

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri B. V. Borhade, Joint Commissioner of State Tax (Member)

(2) Shri Pankaj Kumar, Joint Commissioner of Central Tax (Member)

GSTIN Number, if any/ User-id		27AAKCA9444P1ZV
Legal Name of Applicant		Asahi Kasei India Private Limited
Registered Address/Address provided while obtaining user id		The Capital, Office No.: - 1502-B, 15th Floor, Plot No. C70, G-Block, Bandra Kurla Complex, Bandra East, Mumbai - 400 051
Details of application		GST-ARA, Application No. 35 Dated 08.06.2018
Concerned officer		Commissioner, GST/CX, Mumbai East Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in brief)	Asahi Kasei India Private Limited (hereinafter referred to as the "Applicant") is a company incorporated in India in August 2012. The Applicant is a subsidiary of Asahi Kasei Corporation, Japan ("Asahi Japan"). Asahi Japan is the flagship company of the Asahi Kasei group. Asahi Kasei group S fibres and textiles, petrochemicals, pharmaceuticals, polymers, electronic devices, home products, construction materials, health care etc.
Issue/s on which advance ruling required		(i) classification of goods and or services or both (v) determination of the liability to pay tax on any goods or services or both
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"] by Asahi Kasei India Private Limited, the applicant, seeking an advance ruling in respect of the following ISSUE. .

1. Whether the service supplied by the Applicant under the Service Agreement dated 1 March 2013 constitute a supply of "Support services" falling under HSN code 9985 "Intermediary service" classifiable under HSN code 9961/9962?
2. Whether the service supplied by the Applicant under the Marketing Services Agreement dated 1 December 2012 constitute a supply of "Support services" falling under HSN code 9985 or "Intermediary service" classifiable under HSN code 9961/9962?

3. Whether the services provided by the Applicant is an export of services as defined under Section 2(6) of the Integrated Goods and Services Tax Act 2017?

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 such 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, a reference to such a similar provision under the CGST Act / MGST Act would be mentioned as being under the "GST Act".

FACTS AND CONTENTION - AS PER THE APPLICANT


The submissions, as reproduced verbatim, could be seen thus-

STATEMENT OF THE RELEVANT FACTS HAVING A BEARING ON THE QUESTIONS:

Asahi Kasei India Private Limited (hereinafter referred to as the "Applicant") is a company incorporated in India in August 2012. The Applicant is a subsidiary of Asahi Kasei Corporation, Japan ("Asahi Japan").

Asahi Japan is the flagship company of the Asahi Kasei group. Asahi Kasei group S fibers and textiles, petrochemicals, pharmaceuticals, polymers, electronic devices, home products, construction materials, health care etc.

The Applicant provides sales promotion and marketing support to Asahi Kasei group. For this, the Applicant has entered in to a Services Agreement dated 01 March 2013 with Asahi Japan and Marketing Services Agreement with various group companies of Asahi Kasei group. The scope of work under the Agreement is broadly stated below:

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- a. Collecting and analyzing information i.e. market analysis and supporting Asahi Kasei group in getting new business;
 - b. Providing marketing & administration support and back-office support (including accounting Support);
 - c. Networking i.e. co-ordinate with the government authorities and relevant universities to join relevant trade associations;
 - d. Supporting sales activity of Asahi Kasei group.

A copy of Services Agreement dated 01 March 2013 with Asahi Japan is enclosed marked as Annexure D.

A copy of Marketing Services Agreement dated 01 December 2012 entered with Asahi Kasei Medical Co. Ltd., is enclosed as Annexure E. The Applicant has entered identical Marketing Services Agreements with other Asahi Kase entities namely:

- a. Agreement with Functional Additives Division of Asahi Kasei Chemicals Corporation [dated 01 March 2013]; (modified 5th January 2017 and taken over by Asahi Kasei Corporation, Japan)
- b. Agreement with Asahi Kasei Bioprocess Inc. [dated 15 April 2013]; (modified 2nd February 2015 and name changed to Asahi Kasei Bioprocess America, Inc, USA)
- c. Agreement with Fabricated Products Division (Asaclean) of Asahi Kasei Chemicals Corporation [dated 01 October 2013] as amended vide agreement dated 01 July 2016: (modified 5th January 2017 and taken over by Asahi Kasei Corporation, Japan)
- d. Agreement with Asahi Kasei Plastics North America Inc. [dated 02 January 2014];
- e. Agreement with Asahi Kasei Home Products Corporation [dated 01 April 2015];

f. Agreement with Bemberg Division of Asahi Kasei Fibers Corporation (dated 01 May 2015); (modified 5th January 2017 and taken over by Asahi Kasei Corporation, Japan)

STATEMENT CONTAINING APPLICANTS INTERPRETATION OF LAW IN RESPECT OF THE QUESTIONS RAISED

<p>Question on which advance ruling is required</p>	<p>Whether the service supplied by the Applicant under the Service Agreement dated 1 March 2013 constitute a supply of "Support services" falling under HSN code 9985 "Intermediary service" classifiable under HSN code 9961/9962?</p>
<p>Statement of facts having a bearing on the question</p>	<p>The scope of the services provided by the Applicant under Service Agreement with Asahi Japan [dated 01 March 2013] as amended on 05 January 2017 are highlighted at Clauses 4 to 8 of the Agreement. The relevant extract of the agreement is reproduced hereunder:</p> <p><i>"4. Party B (i.e. the Applicant) agrees to conduct from time to time, as and when requested by Party A (being Asahi Japan), research on the matters related to the functions of the holding company, such as corporate accounting, corporate finance, corporate personnel and labour relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon.</i></p> <p><i>5. Party B agrees to provide Party A from time to time, as and when requested by Party A, with economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory (i.e. India or any other mutually agreed territory) as Party A may from time to time request. In the event Party A should require more detailed information than that so provided by Party B, Party B shall exert its best efforts to obtain such further or more detailed information.</i></p> <p><i>6. At such time and from time to time, as and when representatives of Party A, or its related business circles or customers visit the Territory and Party A so requests, Party B shall provide necessary assistance in business activities (including interpreting) to such representatives.</i></p> <p><i>7. From time to time, as and when requested by Party A, Party B shall make market surveys of the Products in the Territory and report the results thereof to Party A.</i></p> <p><i>8. Party B shall perform services, as directed by Party A, resulting from the assignments pursuant to paragraph 4 through 7 of this Agreement, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters."</i></p> <p>As per Clause 9 of the Agreement, service consideration received by the Applicant is the direct cost + prorated overhead expenses +10% mark-up + applicable taxes.</p> <p>Clause 15 of the Services agreement provides that the Applicant is acting as an independent contractor. It is expressly provided therein that neither party shall represent itself to be the agent of the other nor shall either party accept service of legal process or create or assume any obligation of any kind or nature whatsoever on behalf of the other party. Neither shall have the authority to conclude or negotiate any contracts or secure any orders or maintain any stock of goods / merchandise, on behalf of each other.</p> <p>As a matter of fact, the Applicant has never negotiated or entered into any contract with any customer on behalf of the Asahi Japan for supply of any goods or services. Asahi Japan has appointed some agents depending on products for negotiating with the customers and obtaining indent/orders. In all the cases, the contract is entered either by local agent or by Asahi Japan or other overseas group company directly.</p>



	<p>In fulfilment of its obligation, the Applicant has undertaken following activities:</p> <ul style="list-style-type: none"> (i) Providing reports on the condition of the economy and undertaking market survey (ii) Visit to existing and perspective customers to understand their requirement, their business plan and their feedback and reporting to Asahi Japan (iii) Providing information on the products of Asahi Japan to the existing and perspective customers (iv) Generating marketing leads and relaying to Asahi Japan (v) Helping customer on the product trial (vi) Facilitating meeting between customers and agent Asahi Japan
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Statement containing the applicant's interpretation of law

1. There are two possible classifications for the services supplied by the Applicant. The relevant HSN codes along with its description are tabulated hereunder:

SR.NO.	HSN CODE	TARIFF ENTRY
i.	9961 / 9962	Intermediary service - Services in wholesale trade and Services in retail trade
ii.	9985	Support Service

2. The term "intermediary" is defined under Section 2(13) of the Integrated Goods and Services Tax Act 2017 ("IGST Act"). The relevant extract of the said definition is set out hereunder:

"(13) 'intermediary' means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons but does not include a person who supplies such goods or services or both or securities on his own account;"

3. The aforesaid definition has three limbs:

- a. A broker, an agent or any other person, by whatever name called;
- b. Arranges or facilitates the supply of goods or services or both, or securities between two or more persons;
- c. But does not include a person supplying such goods or services or both or securities on his own account.

