



आयुक्त का कार्यालय/ OFFICE OF THE COMMISSIONER

केंद्रीय वस्तु एवं सेवाकर (अपील्स), नॉएडा/ CENTRAL GOODS & SERVICES TAX (APPEALS), NOIDA
चतुर्थ तल ,C-232A/2 to C232A/3, IRCON Building ,सेक्टर-48 ,नॉएडा-२०१३०१/4th Floor, Plot No.C-232A/2 to
C232A/3, IRCON Building, GST Bhawan, Sector-48, Noida-201305
दूरभाष : 0120-2556831 Email ID: COMMRAAPL2-CEXMEERUT@NIC.IN

पत्रांक : 198&52/GST/APPL-NOIDA/NOI/2022-23

दिनांक :

अपील आदेश संख्या -NOI-CGST-001-APP-138 TO 139 -2023-24

दिनांक:28-12-2023

(सीमा शुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर की संबंधित धारा के अंतर्गत, अपील संख्या 198&52/GST/APPL-NOIDA/NOI/2022-23 दिनांक 29.03.2023 AND 03.07.2023 के सम्बन्ध में श्री दर्पण अम्बवंशी, संयुक्त आयुक्त, केंद्रीय वस्तु एवं सेवाकर (अपील्स), नोएडा द्वारा पारित |)

M/s CURADEV PHARMA PVT., LTD., B-87, SECTOR-83, NOIDA VS CENTRAL GST, NOIDA के मामलों में ASSISTANT COMMISSIONER, CGST DIVISION-VI, NOIDA द्वारा पारित मूल आदेश संख्या 26/R/AC/DIV.VI/N/2022-23 दिनांक 15.09.2022 & 74/R/AC/DIV.VI/N/2022-23 DTD. 04.01.2023 के फल स्वरूप

1. यह प्रति जिस व्यक्ति को जारी की जाती है उसके निजी प्रयोग के लिए निशुल्क दी जाती है।
2. इस आदेश के विरुद्ध अपील - सीमा शुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपीलेट ट्रिब्यूनल - कार्यालय आयुक्त, केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवाकर,कमरा संख्या- 210 & 220, द्वितीय तल, 38, महात्मा गाँधी मार्ग, इलाहाबाद-211001 को इस आदेश के प्राप्ति की तिथि से ३ महीने के अन्दर कर सकता है। इस आदेश के विरुद्ध अपीलेट ट्रिब्यूनल में अपील करने हेतु इयूटी का 10% जहाँ इयूटी अथवा इयूटी एवं पेनल्टी के विरुद्ध अपील की जानी है, अथवा पेनल्टी का 10% जहाँ केवल पेनल्टी के विरुद्ध अपील की जानी है, को ट्रिब्यूनल, नई दिल्ली के सर्कुलर फाइल संख्या 15/CESTAT/General/2013-2014 दिनांक 26.08.2014 के अनुसार जमा करना होगा।
3. उक्त अपील केंद्रीय उत्पाद शुल्क (अपील्स) नियमावली, 2001 के नियम 6, सीमा शुल्क अधिनियम, 1965 की धारा 129A, केंद्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35-B(6) तथा वित्त अधिनियम, 1994 की धारा 86 के प्रावधानों के आधार पर सीमा शुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपीलेट ट्रिब्यूनल (कार्यवाही) नियमावली, 1982 में निहित प्रावधानों के साथ पठित फीस के साथ दायर की जानी होगी।

उक्त फीस जहाँ बैंच स्थित है, उस स्थान पर अवस्थित किसी भी राष्ट्रीय कृत बैंक की शाखा से उपरोक्त ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में क्रॉसड बैंक ड्राफ्ट के माध्यम से अदाकरनी होगी तथा डिमांड ड्राफ्ट अपील फॉर्म E.A.-3 के साथ संलग्न होना चाहिए।

4. केंद्रीय उत्पाद शुल्क अधिनियम, 1944 की धारा 35-B(1) की प्रथम उप धारा (first Proviso) के क्लॉज़ (a), (b), (c) तथा (d) में निर्धारित प्रकृति के मामलों में केंद्रीय उत्पाद शुल्क (अपील्स) के द्वारा पारित अपील आदेश के विरुद्ध ट्रिब्यूनल में अपील नहीं की जायेगी और ऐसे मामलों में उक्त अधिनियम की धारा 35-EE में निहित प्रावधानों को देखा जाए।

पार्टी का नाम:

M/s CURADEV PHARMA PVT., LTD.,
B-87, SECTOR-83, NOIDA.



