

**KARNATAKA APPELLATE AUTHORITY FOR ADVANCE RULING
6TH FLOOR, VANIJYA THERIGE KARYALAYA, KALIDASA ROAD,
GANDHINAGAR, BANGALORE – 560009**

(Constituted under section 99 of the Karnataka Goods and Services Tax Act, 2017 vide Government of Karnataka Order No FD 47 CSL 2017, Bangalore, Dated:25-04-2018)

BEFORE THE BENCH OF

SMT. RANJANA JHA, MEMBER

SMT. SHIKHA C, MEMBER

ORDER NO.KAR/AAAR/11/2021-22 DATE:22-12-2021

Sl. No	Name and address of the appellant	M/s Premier Sales Promotion Pvt Ltd, Flat No 10/4, Mithra Tower, 4 th Floor, Kasturba Road, Bengaluru 560001
1	GSTIN or User ID	29AAECP5056A1ZL
2	Advance Ruling Order against which appeal is filed	KAR/ADRG 37/2021 Dated: 30 th July 2021
3	Date of filing appeal	28-09-2021
4	Represented by	Shri.M.S Nagaraja, Advocate & Authorised representative
5	Jurisdictional Authority- Centre	The Principal Commissioner of Central Tax, Bangalore North Commissionerate.
6	Jurisdictional Authority- State	LGSTO 20, Bangalore
7	Whether payment of fees for filing appeal is discharged. If yes, the amount and challan details	Yes. Rs 20,000 /- (CGST & SGST) paid vide Form DRC-03 with ARN AD2909210049511 dated 27-09-2021.

PROCEEDINGS

(Under Section 101 of the CGST Act, 2017 and the KGST Act, 2017)

1. At the outset we would like to make it clear that the provisions of CGST, Act 2017 and SGST, Act 2017 are in *parimateria* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.



2. The present appeal has been filed under section 100 of the Central Goods and Service Tax Act 2017 and Karnataka Goods and Service Tax Act 2017 (herein after referred to as CGST Act, 2017 and SGST Act, 2017) by M/s Premier Sales Promotion Pvt Ltd, Flat No 10/4, Mithra Tower, 4th Floor, Kasturba Road, Bengaluru 560001(herein after referred to as Appellant) against the Advance Ruling order No. KAR ADRG 37/2021 dated 30th July 2021.

Brief Facts of the case:

3. The Appellant is a Private Limited Company involved in the business of providing marketing services in the area of sourcing and supply of E-Vouchers. The clients issue work orders to the Appellant from time to time for supply of vouchers having a pre-defined face value. The client issues such vouchers to their customers who in turn can redeem the vouchers at any of the specified merchants who have agreed to accept the vouchers as consideration for goods or services supplied by them. The Appellant undertakes to procure several types of vouchers such as 'gift vouchers', 'cashback vouchers' and 'open vouchers' which are redeemable at e specified merchants. The Appellant enters into agreement with the merchants for the purchase of the vouchers which are in turn sold to their clients.

4. In order to obtain a ruling on the applicability of GST on transactions of sale of vouchers, the Appellant approached the Authority for Advance Ruling (AAR) seeking a ruling on the following question:

“(a) Whether the vouchers themselves, or the act of supplying them is taxable, and at what stage, for each of the three categories of transactions undertaken by the Appellant?”

“(b) If the answer to the above is in the affirmative, what would be the rate of tax at which this would be taxable i.e what category would this be taxed under?”

5. The AAR vide its order KAR ADRG No 37/2021 dated 30th July 2021 held as under:

“The supply of vouchers is taxable and the time of supply in all three cases would be governed by Section 12(5) of the CGST Act, 2017

The rate of tax on the supply of vouchers is 18% GST as per entry no. 453 of Schedule III of Notification No. 01/2017-Central Tax (R) dated 28.06.2017.”



6. Aggrieved by the ruling given by the AAR, the Appellant has filed this appeal on the following grounds.

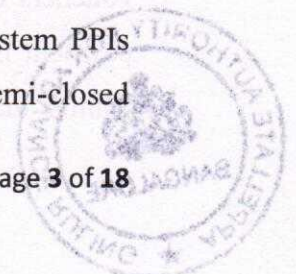
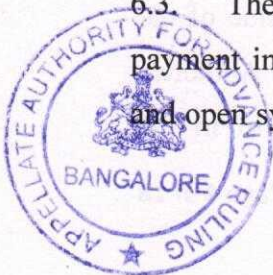
6.1. The Appellant submitted that in all the three types of vouchers, the supplier indicates his willingness to supply goods or services or both to the customer of recipient of vouchers at a later point of time when the eligible customers of the recipient of voucher redeems these vouchers; that at the time of supplying the vouchers, there is a promise to supply goods or services or both to the customers at the time the customer redeems these vouchers. They submitted that vouchers are instruments which are redeemable at their face value for the goods or services or both to be supplied by the specified merchant or the issuer of the voucher itself. As such there exists an obligation to accept the voucher as full or partial consideration for the supply of goods or services or both. Such instruments which enable payments to be effected between a payer and a beneficiary are governed by the Payment and Settlement Systems Act, 2007.

