

THE DAMAN APPELLATE AUTHORITY FOR ADVANCE RULING FOR GOODS AND SERVICES TAX (Constituted under Section 99 of the Union Territory Goods and Services Tax Act, 2017)

Order No. 01/AAAR/Temple/DMN/UTGST/20-21/17096-21

Date: 05/10/2021

BEFORE THE BENCH OF

- (1) Ms. Seema Arora, Member (Central Tax)
(2) Shri Gaurav Singh Rajawat, Member (State Tax)

Name and address of the Appellant:	M/s. Temple Packaging Pvt. Ltd., Survey No. 171/3 & 7, Behind Olive Health Care, Hatyawad, Village- Dabbel, Nani Daman – 396210
GSTIN	25AAACT9039P1ZR
Date of Personal hearing	17.09.2021
Applicant represented by	i) Shri Dinesh H. Mehta, Advocate ii) Shri Vikas Somaya, Representative of the Company iii) Ms. Kavita Swami, Representative of the Company
Details of Appeal	Appeal order No. 01/Daman/2019-20-AR dated 18.07.2019
Jurisdictional authority	UTGST Daman
Details of Fee payment	Challan Identification Number (CIN) –19082500005194 dated 29.08.2019

PROCEEDINGS

(Under Section 101 of the Central Goods and Services Tax Act, 2017 and the Union Territory Goods and Services Tax Act, 2017)

At the outset, we would like to make it clear that the provisions of both, the Central Goods and Services Tax Act, 2017 and the Union Territory Goods and Services Tax Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Union Territory Goods and Service Tax Act.

The present appeal has been filed under Section 100(1) of the Union Territory Goods & Services Tax Act 2017 /Central Goods & Services Tax Act 2017 (hereinafter referred to the Act) by M/s. Temple Packaging Pvt. Ltd., (herein after referred to as "the appellant" for the sake of brevity) The appeal is filed against the Order No.01/Daman/2019-20-AR dated 18.07.2019 passed by the Union Territory Authority for Advance ruling on the application for advance ruling filed by the appellant. The appellant is registered under GST vide GSTIN 25AAACT9039P1ZR.

BRIEF FACTS OF THE CASE

The appellant is engaged in the activity of printing leaflets (further divided into insert/outsert) and falling under CHS No. 4901, the said product is manufactured out of the inputs namely paper/ink owned by the appellants and content supplied by the clients mainly located in the pharmaceutical sector. The leaflets manufactured by the appellants are sold to the clients on agreed consideration which is entirely based on the manufacturing expenses incurred by the appellants by using inputs owned by the appellants.

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Under Central Excise regime they cleared the same as excisable goods under CHS No. 4901 as exempted being chargeable to NIL tariff rate, they migrated to GST regime w.e.f. from 1st July 2017 and started supplying the same as supply of goods on payment of 5% GST levied at Sr. 201 of Schedule-I of Notification no. 1/2017-CT(Rate) dated 28.06.2017.

The Delegation of the federation of Master Printers, to which the appellant is a member, met with the officials in Ministry of Finance in New Delhi on 21.07.2017 to seek clarification on GST rates applicable to various printed products and during the course of meeting it was made to understand that when the printed products are made by using content supplied by the customer, then it will have to be classified under the category of service and will fall under the SAC 9988. In view of the clarification provided by the federation, most of the members started clearing the goods under the category of service instead of goods and the appellant also started clearing the goods under the category of service SAC no. 9989 by paying 18% GST.

The CBIC vide circular no. 11/11/2017-GST dated 20-10-2017 Para No. 3 clarified that the classification has to be decided on the basis of principal supply as defined under Section 2(90) of the CGST Act 2017, however, para-No. 5 further clarified that the supply can be treated as goods only when printed with design, logo etc; supplied by recipient of the goods. According to the appellant, the said clarification did not specifically deal with the issue when the client (other than publisher) is merely providing content to manufacture leaflet which is used by client for industrial purpose as insert/outsert in final product manufactured by them at their end. The CBEC vide circular no. 27/01/2018-GST dated 04-01-2018 at Para no. 6 clarified mainly with regard to printing and publication of books and did not directly deal with the issue on hand. The ambiguity continued and the divergent practice was prevailing in the industry where some of the manufacturers cleared it as goods on payment of 5% GST under CHS 4901 and some of the manufacturers cleared it under the category of goods on payment of 12% GST under CHS 4911 to avoid risk of recovery of differential amount of GST at later stage. The appellants are engaged in supplying printed leaflets to customers located in SEZ and also in physical export/deemed export against EPCG/advance license. While effecting zero rated supply to SEZ units or against own EPCG license the appellants were facing difficulty to account for against export obligation as they needed to fulfil the export obligation by delivering as goods under CHS No. 4901.