4851
28/12/23

DIN-



आयुक्त का कार्यालय/

OFFICE OF THE COMMISSIONER

केंद्रीय वस्तु एवं सेवाकर (अपील्स), नॉएडा/

CENTRAL GOODS & SERVICES TAX (APPEALS), NOIDA

चतुर्थतल, सी- 232A/2 & सी 232A/3, जीएसटी भवन, सेक्टर-48, नॉएडा-२०१३०५/4th Floor,

C-232A/2-C-232A/3, GST BHAWAN, Sector-48, Noida-201305

C. No. 198 & 52/GST/Appl. Noida/NOI/2022-23 dated : 2023

अपील आदेश संख्या-NOI-CGST-01-APPL-2023-24

दिनांक: 2023

Passed by Shri Darpan Amrawanshi, Joint Commissioner, CGST (Appeals), Noida
[Under Section 107 (11) of the CGST Act 2017]

The present two appeals have been filed by the Principle Commissioner, CGST, NOIDA through authorization to the Assistant Commissioner, CGST Division-VI, NOIDA (hereinafter referred to as the "Appellant"), against the two refund sanctioning orders (hereinafter referred to as the "impugned order") in respect of M/s Curadev Pharma Pvt. Ltd., B-87, Sector-83, NOIDA (hereinafter being referred to as the "respondent party") issued by the Assistant Commissioner, CGST, Division-VI, Noida (herein after referred to as the "original adjudicating authority"), :-

TABLE-1

Appeal No. and date	O-IN-O No, and date	Refund amount sanctioned in Rs.	Refund application ARN No. and date
198/GST/APPL-NOIDA/NOI/2022-23 dated 29.03.2023	26/R/AC/DIV.VI/N/2022-23 (Onlile RFD-06 No.ZC0909220196390 dated 15.09.2022	64,88,100	AA0908221631646 dated 31.08.2022 Period 04/2022 to June 2022
52/GST/APPL-NOIDA/NOI/2023-24 dated 03.07.2023	74/R/AC/DIV.VI/N/2022-23 (Onlile RFD-06 No.ZG0901230036248 dated 04.01.2023	42,25,000	AA091222070898U dated 15.12.2022 Period July 2022 to September 2022

2. Briefly stated the facts of the case are that the appellant is registered as tax Payer under CGST Act, 2017 having GSTIN



09AADCC8368D1ZI. The appellant has filed the above stated two refund claims as detailed in the column no.03 of the table no. 1 supra against the accumulated ITC on account of export of Services without payment of Tax for the aforesaid periods.

3. The said two refund claims were sanctioned to the appellant by the adjudicating authority vide the impugned two orders.

4. Instantly the appellant department is in appeal on the following grounds :-

4.1 that as per the provisions of Section 2(6) of the IGST Act, 2017, *inter alia*, one of the major condition to qualify as export of services is that place of supply of services should be out-side India.

4.2 that in the instant case the respondent party has entered into the License and Collaboration Agreement with Bayer AG, Rechnungseingangsstelle 51368 Leverkusen, Germany ("Bayer") for the identification and discovery of STING antagonists for the treatment of autoimmune disease, suitable for clinical development through the performance of research program. As per the terms of the Licence and collaboration Agreement, Bayer will reimburse the Company for performing its part of research activities i.e. synthesis and testing of compounds." Further in the reply dated 10.03.2023 it is also submitted that " all the research activities being performed by the company, are carried out at its principal place of business (B-87, Sector-83, Noida, Gautam Budh Nagar, 09, 201305) which is recognized as the in-house R & D unit by the Ministry of Science & Technology, Department of Scientific and Industrial Research, for which the reimbursement made by the party are actually on account of research activities performed by the party within the "taxable territory of India". Thus in view of above, the research activities (Synthesis & Testing of Compounds, HSN-99813) do not qualify as export of services as the same have been actually performed with in the taxable territory of India.