4. The first limb provides that an intermediary can be a broker, an agent or any other person. In order to examine this limb, it would be apt to refer to the dictionary definitions of the terms "broker" and "agent". The relevant extract of the various dictionary definitions are as follows:

a. Broker

i. Halsbury's Laws of England, 4th Edition, Volume 1, Para 712, Page 424:
- A mercantile agent who in the ordinary course of his business is employed to make contracts for the purchase or sale of property or goods of which he is not entrusted with the possession or documents of title [Alapati Ramamurthi, Gelli Krishnamurthy & Co. Vs. J. Ramanujan and Ors. (AIR 1961 AP 408)].

ii. K J Aiyar's Judicial Dictionary: - Word meaning an agent but used generally in a more special sense for one who buys or sells on behalf of another. He must act according to the instructions given to him and as a general rule, his task is finished when he has made a contract between a buyer and the seller... Brokers are remunerated by commission known as brocage or brokerage... Types of brokers are: stock brokers, bill brokers, wool brokers, produce brokers and insurance brokers. The word is also



applied to a dealer in second hand furniture or to one who values goods when they are seized for debt. The pawnbroker is a principal rather than an agent (A Shetty and Sons Vs. State of Mysore (1961 (12) STC 731) and CST Vs. Vijay Kumar (1968 (21) STC 37 (All.));

iii. **Concise Law Dictionary (2008 Edition):** - A middlemen or an agent who for a commission on the value of the transaction, negotiates for others the purchase or sale of stocks, bonds, commodities, or property of any kind or who attends to the doing of business for another;

iv. **Law Lexicon Dictionary (Sumeet Malik):** - An agent employed to make bargains and contracts between other persons in the matters of trade, commerce and navigation, by explaining the intentions of both the parties and negotiating in such a manner as to put those who employ him in a condition to treat together personally; (2) and more commonly an agent employed by one party only to make a binding contract with another.

b. Agent

i. **Shorter Oxford English Dictionary (Deluxe Edition):** -

A person who acts for another un business, politics, etc.;

ii. **Section 182 of the Indian Contract Act 1872:** - An 'Agent' is a person employed to do any act for another or to represent another in dealings with third persons;

iii. **Concise Law Dictionary (2008 Edition):** - An agent acts on behalf of his principal and often uses is name and his acts in that capacity are attributable to the principal;

5. Having understood the meaning of the terms "broker" and an "agent", it would be imperative to examine the scope of the term "any other person, by whatever name called". In this regard, it is humbly submitted that the scope of this phrase is restricted by the preceding words "broker or agent" by applying the principle of 'Ejusdem Generis'. As per this doctrine, where there are general words following particular and specific words, the meaning of the latter words shall be confined to things of the same kind as the former (i.e. particular and specific words preceding such generic words). Applying the above to the present case, the phrase "any other person, by whatever name called" would include only those classes of persons that are similar to a broker or an agent.
6. In this connection, we also refer to the CBEC Circular No. 83/01/2006 dated 04 July 2006 wherein the principle of "Ejusdem generis" was used to construe the meaning of the phrase "any other person" appearing u/s 65(105)(m) of the Finance Act 1994. The Circular clarified that since the expression was used in continuation with a specific class of persons, it should be read in consonance with the preceding class of persons mentioned earlier and consequently, the scope of the phrase should be curtailed.
7. Reliance in this regard is also placed on the Hon'ble Delhi High Court decision in the case of Areva T & D India Ltd. Vs. DCIT [2012-TIOL-234-HC-DEL-IT] wherein the Hon'ble High Court applied the principle of ejusdem generis to interpret the expression "business or commercial rights of similar nature" referred to in section 32(1)(ii) of the Act and held that the Legislature did not intend to provide for depreciation only in respect of specified intangible assets but also to other categories of intangible assets, which were neither feasible nor possible to exhaustively enumerate.
8. The principle of ejusdem generis was also upheld by the Apex Court in the case of Assistant Collector of C. Ex. Vs. Ramdev Tobacco Company



(1991 (51) ELT 631 (SC)] and CCE Vs. Shital International [MANU/SC/0884/2010]. Similar view has been affirmed in the following cases:

i. CIT Vs. Rani Tara Devi [2013 (355) ITR 457 (P&H)]:

ii. Commissioner of Income tax, Udaipur Vs. McDowell & Co. Ltd. [MANU/SC/0964/2009]

9. In view of the above, it appears that the scope of the term "any other person, by whatever name called" will include a person in the same genus as that of an agent or a broker. Thus, on a combined reading of the dictionary meaning of the terms "broker" and "agent" along with the aforementioned judicial precedents, it can be construed that the only persons appointed in representative capacities can be covered within the scope of the first limb of aforesaid definition (Intermediary).
10. As per the second part of the definition, an intermediary "Arranges or facilitates the supply of goods or services or both, or securities between two or more persons". It is further submitted that the service heading 9961/9962 refers to intermediary service in wholesale trade and retail trade. Wholesale trade and retail trade relates to the activity of selling of goods.
11. The Applicant submits that the dictionary meaning of facilitation is to make easy or easier, make something possible or aiding or helping. Thus, the dictionary meaning of facilitation is very wide and covers processing, storage, transport, advertising, sales promotion etc, all activities as each and every activity aids or smoothens supply of goods. Goods Transport service (9965), Transport support service (9967), advertising and market research service (9983) are separate service classification. If such a wide meaning is adopted, it will render many of these PP service classifications redundant. Thus, the Applicant submits that facilitate supply of goods refers to an activity directly related to the sale.
12. In the instant case, the Applicant and the Service recipient are acting as independent contractors. Moreover, the Applicant and the service recipient have no authority to create nor do they assume any obligation on behalf of each other. The point of distinction between an agent and an independent contractor as per the **Supreme Court Words and Phrases (3rd Edition)** is set out below:
- a. **Agent:** - An agent is bound to exercise his authority which may be given to him from time to time by his principal but is not subject to exercise to the direct control or supervision of the principal;
 - b. **Independent Contractor:** - An independent contractor is entirely independent of any control or interference and merely undertakes to produce a specified result by employing his own means.
13. In this regard, we refer to the Hon'ble CESTAT decision in the case of **Amarnath Associates Vs. Commissioner of Central Excise [2017-TIOL-2489-CESTAT-DEL]** wherein it was held that the definition of a "commission agent" requires an entity to act on behalf of another person and cause sale or purchase of goods or provision or receipt of services, for a consideration.
14. It would also be apt to refer to the definition of the term "Independent contractor" which has been defined in the Concise Law Dictionary as follows:
- "One who, exercising an independent employment, contracts to do a piece of work according to his own methods, and without being subject to his employer's control, except as to the result of the work.*
- An independent contractor is one who undertakes to produce a given result but so that in the execution of the work he is not under the order or control of the*



person for whom he does it, and may use his own discretion in things not specified beforehand."

15. As highlighted above, the Services Agreement specifically provides a clause that the Parties do not intend to create any principal-agent relationship. Further, the consideration charged by the Applicant is not qua a particular transaction between the service recipients and their customers. Therefore, the services supplied by the Applicant to the service recipients fails to comply with the second limb of the definition of the term "intermediary".

16. Since the services have been provided by the Applicant as an independent contractor, the Applicant would automatically fall within the exclusion provided in the third limb of the definition. In view of the above, the applicant would not be construed as an intermediary in terms of Section 2(13) of the IGST Act.

17. The activity of sales promotion and marketing are not selling of goods and therefore, such activities would not be classifiable under the said heading. The activities of the Applicant are in relation to market survey, market intelligence and leads, sales promotion, liaising and customer relation. The Applicant never participates in the actual sales negotiation except as interpreter.

18. It is submitted that -

a. Composite supply has been defined under Section 2(30) of the Central Goods and Services Tax Act 2017 ("CGST Act") as follows:

"(30) "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"

b. It is pertinent to note that the definition of intermediary under Section 2(13) of the IGST Act is pari materia to the definition provided under the Finance Act 1994. The Education Guide, 2012 issued by the CBEC inter alia provides the various factors that needs to be considered in determining whether a person is an intermediary. The relevant extract is reproduced hereunder:

"Nature and value: An intermediary cannot alter the nature or value of the service, the supply of which he facilitates on behalf of his principal, although the principal may authorize the intermediary to negotiate a different price. Also, the principal must know the exact value at which the service is supplied (or obtained) on his behalf, and any discounts that the intermediary obtains must be passed back to the principal.

Separation of value: The value of an intermediary's service is invariably identifiable from the main supply of service that he is arranging. It can be based on an agreed percentage of the sale or purchase price. Generally, the amount charged by an agent from his principal is referred to as "commission".

