

Tax alert: Recovery of 50% of parental insurance premium from employees not 'supply of service' – Maharashtra AAR

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Summary

The Maharashtra Authority for Advance Ruling (AAR), in a recent case, has held that the recovery of 50% of parental health insurance premium from employees does not amount to 'supply of service'. The AAR further held that since the applicant is not rendering any service of health insurance to their employees' parent, the activity of recovery of 50% of the cost of insurance premium cannot be treated as an activity done in the course of business or for furtherance of business.

Facts of the case

- The applicant¹ is a leading manufacturer, supplier and exporter of paints and powder coatings. It offers optional parental medi-claim insurance scheme for employees' parents.
- As per the scheme, the applicant initially pays the entire premium and thereafter recovers 50% of the premium from the employees opting for the parental insurance scheme.
- The applicant sought an advance ruling in respect of whether the recovery of 50% of parental health insurance premium from employees would amount to supply of service² and consequently whether GST would apply on such activity.

Applicant's contentions

- **Not in insurance business:** The applicant is not in the business of providing insurance coverage and providing parental insurance cover is not a mandatory requirement under any law for the time being in force and therefore, non-providing parental insurance coverage would not affect its business by any means.
- **Not a supply of service:** The applicant contended that since recovery of 50% of the amount is not in the course or furtherance of business, the same cannot be considered as 'supply of service'.

Maharashtra AAR observations and ruling

- **Not an activity in course of furtherance of business:** The activity of recovery of 50% of

the cost of insurance premium cannot be treated as an activity done in the course of business or for furtherance of business as the applicant is not in insurance business and provision of such facility is also not mandatory under any law.

- **Neither supply nor business:** The activity undertaken by the applicant of providing medi-claim policy for the employees' parent through insurance company neither satisfies the prescribed conditions to be held as 'supply of service'³ nor covered under the term 'business'⁴.
- **No supply of services:** The AAR thus held that the applicant is not rendering any services of health insurance to their employees' parent and hence there is no supply of services in the instant case.

Our comments

The present ruling confirms earlier ruling of the Maharashtra AAR wherein it was held⁵ that there was no supply of services in cases where the applicant was not rendering health insurance services to their employees.

Though the AAR's decision is applicable only to the applicant, it acts as a guiding tool for other taxpayers having similar issues.

¹ Jotun India Pvt. Ltd.

² U/s 7 of the CGST Act, 2017

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⁴ Section 2(17) of CGST Act 2017

⁵ in the case of M/s POSCO India Pune Processing Center Private Limited

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NEW DELHI National Office Outer Circle L 41 Connaught Circus, New Delhi 110001 T +91 11 4278 7070	NEW DELHI 6th floor, Worldmark 2, Aerocity, New Delhi – 110037 T +91 11 4952 7400	AHMEDABAD 7th Floor, Heritage Chambers, Nr. Azad Society, Nehru Nagar, Ahmedabad - 380015	BENGALURU 5th Floor, 65/2, Block A, Bagmane Tridib, Bagmane Tech Park, C V Raman Nagar, Bengaluru – 560093 T +91 80 4243 0700	CHANDIGARH B-406A, 4th Floor, L&T Elante office Industrial area, Phase-I, Chandigarh 160002 T +91 172 4338 000
CHENNAI 7th Floor, Prestige Polygon 471, Anna Salai, Teynampet Chennai - 600 018 T +91 44 4294 0000	DEHRADUN Suite 2211, Michigan Avenue, Doon Express Business Park, Saharanpur Road, Dehradun – 248002 T +91 135 264 6500	GURGAON 21st Floor DLF Square Jacaranda Marg, DLF Phase II, Gurgaon 122002 T +91 124 462 8000	HYDERABAD 7th Floor, Block III White House Kundan Bagh, Begumpet Hyderabad 500016 T +91 40 6630 8200	KOCHI 7th Floor, Modayil Centre Point, Warriam road junction, M.G. Road, Kochi 682016 T +91 484 406 4541
KOLKATA 10C Hungerford Street 5th Floor, Kolkata 700017 T +91 33 4050 8000	MUMBAI 16th Floor, Tower II Indiabulls Finance Centre SB Marg, Prabhadevi (W) Mumbai 400013 T +91 22 6626 2600	MUMBAI 9th Floor, Classic Pentagon, Nr Bisleri, Western Express Highway, Andheri (E) Mumbai 400099 T +91 22 6176 7800	NOIDA Plot No. 19A, 7th Floor Sector – 16A, Noida 201301 T +91 120 4855 901	PUNE 3rd Floor, Unit No 309 to 312, West Wing, Nyati Unitree Nagar Road, Yerwada Pune- 411006 T +91 20 6744 8800

For more information or for any queries, write to us at contact@in.gt.com



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