

**AUTHORITY FOR ADVANCE RULING  
TAMILNADU ADVANCE RULING AUTHORITY**  
PAPJM Buildings, 1<sup>st</sup> Floor, No.1, Greams Road, Chennai- 600 006.

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s. 98 OF THE  
GOODS AND SERVICE TAX ACT, 2017.**

**Members present are:**

1. Ms.Manasa Gangotri Kata, I.RS.,Joint Commissioner/Member,  
Office of the Principal Chief Commissioner of GST & Central Excise,  
Chennai- 600034.
2. Thiru KurinjiSelvaan V.S., M.Sc (Agri.), M.B.A.,  
Joint Commissioner (ST) / Member,  
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai – 600 006.

**ORDER No. 52 /ARA /2019 Dated 25.11.2019**

GSTIN Number, if any / User id		33AADCK6079K1Z8
Legal Name of Applicant		M/s. Kalyan Jewellers India Limited
Registered Address / Address provided while obtaining user id		5th Cross, 100 Feet Road, Gandhipuram, Coimbatore, Tamil Nadu.
Details of Application		
Concerned Officer		State : The Deputy Commissioner (ST) Divisional large Tax Payers Unit, C.T.Building ,Dr. Balasundaram Road, Coimbatore.  Centre : Coimbatore Commissionerate Division: Coimbatore III
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Manufacture & Trading of Jewellery
B	Description (in brief)	The Applicant is in the business of manufacturing and trading of Jewellery Products. As a part of sales promotion the Applicant introduced the facility of different types of Pre-Paid Instruments (PPI's) viz., Closed System PPIs, Semi-closed System PPIs, Open System PPIs through its retail outlets , third party PPI issuers and online portals to their Customers and these are generally called "Gift Vouchers/Gift Cards" in trade practice.
Issue/s on which advance ruling required		Whether issue of Pre-paid Instruments (PPI's) or Gift Vouchers/Cards issued by

	<p>the Applicant to their Customers through their retail outlet or through third party online portal are classified as goods (PPI), if so, the time and value of supply of goods and determination of liability to pay tax for their “Pre-paid Instruments” generally called as “Gift Vouchers / Gift Cards”?</p>
<p>Question(s) on which advance ruling is required</p>	<ol style="list-style-type: none"> <li>1. Whether the issue of own closed PPIs by the ‘Applicant’ to their customers be treated as supply of goods or supply of service</li> <li>2. If yes, is the time of issue of PPI’s by the Applicant to their Customers is the time of supply of goods or services warranting tax liability</li> <li>3.If yes, what is the applicable rate of tax for such supply of goods or services?”</li> <li>4.If yes, Whether the issue of PPIs by the Third party PPI Issuers subject to GST at the time of issue in their hands?</li> <li>5. Whether the amount received by the Applicant from Third Party PPI Issuers subject to GST?</li> <li>6. If No, GST collection at the time of sale of goods or services on redemption of PPIs i.e., own and from Third Party will be a sufficient compliance of the provisions of the Act?</li> <li>7. The treatment of discount (the difference between Face value and Discounted Value) in the hands of issuer of PPI in case of third party PPIs? Whether the applicant will be liable to pay GST on this difference Value?</li> </ol>

**Note:** Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub-Section (1) of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Kalyan Jewellers India Limited 5th Cross, 100 Feet Road, Gandhipuram, Coimbatore, Tamil Nadu (herein after referred as 'Applicant' or 'KJIL') is a Public Limited Company registered under GST Act in TamilNadu vide GSTIN: 33AADCK6079K1Z8. They also have registered office at Sitaram Mill Road, Punkunnam, Thrissur, Kerala 680002. The Applicant is carrying on the business of Manufacturing and Trading of Jewellery Products in Tamil Nadu as well as across different states in India. The Applicant has sought Advance Ruling on the following questions : -

1. Whether the issue of Own Closed PPIs by the 'Applicant' to customers be treated as supply of goods or supply of services as defined under the provisions of the CGST / SGST Act 2017 and rules, notifications there on.
2. If yes, is the time of issue of Own Closed PPIs by the 'Applicant' to customers is the time of supply of goods or services warranting tax liability
3. If yes, what is rate of taxes applicable for such supply of goods or services as the case may be
4. If yes, whether the issue of PPIs by Third Party PPI Issuers subject to GST at the time of issue in their Hands
5. Whether the amount received by the 'Applicant' from Third party PPI issuers subject to GST
6. If No, GST collection at the time of sale of goods or services on redemption of PPIs i.e. own and from Third Party will be a sufficient compliance of the Provisions of the CGST Act
7. What is the treatment of Discount (the difference between Face value and discounted value) in the hands of issuer of PPI in case of third party PPIs. Whether the 'Applicant' will be liable to pay GST on this difference Value

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2. KJIL is a Manufacturer and Trader in Gold and other Jewellery items through their retail outlets and also online portal. KJIL, as part of sales promotion, introduced the facility of issuing different types of Pre-Paid Instruments

((herein after referred as PPI's) to their customers through their retail outlets as well as engaging third party online portal. These PPIs are generally called as "Gift Vouchers / Gift Cards" in the trade Practice. The PPIs are subject to Payment and Settlement Act 2007 and also Master Directions and other relevant notifications/ circulars / communications issued by Reserve Bank of India or any other relevant authorities such as Issuance and Operation of Prepaid Payment Instruments(PPI) dt 11.10.2017 issued by RBI.

