

AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI -600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Ms. Manasa Gangotri Kata, I.R.S., Additional Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai -34
And
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A.,
Joint Commissioner (ST) / Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 13/AAR/2020 DATED: 27.02.2020

GSTIN Number, if any / User id		33AEQPJ1796L1ZX
Legal Name of Applicant		Venbakkam Commandur Janardhanan, Propreitor M/s Law Weekly Journal
Registered Address/Address provided while obtaining user id		No.3, South Mada Street, Mylapore, Chennai-600004
Details of Application		GST ARA-01 Applications Sl. No. 11/2019 dated 15.03.2019
Concerned Officer		State: The Assistant Commissioner(ST), Mandaiveli Assessment Circle. Centre: Chennai North Commissionerate- Division - Mylapore
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service provision
B	Description (in Brief)	The Applicant supply printed law journals and DVD's of law journal.
Issue/s on which Advance Ruling required		Applicability of Notification
Question(s) on which Advance Ruling is required		1. Whether the assessee/dealer which publishes law journals in print and sells the same content that is in books in an electronic form in DVD's/CD's with a software to search and read it in computers and hand held devices come under the category of 'E-book', so that it can avail the benefit of notification dated 26.07.2018 in respect of E-book? 2. Whether the liability on the sale of DVD/pen drive which contains printed version of law citations can be adjusted against the available ITC? 3. Whether the liability on sale of e-book of printed version of law citation can be adjusted against the

	<p>available ITC? 4. Whether the balance of ITC after adjustment accrued on the purchase of paper and other material can be reversed while filing GSTR 9?</p>
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Note : Any Appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

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

Venbakkam Commandur Janardhanan, Proprietor M/s Law Weekly Journal, No.3, South Mada Street, Mylapore, Chennai-600004, (hereinafter called the Applicant) is engaged in supply of printed law journals and DVD's of law journal. They are Registered under GST with GSTIN33AEQPJ1796L1ZX. They have preferred an Applications seeking Advance Ruling on the following questions:

1. Whether the assessee/dealer which publishes law journals in print and sells the same content that is in books in an electronic form in DVD's/CD's with a software to search and read it in computers and hand held devices come under the category of E Book, so that it can avail the benefit of notification dated 26.07.2018 in respect of E-book?
2. Whether the liability on the sale of DVD/pen drive which contains printed version of law citations can be adjusted against the available ITC?
3. Whether the liability on sale of e-book of printed version of law citation can be adjusted against the available ITC?
4. Whether the balance of ITC after adjustment accrued on the purchase of paper and other material can be reversed while filing GSTR 9?

The Applicant has submitted the copy of application in Form GST ARA – 01 and also submitted the copy of Challans evidencing payment of Application Fees of Rs.5,000 per application - each under Sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2. The Applicant has stated that the Law Weekly (established in 1914) is a Law Journal reporting judgments of the Madras High Court and Supreme Court of India and is cited by the Lawyers and the judges in the form of Citations in courts across the state. They have stated that they were registered dealer under the erstwhile Tamil Nadu General Sales Tax Act and Tamil Nadu Value Added tax Act. The applicant supplies printed journals/books every week and the same is also sold in electronic form in DVDs/CDs with a pen drive as security lock with software to use it as an application in computers and hand held electronic devices to search and retrieve judgments. It is also available on their website www.thelawweekly.com , They have stated that due to development in technology they supply e book of the printed version to their customers at their request. They have also stated that on supply of printed books/journals they have not collected any GST as it is exempt. However, for the supply of DVDs/CDs and pen drives they paid GST at the rate of 18% and subsequent to the issue of notification 13/2018 Central Tax(rate) dated 26.07.2018 the applicant has sought Advance ruling on the applicability of the above said notification for the supply of the electronic form of DVDs/CDs supplied by them. The applicant has also stated that they have entrusted the job of developing the e-book with software to M/s Sofist India and have paid the GST for the services rendered by them. They have also claimed input tax for the purchase of paper, ink, CD, Pen drive and other connected materials. They also stated that they have sufficient credit in their electronic ledger and their liability is being adjusted every month against the credit. In view of the above facts, the applicant has sought Advance ruling for the questions mentioned in para 1 supra.

