Haryana Appellate Authority for Advance Ruling

(Constituted under Section 99 of the Haryana Goods & Services Tax Act, 2017 read with Central Goods & Services Tax Act, 2017)

Before the Bench of

Sh. Naveen Kumar Jain, IRS Chief Commissioner Central Goods and Service Tax Zone, Panchkula Member, Appellate Authority for Advance Ruling, Haryana	Sh. Vinay Pratap Singh, IAS Excise & Taxation Commissioner Excise Taxation Department, Haryana Member, Appellate Authority for Advance Ruling, Haryana

HAAAR Order-In-Appeal No: HAAAR/2022-23/01 **Dated:** 07.05.2026

(Passed by Haryana Appellate Authority for Advance Ruling under Section 101(1) of the Haryana Goods and Services Tax Act, 2017 read with Central Goods and Services Act, 2017)

Preamble

1. In terms of Section 102 of the Central Goods & Services Tax Act, 2017/Haryana Goods & Services Tax Act, 2017 (the 'Act', in short), this Order may be amended by the Appellate Authority, so as to rectify any error apparent on the face of the record, if such error is noticed by the Appellate Authority on its own accord, or is brought to its notice by the concerned officer, the jurisdictional officer or the Appellant within a period of six months from the date of the Order.
2. In terms of Section 103(1) of the Act, this advance ruling pronounced by the Appellate Authority under Chapter XVII of the Act shall be binding only: (a) On the Appellant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling. (b) On the concerned officer or the jurisdictional officer in respect of the Appellant.

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3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the said Advance Ruling have changed.
4. In terms of Section 104(1) of the Act, where the Appellate Authority finds that advance ruling pronounced by it under sub-section (1) of Section 101 has been obtained by the Appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the Appellant as if such advance ruling has never been made.

Details of the Appellant:

Detail	Information
Name & Address of the Appellant	M/s Maithani Enterprises, Gurugram, Haryana
GSTIN/User ID of the Appellant	06AGAPM3115G1ZX
Advance Ruling Order against which Appeal is filed	HR/ARL/10/2021-22, dated 11.03.2022
Date of Filing of Appeal	03.05.2022
Represented by	Advocate Kapil Aggarwal
Jurisdictional Authority-Centre	CGST Commissionerate, Gurugram
Jurisdictional Authority-State	Excise & Taxation Commissioner, Gurugram
Whether payment of fees for filing appeal is discharged, If yes, the amount and Challan No.	Yes, ₹20,000/- paid vide Challan Identification No. (CIN) SBIN22050600006960 Dated 03/05/2022

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Order under Section 101 of Central Goods and Services Tax Act, 2017/Haryana Goods and Services Tax Act, 2017.

The present appeal has been filed by M/s Maithani Enterprises, Gurugram, Haryana (hereinafter referred to as "the Appellant" under Section 100(1) of the Central Goods and Services Tax Act, 2017 and the Haryana Goods and Services Tax Act, 2017 (hereinafter collectively referred to as "the Act") against the Advance Ruling No. HR/ARL/10/2021-22, dated 11.03.2022, issued by the Authority for Advance Ruling (hereinafter referred to as "AAR").

A copy of the said order was received by the appellant on 08.04.2022 and appeal was filed on 03.05.2022, with no noted delay beyond the prescribed period under Section 100(2) of the Act.

Brief Facts of the Case:

1. Background

M/s Maithani Enterprises is a GST-registered service provider engaged in providing Sales and Marketing Consulting and Manpower/HR Consulting services to M/s Meteora Consultancy, a company based in Malaysia. These services are utilized by M/s Meteora Consultancy to provide its own services to an Indian client, M/s XYZ. The Appellant sought an advance ruling from the Authority for Advance Ruling (AAR), Haryana, regarding whether these services qualify as export of services, the applicable GST rate, and eligibility for refund of Input Tax Credit (ITC). The AAR, in its ruling dated 11.03.2022, held that the services are intermediary services, not qualifying as export, taxable at 18% IGST, and ineligible for ITC refund. Aggrieved by this ruling, the Appellant filed an appeal before this Appellate Authority under Section 100 the Act.