APPLICATION FOR ADVANCE RULING

In view of the above uncertainty regarding taxability on supply of leaflets, the appellant preferred an application before the Advance Ruling Authority seeking clarification on the following question:

The printed leaflet supplied by the applicant falls under the category of supply of goods falling under CHS No. 4901 and not as a supply of service under SAC No. 9899.

ADVANCE RULING PASSED BY Ld. AAR, DAMAN

The learned authority on Advance Ruling considered the application made by the appellant and gave a ruling vide Order No. 01/Daman/2019-20-AR dated 18.07.2019 wherein it held as under:

"In the present case against application dated 09.03.2018 of M/s. Temple Packaging Pvt. Ltd., behind Olive Healthcare, Hattiyawad, Village, Dabhel, Nani Daman, Advance Ruling is given that printing of Pamphlet/leaflet falls under the category of supply of service falling under SAC No. 9989. The case is disposed off accordingly."

GROUNDS OF APPEAL

Aggrieved by the decision of the Advance Ruling Authority, the Appellant has filed the present appeal. The grounds of appeal are as follows:

- Leaflet is manufactured on the basis of contract given by the client which is not a printing contract but for supply of printed leaflets (for supply of goods) on agreed consideration and specifically covered under 4901.
- Supply of goods is made on the basis of purchase order issued by the clients for supply of goods under HSN code no. 4901 (specimen copy of purchase order issued by M/s. Mylan Laboratories Ltd. (EOU) and M/s. Par Formulations Pvt. Ltd were attached along with the submission).
- Chapter note no. 2 of Chapter no. 49 specifically covers the terms "printed" and 49011120 covers printed leaflet whether or not in a single sheet, therefore, printed leaflets fall under chapter 49.
- HSN Explanatory note to heading 4901 covers printed leaflet and HSN note read as under:
"This heading covers virtually all publications and printed matter, illustrated or not, with the exception of publicity matter and products more specifically covered by other headings of the chapter (particularly heading 4902, 4903 or 4904). It includes: (B) Brochures, pamphlets and leaflets, whether consisting of several sheets of reading matter fastened together (e.g., stapled), or of unfastened sheets, or of single sheets.
- Since 2005 till June 2017, the applicants have cleared the printed leaflets under CH 4901 as delivery of exempted excisable goods and in Central Excise regime it is held in various pronouncements including clarification of CBIC that the printed masters printed with the content supplied by the client is falling under Chapter 48 or 49.
- GST rate of goods is specified under Noti. No. 1/2017-CT (Rate) dated 28.06.2017 and Schedule-I (Sr. No. 201) specifically provides 5% GST rate for printed leaflets falling under 4901.
- Chapter note no. 5 of Chapter 49 specifically excludes publishing matter from 4901 and accordingly SAC 9989 mainly covers publishing matter only.
- SAC 9989 covers two sub-heading namely 998911 and 998912. SAC 998911 covers publishing matter on a fee or contract basis and SAC 998912 covers printing and reproduction service of recorded media on a fee or contract basis.
- The printed leaflet manufactured in TPPL (Ite: appellant) on behalf of clients mainly in pharmaceutical sector cannot be termed as publishing matter and therefore covered under 4901.
- Noti. No. 11/2017-CT (Rate) dated 28.06.2017 (Sr. No. 27), as amended prescribed the GST rate for SAC 9989 and as per the said entry reproduced below the content of printing job is required to be supplied in publisher

(3)	(4)	(5)
(i) Services by way of printing of all goods falling under Chapter 48 or 49 [including newspaper, books (including	6	

