



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri J. Laxminarayana, Additional Commissioner (State Tax)

Sri V. Srinivas, IRS, Joint Commissioner (Central Tax)

A.R.Com/5/2017

Date. 30-05-2018

TSAAR Order No. 4/2018

Under Section 100(1) of the CGST/TGST Act, 2017, any person aggrieved by this order can prefer an appeal before the Telangana State Appellate Authority for Advance Ruling, Hyderabad, within 30 days from the date of receipt of this Order.

1. M/s. Macro Media Digital Imaging Private Limited, Charlapally, Hyderabad (GSTIN No.36AABCM9451F1ZF) has filed an application in Form GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 103 of CGST/TGST Rules, 2017 and sought Advance Ruling on the following issues:
 - (i) Whether the printed advertisement materials classifiable as 'supply of goods?
 - (ii) If yes, whether it is classifiable under chapter heading 4911 of first schedule to Customs Tariff Act, 1975?
2. The applicant submitted the application in Form GST ARA-01 and Statement containing the applicant's interpretation of law & relevant facts and requested for advance ruling on
 - "i) whether the printed advertisement materials classifiable as 'supply of goods?
 - ii) If yes, whether it is classifiable under chapter heading 4911 of first schedule to Customs Tariff Act, 1975?"They have submitted a copy of Challan evidencing payment of application fee of Rs.10,000/-. They have also submitted their additional submissions vide their letter dated 03-04-2018.
3. The applicant has further submitted detailed statement of the relevant facts having a bearing on the question (s) on which Advance Ruling is sought for in Annexure -I as under:
 - (i) That M/s Macro Media Digital Imaging Private Limited (herein after referred to as the 'Applicant') are engaged in the business of manufacturing and sale of digital printed materials.
 - (ii) Applicant manufactures printed trade advertising material like banner flex using various inputs namely ink, paper etc.
 - (iii) Preparation of such printed material would be undertaken as per the customer specification wherein customers specify the sizes of the advertising material, location of the advertising material to be displayed etc.
 - (iv) Except specifying the specifications and designs to be printed, clients/customers of Applicant does not provide any materials and all required materials for the preparation of the advertisement materials are procured by Applicant only.

- (v) Applicant also recovers the cost incurred towards transportation, installation, packing etc.
 - (vi) In pre-GST regime, Applicant had been paying applicable VAT and filed returns accordingly.
4. The applicant has also filed statement containing the Applicants interpretation of law and / or facts as the case may be, in respect of the question on which Advance Ruling is sought for in Annexure-II as under:-
- a. That M/s Macro Media Digital Imaging Private Limited (herein after referred to as the Applicant) are engaged in the business of printing and sale of trade advertising materials as explained in the Statement of facts enclosed as Annexure-I.
 - b. Applicant understands that GST is a tax to be levied on supply of goods and/or services. Any transaction of supply of goods and / or services would attract
 - i. CGST (Central GST) and SGST (State GST) if supply is intra-state
 - ii. IGST (integrated tax) if the supply is inter-state.
 - c. Applicant understands that levy and collection of the CGST is governed by the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act') and levy and collection of SGST is governed by respective state GST Acts [Telangana Goods and Services tax Act (TGST), 2017 for the state of Telangana]. Similarly, levy and collection of IGST is governed by Integrated Goods and Services Act, 2017, (hereinafter referred to as the 'IGST Act').
 - d. Applicant understands that the activity undertaken by Applicant falls within the scope of the 'supply' as defined under Section 7 of CGST Act, 2017 (which was made applicable to IGST) and also under Section 7 of TGST Act, 2017.
 - e. Applicant understands that above referred GST law has prescribed different rates on different goods/services and also has different provisions relating to time of supply, place of supply for goods and services. Owing to this, the classification as goods or services is required to be done. After classifying a product/supply as goods/services, further step involved is arriving at the rate of tax as the rates are different even among goods or services.
 - f. The word 'goods' is defined under Section 2(52) of CGST Act, ibid which is extracted below :
 - i. "(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 serviced before supply or under a contract of supply"
 - ii. Similarly the word 'services' is defined u/s 2(102) of CGST Act, ibid which is extracted below:
 - iii. "(102) "services" **means anything other than goods**, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged"
 - g. On conjoint reading of the above two definitions, Applicant understands that 'goods' was defined to mean every kind of movable property with specific exclusions and inclusions (which are not relevant to the present context) and 'service' was defined to mean anything other than goods. Therefore, once anything falls under the ambit of 'goods', it does not become 'services' and vice-versa.

