

Tax Hotline

December 22, 2005

SALE OF ADVERTISEMENT SPACE ON WEB HELD LIABLE TO SERVICE TAX

The Authority for Advance Ruling ("AAR") for Service Tax has held last week that Google Online India Pvt Ltd, ("Google India"), a wholly owned subsidiary of the United States based Google International LLC, would be liable to pay service tax on selling advertisement space to Indian entities in its search site. This can set a precedent for search engines with offices in India falling within the ambit of this tax.

Google India had approached the AAR - Service Tax to determine whether providing selling space for advertisement on the website would be exempt from service tax or fall within the meaning of "advertisement service", "computer network service", "business auxiliary service" or any other taxable service.

Google India had argued that it did not provide any service involving making and display of advertisements but merely engaged in space-selling activity on Google India's own website and other websites with which it had entered into a syndication agreement. However, the Commissionerate of service tax pointed out that the definition of advertisement space was wide enough to include providing of advertisement service on the Internet by the applicant. Even mere providing or selling of space for advertisement is itself a service connected with display or exhibition of advertisements and hence will fall within the tax net as advertisement service.

The AAR analyzed the activities of Google India and held that the activity of selling space on the website would tantamount to providing a service to advertisers and clients and thus, would be covered by the definition of "advertising agency". The AAR pointed out that the finance ministry, in 1996, had made it clear in the context of "advertising agency" definition that the scope of the service which is included in the tax net extends not only to any service connected with the making and preparation of advertisements but also includes services connected with display or exhibition of advertisements.

It should be noted that a ruling of the AAR is only binding on the applicant- Google India and the Service Tax Department. Though it does not set a precedent, it would have persuasive value in similar circumstances.

-Daksha Baxi & Roshni Shankar

Source: Business Standard, December 22, 2005

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