

TAX FLASH NEWS

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Vouchers cannot be taxed as they are similar to pre-deposits

The confusion on whether vouchers supplied by a trader are goods or are actionable claims and whether they are leviable to GST has been laid to rest by Karnataka High Court¹. This Court has held that the vouchers do not have any intrinsic value of their own. They are neither goods nor services and therefore cannot be taxed.

Facts of the case

- 'Appellant' is engaged in the business of procuring pre-paid payment instruments (PPI) of gift vouchers, cash-back vouchers and e-vouchers from the issuers and supplying them to its clients for a specified face value. Its clients issues such vouchers to their employees in the form of incentives or to other beneficiaries under promotional schemes for use as consideration for the purchase of goods or services or both as specified therein.
- Authority for Advance Ruling in Karnataka (AAR) held that the supply of vouchers is taxable; time of supply would be governed by section 12(5) (i.e. in case where a periodical return is filed, the date on which such return is to be filed; or in any other case, date on which tax is paid) and rate of tax would be 18%. Aggrieved by the ruling, 'Appellant' challenged this order before the Karnataka Appellate Authority for Advance Ruling.
- The Karnataka Appellate Authority for Advance Ruling upheld the order passed by lower AAR and has concluded that vouchers traded by the 'Appellant' are goods and not actionable claims. Feeling aggrieved, the Appellant filed a writ petition.

Appellant's contentions

- Reserve Bank of India has issued a master direction [DPSS.CO.PD.No.1164/02.14.006/2017-18] on the issuance and operation of PPIs. Para 9.1(i)(g) of the direction specifically recognises PPIs for the purchase of goods and services. The vouchers involved in this case are PPIs which do not disclose the goods and services at the time of issuance;
- Since the goods are not identifiable at the time of issuance, the time of supply shall be the date of redemption as per section 12(4)(b) of the CGST Act, 2017;
- Vouchers would remain only as an instrument till such time it is used for discharging obligation towards the supply of goods or services. At best, vouchers can be considered an actionable claim defined in section 2(1) of the CGST Act until it is presented for redemption. Such actionable claim is neither goods nor services as defined in Schedule III of the CGST Act;
- The actual supply of goods or services takes place only when the voucher is presented for redemption by a customer, except when the voucher itself identifies the goods or services for the value mentioned in the voucher.

Revenue's contentions

- It cannot be held that the goods are not identifiable since the Appellant would know precisely what is offered to the customer.

¹ Premier Sales Promotion Pvt Limited Vs Union Of India & Ors [2023-VIL-67-KAR]

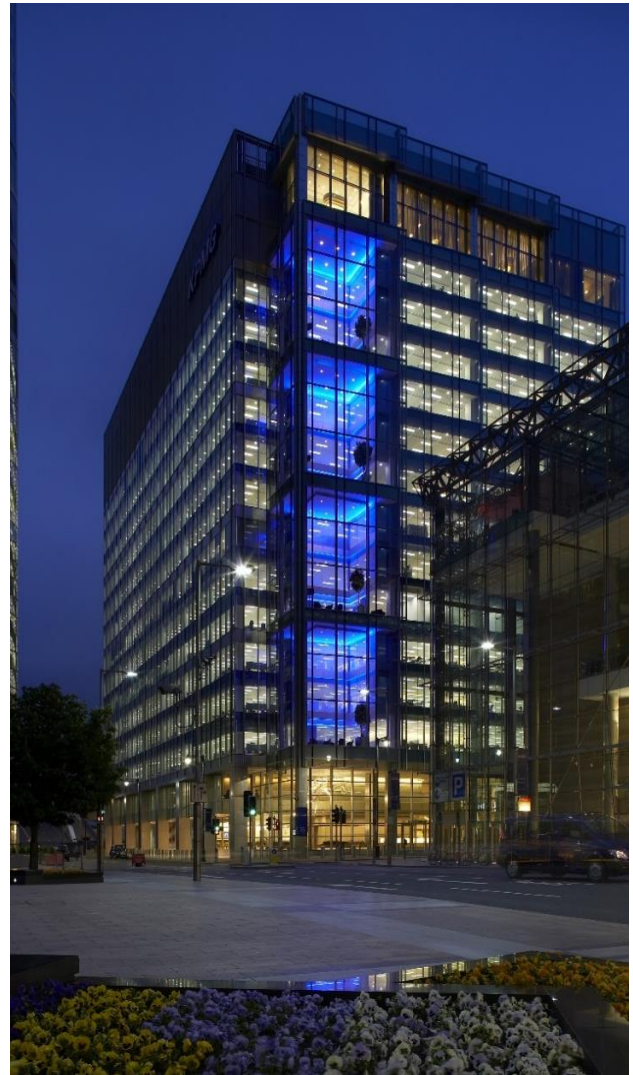
High Court's decision

Karnataka High Court allowed the writ petition in favour of the Appellant. It analysed the definitions of the term 'money' and 'voucher' under the CGST Act and concluded that :

- Vouchers are mere instruments accepted as consideration for the supply of goods or services. They have no inherent value of their own. As vouchers are considered as instruments, they would fall under the definition of 'money' under the CGST Act. The CGST Act excludes 'money' from the definition of goods and services and, therefore not leviable to tax.
- The transaction between the Appellant and its clients is the procurement of printed forms and their delivery. The printed forms are like currency. The value printed on the form can be transacted only at the time of redemption of the vouchers and not at the time of delivery of vouchers to its client. Therefore, the issuance of vouchers is similar to pre-deposit and not a supply of goods or services. Hence, vouchers are neither goods nor services and therefore cannot be taxed.

Our comments

This decision is in line with the stand taken by the industry, in general, to treat vouchers/pre-paid instruments/gift cards as neither goods nor services but as 'a means/instrument for payment of consideration'. There have been contrary rulings from different State AAR on this aspect, but this ruling will have weightage since it is from the bench of the High Court. This decision will have precedence value as there is no provision under the GST law for any person aggrieved by any order passed by AAAR to file an appeal. Persons aggrieved by an adverse order can now approach High Court for appropriate relief.



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