2.1. The applicant dealt with the following PPIs both in electronic/digital and paper formats.

**1. Closed System PPIs-on Its own**

The applicant issued these to customers on receiving the face value as per the requirement of the customer. The customer or holder can redeem these in any outlet of the applicant stores across the country at the time of purchase of jewellery.

**2. Semi Closed PPIs- through third party PPI issuers- co branded PPIs**

The applicant has an agreement with Quick Silver Solutions Pvt Ltd (approved non - bank PPIs as authorized by RBI) where the third party issues PPIs at the retail outlet of the applicant. The issuer pays the applicant upfront an amount, called the discounted value (lower than the face value)and the third party issuer sells these to the general customer at Face Value. The general customer or holder of the PPIs can redeem these at the outlets of the applicants at Face Value against their jewellery purchase. The difference is an incentive for third party PPI issuers. There is no impact of discount effecting GST liability.

2.2 The Applicant stated that PPIs are actionable claims or equivalent to money and issuing of PPIs are not supply of goods or services under the CGST Act and hence it is not taxable. The sale or service affected at the time of redemption of such PPIs are supply and will be taxed at the rates prescribed for such goods. As per Section 2(1) of CGST Act 2017 "Actionable Claims" shall have the same meaning as assigned to it under the Section 3 of the Transfer of Property Act, 1882. Further, Clause-6 of the Schedule III to the CGST Act 2017 lists actionable claims as an activity which is neither a supply of goods nor supply of services. The Applicant has stated that these types of PPIs are in general practice in market and also various retail companies handle such PPIs in India. They are not collecting any

GST on such PPIs while issuing. The Applicant in support of their claim and clarification sought for has filed copy of Reserve Bank of India's Circular dated 11<sup>th</sup> October 2017, Distribution Agreement entered with the third party viz., M/s. Qwickilver Solutions Pvt Ltd, Bangalore who issues PPIs [Gift Card/ Gift Voucher] on behalf of the Applicant through online portal and also sample copies of sale invoices, ledger accounts reflecting the PPI transactions, copy of payment terms.

3.1 The Authorized Representative of the Applicant was heard in the matter on 20.11.2018. They stated that PPI's are covered under Payment and Settlement Systems Act 2007. Third Party PPI is governed by RBI whereas closed /own PPIs are not. They stated that PPI is an actionable claim under Transfer of Property Act where Civil courts recognize these as per the above Act.; They sell Own PPIs at retail store and online and are redeemed at face-value and has a time value for redeeming.; It is not goods or services.; Hon'ble Supreme Court in Sodexo Vs. Maharashtra, held that they are not goods. The applicant undertook to submit details of accounts, vouchers, Statement of accounts, Balance Sheet, Sample of Sale of PPI Invoice, Redeeming Invoice. They further furnished a written submission, wherein, inter-alia, it is stated that

- PPIs facilitate sales and also for business promotion,
- They issue Closed System PPIs which can be redeemed by their Customer to purchase Jewellery items only.
- They are in agreement with M/s. Qwickilver Solutions Private Limited, Bangalore, a third party online portal, to issue PPIs to Customers who can redeem it with the 'Applicant' or any other identical outlets, which is called Semi-Closed System of Pre-Paid Instruments (PPIs).

➤ **Features of three different Pre-Paid Instruments :**

- **Closed System of PPI:** Transactions are between only two parties. One party- issuer, issues PPIs to customer. The PPIs holder/customer makes purchases only from issuer. There is no cash withdrawals. These PPI's cannot be utilized for third party services/sales. The PPIs holder/customer purchase jewels from the issuer only on redemption of PPIs, here 'Applicant' is an issuer of PPIs to customers.
- **Semi Closed system of PPIs:** Transactions are between more than two parties. The third party issues PPIs to customers, who uses

PPIs at a group of clearly identified merchant locations having a . third party M/s. QwickSilver Solution” based in Bangalore issues PPIs to customers who can redeem the same with the Applicant or any other outlets identified by the Applicant.

- **Open System of PPIs:** These PPI’s are issued by banks and are used at any merchant location for purchase of goods and services including facilitation of cash withdrawals at ATM / Point Of Sales (POSs)/ Business correspondents (BCs). This type of PPI’s not applicable to the Applicant.

