

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) **Shri. Rajiv Magoo, Joint Commissioner of Central Tax, (Member)**
(2) **Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

GSTIN Number, if any/ User-id		URD
Legal Name of Applicant		The World Economic Forum, India Liaison Office
Registered Address/Address provided while obtaining user id	Building 1, Ground Floor, Reliance Corporate Park, Thane-Belapur Road, Ghansoli, Navi Mumbai - 400 701	
Details of application		GST-ARA, Application No. 11 Dated 03.05.2019
Concerned officer		Asstt. Commr. of CGST & CE, Belapur – IV Division, Commissionerate Belapur.
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Liaison Office
B	Description (in brief)	The Applicant is a liaison office in India which is going to undertake liaison activities thereby acting as a communication channel between the Head Office and parties in India, as per the RBI approval.
Issue/s on which advance ruling required		(v)determination of the liability to pay tax on any goods or services or both (vi)whether Applicant is required to be registered under the Act (vii)whether any particular thing done by the Applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term.
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.



PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

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” respectively] by **M/s. The World Economic Forum, India Liaison Office**, the applicant, seeking an advance ruling in respect of the following revised questions.

(i) Whether the activities carried by the Applicant's Head office located outside India and rendered to the Applicant will amount to supply as envisaged under Section 7 of the Central Goods and Service Tax Act, 2017 considering that the Applicant is not engaged in any business?

(ii) Whether the activities carried by the Applicants Head office located outside India and rendered to the Applicant would be liable to GST in the hands of the Applicant considering that the Applicant is not engaged in any business?

(iii) Whether Applicant would be required to obtain registration in India under Section 24 of the Central Goods and Service Tax Act, 2017 with respect to activities carried out by the Applicant's Head office located outside India and rendered to the Applicant considering that the Applicant is not engaged in any business?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant is as under:-

1. *The World Economic Forum (WEF) is a public interest, not-for-profit organization set up in 1971 and based in Switzerland, operates as an independent international organization committed to improving the state of the world by engaging business, political, academic and other leaders of society to share global, regional and industry agendas.*
2. *The WEF's strategy is to bring together the most relevant leaders from all sectors of global society, and identify the best ways to address the world's most significant challenges. The World Economic Forum helps create awareness and co-operation and creates impact by gathering leaders from business, government, international organizations, academia, civil society and youth to work together to drive positive change. The WEF helps shaping mindsets and agendas and publishes flagship reports,*

policy frameworks and strategies which in turn influence government priorities, business strategies and public opinion. It also helps in driving a collective action. The projects and collaborations started or supported by the WEF impact millions of people, from saving lives through childhood vaccination to improving the productivity of small-scale farms.

3. The WEF is primarily engaged in promoting global well-being and finding solutions to problems which are a global agenda and focuses on the following key areas:

a. Mastering the Fourth industrial revolution: Over the next decades, the world will witness changes tearing through the global economy with an unprecedented speed, scale and force which will transform the entire systems of production, distribution and consumption. The activities of the WEF are focused to address the ways these changes would affect the entire world and their impact on future generation. This would also include reshaping the economic, social, ecological and cultural contexts

b. Solving the problems of the Global Commons: The WEF is focused to tackle global problems with new models of public-private cooperation and the application of breakthrough science and technology solutions.

c. Addressing global security issues: Another focus area of includes developing strategies for leaders to respond to the rapidly changing security landscape

4. In relation to one of the key focus areas, The WEF has established The World Economic Forum Centre for the Fourth Industrial Revolution in San Francisco (WEFC), which is a new area for global cooperation and is an integral part of the its strategy which will support its ongoing initiatives. The WEF is working to speed up the benefits of science and technology for society and has created a global hub of expertise, knowledge-sharing and collaboration in San Francisco to achieve this objective. The Fourth Industrial Revolution is transforming entire systems of production, distribution and consumption, providing opportunities for new value creation through game-changing technologies. In the Centre for the Fourth Industrial Revolution Network, various projects cover the following areas of technological innovation:

- Artificial Intelligence and Machine Learning;
- Internet of Things and Connected Devices;



- *Blockchain and Distributed Ledger Technology;*
- *Autonomous and Urban Mobility;*
- *Drones and Tomorrow's Airspace;*
- *Precision Medicine*
- *Fourth IR for the Earth*
- *Data Policy*
- *Digital Trade*

5. *Applicant is the Indian office of The WEF, established as Liaison Office ('LO') to assist the WEF to undertake the Fourth Industrial Revolution activities in India to encourage, develop and facilitate cooperation activities in the fields of common interest associated with readiness for the said Revolution, pursue research and develop and deploy policy principles & regulatory framework. The LO is the same legal entity as WEF, Switzerland.*



6. *In this regard, the WEF has been granted permission from Reserve Bank of India ('RBI') as per the Foreign Exchange Management (Establishment in India or a branch office or a representative office or a project office or any other place of business) Regulations, 2016 ('FEMA Regulations') framed under the Foreign Exchange Management Act, 1999. The LO is set up at Navi Mumbai - 400 701, subject to various conditions.*

7. *The Applicant proposes to undertake liaising activities and act as a communication link between the HO and the companies in India to undertake the Fourth Industrial Revolution activities in India. The Applicant proposes to carry out the following activities:*

- a. *To represent The WEF/its group companies in India;*
- b. *To act as a communication channel between The WEF/its group companies and Indian entities, to identify potential members in India for WEF's programs and to facilitate meetings with such potential members/applicants in India;*
- c. *To assist The WEF's participation in undertaking socially useful projects;*
- d. *To promote collaborations between The WEF and entities in India and globally;*
- e. *To assist The WEF in making efforts to increase awareness in India about its programs and global agendas; and*

f. To carry out activities that may be connected to and/or incidental to the Centre for the Fourth Industrial Revolution (C4IR) by co-designing and implementation of policy and governance pilots aligned with the C4IR, including pursuing research, developing and deploying policy principles and regulatory framework for such C4IR activities.

The above is evident from the application made to the RBI for the setup of LO in India and the resultant permission granted by the RBI, included under Exhibit 2.

8. Except the proposed liaison work as mentioned above, Applicant shall not undertake any other activity of trading, commercial or industrial nature nor shall it will enter into any business contracts in its name in view of 'Master Circular on Establishment of Liaison /Branch/ Project Offices in India by Foreign Entities' bearing reference no. 7/2015-16 dated 01 July 2015 (Master Circular No. 7/2015-16 dated 01 July 2015'). The said Circular refers to Notification No. FEMA 22/2000-RB dated 3 May 2000 ('Notification No.22') notifying the FEMA regulations for establishment of a LO in India under the powers conferred by Section 6(6) of the Foreign Exchange Management Act, 1999.

