

**THE AUTHORITY FOR ADVANCE RULINGS  
(Central Excise, Customs & Service Tax)  
NEW DELHI**

8<sup>th</sup> Day of January, 2016

**Ruling No. AAR/ST/01/2016 in**

**Application No. AAR/44/ST/22/2014**

**PRESENT**

**Justice V.S. Sirpurkar, Chairman  
Shri S.S. Rana, Member (Revenue)  
R.S.Shukla, Member (Law)**

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Name & address of the applicant : M/s. Creative Problem Solving India,  
Mumbai.

Commissioner concerned : Commissioner of Service Tax-VI,  
115, New Central Excise Bldg., M.K.  
Road, Opp. Church Gate Station,  
Mumbai -400020.

Present for the applicant : Shri Sunil Gupta, Advocate

Present for the Department : Shri Amresh Jain,  
Departmental Representative

**RULING**

The applicant herein has entered into a Memorandum of Understanding (MoU for short) with one foreign firm IDEAS (i.e. IDEAS Management Consultants, Oman). Under that Memorandum of Understanding (MoU for short), the applicant has agreed to become a Distributor of the books of various nature which will be supplied by IDEAS (i.e. IDEAS Management Consultants, Oman) and those books will be sold to the various purchasers in India. The question

which has been posed in the application is as to whether the service tax liability will be for an activity described as under:-

*“proposed IDEAS Oman will be selling educational books and printed manuals for onward sale to organizations in India via Creative Problem Solving India, Mumbai.”*

2. Shri Gupta, the learned representative of the applicant stresses on the wording of the proposed activity which is purely a selling activity. From the wording in Column No.3 of the application, it is clear that the applicant will be purchasing the books from IDEAS ( i.e. IDEAS Management Consultants, Oman) and will be further selling them to the Indian entities. There can be no doubt about this proposition, though Shri Jain raises a doubt on the basis of the objection raised by the concerned Commissioner. In our opinion, the concerned Commissioner had not read the application properly.

3. According to Shri Jain, the MoU also covers some other activity for which the payment is required to be made by the applicant to IDEAS. He stresses on Column No. 3 which is as under:-

*“**Workbooks.** To maintain quality controls, Authorized Distributor and will provide each attendee of each client with the approved Workbook/ manual and pay IDEAS the charges as agreed separately from time to time.”*

When a specific query was put to Shri Gupta on this behalf, it was given out that if there is some error somewhere in any book which is pointed out to the Distributor, who is the applicant he shall show that error to the IDEAS Management Consultants, Oman and the IDEAS may correct the same and if

any extra expenditure is required for this, the IDEAS may charge separately. Shri Jain, therefore, says that this amounts to 'service'. We do not agree. It is a simple transaction between the Distributor and IDEAS that if the Distributor comes to know about any error that shall be corrected and the extra expenditure required to be made by IDEAS would be reimbursed separately. We do not see any element of 'service' in this. Shri Jain also invites our attention to clause 4 of the Memorandum of Understanding (MoU for short) which says:

**"4. "Purchase of Products.**

- (i) Authorised Distributor shall pay IDEAS the Authorised Price plus shipping, handling, rush, and other charges reflected on the invoice within thirty (30) days of the IDEAS invoice date."

The clause is more than clear that the Distributor would have to bear apart from the price of the books, the shipping, handling, rush, and other charges. We do not see as to how this amounts to any 'service' particularly by IDEAS to the Distributor applicant. It is clear that the Distributor applicant has not asked any question about whether there is any service provided by IDEAS to the Distributor. The question is very simple and clear as to whether the sale of the books to the Indian entities involves any 'service' and would attract the service tax liability. The answer is clearly in negative. We, therefore, hold that this service does not entail and invite any liability for service tax. The question is answered accordingly and the application is disposed of.

Sd/-  
**(S.S. Rana)**  
**Member (R)**

Sd/-  
**(V.S. Sirpurkar)**  
**Chairman**

Sd/-  
**(R.S.Shukla)**  
**Member (L)**