- The levy of central excise and service tax did not apply on PPIs. The levy of octroi on “Sodexo Meal Vouchers” was not sustained by Hon’ble Supreme court in case of Sodexo Vs. Maharashtra.

They submitted a copy of a sample gift voucher which has the brand name of the applicant “kalyan”, “Gift Voucher” with value of money equivalent. In the Terms and conditions, it states the date validity of the voucher. Voucher cannot be exchanged for cash and no refunds will be given. It has to be produced in original at store. NO duplicate will be issued in case of loss. It is not a legal tender.

3.2 KJIL vide their letter dated 03.12.2018 furnished the Accounting Procedures-Gift Vouchers; Ledger Copies of Gift Vouchers of branches –Karur, Kumbakonam, Ramanathapuram; Sample invoice copies of corresponding Gift Vouchers of Karur, Kumbakonam, Ramanathapuram; and Copy of the Payment and Settlement Act 2007. On the Accounting procedure, it is submitted as follows:

- Gift Vouchers are sold by a business concern to customers to allow them to purchase the products on a future date. The Cards are sold for cash and are treated as in terms of ‘Money’. There are two significant stages in Gift Vouchers which need to be considered when processing transactions as follows:
  - a) **Sales** : The Gift Vouchers/Cards are sold to the customers for cash and the business has an obligation to supply goods in specified future dates.
  - b) **Redemption** : Customers can redeem the Gift Vouchers / Cards (at the face value) in return, for the products.
- When the Applicant sells Gift Cards / Vouchers to the value of Rs.1,500/- the deferred revenue journal entries reflected in the record are as follows:

**Amounting for Gift Voucher transaction – Sales**

Account	Debit	Credit
Cash / Bank	1,500	
Gift voucher liability		1,500
Total	1,500	1,500

The Applicant has received the cash of Rs.1,500/-.However, the goods have not been provided / sold to the customers, therefore the revenue cannot be recognized. The amount is credited in the Balance Sheet as Gift Voucher Liability Account.

- When a Gift Voucher is redeemed by a customer, the Applicant satisfies its obligation to supply the goods and its liability is extinguished. The journal entry in the ledger will be as follows.

**Accounting for Gift Voucher - Redemption**

Account	Debit	Credit
Gift voucher liability	1,500	
Sales		1,500
Total	1,500	1,500

The Applicant has supplied the goods to the customer and now the revenue is recognized. The amount of Rs.1,500/- is transferred from the Gift Voucher Liability Account to the Revenue (Sales) Account.

The 'Applicant' has produced copies of few Gift Voucher/Card, Ledger Account extracts for the period of March 2018 and also sample copies of Sale Invoices, wherein the value of Gift Voucher/ Card has been adjusted/redeemed against the total value of Jewellery or / other jewellery items sold to the customers. In the sale invoices at the branch at the time of redemption, it is seen that the 'Mode of receipt' is noted as "Cash" and "Gift Voucher".

3.3 The Applicant submitted copy of Trial Balance for the month of March 2018 showing the entry of Gift voucher on 27.12.2018. On perusal of Trial balance, it is seen that the Applicant reflects entries of Gift Voucher account under 'Advance from Customers' under the heading 'Other Current Liabilities' for amounts . and Sundry Creditors.

3.4 The applicant was heard on 22.02.2019. The applicant appeared and submitted a case law stating that PPI is an actionable claim. They stated that it is not goods or service and GST will be applicable only when the PPI /Vouchers are redeemed and GST charged on the goods. They stated that they will submit Balance Sheet indicating the heads where the Outstanding gift vouchers and redeemed Vouchers are reflected. The applicant has furnished a written submission enumerating the Legal Position and Taxation as follows:

- PPIs are not goods for the following reasons
  - PPIs are governed by a Master Direction issued by Reserve Bank of India w.e.f. 11-10-2017 under Section -18 read with Section 10(2) of the Payment and Settlement System Act, 2007.
  - PPI's are a kind of 'Actionable Claim' as defined under Section 3 of Transfer of Property Act, 1882.
  - Equivalent to money
  - As defined under Clause 6 of the Schedule III to the CGST/SGST Act, 2017 the PPIs are excluded from the levy of GST, as it is a kind of actionable claim.
  - As there is no element of manufacturing process involved in the scope for the levy of Central Excise Duty was absent, hence Central Excise not levied on this kind of Vouchers (PPIs).
  - The levy of Octroi or Local Body Tax by Maharashtra Municipal Corporation Act (Act No.LIX of 1949) on "Sodexo Meal Vouchers" treating as goods was not sustained by the Hon'ble Supreme Court of India, in the case of M/s. Sodexo Sve India Pvt Ltd Vs. State of Maharashtra and Others, Wherein, the Hon'ble Court has treated 'Sodex Meal vouchers' as expenditure incurred by such employer and amenity in the hands of employee, nothing but salary, as defined under Section 17 of the Income Tax Act, 1961.
- PPIs are not services for the following reasons
  - levy of Service Tax was started in 1994 on selected services, where there was no scope for the levy of Service Tax on PPIs issued.
  - In the case of Union of India Vs. Delhi Chit Fund Association (2014) 43 GST 524 (SC), it was held that in a mere transaction of money or actionable claim no service was involved and no service tax leviable.
  - In H.Anraj Vs. Govt. of Tamil Nadu in AIR 1986 SC 63, 71 the elements of actionable claims are framed as under:-
    - i) Any type of debt other than a debt secured by mortgage of immovable or hypothecation or pledge.
    - ii) Any beneficial interest in movable property not in possession.
  - In the case of Martin Lottery Agencies Ltd Vs. Union of India (2008) 14 STT 242 (Sikkim), relying on M/s. Sunrise Associates Vs. Union of India (2006) held that Lottery Ticket is an 'Actionable Claim'.
- PPI contains two parts namely:-