6.2. They submitted that the lower Authority has not appreciated the statutory definition of 'Voucher' as given in Section 2(118) of the CGST Act, 2017 which reads as under:

“voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument”.

The vouchers are payment instruments which facilitate purchase of goods or services. The vouchers are thus consideration in full or part for the goods or services or both to be supplied at the time of redemption of the voucher by the beneficiary. When the voucher is defined as “consideration” for the purchase or supply of goods or services, it is fallacious to hold that the vouchers themselves are “goods” and are subject to levy of GST. The AAR has thus ruled that the “consideration” itself is “goods” and liable to tax.

6.3. They submitted that they are trading in payment instruments; that the RBI classifies payment instruments into three categories – closed system PPIs , semi-closed system PPIs and open system PPIs; that the vouchers issued by the Appellant would be either semi-closed



or closed system PPIs, since open system PPIs are only issuable by banks; that according to the RBI Master Directions on the Issuance and Operation of Prepaid Payment Instruments, PPIs are defined as payment instruments which facilitate the purchase of goods and services against the value stored on such instruments; and Merchants are defined as establishments who have a specific contract to accept the PPIs issued by the PPI issuer (or contract through a payment aggregator/payment gateway) against sale of goods and services; Para 7.7 of the Master Directions also stipulates that PPIs may be issued as cards, wallets and any such form/instrument which can be used to access the PPI and to use the amount therein; that as per Para 9.1(i), PPIs upto Rs 10,000/- can be issued by accepting the minimum details of the PPI holder, which would include mobile number verified with OTP and self-declaration of name and UIN of any "officially verified document" as defined in the PML Rules, 2005. While a maximum of Rs 1,00,000/- is stipulated for the total amount loaded into a PPI during one financial year, there is no separate limit on the purchase of goods and services using PPIs.

6.4. The Appellant submitted that in their case, the vouchers satisfy all the above conditions and are squarely covered within the ambit of prepaid payment instruments, which is nothing but money or consideration for the future supply of goods or services; that as per the relevant RBI Master Directions, Guidelines, FAQs and the Payment and Settlement Systems Act, 2007, it can be seen that the vouchers or Pre-Paid Instruments (PPIs) issued by the Appellant would fall in the semi-closed system category, wherein a third party issues the voucher which can be redeemed by the beneficiary at a specific group of merchant locations which have a specific contract with the issuer to accept these instruments for payments; that the Appellant is the third party issuer of vouchers, which are redeemable by the beneficiaries for goods/services from the specified merchants from whom the Appellant has obtained the vouchers. They submitted that they are thus engaged in the issuance of PPIs which is only a transaction in money and not classifiable under goods or services subject to tax under GST law.

6.5. They submitted that the lower Authority has accepted in Para 10 of the impugned order that, the Appellant has only traded in payment instruments, the beneficiary redeems the instruments with the supplier of the goods or services; that until the time of redemption, the vouchers carry promise for supply of the goods or services equal to the price/value of the payment instrument. Furthermore, in Para 11.1 of the impugned order, the lower Authority admits that "Cash Back Voucher" and "Multiple Options Voucher" referred to in the



scenarios at Paras 10(b) and 10(c) of the order, cannot be issued by the issuer unless it is approved by the RBI; that in spite of this the AAR has held that the payment instruments supplied by the applicant to their clients, cannot be covered under the definition of 'money' at the time of supplying them; that they take on the colour of money only when it is used for payment of a consideration for the supply. They submitted that this interpretation of the lower Authority is erroneous in as much as it is contrary to the definition of "voucher" as per Section 2(118) of the CGST Act; that the RBI has considered the vouchers as payment instruments; that consideration itself cannot be held to be goods or services; that the AAR has failed to recognise the fact that supply of vouchers involves the obligation to supply certain goods or services at a later stage, as per the stipulation of RBI Guidelines since inception of the contract entered into between the Appellant and its customers. The also submitted that the AAR has erred in classifying the vouchers as goods for the obvious reason that the vouchers are only instruments which carry along with them a promise to pay or promise to supply goods and services and the ultimate supply of goods or services happens only when the final customer makes use of such vouchers by following the procedures and conditions attached to it; that whenever the vouchers are exchanged between the supplier of e-vouchers and buyer of e-vouchers, no supply of goods or services happens; that the AAR has failed to appreciate that the RBI has categorically stated that closed PPI and semi-closed PPI are recognised class of pre-paid instruments; that if the AAR itself admits that the vouchers are instruments of payment, then they ought to fall within the definition of money, which is outside the purview of GST.