- h. Essential condition to classify anything as 'goods' is that it should be a movable property. Therefore what constitutes 'movable property' is required to be determined. However there is no definition of the term 'movable property' in GST law. Therefore the definition given under the provisions of General Clauses Act, 1897 can be adopted which reads as under :
- i. *“(36) “movable property” shall mean property of every description, except immovable property;*
 - ii. *“(26) “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;”*
- i. As seen from the above, 'movable property' covers all properties except 'immovable property'. Therefore, if the property does not fall under the definition of 'immovable property', then same falls under the scope of 'Movable property'. The term 'Immovable property' includes land, benefits to arise out of land and things attached to the earth or fastened to the earth.
- j. Further, the settled legal position under the provisions of Central Excise as well as sales tax is that things which are capable of being moved from one place to another without any substantial damage to the property while shifting, are not 'immovable property' but is 'movable property'.
- k. In the instant case, Applicant supplies the printed trade advertising materials (i.e. Banner flex), which is freely movable from one place to another thereby it becomes 'movable property' and consequently falls under the ambit of 'goods' u/s. 2(52), *ibid*.
- l. Applicant further understands that Section 9 of CGST Act, 2017 read with Schedule-II Sl. No. 1(a) provides that:
- i. *“any transfer of the title in goods is a supply of goods”*
 - ii. In the instant case, Applicant is transferring the title in the goods qua printed materials. Therefore, instant case of supplying printed advertisement materials amounts to supply of 'goods'
- m. Applicant submits that in the supply of aforesaid printed trade advertisement materials, the major cost incurred is towards materials like ink, paper etc.
- n. Applicant submits that TRU Circular No. 11/11/2017-GST dated 20-10-2017 clarified the taxability of printing contracts wherein vide Para 5 it was clarified that printing contracts similar to the instant case constitute 'Supply of goods'.
- o. Accordingly, rate of tax shall be determined as per CGST Notification No. 1/2017 – Central Tax (Rate) dt. 28-06-2017 (corresponding Notification No. 1/2017 – State Tax (Rate) dt. 29-06-2017 for SGST rate and also 1/2017 – Integrated tax (Rate), dt. 28-06-2017 for IGST rate).
- p. On perusal of the above notifications, Applicant understands that the goods have been categorized under six schedules based on description and HSN where each schedule is attracting different rate of tax.
- q. In term 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.

- r. On perusal of the rate schedules in the aforesaid notifications and also the various chapters in the First Schedule to the Customs Tariff Act, 1975, Applicant understands that aforesaid printed advertisement materials classifiable under chapter 49 inter alia the following headings are found relevant :
- i. “4901 - Printed books, brochures, leaflets and similar printed matter whether or not in the single sheets – liable for GST @ 5%.
 - ii. 4903 to 4911 & all other goods not specified elsewhere under this chapter – liable for GST @ 12%.
 - iii. 4911 – Other printed matter, including printed pictures and photographs; such as **Trade advertising material**, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices.
- s. As the instant case of supplying printed advertisement materials are used for trade advertising and not covered under any other heading of chapter 49, Applicant understands that same will fall under the heading 4911 which is liable for GST at the rate of 12%.
- t. The above understanding was also supported by chapter note 5 to Chapter 49 of Customs Tariff Act, 1975 which reads as under :
- i. **“Subject to Note 3 to this Chapter, heading 4901 does not cover publications which are essentially devoted to advertising (for example, brochures, pamphlets, leaflets, trade catalogues, year books published by trade associations, tourist propaganda). Such publications are to be classified in heading 4911”.**
- u. Applicant understands that Notification No. 11/2017 – Central Tax (Rate), dt. 28-06-2017 as amended by Notification No. 31/2017 - Central Tax (Rate), dt. 13-10-2017 which specifies the rates for ‘supply of services’ reads as under (Sl. No. 21(i)):
- i. “(i) Services by way of printing of all goods falling under Chapter 48 or 49 [including newspapers, books (including Braille books), journals and periodicals], which attract CGST @ 6 per cent. or 2.5 per cent. or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.”
 - ii. Applicant understands that the above entry in the rate notification ipso facto should not be used for classification as to whether any particular thing is goods or services.
- v. Therefore we humbly solicit Advance Ruling from the honourable authority on the question as to
- (i) Whether the printed advertisement materials classifiable as ‘supply of goods’?
 - (ii) If yes, whether it is classifiable under chapter heading 4911 of first schedule to Customs tariff Act, 1975?
 - (iii) Any consequential questions that may arise during the hearing.
5. During personal hearing held on 03-04-2018 @ 3.00 P.M the Authorized Representative has presented their case and submitted that the printed advertisement materials are classifiable as Goods under Section 2(52) GST law and such Goods falls under Tariff Heading 4911 and liable to GST rate @ 12%. They filed further submissions as given below:

(i) Applicant supplies the printed trade advertising materials (i.e. Banner flex), which is freely movable from one place to another thereby it becomes 'movable property' and consequently falls under the ambit of 'goods' under Section 2(52), *ibid.* Once anything falls under the ambit of 'goods' as defined under Section 2(52) of CGST Act, 2017 it does not become 'services' defined under section 2 (102) of CGST Act, 2017 and vice-versa. The above is further supported from :

- a. Sl. No. 1(a) of Schedule-II to the CGST Act, 2017 providing that any transfer of title in goods is 'supply of goods'.
- b. Para 5 of the TRU clarification vide circular No. 11/11/2017-GST dated 20-10-2017 that printing contracts similar to the instant case constitute 'Supply of goods'

Hence, instant case of supplying printed advertisement materials shall be treated as 'supply of goods'.

(ii) The instant case of printed advertisement materials is being used for trade advertising and not covered under any other heading of Chapter 49 thereby falls under the chapter heading 4911 of Customs Tariff Act, 1975 (made applicable for GST classification). The chapter note 5 to Chapter 49 also supports the same.

Hence, instant case of supplying printed advertisement materials classifiable under Chapter Heading 4911 and liable for GST at the rate of 12% as per the sl. 132 of Schedule-II to the Notification No. 01/2017-CT(R) dated 28-06-2017 as amended read with Telangana State Notification No. 01/2017 – State Tax (R) dt. 29-06-2017 as amended.

6. As per Section 7 of CGST Act, 2017 read with Schedule-II Sl. No. 1(a) of CGST Act, "*any transfer of the title in goods is a supply of goods*".

In the instant case the applicant is engaged in the business of manufacturing and sale of digital printed materials, wherein preparation of such printed material would be undertaken as per the customers specification and except specifying the specifications and designs to be printed, clients/customers of applicant does not provide any materials and all required materials for the preparation of the advertisement materials are procured by the applicant ,and the applicant is transferring the title in the goods i.e., printed advertisement materials. Therefore, instant case of supplying printed advertisement materials amounts to supply of 'goods' only.

7. Further, printed advertisement material are classifiable under Tariff heading 4911 in accordance with 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 as made applicable for the interpretation and classification of goods under GST Tariff.

8. The issue has been examined with reference to the provisions of the CGST/TGST Act, 2017 and the Rules made there under and the notifications issued till date; and the Advance Ruling is given as under:

(i) The printed advertisement materials manufactured and supplied by the applicant are classifiable as 'supply of goods'.

(ii) The printed advertisement material are classifiable under chapter heading 4911 of the GST Tariff and the rate of tax applicable is 6% CGST + 6% SGST as given in the Notification No. 1/2017 – Central Tax (Rate)dated 28.06.2017,(G.O.Ms No. 110, Revenue (CT-II) Department, Dt. 29-06-2017)

Sl. No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods	Rate
132 Sch-II of notification 1/2017 – Central Tax (Rate)	4911	Other printed matter, including printed pictures and photographs; such as Trade advertising material, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices	CGST 6% + TGST 6%

The application filed by M/s Macro Media Digital Imaging Private Limited, Charlapally, Hyderabad, is disposed accordingly.

Sd/- J. Lakshminarayana
ADDL. COMMISSIONER (State Tax)

Sd/- V. Srinivas
JOINT COMMISSIONER (Central Tax)

To
M/s. Macro Media Digital Imaging Private Limited,
Plot No. 23B & 24, Phase – 1,
Part – B, IDA, Charlapally,
Hyderabad – 500 051.

Copy to:

- 1.The Joint Commissioner (State Tax), Punjagutta Division.
- 2.The Assistant Commissioner (State Tax), Khairatabad Circle.

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Additional Commissioner (ST)(Policy)