


GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2018/16
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2017/AR/34)

Date : 23.8.2018

Name and address of the applicant	:	M/s. Edutest Solutions Private Limited (Previously known as Confisec Private Limited) C-1/39/14, Phase-3, GIDC Naroda, Naroda, Ahmedabad – 382 330
GSTIN of the applicant	:	24AAGCC5475Q2Z1
Date of application	:	20.12.2017
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) classification of goods and / or services or both;
Date of Personal Hearing	:	05.04.2018
Present for the applicant	:	Shri Priyam R. Shah

The applicant M/s. Edutest Solutions Private Limited (previously known as Confisec Private Limited) is engaged in business of confidential printing of educational test papers, which requires team of highly experienced and talented persons and maintenance of top secrecy, accuracy and timely delivery of the material is essential part of work. The applicant is doing printing of educational test papers for Secondary and Higher Secondary Education Boards of various states and also at the national level and for various education institutes.

2. The applicant submitted that as per its understanding, the product is covered by Section X Chapter 49 which covers 'Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans'. The applicant referred to entry at Sr. No. 119 of Notification No. 2/2017-Central Tax (Rate) dated 28.06.2017, as amended, which provides Nil rate for 'Printed books, including Braille books' of Chapter Heading 4901. The applicant also referred to entry at Sr. No. 201 of Schedule – I of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, as amended, which provides CGST Rate of 2.5% for 'Brochures, leaflets and similar printed matter, whether or not in single sheets' of Chapter Heading 4901.

3. The applicant submitted that its entire operations are in the education field, since it is doing printing of exam question papers for various Universities and Education Boards. All its clients are Government Bodies – both Central and State Governments. It is submitted that as per Chapter Heading 4901, Printing of Books attracts no GST since they have been given exemption in view of their contribution to the betterment of society through the field of education, applicant's work is also part of the same objective. It is

submitted that since exemption is given for printing of books, printing of question papers should also be exempted. The applicant has submitted that the printing of question paper is of secret / confidential nature therefore it should attract Nil rate / exempt from tax, otherwise disclosure of name of customer / buyer in Tax Invoice and providing details in GSTR 1 in certain cases would be contradictory to secrecy clause of agreement.

4. The applicant, vide letter dated 05.02.2018 further submitted that Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (tax free services) refers to Heading 9992 – Educational services, which includes pre-primary education services, primary education services, secondary education services, higher education services, specialized education services and also other education and training services and education support services. The applicant submitted that its services are covered at Sr. No. 66(b)(iv), which covers ‘Services provided to an educational institution, by way of, services relating to admission to, or conduct of examination by, such institution, upto higher secondary’. It is further submitted that the word ‘upto higher secondary’ have been omitted at aforesaid Sr. No. 66 vide Notification No. 2/2018-Central Tax (Rate) dated 25.01.2018. The applicant submitted that all services which it is providing to ‘educational institution’ as defined at Sr. No. (y) of definition provided in Notification No. 12/2017-Central Tax (Rate) are exempt services under GST law.

5. The applicant also referred to Sr. No. 27 of Notification No. 11/2017-Central Tax (Rate), as amended vide Notification No. 31/2017-Central Tax (Rate).

6. The applicant raised the following questions for advance ruling –

- (i) Whether activity of printing of question papers on behalf of educational institutions can be classified as activity of supply of goods or supply of services.
- (ii) If it is supply of services, referring to Sr. No. 27 of Notification 11/2017-CTR dtd : 28.06.2017 as amended by Notification 31/2017-CTR dtd.: 13.10.2017, then benefit of Sr. No. 66 of Notification 12/2017-CTR dtd. : 28.06.2017 is allowable, as amended by Notification No. 2/2017-CTR of 25.01.2018; or
- (iii) If it is supply of goods, then question paper printing should be treated as exempted goods at Sr. No. 119 of exempted list liable at Nil rate of tax under Chapter heading / subheading of 4901 10 10 of “Printed books including Braille books”, or

It should be covered by Schedule I at Sr. No. 201 liable to tax at 2.5% under “Brochures, leaflets and similar printed matter, whether or not in single sheets”.

7.1 The Central Goods and Services Tax and Central Excise Commissionerate, Ahmedabad North *inter-alia* informed that printed Question Paper are not covered under any of the Headings from 4901 to 4910, it is classifiable under Heading 4911 covering ‘Other printed matter, including printed pictures and photographs’, more specifically under HS Code 4911 99 90, with applicable GST Rate of 12% (6% + 6%).

7.2 The Central Goods and Services Tax and Central Excise Commissionerate, Ahmedabad North also referred to Sr. No. 27 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended, covering services falling under Heading 9989. In view of the above, it has been informed that the supply being made by the applicant may either be considered as supply of goods falling under HS Code 4911 9990, attracting 12% GST or be considered as supply of service covered under Heading / Service Code 9989, attracting 12% GST.

