**BY E-MAIL / COURIER**

**File No.174/2023-Opinion**

24.08.2023

M/s. Atlantic Air And Oceanfreight Services Pvt. Ltd.,

Ground Floor, No.28, II Street,

Ravi Colony, St. Thomas Mount,

Chennai – 600 016.

Attn.: Mr. J. Bhoopalan, Accounts Manager

<bhoopal.jayaprakash@maa.atlanticforwarding.com>

**Mobile:**  **9840958823**

Sir,

**Sub.: Taxability on services provided abroad.**

1. In connection with the above, find attached the following.

(a) Opinion.

(b) Our Bill towards professional charges.

2. Should you need any further clarification in this regard, please feel free to contact me. Kindly arrange for payment of the attached bill.

Yours faithfully,

**S. MURUGAPPAN**

Attached: as above.

sm/ss

**OPINION**

**1. QUERIST:**

M/s. Atlantic Air And Oceanfreight Services Pvt. Ltd.,

Ground Floor, No.28, II Street,

Ravi Colony, St. Thomas Mount,

Chennai – 600 016.

**2. FACTS:**

 Querist is in the business of logistics and forwarding. It is reported that they get supply offers for effecting shipments from Dubai to Africa. The terms of the shipment can be Ex-works or FOB. As such, the service invoice will be raised for ex-works charges, ocean freight etc. Such an invoice will be raised by their Dubai agent. In turn, the querist will raise their service invoice on their ultimate customer or their delivery agent.

**3. QUERY:**

In the above context, querist seeks clarification on the following.

1. Is this allowed to book as Sales/purchase in India books as per FEMA Act.

2. Is GST applicable to bill customer. If so, under what clause and notification.

**4. OPINION:**

# 4.1 It is seen that the querist’s agent in Dubai assists the querist in making bookings and effecting shipments from Dubai to Africa. For the services rendered, the Dubai agent raises an invoice on the querist. In turn, the querist raises their invoice with their margin on the customer or his delivery agent. There is an outflow of foreign exchange to the querist’s agent in Dubai and inflow of foreign exchange, which is more than the outflow from the ultimate customer or his delivery agent to the querist. In such a situation, these are to be treated as export earnings (export of services) and to our knowledge there does not appear to be any prohibition for handling transactions in this manner.

# 4.2 As far as the applicability of GST is concerned, it may be noted that the querist is located in India which is a taxable territory. The agent in Dubai as well as the ultimate customer are outside the Indian jurisdiction. As per Section 13 of IGST Act 2017, normally the place of supply of services will be the location of the recipient of the services [Section 13(2)]. However, there are certain exclusions for these transactions. Sub-section (3)(a) of Section 13 states that where the services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services will be location where the services are actually performed.

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# 4.3 Similarly, in terms of sub-section (9) of Section 13 the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

# 4.4 In view of the above provisions, in the present case, where the services are provided by the agent of the querist in Dubai, such supply of services will be outside India. However, under reverse charge notification 10/2017 Integrated tax (rate) dated 28.6.2017 (serial number 1), in such cases the querist will be liable to pay tax as per the invoice raised by the Dubai agent.

# 4.5 When the querist raises an invoice on the ultimate customer in Africa or his agent, that will be related to the services provided outside the country and hence, will not attract any GST in India.

**S. MURUGAPPAN**

sm/ss

**Disclaimer:-** The above opinion is provided based on the information and documents made available to us by the queriest and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.