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Braille books), journals and periodicals], which attract CGST @ 6 percent or 2.5 percent of NIL, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to printer.		
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- In the instant case, the clients are not the publishers but are from pharmaceutical industry and they are using printed leaflets as part of the medicament package and not using such supply for publication matter. Further it is pertinent to point out that the pharmaceuticals units are subsequently selling the medicament as supply of goods and under no circumstances the supply of service can become a physical part of the goods. Accordingly, leaflets supplied by TPPL (the appellant) fall under 4901 only.
- As per section 2(52) of CGST Act, 2017 "goods" means, every kind of movable property other than money and securities. The leaflet supplied by TPPL (the appellant) is undoubtedly moveable property and therefore falls under the category of supply only.
- Constitution bench of Supreme Court in the case of Tata Consultancy Service v. State of Andhra Pradesh report in [(2005) 1 SCC 308 – 2004 (178) E.L.T. 22 (S.C.)] where the Honourable Supreme Court in relation to sale of software held that:

"In our view, the term "goods" as used in Article 366(12) of the constitution and as defined under the said act is very wide and include all types of movable properties, whether those properties be tangible or intangible. The term 'all materials, articles and Commodities' includes both tangible and intangible/incorporeal property which is capable of abstraction, consumption and use and which can be transmitted, transferred, delivered, stored, possessed, etc. The software programs have all these attributes."
- In this case, the printed leaflet is capable of abstraction, being possessed, stored and transferred and have specific industrial use as inputs and forming part of the finished goods supplied by the clients. Therefore, the printed leaflet is classifiable under the supply of goods only as per the said pronouncements of Hon'ble Supreme Court.
- As per section 102 of the CGST Act, 2017, "service" means anything other than goods. As the impugned supply is covered under the definition of supply of goods, the question of coverage under supply of service does not arise.
- TPPL (the appellant) sold the leaflets to the customers on realization of consideration with transfer of title in goods. As per section 9 of the CGST Act, 2017 read with Schedule – II (sr. No. 1(a)), any transfer of the title in goods is supply of goods.
- As per schedule – II(3) any treatment or process which is applied to other persons goods is supply of service. In the instant case, the TPPL (the appellant) has carried out the treatment or process on own goods only and even rendered the service of printing to himself only and therefore falls under the category of goods only and not under the supply of service.
- Supply of printed leaflet although treated as mixed supply as per Section 2(74) of CGST Act, 2017, has to be treated as supply of goods only in accordance with Section 8(a) of CGST Act,

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2017 as per which in case of a composite supply comprising of two or more supply, one of which is a principal supply has to be treated as a supply of such principal supply. As per Section 2(90), principal supply means supply of goods or services which constitutes the pre-dominant element of composite supply and to which any other supply forming part of that composite supply is ancillary. In this case the entire value of the supply is representing supply of goods only and mere content of the leaflet is supplied by the clients. Accordingly, the principal supply is supply of goods only.

- AAR illegally observed that applicant's case falls under Para-No. 4 of Circular No. 11/11/2017-GST dated 20.10.2017 which is mainly related to publishing matters and where content is supplied by the publisher as per requirement of the Service Tax Rate Noti No. 11/2017-CT (R) dated 28.06.2017 as amended.
- AAR illegally proceeded to decide the case by observing in order that applicants are supplying pamphlet which is covered by para no. 4 of the circular. This appears have to be done as there is no mention of leaflet in para no. 4 of the circular and leaflet is illegally equated with pamphlets for providing coverage of para no. 4 of circular.
- Applicant's case is covered by para no. 5 of circular which is for products of Chapter no. 48 or 49, other than publishing matters.
- The disputed issue is duly decided in nine pronouncements of Advance ruling authority by holding classification under the category of supply of goods and includes two pronouncements of Appellate Authority of Advance ruling annexed with the grounds of appeal.
- For the purpose of GST, custom tariff is applicable, it is not possible to treat the imported printed leaflet manufactured by overseas entity out of content supplied by Indian entity as supply of service and Indian importer has to invariably pay custom duty under the category of import of goods. It is not legally permissible to give the different treatment of Customs Tariff.
- The applicant is supplying printed leaflets to many clients under EPCG/Advance licence scheme where the export obligation has to be discharged by supplying goods and not by supplying services. In consultation with DGFT, the applicants are showing HSN as well as SAC Code No.
- The applicant is making supply to EOU units. As per section 147 of the act, supply of goods is only treated as deemed exports and therefore it is not possible to claim deemed export refund by either of the party under Section 54 of CGST Act, 2017. In many cases EOU having heavy accumulation of credit refuses to avail the credit and resulting into loss of business.
- The applicants are supplying printed leaflets to SEZ units where SEZ portal does not accept the supply of service for warehousing purpose. To overcome this, applicants are constrained to reflect corresponding HSN of goods in tax invoice and e-way bill.