Identity and title: The service provided by the intermediary on behalf of the principal is clearly identifiable.

In accordance with the above guiding principles, services provided by the following persons will qualify as 'intermediary services': i) Travel Agent (any mode of travel) ii) Tour Operator iii) Commission agent for a service [an agent for buying or selling of goods is excluded] iv) Recovery Agent

Even in other cases, wherever a provider of any service acts as an intermediary for another person, as identified by the guiding principles outlined above, this rule will apply. Normally, it is expected that the



intermediary or agent would have documentary evidence authorizing him to act on behalf of the provider of the ' main service!'"

19. Para 5.9.6 of the Education Guide, 2012 issued by the CBEC clarifies the scope of the term intermediary. The relevant extract is reproduced hereunder:

"Similarly, persons such as call centres, who provide services to their clients by dealing with the customers of the client on the client's behalf, but actually provided these services on their own account, will not be categorized as intermediaries."

In the instant case, although the Applicant deals with the service recipient's customers, but the same is for the purpose of providing services to the service recipient on its own account. Consequently, the services provided by the Applicant cannot be classified as "intermediary services".

20. In an identical case as the present situation, GODADDY India Web Services Pvt. Ltd. had filed an Advance Ruling under the Service tax regime [2016 (46) STR 806 (A.A.R.)]. The relevant extract of the judgment is reproduced below:

"11. Applicant proposes to provide support services in relation to marketing, branding, offline marketing, oversight of quality of third party customer care centre and payment processing, on principal to principal basis. These services are proposed to be provided with the sole intention of promoting the brand of GoDaddy US. Therefore, these services provided by the applicant to GoDaddy cannot be categorized as intermediary or services, as intermediary services. 12. It has been submitted by the applicant that services to be provided by the applicant are not peculiar only in applicant's case but are provided by various Indian entities to their overseas customers in India as a single package. Further, supporting the business of GoDaddy US in India is the main service and processing payments and oversight of services of third party Call Centres are ancillary and incidental to the provision of main service, i.e. business support service. Further, applicant would provide said service as a package and the payment for the entire package would be a consolidated lump sum payment. Applicant submits that in view of these indicators, service provided by them to GoDaddy US is a bundle of services, which is bundled in the normal course of business. This point has not been controverted by the Revenue. We agree with the submissions of the applicant that proposed services are a bundle of services, bundled in normal course of business and not intermediary service."

21. Applying the above to the present case, while the scope of services provided to the Asahi Kasei group is very wide, the same would fall within the ambit of the term "composite supply" with the marketing services being the principal supply.
22. In view of the above, it is amply clear that the services provided by the Applicant cannot be considered as an "Intermediary services". However, in order to determine the correct classification of the services provided by the Applicant, it would be imperative to refer to the scope of the term "Support services".
23. In the absence of any statutory definition of the term "Support services" under the CGST Act, IGST Act or rules made thereunder, reference is hereby made to the corresponding definitions under the Finance Act 1994. The relevant definitions under the pre-negative list era (Section 65(104c)) and Negative list regime (Section 65B(49)) are reproduced hereunder

"Section 65(104c) 'support services of business or commerce' means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and



fulfilment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational or administrative assistance in any manner, formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

Explanation - For the purposes of this clause, the expression 'infrastructural support services' includes providing office along with office utilities, lounge, reception with competent personnel to handle messages, secretaria services, internet and telecom facilities, pantry and security;"

[Pre-negative List regime]

"Section 65B(49) "support services" means infrastructural, operational, administrative, logistic, marketing or any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property, security, testing and analysis;"

[Negative List regime]

24. From the above, it can be construed that marketing services, advertisement and promotion services, customer relationship management, evaluation of prospective customers, etc. would qualify to be in the nature of support services.
25. In this regard, it is submitted that the scope of the services that is to be provided by the Applicant to the Asahi Kasei group are of similar nature. Thus, the supply of services provided by the Applicant to the Asahi Kasei group would be classified under tariff entry 9985 as "Business Support Service".

QUESTION NO. 2

Question on which advance ruling is requested	Whether the service supplied by the Applicant under the Marketing Services Agreement dated 1 December 2012 constitute a supply of "Support services" falling under HSN code 9985 or "Intermediary service" classifiable under HSN code 9961/9962?
Statement of facts having a bearing on the question	<p>1. Marketing Services Agreement:</p> <p>a. Agreement with Bioprocess Division of Asahi Kasei Medical Co. Ltd. ('AM') [dated 01 December 2012];</p> <p>*a) Conducting market surveys and providing the service recipient with the information on Indian market trends and features so as to assist in determining the nature and scope of the Indian market potential;</p> <p>b) Assisting the service recipient in the adaptation and implementation of its advertising policy;</p> <p>c) Assisting the service recipient in conducting sales prospection through participation in industry events such as scientific gatherings, exhibitions, trade shows and the like;</p> <p>d) Liaising with Customers and potential Customers and to collect their product development plans and strategy and "road-maps", as well as their product specifications, and reporting the same to the service recipient the information obtained through such interactions;</p> <p>e) Providing any feedback to the service recipient that would help improve the service recipient's marketing; Facilitating the service recipient in arrangement of discussions and provision of interpretation services and cross culture advice; for the sake of</p>



	<p>clarity, neither AKI (i.e. the Applicant) nor any of its representatives shall have any authority to conduct negotiations on behalf of the service recipient;</p> <p>f) Connecting Customers with representatives of the service recipient for the purpose of obtaining orders and establishing and maintaining close commercial relationships between service recipient and customers;</p> <p>g) Providing staff of the service recipient or its customers visiting the territory with such assistance as may be reasonably requested by them, including but not limited to providing information, guide, escort and interpreting services during Customers visits; for the sake of clarity, the premises of AKI will not be the premises of the service recipient and the same shall not be made available to employees or other personnel of service recipient who may visit India;</p> <p>h) Providing information on products and its functioning or similar such services to service recipient's customers and notifying service recipient of any consumer complaints;</p> <p>i) Monitoring regulatory developments (including, where possible, establishing and maintaining contact with regulatory agencies) and reporting the same to the service recipient; and</p> <p>j) Any other assistance in the context of the above, regarding service recipient's marketing activities that may be reasonably requested by service recipient after the effective date in writing to AKI."</p> <p>It may however be noted that the scope of service for the marketing services agreement with APNA do not include the points (c), (g) and (i) as mentioned above</p>
Statement containing the applicant's interpretation of law	As in case of Question No. 2 above
QUESTION NO. 3	
Question on which advance ruling is required	Whether the services provided by the Applicant is an export of services as defined under Section 2(6) of the Integrated Goods and Services Tax Act 2017?
Statement of facts having a bearing on the question	The Applicant receives payment in freely convertible foreign exchange i.e. Japanese Yen / United States Dollar
Statement containing the applicant's interpretation of law	<p>1. In this regard we refer to the definition of the term "export of services" as defined under section 2(5) of the IGST Act. The relevant extract is set out hereunder:</p> <p>"(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, 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;"</p> <p>2. Each of these conditions have been discussed in detail hereunder:</p> <p>a. Condition 1 - Supplier of service is located in India</p> <p>For this, we refer to the definition of the term "location of the supplier of services" as defined under section 2(15) of the IGST Act. As per the said definition, where a supply has been made from a place where the person has obtained registration, the location of the supplier shall be such place of business. In the instant case, the Applicant is providing service from Maharashtra for which it has obtained GST registration. Consequently, the location of the supplier of service shall be Maharashtra i.e. in India.</p> <p>b. Condition II - Recipient of service is located outside India</p>



The term 'location of the recipient of services' has been defined under section 2(14) of the IGST Act. As per the said definition, if a supply has been received from a registered place of business or registered fixed establishment, the location of the recipient shall be the respective place of business or fixed establishment. However, in other cases, the usual place of residence of the service recipient shall be the location of the service recipient. In the instant case, the Asahi Kasei group is not registered in India and therefore, their registered place of business will be their registered address (i.e. outside India).

c. **Condition III - Place of supply of service is outside India** From (a) and (b) above, it appears that while the service provider is situated in India, the service recipient is located outside India. In order to determine the place of supply, we refer to Section 13 of the IGST Act which provides for the place of supply of services in case where either the service recipient or the service provider is situated outside India.

