

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

**BEFORE THE BENCH OF**

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)  
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAFCT4241G1ZF
Legal Name of Applicant	THE MOBILE WALLET PVT LTD.
Registered Address/Address provided while obtaining user id	3rd floor,Tower-3,Equinox Business Park, LBS Marg, Kurla (West), Mumbai-400070
Details of application	GST-ARA, Application No. 87 dt. 16.10.2018
Concerned officer	Sales Tax Officer (C-005), Nodal - 2, Mumbai
A Category	Service Provision
B Description (in brief)	The Applicant is in the business of issuance and operation of Pre-paid payment instruments as per RBI guidelines. Pre-paid Payment Instrument includes mobile wallet and Pre-paid Card
Issue/s on which advance ruling required	(v) Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

**PROCEEDINGS**

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

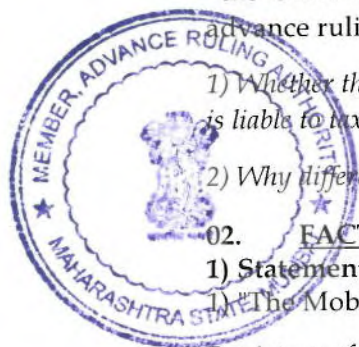
1. The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by The Mobile Wallet Pvt. Ltd., the applicant, seeking an advance ruling in respect of the following questions:

- 1) Whether the portion of the Merchant Discount Rate received by the issuing Bank as 'Interchange Fee' is liable to tax under the Goods and Services Tax?
- 2) Why different practice prevails by the Network in the industry ?

**02. FACTS AND CONTENTION - AS PER THE APPLICANT**

**1) Statement of relevant facts having a bearing on the questions raised -**

- 1) "The Mobile Wallet Private Limited" (hereunder referred as Applicant) registered with the Registrar of Companies Vide Registration No. U67190MH2015PTC267015, having a corporate office at 3rd Floor, Tower 3, Equinox Business Park, LBS Marg, Kurla (West), Mumbai - 400070.
- 2) The applicant has obtained registration and holding valid registration certificate issued under Central Goods and Services Tax Act, 2017.
- 3) The applicant is in the business of issuance and operation of Pre-paid Payment instruments as per RBI guidelines. Pre-paid Payment Instrument includes mobile wallet and Pre-paid Card.
- 4) The applicant company has entered into an agreement dated 16th Jan 2018 with the Federal Bank Ltd having a registered Office at Federal Towers, Aluva-683101, Kerala. Applicant is issuing and operating Pre-paid Payment instruments as Business Correspondent (BC) of Federal



Bank. As part of BC arrangement, Applicant has launched Co-branded Pre-paid Cards in India with Federal Bank powered by MasterCard.

**Definitions:** 1) Merchant Discount Rate (MDR):- Rate charged by Acquiring Bank from Merchant on every Card transaction. This is as per agreement between Acquiring Bank and Merchant Establishment. GST is separately charged by Acquiring Bank from Merchant on MDR.

2) Interchange Fee: - Standard Rate as decided by Network as per card type which is payable to issuing bank for each successful transaction. This is charged to acquiring bank.

3) Network - Provides the payment infrastructure. Both issuing and acquiring banks are its Members. (VISA, MasterCard/ Rupay etc.) are referred to as Network.

The nature of transaction arising out of the use of the Debit/Credit/Pre-Paid card is as follows. There are six persons involved in a Debit/Credit/Pre-Paid card transaction, namely:

1. Card holder: The person possessing and using the card.
2. Issuing bank: The Bank issuing the card to its customer viz. the card holder
3. Network: Provides the payment infrastructure and issuing/acquiring banks are its members (VISA/MasterCard/Rupay etc.)
4. Merchant Establishment: The vendor of goods or service who accepts the card in lieu of cash payment from the card holder:
5. Acquiring bank: Provides payment processing services to Merchant Establishments by entering into a separate agreement with the merchant and placing a swipe machine at the merchant outlet or provide Payment Gateway services for online transactions.

6. Business Correspondent (BC): The Applicant is issuing and operating Pre-paid Payment Instruments as Business Correspondent (BC) of Federal Bank. As part of BC arrangement, Applicant has launched Co-branded Pre-paid Cards in India with Federal Bank powered by MasterCard.

**Interchange Fees is the subject matter of the dispute is earned by Issuing Bank:**

The flow of business transaction can be explained in a detail as under

1) The card holder does a purchase at the merchant establishment (online or offline) and make payment by swiping his/her debit / credit / pre-paid card on Point of Sale (POS) machine placed by Acquiring bank in case of card present transaction or by entering his / her card details in Payment Gateway (PG) provided by Acquiring Bank in case of Card not present transaction. The card holder need to validate the transaction by ATM PIN (in case of Card present) or by OTP on registered mobile in case of Card not present).

