




Maharashtra AAAR in case of MEK Peripherals India Pvt Ltd



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Facts of the case:

- Applicant is a reseller of Intel products. The appellant purchases products from various distributors who in turn imports the same from Intel Inside USA LLC ('IIUL'). As per agreement between the applicant and IIUL, the applicant will have an opportunity to earn incentive as percentage of performance and on achieving certain sales targets.
- The applicant had applied for AAR as to whether such incentive can be considered as 'Trade Discount' and therefore excluded from GST levy.
- The Maharashtra AAR had rejected the applicants application and had upheld that the incentive does not qualify as 'Trade Discount' and is essentially supply of marketing services to IIUL and chargeable to GST.
- The applicant had thereafter approached AAAR to contest the ruling pronounced by the AAR.



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- In order to qualify as a trade discount the above three conditions should be satisfied:
 - Buyer and the supplier have entered into an agreement which is not the case at present, as the incentive is being directly received from IIUL and agreement exists between the manufacturer and the supplier only and not with the distributor.
 - Secondly, the incentive received is not directly linked to a specific invoice rather than the volume of sale undertaken by the authorized distributor of IIUL.
 - Thirdly, there is no such reversal done by the Intel Authorized Distributors in the present case in relation to the goods supplied to the appellant.
- Thus, AAAR upheld that AAR has rightly concluded that the incentive will not qualify as 'Trade Discount' in terms of S. 15(3) of CGST Act.

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- Further based on the agreement, the applicant is duty bound to perform the following tasks:
 - They will make their best efforts to sell and market the Intel products
 - Assist Intel in implementing Intel's marketing campaigns
 - Provide first-level technical product support.
- In lieu of the aforesaid services, the payout is being accrued in the form of supply of marketing as well as technical support services.
- Further, the M-AAAR held that in terms of Section 13(3)(a), the place of provision of service is the location of the supplier of services i.e. the applicant, which is in India.
- Hence, it is upheld that that the impugned supply does not qualify as export of services.
- Based on the above, the Advance Ruling pronounced by M-AAAR is upheld and the present appeal is dismissed

THANK YOU



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