CGST Commissionerate Jaipur, (GST Range -XXXII) Jaipur.

  
Superintendent