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PRAYER

Accordingly, in view of the above grounds, it is most respectfully prayed that the applicants appeal may be allowed by holding that the supply of printed leaflets falls under the category of supply of goods HSN No. 4901 and not as supply of service under SAC 9989.

PERSONAL HEARING

Due to the prevailing PANDEMIC situation and in order not to delay the proceedings and after seeking willingness from the appellant to participate in partial virtual hearing, the hearing was partially held virtually through google meet on 17.09.2021. Shri Dinesh H. Mehta, Advocate on record for the company along with Shri Vikas Somaya and Ms. Kavita Swami, representative of the company attended and remained present in the office of Member UTGST whereas, the Member CGST attended and conducted the hearing virtually. The advocate submitted their written submission dated 17.09.2021 and reiterated the facts mentioned therein.

The appellant in their written submission dated 17.09.2021 furnished the background of the case, their grounds of appeal and copy of Purchase orders, copy of relevant notifications, Compilation of judgments, copy of Supreme court judgment [(2005) 1 SCC308 – 2004 (178) E.L.T. 22(S.C.)] and copy of compilation of pronouncements of various advance ruling authority.

DISCUSSION AND FINDINGS

We have carefully gone through the submissions made by the appellant, including oral deposition, the impugned order of the appellate authority and the applicable statutory provisions. We find that the issue to be decided by us is regarding the classification of the supply made by the appellant.

From the submissions, we find that the appellant is engaged in the activity of printing leaflets (further divided into insert/outsert), the said activity is done on the inputs namely paper, ink owned by the appellant himself and content supplied by the clients mainly located in the pharmaceutical sector.

The most issue to be decided by us is to ascertain the classification of the supply made by the appellant. The basic transaction between the appellant (supplier) and the clients (recipient) is that the client (mostly from the pharmaceutical sector) approaches the appellant (supplier) with the content/instructions that is required to be printed in the form of leaflet. The paper and the ink used in printing is owned by the appellant. The transaction is considered to be completed only when the desired content/instructions is printed in the desired format by the appellant (supplier) and handed over to the customer. Thus, in this transaction, there is an element of supply of goods as well as supply of service. The appellant is also on record to accept that in the instant case there is a supply which comprises of goods as well as that of service.

The appellant in the grounds of appeal has argued that supply of leaflet although treated as mixed supply as per Section 2(74) of the CGST Act, 2017 has to be treated as supply of goods in accordance with the Section 8(a) of the CGST Act, 2017 as per which in case of composite supply comprising of two or more supply, one of which is a principal supply has to be treated as supply of such principal supply. Let us have a look at Section 8(a) of the CGST Act, 2017, the same is reproduced as under:

Section 8: Tax liability on composite and mixed supplies. — The tax liability on a composite or a mixed supply shall be determined in the following manner, namely: —

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

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(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Thus, as per Section 8 of the CGST Act, 2017, taxability of the supply in case of composite or mixed supply is determined. The taxability as per section 8 is not in dispute, however, let us examine whether the supply made by the appellant classifies as a composite supply or mixed supply. As per Section 2(30) of the CGST Act, 2017

"Composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Thus, for a supply to qualify as a Composite Supply, following conditions are to be met:

- i) the supply must consist of two or more taxable supplies of goods or services or both;
- ii) such supplies should be naturally bundled and supplied in conjunction with each other in the ordinary course of business.

The supply made by the appellant consist of the supply of paper i.e goods as well as the service of printing of the content/instruction provided by the client, thus the first condition is fulfilled.

The term "naturally bundled" has not been defined in the act; however, if various elements of supply are naturally bundled in the ordinary course of business, then it is to be considered as being naturally bundled. The concept of ordinary course of business depends on the normal or frequent practice followed in the area of business. There can be more than one indicator to this, the primary indicator being the perception of the recipient of supply, if a large number of recipients of supply reasonably expect such supply to be provided as a package, then such a package can be treated as a naturally bundled supply in the ordinary course of business. The appellant has himself claimed that this is a normal practice in the printing industry, hence the supply of leaflet i.e., goods and printing i.e., service qualifies as being naturally bundled in the ordinary course of business.