3. The Applicant was granted personal hearing and heard on 23.07.2019 in respect of application. The authorized representative stated that they have 3 print journals (2 weekly and one monthly). They have a DVD desktop version which is supplied with DVDs and a dongle. First time, the DVD can be used to install a proprietary software. Once installed the software "**The Law weekly**" can be used to access searchable database which is valid for 1 year subscription and updates are provided weekly, when the user connects to internet. The renewal is charged separately after one year without needing any more supply of DVDs etc. They also supply an online view of it available on the law weekly.com with access through user id and password without any limitation on the number of devices. They supply this as "Law Weekly Online" and it is available for one year. They stated that their books/magazines are available on electronic format to the customers through the

use of their proprietary software, hence they are e-book and eligible for Notification No.13/2018 Sl.No.22(i). They submitted brochure, invoice, input invoices. They undertook to submit terms & conditions given as insert and screenshots of installation, screen shot of terms & conditions of above version and of the home page/main page within 2weeks.

3.1 Further to the hearing held on 23.07.2019, the applicant submitted the Screen shots of installation of DVD, Screen shot of terms & Condition for the same.

4. The applicant is under the administrative control of State GST and the State Jurisdictional Officer has furnished the comments on the questions raised by the applicant in the ARA application which is given below :

Sl. No	Dealer Query	Remarks
1	The publishers law journals in printed and sells the same content that is the books in an electronic form in DVDs/CDs with a software to search and read it in computers and hand held. devices come under the category of "E" Book.	Yes. As per notification No.13 Central Tax(Rate) dated 26.07.2018
2	whether the liability on the sale of DVD/ Pen drive which contains printed version of law citations can be adjusted against the available ITC?	Yes
3	Whether the liability on the sale of e-book of printed version of law citation can be adjusted to the available ITC	Yes. But the dealer had stated that they have availed ITC for paper and ink for printed books which are exempted. Hence, the relevant ITC should be reversed as per section 17(2) of TNGST Act 2017
4	Whether the balance of ITC after adjustment accrued on the purchase of paper and other material can be reversed while filing GSTR 9?	Should be reversed at every month or if it is reversed while filing in GSTR & interest must be paid by the dealer.

5. We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearings and the comments furnished by the State Jurisdictional Officer. The questions raised by the applicant and to be decided are as follows:

1. Whether the assessee/dealer which publishes law journals in print and sells the same content that is in books in an electronic form in DVD's/CD's with a software to search and read it in computers and hand held devices come under the category of E Book, so that it can avail the benefit of notification dated 26.07.2018 in respect of E-book?
2. Whether the liability on the sale of DVD/pen drive which contains printed version of law citations can be adjusted against the available ITC?
3. Whether the liability on sale of e-book of printed version of law citation can be adjusted against the available ITC?
4. Whether the balance of ITC after adjustment accrued on the purchase of paper and other material can be reversed while filing GSTR 9?

Section 97(2) of the CGST Act / Tamil Nadu GST Act (TNGST) gives the scope of Advance Ruling Authority, i.e., the question on which the Advance Ruling can be sought. For ease of reference, the section is reproduced as under:

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

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

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

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

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

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

(f) whether applicant is required to be registered;

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

The Act limits the Advance Ruling Authority to decide the issues earmarked for it under Section 97(2) and no other issue can be decided by the Advance Ruling Authority. Of the above questions on which ruling is sought by the applicant, the question at (2) and (3) relates to utilization of credit availed by the applicant and Q.No. 4 is on reversal of credit availed, which do not fall under any of the category specified under Section 97(2) of the Act and therefore are not within the ambit of this authority. The ruling is offered on the First Question as the same is within the ambit of this authority.