In case of Card present transaction, card is swiped on electronic equipment known as Point of Sale' terminal at the Merchant Establishment for charging the card holder for purchase of goods or services. Such terminals are provided by the 'Acquiring Bank' to the Merchant Establishments which enables validation and acceptance of payment by Debit/Credit/Pre-Paid card.

In case of Card not present transaction, card details are entered in online Payment Gateway (PG) of concerned the Merchant Establishment for charging the card holder for purchase of goods or services. Such PG services are provided by the 'Acquiring Bank' to the Merchant Establishments which enables validation and acceptance of payment by Debit/Credit/Pre-Paid card.

2. The moment card holder swipes the card or enter Card details in PG at Merchant Establishment with amount to be debited, information is transmitted to the Issuing Bank with the help of



settlement platform of the Network. The information regarding authenticity of the card holder and amount confirmation is then sent back to the Merchant Establishment by the Network

3. The VISA/MasterCard/Rupay/AMEX network generates reports for merchant settlement and sends the same to concerned Acquiring Bank who pays the merchant after deducting MDR and applicable GST on MDR.

4. A settlement report is sent to the Issuing Bank for reimbursement to the Acquiring bank by the Network (VISA/MasterCard /Rupay/AMEX)

5.Out of MDR earned by the Acquiring bank in (3) above, Interchange fees is paid by Acquiring Bank to Issuing Bank as per settlement file received from concerned Network i.e. VISA/MasterCard/Rupay/AMEX.

6) Issuing bank accounts for the transaction for recovery from the cardholder and sends the cardholder a monthly statement.

Now in the above process:

1) Issuing Bank, Acquiring Bank and the Network play their respective roles to ensure that a transaction is undertaken between the card holder and the Merchant Establishment. Five parties are directly involved in this transaction.

2.Acquiring Bank makes payment to Merchant Establishment for the goods and services purchased by the cardholder after deducting a fee known as the 'Merchant Discount Fee' and applicable GST on Merchant Discount Fee. The quantum of Merchant Discount Fee is contractually pre-agreed between Acquiring Bank and Merchant Establishment. It is gross amount of consideration received towards the support service provided by the Acquiring Bank which includes the service element of Issuing Bank Acquiring Bank share part of this 'Merchant Discount Fee' with issuing bank as Interchange Fee.

3) Issuing Bank collects the payment for the purchase transaction from the card holder and makes the payment to the Acquiring Bank after deducting part of the Merchant Service Fee charged by Acquiring Bank in the form of Interchange Fee.

4)Further, Issuing bank pays pre-agreed fees to the Network and discharge the GST tax liability on the same under reverse charge mechanism.

5. The Merchant Discount Fee which is the gross amount received by acquiring bank from a Merchant Establishment towards the support service is subjected to GST @18 % falling under the category of financial services.

Let us elaborate with an Example:

Transaction Amount: - Rs 10,000 online MDR payable by Merchant to Acquirer - 1.80% plus GST.  
Interchange Rate to issuing bank: - 1.60% on MASTER Pre-paid Card for online transaction  
Interchange Fee Sharing- 85%: 15% between Applicant TMW and Issuing Bank

**1. Merchant Settlement by Acquirer**

Particulars	Rupees
Amount	10000
MDR Rate	1.80%
MDR Amount	180.00
GST (CGST) @9%	16.20
GST (SGST) @9%	16.20
<b>Total Charge</b>	<b>212.40</b>



Net payable to Merchant	9787.60
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Acquiring bank to deposit GST (Rs 32.40) with Government after setting off inputs if any.

**2. Settlement to Acquiring bank by Issuing Bank as per settlement files received**

From Network

Particulars	Rupees
Amount	10000
Interchange rate	1.60%
Interchange Amount	160.00
<b>Total Charge</b>	<b>160.00</b>
Net payable to acquiring bank	9840.00

It is evident that issuing bank is not able to charge GST on interchange Fee amount ( as forward Charge ) hence Acquiring Bank is not able to take GST input credit due to lack of information in settlement files shared by Networks.

Issuing Bank is again depositing GST on Interchange amount of Rs 160 and paying GST to Government by reverse charge method i.e. Rs 24.40 (160/118\*18) and is left with Rs 135.60. This amount of Interchange Fee of Rs 135.60 is shared between Business Correspondent (BC) and the Issuing bank in the agreed ratio as in this case it is 85:15 (85% by BC and 15% by Issuing bank). The BC again pays GST on the income value of Rs 115.26 (85% of Rs 135.60) @18% raised in favor of Issuing bank.