6.6. The Appellant submitted that the voucher being defined as an instrument where there is an obligation to accept it as consideration for supply of goods or services to be supplied to the beneficiary, is an actionable claim; that the decision in the case of H Anraj Etc vs Government of Tamil Nadu relied upon by the AAR is erroneous since the same stands overruled by the Constitution Bench of the Supreme Court in the case of Sunrise Associates vs Government of NCT Delhi &Ors wherein it was held that the sale of lottery tickets does not amount to sale of goods but at the most a transfer of an actionable claim. The appellant relied on the Supreme Court decision in the case of Sodexo SVC India Pvt Ltd vs State of Maharashtra – 2016 (331) ELT 23 (SC) which dealt specifically with the treatment of vouchers; that the Hon'ble Supreme Court has held that the vouchers are not goods; that transactions of trading in vouchers are not transactions of sale or supply of goods or services because vouchers are payment instruments or consideration for sale or supply of goods or



services at a future date. They contended that the rejection of the ratio laid down by the Supreme Court on erroneous grounds and assumptions amounts to breach of judicial discipline.

6.7. The Appellant submitted that by applying the ratio of the judgment in the case of Sunrise Associates with respect to the meaning of 'actionable claim', voucher confers on the beneficiary a right to claim supply and delivery of the goods or services as specified therein; that the beneficiary is not in possession of the goods or received the services; that the transfer of the claim for the benefits in the voucher not in possession of the beneficiary constitutes an actionable claim and therefore cannot be classified as goods; that when the voucher is treated as actionable claim, then the transactions of actionable claims are neither supply of goods nor supply of services in terms of Sl.No 6 of Schedule III of the CGST Act.

6.8. The Appellant contended that the lower Authority has failed to recognize the fact that several clarifications have been issued by the CBIC with respect to taxation of vouchers; that vide FAQ dated 15th Dec 2018, the CBIC had clarified that the time of supply of voucher in respect of goods and services shall be (a) the date of issue of voucher, if the supply is identifiable at that point; or (b) the date of redemption of voucher in all other cases; that the same has also been clarified in the CBEC Flyer No 5 dated 1-1-2018; that the instructions and clarifications by the CBIC are binding on the Department. The Appellant also relied on the order of the Tamil Nadu Appellate Authority for Advance Ruling in the case of Kalyan Jewellers India Ltd – 2021(50) GSTL 96 (AAAR-TN) wherein it was held that Voucher, being an instrument used as consideration to settle an application, is a type of money, as long as such instrument is recognized by the Reserve Bank of India; that when a voucher is issued, though it is just a means of payment of consideration for a future supply, subsection (4) of Section 12 and 13 determine the time of supply of the underlying good(s) or service(s); voucher per se is neither a goods nor a service; it is a means for payment of consideration. Regarding classification of voucher, the Tamil Nadu AAAR held that since voucher is only an instrument of consideration and not goods or services, the same is not classifiable separately but only the supply associated with the voucher is classifiable according to the nature of goods or services supplied in exchange of the voucher earlier issued to the customer.

Since the vouchers are not classifiable as goods or services by virtue of them being
payment instruments or consideration for the supply of goods or services at a future

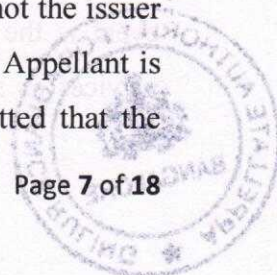
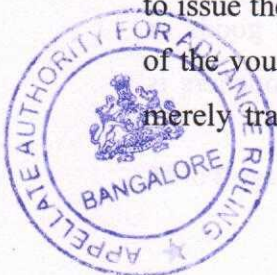


date, the Appellant prayed that the vouchers are not liable to tax under GST and the impugned ruling may be set aside.