2. Question on which Advance Ruling was sought

The Appellant has sought advance ruling in respect of:

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a. What is the applicable GST tax rate in this case, and are the services provided by the applicant considered zero-rated services?

b. Do the services provided by the applicant qualify as an export of services, and is the applicant entitled to a refund of Input Tax Credit (ITC) used for providing these services?

3. Order passed by the Haryana Advance Ruling Authority on above Question was as under:

The services provided by M/s Maithani Enterprises to M/s Meteora Consultancy, performed as an agent for M/s XYZ (an Indian entity), do not qualify as an export of services under Section 2(6) of the IGST Act, 2017, as the effective recipient (M/s XYZ) is located in India (failing condition (ii)), and the place of supply is India under Section 13(8)(b) (failing condition (iii)). The services are classified as intermediary services, constituting a taxable supply within India under Section 7(5)(c), attracting 18% IGST (HSN code 9983). Consequently, the services are not zero-rated under Section 16(1)(a), and the applicant is not eligible for a refund of unutilized ITC under Section 16(3)(b) read with Section 54(3)(i) of the CGST Act, 2017, and Rule 89 of the CGST Rules, 2017. The applicant must charge 18% IGST on invoices raised to M/s Meteora Consultancy and can utilize ITC to offset this liability.

Answer 1: The services provided by the applicant are taxable at 18% and the services provided are not zero-rated services.

Answer No. 2: No, the services provided by the applicant are not export of services and would not be entitled for the benefit of the refund of Input tax credit under IGST Act.

4. Prayer of Appellant

1. The ruling order given by the Haryana Advance Ruling Authority, Goods & Services Tax may be set aside with effect from the date of the order.
2. Grant of Personal Hearing.

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3. To classify the nature of services by the taxpayer as export of services as per Section 2(6) of IGST Act 2017 and thus it will be zero rated supply.
4. The Appellant be eligible for getting refund of input tax credit on provision of zero-rated service.
5. To add, alter, vary, modify or rescind all or any of the aforesaid submission and to lead all such documentary evidence as the case may require.

5. Grounds of Appeals

At the outset, the Appellant denies the findings stated by The Authority in the impugned Order. The Appellant respectfully submits that The Authority has failed to appreciate the facts of the present dispute. Further, The Authority completely ignored the detailed submissions of the Appellant made with Application and during the personal hearings. The following grounds of appeal are in the alternative and without prejudice to one another:

1. To classify the nature of services by the taxpayer as export of services as per section 2(6) of IGST Act 2017 and thus it will be zero rated supply.
2. The Appellant be eligible for getting refund of input tax credit on provision of zero rated service.
3. To add, alter, vary, modify or rescind all or any of the aforesaid submission and to lead all such documentary evidences as the case may require.

GROUND OF APPEAL NO. 1: TO CLASSIFY THE NATURE OF SERVICES BY THE TAXPAYER AS EXPORT OF SERVICES AS PER SECTION 2(6) OF THE IGST ACT 2017.

1. The Appellant submits that the Authority has erred by not accepting the supply of services by Appellant as export and held that "The intention of M/s Meteora to appoint the Appellant as an agent in India. In order to understand the contentions and to make our submission we are producing the relevant extract from the IGST Act 2017.

1.1 Section 2(6) "export of services" means the supply of any service when,

i. the supplier of service is located in India;

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ii. the recipient of service is located outside India,
iii. the place of supply of service is outside India:
iv. the payment for such service has been received by the supplier of service in convertible foreign exchange; and
v. the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation I in section 8:

1.2 Explanation 1. to Section 8 -For the purposes of this Act, where a person has - (i) an establishment in India and any other establishment outside India; (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or (iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

1.3 Section 2(13) - "intermediary" means a broker, an agent or any other person by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two more persons, but does not include a person who supplies such goods or services or both or securities on his own account;

The term intermediary as defined u/s 2(13) of the IGST Act 2017, has been adopted from the Finance Act 1994 i.e. Service Tax Law. It is an established fact that an intermediary is one who is not providing service as a whole but its services forms an essential ingredient of the output made by its recipient. The principal to principal supply between two concerns cannot be treated as intermediary services.