In this case Merchant Discount Rate amount (MDR) was collected from the merchant establishment by the Acquiring Bank (RS.180) and GST is paid on the full MDR of Rs 180 @ 18 % by Acquiring Bank i.e. Rs 32.40. Now the share of Issuing Bank in the form interchange fee of Rs 160 is also taxed @ 18% thou it is a part of Rs 180 which had already suffered GST. Here the basic concept of GST is violated as the seamless flow of credit is obstructed. Acquiring bank will not get any credit of the amount of GST paid by the Issuing bank, as the issuing bank is paying GST on Reverse Charge Mechanism (RCM). In this whole simple process of digital payment of MDR of Rs 180 Gov. collect tax as under at different levels.



	CGST	SGST
Acquiring bank to ME	16.20	16.20
Issuing bank to Acquiring bank	12.20	12.20
BC to Issuing bank	10.37	10.37
<b>Total</b>	<b>38.77</b>	<b>38.77</b>

**Different practice prevails by the Network in the industry**

Before making our submission we would also like to highlight the different practice followed by different network on their platforms. As discussed there are 3 main network prevailing in the field of this digital transactions. Master and Visa work differently than the Indian RUPAY platform. The data provided by the MASTER AND VISA is only about the interchange fee to the Acquiring and the Issuing bank and not anything about GST. Whereas RUPAY provide the interchange FEE along with GST.

Taking our earlier example of Rs 10000 transaction, we can present the case as per Rupay and Master/Visa Network practice prevailing in the system.

**RUPAY CASE**

Rs 32.40 GST (18% of 180) is charged to the Merchant Establishment by the Acquiring bank. Issuing bank will charge GST of Rs 28.80 (18% of 160) to the Acquiring bank, so Acquiring bank can take a credit of 28.80 against his outward supply liability of Rs 32.40, resulting in net outflow of Rs 3.60

#### MASTER/VISA CASE

Rs. 32.40 GST (18% of 180) is charged to the Merchant Establishment by the Acquiring bank. Issuing bank will pay GST of Rs .24.40 in Reverse charge on Rs 160 and Acquiring bank will not be able to take a credit of Rs. 24.40 against his outward supply liability of Rs 32.40, resulting in outflow of Rs. 32.40.

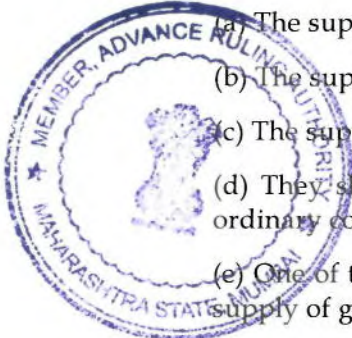
#### ANNEXURE-B

3) [Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought)]

#### Submission:

Section 2(30) of Central Goods and Services Act defines Composite supply as "Composite Supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply:

A supply will be regarded as a composite supply if the following elements are present:

- 
- (a) The supply should consist of two or more taxable supplies;
  - (b) The supplies may be of goods or services or both;
  - (c) The supplies should be naturally bundled;
  - (d) They should be supplied in conjunction (event, time or contract) with each other in the ordinary course of business;
  - (e) One of the supplies should be a principal supply (Principal supply means the predominant supply of goods or services of a composite supply and to which any other supply is ancillary).

The following aspects need to be noted:

- . The two or more) supplies must appear natural when bundled and presented to the recipient.
- The ancillary supply becomes necessary only because of the acceptance of the predominant supply. Such predominance is neither guided by the predominant component in the total price of the supply nor guided by the predominant material involved. The test of predominance must be gathered from the 'predominant object' for which the recipient approached the supplier;
- . The method of billing, assignment of separate prices etc. may not be relevant. In other words, whether separate prices are charged for each of the components of supply or a single consolidated price charged, the identity of each of the components of supply must be unmistakably distinct in the arrangement.

In the erstwhile service tax Era, it is a composite service and should not be broken into separate service. The role of the issuing bank in the service provided by the acquiring bank to the merchant establishment is part of a single composite service falling under clause (iii) of Section 65 (33a) and it cannot be broken up into its components and classified as separate service for classification. This is a well-accepted principle of classification. The relevant clause of Section 65 (33a) is

reproduced below: "(iii) by any person, including an issuing bank and an acquiring bank, to any other person in relation to settlement of any amount transacted through such card.

**Explanation.** -- For the purposes of this sub-clause, "acquiring bank" means any banking company, financial institution including nonbanking financial company or any other person, who makes the payment to any person who accepts such card;"

In fact there is one composite supply under GST, provided by the acquiring bank to the merchant establishment for which gross value of consideration is Merchant Discount Rate (MDR) which includes the interchange fee. Hence, the supply of Service of the issuing bank got subsumed into the supply of service of the acquiring bank to make it a composite supply to the merchant establishment. Merchant establishment does not have any contractual liability to pay interchange fee to the issuing bank.

