

**GIB/MH/Vishakhar/10.08.2018/AAR-325**

**Advance Ruling Category :** Intermediary Services

**State :** Maharashtra

**Order No.:** GIB/MH/Vishakhar/10.08.2018/AAR-325

**Name of Entry :**

Vishakhar Prashant Bhawe - Micro Instruments

**Date :** 10-08-2018

**Breif Issue :**

**Facts & Issue of The Case:**

The Applicant, “Micro Instruments”, relates to providing services to its Principals at Germany, by way of procuring Purchase Orders (P. O.) from the parties desirous of purchasing advanced type of Laboratory Equipment, by negotiating the terms of supply including fixation of price above the floor price fixed by the Principals (known to the Applicant alone). If Micro can negotiate better price than the floor price, the difference between the floor price and actual price is given to Micro by way of “Commission” in “convertible foreign exchange”.

The applicant, seeking an advance ruling in respect of the following issue.

(i) Whether the “Commission” received by the Applicant in convertible Foreign Exchange for rendering services as an “Intermediary” between an exporter abroad receiving such services and an Indian importer of an Equipment, is an “export of service” falling under section 2(6) & outside the purview of section 13 (8) (b), attracting zero-rated tax under section 16 (1) (a) of IGST Act?

(ii) If the answer to the Q. (i) is in the negative, whether the impugned supply of service forming an integral part of the cross-border sale/purchase of goods, will be treated as an “intra-state supply” under section 8 (1) of the IGST Act read with section 2 (65) of the MGST Act attracting CGST/MGST? And, if so, at what rate?

**Decision of Advance Ruling Authority :**

**Decision:**

It was held that “Micro Instruments”, is covered by the said definition of an intermediary because they are definitely acting as a broker and facilitating the process for sale of materials by their foreign principals to the Indian parties because they locate the customer, negotiate the prices and probably ensure the sale, they also provide for discounts to the said customers, out of the commissions received by them, as mentioned in the PO. It is very clear from the facts of transaction that the applicant is neither providing services nor supplying the goods on their own account.

It was held by the authority that in simple terms “intermediary” can be explained as a firm or a person etc. who acts as a link between parties for the conduction of business, etc. In this case the intermediary services are provided to the recipient located outside India, the inter-state provisions as contained under section 7(5) (c) shall be applicable and hence IGST is payable under such transaction.