In this regard, it would be important to analyse whether the Support Services are likely to qualify as 'Intermediary Services' in which case the Place of Supply will be in India and hence, the services may not qualify as export.

A. ACTIVITIES PPRFORMED BY THE APPELLANT DOES NOT AMOUNT TO INTERMEDIARY SERVICES

2. It is submitted that the definition of the term "Intermediary" as stated above has 4 limbs:

i. Means a broker, an agent or any other person, by whatever name called

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ii. Who arranges or facilitates a provision of a service (hereinafter called the "main' service) or a supply of goods

iii. Between two or more persons;

iv. But does not include a person who provides the main service or supplies the goods on his own account

The interpretation of each of the above limbs of the definition of "intermediary" and its linkage with the activities performed by the Appellant has been provided below:

First Limb - Means a broker, an agent or any other person, by whatevernamecalled

3. It is submitted that since the statute defines "Intermediary", it would be incorrect to go beyond the scope of such definition. However, the terms "broker" and "agent" as used in the relevant definition need to be examined as these terms are not defined in the GST Legislation. Under the Indian Contract Act, 1872, an "agent" is person employed to do any act for another or to represent another in dealings with third person. The term "broker" is more of a colloquial term which has not been specifically defined under any legislation.

3.1 The Appellant submits that as per the Law Lexicon, the term "broker" can be understood to mean a middleman or agent who, for a commission on the value of transaction, negotiates for others the purchase or sale of stocks, bonds, commodities, or property of any kind, etc, Further, as per the Black's Law dictionary, broker has been defined to mean an agent who acts as an intermediary or negotiator, especially between prospective buyers and sellers; a person employed to make bargains and contracts between other persons in matter of trade, commerce, or navigation.

3.2 Based on the aforesaid, it is therefore submitted that agent / broker primarily have similar kind of functions i.e. mediation role played between two other Persons and applying the principle of "Ejusdem Generis", the term "any other person" may be interpreted to mean only the person having the same class as a broker or agent, i.e., being a middleman. Accordingly, as far as the first limb is concerned, it gives an impression that the role of an intermediary is of a middleman.

3.3 In the current scenario, the Appellant does not undertake any direct sales with the customers in India rather as a part of its support functions, provides different services such as :-

- studying sales and distribution systems of companies, comparing them with similar companies; recommending changes and

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- Studying company product portfolio and comparing with similar completion companies and recommending changes and
- Studying organization structure and Benchmarking people and systems across competition and giving recommendations and
- Assessing employees across competency systems and advising changes

to its un related enterprise situated outside India i.e. M/s Meteora. The Appellant is nowhere involved in concluding contracts. It is not involved in negotiating/ concluding sales with the customers of M/s Meteora. Accordingly, the essence of acting as a mediator for facilitation of the supply of goods/ services seems to be not present in the current scenario.

Second limb - Who arranges or facilitates a provision of a service (hereinafter called the'main' service) or a supply of goods

4. It is submitted that the second limb wherein the expression "arranges or facilitates" is inserted suggests that intermediary's role should be something beyond the concept of a middleman's role. The service in such cases extends beyond the confines of mediation and in the process of facilitation, the "facilitator" might be seen as making some inroads into the field of execution between his into principal (provider of the main service or supplier of the goods) and the third party (receiver of the main service or goods).

4.1 It is submitted that in the Appellant's situation, the term 'arranges' or facilitates' means to help organize the contract of supply and hence, the remuneration for such service should also be linked to confirmation of the contract. However, both of these aspects are missing in the case of the Appellant.

Third limb Betweentwoormore persons

5. The expression "between two more persons" as used in this limb or makes it abundantly clear that, the role of the intermediary by way of additional steps to provide support service or executive function could get covered in the definition of the intermediary service. In the Current scenario, the Appellant provides services directly to its customers viz., M/s Meteora and does not on its own identify any customer for M/s Meteora and provides them services. In other words, there is no Principal Agent relationship between M/s Meteora and the Appellant in providing the support services, rather it is a one-to-one contract. Accordingly, the third limb should be inapplicable.

