

GST Applicability on Liaison Office Activities: A “Mixed” Bag of Supplies

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1. The recent Appellate Ruling in the case of **Dubai Chamber of Commerce and Industry** [\[1\]](#) (“DCCI LO” or “Appellant”) has thrown the cat among the pigeons. What seemed like a routine question for an organization that prides itself on being the bridge amongst businesses in India and UAE, has turned out to be a nightmare for entities similar in operations and structure. The Appellate Authority has based its conclusion almost entirely on the fact that place of supply of certain services was in India and therefore, sought to tax all the expenses reimbursed by the Head Office under the mixed supply route. This Article analyses the impact of this Ruling and how it will unravel for similarly placed entities.

Recap of the Original Ruling:

2. Before getting into the Appellate Ruling, it's worthwhile to look at what the original Ruling said. Like every other case involving export of services, the Department's first shot at the target was to categorize these services as “intermediary services”. Intermediary services is a weapon oft exercised by the GST Department, to deny refunds in export of services. With the absence of a GST Appellate Tribunal and the only option to go to High Courts, the Department has been using “intermediary services” to block refunds, even in cases where there is not even a shred of any intermediary service. In this case also, the Department claimed that the services provided by the Dubai Chamber of Commerce and Industry in its capacity as Liaison Office was nothing but intermediary services. To reach this conclusion, the AAR relied on the fact that by connecting business in India with partners in UAE, the Appellant is actually arranging or facilitating the supply of goods or services between two or more persons. Resultantly, all of the fees charged by the Liaison office to the Head Office got categorized as fees for providing “intermediary services” and attracted 18% GST. Thankfully, the Appellate Authority reversed this aspect. But it seems that, reversing this position was not enough and the Appellate Authority went on to apply the concepts of mixed supply into this transaction.

Why was DCCI setup:

3. DCCI - LO has been set up to play a key role in the growing trade and diplomatic relations between India and the UAE in pursuance to the meetings held between the heads of the two countries. Key functions being:

a) Liaison between India Office and Dubai Office- involves sharing of general knowledge in relation to

opportunities in UAE or India for the proposed business that includes information pertaining to updates in regulation, policy framework, business trends, potential areas of growth in business etc.

b) Attending and representing DCCI- HO in various seminars, conferences, and trade fairs. The Liaison office promotes the emirate of Dubai to companies intending to grow their international presence at major events in India. Appellant also informs Indian businesses about key exhibitions in Dubai to boost their international business as a helpdesk/information Centre. Connecting businesses in India with the businesses in UAE and vice versa.

c) Organizing events and interactions with Indian businesses for sharing information about Dubai and vice versa. As a part of the diplomatic mission, events and interactions are organized with Indian business to promote Dubai as a business hub and support growth of trading relationship between business in India and the UAE.

4) Without going into the details of all conditions prescribed by the RBI for Liaison Offices, it is relevant to note that the LO was restricted only to the Liaison activities between India and Dubai office. Apart from this, the LO is not allowed to undertake any activity of trading either of commercial or industrial nature, nor is it allowed to enter into business contracts in its own name without prior permission of the RBI.

Relevant Findings of the Appellate Authority and its impact:

5. Overturning the findings of the AAR on the particular aspect of intermediary, the AAAR held that while the activities undertaken by the Appellant were services (owing to the wide definition of service given under the GST legislation), they are not intermediary service providers as the Appellant was not providing any facilitation or arrangement of supply of goods or services, it merely acts as a communication link between the Indian business and Dubai business by sharing details of the potential business partners where they are neither arranging or facilitating the supply of goods or services.

6. The host of activities provided by the Appellant were also found to be categorized as following:

a) Organizing various seminars, conferences and other interactive events for India and Dubai business entities/delegates and for promoting and projecting Dubai as an international business hub as a part of the diplomatic mission of their Dubai Head Office

b) Sharing information with the Dubai HO about the regulation updates, policy framework, business trends etc.

7. The above services were held to be independent supplies and therefore, when made in conjunction with each other for a single price it was held to be a “mixed supply”. It was further observed that the place of supply of the activities pertaining to organization of various events in the nature of seminars, conference, round tables is the place where such events are held i.e., in India. Thus, the entire consideration received by Appellant were found to be taxable at the rate of 18% GST under the mixed supply categorization.

8) The logic applied by the AAAR in coming to this conclusion was that as all of these activities were separate, independent supplies, they were provided under a single price or consolidated amount because the Appellants were being reimbursed by the Dubai HO on a cost to cost basis. For this purpose, first the AAAR focused on the activities being done by the Appellants which were in the nature of organizing various seminars, conferences etc. As per the AAAR, because the Appellants were organizing these events in India,^[2] therefore, the place of supply of such services was India. However, the AAAR also analysed the other services such as participating in such seminars, reporting regulatory changes, potential areas of growth, business policies etc and held that these were covered under “other support services” and because the recipient in such cases was located abroad, the place of supply was outside India.

9) Without going into the merits of the other findings such as those on “business” and “person”,^[3] lets see the impact of the above finding on mixed supplies.

10) This ruling indirectly emphasizes on the fact that if the activities provided by the LO was invoiced and

the consideration for these services was provided separately then the outcome of the GST implication would have been very different. This also makes one wonder if “form” is more important than the “substance” of the transaction. Simply because of one transaction which had a taxable supply in India, does it colour all other non taxable activities also? Applying the mixed supply principles is a bit skewed, in itself. The AAAR did not advert to the definition of mixed supplies which defines it to mean^[4], “two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.” Even as per the illustration appended to the definition, if items are supplied separately, it shall not be a mixed supply.

11) Evidently, in this case, there are a host of services being supplied at different points in time. These supplies are not even in “conjunction” with each other. Further, for ease of business operations and for administrative purposes, there is a single invoice. In fact, it appears that, as per the AAAR, even if there were multiple invoices but payment was received singly, there would be a mixed supply of zero rated and taxable supplies and therefore, everything gets taxed. That, in our view, is not tenable. One may also look at Rule 46A of the CGST Rules, which allows registered persons to issue a single “invoice cum bill of supply” to unregistered persons, in case of supply of nontaxable/exempt as well as taxable goods/services. This position was, however, completely overlooked. It begs the question, whether these findings given by the AAAR were even put before the Appellant for them to give a defence. However, that aspect is outside the scope of this Article and therefore, we provide no comments on the same. With such unconventional interpretations of the law leading to legal outcomes like these, the objective of various other rules (which are prescribed from the perspective of ease of doing business) become redundant and ineffectual. Another question which arises is if merely organizing seminars, conferences, events is the biggest concern of all?

12) Given that the trend of setting up LO’s is not new and will continue in order to project and promote parent companies’ business activities and act as a communication channel, it is imperative that every liaison office which supports/provides similar activities to its head office located overseas revisits the arrangement/activities agreed to perform and the GST position adopted. Along with the GST legislation, LO’s will have to bear in mind the regulation and policies under FEMA and RBI as well. Each and every service being provided, should be examined to see where the place of provision of service is. Depending on the facts of each case, the LO and HO should review their invoicing and reimbursement policy, so as to avoid GST exposure on such grounds, in any case.

[1] Dubai Chamber of Commerce and Industry [\[TS-326-AAAR \(MAH\)-2022-GST\]](#)

[2] “Support Services”- “Events, exhibitions, conventions and trade shows organization and assistance services” with the service accounting code as 998596

[3] Please see Para’s 22,23 and 25, 26 of the AAAR [\[TS-326-AAAR \(MAH\)-2022-GST\]](#) for the findings on the aspect of business and person respectively

[4] Section 2 (74) of CGST Act