

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No.KAR ADRG 19/ 2022

Date : 01-07-2022

Present:

1. Dr. M. P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
Additional Commissioner of Customs & Indirect Taxes . . .Member (Central)

1.	Name and address of the applicant	M/s. MYNTRA DESIGNS PRIVATE LIMITED, SY NO 8 to 14 AND 55, Alyssa Begonia Clover Embassy Tech Village, Outer Ring Road, Devarbisanahalli Varthur Hobli, Bengaluru (Bangalore) Urban-560103
2.	GSTIN or User ID	29AAECM9636P1ZJ
3.	Date of filing of Form GST ARA-01	21-12-2021
4.	Represented by	Sri Tarun Gulati, Senior Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Tax, Bengaluru East Commissionerate, Bengaluru (RANGE-CED 8)
6.	Jurisdictional Authority - State	ACCT, LGSTO-016, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act vide CIN CNRB21122900125071 dated 16-12-2021

**ORDER UNDER SECTION 98(4) OF CGST ACT, 2017
AND UNDER SECTION 98(4) OF KGST ACT, 2017**

M/s Myntra Designs Private Limited, Sy. No 8 to 14 and 55, Alyssa Begonia Clover Embassy Tech Village, Outer Ring Road, Devarbeesanahalli Varthur Hobli, Bengaluru Urban-560103, having GSTIN 29AAECM9636P1ZJ, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is a Private Limited Company registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services



Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST Act respectively). The applicant is engaged in the business of selling of fashion and lifestyle products through the e-commerce portal "Myntra".

3. The applicant has sought advance ruling in respect of the following questions:

- a. *Whether the transaction of the Applicant of providing space on its web-portal for advertisements provided by a foreign entity i.e., Lenzing Singapore Pte Limited for a consideration, is taxable?*
- b. *Consequently, what will be the correct classification of the services provided and rate of tax on the transaction of the Applicant of providing space on its web-portal for advertisements provided by a foreign entity i.e., Lenzing Singapore Pte Limited?*

4. **Admissibility of the application:** The question is about the "Classification of any goods or services or both" and hence is admissible under Section 97(2)(a) of the CGST Act 2017.

BRIEF FACTS OF THE CASE:

5. The applicant furnishes the following facts relevant to the issue, on which the advance ruling has been sought.

5.1 The Applicant owns an e-commerce portal www.myntra.com and is a major Indian fashion e-commerce company and is also engaged in the business of selling of fashion and lifestyle products through the said e-commerce portal presently raising the question of taxability of its transaction of providing advertisement space to a foreign customer, M/s Lenzing Singapore Pte Ltd. ("Lenzing"), on its web-portal.

5.2 The suppliers of such fashion and lifestyle products, intending to sell their products through the Applicant's aforesaid portal, list their products on the Applicant's portal and sell them to the customers, who place their order using the Applicant's portal. Once an order is placed by the customer, the Applicant collects the money from them towards the purchase of the said order through its portal, in its capacity as an e-commerce portal operator, and settles the amount payable with the supplier of the said order within a specified period.

5.3 The Applicant is a registered person and discharges tax liability as per the provisions of the Central Goods and Services Tax Act, 2017 read with the Karnataka Goods and Services Tax Act, 2017 (hereinafter collectively referred to as "Act") with the registration number 29AAECM9636P1ZJ.

5.4 The Applicant on 22.07.2020 entered into an Advertisement Agreement ("**Agreement**") with Lenzing, a company incorporated under the Companies Act, 1956 having its registered office at 111 Somerset Road, Unit #13-35 to #13-38, Singapore 238164.

5.5 As per the said Agreement, it was mutually agreed upon by the Applicant and Lenzing that advertisement material in the form of impressions will be provided to



the Applicant by Lenzing for placement on the e-commerce portal website i.e., on www.Myntra.com, mobile application or any other platform of the Applicant. The relevant mutually agreed upon terms by the Applicant and Lenzing in the said Agreement are summarized for ease of reference as follows:

- a. The Applicant shall use commercially reasonable efforts to deliver the impressions or other obligations as set out on the order Form but cannot warrant
 - ii. The number of visitors to Lenzing's website as a result, or
 - iii. The exact times at which the impressions will be delivered.Thus, the Applicant shall only deliver and display graphical impressions on its platform and has not concern with the prospective customers of Lenzing.
- b. In regard to the afore stated, Lenzing shall deliver to the Applicant such technical and other materials as the Applicant may reasonably require from Lenzing from time to time.
- c. Lenzing acknowledges that the Applicant does not review content or information provided by users of the Platform and that the Applicant gives no warranty or undertaking in relation to the display of any such content or information, including in relation to any search results displayed on the Platform.
- d. Once the Order Form is signed by the Applicant, it shall issue an invoice to Lenzing to its registered office. Lenzing is required to make payments raised in the said invoice within 14 days from the date of receipt of the invoice.
- e. Notwithstanding Applicant's acceptance and execution of the Order Form, the Applicant may remove or refuse to publish or link to any material, which is in its sole discretion considered defamatory, misleading, abusive, unlawful or otherwise inappropriate or in violation of Applicants polices, practice and against Applicant's reputation.