9. Further, as prescribed by the Master Circular No. 7/2015-16 dated 01 July 2015 and Notification No 22, entire expenses of the Applicant in India will be met entirely through inward remittances of foreign exchange received from The WEF located outside India.

10. In relation to the remittance received by the Applicant from the WEF located abroad, there is no supply since it is neither engaged in any business activity nor is it permitted to execute any business contracts in its own name without RBI's prior permission. There is no consideration/fees charged or any other remuneration received/earned by the Applicant and the remittance received from the HO is only for meeting expenses of the Applicant as per master circular no. 7/2015-16 dated 01 July 2015.

11. Further, the Applicant submits that for the purpose of operating the LO in India, the HO outside India assists in support of human resources, recruit employees in India in order to launch the LO operations in India, IT support to set up necessary infrastructure, advise on any accounting, internal control processes, project coordination, and other management guidance for the C4IR India Management team. As the said activities are in relation to set up and administration of the LO office and the RBI permissible activities that it undertake viz liaising in nature and does not involve any business activities.

12. *It would be relevant to highlight that other than the funding of expenses received from HO (as per RBI regulations) for undertaking the liaising activities, there is no other income received or payment made by the LO to the HO.*
13. *It is a settled position under the GST law that the liaising activities undertaken by an Indian liaison office for its overseas HO is not liable to tax given that it is a not in relation to furtherance of business or commerce. Since the LO is restricted under the RBI regulations to undertake any activities other than of liaising (i.e. acting as a communication channel between its head office and parties in India), the same is not a taxable supply under Entry 2 of Schedule I of the CGST Act and accordingly, there is no requirement to register and pay GST.*
14. *Applicant is specifically seeking ruling for the case where the above-mentioned support extended by the HO located outside India to the Applicant in India for setting up the LO and in administration of the liaising operations. As mentioned, there is no consideration that is being charged by the HO to the LO for the same. Entry 4 of Schedule of the CGST Act creates a deeming fiction for taxing imports made by a person in India from a related person or from any of his other establishments outside India, in the course or furtherance of business, without any consideration.*

APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS, AS THE CASE MAY BE, IN RESPECT OF THE QUESTIONS(S) ON WHICH ADVANCE RULING IS REQUIRED

- Q1. *Whether the support extended by the HO located outside India to the Applicant in India in relation to set up and operation of the LO in India (for carrying out its liaising activities) without any consideration would qualify as 'deemed supply under Entry No. 4 of Schedule / of the Central Goods and Services Tax Act, 2017 ('CGST Act') and thus be liable to tax?*

POSITION IN LAW AND APPLICANT'S UNDERSTANDING OF THE SAME

1. *The applicable statutory provisions are outlined herein below for ease of reference : -*
 - a. Section 7 of the CGST Act (amended) defines the supply as follows:
 - (1) *For the purposes of this Act, the expression "supply" includes*
 - (a) *all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;*

(b) import of services for a consideration whether or not in the course or furtherance of business, and

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;'

b. Schedule of the CGST Act provides list of activities which are to be treated as supply even if the same is made without any consideration:

'Activities to be treated as supply even if made without any consideration:

1. *Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.*
2. *Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business: Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.*
3. *Supply of goods (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.*
4. ***Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.***

c. Section 2(102) of the CGST Act defines the term 'services' as follows:

"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"

d. Section 2(17) of the CGST Act defines the term 'business' as follows:

"business" includes –



- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business,
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members,
- (f) admission, for a consideration, of persons to any premises,
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club, and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities,



2. Section 7 of the CGST Act inter alia provides that the expression 'supply' includes the supplies specified under Schedule 1 of the CGST Act made without consideration. Entry 4 of Schedule of the CGST Act includes **import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business**. Thus, in view of the facts of the present case, in order to specifically qualify an activity as 'supply' under Entry No. 4 of Schedule I, the following key conditions are required to be fulfilled:
- (i) There should be a service imported into India;
 - (ii) The services should be received from a related person' outside India;
 - (iii) The service is provided without consideration, and

(iv) **The said import of service must be in the course or furtherance of business**

3. In applicant's view, the fourth condition as stated above is not being satisfied in the present case because the Applicant does not carry out any business activity in India.

4. **Applicant established in India does not conduct 'business' as defined under the CGST Act**

4.1. Under the GST regime, any form of 'supply' is liable to tax provided it qualifies under the meaning of 'supply' prescribed under Section 7 of the CGST Act. One of the essential requirements to be met for any activity to qualify as 'supply' is that the same should be in the course or furtherance of business'.

4.2. Applicant submits that its activities to be carried out, do not get covered under the definition of 'business' under the CGST Act. An extract of the definition of 'business' provided under Section 2(17) of the CGST Act has already been mentioned above.

4.3. From the above definition, in order to qualify as 'business', the applicant's activities should fall within the scope of sub-clause (a) and (b) of Section 2(17) of the CGST Act.

The commonly referred dictionary definitions have been produced below to understand the scope of the terms 'trade', 'commerce', 'manufacture', 'profession' as used in sub-clause (a) and (b) of Section 2(17) since the same has not been defined under the CGST Act.

Trade:

As per Words and Phrases Legally Defined' 3rd Edn – **trade in its primary meaning is the exchange of goods for goods or goods for money** and in its secondary meaning it is any business carried on with a view to profit, whether manual or mercantile, as distinguished from the liberal arts, or learned professions and from agriculture.

Commerce:

As per the Black's Law Dictionary - **commerce is exchange of goods and services, especially on a large scale involving transportation between cities, states and nations.**

As per the Concise Oxford Dictionary - **commerce is exchange of merchandise, especially on a large scale**

Profession:



As per the Black's Law Dictionary, profession means A vocation requiring advanced education and training especially one of the three traditional learned professions - law, medicine, and the ministry.

As per the Concise Oxford Dictionary - profession means among other things, vocation, and calling, especially one that involves some branch of learning or science, as the learned profession (divinity, law and medicine). A profession is normally associated with the exercise of intellectual or technical equipment resulting from learning or science.

Manufacture:

Section 2(72) of the CGST Act defines manufacture as processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use.