4.3 Accordingly, in terms of Sub Section 3(b) of Section 13 of the Integrated Goods & Services Tax Act, 2017, the place of supply of services in the instant case appears to be the location where the service are actually performed i.e. within the taxable territory of India. Therefore, the conditions of the definition of "export of services" under Sub Section 6(iii) of Section 2 of the Integrated Goods & Services Tax Act, 2017 is not fulfilled in the instant case. As the place of supply of services appears to be within the taxable territory of India.

4.4 In view of the above, it is apparent that place of supply of services in respect of the services provided by M/s. Curadev Pharma Private



Limited is not outside India as the case appears to be covered under Section 13 (3) (b) of the IGST Act, 2017 and thus conditions of export provided under Sub Section 6(iii) of Section 2 of the Integrated Goods & Services Tax Act, 2017 is not fulfilled. Therefore, the services so provided covered under the impugned refund claim do not qualify as export of services and hence no refund was admissible to the claimant.

5. The appeal papers were submitted to the respondent party for their para-wise comments and counter affidavit. The respondent party vide their letter dated 25.10.2023 submitted as under :-

5.1 That, the Review Application filed by the Appellant is illegal, invalid and without the authority of law

5.2 That, the Review Application is beyond the scope of the impugned order and is illegal and without the authority of law:

5.3 That, the Review Application is based on the misinterpretation and the misapplication of the provisions of section 13 (3)(b) of the IGST Act, 2017 and is not maintainable in law.

5.4 that there is a complete misinterpretation and misapplication of the provisions of the said section 13 of the IGST Act, 2017 and sub-section (3)(b) thereof in particular. As explained by the respondent by its letter dated 10.03.2023, it has entered into a Licence and Collaboration Agreement with Bayer AG, Germany for the identification and discovery of STING antagonists for the treatment of the autoimmune disease, suitable for clinical development through the performance of research programme. As per the terms of the Agreement, Bayer AG would reimburse the respondent for performing its part of the research activities i.e. synthesis and testing of compounds. All the research activities are carried out by the respondent at its principal place of business situated at Noida, U.P., India which is recognised as the inhouse R & D unit by the Ministry of Science and Technology, Department of Scientific and Industrial Research.

5.5 that the activity of the synthesis and testing of compounds in terms of the agreement with the foreign client namely, Bayer AG were clearly falling within the scope of 'export of services' as defined in section 2 (6) of the IGST Act, 2017 in as much as all the conditions prescribed therein stood satisfied as explained below:



- Location of the supplier of service shall be in India [s.2(6)(i)]:

The respondent, the supplier of the service is located in India.

- The location of the recipient of the service is outside India [s.2(6)(ii)]:

The location of the recipient of the service i.e. Bayer AG is outside India.

- The place of supply of service is outside India [s. 2(6)(iii)]:

5.6 The place of supply in the present case and considering the nature of activity and the contractual arrangement is required to be determined in terms of sub-section (2) of section 13 of the IGST Act, 2017 since none of the provisions of sub-sections (3) to (13) of section 13 is applicable or relevant in the present case. Consequently, the place of supply of service is required to be determined in terms of section 13 (2) of the IGST Act, 2017 and that is, the location of the recipient of the service which admittedly is outside India.

5.7 That all the conditions prescribed in section 2(6) of the IGST Act, 2017 stood satisfied in the present case so as to bring the supply of services rendered by it to Bayer AG within the scope of the 'export of services' as defined therein, and consequently, the refund was correctly and justifiably sanctioned by the impugned order by the Ld. Assistant Commissioner.