8. We have considered the submissions made by the applicant in their application for advance ruling, in additional submission as well as at the time of personal hearing and views of the Central Goods and Services Tax and Central Excise Commissionerate, Ahmedabad North.

9. The first issue to be decided in this case is whether activity of printing of test papers / question papers by the applicant for its clients (Secondary and Higher Secondary Education Boards of various states, other educational institutes and others) should be treated as supply of goods or supply of service.

10.1 The Government of India, Ministry of Finance, Department of Revenue, Tax Research Unit, vide Circular No. 11/11/2017-GST dated 20.10.2017, has issued clarification on taxability of printing contracts, as follows –

2. *In the above context, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.*

3. *Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.*

4. *In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.*

10.2 The manuscript material for printing the Question Papers relating to the examinations is supplied to the applicant by the Education Boards / Educational Institutes. The scope of work of the applicant relates to compose, typeset, print, pack, transport, unload and supply sealed Question Papers to the Education Board / Educational Institutes.

10.3 As the usage rights of the manuscript material of Question Papers (intangible inputs) are owned by the Education Boards / Educational Institutes and the physical inputs used for printing belong to the applicant, supply of printing is the principal supply in this case and the same would constitute supply of service falling under heading 9989 of the scheme of classification of services.

11. The next issue which arises for consideration is applicability of Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, or Sr. No. 27 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended, (and corresponding Notifications issued under the Gujarat Goods and Services Tax Act, 2017) to the aforesaid supply of service.

12.1 Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 read as follows -

(1)	(2)	(3)	(4)	(5)
<i>Sl. No.</i>	<i>Chapter, Section, Heading, Group or Service Code (Tariff)</i>	<i>Description of Services</i>	<i>Rate (per cent.)</i>	<i>Condition</i>
66	Heading 9992	<p><i>Services provided -</i></p> <p><i>(a) by an educational institution to its students, faculty and staff;</i></p> <p><i>(b) to an educational institution, by way of,-</i></p> <p><i>(i) transportation of students, faculty and staff;</i></p> <p><i>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</i></p> <p><i>(iii) security or cleaning or housekeeping services performed in such educational institution;</i></p> <p><i>(iv) services relating to admission to, or conduct of examination by, such institution; up to higher secondary;</i></p> <p><i>Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</i></p>	NIL	NIL

12.2 The said Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide clause (o) of Notification No. 2/2018-Central Tax

(Rate) dated 25.01.2018. After such amendment, the said Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) reads as follows -

(1)	(2)	(3)	(4)	(5)
<i>Sl. No.</i>	<i>Chapter, Section, Heading, Group or Service Code (Tariff)</i>	<i>Description of Services</i>	<i>Rate (per cent.)</i>	<i>Condition</i>
66	Heading 9992	<p><i>Services provided -</i></p> <p><i>(a) by an educational institution to its students, faculty and staff;</i></p> <p><i>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;]</i></p> <p><i>(b) to an educational institution, by way of,-</i></p> <p><i>(i) transportation of students, faculty and staff;</i></p> <p><i>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</i></p> <p><i>(iii) security or cleaning or housekeeping services performed in such educational institution;</i></p> <p><i>(iv) services relating to admission to, or conduct of examination by, such institution;</i></p> <p><i>(v) supply of online educational journals or periodicals :</i></p> <p><i>Provided</i> that nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent :</p> <p><i>Provided</i> further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,</p> <p><i>(i) pre-school education and education up to higher secondary school or equivalent;</i></p> <p><i>or</i></p> <p><i>(ii) education as a part of an approved vocational education course.</i></p>	NIL	NIL

12.3 'Educational Institution' has been defined vide clause (y) of Paragraph 2 of the said Notification No. 12/2017-Central Tax (Rate) as follows :-

- (y) "educational institution" means an institution providing services by way of,-
- (i) pre-school education and education up to higher secondary school or equivalent;
 - (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
 - (iii) education as a part of an approved vocational education course;

13.1 Thus, as per Sr. No. 66(b)(iv) of Notification No. 12/2017-Central Tax (Rate), as amended, 'services provided to an educational institution, by way of services relating to admission to, or conduct of examination by, such institution' is exempted from payment of Goods and Services Tax.

