

GIB/MH/Bajaj/06.08.2018/AAR-399

Advance Ruling Category : Exemption

State : Maharashtra

Order No.: GIB/MH/Bajaj/06.08.2018/AAR-399

Name of Entry :
Bajaj Finance Limited

Date : 06-08-2018

Breif Issue :

Facts & Issue Of The Case :

The Applicant is a non-banking financial company and is inter alia engaged in providing various types of loan to the customers such as auto loans, loan against the property, personal loans, consumer durable goods loans, etc. All these loans are interest bearing loans.

The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act”] by Bajaj Finance Limited, the applicant, seeking an advance ruling in respect of the following questions:-

- i) Whether the Penal Interest is to be treated as interest for the purpose of exemption under Sr. No. 27 of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, Sr. No. 27 of Maharashtra State Notification No. 12/2017-State Tax (Rate) dated 29.06.2017, and Sr. No. 28 of Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017?
- ii) If the answer to the above is negative, whether the activity of collecting penal interest by the Applicant would amount to a taxable supply under the GST regime?

Decision of Advance Ruling Authority :

Decision :

Exemption for financial transactions under GST laws is only in respect of the interest/discount earned or paid for loans, deposits or advances. If the transaction, as in the subject case deviates from the above the same fails the test of being a “loan”, “deposit” or “advance”, or the consideration is not an interest or discount, the exemption is not admissible.

The amount of penal charges cannot be said to form a part of interest on “loan”, “deposit” or “advance”. It is recovered/imposed only because the loanee has delayed the payment of EMI (which consists of the principal amount and interest amount). This recovery of penal charges is made in view of toleration of the act of the loanee by the applicant and therefore construes as ‘supply’ as per as per Sr. No. 5(e) of Schedule II of the CGST Act and is therefore taxable under the GST Act.