

**No GST on delayed payment charges recovered from the client towards trading of securities**

The Hon'ble AAAR, Uttar Pradesh in the matter of *SPFL Securities Ltd. [Order No. 06/AAAR/18/4/2019, dated April 18, 2019]* held that Goods and Services Tax ("GST") is not liable to be paid on delayed payment charges recovered from the client towards trading of securities upon payment made by them beyond the time stipulated by the stock exchange and SEBI and for which payment is deducted by the stock exchange from the broker's account.

**Facts:**

M/s. SPFL Securities Limited ("**the Appellant**") is engaged primarily in the business of providing service of stock broking i.e., purchasing and selling of shares on behalf of the clients on exchange platform by virtue of being a recognized BSE/NSE appointed stock broker.

The Appellant submitted application for Advance Ruling dated October 20, 2018, before the Hon'ble AAR, Uttar Pradesh for taxability on delayed payment charges on reimbursement of amount by client to Appellant, where client failed to pay amount paid to Stock Exchanges for purchase of securities with T+1 (trading day plus one day) under SEBI Regulation norms and the amount was deducted by Stock Exchanges from the Appellant's account being purchase consideration of securities which are neither goods nor service under GST. Whereas, the Hon'ble AAR, Uttar Pradesh vide Advance Ruling Order No. 18, dated December 14, 2018 held that Appellant is liable to pay GST on the delayed payment of charges which are overdue from the client towards trading of securities and reimbursed to them.

Being aggrieved with the abovementioned Order, this appeal application has been filed.

**Issue:**

Whether GST is payable on delayed payment charges collected by Appellant if a client makes delay in reimbursing the expense to the Appellant and the Appellant charges a certain amount on delay of such reimbursement of expense, for securities purchased for the client?

**Held:**

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The Hon'ble AAAR, Uttar Pradesh in **Order No. 06/AAAR/18/4/2019, dated April 18, 2019** held as under:

- Noted that, payments to Stock Exchange, for purchase of securities, where payment are not made by clients for purchase of securities on the Stock Exchange, as per SEBI regulations, stock exchange debits account of the Broker against said purchases. Failing which the business of brokers stands shut by stock exchange under its regulations by closing trading terminal of the stock broker. Client reimburse the said amount to broker with charge for delayed payment. In this case, any amount which is overdue from the client towards trading or on account of any other reason to the broker will be charged from the client at the rate of 18% P.A.
- Observed that the nature of the delayed payment charges are purely a deferment of liability only which arose since the payment was not made within the stipulated period of time by the client to the Stock Exchange for purchase of Securities.
- Noted that, since the service of buying and selling of securities which is exempted under GST, as per the definitions of 'goods' and 'services' under the Section 2(52) and 2(102) of the Central Goods and Services Tax Act, 2017 ("**CGST Act**") respectively, the corresponding delayed payment charges which are also linked to the above service of trading of securities should also stand exempt under GST.
- Held that the Appellant is not liable to pay GST on the delayed payment charges on reimbursement of amount by client to Appellant, where client failed to pay amount paid to Stock Exchange for purchase of securities with T+1 (trading day plus one day) under SEBI Regulation norms and the amount was deducted by Stock Exchange from the Appellant's account being purchase consideration of securities which are neither goods nor services under CGST Act.

**Relevant Provisions:**

**Section 2(52) of the CGST Act:**

*“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 served before Supply or under a contract of supply;”*

**Section 2(102) of the CGST Act:**

*“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;*

*Explanation. - for the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;”*

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