13.2 In the sub-item (iv) of item (b) of Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate), as amended, the phrase used is 'services relating to admission to, or conduct of examination by, such institution'. Hon'ble High Court of Bombay, in the case of Coca Cola India Pvt. Ltd. Vs. Commissioner of Central Excise, Pune-III [2009 (242) E.L.T. 168 (Bom.)], has held that the phrase 'relating to' widens the scope and observed as follows -

"26. The definition of input service employs the phrase activity relating to business. The words relating to further widens the scope of the expression activities relating to business. This is in view of following observations of Supreme Court in Doypack Systems (P) Limited v. Union of India - 1988 (36) E.L.T. 201 (S.C.), interpreting the expression in relation to :

48. The expression in relation to (so also pertaining to), is a very broad expression which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context, see State Wakf Board v. Abdul Aziz (A.I.R. 1968 Madras 79, 81 paragraphs 8 and 10, following and approving Nitai Charan Bagchi v. Suresh Chandra Paul (66 C.W.N. 767), Shyam Lal v. M. Shayamlal (AIR 1933 All. 649) and 76 Corpus Juris Secundum 621. Assuming that the investments in shares and in lands do not form part of the undertakings but are different subject matters, even then these would be brought within the purview of the vesting by reason of the above expressions. In this connection reference may be made to 76 Corpus Juris Secundum at pages 620 and 621 where it is stated that the term relate is also defined as meaning to bring into association or connection with. It has been clearly mentioned that relating to has been held to be equivalent to or synonymous with as to concerning with and pertaining to. The expression pertaining to is an expression of expansion and not of contraction.

The expression Relating to thus widens the scope of the definition."

Therefore, the expression 'relating to' used in sub-item (iv) of item (b) of Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) widens the scope of the said entry and printing of question papers would be covered by the phrase 'services relating to admission to, or conduct of examination by, such institution'.

13.3 As already discussed above, the supply in this case would constitute supply of service falling under heading 9989 of the scheme of classification of services, whereas column 2 of Sr. No. 66 of Notification No. 12/2012-Central Tax (Rate) refers to Heading 9992. However, Explanation (ii) at Para 3 of the Notification No. 12/2017-Central Tax (Rate), as amended, clarifies that 'Chapter, Section, Heading, Group, or Service Code mentioned in Column (2) of the Table are only indicative'. Therefore, merely on the ground of classification of the service of the applicant under heading 9989 would not preclude it from being covered by Sr. No. 66 of Notification No. 12/2012-Central Tax (Rate), if it is otherwise covered under the said entry.

13.4 Therefore, services provided by the applicant to educational institutions by way of printing of question papers for conduct of examination by such institutions would be covered by Sr. No. 66 of Notification No. 12/2012-Central Tax (Rate), as amended.

13.5 As defined in clause (y) of Paragraph 2 of Notification No. 12/2017-Central Tax (Rate) 'educational institution' means an institution providing services by way of education (pre-school education and education up to higher secondary school or equivalent, education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force, or education as a part of an approved vocational education course). The benefit of Sr. No. 66 of Notification No. 12/2012-Central Tax (Rate) is admissible only in a case where service is provided to an educational institution.

14.1 Sr. No. 27 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017 and 31/2017-Central Tax (Rate) dated 13.10.2017. After such amendment, the said Sr. No. 27 of Notification No. 11/2017-Central Tax (Rate) reads as follows -

<i>Sl. No.</i>	<i>Chapter, Section or Heading</i>	<i>Description of Services</i>	<i>Rate (per cent.)</i>	<i>Condition</i>
(1)	(2)	(3)	(4)	(5)
27	Heading 9989	(i) Services by way of printing of all goods falling under Chapter 48 or 49 [including newspapers books (including Braille books), journals and periodicals], which attract CGST @ 6 per cent. or 2.5 per cent. or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.	6	-
		(ii) Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (i) above.	9	-

14.2 The service of printing of question paper, supplied by the applicant to other than 'educational institutions' will be covered by Sr. No. 27(i) of Notification No. 11/2017-Central Tax (Rate), as amended, and will attract Goods and Services Tax @ 12% (CGST 6% + SGST 6% or IGST 12%).

15. In view of the foregoing, we rule as under -

RULING

- (i) The activity of printing of question papers by M/s. Edutest Solutions Private Limited (GSTIN 24AAGCC5475Q2Z1) is activity of supply of service classifiable under heading 9989 of the scheme of classification of services.
- (ii) The service provided by M/s. Edutest Solutions Private Limited (GSTIN 24AAGCC5475Q2Z1) to educational institutions by way of printing of question papers for conduct of examination by such institutions would be covered by Sr. No. 66 of Notification No. 12/2012-Central Tax (Rate), as amended and Notification No. 12/2012-State Tax (Rate), as amended.

The service provided by M/s. Edutest Solutions Private Limited (GSTIN 24AAGCC5475Q2Z1) to service recipients other than educational institutions by way of printing of question papers would be covered by Sr. No. 27(i) of Notification No. 11/2017-Central Tax (Rate), as amended, and Notification No. 11/2017-State Tax (Rate), as amended.

- (iii) As the activity of printing of question papers by M/s. Edutest Solutions Private Limited (GSTIN 24AAGCC5475Q2Z1) is held to be activity of supply of service, the question of appropriate classification as 'goods' and applicable rate on such 'goods' does not arise.

(R.B. Mankodi)
Member

(G.C. Jain)
Member

Place : Ahmedabad
Date : 23.8.2018.