PERSONAL HEARING

7. The appellant was granted a virtual hearing on 27th October 2021. However, the same was adjourned at the request of the Appellant and the hearing was held on 30th November 2021. The hearing was conducted on the Webex platform following the guidelines issued by the CBIC vide Instruction F.No 390/Misc/3/2019-JC dated 21st August 2020. The Appellant was represented by Shri. M. S Nagaraja, Advocate and authorised representative. The Advocate explained the facts of the case and the circumstances leading to the present appeal. He submitted that the Appellant deals with three types of vouchers i.e (i) Gift voucher, (ii) Cash Back voucher and (iii) Multi option voucher. The Appellant purchases the vouchers from companies who are authorised by RBI to issue vouchers; that the Payment & Settlements Act, 2007 and the RBI guidelines regulates the system of issue and redemption of vouchers; that the purchased vouchers are given to indenting companies who in turn give the vouchers to their employees who are the beneficiaries; that the beneficiary will present the voucher to the merchant as a payment for the goods or services. They submitted that the beneficiary has a claim on the voucher and is assured of certain goods or services on presenting the voucher and for this reason, the voucher is considered as actionable claim. They relied on the Supreme Court decision in the case of Sunrise Associates wherein it was held that sale of lottery ticket is an actionable claim; that in their case, the voucher is akin to lottery ticket and hence the qualifies as an actionable claim and hence by virtue of entry Sl.No 6 of Schedule III of the CGST Act, the transaction of supply of vouchers being an actionable claim is neither a supply of goods or services. They also relied on the Supreme Court decision in the case of Sodexo SVC India Pvt Ltd where the Apex Court had examined the issue of vouchers and held that the meal vouchers issued by Sodexo are not 'goods'; that although the decision of the Apex Court was rendered in the context of Octroi and Local Body Tax, the analysis made by the Supreme Court on the nature of vouchers will apply even to their case.

7.1. On a specific query by the Member as to whether the Appellant is authorized by RBI to issue the voucher, the Advocate categorically clarified that they Appellant is not the issuer of the voucher and is also not authorized by RBI to issue any voucher; that the Appellant is merely trading in the vouchers issued by the issuer. Further, they also submitted that the



provisions of time of supply of voucher as given in Section 12(4) of the CGST Act, pertains to the time of supply of the underlying goods and services and does not mean that the voucher is 'goods'. In view of the above, they submitted that the lower Authority has wrongly interpreted their activity as a transaction in goods and prayed that the same may be set aside.

7.2. In the additional written submissions vide letter dated 6th December 2021, the Appellant summarised the submissions made during the personal hearing and also submitted that they are providing marketing service by sourcing and supply of vouchers; that the Appellant is purchasing Gift Vouchers, Cash Back Vouchers and Multiple Option Vouchers (For Ex: Amazon E-Gift Vouchers, Shoppers Stop E – Gift Card, Sony Pictures E – Gift Vouchers, Makemy Trip E – Gift Vouchers, Flipkart E- Gift Vouchers, Dominos E-Gift Voucher, Big Bazar E – Gift Vouchers, Big Basket E – Gift Vouchers, Myntra E-Gift Vouchers, etc) and supplying to clients. A copy of the Bill of Supply dated 31.10.2021 issued by M/S Qwiksilver for supply of E-Gift Vouchers; a copy of Invoice dated 14.10.2021 issued by Paytm for the value of service and commission on payment of GST and invoice dated 09.9.2021 issued by VLCC Health Care Ltd to show that the tax has been paid on the value of service provided by the service provider were submitted by the Appellant. Further, a copy of Payment Solution Agreement dated 1.9.2021 between M/S One97 Communications Ltd and the Appellant was also submitted.

7.3. They submitted that One97 Communications Ltd is authorized by Paytm Payment Bank, owner of Paytm Wallet, to provide the Paytm Wallet related services to Merchant. Para 1.15 of the Agreement defines "Paytm Wallet" as semi closed prepaid payment instrument issued by Paytm Payment Bank Ltd in accordance with the RBI Guidelines. This shows that the Vouchers are issued in accordance with the Payment and Settlement Systems Act, 2007 and the Policy Guidelines issued by the RBI from time to time. The Appellants have contended that the "voucher" by definition means that it is an instrument where there is an obligation to accept it as consideration or part consideration for the goods or services or both to be supplied. Therefore, where the voucher is defined as consideration for the goods or services to be supplied the same voucher by itself cannot be treated as "goods". The Voucher or PPIs is a consideration for the supply of the underlying goods or services. The taxable event is the redemption of the value of the voucher and the resultant supply of goods or services as stipulated therein. The Advance Ruling holding that the supply of vouchers is



taxable as goods is thus contrary to the plain words of the definition of “voucher” in Section 2 (118) of the CGST Act, 2017.

7.4. The Appellant submits that voucher signifies assignment of beneficial interest or a right to claim the goods which are not in possession of the beneficiary, either actual or constructive. The Voucher by itself has no value. The Voucher assures the beneficiary the goods or services specified in it. It is a claim for beneficial interest in the goods or services assured in the voucher. In case the goods or services are not supplied at the time of redemption of the voucher, the client or beneficiary can claim the benefit assured in the voucher as a claim to a debt. The Voucher gives the beneficiary a specific right to the goods or services underlying it. Therefore, the vouchers answers to the definition of ‘actionable claim’ as defined in Section 2 (1) of the CGST Act, 2017 read with Section 3 of the Transfer of Property Act, 1882. The judgment of the Constitution Bench of the Hon Supreme Court in the case of *Sunrise Associates (supra)* which has analyzed the elements in “actionable claim” and has held that the sale of lottery ticket constitutes a transfer of an actionable claim is applicable to the facts of the case. The Appellant therefore prays that the ruling of the lower Authority be set aside and it be held that the vouchers by themselves are not goods or services; that the goods or services supplied against the vouchers are classifiable and attract levy of tax as applicable to such goods or services supplied; that the “time of supply” of goods covered by the vouchers are to be determined in terms of Section 12 (4) and in respect of services in terms of Section 13 (4) of the CGST Act, 2017.