The services provided by the Applicant is in the nature of 'Support services' classifiable under HSN code 9985. The place of supply in the instant case would therefore be determined as per the general rule i.e. as per Section 13(2) of the IGST Act. The said sub-section provides that the location of the recipient of services shall be the place of supply of services. Applying the above to the present case, the place of supply of services shall be the location of the Asahi Kasei group i.e. outside India.

d. **Condition IV - Payment is received in convertible foreign exchange**

As mentioned in the foregoing paragraphs, the consideration charged by the Applicant is in convertible foreign exchange i.e. Japanese Yen / United States Dollar.

e. **Condition V - Supplier of service and recipient of service are not merely establishment of distinct person**

Explanation 1 to Section 8 inter alia provides that where a person has an establishment in India and any other establishment outside India, then such establishments shall be treated as establishments of different legal persons. The term person has been defined to include a Company. In the instant case, the service recipient i.e. Asahi Kasei group is not an establishment formed by the Applicant and consequently, it cannot be treated as an establishment of a distinct person.

3. In view of the above, it can be construed that the Applicant fulfils all the conditions for treating the supply of services as an export of services in terms of Section (6) of the IGST Act. Therefore, the answer to Question No. 3 above should be in affirmative.

03. **CONTENTION - AS PER THE CONCERNED OFFICER**

The submission, as reproduced verbatim, could be seen thus-

M/s Asahi Kasei India Pvt. Ltd., The Capital Office No. 1502-B, 15th Floor, Plot No. C-70, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai 400051 (here in after referred to as 'the Applicant') has filed above detailed application under Section 98 of the Central Goods and Service

Tax Act, 2017 read with Rule 104 (1) Of the CGST Rules, 2017 seeking advance ruling on:

- 1) Whether the service supplied by the Applicant under the Service Agreement dated 1 March 2013 constitute a supply of "Support services" falling under HSN code 9985 or "Intermediary service" classifiable under HSN code 9961/9962?

- 2) Whether the service supplied by the Applicant under the Marketing Services Agreement dated 1 December 2012 constitute a supply of "Support services" falling under HSN code 9985 or "Intermediary service" classifiable under HSN code 9961/9962?
- 3) Whether the service provided by the Applicant is an export of services as defined under Section 216) of the Integrated Goods and Service Tax Act 2017?

Statement of facts having bearing on the question (1):

Asahi Kasei India Pvt. Ltd., (hereinafter referred to as the "Applicant") has entered into Service Agreement dated 1st March, 2013 with Asahi Kasei Corporation, a Japanese Corporation. However, the address mentioned in the agreement is 'The Capital, Office No.801-C, 8th floor, Plot No C70, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, which is different from Advance Ruling Application of the applicant.

The scope of the services provided by the Applicant under Service Agreement with Asahi Kasei Corporation, Japan (dated 01 March 2013) as amended on 05 January 2017 are highlighted at Clauses 4 to 8 of the Agreement. The relevant extract of the agreement is reproduced hereunder:

"4. Party B (i.e. the Applicant) agrees to conduct from time to time, as and when requested by Party A (being Asahi Kasei Corporation, Japan), research on the matters related to the functions of the holding company, such as corporate accounting, corporate finance, corporate personnel and labor relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon.

5. Party B agrees to provide Party A from time to time, as and when requested by Party A, with economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory (i.e. India or any other mutually agreed territory) as Party A may from time to time request. In the event Party A should require more detailed information than that so provided by Party B, Party B shall exert its best efforts to obtain such further or more detailed information.

6. At such time and from time to time, as and when representatives of Party A, or its related business circles or customers visit the Territory and Party A so requests, Party B shall provide necessary assistance in liasoning and coordinating activities (including interpreting) to such representatives.

7. From time to time, as and when requested by Party A, Party B shall make market surveys of the Products in the Territory and report the results thereof to Party A.

8. Party B shall perform services, as directed by Party A, resulting from the assignments pursuant to paragraph 4 through 7 of this Agreement, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters."

As per Clause 9 of the Agreement, Service consideration received by the Applicant is the direct cost+ apportioned overhead expenses+10% margin +applicable taxes.

From perusal of the above extract of the agreement it is seen that the Applicant is engaged in the activities for the party A, viz. research on the matters such as corporate accounting, corporate finance, corporate personnel and labour relations, corporate research and development, quality assurance and corporate intellectual property, provide with economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory, when representatives of Party A visit the Territory and Party A so requests, Party B shall provide necessary assistance in liasoning and coordinating activities(including interpreting) to such representatives, shall make market surveys of the Products in the Territory and report the results thereof to Party A. Further, Party B shall perform

services, as directed by Party A, resulting from the assignments pursuant to paragraph 4 to 7 of the agreement including but not limited to, those services with regard to finance, accounting, and patent and legal matters.

PRAYER

In view of the above, it can be said that

- i) The research on the matters related to functions of holding company such as corporate accounting, corporate finance, corporate personnel and labor relations, corporate research and development, market surveys appears to come under the category of 'Market Research services' under Heading No.998371;
- ii) Research on the matter of corporate intellectual property appears to come under 'Legal documentation and certification services concerning patents, copyrights and other intellectual property rights services' which fall under Heading No.998213
- iii) The economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries, appears to fall under 'Original compilations of facts or information' which fall under Heading No.998394 / Business Support Service(9985).
- iv) Providing necessary assistance in liasoning and coordinating activities for the representatives of Party A, would qualify to be in the nature of business support services' which fall under Heading No.99859.
- v) Regarding Para 8 of the agreement, it is felt that Advance Ruling cannot be given because without proper and full facts. In this Para, conditions like 'but not limited to' is mentioned, which does not give a clear picture of what services it pertains to. Hence, Advance Ruling for Para 8 cannot be given.

Regarding Para 9 of the agreement, it is subject to separate treatment to any intermediary activities where place of provision of service is governed by Section 13(8) of the CGST Act, 2017.

Statement of facts having bearing on the question (2):

Asahi Kasei India Pvt. Ltd., (hereinafter referred to as the "Applicant") has entered into Marketing Services Agreement dated 1st December, 2012 with Bioprocess Division of Asahi Kasei Medical Co. Ltd., a Japanese Company. However, the address mentioned in the agreement is 'The Capital, Office No. 801-C, 8th floor, Plot No.C70, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, which is different from Advance Ruling Application of the applicant.

The scope of the services provided by the Applicant under Marketing Services Agreement with Bioprocess Division of Asahi Kasei Medical Co. Ltd., are highlighted at Article 2 of the Agreement. The relevant extract of the agreement is reproduced hereunder: Bioprocess Division of Asahi Kasei Medical Co. Ltd. referred to as "AM" in agreement dated 01 December 2012.

The services shall comprise the following activities, all of which are described with respect to the Products in the Territory, and all only to be conducted at and under the explicit direction of AM.

- a) Conducting market surveys and providing the AM with information on Indian market trends and features so as to assist in determining the nature and scope of the Indian market potential;
- b) Assisting AM in the adaptation and implementation of AM's advertising policy,
- c) Assisting AM in conducting sales prospectation through participation in industry events such as scientific gatherings, exhibitions, trade shows and the like;

- d) Liaising with Customers and potential customers and to collect their product development plans and strategy and "road-maps", as well as their product specifications, and reporting to AM information obtained through such interactions;
- e) Providing any feedback to AM that would help improve AM's marketing; Facilitating AM in arrangement of discussions and provision of interpretation services and cross culture advice; for the sake of clarity, neither AKI (i.e. the Applicant) nor any of its representatives shall have any authority to conduct negotiations on behalf of AM;
- f) Connecting Customers with AM representatives for the purpose of obtaining orders and establishing and maintaining close commercial relationships between AM and customers; g) Providing staff of AM or its customers visiting the territory with such assistance as may be reasonably requested by AM, including but not limited to providing information, guide, escort and interpreting services during Customers visits; for the sake of clarity, the premises of AKI(applicant) will not be the premises of AM and the same shall not be made available to employees or other personnel of AM who may visit India;
- h) Providing information on products and its functioning or similar such services to AM's customers and notifying AM of any Customer complaints; i) Monitoring regulatory developments (including, where possible, establishing and maintaining contact with regulatory agencies) and reporting on these to AM; and j) Any other assistance in the context of the above, regarding AM's marketing activities that may be reasonably requested by AM after the Effective Date in writing to AKI(Applicant)."