5.6 The Applicant is only involved in providing space on the web-platform to a non-resident foreign company for placing and displaying graphical impressions of the advertisement material for a consideration. Given that the activity is for a non-resident which is outside India and the consideration is received in foreign exchange, the Applicant is of the view that the transaction under the Agreement with Lenzing is 'export of services' in terms of Section 2(6) of the Integrated Goods and Service Tax Act, 2017 ("**IGST ACT**"). Thus, the transaction is not taxable in India and is a zero rate supply under the IGST Act on which no tax is liable to be paid by the Applicant. Accordingly, the Applicant is filing the present Application for advance ruled under Section 97(1) of the Act on the question specified.

VIRTUAL HEARING / PROCEEDINGS HELD ON 10-02-2022

6. Sri Tarun Gulati Senior Advocate and Duly Authorised Representative appeared for virtual hearing proceedings held on 10.02.2022 and reiterated the facts narrated in their application.



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FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and KGST Act, 2017 are in *pari-materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

8. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the authorized representative and also their submissions made during the time of hearing.

9. The transaction involved in the question is analysed and found that the applicant owns an e-commerce portal through which he is providing services of e-platform to the suppliers of fashion and lifestyle products. In his portal, the applicant is also providing the advertisement space for the persons who wish to advertise either their products or for advertisers. The issue before us is about the tax treatment when the space is provided to the advertisers for advertisement.

10. The applicant has submitted that he had entered into an agreement with one such advertiser, M/s Lenzing, based in Singapore, and it was agreed between them that advertisement material in the form of impressions would be provided by M/s Lenzing to the applicant for placement on the e-commerce portal website. It is also reiterated that the applicant shall only deliver and display graphical impressions on its platform and is not concerned with the prospective customers of M/s Lenzing. From the above, it is very clear that the applicant is only leasing the advertisement space to his customer and the advertiser is actually providing the advertisement services to his customers.

11. The above fact is also clear from the submissions of the applicant that he does not review the content of information provided by the users of the Platform and that he gives no warranty or undertaking in relation to the display of any such content or information, including in relation to any search results displayed on the said Platform. The only condition that is posed by the applicant to the lessees of the platform space is that the content should not be defamatory, misleading, abusive, unlawful or otherwise inappropriate or in violation of the applicant's policies. Other than the above condition, the applicant has no control over the manner in which the advertiser uses nor there any privity of contract between the applicant and the ultimate content to whom advertisement relates. The only contract is between the applicant and the advertiser for lease of advertising space and other contract, which is not covered in the scope of this ruling, is the contract for advertisement services between the advertiser and his clients. Only the former is the issue to be discussed.



12. The services provided by the applicant to M/s Lenzing is that of rendering "Sale of internet Advertising Space (except on commission)" and is charging a fixed rate and not a commission for providing such space. Hence the same is classified under six-digit SAC 998365 under the Heading 9983 which reads "Other professional, technical and business services".

13. The services provided by the applicant are covered under the Heading 9983 which reads "Other professional, technical and business services" and the same is taxable as per Sl.No.21 of Notification No.11/2017- Central Tax (Rate) dated: 28.06.2017 which is reproduced below:

Sl No.	Chapter,Section or Heading	Description of Service	Rate (per cent.)	Condition
21	Heading 9983 (Other professional, technical and business services)	(ii) Other professional, technical and business services other than (i) above	9	-

From the above entry, it is evident that, if the above said services are supplied intra-state by the applicant, then it is liable to CGST at 9% and SGST at 9%. If the said services are supplied interstate, then it is liable to GST at 18% as per Sl.No.21 of Notification 8/2017-Integrated Tax (Rate) dated: 28.06.2017 and if the said services are exported then it will be liable at zero rate.

14. Sub-section 6 of section 2 of Integrated Goods and Services Act 2017 defines 'Export of services' as below:

Section 2. Definitions.-

(6) "export of services" means the supply of any service when,-

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange 1 [or in Indian rupees wherever permitted by the Reserve Bank of India] ; and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

Now let us see whether all the above conditions apply in this instant case. The applicant, i.e the supplier of services M/s Myntra Designs Pvt Ltd is located in India, the recipient of services, M/s Lenzing Singapore Pte Ltd. is located outside India, and the consideration is received in convertible foreign exchange and the applicant and the overseas entity are two separate legal entities as per the



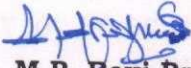
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agreement. The only issue to be decided is whether place of supply is outside India or not and this is outside the jurisdiction of this Authority. Unless this is decided, the question, *Whether the transaction of the Applicant of providing space on its web-portal for advertisements provided by a foreign entity i.e., Lenzing Singapore Pte Ltd. for a consideration, is taxable?* cannot be answered.

15. In view of the foregoing, we pass the following

RULING

- a. No Advance ruling is given on this issue as the question involves the determination of place of supply, which is outside the jurisdiction of this Authority.
- b. The services provided by the applicant are classified under SAC 998365 which reads "Sale of internet Advertising Space (except on commission)" under the Heading 9983 and the same is exigible to CGST at 9% and SGST at 9% as per Sl.No.21 of Notification No.11/2017- Central Tax (Rate) dated: 28.06.2017.


(Dr. M.P. Ravi Prasad)

Member

Place: Bengaluru,

Date : 01-07-2022


(Sri. T. Kiran Reddy)

Member

MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

To,
The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bengaluru East Commissionerate, Bengaluru
4. The Asst. Commissioner of Commercial taxes, LGSTO-16, Bengaluru.
5. Office Folder.



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