- (i) In first part, deposit of money for which PPI is being issued which is not service. In Banks no service tax is being levied for such deposit/receipt of money.
  - (ii) In second part, the money so received is being utilized/ adjusted for sale of Jewellery, for which GST is leviable at the time of supply of Jewellery, as the PPI's is merged with a supply of goods and the scope for levy of service tax is completely absent.
- The time of supply of goods/services, where vouchers are involved, it is specified under Sub-section (4) of Section 12 & Section 13 of the GST Act as under;
    - i) the date of issue of voucher, if the supply is identifiable at that point; or
    - ii) the date of redemption of vouchers, in all other cases.
  - In this case, the supply is not identifiable, as the Jewellery is class of goods comprising of numerous items of gold or diamond jewellery and exact item of goods are not identifiable or ascertainable at the time of issue of voucher (PPI), hence time of supply could not be fixed for the levy at the time of issue of vouchers (PPIs).
  - Moreover it is an actionable claim, will not come under the purview of GST as per the Clause 6 to the Schedule III to the GST Act.

4. We have carefully examined the statement of facts, supporting documents and the case laws filed by the Applicant and heard the arguments made by them during personal hearing on 20.11.2018 & 22.02.2019. From the various submissions before us, we find that the 'Applicant', as part of sales promotion, introduced the facility of different types of Gift Vouchers/ Gift Cards as Prepaid Payment Instruments (PPI) to customers through its retails outlets, online portals and third party online portals subject to Payment and Settlement Act 2007 and Master Directions and other relevant notifications/ circulars / communications issued by Reserve Bank of India or any other relevant authorities.

4.1 The Payment and Settlement Act 2007 defines "payment system" as a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them but does not include a stock exchange. It is seen from the Act that RBI is authorized to regulate such payment systems and all issuers are governed by the direction of RBI. On perusal of the Master Direction on issuance of operation of Prepaid Payment

Instruments (Master Direction DPSS CO.PD.No 1164/02.14.006/2017-18 dt 11.10.2017) issued by the Reserve Bank of India under Section 18 read with Section 10 (2) of the Payment and Settlement System Act, the following definitions relevant to the case at hand are re-produced for reference as below:

- Para 2.1 **Issuer**: Entities operating the payment systems issuing PPIs to individuals/ organisations. The money so collected is used by these entities to make payment to the merchants who are part of the acceptance arrangement and for facilitating funds transfer remittance services.
- Para 2.2 **Holder**: Individuals / organisations who obtain / purchase PPIs from the issuers and use the same for purchase of goods and services, including financial services, remittance facilities, etc.,
- Para 2.3 **Prepaid Payment Instruments (PPIs)** : PPIs are payment instruments that facilitate Purchase of goods and services, including financial services, remittance facilities, etc., against the value stored on such instruments. PPIs that can be issued in the country are classified under three types viz.(i) closed System PPIs, (ii) semi-closed System PPIs, and (iii) Open System PPIs.
- Para 2.4 **Closed System PPIs**: These PPIs are issued by an entity for facilitating the purchase of goods and services from that entity only and do not permit cash withdrawal. As these instruments cannot be used for payments or settlement for third party services, the issuance and operation of such instruments is not classified as payment systems requiring approval /authorisation by the RBI.
- Para 2.5 **Semi - Closed System PPIs**: These PPIs are used for purchase of goods and services including financial services, remittance facilities, etc., at a group of clearly identified merchant locations/ establishments which have a specific contract with the issuer (or contract through a payment aggregator / payment gateway) to accept the PPIs as payment instruments. These instruments do not permit cash withdrawal, irrespective of whether they are issued by banks or non - banks.
- Para 2.8 **Merchants**: These are the establishments who have a specific contract to accept the PPIs issued by the PPI issuer(or contract through a payment aggregator/payment gateway) against sale of goods and services, including financial services.
- Para 3 states that semi -closed PPIs will be issued only after obtaining authorization from RBI
- Para 7 state that PPI issuers shall ensure that the name of the company which has received authorization for issuance and operating of ppis , is prominently