From perusal of the extract of the above agreement dated 01.12.2012 it is seen that the Applicant is engaged in the activities for AM(service recipient), Conducting market surveys and providing the AM with information on Indian market trends and features so as to assist in determining the nature and scope of the Indian market potential, assisting AM in the adaptation and implementation of AM's advertising policy, assisting AM in conducting sales prospection through participation in industry events such as scientific gatherings, exhibitions, trade shows and the like, liaising with Customers and potential customers and to collect their product development plans and strategy and "road-maps", as well as their product specifications, and reporting to AM information obtained through such interactions, providing any feedback to AM that would help improve AM's marketing; Facilitating AM in arrangement of discussions and provision of interpretation services and cross culture advice; for the sake of clarity, neither AKI (i.e. the Applicant) nor any of its representatives shall have any authority to conduct negotiations on behalf of AM, connecting Customers with AM representatives for the purpose of obtaining orders and establishing and maintaining close commercial relationships between AM and customers, providing staff of AM or its customers visiting the territory with such assistance as may be reasonably requested by AM, including but not limited to providing information, guide, escort and interpreting services during Customers visits; for the sake of clarity, the premises of AKI(applicant) will not be the premises of AM and the same shall not be made available to employees or other personnel of AM who may visit India, providing information on products and its functioning or similar such services to AM's customers and notifying AM of any Customer complaints, monitoring regulatory developments (including, where possible, establishing and maintaining contact with regulatory agencies) and reporting on these to AM; and any other assistance in the context of the above, regarding AM's marketing activities that may be reasonably requested by AM after the Effective Date in writing to AKI(Applicant).

PRAYER

In view of the above, it can be said that

- i) Conducting market surveys and providing the AM with the information on Indian market trends and features so as to assist in determining the nature and scope of the



Indian market potential appears to fall under 'Market Research services' under Heading No.998371.

- ii) Assisting AM in the adaptation and implementation of AM's advertising policy appears to fall under 'Advertising services' under Heading No.998361.
- iii) Assisting the AM in conducting sales prospection through participation in industry events such as scientific gatherings, exhibitions, trade shows and the like, appears to come under 'Events, exhibitions, conventions and trade shows organization and assistance services' falling under Heading No.998596.
- iv) Liaising with Customers and potential Customers and to collect their product development plans and strategy and "road-maps", as well as their product specifications, and reporting to AM abroad, information obtained through such interactions appears to be connected to the services at Para 10 above as principal supplies, therefore in terms of Section 8 of the Central Goods and Service Tax Act, 2017 read with Section 20 of the Integrated Goods and Service Tax Act, 2017. Therefore the said service 'Original compilations of facts or information' which individually fall under Heading No.998394, / Business Support Service(9985) will be supplied as Composite Supply and in terms of Section 13(8)(b) of the IGST Act, 2017.
- v) Providing any feedback to AM that would help improve AM's marketing; Facilitating AM in arrangement of discussions and provision of interpretation services and cross culture advice; for the sake of clarity, neither AKI (i.e. the Applicant) nor any of its representatives shall have any authority to conduct negotiations on behalf of AM, appears to fall under 'Other professional, technical and business services nowhere else classified' under Heading No.998399;
- vi) Connecting Customers with AM representatives for the purpose of obtaining orders and establishing and maintaining close commercial relationships between AM and customers, appears to fall under 'business support services' under Heading No.99859;
- vii) Providing staff of AM or its customers visiting the territory with such assistance as may be reasonably requested by AM, including but not limited to providing information, guide, escort and interpreting services during Customers visits; for the sake of clarity, the premises of Akl (applicant) will not be the premises of AM and the same shall not be made available to employees or other personnel of AM who may visit India. There is a conditional clause, hence, Advance Ruling should not be given for this services.
- viii) Providing information on products and its functioning or similar such services to AM's customers and notifying AM of any Customer complaints. In this the service category is not clearly mentioned, hence, Advance Ruling should not be given for this services;
- ix) Monitoring regulatory developments (including, where possible, establishing and maintaining contact with regulatory agencies) and reporting on these to AM, appears to fall under 'Other Legal services nowhere else classified' under Heading No.998216; and
- x) Any other assistance in the context of the above, regarding AM's marketing activities that may be reasonably requested by AM after the Effective Date in writing to AKI(Applicant). In this, the service category is not clearly mentioned, hence, Advance Ruling should not be given for this services;

Statement of facts having bearing on the question (3):

The Term "export of services" as defined under Section 2(6) of the IGST Act and the term "intermediary" as defined under Section 2(13) of the IGST Act. The relevant extract is set out hereunder:



"(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; and
- (v) The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation in Section 8;"

"(13) "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account".

The Applicant, M/s. Asahi Kasei India Pvt. Ltd. has submitted that they are fulfilling all the conditions Section 2(6) of IGST Act, discussed in detail hereunder:

a. Condition I - Supplier of service is located in India.

The applicant is registered under GST and providing the service from Maharashtra, India. Hence fulfilling the first condition with reference to term "location of the supplier of service" is located in India, as defined under Section 2(15) of the IGST Act.

b. Condition-11- Recipient of service is located outside India.

In the instant case the service recipient M/s Asahi Kasei Corporation (Service Agreement) and Asahi Kasei Medical Co. Ltd (Marketing Service Agreement) is not registered in India and therefore their registered place of business will be their registered address (i.e outside India). Hence fulfilling the first condition with reference to term "The recipient of service is located outside India" as defined under Section 2(14) of the IGST Act.

c. Condition-111 place of supply of Service is outside India.

The services provided by the Applicant is in nature of different services in the above two agreements viz. in Service agreement dated 1st March, 2013, the following services appears to be applicable:

'Market Research services' under Heading No.998371; 'Legal documentation and certification services concerning patents, copyrights and other intellectual property rights services' which fall under Heading No.998213'Original compilations of facts or information' which fall under Heading No.998394 / Business Support Service under Heading No.99859.

in Marketing Service agreement dated 1st December, 2012, the following services appears to be applicable:

'Market Research services' under Heading No.998371. 'Advertising services' under Heading No.998361, 'Events, exhibitions, conventions and trade shows organization and assistance services' falling under Heading No.998596. 'Original compilations of facts or information' which fall under Heading No.998394 / Business Support Service(9985). 'Other professional, technical and business services nowhere else classified under Heading No.998399; 'business support services' under Heading No.99859. 'Other Legal services nowhere else classified' under Heading No.998216;

The place of supply in the instant case is determined as per general rule i.e Section 13(2) of IGST Act where the location of the recipient of services shall be the place of supply of services and Section 13(3) to 13(13) where place of supply shall be the location where services are actually performed. In the present case, the place of supply of Service regarding the two agreements, the Details are as follows:

In Service agreement dated 1st March, 2013,

1. The research on the matters related to functions of holding company such as corporate accounting, corporate finance, corporate personnel and labor relations, corporate research and development, market surveys appears to come under the category of 'Market Research services' under Heading No.998371, will be covered under Section 13(2) of the IGST Act, 2017 and place of supply of service or shall be the location of the recipient of services;
 2. Research on the matter of corporate intellectual property appears to come under 'Legal documentation and certification services concerning patents, copyrights and other intellectual property rights services' which fall under Heading No.998213', will be covered under Section 13(2) of the IGST Act,2017 and place of supply of service or shall be the location of the recipient of services;
 3. The economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries, appears to fall under 'Original compilations of facts or information' which fall under Heading No.998394' / **Business Support Service(9985)**, will be covered under Section 13(2) of the IGST Act, 2017 and place of supply of service or shall be the location of the recipient of services;
 4. Providing necessary assistance in liasoning and coordinating activities for the representatives of Party A, would qualify to be in the nature of business support services which fall under Heading No.99859, will be covered under Section 13(3)(b) interalia Section 13(4) of the IGST Act, 2017 and the place of supply of service shall be the location where the services are actually performed.
 5. Regarding Para 8 of the agreement, it is felt that Advance Ruling cannot be given because without proper and full facts. In this Para, conditions like 'but not limited to' is mentioned, which does not give a clear picture of what services it pertains to. Hence, Advance Ruling for Para 8 cannot be given.
 6. Regarding Para 9 of the agreement, it is subject to separate treatment to any intermediary activities where place of provision of service is governed by Section 13(8) of the CGST Act, 2017.
- In Marketing Service agreement dated 01.12.2012.
7. Conducting market surveys and providing the AM with the information on Indian market trends and features so as to assist in determining the nature and scope of the Indian market potential appears to fall under 'Market Research services' under Heading No.998371 and will be covered under Section 13(2) of the IGST Act, 2017 and place of supply of service or shall be the location of the recipient of services;.
 8. Assisting AM in the adaptation and implementation of AM's advertising policy appears to fall under 'Advertising services' under Heading No.998361 and will be covered under Section 13(2) of the IGST Act,2017 and place of supply of service or shall be the location of the recipient of services;
 9. Assisting the AM in conducting sales prospection through participation in industry events such as scientific gatherings, exhibitions, trade shows and the like, will be covered under Section 13(5) of the IGST Act, 2017 and the place of supply of service shall be the location where the services are actually performed. The Service comes under 'Events, exhibitions, conventions and trade shows organization and assistance services' falling under Heading No.998596.
 10. Connecting Customers with AM representatives for the purpose of obtaining orders and establishing and maintaining close commercial relationships between AM and customers, will be covered under Section 13(8)(b) of the IGST Act,2017 as 'intermediary services' and the place of supply of service shall be the location where the services are actually performed, appears to fall under 'business support services' under Heading No.99859.;