4.4. In order to draw a line of difference between the nature of activities construed as 'business' under the GST legislation and the applicant's activities, the activities proposed to be carried by the Applicant are provided below in brief:

- a. Representing and acting as communication link between the HO and the Indian entities to identify and source potential members;*
- b. To assist the HO in participating in social projects, promote its collaborations with entities in India and globally, and increasing awareness in India about its programs and agendas;*
- c. To carry out activities in connection to the CHIR, such as research, developing and deploying policies and regulatory framework.*

4.5 It is clear that the proposed activities of the Applicant do not fall under any of the clauses under the definition of 'business' as explained below:

Extract of the definition of business'	Submission of the Applicant
<i>(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;</i>	<ul style="list-style-type: none"> <i>• As per the meaning of the term 'trade (explained above), it involves an exchange of goods whether or not for any profit. In the case of the Applicant, there are neither any goods, nor any exchange of the same.</i> <i>• The term 'commerce' as provided above means exchange of goods on a large scale which therefore means that commerce is nothing but</i>



	<p>an extension of trade. Thus, where there is no trade, there cannot be commerce in the case of the Applicant.</p> <ul style="list-style-type: none"> • Profession is a form of business resulting from the exercise of a skill or mere intellect for e.g. a painter uses his skill in his vocation; a doctor uses his intellect and skill in his profession. In the case of the Applicant, there is no skill or intellect required on the basis of which activities are performed. The Applicant merely acts as a communication link to enable liaising between the HO and the Indian entities • Also, the Applicant is clearly not engaged in the manufacture of any goods or office products • The Applicant is not engaged in any 'vocation' or 'adventure' since the activities are strictly regulated by the RBI and are in relation to mere liaising for the HO outside India. Thus, there is also no kind of 'wager in the activities carried out by the Applicant. • Further, the term 'any other similar activity' should be read to include activities in the same context as that specifically included in the definition (as per the rule of ejusdem generis). In that sense, the activities carried out by the LO shall not get covered under the term 'any other similar activity' since liaising or similar services find no place under the terms explained above.
<p>(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a); (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;</p>	<ul style="list-style-type: none"> • Since the activities of the Applicant do not fall under clause (a) of the definition of business, they shall not get qualified under clauses (b) and (c), as clauses (b) and (c) include activities that are ancillary or in connection to activities in clause (a) Applicability of clauses (b) and (c) pre supposes the existence of a trade or commerce etc. which is absent in the case of the Applicant. If the main activity is not business, then any incidental or ancillary activity would not amount to business.

<i>(d) supply or acquisition of goods including capital goods and services in connection with commencement or not closure of business,</i>	<ul style="list-style-type: none"> • Clause (d) of the definition of business does not cover the activities of the Applicant since the Applicant is engaged in the commencement or closure of business. • The Applicant is not conducting any business in India as submitted above and hence would not be covered under the said clause.
<i>(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;</i>	<ul style="list-style-type: none"> • Clause (e) of the definition of business does not cover the activities of the Applicant since the Applicant is not a club or an association or a society of members.
<i>(f) admission, for a consideration, of persons to any premises;</i>	<ul style="list-style-type: none"> • Clause (f) of the definition of business does not cover the activities of the Applicant since there is no admission to any premises.
<i>(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;</i>	<ul style="list-style-type: none"> • Clause (g) of the definition of business is not relevant since the Applicant is not a holder of any office
<i>(h) services provided by a race club by way of totalizator or a license to book maker in such club; and</i>	<ul style="list-style-type: none"> • Clause (h) of the definition of business is not relevant since the Applicant is not a race club.
<i>(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;'</i>	<ul style="list-style-type: none"> • The Applicant is not a Central Government, State Government or a local authority and thus clause (i) is not relevant.

4.6. Based on the above, it is clear that the Applicant does not conduct any business in India and accordingly, its activities do not fall under the definition of business' provided under Section 2(17) of the CGST Act.

5. **The Applicant which is established in India as LO is not permitted to conduct any business in India as per the RBI guidelines**

5.1. As mentioned earlier, establishment of a LO in India is governed by Notification No. 22 and the Master Circular no. 7/2015-16 dated 01 July 2015 issued by the RBI. The FEMA Regulations, define the term 'Liaison Office' as under:-

"Liaison Office' means a place of business to act as a channel of communication between the Principal place of business or Head Office by whatever name called and entities in

India but which does not undertake any commercial /trading/ industrial activity, directly or indirectly, and maintains itself out of inward remittances received from abroad through normal banking channel;'

5.2. *The definition of a LO provided under the regulation itself restricts the LO from conducting any commercial/ trading/ industrial i.e. manufacturing activities directly or indirectly in India. In this regard, it is to be noted that trading/ commercial/manufacturing activities which form the definition of 'business' under the CGST Act are expressly denied for a LO as per RBI Master Circular No. 7 dated 01 July 2015.*

5.3. *Further, the said Master Circular No. 7 dated 01 July 2015 makes it clear that the LO is not permitted to undertake any business in India and earn any income. Further, the same is further evident from the fact that the said Circular also makes it clear that the expenses of the LO are to be met entirely through inward remittances received from the HO. Relevant extract of the RBI Master Circular no. 7 dated 01 July 2015 below for ease of reference.*

"A Liaison Office (also known as Representative Office) can undertake only liaison activities, i.e. it can act as a channel of communication between Head Office abroad and parties in India. It is not allowed to undertake any business activity in India and cannot earn any income in India. Expenses of such offices are to be met entirely through inward remittances of foreign exchange from the Head Office outside India. The role of such offices is, therefore, limited to collecting information about market opportunities and providing information about the company and its products to the prospective Indian customers. Permission to set up such offices is initially granted for a period of 3 years and this may be extended from time to time by an AD Category I bank."

5.4. *Further, the aforementioned regulations of the RBI also prescribes activities permitted to be undertaken by a LO set up in India. We have reproduced the relevant section of the RBI Master Circular no. 7 dated 01 July 2015 below for ease of reference:*

"A Liaison Office can undertake the following activities in India:

- i. Representing in India the parent company / group companies.*
- ii. Promoting export/import from/to India.*

iii. *Promoting technical/financial collaborations between parent/group companies and companies in India.*

iv. *Acting as a communication channel between the parent company and Indian companies.”*

5.5. *It is to be noted that the above mentioned activities have also been listed under Schedule II of the Foreign Exchange Management (Establishment in India of branch or office or other place of business regulation), 2000 issued vide Notification No. 22.*

5.6. *It can be seen from the facts (para 5 above) that the activities conducted by the Applicant are exactly within the realm and in line with the activities permitted under the regulations.*

5.7. *Further, as per the instructions of the RBI's Master Circular no. 7/2015-16 dated 7 July 2015, where a LO is to undertake any additional activities, the said LO is required to make an application for the same. In this relation, the Applicant submits that it had made no such application and accordingly, it is limited to the activities as mentioned above.*

5.8. *Activities of the applicant falls under the prescribed list of activities provided by RBI. Further, RBI has issued the license to the Applicant permitting establishment of the LO in India. Hence, it is clear that Applicant does not conduct any commercial / trading / industrial activity, directly or indirectly as per the instructions of the RBI's Master Circular no. 7/2015-16 dated 7 July 2015 and hence does not conduct any business in India.*

