

GIB/MH/Merck/21.03.2018/AAR-410

Advance Ruling Category : Input Tax Credit

State : Maharashtra

Order No.: GIB/MH/Merck/21.03.2018/AAR-410

Name of Entry :

Merck Life Science Private Limited

Date : 31-10-2018

Breif Issue :

Facts & Issue Of The Case:

In the present case, the applicant and the seller entered business transfer agreement for transfer of BPL business as going concern on slump sale basis wherein the applicant has only directed to transfer BPL business or part thereof to its affiliates. The applicant, seeking an advance ruling in respect of the following questions.

- i. Whether applicant's direction to the seller (directed in agreement dated 21 June 2018) for direct transfer of BP business to MSPL and PM business to MPMPL, respectively would qualify as a 'supply between the applicant' and 'MSPL/MPMPL' ?
- ii. If the answer to the above question is 'affirmative' then as the parties are related, even in absence of the actual consideration does the applicant have to attribute a notional consideration and charge GST in line with schedule 1 of GST Act to be compliant?
- iii. If the answer to both the questions are 'affirmative' then as the recipients (MSPL/MPMPL) are eligible to avail full input tax credit then the notional consideration (percentage of the business transfer value) would be only academic and will the invoice value be considered as open market value?

Decision of Advance Ruling Authority :

Decision :

The present case involves provision of service as per para of 5(e) of Schedule-II to Section 7, between related person where the applicant is stating that there is no consideration. In view of this in this case the value is to be determined in terms of Rule 28 of the CGST Rules, 2017.

The value is to be determined as per Rule 28 of the CGST Rules, 2017 and therefore there

is no requirement on our part to answer this question.

Q.3 Not answered in view of answer in respect of Question No 2 above.