

GOVERNMENT OF ODISHA
FINANCE DEPARTMENT

Memo. No. FIN-CT1-TAX-0052-2023- 978 dated the 9th January, 2024

To

All Departments of Government
All Heads of Department

Sub: Drafting of service agreement with respect to Supply of Services in Advertising sector and determination of Place of Supply (PoS) under GST regime.

Madam/Sir,

Levy of GST on a particular supply depends on the location of supplier, the recipient of such good/services or both and the place of supply. The location of the "Supplier of services" and "Place of Supply of Services (PoS)" are the determinants for defining a supply as "Intra-State" or "Inter-State". When location of Supplier and Place of Supply are in the same state, then the supply is treated as "Intra-State" and when they are in different states, then the supply will be treated as "Inter-State". Accordingly, either IGST or SGST/CGST is levied.

2. Different Government Departments/PSUs sometimes procure the services of Advertising companies or procure space or rights to use the space on the hoarding to advertise their products/services etc. Advertising companies in turn, may procure such space on hoardings/ bill boards erected and mounted on buildings/land in different States, from various suppliers ("vendors") for providing advertisement services to its clients.

3. The arrangement between the Advertising company and its vendors may be broadly divided in to two following categories.

Case (i). When there is a supply of space or supply of rights to use the space on the hoarding/ structure belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure.

Case (ii). When the Advertising company wants to display its advertisement on hoardings/ bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ billboards lies with the vendor who may own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the Advertising company is not occupying the space or the structure. Here there is no supply of space or supply of rights to use the space on the hoarding/structure belonging to vendor to the client/advertising company.

4. The place of supply of services in the above two scenario shall be determined as below:

Case (i). The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of IGST Act, 2017 i.e. the location where such hoarding/ structure is located. Accordingly, CGST/SGST will be leviable and SGST will flow to the state where the immovable property is located.

Case (ii). There may be cases where the Vendor provides advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on its structure possessed/taken on rent by itself at the specified location. Such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which the Place of Supply shall be determined in terms of Section 12(2) of IGST Act, 2017 i.e. as per the location of person/ recipient of such services. In this scenario, if any State Government entity/PSU is procuring such type of services from any company located/registered outside the State, IGST will be leviable. Accordingly, our State Government shall receive the share of IGST as per the provisions of GST Act.

5. It has come to notice that different Government Departments/PSUs are incurring expenditure on advertisement on hoardings/billboards located within or outside the State. Misinterpretation of the place of supply of advertising services provided to the State Government /Corporations would lead to outflow of the

State revenue. In order to protect the revenue due to the State, all subordinate offices under the control of respective Departments of Government may be advised to frame the agreement appropriately so that there is no outflow of State revenue.

Difficulties, if any, in the implementation of this circular may be brought to the notice of Finance Department.

Yours faithfully



Special Secretary to Government