6. *The Applicant relies on rulings of the Authority of Advance Ruling in similar cases*

6.1. *Recently, advance ruling issued by the Tamil Nadu Authority of Advance Ruling in the case of M/s Takko Holding, has evaluated the taxability of services provided by the LO set up in India and consequently the need to register the LO under GST.*

6.2. *In the case of M/s Takko Holding, similar to the present case, the LO of Takko Holding in India was carrying out liaising activities with the prior permission of the RBI and acting as a communication channel between parent company and Indian company. The following were the activities being carried out by the LO in India:*

a. *Order enquiries are received from German office and sent to the supplier in India for their price quote;*

b. *Prices are collected from various suppliers, and informed to German office;*

- c. German office confirms the order for the supplier with lowest price quote deliver terms;
- d. The order production process is followed by Merchandising Department (collecting data for each stage of the progress till the execution of order) and communicated to German office;
- e. The Quality Department audits / monitors the quality parameters of the merchandise on continuous basis until the final inspection of the merchandise & shipment and communicates with the Supplier and the German office
- f. The Shipping Department coordinates with German office and supplier for opening of Letter of Credit in the supplier's name, submission of document for booking space with the shipping company and send the final documents to German office through the respective supplier after effecting the shipment;
- g. Admin Department coordinates for the overall administration of Takko;
- h. All the administrative expenses are met by the German office. (i.e. as per RBI instruction in their approval; the entire expenses of the office in India is met exclusively out of the funds received from abroad through normal banking channels).

6.3. As stated above, the LO of M/s Takko Holding only undertakes the activities as approved by the RBI and does not undertake activity of trading, commercial or industrial nature nor does it undertake any business contract in its own name. There is no separate consideration charged for the liaising services provided by the LO, nor any other remuneration/income is earned by the LO in India.

6.4. The Authority of Advance Ruling in the said case, ruled in favour of the applicant stating "From the submissions made by the applicant as discussed in above paras, it is seen that the applicant/ the liaison office is working as per the terms and conditions stipulated by RBI and the reimbursement of expenses and salary of the employees is paid to the LO. No consideration for any activity is being charged by the liaison office and the liaison office does not have any business activities of its own as specified by RBI. thereby accepting the fact that since liaison office is a restrictive set up regulated by the RBI and is not permitted to conduct any business ie activity of trading, commercial or industrial nature and hence it cannot be said to be conducting any business in India and there is no supply of service."

6.5. Further, the said Authority held that the LO and HO are not distinct persons. Relevant extract of the ruling is as under:

“Further, Schedule / of CGST Act specifies that supply of services between related parties or distinct persons as per Section 25, even without consideration, constitute a supply. Takko is acting as an extension of the German Office in its procurement activities from suppliers in India as has been spelt out in the RBI permission letter. Hence, they are neither related nor distinct persons, but are in fact working as employees of the foreign office. Accordingly, none of the liaison activities of Takko is covered under the definition of supply. Hence, Takko would not be a supplier under CGST/SGST Act and hence is not required to obtain registration under Section 22 of CGST/SGST Act or pay CGST, SGST or IGST as applicable.”

6.6. Based on the above, it is clear that as far as the LO performs activities within what has been permitted by the RBI guidelines, the same would not be considered as a business.

In this relation, the Applicant submits that it does not perform or conducts any activities apart from what has been permitted by the RBI and hence the same should not be considered as a business.

6.7. Similarly, the Rajasthan Authority of Advance Ruling in the case of M/s Habufa Meubelen has also ruled that since the liaison office is strictly prohibited to undertake any activity of trading, commerce or industrial nature, the liaison cannot be said to be providing any taxable supplies and hence are not required to get registered under CGST Act.

6.8. Given the above, the Applicant wishes to place reliance on the aforementioned rulings in submitting that the Applicant in the present case cannot be said to be engaged in any business whatsoever, by regulation.

6.9. Based on the above, the Applicant submits that since it is not permitted to conduct business in India and its activities do not qualify as a 'business' as defined under the CGST Act, any support service extended from the HO outside India to the Applicant without consideration would not be covered under the deeming fiction created by Entry No 4 of Schedule I in absence of it being in furtherance of business and thus would not qualify as 'supply' in the first place.

7. **Decisions/Rulings of the erstwhile VAT laws bring out the interpretation of the taxing statutes**

7.1. The Applicant submits that the definition of the term 'business' under the erstwhile sales tax laws is similar to that of the definition under the CGST Act. The definition of 'business' as defined under Section 2(5A) of the Bombay Sales Tax Act, 1959 has been produced below for your reference:

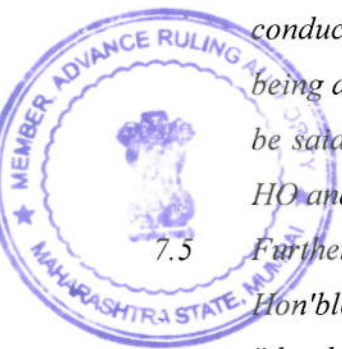
“5A) "business" includes any trade, commerce or manufacture or any adventure of concern in the nature of trade, commerce or manufacture whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern or trade, commerce or manufacture and any transaction in connection with, or incidental or ancillary to such trade, commerce, manufacture, adventure or concern and any transaction in connection with, or incidental or ancillary to the commencement or closure of such trade, commerce, manufacture, adventure or concern;

Explanation: - For the purposes of this clause,

- (i) the activities of raising of man-made forests or rearing of seedlings or plants shall be deemed to be business;
- (ii) "any transaction of sale or purchase of capital assets pertaining to such trade, commerce, manufacture, adventure or concern shall be deemed to be business and the expression "capital assets" shall have the same meaning as assigned to it in the Income Tax Act 1961;
- (iii) Purchases of any goods, the price of which is debited to the business shall be deemed to be the purchases effected in the course of business."
- (iv) sales of any goods the proceeds of which are credited to the business shall be deemed to be the sales effected in the course of business,"

7.2. Given the above, it can be seen the definition of business under the sales tax laws with that under the GST legislation are similar. In this relation, the Applicant wishes to draw attention to judicial decisions passed under the erstwhile VAT laws wherein the ambit of business has been analyzed.