In the instant case, various supply of services from Merchant Establishment/ Acquiring bank/Issuing bank/ network provided to the card holder is a single Composite Supply.

These supply are not provided as independent activities but are the means for successful provision of the principal supply, namely, the swiping of the card for the purchase of goods or services. The contention that a single composite supply should not be broken into its components and classified as separate supply is a well-accepted principle. Therefore, it is a settled position of law that interchange fee earned by the issuing bank' forming integral part of supply of service of 'acquiring bank' to the merchant establishment, and therefore should not be taxed again with 18% GST.

In the present circumstances, the modus operadi goes against the basic principles of GST of seamless flow of credit and double taxation on the same transaction. In this instant case

Acquiring bank is paying GST to Government which he is collected from merchant.

Issuing bank calculating the GST by reverse charge method and paying the GST to Government.

#### CONTENTION - AS PER THE CONCERNED OFFICE

The jurisdictional office has not made any written submissions.

#### 04. HEARING

The preliminary hearing in the matter was held on 04.12.2018 and Sh. Majesh Toshniwal appeared and stated that he was the Manager (Finance) in the applicant company but did not produce the letter of authority for representing the applicant. During Preliminary hearing it was pointed out to him that the questions asked were not in respect of matters or questions mentioned in section 97(2) of GST Act and hence not maintainable under the Advance Ruling provisions. The Applicant has asked for one week time to submit fresh submissions and reframe the questions raised. The departmental officer Shri. S. Pardeshi STO was present .We heard both the sides.

#### 05. OBSERVATIONS

We have perused the documents on record, facts of the case and the relevant provisions of Section 95, Section 97 and Section 98 of the GST Act. As per section 95, the term 'advance ruling' means a decision provided by this authority to the applicant on matters or questions specified in subsection 2 of Section 97, in relation to the supply of goods or services or both

being undertaken or proposed to be undertaken by the applicant. For the sake of better understanding Section 97 is reproduced as below:

**Section 97:**

(1) *an applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.*

(2) *The question on which the advance ruling is sought under this Act, shall be in respect of,--*

- (a) *classification of any goods or services or both;*
- (b) *applicability of a notification issued under the provisions of this Act;*
- (c) *determination of time and value of supply of goods or services or both;*
- (d) *admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) *determination of the liability to pay tax on any goods or services or both;*
- (f) *whether applicant is required to be registered;*
- (g) *whether any particular thing done by the applicant with respect to any goods or services or both, amounts to or results in a supply of goods or services or both, within the meaning of that term.*

Before we decide the question raised in this application it is essential to find out whether the applicant is the proper person to make this application and whether or not the activities undertaken by the applicant pertains to matters or questions specified in Section 97(2). Applicant has raised following question:

**Question 1)** *Whether the portion of the Merchant Discount Rate received by the issuing Bank as 'Interchange Fee' is liable to tax under the Goods and Services Tax?*

**Question 2)** *Why different practice prevails by the Network in the industry?*

We find from the statement of facts pertaining to first question Merchant Discount Rate is the rate charged by Acquiring bank from Merchant on every card transaction. This MDR is as per agreement between Acquiring Bank and Merchant Establishment. From a perusal of transaction it is clear that applicant is neither a supplier nor a recipient and the questions raised is not in relation to the supply of goods or services or both, being undertaken or proposed to be undertaken by the applicant and as such by virtue of section 95 the applicant cannot make an application before this authority.

With respect to question No. 2 above, we clearly find that the question is not on matters or questions specified in Section 97(2) of the Act and as such is inadmissible under section 97(2) of the Act.

Hence in view of the above discussions we find that the present application seeking ruling on questions stated hereinabove is not maintainable and liable for rejection.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows


**ORDER**

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 87/2018-19/B- 8 Mumbai, dt. 16.1.2019

The Application for advance ruling in Form GST ARA-01 registered as ARA NO. 87 dated 16/10/2018 is rejected as being not maintainable.



  
B. TIMOTHY  
(MEMBER)

  
B. V. BORHADE  
(MEMBER)  
**CERTIFIED TRUE COPY**

**Copy to:-**

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Jurisdictional Commissioner of Central Tax. Churchgate Mumbai
5. Joint commissioner of State tax , Mahavikas for Website.

  
**MEMBER**  
**ADVANCE RULING AUTHORITY**  
**MAHARASHTRA STATE, MUMBAI**

**Note :-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai - 400021.