

From	Karvy Data Management Services Ltd.
Date	July 26, 2019
Subject	Clarification in respect of goods sent/taken out of India for exhibition or on consignment basis for export promotion.
Category	Circular
Reference	Circular No. 108/27/2019 dated 22.07.2019
Series	Karvy/GST/119

Various representations were received seeking clarification on supply of Information Technology enabled Services (ITeS services) such as call centre, business process outsourcing services, etc. and "Intermediaries" to overseas entities under GST law and whether the said services qualify to be "export of services" or otherwise.

Firstly, the Board has clarified on the definition of both "Intermediary" and "Information Technology Enabled Services"

It has been clarified that the supplier of a service would not be treated as "Intermediary", if such supplier is involved in the supply of services on his own account. Thus, the scope of Intermediary services shall **exclude services which are provided by the said intermediary service provider on his own account.**

This clarification is very much in line with the definition of the term "Intermediary" u/s 2 (13) of the Integrated Goods and Service Tax Act, 2017 (hereinafter referred to as "IGST" Act), enumerated below for reference

*"Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, **but does not include a person who supplies such goods or services or both or securities on his own account.**"*

The Board further clarified that the scope of Information Technology Enabled Service under the sub-rule(e) of rule 10 TA of the Income-tax Rules, 1962 which pertains to Safe Harbor Rules for international transactions. It defines ITeS services as-

"Information technology enabled services" means the following business process outsourcing services provided mainly with the assistance or use of information technology, namely:—

- i. back office operations;
- ii. call centers or contact center services;
- iii. data processing and data mining;
- iv. insurance claim processing;
- v. legal databases;
- vi. creation and maintenance of medical transcription excluding medical advice;
- vii. translation services;
- viii. payroll;
- ix. remote maintenance;
- x. revenue accounting;
- xi. support centers;
- xii. website services;
- xiii. data search integration and analysis;
- xiv. remote education excluding education content development; or
- xv. clinical database management services excluding clinical trials,

But does not include any research and development services whether or not in the nature of contract research and development services.

Addressing the representation, the CBIC Board Vide Circular No. 107/26/2019-GST dated the 18th July, 2019 has envisaged three probable scenarios tabulated below, where the supplier of ITes services located in India, supplies services for and on behalf of a client located abroad

Situation	Description of Service	Classification of Service
Scenario -I	Indian Service provider of ITes services providing back end services (including providing of services to the customers of its Clients).	Supply would qualify as ITes Services
Scenario –II	Indian Service Provider of backend services facilitates the supply of goods or services or both by the client located abroad to the customers of client.	Qualifies as Intermediary Services
Scenario –III (Combination of both Scenario I & II)	Indian Service Provider providing both back end services and also facilitating the supply of goods or services or both by the client located abroad to the customers of client	Nature of service would be determined keeping in view which set of services is the principal / main supply

The Circular release can be accessed on: <http://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-108.pdf>

#### **About KARVY DATA MANAGEMENT SERVICES LTD.**

Karvy Data Management Services Limited (KDMSL), a GST Suvidha Provider which has developed ASP Solution for easing GST compliance for tax payers. Easy to use interfaces are made available at the disposal of the tax payers to simplify their compliances in terms of dashboards, MIS, returns, payments, refunds and other compliance process. So, 'HELP US HELP YOU' we offer following services for GST - GSP & ASP Services (on cloud or on premises) with ERP Integration and Vendor Management Solution. We also offer managed services for Outsourced GST Compliance which will take care of end to end compliances.

In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi, Chennai, Pune and Kolkata. For more information about KDMSL service offerings, visit [www.karvygst.com](http://www.karvygst.com)

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