

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Act, 2017)

BENCH

Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX
Mr Parthasarathi Dey, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Infobase Services Pvt Ltd
Address	8/1B Clarke Street, Lansdown,, Kolkata – 700026
GSTIN	19AAACI6543H1ZH
Case Number	44 of 2019
ARN	AD190919000591V
Date of application	October 01, 2019
Order number and date	38/WBAAR/2019-20 dated 24/12/2019
Applicant's representative heard	Mr Sudip Gupta, Director Mr K R Sriram, CA Mr Samir Choudhury, Managing Director

1. Admissibility of the Application

1.1 The Tollygunge Club Ltd (hereinafter the Club) has engaged the Applicant for supplying the service of printing the 'Directory of Members 2020' (hereinafter the Directory). The Applicant also enters into an agreement with the Club for marketing of advertisement space for the Directory. The Applicant will have to finance the project cost of printing the Directory from the proceeds from sale of space for advertisements. If it exceeds the final project cost for printing, the Applicant will gain 75% of the differential amount. If it does not cover the cost of such printing, the Applicant will have to bear the losses to that extent. The Applicant will raise tax invoice on the Club for the printing service. However, the Club will also raise invoice on the Applicant for the amount by which the proceeds from sale of advertisement space falls short of the cost of printing.

1.2 The Club will fix the specifications and rates for booking the advertisement space. The Applicant will procure the advertisements and issue Proforma Invoice with applicable GST in the Club's name on confirmation of the booking space. Based on the Proforma Invoice, the Club will issue the Tax Invoice after receipt of payment from the advertisers. Clearly, the Applicant, in addition to supplying printing service, is also acting as an intermediary on behalf of the Club for selling space for advertisements.

1.3 The Applicant seeks a ruling on whether its procurement of advertisements for the Directory is classifiable as selling of space for advertisement in print media and whether SI No. 21(i) of Notification No. 11/2017 – CT (Rate) dated 28/06/2017 (corresponding State Notification No. 1135-FT dated 28/06/2017), as amended from time to time (hereinafter collectively called the Rate Notification), is applicable thereto.

1.4 The Applicant is executing a composite contract involving several services and activities. Selling of space for advertisement is a question related to the Applicant's supply in so far as it is acting as an intermediary on behalf of the Club for procuring advertisements. An advance ruling is admissible on the question under section 97(2) (a) & (b) of the GST Act.

1.5 The Applicant declares that the issue raised in the application is not pending nor decided in any proceedings under any provisions of the GST Act. The officer concerned from the revenue has not objected to the admissibility of the Application. The Application is, therefore, admitted.

2. Submissions of the Applicant

2.1 The Applicant submits that print media, as defined in clause 2 (zr) of Notification No. 9/2017 – Integrated Tax (Rate) dated 28/06/2017, as amended from time to time, includes books, as defined in section (1) (1) of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purpose. The Applicant argues that the Directory is not meant for commercial purpose. It, therefore, is a book and part of the print media as defined under clause 2 (zr) of the above notification.

3. Submissions of the Revenue

3.1 The concerned officer from the Revenue submits that the Applicant's supply of services goes beyond sale of space for advertisements. In this regard, he draws attention to the Press Release dated 23/08/2017 of the Ministry of Finance, Government of India. It is clarified therein that if the supplier sells space for advertisement as an agent of the print media as a part of any composite supply, the rate applicable for the principal supply shall apply.

4. Observations & Findings of the Authority

4.1 Apart from supplying printing service and the service as an intermediary on behalf of the Club for selling space for advertisement, the Applicant has agreed to the obligation to match the cost of financing the project of printing from the proceeds from selling space for advertisement. Consideration for doing it successfully is 75% of the amount by which the proceeds from selling space for advertisement exceed the cost of printing. If it fails in its obligation, it has to pay the Club

the amount by which the proceeds from selling space for advertisement fall short of the cost of printing, as charge for tolerating the failure.

4.2 It is evident that the Applicant is making a bundled supply to the Club of printing service and intermediary service for selling space for advertisement on behalf of the Club and charging a single price for the bundle as the project cost for printing. The two services are not naturally bundled or supplied in conjunction with each other in the ordinary course of business. They are bound by an obligation discussed above and is a specific feature of the agreement between the Applicant and the Club. It is, therefore, not a composite supply.

4.3 Supply by a taxable person of a bundle of services at a single price, if it does not constitute a composite supply, is a mixed supply within the meaning of section 2 (74) of the GST Act. It should, therefore, be treated as supply of that service which attracts the highest rate of tax [section 8 (b) of the GST Act].

4.4 Selling of space for advertisement, when made as an intermediary, is classifiable under SAC 998362, which excludes sale of advertising space in print media (SAC 998363) and is taxable @ 18% under SI No. 21(ii) of the Rate Notification. Service by way of printing (SAC 998912) of all goods falling under Chapter 48 or 49 of the First Schedule of the Customs Tariff Act, 1975 (where the physical inputs are supplied by the printer) is taxable @ 12% under SI No. 27 (i) of the Rate Notification. The mixed supply of the Applicant should, therefore, be treated taxable under SI No. 21 (ii) of the Rate Notification.

4.5 The Club's supply of the service of selling space for advertisement is not considered as the Club is not the Applicant. Section 95 limits the scope of an advance ruling only to the supplies made or intended to be made by the Applicant.

In light of the above discussion, we rule as under:

RULING

The Applicant is making a mixed supply to the Tollygunge Club of printing service (SAC 998912) and intermediary service for selling space for advertisement on behalf of the club (SAC 998362). It shall be treated as supply of the above intermediary service taxable @ 18% under SI No. 21 (ii) of Notification No. 11/2017 – CT (Rate) dated 28/06/2017 (corresponding State Notification No. 1135-FT dated 28/06/2017), as amended from time to time.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.


(SUSMITA BHATTACHARYA)
Member

West Bengal Authority for Advance Ruling


(PARTHASARATHI DEY)
Member

West Bengal Authority for Advance Ruling