displayed along with the approved brand name. The PPI are issued as cards or wallets and not in paper form. Issuer is permitted to issue PPIs through their authorized outlets or authorized /designated agents subject to condition that the issuer shall be responsible for all the PPIs issued by the authorized agent and issuer is responsible as principal for all acts of the agent. In case of co-branding arrangements, the agreement between them shall indicate who is the PPI issuer. The PPI issuer is responsible for all acts of the cobranding partner and the customer related aspects. The PPI issuer can co-brand such instruments with name/logo of the company whose customers /beneficiaries such co-branded instruments are to be issued.

- Para 8 states that PPIs upto Rs 10000 can be issued without KYC and with KYC goods and service upto the maximum limit specified on PPI can be purchased which are reloadable.
- Para 10 states Banks and non – bank entities are permitted to issue prepaid gift instruments subject to the following conditions:
  - a) Maximum value of each Pre-Paid Gift Instruments (PPIs) shall not exceed Rs. 10000/-
  - b) These instruments shall not be reloadable.
  - c) Cash – out or refund or funds transfer shall not be permitted for such instruments.
  - d) KYC details of the purchasers of such instruments shall be maintained by the PPI issuer.
  - e) Entities shall adopt a risk based approach, duly approved by their Board, in deciding the number of such instruments which can be issued to a customer, transaction limits etc.
  - f) The gift instruments may be revalidated (including through issuance of new instruments) as per the Board approved policy of the issuer.
  - g) The Provisions of validity and redemption, as applicable, shall be adhered to.
  - h) The features of such PPIs shall be clearly communicated to the PPI holder by SMS / email/ post or by any other means at the time of issuance of the PPI before the first loading of funds.
- Para 12 states that in some instances of e-commerce payments, PPI issuer has agreement with the digital market place /payment aggregator/gateway . In such cases the payments made by the issuer are used for onward payments to the

respective merchants who are accepting the PPIs issued by the issuer as a payment instrument.

4.2 The Applicant has stated that they issue Closed PPIs to Customers on receiving the face value as per the requirement of the customer and the customer or holder of such PPI can redeem these PPIs in any outlets of KJIL across the country at the time of purchase of jewellery. They have also stated that the Kerala office of KJIL have entered into an agreement with M/s. Qwickcilver Solutions Pvt Ltd, Bangalore who is engaged in the business of facilitating the distribution of Gift Cards through various channels. It is seen from the agreement that KJIL, Kerala has entered into this agreement for distribution of its "Gift Cards" through Qwickcliver's online portal woohoo.com, corporate sales team and its other distribution channels. The "Gift Cards" are issued by KJIL which can be loaded with value that can be redeemed for purchase only at designated stores specified by KJIL, Kerala. As per Annexure 1 to the agreement, after sale, the gift card will allow the bearer to shop for the amount mentioned in the gift card issuers stores. The un-activated cards are provided to Qwickcilver who will activate the same electronically before sale. Each month, qwickcilver will charge a service fee on the load value of activated cards. The service fee varies depending on the value of actual load value of the gift cards sold to the customers for gold and diamond jewellery vouchers. The difference amount of the total load value and the service fee is to be paid by qwickcliver to KJIL, Kerala. From the above, it is seen that KJIL is selling the PPIs i.e Gift vouchers/cards to the customers directly at its stores. It alongwith its distinct persons in Kerala is also selling these PPIS through the distribution network of Qwickcilver both online and offline. However, even in the second case the PPI issuer as defined in the Payment and Settlement Act 2007, is only KJIL, Kerala and the gift vouchers can only be redeemed in the stores owned by the applicant . Qwickcliver itself does not issue the gift voucher and hence this is not a semi-closed system PPI but a closed system PPI. Qwickcilver acts merely as an agent for sale of the gift vouchers/cards.

5. With respect to Own Closed PPIs, i.e where the applicant directly sells gift vouchers/cards to their customers, the Applicant has raised the following questions:

1. Whether the issue of Own Closed PPIs by the 'Applicant' to customers be treated as supply of goods or supply of services as defined under the provisions of the CGST / SGST Act 2017 and rules, notifications there on.
2. If yes, is the time of issue of Own Closed PPIs by the 'Applicant' to customers is the time of supply of goods or services warranting tax liability
3. If yes, what is rate of taxes applicable for such supply of goods or services as the case may be

5.1 From the submissions of the Applicant regarding the 'Own closed PPIs', it is seen that the Applicant issues closed PPIs as defined in the master circular issued by RBI. They are sold to customers on receiving the face value as per the requirement of the customer. The customer can redeem these PPIs in any outlets of KJIL across the country at the time of purchase of jewellery. Further from the accounts statements furnished, it is seen that the PPIs are named as 'Gift Vouchers' and the amount received on sale of the 'vouchers' is accounted under 'Other Current Liabilities'. Once they are redeemed, they are credited to the revenue(sales ) account. The applicant has claimed that PPIs are actionable claim equivalent to money and issue of PPIs are not supply and GST is not liable to be paid at the time of supply of PPIs. They have further stated that PPIs are neither goods nor services. They have relied on the decision of the Hon'ble Supreme Court in the case of M/s. Sodexo.