11. Liaising with Customers and potential customers and to collect their product development plans and strategy and "road-maps", as well as their product specifications, and reporting to AM abroad, information obtained through such interactions appears to be connected to the services at Para 10 above as principal supplies, therefore in terms of Section 8 of the Central Goods and Service Tax Act, 2017 read with Section 20 of the Integrated Goods and Service Tax Act, 2017, the said service 'Original compilations of facts or information' which will individually fall under Heading No.998394', / Business Support Service(9985) but as a Composite Supply under Section 13(8)(b) of the IGST Act, 2017, the place of supply of service shall be the location where the services are actually performed.
12. Providing information on products and its functioning or similar such services appears to be connected to the services at Para 10 above as principal supplies, therefore in terms of Section 8 of the Central Goods and Service Tax Act, 2017 read with Section 20 of the Integrated Goods and Service Tax Act, 2017, the said service will be a Composite Supply under Section 13(8)(b) of the IGST Act, 2017. However, in this the service category is not clearly mentioned by the applicant.
13. Providing any feedback to AM that would help improve AM's marketing; Facilitating AM in arrangement of discussions and provision of interpretation services and cross culture advice; for the sake of clarity, neither AKI (i.e. the Applicant) nor any of its representatives shall have any authority to conduct negotiations on behalf of AM, appears to fall under 'Other professional, technical and business services nowhere else classified' under Heading No.998399, will be covered under Section 13(2) of the IGST Act, 2017 and place of supply of service or shall be the location of the recipient of services;
14. Providing staff of AM or its customers visiting the territory with such assistance as may be reasonably requested by AM, including but not limited to providing information, guide, escort and interpreting services during Customers visits; for the sake of clarity, the premises of AKI(applicant) will not be the premises of AM and the premises of AKI(applicant) in India shall not be made available to employees or other personnel of AM who may visit India, will be covered under Section 13(3)(b) inter alia Section 13(4) of the IGST Act, 2017 and the place of supply of service shall be the location where the services are actually performed.
15. Providing information on products and its functioning or similar such services to AM's customers and notifying AM of any Customer complaints. In this the service category is not clearly mentioned, hence, Advance Ruling should not be given for this services;
16. Monitoring regulatory developments (including, where possible, establishing and maintaining contact with regulatory agencies) and reporting on these to AM, appears to fall under 'Other Legal services nowhere else classified' under Heading No.998216, will be covered under Section 13(2) of the IGST Act, 2017 and place of supply of service or shall be the location of the recipient of services; and
17. Any other assistance in the context of the above, regarding AM's marketing activities that may be reasonably requested by AM after the Effective Date in writing to AKI(Applicant). In this the service category is not clearly mentioned, hence, Advance Ruling should not be given for this services;

d. Condition IV Payment is received in convertible foreign exchange.

The Applicant receives payment in freely convertible foreign exchange i.e. Japanese Yen / United States Dollar.

e. Condition V - Supplier of service and recipient of service are not merely establishment of distinct person.

Explanation 1 to Section 8 of IGST Act provides that

.-For the purposes of this Act, where a person has, -

(i) an establishment in India and any other establishment outside India;

(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

(iii) an establishment in a state or Union territory and any other establishment being a business vertical registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

PRAYER

In view of the above, it can be construed that in some services (as mentioned above) the Applicant fulfils all the conditions for treating the supply of services as an export of services in terms of Section (6) of IGST Act and in some services (as mentioned above), the Applicant does not fulfil the conditions for treating the supply of services as an export of services in terms of Section (6) of IGST Act.

04. HEARING

The case was taken up for Preliminary hearing on DT. 18.07.2018 when Sh. Dinesh Kumar Agarwal, C.A. along with Sh. Sunil Kumar Bhambhari, Asstt. General Manager and Sh. Huzefa Chataiwala Manager Accounts appeared and requested for admission of application as per contentions in their ARA. Jurisdictional Officer, Sh. Anupam Kumar, Inspector, Division -IV appeared and made written submissions.

The application was admitted and called for final hearing on 08.08.2018, Sh. Dinesh Kumar Agarwal, C.A. along with Sh. Sunil Kumar Bhambhari, Asstt. General Manager and Sh. Huzefa Chataiwala Manager Accounts appeared and made oral and written submissions. Jurisdictional Officer, Sh. Anupam Kumar, Inspector, Division -IV appeared and stated that they have already made written submissions.

05. OBSERVATIONS

We have gone through the facts of the case. The issue put before us is in respect of a future transaction which would be on the lines thus -

The Applicant provides sales promotion and marketing support to Asahi Kasei group. For this, the Applicant has entered in to a Services Agreement dated 01 March 2013 with Asahi Japan and Marketing Services Agreement with various group companies of Asahi Kasei group. The scope of work under the Agreement is broadly stated below:

- a. Collecting and analyzing information i.e. market analysis and supporting Asahi Kasei group in getting new business;
- b. Providing marketing & administration support and back-office support (including accounting Support);
- c. Networking i.e. co-ordinate with the government authorities and relevant universities to join relevant trade associations;
- d. Supporting sales activity of Asahi Kasei group.

On this set of facts applicant has raised questions which are as under:-

Que 1: Whether the service supplied by the Applicant under the Service Agreement dated 1 March 2013 constitute a supply of "Support services" falling under HSN code 9985 "Intermediary service" classifiable under HSN code 9961 /9962?

On the basis of scope of Services Agreement with Asahi Japan dated 1st March 2013 as modified on 5th January 2017 applicant desire to know whether the supply falls under the category 'support services' or 'intermediary services'. In order to appreciate the issue whether applicant is an intermediary we reproduce below the relevant clauses of the service agreement.

*4. Party B (i.e. the Applicant) agrees to conduct from time to time, as and when requested by Party A (being Asahi Kasei Corporation, Japan), research on the matters related to the functions of the holding company, such as corporate accounting, corporate finance, corporate personnel and labor relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon.

5. Party B agrees to provide Party A from time to time, as and when requested by Party A, with economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory (i.e. India or any other mutually agreed territory) as Party A may from time to time request. In the event Party A should require more detailed information than that so provided by Party B, Party B shall exert its best efforts to obtain such further or more detailed information.

6. At such time and from time to time, as and when representatives of Party A, or its related business circles or customers visit the Territory and Party A so requests, Party B shall provide necessary assistance in liasoning and coordinating activities (including interpreting) to such representatives.

7. From time to time, as and when requested by Party A, Party B shall make market surveys of the Products in the Territory and report the results thereof to Party A.

8. Party B shall perform services, as directed by Party A, resulting from the assignments pursuant to paragraph 4 through 7 of this Agreement, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters.*

We also add here that Agreement for Modification of Services Agreement dated 5th January 2017 in no way alter the essence of services agreement date 1st March, 2013. Basis the terms of the contract aforesaid, we examine the claims made by the applicant,



whether the provision of services constitute intermediary as defined under section 2(13) of the IGST Act. The said definition is reproduced here under:

"2(13) 'intermediary' means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account".

The concept of intermediary under the GST Act is substantially identical to the concept of intermediary under the erst while service tax regime. This concept has been explained in the Education Guide issued by CBEC in the year 2012 as under:

In order to determine whether a person is acting as an intermediary or not, following factors need to be considered:

Nature and value: An intermediary cannot alter the nature or value of the service, the supply of which he facilitates on behalf of his principal, although the principal may authorize the intermediary to negotiate a different price. Also, the principal must know the exact value at which the service is supplied (or obtained) on his behalf, and any discounts that the intermediary obtains must be passed back to the principal.

Separation of value: The value of an intermediary's service is invariably identifiable from the main supply of service that he is arranging. It can be based on an agreed percentage of the sale or purchase price. Generally, the amount charged by an agent from his principal is referred to as "commission".

Identity and title: The service provided by the intermediary on behalf of the principal is clearly identifiable.

In accordance with the above guiding principles, services provided by the following persons will qualify as 'intermediary services':-

- (i) Travel Agent (any mode of travel)
- (ii) Tour Operator
- (iii) Commission agent for a service [an agent for buying or selling of goods is excluded]
- (iv) Recovery Agent

Even in other cases, wherever a provider of any service acts as an intermediary for another person, as identified by the guiding principles outlined above, this rule will apply. Normally, it is expected that the intermediary or agent would have documentary evidence authorizing him to act on behalf of the provider of the 'main service'.