6.1 The applicant in their submissions has stated that they sell printed Journals/books and the same is sold in Electronic form in DVDs/CDs with a Dongle as security lock with software to use it as an application in computers and hand held electronic devices. It is also stated that when they sold DVDs/CDs and pen drives, they have paid tax at 9% CGST and 9% SGST. By notification No. 13/2018-C.T.(Rate) dated 26.07.2018 the rate of tax on e-book is reduced to 2.5% CGST and 2.5% SGST effective from 27.07.2018. The applicant has sought ruling on whether the DVDs/CDs with software to search and read it in computers come under the category of E-book and thereby eligible to avail the benefit of Notification in respect of 'E-book'.

6.2 In the case at hand, the applicant has stated that the printed law journals/books/periodicals are sold in electronic form of DVDs/CDs with a Dongle as a security lock with proprietary software, the updates for which are supplied online when the customer connects to internet. The initial supply is with a subscription for a period of 1 year, the renewal of which do not require any more supply of DVDs/ CDs but done on payment of subscription for the further period. The applicant furnished a brochure of the products. It is seen from the brochure that 'The Law Weekly Desktop 1.0' is the product under consideration wherein the initial supply is made in the form of DVD/CD along with a dongle and it says 'The complete library of The Law Weekly at your fingertips' and the following features are listed to contained in the same-

- Full text search on catchwords, headnote & Judgments published from 1914 to date including phrase search and searches with Boolean Operators for added precision;
- search by Case Citation, Case name, Acts and Sections, Courts, range of judgment dates, Case number;
- Print out of the Original Page which can be produced before any court;
- Updates online every week.

Further, from the Invoice 0055/18-19 dated January 2 2019 it is seen that the description is 'The Law Weekly DVD New' and charged at Rs. 15000 and GST charged @18%; invoice no 0071/18-19 dated March 12, 2019 it is seen that the description is 'The Law Weekly DVD renewal' and charged as Rs.4500/- and GST charged @ 18%. From the screen shots on the setup furnished, it is seen that the DVD contains an executable file (setup) . On opening the said file, 'The Law Weekly Desktop Setup Wizard' opens to install the application 'The Law Weekly

Desktop'. The user has to accept "End User License Agreement for licensing of The Law Weekly DVD version with online update'. On accepting the same, the software 'The Law Weekly Desktop' is installed in the hard drive of the desktop/system. To use this software, the user has to open the application while inserting the dongle are inserted in the desktop. Further the screen shots on the weekly updates shows the last release updated, last downloaded date and description: Activating product details using dongle fixed. It is seen that the software gives the user option to search various Acts, case laws on Criminal Law, Cr.P.C., I.P.C., Evidence Act, etc hitherto published in the journal. The software is updated with new content, updates of cases when connected to internet. Thus, it is seen that the DVD in effect contain software which requires an End User License Agreement to be accepted by the user. The DVD is not an electronic version of the print journals. If it was an electronic version of the print journals, the DVD would have machine readable files in any format such as .doc, .txt, .pdf or any other readable files and not the executable file (setup application) which it has. The Dongle acts as a key and has some software installed on it which allows the application to be used and updates installed.

6.3 When the applicant supplies the DVDs/CDs with Dongle, the supply consists of (1) supply of DVDs/CDs and Dongle and (2) 'The Law Weekly Desktop' Software application loaded onto the DVD/CD and proprietary software the Dongle. The software comes with End User Licence with weekly updates online during the period of subscription. Thus the supply of DVDs/CDs & dongle with access for an initial subscription period is a composite supply involving supply of DVD/CD & Dongle and the loaded software (Goods) along with license to use the same for a limited period (service).

Section 2(30) of CGST Act, states that

"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.

Applying the above to the case at hand, we find the supply of DVD/CD & Dongle loaded with The Law weekly Desktop Software is an optical media loaded with software and the licence to use the software during the subscription period is a supply of service made along with the principal supply of goods in the said

'Composite Supply'. The DVD/CD & Dongle being 'Storage Devices' containing the software is the principal supply.

CTH 8523 of Customs Tariff states:

8523 Discs, tapes, solid-state non-volatile storage devices, "smart cards" and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs, but excluding products of chapter 37

- Optical media:

8523 80 --- Other:

8523 80 20 --- Information technology software

SUPPLEMENTARY NOTE to Chapter 85 states:

For the purposes of heading 8523, "Information Technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of an automatic data processing machine.