- 7.3. *In this relation, the Applicant refers to the ruling of the Bombay High Court in State of Bombay Vs. Ahmedabad Education Society where an education society was entrusted with the task of founding a college and for that purpose it was to construct buildings. The ruling held that, **having regard to main activities and its objects, it was held that the educational society was not established "to carry on business"** and the sale of bricks was held not excisable to sales tax. The Hon'ble Judge pointed out that it was not merely the act of selling or buying etc. that constituted a person a "dealer" but the "object" of the person who carried on the activities was important. **It was further stated that it was not every activity or any repeated activity resulting in sale or supply of goods that would attract sales tax. If legislature intended to tax every sale or purchase irrespective of the object of the activities out of which the transaction arose, then it was unnecessary to state that the person must "carry on business" of selling, buying etc.***
- 7.4. *In view of the same, the Applicant submits that in the present case, its intention is not to conduct any business but to promote the mission and activities of its HO ie global well-being and finding solutions to problems which are a global agenda, which in itself cannot be said to be 'business'. The Applicant merely acts as a communication link between the HO and the stakeholders in India.*
- 7.5. *Further, in the case of Deputy Commissioner vs South India Textile Research?, the Hon'ble Madras High Court ruled that:*
- "the definition of the term "business" contained in Section 2(d) of the Act. It is true that the said definition is a wide one. According to the said definition, "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture. **However, where an organization is constituted solely and exclusively for the purpose of carrying on research, the purchase of products by the said organization for the purpose of carrying on its research and the sale of the resulting products by the said organization cannot be said to be in the nature of trade or commerce so as to bring it within the definition of the term "business" contained in Section 2(d) of the Act. A copy of the judgment has been annexed herewith as Exhibit 6.***
- 7.6. *The Applicant extends the ruling of the above case to its case to submit that if at all any services are used for the liaison activities conducted by the Applicant in India, the same*



cannot be said to be carrying out any business since the Applicant is sole engaged in promotion and liaising activities for the HO.

8. **Conclusion - The Applicant is not liable to discharge tax in case of support activities extended by the HO to the Applicant in India without any consideration**

8.1. From the above submissions, the Applicant wishes to conclude that there is a specific entry carved under Schedule 1 (supplies made without consideration) of the CGST Act, to tax import of services by a person from a related person or from any of his other establishments outside India, **in the course or furtherance of business**. However, in absence of the said activity being in the course of business or furtherance of business, the activity cannot be said to be a supply taxable under Schedule I.

8.2. Thus, in the facts of the present case, the Applicant submits that since it does not carry out any business in India, in case where support services are identified to be extended by the HO outside India to the Applicant in India without any consideration, the service should not be made liable to tax as a taxable supply under Entry 4 of Schedule 1 of the CGST Act.

8.3. Notwithstanding the above, the Applicant submits that in absence of consideration the services imported by the Applicant from the HO cannot even be levied to tax under Section 7 of the CGST Act since 'consideration' is an essential element for qualifying an activity as 'supply' under Section 7 of the CGST Act.

Q2. Whether Applicant be required to obtain registration under Section 24 of the CGST Act?

POSITION IN LAW AND APPLICANT'S UNDERSTANDING OF THE SAME

9. The applicable statutory provisions have been outlined herein below for reference: -

Relevant extract of Section 24 of the CGST Act

"24. Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons **shall be required to be registered under this Act, -**

(i) persons making any inter-State taxable supply;

(ii) casual taxable persons making taxable supply;

(iii) persons who are required to pay tax under reverse charge;

(iv) person who are required to pay tax under sub-section (5) of section 9;

(V) non-resident taxable persons making taxable supply;

(vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;

(vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

10. Applicant is not required to obtain registration under Section 24 of CGST Act

10.1. In this relation, Applicant submits that, activities carried by the Applicant for the HO do not constitute as supply liable to tax. Further, in respect of services received from HO, if any, without any consideration, Applicant submits that in view of the explanation provided above, the services shall not be said to be taxable supplies in absence of any business being carried by the Applicant in India.

10.2. Given the above, the provisions of 24 of the CGST Act is not applicable and thus the Applicant is not required to be registered under 24 of the CGST Act.

Submissions on 11.02.2020

Revised Questions for Advance Ruling

1. Whether activities carried by the Applicant's HO located outside India and rendered to the Applicant will amount to supply as envisaged under Section 7 of the CGST, 2017 considering that the Applicant is not engaged in any business?

2. Whether activities carried out by the Applicant's HO located outside India and rendered to the Applicant would be liable to GST in the hands of the Applicant considering that the Applicant is not engaged in any business?

3. Whether Applicant would be required to obtain registration in India under Section 24 of the CGST Act, 2017 with respect to activities carried out by the Applicants HO located outside India and rendered to the Applicant considering that the Applicant is not engaged in any business?

Brief Write-up on World Economic Forum and its liaison office in India

1. **Sample projects undertaken by the Forum**

- Global Plastic Action Partnership
- Responding to world's epidemic risk
- Action on climate change
- Helping governments to adopt artificial intelligence
- Help heavy industries to achieve net-zero carbon emission by 2050

- *Companies to run on 100% renewable power by 2050*
- *Vaccine alliance*
- *Working to make clean air a reality*
- *Revamp drone regulations to promote innovation and safety*
- *Closing gap between global water supply and demand*
- *Efficient and secure cash-based humanitarian assistance*
- *Disability inclusion programme*
- *LGBTI equality at workplace*
- *Making world's electric ecosystem **more cyber resilient***
- *Global framework for smart city governance*
- *Redesigning Trust with block chain in the supply chain*

2. *Sample India specific projects undertaken by the Forum*

- *Programme for delivery of blood and vital medical supplies via drones.*
- *Agriculture efficiency via IOT and drones*
- *Policy for block chain smart contracts*

- *Principles and guidelines for Artificial Intelligence*

3. *Role of India Liaison office (the Applicant')*

- *Liaise with the Indian members, partners, government officials, corporate leaders, general public with respect to various agenda, projects and platforms of the Forum, globally and in India.*

- *The liaison office cannot carry out any business activity either for the Forum or otherwise nor can enter into contractual arrangements with members, partners or vendors or accept income in any form, such as, service fee, subscription, membership fee; donation,*

- *Liaison office is not a separate legal entity and it only represents its head office at Geneva in India.*

4. *Services received from the head office by the Liaison office*

- *The head office facilitates running of liaison office in India by providing supervision on information technology infrastructure, support in human resources matters as needed, project knowledge support, and administrative support if required.*

- *Head office does not charge any amount to the liaison office for providing its support. In fact, all the expenses of running the liaison office in India are reimbursed by head office*

as the liaison office does not and cannot have any source of its income as it is not permitted to carry out any business activity in India as per the RBI permission under which it operates.

APPLICANT'S SUBMISSION DATED 25.06.2021:-

1. Applicant repeats and reiterates submissions made in their application filed on 03.05.2019 read with letter dated 11.02.2020. The same are not repeated for the sake for brevity.

GST not liable as no business, no consideration

2. In view of Section 7 of the CGST Act, 2017 read with Section 7 (4) of The IGST Act, 2017, Applicant submits that for the dual reasons viz, a) supply being without consideration; and b) supply being not in the course or furtherance of business; any activity carried out by the HO for the benefit of LO in India, will not be liable to GST.