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Fourth limb - Does not include a person who provides the main service or supplies the goods on his own account

6. The Appellant submits that the fourth limb of the definition of the term "Intermediary" provides that "it does not include a person who provides the main service or supplies the goods on his own account."

6.1 Accordingly, if a person on his account is a provider of the main service or a supplier of the goods, he cannot be an intermediary between two other parties, i.e., provider of the service or supplier of goods on one hand or the receiver of service or goods on the other hand.

6.2 It is therefore submitted that, if a person is found to have been engaged in the execution activity carried out by order of, on behalf of and for the benefit of his principal rather than any execution activity back carried out as a middleman between his principal and the third party, the said person should be said to have provided his service only to his principal on his own account and accordingly should not get characterized as Intermediary.

6.3 In the current case, since the Appellant has been carrying out the business support services as per the standard guidelines, procedures and instructions provided by M/s Meteora. Accordingly, it is submitted that the services to M/s Meteora by the Appellant would then be treated as provision of the main service and not as ancillary to facilitating arranging of a supply of goods/ services.

6.4 It is submitted that, as per para 5.9.6 of the Education Guide 2012 issued by CBEC it is mentioned:

Similarly, persons such as call centres, who provide services to their clients by dealing with the customers of the client on the client's behalf, but actually provided these services on their own account will not be classified as intermediaries. Even in the Appellant's case is also providing the services on its own account to its overseas counterpart situated outside India. The Appellant is providing A) Sales and Marketing Consulting B) Manpower/ HR Consulting. to M/s Meteora on a one-to-one basis and same will not qualify as intermediary services.

6.5 The above submissions can be further substantiated vide the advance ruling passed by the Authority for Advance Rulings (Centra Excise, Customs and Service tax), New Delhi in case of M/s Universal Services Indla Private Limited, [AAR/ST/07/ 2016]. The Hon'ble commissioner has held that "the definition of "intermediary" as envisaged under Rule 2 (f) of POPS does not include a person who provides the main service

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on his own account. In the present case, applicant is providing main service i.e. "business support services" to WWD US and on his own Therefore, applicant is not an "intermediary" and the service provided by him is not intermediary service."

6.6 In view of the above discussions and the judicial precedents cited, the Appellant submits that the Order should be set aside as the primary ground alleging the services provided by the Appellant as Agent (intermediary service) is incorrect and without any basis from a factual and judicial perspective.

6.7 Further, basis all the above explanation and relevant case laws the services provided by the Appellant to M/s Meteora cannot be regarded as service provide by an Agent and thus the place of supply shall be Malaysia, which is outside India, vide Section 13(2) of IGST Act 2017, which defines the place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services."

6.8 It is further submitted that since the Appellant has/will received the payment for such services in convertible foreign exchange Accordingly, the services rendered by the Appellant would qualify to be "Export of services" as per section 2(6) of the IGST Act 2017.

6.9 In view of the above discussions and the judicial precedents cited, the Appellant submits as the service qualify as exports and thus these services will be Zero Rated supply and the Appellant would therefore be eligible for a refund of the input credit accumulated. The order should accordingly be set aside on this ground itself.

GROUND OF APPEAL NO. 2: SERVICES PROVIDED BY THE APPELLANT QUALIFY AS EXPORT OF SERVICES

7. The Appellant further wishes to submit that the aforesaid services shall be treated as export of services in terms of Section 2(6) of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act, 2017") and hence the supply would be zero rated under GST if the conditions as laid down *supra in Ground one*are satisfied:

7.1 In the instant case, the Appellant satisfies all the aforementioned conditions as stated in the ensuing paragraphs. Therefore, applicable GST would be zero rated vide Section 16(1) of the IGST Act 2017 in the instant case and the Appellant is eligible for refund of GST.

Condition I: The supplier of service is located in India

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The Appellant is the service provider and is located in India, which is within the taxable territory. This is evident from the GST certificate submitted by the Appellant.