DISCUSSIONS AND FINDINGS

8. We have gone through the entire case records and considered the submissions made by the Appellant in their grounds of appeal, the additional submissions as well as the submissions made at the time of personal hearing. We have also perused the documents submitted by the Appellant. Briefly stated the facts are the Appellant is a marketing and promotion Company which specializes in Consumer Promotions, Loyalty Programs, Partnerships and Contests. The Appellant curates reward programs for their clients which include supplying Gift vouchers, Cash back vouchers and Multi-option vouchers. The Appellant enters into agreements with merchants who agree to accept vouchers of different face value as consideration for the goods or services supplied by them. In addition, the Appellant has also entered into an agreement with payment aggregator in order to enable them to disburse money to the beneficiaries of the cash back vouchers. On purchase of the



vouchers from the entities authorised to issue vouchers, the Appellant supplies the vouchers to their client companies who in turn distribute the same to their employees as gratification. The issue to be determined by us is whether the vouchers traded by the Appellant is a supply of “goods” and if so, whether they qualify as “actionable claim”. The answer to the above will determine the taxability of the vouchers at the hands of the Appellant and also the rate of tax.

9. On reading the documents furnished by the Appellant, we find that the Appellant purchases three types of vouchers viz: (i) Gift voucher, (ii) Cash Back vouchers and (iii) Multi option vouchers. These vouchers are purchased by the Appellant from entities who are authorized by the Reserve Bank of India to issue vouchers, on payment of a consideration and the vouchers are sold to their clients for a consideration. The clients of the Appellant distribute the Gift vouchers and Multi Options vouchers to their employees as gratification and the employee (beneficiary) uses the voucher as consideration to purchase goods or services or both from specified merchant outlets. In the case of cashback vouchers, the voucher codes are printed on the client’s product packaging and any consumer purchasing the promotional product shall be eligible to receive a cashback of an amount equivalent to the value as mentioned in the voucher. The lower Authority has held that this activity of the Appellant in trading of vouchers is a supply in terms of Section 7(1)(a) of the CGST Act and it amounts to a supply of goods. The lower Authority has also held that the vouchers are not ‘actionable claims’ in as much as they are not debt and have an expiry period. The Appellant has assailed this finding on the grounds that the voucher by definition is a consideration for the purchase of goods or services and hence consideration itself cannot be held as “goods”.

10. The term “voucher” has been defined in Section 2(118) of the CGST Act to mean “*an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.*” Thus, vouchers are a form of payment instruments. The issue of payment instruments in India is regulated by the Reserve Bank of India in terms of the Payment and Settlement Systems Act, 2007 (PSS Act) and the Guidelines issued thereunder. In conformity with the PSS Act, the RBI has allowed for the issuance of pre-paid instruments (PPI) which are used to access the prepaid amount to finalize transactions and have also laid down the



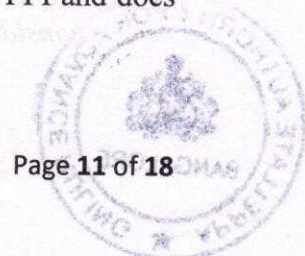
means to settle transactions. The RBI guidelines for issuance and operation of PPIs define 'prepaid payment instruments' as payment instruments that help in the facilitation of the purchase of goods and services, along with funds transfer compared to the value stored on such instruments. They encompass many forms such as smart cards, magnetic stripe cards, internet accounts, internet wallets, mobile accounts, mobile wallets, paper vouchers, etc. which can be used to get the amount in advance. The pre-paid payment instruments that can be issued in India are classified under three categories: closed, semi-closed, and open system payment instruments. Closed system PPI's can be issued by any entity for making supply of goods or services, exclusively from the said entity. Such PPIs cannot be used for cash payments/settlements or withdrawals. Therefore, RBI approval is not mandated or required for issuance of closed PPIs. Semi-closed PPIs can be issued by Banks and non-banking entities. Its functioning is similar to that of a closed PPI, as the same can be used for purchase of goods and services and the same cannot be withdrawn. However, unlike a closed PPI, a semi-closed PPI can be used for settlements. Therefore, they require prior approval from RBI for issuance. An open system PPI can be issued only by a Bank. They can be used for both cash settlements/payments and withdrawals.

