

TAX FLASH NEWS

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Recovery of mediclaim insurance premium from employee, not subject to levy of GST – AAR, Maharashtra

Authority for Advance Ruling, Maharashtra (AAR) have recently held¹ that recovery of 50 per cent of the insurance premium from the salary of the employee for parents Mediclaim cannot be treated as an activity done in the course or furtherance of business and hence not subject to levy of GST.

Facts of the case

The applicant had introduced an optional parental insurance scheme for its employee. As per the scheme, the applicant initially pays the entire premium along with taxes to the insurance company. The insurance company issues the premium receipt in the name of the applicant.

From the salaries of the employees who opts for the scheme, the applicant recovers 50 per cent of the premium amount and the balance premium amount is borne by the applicant themselves.

Basis the above facts, the applicant had filed an application seek ruling on the following –

Whether GST is payable on recovery of 50 per cent of the insurance premium?

Ruling by AAR

The applicant is not in the business of providing insurance services. Since, there is no statutory requirement of providing parental insurance cover for the employees' parents, the non-provision of the same would not affect the business of the applicant. Thus, the activity of recovery of 50 per cent of the cost of insurance premium cannot be treated as an activity done in the course of business or furtherance of business.

Further, the activity of providing mediclaim policy for the employees' parents does not satisfy the condition prescribed in section 7 required to be held as 'supply of services' and it is not covered under the term 'business' as defined in the law. Accordingly, the said activity cannot be treated as supply of services between an employer to an employee.

Our comments

This ruling is in lines to an earlier AAR Maharashtra ruling in case of Posco India², where it has been held mere recovery of premium amount without actual provision of services will not tantamount to levy of GST. However, it needs to be analysed whether it can be applied to all recovery made from employees or restricted only to Insurance premium, considering that Kerala AAR³ has held that canteen recovery is liable to GST.

¹ Jotun India Pvt. Ltd., 2019 -VIL-296-AAR

² Posco India Pune Processing Center Private Limited, 2019-VIL-25-AAR
³ Caltech Polymers Pvt. Ltd., 2018-VIL-04-AAR

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