5.8 that the reliance placed on sub-section (3)(b) of section 13 and its application pressed into service by the appellant by the Review Application is improper, illegal, and based on misconception, misreading, and misinterpretation of the said provisions. The respondent submits that the 'performance-based supply of service' criteria prescribed under section 13 (3)(b) of the Act has no relevance or application in the present case

5.9 That it is evident that clause (b) of sub-section (3) has no application whatsoever by any stretch of imagination. The reviewing authority has failed to appreciate that the criteria of the location of the actual performance of service is prescribed in sub-section (3) of section 13 only in respect of the following services, viz:



- Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services [clause (a)];
- Services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services [clause (b)].

5.10 that clause (b) of sub-section (3) also does not apply in the present case since the recipient is not an individual in the present case nor the rendering of the service by the respondent required the physical presence of the recipient i.e. Bayer AG or the person acting on its behalf, with the supplier for the supply of service. It is evident that the inference about the applicability of section 13 (3) is drawn only on the basis of the expression 'services are actually performed' used therein. However, it has not been appreciated and in fact has been ignored that the criteria of actual performance of service is restricted to only the specified services as per clause (a) or (b) of sub-section (3), and neither has any relevance or applicability in the present case. There is, therefore, improper and erroneous reading and application of section 13 (3) of the IGST Act, 2017 in the present case by the Review Application which is illegal and without the authority of law.

6.0 That without prejudice to the submissions made hereinabove, the respondent submits that the reviewing authority has also completely overlooked the binding notification no. 04/2019-Integrated Tax dated 30.09.2019 issued by the Central Government, on the recommendation of the GST Council, and in terms of section 13 (3) of the IGST Act, 2017 specifying, inter alia, the place of supply in respect of certain specified services. The services rendered by the respondent are squarely covered within the scope of para 1 of Table 'A' read with para 1 and 2 of Table 'B' of the notification and therefore, the conclusion is inescapable that the place of supply of service rendered by the respondent is the location of the recipient of the services and that is, outside India since the conditions prescribed at para 1 of Table 'A' to the notification are satisfied in the present case.

6.1 that the Review Application is devoid of any substance or merit, illegal, based on misreading, misinterpretation and misapplication



of the provisions of section 13 (3)(b) of the IGST Act, 2017, without the authority of law and liable to be dismissed as unsustainable in law.

PERSONAL HEARING:

7. Date of Personal Hearing was fixed in both the matters and Shri Ashok K Beeyan, General Manager Commercial of the party along with Shri Shailesh Seth, Advocate attended the same and reiterated their written submissions. They had nothing more to add into the matter.

DISCUSSION AND FINDINGS:

8. I have carefully gone through the facts of the case impugned order, Statement of Facts & Grounds of appeal, documents on record & submissions made during the personal hearing.

9. I first of all take up the procedural issues raised by the appellant. I find that as per the column 05 of the APL-03 filed by the appellant the impugned two orders were received by the appellant department on 03.10.2022 and on 08.05.2023, a fact which has not been disputed by the respondent party, and against this as per sub-section 02 and 3 to Section 107 of the CGST Act, 2017 the two appeal were to be filed within 06 months i.e. upto 02.04.2023 and 07.11.2023 respectively. However, juxtaposition to the above requirement of laws in the instant case the two appeals were 29.03.2023 and 03.07.2023, therefore, I hold that the instant two appeals have been filed within the statutory time limit of 06 months and the averments of the appellant on this count do not have any merit and legality. I also find that as per the provisions of sub-section 03 of the Section 107 of the CGST Act, the Principle Commissioner, CGST, NOIDA was the proper officer and the proper authority to file the instant appeal through the Assistant Commissioner, CGST, Division-VI, NOIDA and the averments of the respondent have no legality and substance in then on this issue.

10.1 I find that the following core issue need to be answered in the instant case is what is place of provision of the services being provided by the appellant and being claimed as Zero rated supply of services or the Export of services.



10.2 I observe that with a view to examine the facts of the case in correct statutory perspective it is necessary to first of all examine the relevant statutory provisions related to the definition of the Zero rated supply i.e. export of services and the Place of Provisions of services.