11. PPIs can be in the form of various types of vouchers such as:

1. **Paper based vouchers:** Meal vouchers and Purchase vouchers.
2. **Electronic based vouchers:** E-com vouchers such as Paytm/Amazon vouchers.
3. **Discount vouchers:** Discount provided on specific items or all items offered by the seller to the buyer that are to be used at a later point of time.
4. **Cash vouchers or Coupons:** A piece of paper or a digital code that can be used in exchange for cash. It can be used in place of money. These are also known as gift vouchers as they can be gifted and used by a third party at a later point of time to purchase from the same supplier.
5. **E-Wallets:** Instruments where money can be loaded and used for payments online for purchase of goods or services.

In the instant case, the Appellant is dealing with E-Gift vouchers, Cash back vouchers in E-wallets and electronic based multi options voucher. A reading of the RBI guidelines denotes that the transactions in vouchers can be of different types:

- The issuer of the voucher and the supplier of the redeemed goods and/or services can be the same person. This is categorised as a closed PPI and does not require the authorization of the RBI.



- The issuer of the voucher and the supplier of the redeemed goods and/or services are different persons: In this scenario, the issuer of the voucher, who is authorized by the RBI will sell the vouchers to customers and also enter into contractual agreements with participating suppliers to accept the vouchers for redemption of goods and/or services by the customers. On redemption of the voucher, the supplier will seek reimbursement from the issuer on the basis of the vouchers accepted as payment for the redeemed goods and/or services. This is a semi-closed PPI and requires the issuer to be authorized by the RBI.
- Vouchers sold through a third-party- In this case, the issuer of vouchers may sell vouchers to third-parties who buy and sell the vouchers. The third-parties who buy and sell the vouchers on a principal-to-principal basis will not be required to be authorised by RBI for trading in the vouchers.

12. The case before us in the nature of the third scenario described above where the Appellant is not the issuer of the voucher and also not authorized by RBI to issue vouchers, but is the third party who buys and sells the vouchers. Before we examine whether these vouchers are in the nature of 'goods', let us understand the treatment given to 'money' under GST law. Money has been explicitly excluded from the meaning of 'goods' and 'services' under GST law as can be seen from the definitions of the CGST Act reproduced below:

*2(52) 'goods' means every kind of movable property **other than money** and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply"*

*"2(102) 'services' means anything **other than goods, money** and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged"*

Further, taxability of goods / services arises when the same are supplied in terms of Section 7 of CGST Act. The scope of 'supply' as per the said Section is as under:

*"7(1)(a) all forms of supply of **goods or services** or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business"*



On a conjoint reading of the aforesaid provisions, it is reasonable to say that money per se has been kept out of GST. Therefore, any transaction in money as such does not qualify as a supply and does not fall within the purview of being exigible to GST. However, any service fee or by whatever name the same may be called for use of various forms of accepted legal tender will be subjected to GST as the case may be. What construes money under GST law? Section 2(75) of the CGST Act defines 'money' as follows:

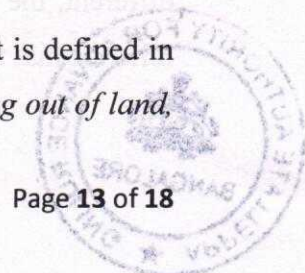
*"2(75) money means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or **electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value**"*

The vouchers in question are undoubtedly payment instruments recognised by RBI. The question is however, whether these vouchers can be considered as 'money'. The finding of the lower Authority is that these vouchers are not used by the Appellant to settle an obligation and hence cannot be considered as 'money'; that it takes on the colour of money only when it is redeemed by the beneficiary at the time of purchase of goods and/or services. We agree with this finding. The voucher in the hands of the Appellant, does not settle an obligation but rather creates an obligation. The settlement of the obligation occurs at the time when the ultimate beneficiary uses the voucher to purchase goods and/or services. The definition of money also makes it clear that it is only when the payment instrument is used as consideration to settle an obligation, does it qualify as 'money'. This occurs only when the voucher is redeemed. Until then it is just an instrument recognised by the RBI but is not 'money'. Therefore, the voucher in the hands of the Appellant cannot be termed as 'money'.

13. Having concluded that the vouchers are not 'money', we now examine whether they can be considered as 'goods'. As per the definition of "Goods" under CGST Act, every movable property other than money and securities is "Goods". Movable property is not defined under GST law but the same is defined in Section 3(36) of General Clauses Act 1977 as below:

"Movable property" shall mean property of every description, except immovable property;

The term 'immovable property' has also not been defined in the GST law but it is defined in Section 3(26) of the General Clause Act, 1897 as including *land, benefits arising out of land,*



and things attached to the earth, or permanently fastened to anything attached to the earth.”

