

TAX INFO

Dated 12.11.2021

Latest update on GST Law: Information regarding **Salary paid by the Manpower Service Provider is included in Value of Supply** as given in **Ruling by AAR-West Bengal**.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication

Name of Applicant	Prodip Nandi
Authority	GST AAR West Bengal
Date of Ruling	08.10.2021
Ruling No.	13/WBAAR/2021-22

Contention of Applicant:

The applicant under the Client Service Agreement act as a pure agent for the purpose of payment of salary/wages in the course of supply of manpower services to the client. The applicant neither intends to hold nor holds any title to the services supplied to his clients. He does not use the services so procured for his interest and the manpower services are directly supplied to the client. He qualifies as a pure agent as defined in Rule 33 of the CGST Rules, 2017. Accordingly, the amount of salary/ wages to be paid by the applicant on behalf of the client is eligible to be excluded from the value of supply. The applicant is liable to pay tax only on the value of service charge received by him from the client for supply of manpower services.

Submission of Revenue:

As per Rule 33(ii), payment made by the pure agent on behalf of the recipient of the supplier has to be shown separately in the invoice to be issued by the pure agent to the recipient of service. But, part of the cost on procuring the service is shown separately and a portion is not indicated separately in the invoice as is required under rule 33(ii). The service provider is not a pure agent of the client. On the contrary he is just another supplier of service providing service upon procurement of the same as per specification of his client.

Findings of Authority:

Applicant supplies manpower services for which he enters into an agreement with the recipient of services. The recipient of services authorizes the applicant to make payment of salary, wages and all allowances on behalf of him thereby the applicant makes such payment in the capacity of an agent of the service recipient. Further, payment of salary, wages and allowances made by the applicant is clearly and separately shown in the invoice raised by the applicant.

They did not find any service other than manpower services provided by the applicant to his client as he only supplies manpower to his clients according to their needs at their place of business. The applicant is the person who is liable to pay salary/wages to the work-men employed by him under "Employment Agreement" to provide manpower services to his clients and just showing such amount in a separate manner in the invoice doesn't shift his liability on the recipient of services and makes him qualify as a "pure agent" in terms of Rule 33.

Ruling:

The recipient of services authorizes him to make payment of salary, wages and all allowances on behalf of him doesn't hold water on the same ground that such amount is actually payable by the applicant himself. Hence, the applicant is not considered a pure agent and the payment of salary or wages are to be included in value of supply.

Suresh Aggarwal, Advocate

Compliance & Litigation under GST

Address: House No. 54, Pocket A-3, Sector-5, Rohini- 110085

Phone: 91-9810032846; 011 - 45131427

Email: sureshagg@gmail.com

Website: <http://www.sureshtaxation.com>