Condition II: The recipient of service is located outside India

The recipient of service M/s Meteora are located outside Indis (viz.., in Malaysia)

Condition III: The place of supply of the service is outside India

As mentioned in the aforesaid paragraph's, the service provided by the Appellant are Business Auxiliary Services / Business Support Service' and would accordingly be covered under Section 13(2) of IGST Act, 2017, where the place of supply would pe outside India. The relevant portion of Section 13(2) is reproduced as given below:

Section 13(2) of IGST Act

"*The place of supply of services except the services specifiedin sub-sections (3) to (13) shall be the location of the recipient of services*"

Therefore, in the instant case, since the service recipient is located outside India i.e. Malaysia, hence Place of Supply will be outside taxable territory.

Similar position has been taken in the judicial precedents mentioned supra, wherein it was held that the place of supply of Services would be governed under Section 13(2) of IGST Act 2017 and therefore the place of provision in such case is the location of the service receiver.

Condition IV: the payment for such service has been received by the supplier of service in convertible foreign exchange

The entire consideration for the provision of them services provided to M/s Meteora to be received in convertible foreign currency by the Appellant.

Condition V: the supplier of service and the recipient of service are not merely establishments of a distinct person

As mentioned in the aforesaid paragraph's, the provider of service i.e. the Appellant and recipient of service are not related party and are different legal entities and not merely establishments of a distinct person.

7.2 In the light of the above facts and submissions, it is clear that the services provided by the Appellant to its affiliate entities constitute Export of Services in terms of Section 13(2) of the IGST Act, 2017. Accordingly, the Appellant humbly submits that the services provided

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by the Applicant are Zero Rated Services and thus the Appellant will also be entitled to get refund of input tax credit accumulated in the credit ledger of the applicant for providing zero rated services.

7.3 In light of the above submissions, we request your good self to kindly allow the appeal by setting aside the impugned order.

The Appellant hereby requests your good self to grant an opportunity for personal hearing to put forth its submissions before you. The Appellant reserves the right to modify, rescind, or alter any part of submissions and to place additional evidence or submissions in support of their case at the time of personal hearing.

6. Record of Personal Hearing:

Previous history of hearings: 15.09.2023 (adjourned due to non-appearance), 06.02.2024 (adjourned due to non-appearance), 05.03.2024 (adjourned due to administrative exigencies), 19.06.2024 (adjourned due to non-appearance), 11.07.2024 (adjourned). Last hearing 07.08.2025 (Appellant or Authorized representative did not appear).Despite opportunities, neither the appellant nor any authorized representative appeared in personals hearings. However, the appellant requested vide letter dated 06.08.2025 that submissions and additional submissions may be considered as their submissions and deemed appearance for the purpose of hearing.

7. Latest Submissions of the Appellant

The Appellant on dated 06/08/2025 submits that it is a proprietorship concern engaged in providing Business Support Services, including sales and marketing consulting and manpower or HR advisory services, to M/s Meteora Consulting Sdn. Bhd., Malaysia, under a principal-to-principal service agreement. The Appellant provides such services directly to M/s Meteora on its own account, without acting as an agent, broker or facilitator between M/s Meteora and its Indian clients. The Appellant does not negotiate or conclude contracts on behalf of M/s Meteora, and its remuneration is independent of any outcome or transaction between M/s Meteora and any third party. All invoices are raised directly on M/s Meteora

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in convertible foreign exchange, and consideration is received in India in foreign currency.

It is further submitted that the impugned advance ruling suffers from non-application of mind, inasmuch as it merely concludes that the recipient of services is located in India, without recording any cogent reasoning or examining the contractual terms, scope of work or statutory provisions relied upon by the Appellant. The Authority has incorrectly classified the services as intermediary services under Section 2(13) of the IGST Act, 2017, despite the Appellant providing substantive services on its own account. The Appellant reiterates that all conditions prescribed under Section 2(6) of the IGST Act are fulfilled, including that the recipient is located outside India, the place of supply is governed by Section 13(2) of the IGST Act, consideration is received in convertible foreign exchange, and the supplier and recipient are not merely establishments of the same person.