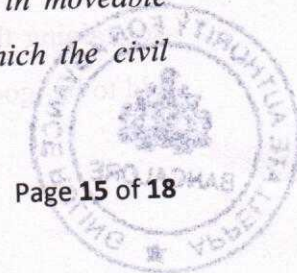
It is seen from the above, that any property other than immovable property is a movable property. The expression property is understood as things and rights which have a monetary value and being capable of transfer. In this case, the Appellant purchases the vouchers by paying a consideration to the issuer. The vouchers are also sold to the clients of the Appellant for a consideration. We find from the invoices issued to the customers for the sale of the vouchers that the same have been sold at the face value of the vouchers. The vouchers have thus both a value and an ownership and the ownership gets transferred from the person who first purchases the voucher from the issuer to the ultimate beneficiary who redeems the voucher. Therefore, the vouchers qualify to be considered as movable property and hence are to be considered as ‘goods’.

14. The Appellant has strongly relied on the Supreme Court decision in the case of Sodexo SVC India Pvt Ltd to drive home the contention that the vouchers are not ‘goods’. We have gone through the said decision of the Hon’ble Supreme Court. At the outset we find that in the relied upon case, Sodexo was the issuer of meal vouchers and was authorized by the RBI to issue such vouchers. Secondly, the Supreme Court was examining the issue in the context of levy of Local Body Tax and Octroi whereby the said taxes were chargeable upon the entry of goods within the city limits for consumption, use or sale therein. For this purpose, the Court referred to the definition of ‘goods’ as given in Section 2(25) of the Maharashtra Municipal Corporation Act under which the Municipal Corporation is entitled to levy and collect Local Body Tax and Octroi. The definition of ‘goods’ as per the said Act reads as “goods” includes animals” In this context, the Court has held that *Sodexo Meal Vouchers* cannot be treated as ‘goods’ for the purpose of levy of Octroi or LBT. In the instant case, the definition of goods in the CGST Act is much more explicit and states clearly what goods mean, what is excluded from the meaning of goods and what is included in the meaning. Further, the nature of the transaction in the case before us is different from the nature of the transaction by Sodexo in as much as the Appellant is clearly not the issuer of the vouchers nor is he authorized by RBI to issue vouchers. The Appellant is buying vouchers from entities authorized to issue them and is selling the same to his clients. In other words, the Appellant is purely trading in vouchers. Since the material facts are patently different, the decision of the Supreme Court will not apply to the Appellant. Therefore, we reiterate that the vouchers being traded by the Appellant are in the nature of goods.



15. The Appellant has also drawn our attention to the ruling given by the Tamil Nadu Appellate Authority for Advance Ruling (AAAR) in the case of Kalyan Jewellers India Ltd wherein it has been held that the gold voucher issued by Kalyan Jewellers is an instrument used as consideration to redeem gold jewellery at any of its outlets and hence is a type of money recognized by the RBI and cannot be considered as goods. On a detailed reading of the case before the Tamil Nadu AAAR, it is seen that the vouchers issued by Kalyan Jewellers are in the nature of closed PPIs which do not require the authorization of RBI. The issuer of the voucher and the supplier of the goods are one and the same. In this context, the Authority has held that the gold voucher is not goods but an instrument of consideration. Interestingly, we find that one of the questions on which a ruling was sought for by Kalyan Jewellers before the Tamil Nadu AAR, is whether the PPIs issued by the third-party is subject to GST at the time of issue in their hands and whether the amount received by the applicant (Kalyan Jewellers) from the third-parties is subject to GST. The situation covered in this question is similar to the facts of the Appellant's case before us. However, the TN AAR has refrained from answering this question on the grounds of jurisdiction. Therefore, the only issue which was placed before the TN appellate authority was on whether the closed PPIs issued by Kalyan Jewellers to their customers is treated as a supply of goods or service. Since there was no ruling given either by the TN AAR or the AAAR on a question which is similar to the situation before us, the decision of the TN AAAR has no relevance or persuasive value to the Appellant in this case.

16. We now come to the contention of the Appellant that the vouchers are in the nature of actionable claims. As per the definition provided in Section 2(52) of the CGST Act, 2017, "Goods" includes "actionable claims". However, Sl.No 6 of Schedule III of the CGST Act, treats actionable claims other than lottery, betting and gambling as being neither a supply of goods nor a supply of services. Therefore, only lottery, betting and gambling shall be treated as actionable claims which are goods under GST. All other actionable claims shall not be treated as either goods or service. Section 2(1) of the CGST Act states that "actionable claim" shall have the same meaning as assigned to it in Section 3 of the Transfer of Property Act, 1882. Section 3 of the Transfer of property Act 1882 defines "actionable claim" as "*a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property, not in possession either actual or constructive, of the claimant, which the civil*



courts recognize as affording grounds of relief whether such debt or beneficial interest be existent, accruing or conditional or contingent".

