

**GIB/KN/KRISH BIOTECH/30.09.2019/AAR-228**

**Advance Ruling Category :** Input Tax Credit

**State :** Karnataka

**Order No.:** GIB/KN/KRISH BIOTECH/30.09.2019/AAR-228

**Name of Entry :**

Krish Biotech Research pvt ltd

**Date :** 30-09-2019

**Breif Issue :**

**Issue & Fact of the Case:**

Whether the activity of technical testing and analysis carried out by KBRPL is liable to Goods and services tax under the provisions of CGST Act

Where the material for testing and analysis is sent from outside India to KBRPL and on which KBRPL carries out testing and analysis and issue certificate based thereon to the person not residing in India, is this supply as per section 7 of CGST Act?

Where the customer providing the material is not residing In India and sends material from outside India to KBRPL in India, for carrying out testing and analysis and issuance of certificate, such an activity is held to be supply as per section 7 where payments are received in convertible foreign currency, whether invoice in terms of section 31 of CGST Act can be issued without charging GST ?

Whether the service is regarded as export of services as per section 2(6) of the IGST Act?

The applicant is KBRPL has a standard practice to execute an agreement with the customers and has provided sample standard agreement. The customer makes available some quantity of material on which testing, and analysis will be carried out. The customer shall also provide material safety data sheet. Material safety data sheet contains the preventive measures of test item such as precautionary measures, first aid measures, fire-fighting measures.

As per clause I of the terms and conditions of the standard agreement, invoicing for such services generally occurs in the following manner, unless otherwise specified

40% of the contract value on confirmation of contract.

30% of the contract value after signing of study

Balance 30% of the contract value after submission of draft report.

As per section 7(a) of the CGST Act, 2017, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

As per section 2(102) of the CGST Act, Services’ means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

As per section 2(52) of the CGST Act, Goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.”

Technical testing and analysis provided by KBRPL may be considered as supply as (a) There is a service involved which is provided by KBRPL to its overseas customers in the form of technical testing (b) There is consideration involved which will be paid by the overseas customer in convertible foreign currency.

supply of service of technical testing and analysis is not specified under N/N 12/2017 CT(Rate) dated 28.06.2017. So, it may not be treated as exempted and therefore, invoice in terms of Section 31 of the CGST Act may not be issued to overseas customers without charging Goods and Services Tax.

The payment is stage wise the activity carried out by the applicant is likely to be a supply of service and not exempted as per notification no 12/2017. As per section 2(6) of the IGST Act 201, the activity satisfies all the conditions as given above.

#### **Decision of Advance Ruling Authority :**

##### **Decision:**

The activity of technical testing and analysis carried out by the applicant is a supply of services under the GST Act.

The activity of technical testing and analysis carried out by the applicant for consideration and supplied to a person outside India is also a supply of service under the GST Act.

The applicant is required to issue a tax invoice.

No advance ruling is given determining whether the transaction is an export of services.