The Appellant accordingly submitted that the services rendered qualify as export of services and are zero-rated under Section 16 of the IGST Act, 2017, entitling the Appellant to refund of unutilized input tax credit in accordance with Section 54 of the CGST Act read with Rule 89 of the CGST Rules. It is therefore prayed that the impugned order dated 08.04.2022 be set aside and appropriate relief be granted in the interest of justice. In support of their claim, the appellant referred following Rulings/CESTAT Orders:

GoDaddy India Web Services Pvt. Ltd. – AAR, 2016

Vserv Global – AAR Maharashtra

GAP International Sourcing – CESTAT Delhi

8. Details of the Contract

M/s Meteora Consulting, a Malaysian registered company based in Kuala Lumpur, Malaysia, is currently engaged in a consulting project in India for M/s Modenik Textiles Pvt. Ltd., an Indian textiles company. As part of its

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consulting work for Modenik Textiles Pvt. Ltd., M/sMeteora Consulting has engaged M/s Maithani Enterprises (GST No. 06AGAPM3115G1ZX), a firm owned by Shri Manoj Kumar Satyendra Maithani, an Indian national holding Passport No. M1098945, to provide on-the-ground market services in India as and when required. The relevant portion of the technical fees agreement dated 16.12.2021 is reproduced as under:-

"Meteora Consulting, a Malaysian registered company based in Kuala Lumpur, Malaysia is currently engaged in a consulting project in India for Modenik Textiles Pvt Ltd, an Indian textiles company.

As part of its consulting work for Modenik, Meteora is engaging M/S Maithani Enterprises (GST No - 06AGAPM3115G1ZX), a firm owned by Manoj Kumar Satyendra Maithani, an Indian national with passport no. M 1898945, for on-the-ground market Services as and when needed. This work would be of temporary nature and would involve working with the local client's team.

While Manoj is not an employee of Meteora on a permanent basis, he will be bound by the same confidentiality and other agreements that Meteora signs with the client.

M/S Maithani Enterprises will be reimbursed for their market services on a daily rate of USD 760 (all inclusive) directly by Meteora Consulting Malaysia. Any tax deduction in India is M/S Maithani Enterprises responsibility &Meteora is not responsible for any tax payment in India as a result of this temporary engagement.

This agreement will be valid till 31st Mar'23 unless otherwise terminated."

9. Discussion & Findings

9.1 We have carefully examined the records of the case, the submissions made by the Appellant, the contentions advanced in the original ruling of the Authority for Advance Ruling (AAR), the relevant provisions of the Goods and Services Tax (GST) law, including the Integrated Goods and Services Tax

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(IGST) Act, 2017, contract between the Appellant & buyer and various judicial and advance ruling precedents relevant to the matter at hand.

The primary issue for consideration in the present appeal is whether the Sales and Marketing Consulting and Manpower/HR Consulting services provided by the Appellant to M/s Meteora Consultancy (Malaysia) qualify as "export of services" under Section 2(6) of the IGST Act, 2017, or as "intermediary services" under Section 2(13), thereby determining the applicable GST rate and eligibility for refund of unutilized Input Tax Credit (ITC).

9.2 The Authority for Advance Ruling, in its order dated 11.03.2022, classified the services as intermediary services, not as export of services, on the grounds that the Appellant acts as an agent facilitating services between M/s Meteora Consultancy and the Indian client M/s XYZ. The effective recipient of service provided by appellant is in India, making the place of supply within India under Section 13(8)(b) of the IGST Act, and thus taxable at 18% IGST under HSN 9983. The AAR further held that the services are not zero-rated under Section 16(1)(a) of the IGST Act, and no refund of ITC is available under Section 16(3)(b).

9.3 In order to examine the correctness of the above finding, it is necessary to refer to the relevant statutory provisions.