17. When we analyse the above definition, it is clear that the term "actionable claim" has got two limbs. One is that it is a claim to any unsecured debt. The second limb is about claim to beneficial interest in movable properties not in actual or constructive possession of the claimant which shall be recognized as affording ground for relief by a civil court. These two categories of claims can be existent, future, contingent or conditional. An actionable claim is therefore an intangible movable property. The term actionable claim only covers the above mentioned two types of claims i.e (i) Claim to an unsecured debt; and (ii) Beneficial interest in a movable property. Both these claims are recognized in the Courts of law as affording relief. Unsecured debt refers to all monetary obligations of a certain amount, and that is not covered by any security in the form of mortgage, pledge or hypothecation. In the instant case, we find that the vouchers are not a claim to any debt. As regards the second limb of the definition of 'actionable claims' i.e beneficial interest in movable property, it is seen that right of a person (claimant) to take possession of movable property from another person is actionable claim of that person if the claimant has a beneficial interest in the movable property. It becomes important here to note that the claim must be of certain movable property and be in possession of the other person at the time of claim. In the case of vouchers, we have already held that it is a movable property and hence constitutes goods. However, the voucher is in the possession of the claimant at the time of the claim and hence it cannot be considered as actionable claim.

18. The Appellant has contended that the vouchers are akin to lottery tickets and the Supreme Court in the case of Sunrise Associates has held that lottery tickets are actionable claims. They have also argued that the reliance placed by the lower Authority on the Apex Court's decision in the case of H.Anrajto hold that vouchers are not actionable claims, is incorrect as the same has been overruled by the Constitution Bench of the Supreme Court in the case of Sunrise Associates. We have gone through to the decision of the Supreme Court in the case of Sunrise Associates. The decision in *Sunrise* examined the dealers' contention that a lottery ticket was only a slip of paper or memoranda evidencing the right of the holder to share in the prize or the distributable funds and was merely a convenient mode for ascertaining the identity of the winner. The Court held that in Anraj the lottery ticket was held to be 'goods' - not as a physical article but as a slip of paper or memorandum evidencing



(a) the right to participate in the draw, and (b) the right to claim a prize contingent upon the purchaser being successful in the draw. Further, for the purpose of levy of sales tax, lottery ticket could be regarded as 'goods' properly so called insofar as it entitled its holder to take part in the draw. In other words, lottery ticket, to the extent it evidenced the right to claim the prize, was not 'goods' but an actionable claim and, therefore, expressly excluded from the definition of 'goods' under the sales tax laws. A transfer of it was consequently not a sale. The lottery ticket per se had no innate value. The Supreme Court held that the Delhi High Court (lower court in Sunrise case) was, therefore, plainly in error in interpreting and following *Anraj*. We find that the plea of the Appellants that the vouchers are akin to lottery tickets is not tenable. While the lottery tickets have no innate value, it is not so in the case of vouchers. The vouchers have a definitive value and are traded for a consideration. The value of the voucher is the extent to which a beneficiary can claim possession of goods and/or services from the specified suppliers. Therefore, while we agree that the reliance placed by the lower Authority on the H.Anraj case to hold that the vouchers are not actionable claims, is not correct, we are still not convinced to hold otherwise. In our opinion, since vouchers are not the same as lottery tickets, the Supreme Court ruling in the case of Sunrise Associates will not help the Appellant and we hold that the vouchers are not actionable claims.

19. Having concluded that the vouchers traded by the Appellant are goods and not actionable claims, we hold that the supply of vouchers by the Appellant is a supply of goods in terms of Section 7 of the CGST Act. We are in complete agreement with the ruling given by the lower Authority on the aspect of value of the vouchers for the purpose of GST, the rate of tax and the time of supply of the vouchers by the Appellant. Since the Appellant is not the issuer of the voucher, the provisions of time of supply under Section 12(4) will not apply and the time of supply will be governed by the provisions of Section 12(5) of the CGST Act.

20. In view of the foregoing, we pass the following order.



ORDER

We uphold the order No.KAR ADRG 37/2021 dated 30/07/2021 passed by the Advance Ruling Authority and the appeal filed by the Appellant M/s. Premier Sales Promotion Pvt Ltd stands dismissed on all counts.

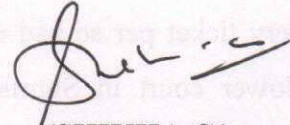


(RANJANA JHA)

Member

Karnataka Appellate Authority
for Advance Ruling
Member

To, **Appellate Authority for Advance Ruling**



(SHIKHA C.)

Member

Karnataka Appellate Authority
for Advance Ruling
Member

Appellate Authority for Advance Ruling

The Appellant

Copy to

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5. Office folder

