

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

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Horizon Technologies

January 21, 2025

Compendium of Research Papers

January 11, 2025

FAQs on Setting Up of Offices in India

December 13, 2024

Research Articles

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

The Revolution Realized: Bitcoin's Triumph

December 05, 2024

Audio

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

Renewable Roadmap: Budget 2024 and Beyond - Part I

August 26, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

"Investment return is not enough" Nishith Desai with Nikunj Dalmia (ET Now) at FI18 event in Riyadh

October 31, 2024

Analysing SEBI's Consultation Paper

on Simplification of registration for
FPIs

September 26, 2024

Scope of judicial interference and
inquiry in an application for
appointment of arbitrator under the
(Indian) Arbitration and Conciliation
Act, 1996

September 22, 2024