Definition of Export of Services (Section 2(6), IGST Act, 2017):

(6) "export of services" means the supply of any service when,-

(i) the supplier of service is located in India;

(ii) the recipient of service is located outside India;

(iii) the place of supply of service is outside India;

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange 1[or in Indian rupees wherever permitted by the Reserve Bank of India]; and

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(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

- **Definition of Intermediary (Section 2(13), IGST Act):**

(13) "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;

- **Place of Supply (Section 13(8)(b), IGST Act):**

Section 13. Place of supply of services where location of supplier or location of recipient is outside India.-

(8) The place of supply of the following services shall be the location of the supplier of services, namely:-

(b) intermediary services;

9.4 Upon careful examination of the scope of services and the agreement between the Appellant and M/s Meteora Consulting Sdn. Bhd., Malaysia, it is observed that the Appellant provides Business Support Services, which include sales and marketing consulting and manpower/HR advisory services, to M/s Meteora which involved working with local client's team of Indian firm. The essential characteristic of an intermediary service is the presence of three distinct parties and the role of the intermediary being arranging or facilitating the supply between the other two parties. In the present case, there are three parties i.e. the appellant, M/s Meteora Consulting and M/s Modenik Textile Pvt. Ltd.The Appellant is engaged in arranging or facilitating supply of services between M/s Meteora and M/s Modenik. Further, as per agreement "*for on -the -ground market services as and when needed. This work would be of temporary nature and would involve working with the local client's team.*" From this clause, it is observed that the services described as "*on-the-ground market services*" are intended

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to be performed physically within the territory of India. The reference to working with the local client's team also indicates that the activities are carried out in coordination with personnel located in India. Accordingly, these terms support the view that the services are performed within the Indian territory, and **therefore the place of supply of such services lies within India**.

The agreement further stipulates that *"While Manoj is not an employee of Meteora on a permanent basis, he will be bound by the same confidentiality and other agreements that Meteora signs with the client."* This condition indicates that though Mr. Manoj is not an employee of M/s Meteora Consulting Sdn. Bhd., Malaysia, on permanent basis, but he was bound to maintain same confidentiality (means the type of confidentiality maintained by the employees of M/s Meteora).This gives an impression that the agreement between appellant and M/s Meteora is akin to that between a principal and his agent.

Thus, the role performed by the appellant is in the nature of arranging or facilitating the supply of services between the foreign entity and the local client, thereby assuming the character of **intermediary services** within the meaning of Section 2(13) of the Integrated Goods and Services Tax Act, 2017.

Further, the agreement provides that *"M/s Maithani Enterprises shall be reimbursed for its market services at a daily rate of USD 760 (all inclusive), payable directly by Meteora Consulting Malaysia."*This clause indicates that M/s Maithani Enterprises undertakes certain activities and subsequently compensated by M/s Meteora Consulting Malaysia through payment at the agreed daily rate. The payment structure therefore reflects reimbursement for services rendered in India in the course of facilitating M/s Meteora's engagement with its client.

It may be inferred that the services are provided and performed withinIndia, and the payment arrangement reflects reimbursement for services rendered rather than an independent transaction qualifying as an export of

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services.Consequently, the said supply cannot be treated as a zero-rated supply under Section 16 of the IGST Act.

In view of the contractual terms and the nature of the activities undertaken, it is evident that the services are performed within India by the appellant and are in the nature of intermediary services facilitating the provision of services by Meteora to its client. In terms of Section 13(8)(b) of the IGST Act, the place of supply in respect of intermediary services shall be the location of the supplier of services, which in the present case is in India.

Therefore, the services provided by M/s Maithani Enterprises are taxable in India, and the appellant is not entitled to claim refund of Input Tax Credit under the provisions of the Act.

9.5 The Appellant has also relied upon some judicial precedents in support of its contention.

In the case of *GAP International Sourcing (India) Pvt. Ltd. vs. Commissioner of Service Tax, Delhi* [2015 (37) S.T.R. 757 (Tri. – Del.)], the Hon'ble Tribunal held that the services qualified as export of services on the grounds that the recipient was located outside India, the benefit of such **services accrued outside India**, and the consideration was received in convertible foreign exchange. The factual matrix of the present case, however, is distinguishable. Here, the services are both **performed and consumed within India**, and the appellant operates in the capacity of an intermediary. This view is strengthened and finds validity in the agreement itself which states that "*While Manoj is not an employee of Meteora on a permanent basis, he will be bound by the same confidentiality and other agreements that Meteora signs with the client.*"It is amply evident from this clause of the agreement that the relationship between M/s Meteora and appellant is that of principal and his agent.

