

GIB/MH/NORTH AMERICA/11.07.2018/AAR-265

Advance Ruling Category : Value of Supply

State : Maharashtra

Order No.: GIB/MH/NORTH AMERICA/11.07.2018/AAR-265

Name of Entry :

North America Coal Corporation India Private Limited

Date : 11-07-2018

Breif Issue :

Facts & Issue Of The Case :

North America Coal Corporation India Private Limited is a registered company, filed an application regarding the following issues :

1. Whether liquidated damages that may be awarded to the applicant by the international chamber of commerce ("ICC") qualifies as a supply under the goods and services tax (GST) law, thereby attracting the levy of GST ?
2. If the answer to question NO. 1 is in the affirmative , what should be the time of supply , that is to say , the points of time in which NAAC's liability to pay GST Arises?
3. What should be the value of supply on which GST is payable ,that is to say , whether the applicant is liable to pay GST on amount of liquidated damages claimed and awarded to the applicant under the arbitral award or the amount which is actually received by the applicant after conclusion of the matter before the final appellate authority.

Decision of Advance Ruling Authority :

Decision :

The consideration that may be awarded to the applicant by the International Chamber of Commerce (ICC) qualifies as supply of service as per Section 5 (e) of Schedule II of section 7 (1) of the CGST Act.

The provisions of section 13 of the CGST Act will determine the time of supply in cases of supply of services. In the subject case the liability of tax would arise on applicant as per serial No. 5 (e) of the Schedule II of section 7 (1) of the CGST Act. Time of supply would be determined as per the provisions of Section 13 of the CGST act after the award of arbitration proceedings is given by the Arbitration Tribunal.

The value of supply of the services will be actual liquidated damages cum consideration as decided and pronounced in the award administered by ICC.