5.2 To answer the questions raised, it is to be ascertained as to whether the PPI under consideration are 'actionable Claims' as defined under law or 'Vouchers' as defined under the Act and thereafter as to how the issue of PPIs are to be considered, i.e., as goods or services and then the 'Time of Supply' and 'Rate' applicable. We find GST Acts define 'Goods', 'Supply', 'Actionable Claim', 'Vouchers' as follows:

- 'Goods' are defined under Section 2(52) of the Act as  
*(52) "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 severed before supply or under a contract of supply;*
- Supply is defined under Section 7 of GST Act as under:  
*7. (1) For the purposes of this Act, the expression "supply" includes—  
(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or*

agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),—

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

The relevant entry in Schedule III to the Act is as under

**ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES**

1. Services by an employee to the employer in the course of or in relation to his employment.

2.....

6. Actionable claims, other than lottery, betting and gambling

➤ Actionable Claim is defined under Section 2(1) of the Act as

(1) "actionable claim" shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;

Section 3 of the Transfer of Property Act, 1882 states as:

"Actionable Claim" means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, Or to any beneficial interest in movable Property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent".

➤ Voucher is defined under section 2(118) as

"(11 8) "voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;

5.3 In the case at hand, it is stated that the gift cards /vouchers are purchased by the customers on paying a value in money specified on the gift card /voucher.

When the money is paid by the customer, such a value is loaded onto the card electronically. PPIs issued by the applicant can be redeemed against purchase of any jewellery in any of the outlets of KJIL across India. This means that when the customer or bearer of the gift card wants to pay for some jewellery in KJIL's stores, they can pay with either cash or with gift voucher. This is seen in the sample sale invoices given by the applicant. "Payment instrument" as defined in para 2(g) of the Payment and Settlement Act 2007 means any instrument, authorization or order in any form, including electronic means to effect a payment- by a person to a system participant or by a system participant to another system participant. The system participant includes the issuer .

In this case, the gift voucher/gift card is an instrument squarely covered under the definition of "payment instrument" under Payment and Settlement Act 2007. It is not a claim to a debt nor does it give a beneficial interest in any movable property to the bearer of the instrument. In fact , if the holder of the gift card/ voucher loses or misplaces it and is unable to produce it before the applicants stores before the time limit specified on the card/ voucher, the instrument itself becomes invalid. Then the customer cannot use it to pay for any goods. Thus it is not an actionable claim as defined under Transfer Of Property Act. It is only an instrument accepted as consideration /part consideration while purchasing the goods from the issuer and the identity of the supplier is established in the PPI.

Therefore the PPIs under consideration squarely falls under the definition of 'Voucher' as defined in section 2(118) of CGST Act. It is further observed that the definition of 'Voucher' has been added to the Act after discussion in the GST Council, while approving the draft Acts. The related portion of the Minutes of the 5<sup>th</sup> GST Council Meeting held on 2<sup>nd</sup> & 3<sup>rd</sup> December 2016 in New Delhi, wherein the need for definition of 'Voucher' and whether 'Voucher' is 'Goods' or 'Services' was discussed [11(XIX)] and the decision [13(XVIII)] are given here for better appreciation of the intent:

*11(XIX). Section 12(4) (Time of supply of goods): The Hon'ble Minister from West Bengal stated that the term 'voucher' was not defined and it was not clear whether it was goods or services. The CCT, Gujarat clarified that if vouchers were given for use in a grocery store, the point of supply of goods shall be fixed through this provision. The Secretary suggested to define the term 'voucher' in the Definitions section. The Council agreed to define the term 'voucher' in the Definitions section.*

*13(XVIII). Section 12(4) (Time of supply of goods): To define the term 'voucher' in the Definition section.*

From the above, it is amply clear that those instruments which satisfy the conditions of being accepted as consideration/part consideration against purchase of specified goods and the identities of the potential suppliers are indicated in the instruments are to be considered as 'Vouchers' for the purposes of GST. Applying the above, the PPIs under consideration are 'Vouchers' for the purposes of GST. Further, these PPIs are gift cards supplied by the applicant either directly through to customer or through various distribution channels. As per the definition of "Goods" under CGST Act under Section 2(52), every movable property other than money and actionable claim is "Goods" under this definition. Now, movable property is not defined under CGST ACT but is available in General Clauses Act 1977 as below:

Section 3 (26) of General Clauses Act 1977 —"Movable property" shall mean property of every description, except immovable property;

Section 3(19) Immovable property.—"Immovable Property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth .

It is seen from the above, that any property other than immovable property is a movable property. In this case, the customer purchases the Gift voucher and card by paying the issuer. Whoever produces the voucher at their stores, they will be allowed to redeem it. The voucher has both a value and an ownership and is the property of whoever first purchases it and later whoever redeems it and it is movable. It is neither money nor actionable claim as discussed above. Hence, these gift vouchers/ cards issued by the applicant being 'vouchers' under the CGST /TNGST Act are "Goods" as per Section 2(52) of CGST and TNGST Act. Further, when the vouchers are purchased by the customers there is a consideration, the face value which is paid; it is for the furtherance of business of the applicant as the customer or bearer will in future definitely buy jewelry from the applicant. Hence, supply of voucher qualifies as "supply" under Section 7 of the CGST Act / TNGST Act, specifically as supply of goods. It is seen that The time of supply of goods is specified under Section 12 of CGST/TNSGST Act, and the time of supply of vouchers is specified in Section 12(4); clearly indicating that vouchers are goods under CGST ACT.

5.4 The PPIs under consideration are 'Vouchers' which are given for use in the retail outlets of KJIL for purchase of jewellery, i.e. goods and therefore the time of

supply is governed by the provisions under Section 12 (4) of the CGST Act, which states as follows:

- (4) In case of supply of vouchers by a supplier, the time of supply shall be—*
- (a) the date of issue of voucher, if the supply is identifiable at that point; or*
  - (b) the date of redemption of voucher, in all other cases.*

Accordingly, if the vouchers are specific to any particular goods specified against the voucher, then the date of issue of vouchers is the time of supply of vouchers to the customer. However, as per the submissions of the applicant, in majority of cases the gift vouchers/gift cards are redeemable against any jewellery bought and in such cases, the time of supply is the date of redemption of voucher.

5.5 In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, sub-heading, heading and chapter shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

The gift vouchers issued by the applicant are either in paper form or a plastic card which can be read electronically. The relevant entries of the Customs Tariff is given under for ease of reference:

**Chapter 4911 of Customs Tariff** covers Other Printed Matter, Including Printed Pictures And Photographs and CTH 49119990 covers others.

HSN Explanatory Notes to Chapter 4911 states

**49.11 - Other printed matter, including printed pictures and photographs.**

4911.10 - Trade advertising material, commercial catalogues and the like

- Other :

4911.91 -- Pictures, designs and photographs

4911.99 -- Other

This heading covers all printed matter (including photographs and printed pictures) of this Chapter (see the General Explanatory Note above) but not more particularly covered by any of the preceding headings of the Chapter.

The paper vouchers, a sample of which was submitted, are printed matter and are not trade advertising material, hence covered under CTH 49119990.

**Chapter 8523 of Customs Tariff** covers discs, tapes, solid-state non-volatile storage devices, "smart cards" and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of chapter 37. CTH covers 8523 21 00 -- Cards incorporating a magnetic stripe and CTH 8523 52 covers "Smart Cards".

**85.23 - Discs, tapes, solid-state non-volatile storage devices, "smart cards" and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of Chapter 37.**

- Magnetic media :

8523.21 -- Cards incorporating a magnetic stripe

8523.29 -- Other

- Optical media :

8523.41 -- Unrecorded

8523.49 -- Other

- Semiconductor media :

8523.51 -- Solid-state non-volatile storage devices

8523.52 -- "Smart cards"

8523.59 -- Other

8523.80 - Other

This heading covers different types of media, whether or not recorded, for the recording of sound or of other phenomena (e.g., numerical data; text; images, video or other graphical data; software). Such media are generally inserted into or removed from recording or reading apparatus and may be transferred from one recording or reading apparatus to another.

The media of this heading may be presented recorded, unrecorded, or with some pre-recorded information, but capable of having more information recorded on them.

#### (A) MAGNETIC MEDIA

Products of this group are commonly in the form of discs, cards or tapes. They are made using different materials (generally plastics, paper or paperboard, or metal), either magnetic in themselves or coated with a magnetic material. This group includes, for example, cassette tapes and other tapes for tape recorders, tapes for camcorders and other video recording apparatus (e.g., VHS, Hi-8™, mini-DV), diskettes and cards with a magnetic stripe.

This group does not include magneto-optical media.

- (2) "Smart cards" (see Note 5 (b) to this Chapter), which have embedded in them one or more electronic integrated circuits (a microprocessor, random access memory (RAM) or read-only memory (ROM)) in the form of chips. "Smart cards" may contain contacts, a magnetic stripe or an embedded antenna but do not contain any other active or passive circuit elements.