The Applicant submits that even Serial No. 4 of Schedule I of the CGST Act envisages the activity to be treated as supply even if made without consideration only when it is in the course or furtherance of business. Since in the present case, in view of Section 2 (17) of the CGST Act, which defines "business", the Applicant cannot be termed as engaged in business and therefore would be outside the ambit of the GST levy. In any case, when the Head Office itself is not engaged in **business or commercial venture**, the activities performed by such Head Office for the benefit of LO cannot be in relation to business.

4. Applicant operates it's LO in India under the approval granted by the Reserve Bank of India vide its Approval dated 16.01.2019. It is evident from the said Approval, specifically Serial Nos. 5, 6, 10 and 11 of Annexure I that, the Applicant is prohibited from carrying out any business activities or generate any income or remuneration in India.
5. Further, the fact that the Applicant is not generating any income in India is evident from the Financial Statements for the period ending 31.03.2019, placed before this Ld. Advance Ruling Authority in the previous hearing. Further, the Income Tax Return, for the Assessment Year 2019-20, also reveals that the Applicant has disclosed Nil gross total income in the said Income Tax Return.

Revenue accepts Applicant's position

6. Applicant relies on the letter dated 26.07.2019, specifically para 6 thereof, issued by the Assistant Commissioner, CGST & CX, Belapur, IV Division wherein it is clearly stated that, the activity undertaken by the LO of the Applicant is without consideration and is not in the nature of business and therefore no registration under Section 24 of the CGST Act, is required. It is also admitted that the liaising activities of the Applicant will not be covered as deemed supply under Entry 4 of Schedule I to the CGST Act,

Other States AAR / AAAR held LO not liable to GST

7. The Applicant also relies on the following rulings issued by various Advance Ruling Authorities in other States including that of the Ld, Appellate Authority for Advance Ruling in the State of Karnataka, which has consistently held that liaison office would not be liable to GST and would not be required to obtain GST registration in India:

(a) *Fraunhofer-Gesellschaft Angewandtenforschung V (2021-VIL 11AAAR) - Karnataka*

(b) *Wilhelm Fricke SE (2021-VIL-55-AAR) - Haryana*

8. While the above rulings are given by the States other than Maharashtra, since one of the authorities to levy GST is the Central government, the principle followed in the said, rulings cannot be ignored or disregarded in other applicant's cases.

9. For the above proposition, Applicant relies on the judgment of the Hon'ble Supreme Court in the case of *Amar Bitumen & Allied Products - 2006 (202) E.LT. 213 (S.C.)*, which has held that, it is not open for the Revenue to accept judgement/order on the same question in the case of one assessee and questions its correctness in the case of some other assessee, for the Revenue to pick and choose.

10. Following the ratio of the above judgment, the Revenue has rightly responded in its reply dated 26.07.2019 that LO of the Applicant would neither be liable to GST nor would be required to obtain registration in India. It is respectfully prayed that the same reasoning may be adopted in the present ruling,

11. It will not be out of place to make reference to a ruling issued by the Authority for Advance of Service tax in the case of *Microsoft Corporation (India) Pvt Ltd - 2014 (33) STR 599*, which following the acceptance by the Revenue has passed the ruling as under:

18. On consideration of the rival submissions, we find that the applicant's views on the various issues have been accepted by the Revenue to be reflecting the correct position in law.

19. The above being the position, the interpretation projected by the applicant needs acceptance. That being so, the questions posed are answered in terms of what has been stated above.

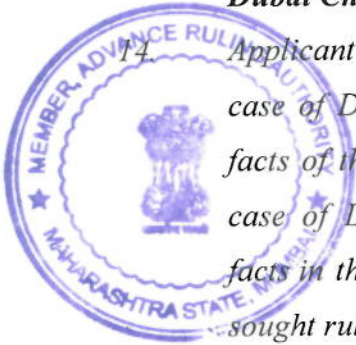
12. In the present case, since the Revenue has accepted the Applicant's submissions it is prayed that the ruling be giving adopting the same view.

HO - LO belong to same juristic person

13. Since the HO and LO are one and the same juristic person, it cannot be said that for the transactions inter se Head Office and LO would qualify as between distinct persons to bring them under the GST liability.

Dubai Chamber Ruling not applicable

14. Applicant deems it appropriate to refer to the ruling given by this. Ld. Authority in the case of Dubai Chamber of Commerce and Industry ("DCCI"), where in the peculiar facts of the said case the Id. Authority came to the conclusion that the said LO in the case of DCCI will be liable to GST. However, there are number of differentiating facts in the case of DCCI and that of the Applicant. Some of them are - a) DCCI had sought ruling of services being provided by them (forward charge), whereas Applicant is seeking the ruling of activities of HO being carried out in support of LO activities. When Applicant's HO itself is not engaged in the business activities it cannot be said that the LO is engaged in the business activities; b) there was a categorical finding in the case of DCCI, that certain remittances were received by them and **retained** in excess of actual expenditure incurred by them in India. In the present case, the ruling is not with respect to any remittance received. It is for the services received, and it is a matter of fact and accepted by the Revenue in its report also that the Applicant does not make any payment to the HO; and c) there is no income reported nor any excess expenses retained by the Applicant as share of profit in India, as was observed in DCCI case. The same is evident from the financial statements and the income tax returns submitted before the Ld. Authority. In view of this, it is respectfully prayed that the ratio of DCCI ruling: will not affect the Applicant's case.



15. Also, in DCCI case it was observed by this Ld Authority that the LO was engaged in "connecting businesses in India with business partners in Dubai". In the present case no such fact exists. In fact, the WEF is not engaged in business at all and hence there is not question of the LO connecting anyone with the HO in relation to business.
16. Further, reference to Intermediary in DCCI case is not relevant in the present case for two reasons. First, in the case, the question is with respect to services received and not services provided so question of Intermediary is not relevant. Second, absent the consideration, even reference to Intermediary as made in DCCI case is not warranted in the present case. Significance of the term intermediary will arise only where there is a "supply" and supply prerequisites consideration. In the present case, admittedly since there is no consideration, there is no question of LO qualifying intermediary and therefore liable for GST or GST registration in India.
17. Based on the above and the fact that the Revenue has already accepted the submissions made by the Applicant, it is prayed that the Application filed by the Applicant be decided in favor of the Applicant.

03.