10.3 I find that sub-section 6 of Section 2 of the IGST Act, 2017 defines the Zero rated supply as under :-

“SECTION 2. Definitions. — In this Act, unless the context otherwise requires, -
.....

- (6) “export of services” means the supply of any service when, -
- (i) the supplier of service is located in India;
 - (ii) the recipient of service is located outside India;
 - (iii) the place of supply of service is outside India;
 - (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange [or in Indian rupees wherever permitted by the Reserve Bank of India]; and
 - (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with *Explanation 1* in section 8; ”

7.4 From the above it can be seen that to qualify as export of services, inter alia, one of the major condition to be fulfilled is that the place of supply of service should be out-side India.

7.5 Further, the provisions of Section 13 of the IGST Act, 2017 is to be resorted to arrive at the Place of supply and the same read as under :-

“SECTION 13. Place of supply of services where location of supplier or location of recipient is outside India. — (1) *The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.*

(2) *The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services :*

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

(3) *The place of supply of the following services shall be the location where the services are actually performed, namely :-*

(a) *services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services :*

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services :



[Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;]

(b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.

(4) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

(5) The place of supply of services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.

(6) Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

(7) Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(8) The place of supply of the following services shall be the location of the supplier of services, namely :-

(a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;

(b) intermediary services;

(c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

Explanation. - For the purposes of this sub-section, the expression, -

(a) "account" means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;

(b) "banking company" shall have the same meaning as assigned to it under clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);

(c) "financial institution" shall have the same meaning as assigned to it in clause (c) of section 45-1 of the Reserve Bank of India Act, 1934 (2 of 1934);

(d) "non-banking financial company" means, -

(i) a financial institution which is a company;

(ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or

(iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.



[(9) * * *]

(10) *The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.*

(11) *The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.*

(12) *The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.*

Explanation. - *For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non-contradictory conditions are satisfied, namely :-*

(a) *the location of address presented by the recipient of services through internet is in the taxable territory;*

(b) *the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;*

(c) *the billing address of the recipient of services is in the taxable territory;*

(d) *the internet protocol address of the device used by the recipient of services is in the taxable territory;*

(e) *the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;*

(f) *the country code of the subscriber identity module card used by the recipient of services is of taxable territory;*

(g) *the location of the fixed land line through which the service is received by the recipient is in the taxable territory.*

(13) *In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service."*

10.4 In this background of the statutory provisions, I observe that the appellant has entered into a Licence and Collaboration Agreement with Bayer AG, Germany for the identification and discovery of STING antagonists for the treatment of the autoimmune disease, suitable for clinical development through the performance of research programme. As per the terms of the Agreement, Bayer AG would reimburse the respondent for performing its part of the research activities i.e. synthesis and testing of compounds. All the research activities are carried out by the respondent at its principal place of business situated at Noida, U.P., India which is recognised as the inhouse R & D unit by the Ministry of Science and Technology, Department of Scientific and Industrial Research. As such, in the nut-shell it can be summarized that the appellant was doing scientific research and analysis on



behalf of the service recipient and was submitting their findings to them. These services were claimed as export of services.

10.5 Contra to these facts the appellant department has sought to arrive at the Place of supply under Section 13(3)(b) of the IGST Act, 2017 to be in India. I observe that the provisions of said Section 13(3)(b) requires that :-

- a. services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient,
- b. which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services

10.6 I find that against the above requirement of law, in the instant case the services are not being provided to an individual as the recipient of services and also, more importantly, the physical presence of the recipient or the person acting on his behalf is not at all required with the supplier of the services. I also observe that the appellant department has failed to adduce any credible evidence in the support of their contentions. I find that the department is confusing between the place of performance of service and the place of provision of services. In the instant case the research is being done in India but the recipient is based in Germany and accordingly by virtue of sub-section (2) of Section 13 of the IGST Act, 2017 the place of supply shall Germany i.e. out-side India.