Another condition is that the supplies should be made in conjunction. As per the Cambridge dictionary meaning the noun "Conjunction" is a situation in which the events or conditions happen together. In the instant case, the supply of goods as well as the service happens at the same time hence the supply can be considered to be in conjunction.

From the above discussion it can be safely deduced that the supply made by the applicant is a composite supply, the same has also be accepted by the appellant in their grounds of appeal.

Now, as per Section 8(a) the taxability in the case of composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply. Thus, ascertaining as to what constitutes a Principal supply plays a determining role in classification of the supply. The entire crux of the decision in the present appeal shall rest on determining as to what constitutes a Principal Supply. As per Section 2(90) of the CGST Act, 2017

"Principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

The CBIC vide Circular No. 11/11/2017-GST dated 20.10.2017 has clarified on the taxability of printing contracts. The said circular also clarifies as to what constitutes a Principal Supply. This circular has also been brought into the discussion and also relied upon by the appellant in their defence and

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grounds of appeal. The appellant has alleged that the Advance Ruling Authority has illegally observed that the applicants case falls under Para no. 4 of Circular No.11/11/2017-GST dated 20.10.2017 which is mainly related to publishing matters and where content is supplied by the publisher. They have further alleged that the authority illegally proceeded to decide the case by observing in order that appellants are supplying pamphlets which are covered by Para no. 4 of the circular. This appears to have been done as there is no mention of leaflet in Para no. 4 of the circular and leaflet is illegally equated with pamphlets for providing coverage of Para no. 4 of the circular. The appellant has asserted that their case is covered by Para no. 5 of the circular which is for products of Chapter 48 and 49, other than publishing matters. Hence, it becomes imperative for us to have a look at the said circular. The same is reproduced below for ready reference.

Requests have been received to clarify whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) or supply of services falling under heading 9989 of the scheme of classification of services annexed to notification No. 11/2017-CT(R).

2. *In the above context, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.*

3. *Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.*

4. *In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.*

5. *In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the contents [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.*

The contention of the appellant is mainly based on the argument that Para no. 4 deals with the items books, pamphlets, brochures, annual reports whereas their product is a leaflet, which is different from these items, they have further argued that their case is covered by Para No. 5 of the circular which is for products of Chapter no. 48 and 49, other than publishing matters. From the careful reading of the circular, it is observed that Para no. 4 covers those items or goods which in itself may not be of any use to the client in absence of the content/instruction printed on it. The client approaches the supplier (the appellant) not for the purchase of a piece of paper i.e., a leaflet, but for getting the content/instruction printed on the paper or a leaflet, the utility of the leaflet for the client is that of a medium for conveying the message and instruction which is mandatory in the pharmaceutical sector, the leaflet is not used in the pharmaceutical industry as a goods or inputs but only as a medium of instruction. These instructions can generally be conveyed through a virtual medium (intangible) or through a leaflet (tangible). In the pharmaceutical industry such content/instruction which are mandatory, cannot be attested with the medicine through a virtual medium and hence the leaflets have to be made available with the medicines. The buyers of the medicine are not interested in the piece of paper but the instructions mentioned in

it would be fair to say that the client of the appellant would never accept the leaflet if the content as provided by them is not properly and correctly printed. It is also the fact that the content/instruction is the property of the client and therefore would obviously be holding the right over it. Hence the dominance in this case is of the content/instruction and not of the paper (leaflet). The argument of the appellant that the circular mentions only books, pamphlets, brochures, annual reports and not a leaflet is not convincing as the content of the circular clearly suggests that items mentioned therein is not an exhaustive list but an indicative list, this can be observed from the fact that the term "and the like" has been used after mentioning the items. The dominance in the items mentioned in Para no. 4 is of the printing of content/instruction.

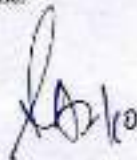
Now let us have a look at Para no. 5 of the circular, which the appellant claims their case is to be correctly covered. On-going through the said Para, it is very evident that the items mentioned therein are those who have their own utility whether or not a design or a logo is printed on it. With or without the logo or design, these items will still retain their identity or utility, the logo or design is generally printed either for a cosmetic purpose or canvassing/propagating the name of a person or a company. In these cases, the dominance is of the supply of the goods and printing of logo or design is ancillary to the supply of goods. The appellant is printing the content/instruction on leaflet; it is by no stretch of imagination, a logo or a design. In the instant case the dominance is not of the leaflet but of the printing, the argument of the appellant to find a shelter under Para no. 5 is very feeble and devoid of any logic and therefore, not acceptable.

