

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
14 Beliaghata Road, Kolkata – 700015

Name of the applicant	Photo Products Company Pvt Ltd
Address	8/2 Sido Kanhu Dahar, Kolkata – 700069
GSTIN	19AABCP6285E1Z8
Case Number	09 of 2018
Date of application	06 th March, 2018
Order No. & date	06/WBAAR/2018-19 dated 30/05/2018
Applicant's representative heard	Sri Parag Kothari, Advocate

- The Applicant is stated to be printing content supplied by the customers on photographic paper. An Advance Ruling is sought regarding the nature and classification of the activity – whether it is supply of goods or service and whether the activity carried out by the Applicant is taxable under HSN 4911 or SAC 9989. Advance Ruling is admissible on this question under section 97(2)(a) of the CGST/WBGST Act, 2017 (hereinafter the GST Act). The Applicant also declares that the issue raised in the application is not pending or decided in any proceedings under any provisions of the GST Act. The officer concerned raises no objection to the admission of the application. The Application is, therefore, admitted.
- According to the Applicant, the customers who wish to publish posters, pictures, photographs, design layouts etc. provide the content as files on digital media such as CD, DVD, HDD or pen drive. The file is transferred to the printer through a computer and the printer exposes the contents of the file on to the photographic paper. Digital images so obtained on light sensitive photographic paper are further processed in photographic chemical. This activity from printing to processing is done either with Fuji Frontier Digital Minilab by means of laser exposure or with Durst Theta 76 HS Digital Printer by means of LED exposure, thereby transferring the content from an electronic device to printed material as per the customers' requirements.
- Supply of printed pictures and photographs and similar items, reproduced with the aid of computer or any other device, is classifiable under Heading 4911 of the First Schedule of the Custom Tariff Act, 1975 (hereinafter referred to as the "the Tariff Act"), which is aligned to the GST Act for the purpose of classification. Heading 4911 of the Tariff Act classifies "*Other [i.e. not earlier specified] printed matter, included 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 purpose reproduced with the aid of computer or any other device.*" From the description, it is clear that such classification concerns pre-printed materials or prints which are supplied as such.

It, however, appears from the application and the argument of the Applicant at the time of Personal Hearing that the content of the printed matters referred to above, is not being supplied, but only printing service is being provided to the customers. In other words, the content of the printed matter is *specific* to the customer, and, neither is the matter pre-printed, nor has the Applicant any ownership to the content at any point of time, and, therefore, cannot transfer title of the above printed matters. *Transfer of the title in goods is a supply of goods* [Paragraph no. 1(a) of Schedule II to the GST Act]. Hence, transfer of ownership is an essential condition for supply of goods.

The photo prints supplied by them to their customers are not marketable commodities in the open market and as goods they have *no value to persons other than the specific customer who provides the input content*. Hence, it is clear that, the printed material have no value as independent goods.

The Applicant, therefore, cannot be said to be supplying goods classifiable under heading 4911 of the Tariff Act.

4. The Applicant refers to several judgments, which are claimed to have a bearing on this issue. A careful perusal of the judgments reveals that, most of them do not have any bearing to the instant case.

In the case of State of Karnataka etc Vs. M/s PROLAB and Others, and in the case of C.K. Jideesh vs UOI activities of Photo Labs are considered to be “Works Contract”. However, the activity of “Printing” does not come under “Works Contract” under Section 2(119) of the GST Act. Hence, the judgements are not found to be relevant to the instant case.

In the case of Rainbow Colour Lab [(2000) 2 SCC 385] the Apex Court held that the dominant intention of the photo lab is *provisioning service of printing where the supply of paper and chemicals are purely incidental*. The Court held that the activity should be treated as “Service”.

5. Hence, the Applicant is providing a service, namely, the service of printing and is liable to be classified under SAC 9989.

In view of the foregoing we rule as under

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The activity carried out by the Applicant “printing of photographs from media” is classifiable under SAC 9989.

The activity carried on by the Applicant, thus is taxable at 12% under Serial No. 27 (i) of Notification No. 11/2017 – Central Tax (Rate) dated 28/06/2017 (1135 – FT dated

26/06/2017 of the State Tax), as stood amended vide Notification No. 31/2017 – Central Tax (Rate) dated 13/10/2017 (1795 – FT dated 13/10/2017 of the State Tax).

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

Sd-

(VISHWANATH)

Member

West Bengal Authority for Advance Ruling

Sd-

(PARTHASARATHI DEY)

Member

West Bengal Authority for Advance Ruling