

## Is Interest income considered for threshold limit under GST?

### INTRODUCTION

As per the provisions of GST law, a person is required to obtain registration if aggregate turnover exceeds the threshold limit. The threshold prescribed is Rs.40 Lakhs for goods and Rs. 20 Lakhs for services. Recently, the Authority for Advance Ruling (AAR), Gujarat in case of Sheree Sawai Manoharlal rathi (Advance Ruling No. GUJ/ GAAR/R/2020/10, dated 19<sup>th</sup> May 2020) has held that Interest received from PPF, personal loans and advances to family members, Interest on Saving Bank account would be considered for the purpose of calculating the threshold limit of Rs.20.00 Lakh for registration under the GST Law. This ruling has created a confusion, chaos & debate among the trade and professionals.

### FACTS OF THE CASE IN BRIEF:

In the above case, applicant was an individual having not engaged in any business. His income included Rental income Rs.9, 84,000/-, Bank interest Rs.3, 000/-, Interest on PPF deposit Rs.2, 76,000/- and Interest on Personal Loans and Advances Rs.7,49,000/-. Thus the aggregate total income was estimated to Rs 20, 12,000/-. So a question was raised whether the said income of interest would form part of aggregate turnover for calculating threshold limit of Rs 20.00 Lakh for registration under GST law?

### RELEVANT PROVISIONS OF LAW:

Before discussing the findings of the Advance Ruling Authority, its worthwhile to discuss about relevant provisions of law.

Section 2(6) of the Central Goods & Services Tax Act, 2017 defines the term “aggregate turnover” as under:-

“aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.”

## Is Interest income considered for threshold limit under GST?

“Exempt supply” is defined under Section 2(47) of the CGST Act, 2017 as –

“Exempt Supply” means supply of any goods or services or both which attracts nil rated of tax or which may be wholly exempt under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes Non- Taxable supply.

Section 7 of the Central GST Act, 2017 prescribes scope of the term “Supply” which includes sale, transfer, exchange, barter, license, rental, lease and disposal. If a person undertakes either of these transactions during the course or furtherance of business for consideration, it will be covered under the meaning of Supply under GST.

Entry 27(a) of the Notification No. 12/2017- Central Tax (Rate) and Entry 28(a) of the Notification No. 9/2017 -Integrated Tax (Rate) dated: 28.06.2017 relates to the exemption of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest. Therefore, activity of providing services by way of extending deposits, loans or advances where the consideration is represented by way of interest is exempt from GST.

### **FINDING AND DECISION OF AAR:**

AAR ruled that going by the definition of “aggregate turnover”, the Applicant is required to consider the value of both the taxable supply as well as exempt supply. The aggregate receipts of the applicant in the instant case are Rs 20.12 Lakhs i.e exceeding the threshold for registration. So he will liable to pay GST on the taxable turnover of rental income of Rs 9.84 Lakhs and balance amount of interest income Rs 10.28 Lakhs will be considered as exempt income not liable to GST.

### **COMMENTS AND ANALYSIS:**

The decisions of Advance Ruling Authority are binding to the person who seeks such Ruling and its Jurisdictional Authority and not to others. However such rulings may tempt revenue authorities to apply this to others as well. Hence, this Ruling is going to create litigation for sure going forward.

With due respect, in author’s opinion the decision by the Authority appears to be incorrect and needs to be reviewed. It does not lay down the correct law.

## Is Interest income considered for threshold limit under GST?

The AAR failed to take into consideration the full facts of the case and the provisions of section 7 of the CGST Act, 2017. As per the definition of term 'supply' u/s. 7 (1) of the CGST Act the supply includes 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**. So it implies that the supply must be done for consideration and supply has to be in the course or furtherance of business. So these two conditions must be satisfied for any transaction to be called as 'supply'. But in the instant case though the applicant is rendering services by way of extending deposits, loans or advances where the consideration is represented by way of interest, the same was purely personal in nature and without in the course or furtherance of any business. So the basic test laid down u/s 7 is not satisfied and thus taxable event never occurred. Further exemption notification is applicable only to such transactions which are otherwise taxable Supply under section 7 of the Act.

In the instant case earning of interest income is considered as 'Service' by the Authority and relying on the exemption notification they arrived at a conclusion that interest would form part of 'aggregate turnover' being exempted service. The Authority failed to appreciate the fact that earning of interest was personal in nature and applicant was never into any business. The exemption notification cannot exempt a transaction which *per se* is not a supply.

In our view, the exemption notification refers to such services which are in the course or furtherance of business of extending deposits, loans or advances but however to provide relief, it was exempted from tax. This exemption is relevant for Banking Company or the NBFC's or such others for whom the business itself is of extending deposits, loans or advances.

Apart from above legal provisions, the treatment of such income in the income Tax Return as business income or income from other sources may be relevant. So on this footing also if the views of the authority are accepted then it will be a situation where same transaction will be classified differently under Income tax law and GST law which is unintended.

The AAR also failed in not appreciating the objective of earning interest income. The interest earned here is solely from Investment and not by way of any money lending business.

## Is Interest income considered for threshold limit under GST?

### CONCLUSION:

In our view, the ruling is certainly a perverse one. As discussed here in above, the revenue authorities are going to take the view expressed in AAR and litigation bound to happen. It would be interesting to know, how this ruling stands before the judicial. The government should come up to end this debate which has been created by AAR Gujarat by considering things which have never should have been a part of turnover by a literal interpretation of the available facts and assumptions. So let's wait for suitable clarification from Govt. and hope at last good sense will prevail.

**2<sup>nd</sup> October, 2020**

**Disclaimer:**

*The information contained in this write up is to provide a general guidance to the intended user. The information is based on our interpretation of various prevailing laws, rules, regulations, pronouncements as on date mentioned below. The information should not be used as a substitute for specific consultations. The information has been provided in simplified manner for general reference of the public which can lead to interpretation not intended under law. Hence, we recommend that professional advice is sought before taking any action on specific issues before entering into any investment or financial obligation based on this Content.*

*No part of this document should be distributed or copied by anyone without express written permission of the publisher.*