The supply of DVD/CDs with the loaded 'The Law Weekly Desktop' Software along with its end user license by the applicant is a supply of goods classifiable under CTH 85238020.

6.4 The issue raised by the applicant is whether the supply of DVDs/CDs with a Dongle falls under the definition of 'E-book' defined under the Notification No. 13/2018-C.T.(Rate) dated 26.07.2018 which amends the Notification No. 11/2017-C.T.(Rate) dated 28.06.2017. The said entry is given below, for ease of reference:

(1)	(2)	(3)	(4)	(5)
22	Heading 9984 (Telecommunications, broadcasting and information supply services)	(i) Supply consisting only of e-book. Explanation.- For the purposes of this notification, "e-books" means an electronic version of a printed book (falling under tariff item 4901 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)) supplied online which can be read on a computer or a hand held device.	2.5	-

Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 provides the applicable rates for various services. As per the Explanation given in the above entry, 'e-books' are electronic version of a printed book falling under the tariff item 4901 and supplied online which can be read on a computer or a hand held device, while in the case at hand, the contents supplied in the form of DVD/CD is a software which is used to access content containing the judgments of various fora, case laws Acts, etc which provides for searching using a particular case number/period/act/court or a combination of the above . The DVD/CDs do not contain electronic versions of the journals but an executable software application and therefore do not fall under the explanation of 'e-book' given in the said entry. Furthermore, in the case at hand as held in para 6.3 above, the initial supply of DVD/CD[8523] is supply of goods and hence the Notification do not have any application.

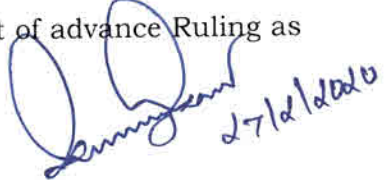
6.5 The applicant during personal hearing has stated that the renewal is charged separately without needing any more supply of DVDs etc and also they supply an online version of it which is available on their website with access through user id- password for specific periods. The user with the password can access the database of all the case laws, judgment etc with search criteria that they can specify including the specific journal numbers etc. Supply of this access to the online database on their website is a supply of service classifiable under SAC 998431 On-line text based information such as on-line books, on-line newspapers and periodicals, on-line directories and mailing lists. As already brought out in para supra, e-book as per the explanation given in the notification itself are those books which are digitalized into a single machine readable file in any format such as .doc, .txt, .pdf etc and read on a computer or a hand held device through some specific software. In the case at hand, the supply involves access to an on-line database hosted on the website of the applicant. Thus, it is evident that the above are not 'e-books' but supply of access to an online database online text based information [SAC 998431] and therefore the entry at Sl.No. 22 of the Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 is not applicable to the case at hand.

7. In view of the foregoing, we rule as under:

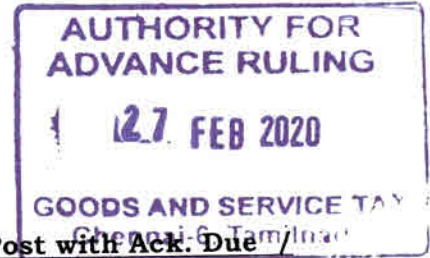
RULING

1. The supply of DVDs/CDs with 'The Law Weekly Desktop' software along with end user license and the supply of access to the on-line database on the applicant's website are not eligible to avail the benefit of entry at SI.No. 22 of Notification No. 13/2018-C.T.(Rate) dated 26.07.2018 notification dated 26.07.2018.
2. Q.No. 2, 3 and 4 are not answered as not in the ambit of advance Ruling as stated in Para 5 above.


Ms. Manasa Gangotri Kata,
Member, CGST


Shri Kurinji Selvaan.V.S.
Member, TNGST

To
Venbakkam Commandur Janardhanan,
(Propreitor M/s Law Weekly Journal)
No.3, South Mada Street, Mylapore,
Chennai-600004



Copy Submitted to:

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26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Commissioner of GST & Central Excise,
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5. Master File/ Spare