Further, the nature of the consideration indicates a reimbursement mechanism for services rendered, rather than a consideration for an independent supply on a principal-to-principal basis. This is clearly stated

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in the agreement which states that *"M/s Maithani Enterprises shall be reimbursed for its market services at a daily rate of USD 760 (all inclusive), payable directly by Meteora Consulting Malaysia."*Accordingly, the essential conditions for classification as export of services are not satisfied.

In *GoDaddy India Web Services Pvt. Ltd.* (AAR, 2016), the Authority for Advance Rulings observed that the applicant was not providing services on its own account but was engaged in marketing, promotion, and customer support services on behalf of its foreign parent entity. It was therefore classified as an intermediary service. As per the applicable provisions, intermediary services do not qualify as export of services since the place of supply is deemed to be the location of the service provider. In the present case as well, the appellant provides services within India and acts as an intermediary. As stated in the agreement itself that services are to be rendered on Indian soil. The relevant clause of the agreement is reproduced below: -

"for on-the-ground market Services as and when needed. This work would be of temporary nature and would involve working with the local client's team." Consequently, the place of supply is located within India, and the services cannot be treated as exports.

Likewise, in the case of *Vserv Global Pvt. Ltd.* (AAR Maharashtra), it was held that the place of supply of advertisement services was India, as the advertisements were ultimately consumed or viewed within India. On this basis, the services were held to be taxable under GST and not eligible to be treated as export of services. The present case is analogous, inasmuch as the services are rendered and effectively utilized within India, and the appellant operates in an intermediary capacity. This fact is established from the agreement submitted by the appellant which states that, *"for on-the-ground market Services as and when needed. This work would be of temporary nature and would involve working with the local client's team."* Therefore, the place of supply remains within India, and the services fail to qualify as export of services under the relevant statutory framework.

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9.6 In view of the foregoing analysis, we find that the services provided by the Appellant were provided and utilized in India only,hence, the place of supply lies within India therefore these services would not qualify as Export of services. Further, as per terms and conditions of the agreement submitted by the appellant, the services provided are also intermediary services within the meaning of Section 2(13) of the IGST Act, an intermediary arranges or facilitates supply between two or more persons.

10. Order

In light of the foregoing discussions and findings, we hereby uphold the Advance Ruling No. HR/ARL/10/2021-22, dated 11.03.2022, passed by the Authority for Advance Ruling, Haryana, in respect of the questions raised by the Appellant.

Accordingly, the questions raised by the Appellant are answered as follows:

1. The services provided by the applicant are taxable at 18% IGST and are not considered zero-rated services.
2. The services provided by the applicant do not qualify as Export of services and the applicant is not entitled to a refund of Input Tax Credit (ITC) under IGST Act.

In view of the above findings, the appeal filed by M/s Maithani Enterprises, Gurugram, Haryana (GSTIN: 06AGAPM3115G1ZX) is hereby dismissed.

नवीन कुमार जैन
मुख्य आयुक्त / Chief Commissioner
केंद्रीय माल एवं सेवा कर पंचकूला क्षेत्र
Central Goods & Services Tax, Panchkula Zone

Sh. Naveen Kumar Jain, IRS
Member
Chief Commissioner
Central Goods and Service Tax Zone
Panchkula

Sh. Vinay Pratap Singh, IAS
Member
Commissioner
Excise &Taxation Department,
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Place: Panchkula

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Gurugram, Haryana (PIN- 122009)
(GSTIN: 06AGAPM3115G1ZX)

Copy for information and necessary action to:

1. The Member, GST, CBIC, North Block, New Delhi-110001
2. The Special Secretary, Goods and Services Tax Council, 5th Floor, Tower Jeevan Bharti Building, Connaught Place, New Delhi-110001
3. The Chief Commissioner, Central Goods and Service Tax Zone, Panchkula
4. The Commissioner, Excise & Taxation, Haryana
5. The Pr. Commissioner, CGST Commissionerate, Gurugram
6. The Deputy Commissioner, Excise & Taxation (ST), District-Gurugram
7. The Master/Guard File-2023-24

Registrar,

Appellate Authority for Advance Ruling, Haryana

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