

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) Smt. P. Vinitha Sekhar, Addl. Commissioner of Central Tax, (Member)
(2) Shri. A. A. Chahure, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AABCW8741L1ZS
Legal Name of Applicant		WISE DESIGN COMMUNICATIONS PVT LTD
Registered Address/Address provided while obtaining user id		B-205, Gracia Building, Dosti Imperia, 2nd Floor, Ghodbunder Road, Thane-400610
Details of application		GST-ARA, Application No. 63 Dated 19.11.2019
Concerned officer		THA-VAT-C-104, Thane Division
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Factory/Manufacturing
B	Description (in brief)	<p>Our company WISE DESIGN COMMUNICATIONS PVT. LTD deals with e-commerce exports out of India and we sell with our brand name Wow and Now, we are dedicated to nurturing kids.</p> <p>The company makes the product inhouse, we have an inhouse staff of 7 to 10 people. The description of the products is given below in a very detailed manner.</p> <p>We strive to bring thoughtfully designed, pioneering infant and toddler care products that make family life easier, safer, and more fun.</p> <p>Our product, the quiet book, quite literally-quiet (also known as a busy book), is made of cloth (mainly cotton). This caters to keep the child engaged and focused/quiet. They are simple and to the point, child-friendly, colorful, have an interactive approach to learning and inspire independent play and creativity, exploring the child's brain. They are great for travel or times when you may need to keep the child occupied and busy.</p> <p>The price for the quiet book varies anything between \$39.99 - 49.99 depending on the level of creativity and intricacy of activity details.</p> <p>The Quiet book is available for sale outside India on our website for global audience in the United States, United Kingdom, Australia, etc.</p> <p>Another source of income of our company is 'Drop-shipment' of products listed on our website.</p> <p>Note: In case the size of the description exceeds 15000 characters, please submit the facts as separate attachment in GST portal under supporting documents section.</p>
Issue/s on which advance ruling required		(iv) Admissibility of input tax credit of tax paid or deemed to have been paid



	(vii) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

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. WISE DESIGN COMMUNICATIONS PVT LTD** , the applicant, seeking an advance ruling in respect of the following questions.

1. **Are hard copies of shipping bills (which are duly stamped & signed by the LET Export Officer of Customs, having details such as Name & address of authorised courier, Courier registration number, Port of loading, Airlines & Flight number, Customs Shipping number, Shipping bill date, Courier AWB no., Declared weight, Consignor Name & Address, Destination country, IEC Number & GSTIN of Exporter, Description of goods, Invoice value, Consignee name & address, etc.) enough for filing claim for refund of ITC since it is an export sale though the shipping bill is not trackable on ICEGATE website?**
2. **Is the drop- shipping transaction an export sale or is it subject to IGST?**

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

The submissions made by the applicant are as under:-

2.1 The applicant is engaged in supply of goods/products for export under Letter of Undertaking (LUT). These products are advertised on platforms like Google and Facebook apart from other social media platforms of digital marketing. For placing order, their customers make payment in US dollars with the use of PayPal money transfer and once



the payment is received, the order goes into processing, and the products are packed and then shipped via air courier (DHL) to the said customers. For every export sales invoice generated by the applicant on the DHL portal of e-commerce, manual shipping bills are issued by the customs officer in New Delhi, duly stamped and signed with various details. Hard copies of these shipping bills are available with applicant and details such as shipping bill number, shipping bill date, port code, amount, etc. for each invoice are mentioned in the GSTR 1 filed by them. These shipping bills cannot be tracked on ICEGATE website as this facility is not available with DHL Logistics Pvt Ltd.

2.2 Another source of income for the applicant is 'Drop-shipment of products' listed on their website i.e delivery of merchandise from a manufacturer or original supplier directly to a buyer, without passing through applicant's office or warehouse.

03. CONTENTION – AS PER THE JURISDICTIONAL OFFICER:

The jurisdictional officer requested for more time to look into the matter in detail but it is observed that no further submissions are made in the matter.

04. HEARING

Preliminary hearing in the matter was held on 07.01.2020. Sh. Francis Lobo, Sales Tax Practitioner along with Mr. Rohan Advani, Director, Sh. Vishal Chandnani, Accountant and Ms. Suvidha Sharma, Accountant appeared, and requested for admission of their application. Jurisdictional Officer Ms. Sharvari Sawant, State Tax Officer (C-014), Thane City, appeared and requested for time to make written submissions.

05. OBSERVATIONS AND FINDINGS:

5.1 We have gone through the facts of the case and the oral submissions made by both, the applicant and the departmental authority.

5.2 Applicant is engaged in supply of e-commerce products which are exported out of India. The sale amount is realized in foreign Exchange. For these export transactions, applicant has all required documents as export proofs, but for filing claim for refund of ITC, they require shipping bill which is not traceable on ICEGATE Website. Their question is whether Hard copies of shipping bills (which are duly stamped & signed by the LET Export Officer of Customs), are enough for filing claim for refund of ITC even though shipping bills are not traceable on ICEGATE website.

5.2.1 As per Section 95 of the CGST Act, 2017, this authority can only pass a ruling on matters or questions specified in subsection 2 of Section 97 of the CGST Act, 2017, in relation to



the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

5.2.2 For the sake of better understanding Section 97 is reproduced as below:

Section 97:

(1) an applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought under this Act, shall be in respect of,—

(a) classification of any goods or services or both;

(b) applicability of a notification issued under the provisions of this Act;

(c) determination of time and value of supply of goods or services or both;

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

5.2.3 We find that the first query raised by the applicant is technical/procedural in nature and is not covered under categories of (a) to (g) of the Section 97(2) and therefore this Authority cannot pass a ruling in respect of the said query.

5.3 We now take up their second question for discussion which is, in the case of Drop-Shipment sales, where the delivery of merchandise is from a manufacturer or original supplier directly to a buyer, without passing through applicant's office or warehouse, whether such supply will be considered as export sale under GST ACT and subject to IGST?

5.3.1 We find from the applicant's submission that in the case of drop shipment transaction, the applicant, after receiving the order for a particular product/products on their website from the buyer along with online payment, contacts the supplier and furnishes details of the buyer to them. The desired product/goods is shipped directly from the supplier to the buyer. Hence, it is clear that the applicant is not directly supplying goods to the buyers. From the submissions made on this issue it is seen that the applicant neither owns the said goods nor delivers the same to their customers. Applicant only facilitates the transaction between the buyer and the seller through their website and acts as an intermediary. We find that there is no sale of goods undertaken by the applicant in this case, therefore such supply will not be considered at all, as sale of goods effected by the applicant. When there



is primarily, no sale of goods by the applicant, the question as to whether such supply will be considered as export sale under GST ACT does not arise at all.

- 5.4 Since we observe that in the subject case there is no supply of goods undertaken by the applicant the provisions of Section 95 of the CGST Act will be applicable, in view of which the application is non-maintainable and liable for rejection.
- 5.4 Hence in our view, the subject application seeking ruling on questions stated hereinabove is not maintainable and liable for rejection.

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)

NO.GST-ARA- 63/2019-20/B-

14

Mumbai, dt.

22/01/2020

For reasons as discussed in the body of the order, the questions are answered thus –

The present application filed for advance ruling is rejected, as being non-maintainable as per the provisions of law.




P. VINITHA SEKHAR
(MEMBER)


A.A. CHAHURE
(MEMBER)

Copy to:-

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

CERTIFIED TRUE COPY


MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

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.