

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) **Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)**
(2) **Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

ARN No.	AD270120040651P
GSTIN Number, if any/ User-id	27AAJCR1388Q1ZI
Legal Name of Applicant	M/s. RRIBADA FILMS PRIVATE LIMITED
Registered Address/Address provided while obtaining user id	MOTILAL NAGAR, LINK ROAD ,673 ,OPP BNAGUR NAGAR, NEAR HANUMAN MANDIR ,GOREGAON WEST, MUMBAI-400104
Details of application	GST-ARA, Application No. 100 Dated 31.01.2020
Concerned officer	Division-IX, Commissionerate Mumbai-West
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)(As per applicant)	Applicant hires Technician/Professionals for its foreign clients from foreign entity supplier
Issue/s on which advance ruling required	➤ 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.

NO.GST-ARA-100/2019-20/B- 101

Mumbai, dt. 24.11.2021

PROCEEDINGS

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

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” respectively] by **M/s. RRIBADA FILMS PRIVATE LIMITED** , the applicant, seeking an advance ruling in respect of the following questions.

Whether Liable to Pay GST under Normal or under Reverse Charge Mechanism on Import of Services which are not rendered in India?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same

provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

2.1 *M/s RRIBADA Films Private Limited, the applicant will be importing services, from a foreign entity, of professionals/technicians. These services which are in question will be provided, directly outside India to their Foreign Clients, by these Professionals/Technicians. In order to provide these services the Foreign Entity may hire Technician/Professionals who may be resident of India. The question is - (1) Will these Import services, which are actually not rendered in India, fall under the ambit of GST under Import of Services? (2) And will these Import services be liable to pay GST under Reverse Charge Mechanism (RCM)?*

2.2 *Considering the definition of 'Import Of Services' under Section 2(11) of IGST Act 2017, neither recipient of Service is in India as recipient of service is applicant's Foreign Client, located outside India and Services taken from said Foreign Party will be performed on location of said Foreign client so these Services will never cross the territorial waters of India as it will be performed out-n-out in another country by another county. Further as informed above even place of supply of said services will not be in India as it will be performed on Foreign Location only.*

2.3 *Applicant will not be falling under Intermediary as well, as Section 2(13) of the IGST Act, 2017 defines an Intermediary as "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. So in applicant's case Supply will be on its own account and further in definition of "Place of Supply" for Intermediary the place of supply shall be the location of the supplier of services and in applicant's case said location is outside India as its Supplier is not in India.*

2.4 *The applicant made additional submission on 20.09.2021, wherein they reiterated their earlier submissions and requested to consider the above issues and provide with Advance Ruling on whether GST under normal or RCM provisions will be applicable considering these conditions.*

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The concerned officer has not made any submissions.

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 10.12.2020. Shri. Sanjay Motta, CA appeared, and requested for admission of the application. Jurisdictional Officer was absent.
- 4.2 The application was admitted and called for final e-hearing on 28.09.2021. The Authorized representatives of the applicant, Shri. Sanjay Motta, CA was present. The concerned jurisdictional officer was absent. The applicant was asked to make written submission with documents explaining facts/transactions in respect of the questions asked. Jurisdictional officer to also make written submissions.
- 4.3 We heard the applicant.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have perused the documents on record and gone through the facts of the case and the submissions both oral and written, made by the applicant. The applicant redrafted the questions raised by e-mail dated 27.09.2021.
- 5.2 The applicant has submitted that; they will be importing services, from a foreign entity, of professionals/technicians and these services will be provided, directly outside India to applicant's Foreign Clients, by these Professionals/Technicians ; to provide these services the Foreign Entity may hire Technician/Professionals who may be residents of India; neither recipient of Service is in India as recipient of service is applicant's Foreign Client, located outside India and Services taken from said Foreign Party will be performed on location of said Foreign client.
- 5.3 The applicant has further submitted that the place of supply of said services will not be in India and therefore there is no 'Import Of Services' as defined under Section 2(11) of IGST Act 2017. Further, the applicant has also submitted that, they will not be falling under Intermediary as well, as defined under Section 2(13) of the IGST Act, 2017, as in applicant's case Supply of Services will be on their own account and further in definition of "Place of Supply" for Intermediary the place of supply shall be the location of the supplier of services and in applicant's case said location is outside India as their Supplier is not in India.
- 5.4 Thus the questions raised are whether these services, which are actually not rendered in India, fall under the ambit of GST under Import of Services and whether these Import services are liable to GST under Reverse Charge Mechanism (RCM)?
- 5.5 The applicant has not submitted as to what type of services are going to be received from the foreign entity, of professionals/technicians. The transaction has not been explained in detail and

in clarity. On one hand the applicant has submitted that they will be the recipient of services from the foreign entity whereas on the other hand applicant has also stated that the foreign entity will be directly providing services to their other foreign clients.

5.6 Further, the applicant has not submitted as to how will the entire process be conducted and are not clear as to how supply will be rendered by them on their own account as submitted by them. The applicant has also submitted that they will not be falling under the definition of an Intermediary as in their case Supply of Services will be on their own account. In fact the applicant has to state whether the supply on their own account not fall under the definition of an “Intermediary” and not the other way around. The applicant has not submitted any evidence to support their claim that they are rendering services on their own account.

5.7 Section 13 of the IGST Act, 2017 is applicable to determine the place of supply of services, and hence taxability, where the location of the supplier of services or the location of the recipient of services is outside India. As per Section 13 (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 and as per Section 13 (8) the place of supply in the case of intermediary services is the location of the supplier of such intermediary services.

5.8 From the submissions made by the applicant it is not very clear as to ; what is the service rendered and who is the recipient of service. The applicant has just made a statement that the recipient of service is located outside India and that they are not the recipient of service. No supporting evidences/submissions have been made by the applicant in this regard.

5.9 Further, the applicant has just made a statement that they are not an intermediary. How they are not an Intermediary has not been brought out clearly, in their submissions, with evidences and records. In fact the subject application is very ambiguous and cryptic and no evidences are forthcoming supporting the claim of the applicant that, the services are not imported by them and the applicant is not an intermediary.

5.10 Thus, the applicant was asked during the Final Hearing held on 28.09.2021 to explain the facts/transactions with evidence and detailed submissions in support of their contention that the impugned services are not imported by them and the applicant is not an intermediary but till the date of passing this order, they have not responded at all.

5.11 In view of the above, due to lack of evidentiary material to substantiate the contentions of the applicant, we are not able to arrive at any conclusion and therefore we do not pass any order in the subject case.

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)

The applicant's questions are not answered due to the reasons given herein above.




RAJIV MAGOO
(MEMBER)


T.R. RAMNANI
(MEMBER)

Copy to:-

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

Note:-An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.