10.7 Further, I find that the place of supply in the case of Research and development services to pharmaceutical sector has been held to be the location of the recipient of the services in the case of, inter alia, Discovery and development of molecules by pharmaceutical sector for medicinal use. (Refer para 1 and 2 of the Table B annexed to the Notification No. 04/2019-Integrated Tax dated 03.09.2019. For ease of reference the relevant part of the Notification reads as under :-

“Place of supply notified for R & D Services relating to Pharmaceutical Sector

In exercise of the powers conferred by sub-section (13) of section 13 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, on the recommendations of the Council, hereby notifies following description of services or circumstances as specified in Column (2) of the Table A, in which the place of supply shall be the place of



effective use and enjoyment of a service as specified in the corresponding entry in Column (3), namely :-

TABLE A

Sl. No.	Description of services or circumstances	Place of Supply
(1)	(2)	(3)
1	Supply of research and development services related to pharmaceutical sector as specified in Column (2) and (3) from Sl. No. 1 to 10 in the Table B by a person located in taxable territory to a person located in the non-taxable territory.	The place of supply of services shall be the location of the recipient of services subject to fulfillment of the following conditions :- (i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory. (ii) Such supply of services fulfills all other conditions in the definition of export of services, except sub- clause (iii) provided at clause (6) of Section 2 of Integrated Goods and Services Tax Act, 2017 (13 of 2017).

TABLE B

Sl. No.	Nature of Supply	General Description of Supply
(1)	(2)	(3)
1	Integrated discovery and development	This process involves discovery and development of molecules by pharmaceutical sector for medicinal use. The steps include designing of compound, evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact.
2	Integrated development	

2. This notification shall come into force on the 1st day of October, 2019.

[Notification No. 4/2019-I.T., dated 30-9-2019]

10.9. Accordingly, I hold that that thus, all the conditions prescribed in section 2(6) of the IGST Act, 2017 stands satisfied in the present case so as to bring the supply of services rendered by it to Bayer AG within the scope of the 'export of services' as defined therein, and



consequently, the two refund claims were correctly and justifiably sanctioned by the impugned order by the Ld. Assistant Commissioner and the impugned orders need no intervention.

ORDER

11. In view of the above discussion and findings, I hereby reject both the appeals bearing No. 198/GST/APPL-NOIDA/NOI/2022-23 dated 29.03.2023 and 52/GST/APPL. NOIDA/NOI/2023-24 dated 03.07.2023 filed by the department through the Assistant Commissioner, CGST Division-VI, NOIDA as having no merit. The orders no. 26 /R / AC / DIV.VI / N / 2022-23 (Onlile RFD-06 No.ZC0909220196390 dated 15.09.2022 and 74 / R / AC/ DIV.VI/N / 2022-23 (Online RFD-06 No.ZG0901230036248 dated 04.01.2023 as passed by the Assistant Commissioner, CGST, Div-VI, Noida sanctioning the two refund claims in the case of M/s Curadev Pharma Pvt. Ltd., B-87, Sector-83, NOIDA, as just legal and proper and need no intervention.

(Handwritten Signature)
29/12/2023
(DARPAN AMRAWANSHI)
Joint Commissioner
CGST (Appeals), Noida

4851
29/12/23

To,
M/s Curadev Pharma Pvt. Ltd.,
B-87, Sector-83,
NOIDA



C. No. 198/GST/APPL-NOIDA/NOI/2022-23

dated

प्रतिलिपि सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित;

- (i) मुख्य आयुक्त, कस्टम्स एवं केन्द्रीय वस्तु एवं सेवाकर, मेरठ जोन ,मेरठ |
- (ii) आयुक्त,केन्द्रीय वस्तु एवं सेवाकर,आयुक्तालय नोएडा |
- (iii) उप/सहायक आयुक्त, केन्द्रीय वस्तु एवं सेवाकर मंडल-I, नोएडा |
- (iv) अधीक्षक, केन्द्रीय वस्तु एवं सेवाकर रेंज-5, मंडल-I, नोएडा |
- (v) गार्डपत्रावली |

अधीक्षक (अपील्स)