Illustration

A freight forwarder arranges for export and import shipments. There could be two possible situations here- one when he acts on his own account, and the other, when he acts as an intermediary.

When he acts on his own account (say, for an export shipment)

A freight forwarder provides domestic transportation within taxable territory (say, from the exporter's factory located in Pune to Mumbai port) as well as international freight service (say, from Mumbai port to the international destination), under a single contract, on his own account (i.e. he buys-in and sells freight transport as a principal), and charges a consolidated amount to the exporter. This is a service of transportation of goods for which the place of supply is the destination of goods. Since the destination of goods is outside taxable territory, this service will not attract service tax. Here, it is presumed that ancillary freight services (i.e. services ancillary to transportation- loading, unloading, handling etc.) are "bundled" with the principal service owing to a single contract or a single price (consideration).

On an import shipment with similar conditions, the place of supply will be in the taxable territory, and so service tax will be attracted.

When he acts as an intermediary

Where the freight forwarder acts as an intermediary, the place of provision will be his location. Service tax will be payable on the services provided by him. However, when he provides a service to an exporter of goods, the exporter can claim refund of service tax paid under notification for this purpose.

Similarly, persons such as call centers, who provide services to their clients by dealing with the customers of the client on the client's behalf, but actually provided these services on their own account, will not be categorized as intermediaries.

In simple term intermediary means a person who acts to arrange an agreement between two or more persons as a mediator or a link.

In the present case as per services agreement, applicant has undertaken following activities namely -

1. Research on the matters related to the functions of the holding company, such as corporate accounting, corporate finance, corporate personnel and labor relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon.
2. To provide with economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory.
3. To provide necessary assistance in liasoning and coordinating activities (including interpreting) to such representatives.
4. To make market surveys of the Products in the Territory and report the results thereof to Party A.
5. All other related services pertaining to above services including, but not limited to, those services with regard to finance, accounting, and patent and legal matters.




We clearly find from the scrutiny of clause 15 of the Services Agreement that the relationship between the parties is that of independent contractors meaning that the agreement does not intend to create relationship of principal and agent. The applicant shall not represent itself to be agent of party A and vice-versa. Further applicant have no authority to conclude or negotiate any contracts or secure any orders or maintain any stock of goods on behalf of Party A in this case. On the contrary applicant would provide service on own account to party A to improve functioning of holding company and further augment its business vis a vis sale of all products manufactured and or sold or to be manufactured and or sold in India territory. Thus we find that applicant is not a person who arranges or facilitate supply of services between two or more persons.

Thus applying the test mentioned in the Education Guide to the facts of the case we can safely conclude that the proposed service would not fall to be classified as 'intermediary service'.

As a corollary of this finding, we shall now move on to decide whether the services supplied by the applicant constitute composite supply and categories as 'support services'?

Applicant has strongly relied on the definition of composite supply as defined under section 2(30) of the GST, the Education Guide-2012 and the decision of ARA in case of Godday India Web Services Pvt. Ltd. [2016 (46) 806 (AAR)] to submit that the supply of services as evidenced by the Services Agreement constitute composite supply with the Marketing Services as principal supply. The expression 'Composite Supply' has been defined under GST Act, as below



(30) "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"

Under the GST Act, a composite supply would mean a supply 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. We find that applicant proposes to provide more than two taxable supplies to the recipient. In respect of supply which consist of more than two taxable supplies and to fall within the ambit of composite supply, it will be necessary for us to determine whether a particular supply is naturally bundled in the ordinary course of business and what constitutes principal supply. The concept of composite supply as adopted from erstwhile service tax regime has been explained in the Education Guide - 2012 as under:

9.2.4 Manner of determining if the services are bundled in the ordinary course of business -

Whether services are bundled in the ordinary course of business would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and

frequent practices adopted in a business can be ascertained from several indicators some of which are listed below -

The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package then such a package could be treated as naturally bundled in the ordinary course of business.

Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.

The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. For example service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

Other illustrative indicators, not determinative but indicative of bundling of services in ordinary course of business are -

There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.

The elements are normally advertised as a package.

The different elements are not available separately.

The different elements are integral to one overall supply - if one or more is removed, the nature of the supply would be affected.

No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above.

In the present case from the Services Agreement we find that applicant proposes to provide two different categories of services which are as below:

- A) Research on the functioning of the company : Services pertaining to *research on the matters related to the functions of the holding company* such as - *corporate accounting, corporate finance,*

corporate personnel and labour relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon

B) Information on the markets in the territory: Services pertaining to information on the markets in the territory includes –

i) Economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory.

ii) To provide necessary assistance in business activities (including interpreting) to such representatives.

iii) To undertake market surveys of the Products in the Territory and report the results thereof to Party

iv) Ancillary services to all above services, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters."

Apply above test to the facts of the present case, we find that applicant proposes to provide distinct category of services namely

A. Services pertaining to research on the matters related to the functions of the holding company such as – *corporate accounting, corporate finance, corporate personnel and labour relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon and*

B. Services pertaining to information on the markets in the territory includes –

i) Economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory.

ii) To provide necessary assistance in business activities (including interpreting) to such representatives.

iii) To undertake market surveys of the Products in the Territory and report the results thereof to Party

iv) Ancillary services to all above services, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters."

From the nature of services it is evident that these services are not interdependent but could be provided as standalone services. In as much as we can say that applicant proposes to provide two distinct category of supplies. And as such services provided by this agreement can not constitute 'composite supply' as defined under the GST Act. However, we observe that services mentioned at (i) (ii), (iii), (iv) of category B above constitute composite supply among them as these services are clearly independent where the market survey gives bouquet of services its essential character. For the above inference we find support from the agreement itself as party A require two different kinds of services as is evident from the agreement as below:

Whereas party A may from time to time desire or require related information concerning the functions of the holding company and information on the markets in the territory (as defined in paragraph 2 for all the products manufactured by the subsidiary.

The next submission of the applicant is that the services provided under the Service Agreement Merit classification as support services falling under HSN code 9985. We have gone through the rate notification no. 11/2017 -Central Tax (Rate) dated 28/06/2017 as amended along with Annexure: Scheme of classification of services. We reproduce below the entry as per classification of services to determine the most appropriate service tariff code:


Sr. no.	Chapter, section, heading or group	Service code (tariff)	Service description
296	Heading 9983		Other professional, technical and business services
297	Group 99831		Management consulting and management services; information technology services
298		998311	Management consulting and management services including financial, strategic, human resources, marketing, operations and supply chain management
299		998312	Business consulting services including public relations services
300		998313	Information technology consulting and support services
301		998314	Information technology design and development services
302		998315	Hosting and information technology infrastructure provisioning services
303		998316	Information technology infrastructure and network management services
		998319	Other information technology services nowhere else classified



Sr. no.	Chapter, section, heading or group	Service code (tariff)	Service description
356	Group 99839		Other professional, technical and business services
357		998391	Specialty design services including interior design, fashion design, industrial design and other specialty design services
358		998392	Design originals
359		998393	Scientific and technical consulting services
360		998394	Original compilations of facts or information
361		998395	Translation and interpretation services
362		998396	Trademarks and franchises
363		998397	Sponsorship services and brand promotion services
364		998399	Other professional, technical and business services nowhere else classified

Sr. no.	Chapter, section, heading or group	Service code (tariff)	Service description
345	Group 99837		Market research and public opinion polling services
346		998371	Market research services
347		998372	Public opinion polling services

Sr. no.	Chapter, section, heading or group	Service code (tariff)	Service description
444	Group 99859		Other support services
445		998591	Credit reporting and rating services
446		998592	Collection agency services
447		998593	Telephone-based support services
448		998594	Combined office administrative services
449		998595	Specialised office support services such as duplicating services, mailing services, document preparation and the like
450		998596	Events, exhibitions, conventions and trade shows organisation and assistance services
451		998597	Landscape care and maintenance services
452		998598	Other information services nowhere else classified
453		998599	Other support services nowhere else classified



From the detailed examination of above table we find that the services provided by the applicant in the nature of Research on the matter related to functioning of the holding of company such as - *corporate accounting, corporate finance, corporate personnel and labour relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon* would fall under service code tariff 998599 as other support services nowhere elsewhere classified.

Further the services provided by the applicant in the nature of Information on Market in the territory which includes - *Economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory, To provide necessary assistance in business activities (including interpreting) to such representatives, To undertake market surveys of the Products in the Territory and report the results thereof to Party and Ancillary services to all above services, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters* would fall under service code tariff 99837 with service description market research services.

