

## Dispute resolving services provided by a forum to the aggrieved persons shall be deemed as a supply of service liable to GST – Maharashtra AAR

15 June 2022



## Summary

The Maharashtra Authority for Advance Ruling (Maharashtra AAR) held that the definition of the term “supply” is an inclusive definition and must be understood as encompassing a wide range of activities. In the instant case, the applicant entertains complaints made by any person or persons against an insurer and decides on such complaints. Hence, it may be understood that services have been rendered to the said persons and therefore can be considered as supply as defined under the GST provisions. The Maharashtra AAR further opined that although the applicant does not receive any fees from the complainants, the funds received by applicant from Life Insurance & General Insurance Councils (Councils) are covered under the definition of “consideration”<sup>1</sup>. Additionally, the AAR held that the activity undertaken by the applicant, whether or not for pecuniary benefit, shall be termed as a business. Hence, the impugned activity undertaken by the applicant is a supply of services and the amounts received by the applicant from the Councils are not exempt from GST.

## Facts of the case

- The applicant<sup>2</sup> is a Quasi-Judicial authority<sup>3</sup> formed with a specific objective. It is an administrative body set up to facilitate the functioning of offices of Insurance Ombudsmen in India.
- The applicant resolves the complaints filed by aggrieved persons who have grievances against the insurance companies. As per rules<sup>4</sup>, the Councils receives funds from the insurer and remit them to the applicant to meet its day-to-day expenses including salaries and other administrative expenses.
- The applicant contended that it renders services on a “No profit & No Loss” basis and there is no commercial aspect in the activities conducted. Thus, the funds received from insurance companies cannot be termed as “consideration” for service. Therefore, the applicant sought an advance ruling on the applicability of GST on services provided by the applicant and whether the payment

received by the applicant from the Councils would be exempt from GST.

## Maharashtra AAR observations and ruling<sup>5</sup>:

- **Decision on complaints amounts to the rendering of service:** The applicant entertains complaints filed by persons who have grievances against the insurer and resolves such disputes with the insurer. Thus, it can be termed as the provisioning of service to the customers. Similarly, the insurance companies, being a party to such disputes are interested in resolving the relevant issues. Hence, even the insurers are availing the services of the applicant. Accordingly, the impugned activity amounts to the supply of service.
- **Funds from Councils can be termed as consideration:** The applicant does not charge any fee from the aggrieved person for resolving their complaints. However, the applicant receives funds from the Councils/ insurer to manage

<sup>1</sup> paid for the supply of services as they come under the scope of ‘by any other person’.

<sup>2</sup> Executive Council of Insurers (ECOI)

<sup>3</sup> Established under Redressed of Public Grievances Rules 1998 & Ombudsman Rules, 2017.

<sup>4</sup> Rule 12(3) of Insurance Ombudsman Rules 2017

<sup>5</sup> No.GST-ARA-77/2020-21/B-73 dated 31 May 2022

their salaries and other administrative expenses. Thus, the funds received by the applicant can be considered as consideration for the supply of services. In the instant case, the payment is not done by the recipient of service but rather by any other person, i.e., Councils.

- **Activities of resolving disputes are liable to GST:** The activity undertaken by the applicant, whether or not for pecuniary benefit, is covered under the definition of business<sup>6</sup>. Further, the services provided by the applicant are not specifically mentioned in the exemption notification<sup>7</sup>. Hence, the activities of the applicant are not exempt. Additionally, amounts received from the Councils are also not exempt from the levy of GST.

### Our comments

In the given case, Executive Council of Insurers (ECOI) receives funds from the Councils/insurer however as such, there is no direct agreement/arrangement between the ECOI and the aggrieved complainants for providing any service. Hence, it may be understood that the amount received from the Councils/insurer has no direct nexus with the grievances resolved by ECOI. Further, since ECOI does not charge any fee from the complainants, then considering the amounts received from the Councils against the activity (being considered as service provided to the Complainants) does not hold good.

Apparently, it seems that Maharashtra AAR has not provided clarity that services provided to whom (services by ECOI to Councils/insurer or services provided by ECOI to complainants) are taxable under GST.

In our understanding, since the complainant and the ECOI are not the related persons, hence any activity between them without consideration should not qualify as supply per se.

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<sup>6</sup> Section 2 (17) of CGST Act 2017.

<sup>7</sup> Notification No. 12/2017-CTR dated 28.06.2017

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