CONTENTION – AS PER THE CONCERNED OFFICER:

1. The World Economic Forum (WEF), whose Liaison Office (LO) is situated at Reliance Corporate Park, Navi Mumbai-400701 have sought a Ruling on whether the liaison activities undertaken by them amounts to a supply and whether it is a taxable supply.
2. This office has perused the documents provided by WEF. M/s. the WEF based in Geneva, Switzerland is a public interest, not for profit organization. Their LO in India has been permitted by RBI to perform the following activities:
 - i. To represent The World Economic Forum/its group companies in India
 - ii. To act as a communication channel between The WEF/its group companies and Indian Entities, to identify potential members in India for WEF's programme and to facilitate meetings with such potential members/applicants in India.
 - iii. To assist the WEF's participation in undertaking socially useful projects
 - iv. To promote collaborations between The WEF and entities in India and globally.
 - v. To assist the World Economic Forum in making efforts to increase awareness in India about its Col programs and global agencies.

- vi. To carry out activities that may be connected to and/or incidental to the Centre for the Fourth Industrial Revolution (C4IR) by co-designing and implementation of policy and governance Jos pilots aligned with the CHIR, including pursuing research, developing and deploying policy principles and regulatory framework for such C4IR activities

The LO is the same legal entity as The WEF, Switzerland. The LO has been permitted to undertake solely liaison work for the HO. The LO of the Forum will work with Indian stakeholders such as Central and State governments, regulators, academics, experts to co-design policy recommendations for the Indian authorities to use as inputs for their work. The LO will leverage the access it has to the Forum's knowledge database of various regions to design the policy recommendations based on the needs and regulation in India. It will also support local pilot initiatives implemented by the Indian Authorities and other stake holders. Except for the proposed liaison work, the office in India would not undertake any activity of a trading, commercial or industrial nature nor shall it enter into any business contracts in its own name without RBI permission. No commission/fees will be charged or any other remuneration received /income earned by the office in India for the liaison activities/services rendered by it or otherwise in India. All expenses of the office are to be met only out of funds received from abroad. Liaison Office cannot render any consultancy or any services directly/indirectly with / without consideration.

3. For determining the answers to the questions raised by the applicant, the definition of supply needs to be perused. Section 7 of the CGST Act, 2017 reads as under:

"(1) for the purposes of this Act, the expression "supply" includes

(a) 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:

(b) import of services for a consideration whether or not in the course or furtherance of business; and

(c) the activities specified in Schedule I made or agreed to be made without a consideration;"

From the above, it is inferred that to be considered as supply, the following conditions must be satisfied:

- (i) Supply of goods or services must be there,
- (ii) It should be made for a consideration,
- (iii) It should be in the course/furtherance of business.

From what is stated by M/s. The World Economic Forum in their application:

(i) As per RBI approval, no supply of goods or services can be made by them. The liaison office shall not undertake any activity of a trading, commercial or industrial nature nor shall it enter into any business contracts in its own name.

(ii) All expenses of the office are to be met only out of funds received from abroad. Funds of expenses will be received from the HO (as per RBI regulations) for undertaking the liaisoning activities and no other income will be received or paid by the LO to the HO.

Here policy recommendations are made. No commission/fees will be charged or any other remuneration received income earned by the office in India for the liaison activities/services rendered by it or otherwise in India. No considerations are received.

Besides, M/s. The World Economic Forum is a public interest, not for profit organization.

(iii) The definition of L.O as per FEMA regulation is as under:

“Liaison Office' means a place of business to act as a channel of communication between the principal place of business or Head Office or by whatever name called and entities in India but which does not undertake any commercial /trading/ industrial activity, directly or indirectly, and maintains itself out of inward remittances received from abroad through normal banking channel”

Therefore the definition itself restricts the LO from doing business and thus the activity cannot be considered as a business

Hence, in the present case, it does not satisfy the conditions of Section 7(1) (a) of the CGST Act 2017. Similarly as there is no consideration involved, Section 7(1) (b) of the CGST Act 2017 is also ruled out.

5. Schedule 1 of the CGST Act provided list of activities which are to be treated as supply even if made without consideration which is as under:

"1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods -

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business."

It appears that since the activities that will be undertaken by the LO is without any consideration and is not in the nature of business, the liaison activities of The World Economic Forum will not be covered as deemed supply" under Entry No.4 of Schedule 1 of the Central Goods and Service Tax Act 2017. Further, since there is no supply; no registration under Section 24 of the CGST Act is required.



04. **HEARING**

4.1 Preliminary hearing was fixed on 19.09.2019 and adjourned as per request of the applicant. Further preliminary hearing in the matter was held on 05.11.2019. Ms. Aditi Namdeo, Authorized Representative and Sh. Nishit Bhandari appeared and requested for admission of their application. Jurisdictional Officer Ms. Reena George Supdt., appeared and made written submissions.

4.2 The application was admitted and called for final hearing on 17.12.2019. The applicant requested for adjournment and therefore, further hearing was fixed for 07.01.2020. Sh. Prasad Paranjape, Advocate along with Sh. Arun Jain, Advocate and Ms. Aditi Namdeo, Head of Operations and Sh. Nishad Goudi, C.A. appeared made oral and written submissions. The applicant requested for adjournment to rephrase their questions. Jurisdictional Officer Ms. Reena George Supdt. also appeared.

4.2 Final hearings scheduled to be held on 25.02.2020, 03.03.2020 and 04.02.2021 were adjourned on request made by the applicant.

4.3 Further final hearing was held online on 29.06.2021. Shri Prasad Paranjape, Advocate along with Shri Arun Jain, Advocate and Ms. Aditi Namdeo, Head of Operations and Shri Nishad Goudi, C.A. appeared made oral and written submissions. Jurisdictional Officer Ms. Reena George Supdt. also appeared.

4.4 We heard both the sides.

05. DISCUSSIONS AND FINDINGS:

5.1 We have perused the documents on record and submissions made by both, the applicant as well as the jurisdictional officer.

5.2 The applicant has submitted that : it is a Liaison Office (LO) of the World Economic Forum (WEF) which is a public interest, not-for-profit organization based in Switzerland; it has been established to assist the WEF undertake the Fourth Industrial Revolution activities in India ; the applicant LO has been set up by the WEF as permitted by the Reserve Bank of India ('RBI') as per the Foreign Exchange Management (Establishment in India or a branch office or a representative office or a project office or any other place of business) Regulations, 2016 ('FEMA Regulations') framed under the Foreign Exchange Management Act, 1999. As per the submissions, the applicant will : represent The WEF/its group companies in India; act as a communication channel between The WEF/its group companies and Indian entities ; identify potential members in India for WEF's programs and facilitate meetings with such potential members/applicants in India; assist The WEF's participation in undertaking socially useful projects; promote collaborations between The WEF and entities in India and globally; carry out activities connected to and/or incidental to the Centre for the Fourth Industrial Revolution (C4IR).