Question: - 2. Whether the service supplied by the Applicant under the Marketing Services Agreement dated 1 December 2012 constitute a supply of "Support services" falling under HSN code 9985 or "Intermediary service" classifiable under HSN code 9961 / 9962?

Applicant entered into 'Marketing Service Agreement' dated 1st December 2012 with Bioprocess Division of Asahi Kasei Medical Co. Japan (in short AM). As per the preamble the services are proposed to be provided with the sole intention to develop/argument sales of bioprocess consumables and for that purpose AM desires to secure market support services offered by the Applicant. Applicant proposes to provide services which shall comprise of following activities.

- "a) Conducting market surveys and providing the service recipient with the information on Indian market trends and features so as to assist in determining the nature and scope of the Indian market potential;*
- b) Assisting the service recipient in the adaptation and implementation of its advertising policy;*
- c) Assisting the service recipient in conducting sales prospection through participation in industry events such as scientific gatherings, exhibitions, trade shows and the like;*
- d) Liaising with Customers and potential Customers and to collect their product development plans and strategy and "road-maps", as well as their product specifications, and reporting the same to the service recipient the information obtained through such interactions;*
- e) Providing any feedback to the service recipient that would help improve the service recipient's marketing; Facilitating the service recipient in arrangement of discussions and provision of interpretation services and cross culture advice; for the sake of clarity, neither AKI (i.e. the Applicant) nor any of its representatives shall have any authority to conduct negotiations on behalf of the service recipient;*
- f) Connecting Customers with representatives of the service recipient for the purpose of obtaining orders and establishing and maintaining close commercial relationships between service recipient and customers;*
- g) Providing staff of the service recipient or its customers visiting the territory with such assistance as may be reasonably requested by them, including but not limited to providing information, guide, escort and interpreting services during Customers visits; for the sake of clarity, the premises of AKI will not be the premises of the service recipient and the same shall not be made available to employees or other personnel of service recipient who may visit India;*
- h) Providing information on products and its functioning or similar such services to service recipient's customers and notifying service recipient of any consumer complaints;*
- i) Monitoring regulatory developments (including, where possible, establishing and maintaining contact with regulatory agencies) and reporting the same to the service recipient; and*
- j) Any other assistance in the context of the above, regarding service recipient's marketing activities that may be reasonably requested by service recipient after the effective date in writing to AKI."*

Basis the above terms of the agreement, applicant desire to know whether the services as envisaged by the agreement constitute 'support services' or 'intermediary services. Applicant submits that service activities as enumerated above shall be conducted at and under the explicit direction of AM in order to develop/argument sales of Bioprocess consumable in the India



territory. Applicant submits that as per the marketing service Agreement the relationship between the applicant and AM is that of independent contractors and not intended to create between parties a relationship of principal and agent. By this agreement applicant shall not carry out any act that will be binding on AM, such as conclusion of contracts, acceptance of sales order, invoicing, determination of sales prices, rebates or discounts, resolution of customers complaints or settlement or disputes with the customers. On this factual matrix we discuss whether the provision of services constitute 'intermediary' as defined under section 2(16) of IGST Act. The definition is already reproduced in preceding para of this ruling.

The concept of intermediary under the GST Act is substantially identical to the concept of intermediary under the erst while service tax regime. This concept has been explained in the Education Guide issued by CBEC in the year 2012 which we have already reproduced in this ruling.

We find from the scrutiny of Marketing Services Agreement that the relationship between the parties is that of independent contractors meaning that the agreement does not intend to create relationship of principal and agent. The applicant in no way carries out activities such as conclusion of contracts, acceptance of sales orders, invoicing, determination of sales prices, rebate, discounts, resolution of customers complaints, or settlement of disputes with customers. On the contrary applicant would provide services on his own account to AM to agument their business Vis a Vis sale of bioprocess consumables in India territory.

Thus applying above test to the facts of the case we conclude that the proposed service would not fall to be classified as 'intermediary service'.

As a corollary of this finding, we shall now move on to decide whether the services supplied by the applicant constitute supply of 'support services'.

On this issue applicant reiterated the argument made in the first question.

Applicant strongly relied on the definition of composite supply as defined under section 2(30) of the GST, the Education Guide-2012 and the decision of ARA in case of Godaddy India Web Services Pvt. Ltd. [2016 (46) 806 (AAR) to submit that the supply of services as evidenced by the Marketing Services Agreement Constitute composite supply with Marketing Services as principal supply. The expression 'Composite Supply' has been defined under GST Act, which we have already reproduced in the preceding paras.

Under the GST Act, a composite supply would mean a supply 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. We find that applicant proposes more than two taxable supplies to the recipient. In respect of supply which consists of more than two taxable supplies and to fall within the ambit of composite supply, it will be necessary to determine whether a particular



supply is naturally bundled in the ordinary course of business and what constitutes principal supply. The concept of composite supply has been explained in the Education Guide - 2012 which has been reproduced in the preceding paras.

Applying the test as per Education Guide to the facts of the present case, we find that bouquet of services proposed to be provided would constitute as a package for single consideration. Further we find from nature of services that applicant's role in respect of adoption and implementation of AM's advertising policy, conducting sales promotion through exhibition trade, liaising with customer etc. is in the nature of assistance to AM in conducting said activities and not actual provision of services on his own account. In view of this the applicant's case is squarely covered by the decision in case of M/s. Godaddy cited supra with Marketing Research as the principal supply. This finding of ours is based on the observation that conducting market survey and information on Indian market trends are main services that determine the nature and scope of Indian Market Potential for recipient of services.

With regards to the classification of services under the rate notification 11/2017 as amended from time to time, and the annexure of classification of services we find following entries that are relevant for the present purpose.

Sr. no.	Chapter, section, heading or group	Service code (tariff)	Service description
345	Group 99837		Market research and public opinion polling services
346		998371	Market research services
347		998372	Public opinion polling services

From the perusal of above table and the findings by us as above, we hold that the services the applicant proposes to provide would fall under Group 99837 as Market Research Services.

Question: - 3. Whether the services provided by the Applicant is an export of services as defined under Section 2(6) of the Integrated Goods and Services Tax Act 2017?

The expression export of services has been defined under the GST Act as below:

"(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; and
- (v) The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation in Section 8;

We find from the details as given in the application and submissions before us, record, that supplier of service i.e. applicant is located in India, the recipient of service i.e. AM is located outside India -Japan; payment is received in convertible foreign exchange, the supplier of service and the recipient of service are not merely establishment of a distinct person and applicant not being an intermediary and services are not specified in sub-section (3) to (13) of section 13, the place of supply of service would be the location of the recipient of services i.e. AM Japan, which is outside India. As the applicant satisfies all the ingredients of 'export of services' the service provided by the 'Marketing Services Agreement' would qualify as an export of taxable service.

05. 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- 35/2018-19/B- 108 Mumbai, dt. 05/09/2018

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

Question:-1. Whether the service supplied by the Applicant under the Service Agreement dated 1 March 2013 constitute a supply of 'Support services' falling under HSN code 9985 "Intermediary service" classifiable under HSN code 9961/9962?

Answer (i) The services provided by the applicant in the nature of Research on the matter related to functioning of the holding of company such as - corporate accounting, corporate finance, corporate personnel and labour relations, corporate research and development, quality assurance and corporate intellectual property, and provide Party A with its report of the research thereon would fall under service code tariff 99859 as other support services nowhere elsewhere classified.

(ii) The services provided by the applicant in the nature of Information on Market in the territory which includes - Economic, industrial and technical information on the products falling under the category of the Products and their markets, trends and outlook together with similar information concerning such other industries in the Territory, To provide necessary assistance in business activities (including interpreting) to such representatives, To undertake market surveys of the Products in the Territory and report the results thereof to Party and Ancillary services to all above services, including, but not limited to, those services with regard to finance, accounting, and patent and legal matters would fall under service code tariff 99837 with service description market research services.

Question: - 2. Whether the service supplied by the Applicant under the Marketing Services Agreement dated 1 December 2012 constitute a supply of "Support services" falling



under HSN code 9985 or "Intermediary service" classifiable under HSN code 9961 / 9962?

Answer: - The services supplied by the applicant under the Marketing Services Agreement would fall under Group 99837 as Market Research Services.

Question: - 3. Whether the services provided by the Applicant is an export of services as defined under Section 2(6) of the Integrated Goods and Services Tax Act 2017?

Answer: - Answered in the affirmative in view of the facts of the present case as per discussion held herein above.



—sd—
B. V. BORHADE
(MEMBER)

—sd—
PANKAJ KUMAR
(MEMBER)

CERTIFIED TRUE COPY

Copy to:-

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


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.