

## Providing free tickets not "supply" unless provided to related or distinct person - Punjab AAAR

26 July 2022



## Summary:

The applicant intended to distribute complimentary IPL match tickets for promotion of business. In this respect, the Punjab Appellate Authority of Advance Ruling (AAAR) held that, sans consideration, the activity of providing free or complimentary tickets is not “supply” as per the Goods and Service Tax (GST) law. Further, such activity is an exempt supply; therefore, there shall be no availment of input tax credit (ITC). However, the provision of such complimentary tickets to a related or distinct person shall fall within the ambit of “supply”.

## Facts of the case

- The applicant<sup>1</sup> has entered into a franchise agreement with the Board of Control for Cricket in India (BCCI) to establish and operate a cricket team in the Indian Premier League (IPL) under the title of 'Punjab Kings.' Furthermore, it intends to distribute match tickets to local governmental authorities/ officials, consultants, etc., to promote business, without any consideration.
- The applicant approached the Punjab authority of advance ruling (AAR) to seek clarity on the applicability of GST on the supply of complimentary tickets on courtesy/promotion of business/public relationships. The AAR had held<sup>2</sup> that the activity of providing complimentary tickets without any consideration would be considered a supply of services<sup>3</sup>, and the applicant would be eligible for ITC thereon. Further, the monetary value shall be the amount of money charged from the person paying for the tickets to avail of the same service.
- The applicant, aggrieved of the decision, has therefore filed an appeal before the AAAR.

## Punjab AAAR observations and ruling<sup>4</sup>:

- **Key elements of supply:** The AAAR stated that two key elements required for any activity or transaction to fall within the ambit of supply are "consideration" and "furtherance of business." In the instant case, although the supply of complimentary tickets satisfies the latter element for the furtherance of business, the element of consideration is missing.
- **Non-monetary consideration:** The AAAR relied on aspect of non-monetary consideration clarified by various authorities<sup>5</sup> and defined in the Finance Act, 1994. There should be sufficient nexus between the supply and the non-monetary payment as consideration, to identify non- monetary consideration. The AAAR stated that even for the consideration in the form of payment in kind, it should not be vague or illusory. Further, there should be an element of reciprocity in it.
- **Activity is “supply” or not:** Since consideration is absent in instant case, the provision of free or complimentary tickets is not supply. However, in case such complimentary tickets are provided to related person or to distinct person, it

<sup>1</sup> K.P.H. Dream Cricket Private Limited

<sup>2</sup> AAR/GST/PB/002 dated 20 August 2018

<sup>3</sup> Clause (e) of Schedule II of the CGST Act, 2017

<sup>4</sup> 01/AAAR/CGST/KPH/2022 dated 1 June 2022

<sup>5</sup> European Court of Justice, Australian Tax office, UK HMRC

shall fall within the ambit of supply, even if there is no consideration.

- **Availability of ITC:** The availment of ITC directly flows with the taxability of the outward supply. The GST act does not provide for availment of ITC where the output supply is either non-taxable, exempt or has been used or deployed for non-business purpose. Further, the activity of providing complimentary ticket is an exempt supply, therefore, no ITC can be availed in relation<sup>6</sup> to the same.

#### Our comments:

The Punjab AAAR has modified the ruling of AAR and discussed GST implications on providing free tickets both to related person and unrelated persons. The AAAR held that activity of providing complimentary/ free IPL tickets is not supply, due to absence of consideration, and thus, will be out of the ambit of GST. However, if such tickets are provided to related person or distinct person, without consideration, then it shall be covered under the net of supply and shall attract GST.

In the present era, business entities provide complimentary tickets for various events to its employees as part of team-building exercise. The present ruling may have widespread ramification and due evaluation shall be required by the entities on taxability for such activities under GST.

Even though the advance ruling is applicable to the applicant and the jurisdictional officer, the authorities may apply the ratio in other cases with similar facts. Hence, the entities planning such activities for its related or distinct persons may foresee such tax implications and revisit their transactions accordingly.

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<sup>6</sup> In accordance with subsection (2) of section 17 of the CGST Act, 2017

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