The gift cards used by the applicants are usually made of plastic but can be electronically loaded as seen in the agreement with Qwikcliver and can be read electronically at the retail stores of the applicant when the customer brings them

for redeeming for buying goods. Such cards could have a magnetic strip or a chipset making them classifiable under CTH 8523 21 00 or CTH 8523 52; In any a case, CTH 8523.

5.6 In the case of paper based gift vouchers classifiable under CTH 4911 the applicable rate is 6% CGST as per Sl.No. 132 of Schedule II of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and 6% SGST as per Sl.No. 132 of Schedule II of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended.

In the case of gift cards, the same are classifiable under CTH 8523 and the applicable rate is 9% CGST as per Sl.No. 382 of Schedule III of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and 9% SGST as per Sl.No. 382 of Schedule III of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.

6. The applicant has also sought ruling on Closed PPIs- issued through Third Party PPI issuers. Kalyan Jewellers Kerala is the 'Gift Card issuer' as per the agreement entered into by Kalyan Jewellers, Kerala with M/s. Quickcilver Solutions Pvt Ltd, Bangalore. By the agreement, the Gift cards are supplied to Quickcilver, who undertakes the marketing of these cards and activates them for various denomination and various articles like Gold coins/bars, Gold jewellery, diamond jewellery. The questions on which Advance Ruling is sought and related to such Third party PPI issuers are as under:

4. If yes, whether the issue of PPIs by Third Party PPI Issuers subject to GST at the time of issue in their Hands
5. Whether the amount received by the 'Applicant' from Third party PPI issuers subject to GST
6. If No, GST collection at the time of sale of goods or services on redemption of PPIs i.e. own and from Third Party will be a sufficient compliance of the Provisions of the CGST Act
7. What is the treatment of Discount (the difference between Face value and discounted value) in the hands of issuer of PPI in case of third party PPIs.

Whether the 'Applicant' will be liable to pay GST on this difference Value

In this case it is seen that Qwikcilver is the supplier of the vouchers to customers and Qwikcilver also supplies their services to KJIL, Kerala. The above questions pertain to these two supplies. Kalyan Jewellers, Kerala is a distinct entity from

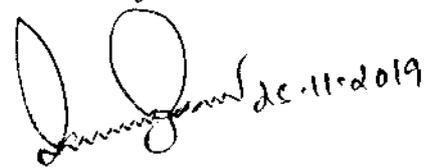
KJIL and Qwiksilver is based in Bangalore. This Advance Ruling Authority does not have Jurisdiction over the activity undertaken by these entities.

7. In light of the above, we rule as under:

**RULING**

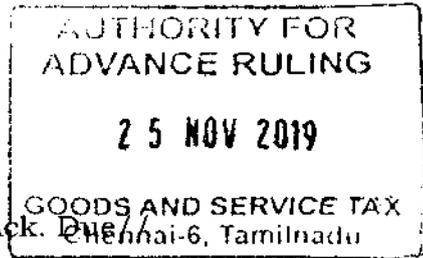
1. The Own closed PPIs issued by the Applicant are 'vouchers' as defined under CGST/TNGST Act 2017 and are a supply of goods under CGST/TNGST Act 2017
2. The time of supply of such gift vouchers / gift cards by the applicant to the customers shall be the date of issue of vouchers if the vouchers are specific to any particular goods specified against the voucher. If the gift vouchers/gift cards are redeemable against any goods bought, the time of supply is the date of redemption of voucher.
3. In the case of paper based gift vouchers classifiable under CTH 4911 the applicable rate is 6% CGST as per Sl.No. 132 of Schedule II of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and 6% SGST as per Sl.No. 132 of Schedule II of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended. In the case of gift cards classifiable under CTH 8523 the applicable rate is 9% CGST as per Sl.No. 382 of Schedule III of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and 9% SGST as per Sl.No. 382 of Schedule III of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.
4. The questions raised at sl.No. 4,5,6 and 7 are not answered for the reason that the said questions are not admitted as this authority does not have jurisdiction.

  
Ms. Manasa Gangotri Kata,  
Member, CGST

  
Shri Kurinji Selvaan.V.S.,  
Member, TNGST

To

Tvl. Kalyan Jewellers India Limited,  
5<sup>th</sup> Cross, 100 Feet Road,  
Gandhipuram,  
Coimbatore.

// By Speed Post with Ack. 

Copy submitted to :-

1. The Principal Chief Commissioner of CGST & Central Excise,  
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam, Ch - 600 034.
2. The Additional Chief Secretary / Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

3. The Commissioner of GST & Central Ex., Chennai, South Commissionerate,  
MHU Complex, No.692, Anna Salai,  
Nandanam, Chennai 600 035.
4. Deputy Commissioner (ST)  
Divisional large Tax Payers Unit,  
C.T.Building, Dr. Balasundaram Road,  
Coimbatore.
5. Master File / Spare.