5.3 Applicant has also submitted that, it proposes to only undertake liaising activities and act as a communication link between the HO and the companies in India. Further, except the proposed liaison work, it shall not undertake any other activity of trading, commercial or industrial nature nor shall it will enter into any business contracts in its name in view of 'Master Circular on Establishment of Liaison /Branch/ Project Offices in India by Foreign Entities' bearing reference no. 7/2015-16 dated 01 July 2015 (Master Circular no. 7/2015-16 dated 01 July 2015').

5.4 In view of the submissions made by the applicant, we take up the three revised questions raised by the applicant.

5.5.1 The first revised question is, whether the activities carried by the Applicant's HO located outside India and rendered to the Applicant will amount to supply as envisaged under Section 7 of the CGST Act, 2017 considering that applicant is not engaged in any business?

5.5.2 **Section 7 of the CGST Act defines the term 'supply' as under:**

(1) For the purposes of this Act, the expression "supply" includes

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business, and

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;'

b. Activities to be treated as supply even if made without any consideration as per Schedule I mentioned above, is as under:-

1. *Permanent transfer or disposal of business assets*

2. *Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:*

Provided that gifts

3. *Supply of goods*

4. ***Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.***

c. 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"

d. The term 'business' is defined under Section 2(17) of the CGST Act as under :-

"business" includes –



- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to sub clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods
- (e) provision by a club, association, society,
- (f) admission, for a consideration, of persons to any premises,
- (g) services supplied by a person as the holder of an office.....;
- (h) services provided by a race club, and
- (i) any activity or transaction undertaken by the Central Government,

5.5.3 From the submissions made, we find that that for the purpose of operating the LO in India, the HO outside India assists in support of human resources, recruit employees in India in order to launch the LO operations in India, IT support to set up necessary infrastructure, advise on any accounting, internal control processes, project coordination, and other management guidance for the C4IR India Management team and the said activities are in relation to setting up and administering of the LO office and the RBI permissible activities that the applicant undertakes viz. liaising in nature and does not involve any business activities.

5.5.4 For the said activities undertaken by the Head Office located abroad, no consideration is paid by the applicant to the Head Office. Since the liaison office is restricted under the RBI regulations to undertake any activities other than of liaising (i.e. acting as a communication channel between its head office and parties in India), the applicant is also not allowed to undertake any business or commercial activities, without the permission of the RBI. Further, the services received by the applicant from its Head Office is import of service since the Head Office is located abroad.


5.5.5 As per Section 7 (1) (b), import of services for a consideration whether or not in the course or furtherance of business is deemed to be a “supply”. Further as per Schedule I

mentioned above, import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

5.5.6 There is no doubt that both, the Head Office and the Liaison Office are related persons and the provision of Schedule I mentioned above should be applicable in the present case because the supply received by the applicant from the Head Office is a supply of services. However it is seen that the said provision will be applicable only when the said services are imported in the course or furtherance of business.

5.5.7 We find that the applicant, as per their submissions are undertaking only liaising activities and act as a communication link between the HO and the companies in India. They have submitted that no business/commercial activities are undertaken by them. They have further submitted that their activities of liaising and acting as a communication link for their Head Office does not fall under the definition of the term 'business' as prescribed under the CGST Act, 2017. We agree with the submissions made by the applicant in this regard.

5.5.8 As per Schedule II of Notification No. 22/2000-RB dated 03.05.2000, the Permitted activities for a Liaison office in India of a person resident outside India are as under:-

- 
- (i) Representing in India the parent company/group companies.
 - (ii) Promoting export import from/to India.
 - (iii) Promoting technical/financial collaborations between parent/group companies and companies in India
 - (iv) Acting as a communication channel between the parent company and Indian companies.

It is seen from the above that, the applicant can only perform the activities mentioned at (i) to (iv) above. No other activities of any kind can be performed without the express permission and approval of the RBI. The applicant has clearly submitted that their activities consists of liaising and acting as a communication link for their Head Office and nothing else. During the course of the personal hearings it was also submitted by Shri Prasad Paranjpe, their authorized representative that, they were not undertaking any business or commercial activities.

Further, the said notification also defines a 'Liaison Office' as "*a place of business to act as a channel of communication between the Principal place of business or Head Office*

by whatever name called and entities in India but which does not undertake any commercial /trading/ industrial activity, directly or indirectly, and maintains itself out of inward remittances received from abroad through normal banking channel."

5.5.9 In view of the above we find that the applicant is not undertaking any 'business' as defined under Section 2(17) of the CGST Act and therefore the activities/services received by the applicant from its HO cannot be said to be in the course or furtherance of its business and hence cannot be considered as a supply under Section 7 of the CGST Act, 2017.

5.5.10 In view of the discussions in 5.1 to 5.5.9, we hold that the activities carried by the Applicant's Head office located outside India and rendered to the Applicant will not amount to supply as envisaged under Section 7 of the Central Goods and Service Tax Act, 2017.

5.6.1 The second question is whether the activities carried by the Applicants Head office located outside India and rendered to the Applicant would be liable to GST in the hands of the Applicant considering that the Applicant is not engaged in any business?

5.6.2 We have already held above that, activities carried out by the Applicants HO located abroad and rendered to the Applicant will not amount to 'supply' as defined under Section 7 of the CGST Act, 2017, since the Applicant is not engaged in any business. Therefore so long as the services imported by the applicant from its HO are not used in the course or furtherance of business the applicant is not liable to pay GST on such transaction. However, if the applicant undertakes any further supply which is liable to GST then, in such a case the import of services from its Head Office will be liable to GST at the hands of the applicant.

5.7 As a corollary to the import of service in this case, not being considered as a supply liable to GST, the applicant would not be required to obtain registration in India under Section 24 of the Central Goods and Service Tax Act, 2017 with respect to activities carried out by the Applicant's Head office located outside India and rendered to the Applicant.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 11/2019-20/B- 50

Mumbai, dt. 20.08.2024

For reasons as discussed in the body of the order, the questions are answered thus –

Question 1. Whether the activities carried by the Applicant's Head office located outside India and rendered to the Applicant will amount to supply as envisaged under Section 7 of the Central Goods and Service Tax Act, 2017 considering that the Applicant is not engaged in any business?

Answer: - Answered in the negative.

Question 2. Whether the activities carried by the Applicants Head office located outside India and rendered to the Applicant would be liable to GST in the hands of the Applicant considering that the Applicant is not engaged in any business?


Answer: - Answered in the negative.

Question 3. Whether Applicant would be required to obtain registration in India under Section 24 of the Central Goods and Service Tax Act, 2017 with respect to activities carried out by the Applicant's Head office located outside India and rendered to the Applicant considering that the Applicant is not engaged in any business?

Answer: - Answered in the negative.




RAJIV MAGOO
(MEMBER)


T. R. RAMNANI
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.