In view of the above, we hold that the circular is very clear in distinguishing between the items, viz books, pamphlet etc mentioned in Para no. 4 and items like printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper in Para no. 5. The argument of the appellant does not hold good and accordingly we are of the view that the supply made by the appellant is rightly covered under Para no. 4 of the Circular.

Let us now look at the other arguments put forth by the appellant.

The appellant has argued that the item leaflet is covered under Chapter 49; they have also presented the explanatory note to heading no. 4901 to substantiate the claim and that they have been clearing the printed leaflets under Ch 4901 since 2005 till June 2017. To substantiate their claim they have relied upon various pronouncements including the clarifications issued by CBEC (now CBIC) from time to time, the compilation of which they have submitted as Annexure-B with their submission. We have gone through each of these citations; we find that most of them are from the Central Excise tax regime, where there was no concrete concept of bundled supply, composite supply and mixed supply of goods and/or services or both. This concept for the taxation purpose has come up only during the GST regime, there cannot be any comparison between the two tax regimes on this issue and hence reliance cannot be placed on these citations as the concept of taxability has completely changed under GST.

We have gone through the judgment of Constitution bench of Supreme Court in the case of Tata Consultancy Service v. State of Andhra Pradesh report in [(2005) 1 SCC 308 - 2004 (178) E.L.T. 22 (S.C.)] put forth by the appellant in their defence submission. We are of the view that we have never denied that leaflet is goods, the issue to be decided before us not the classification of leaflet but it is regarding the dominance of supply of goods or supply of service in the supply. We have observed that the appellant has also agreed that the supply made by them is a composite supply. Hence the judgment of Hon'ble Supreme Court cited by the appellant is not applicable in this case.



The appellant has also placed reliance on the order of Appellate Authority of Advance Ruling in the case of M/s. Pattabi Enterprise and M/s. Macro Media Digital Imaging Pvt. Ltd. The crux in both the orders is that the appellant is providing service to himself and that the supply is of the goods. We choose to differ with the contention made in the said orders. The client had not approached the supplier (the appellant) merely for procuring leaflet; the intention of the client was to get the content/instruction printed on a piece of paper (leaflet). The printing was done as per the instruction of the client and hence it cannot be construed that the appellant was providing service of printing to himself, the printing was done as per the direction and demand of the client on the goods (leaflet) owned by the appellant. Hence, we find the citations put for by the appellant that the appellant was providing service to itself is not convincing.

The appellant, as a part of their defence, has also put forth their practical difficulties while discharging their legal obligation under EPCG/ Advance License Scheme or under supplies to SEZ, they have also shown their inability to claim refund under the category of deemed export. Without going into the merits of the practical difficulties presented by them we observe that such arguments should not have any bearing on the outcome of the legally explained order. The classification of goods or services cannot be made merely on the ground that classifying their supply in a particular manner will deprive them from other benefits. Hence, we refrain from making any comments on the practical difficulties presented by them.

In view of the above we do not find any infirmity in the ruling of the Advance Ruling Authority. In light of the additional reasoning provided as above, we give the following ruling.

RULING

For the reason discussed above, we do not find any reason to interfere with the order of the Advance Ruling Authority. This appeal is disposed off accordingly.


(Gaurav Singh Rajawat)
Member (State Tax)


(Seema Arora)
Member (Central Tax)

To,
M/s. Temple Packaging Pvt. Ltd.,
Survey No. 171/3 & 7, Behind Olive Health Care, Hatiyawad,
Village- Dabhel, Nani Daman - 396210

E. No. DMN/UTGST/Temple/02/20-21

Copy to:

1. Advance Ruling Authority, Daman
2. The Commissioner, CGST and Central Excise, Daman Commissionerate
3. The Commissioner of UTGST, Daman for information and necessary action please.
4. The Assistant Commissioner of CGST and Central Excise, Division-V, Daman.
5. The Superintendent, R-II, Div-I of CGST & CE, Daman
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