



HARYANA AUTHORITY FOR ADVANCE RULING,
GOODS AND SERVICES TAX,
HARYANA VANIJYA BHAWAN, PLOT NO I-3, SECTOR 5,
PANCHKULA-134151 (HARYANA)



ADVANCE RULING NO.HAR/HAAR/R/2017-18/11

(In Application No.: 11, dated 12.03.2018)

Name & Address of the Applicant	: M/s BC Examinations and English Services India Pvt. Ltd.
GSTIN of the Applicant	: 06AACCB8895M1ZZ
Date of Receipt of Application	: 12.03.2018
Clause(s) of Section 97(2) of CGST/HGST Act, 2017, under which the question(s) raised.	: (e) Determination of liability to pay tax on any goods or services or both.
Date of Personal Hearing	: 24.05.18; 31.05.2018
Present for the Applicant	: Sh. Amar Pratap Singh, Advocate and Sh. Ankit Awal, C.A.
Present for the department.	:

Factual Background

1. As per the statement of facts submitted by the Applicant, it is a subsidiary of the British Council which is the U.K.'s International Organisation for cultural relations and educational opportunities. The International English Language Testing System (hereinafter referred to as 'IELTS') is a highly regarded English Language proficiency test developed, managed and owned by the British Council, U.K. (hereinafter referred to as 'BCUK').
2. BCUK furthers its charitable, educational and cultural relations by offering to private individuals, students and other partner organizations a broad range of examination services globally which support proficiency in English Language and other educational and professional qualifications.
3. The examinations which are operated under global arrangements administered centrally by BCUK include 'IELTS', 'ESOL' and school exams provided by UK Exam Boards. BCUK also administers examinations globally on behalf of certain professional bodies and UK universities.
4. In relation to conducting of these examinations for the candidates based in India, BCUK requires local administrative support from the Applicant to organize, administer and conduct these examinations at various test centers in India.
5. BCUK is proposing to enter into an agreement with the Applicant wherein the Applicant has agreed to provide 'Exam Support Services' and Student Facilitation Services to BCUK in respect of the aforesaid exams.
6. As per Schedule 1B of the agreement, the Exam Support Services would cover the following:
 - (i) To source and manage the running of suitable test centre venues in India for the examination;
 - (ii) To receive registration information from BCUK and its registration agents for IELTS;
 - To maintain supplies of Test Materials for administration and comply with security requirement set by BCUK and relevant external exam boards in



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- relation to logging in and out. To distribute test materials to candidates on the test day and collect them after test administration for processing;
- (iv) To manage test administration and logistics for test days, including scheduling of the Applicant's staff and liaison with the test centres;
 - (v) To provide back office support in relation to financial controls and accounting processes in respect of examinations held at test centres managed by the Applicant;
 - (vi) To print IELTS result in paper form from the BCUK's global system and distribute certificates on BCUK's behalf to successful candidates in India;
 - (vii) TO recruit, train and monitor invigilators, examiners and test paper markers for the IELTS tests, in accordance with the standards set by BCUK and their own administrative and management staff;
 - (viii) To periodically inspect the quality of test centres and provide documented evidence on their performance.
7. Under the agreement it is specified that the Applicant will provide Exam Support Services to BCUK for which BCUK will pay the charge to the Applicant as follows:
- (a) Exam Support Services provided by the Applicant will be billed to BCUK calculated at cost plus mark up determined in accordance with relevant transfer pricing regulations,
 - (b) The cost will include costs of test centres and dedicated staff, directly recruited by the Applicant and an apportionment of indirect costs incurred which are attributable to exam support services.

In the above backdrop of facts as mentioned, the Applicant has sought advance ruling on the following three questions:

1. Whether all the activities involved in the exam support services constitute a mixed supply or a composite supply?
2. What will be rate of GST applicable on these exam support services?
3. What is the place of supply of these exam support services rendered by the Applicant to BCKU?

Comment of the Officer under section 98 (1) of the CGST, HGST Act 2017

The Assistant Commissioner, Division East-II, Central GST, Gurugram vide his comments dated 17.05.2018 has stated as follows:

1. Regarding question no. 1
"The impugned services proposed to be provided by the Applicant constitute a composite supply of conduction of examination and other back end support services."
2. Regarding question no.2
"The principal supply is of the conducting exams which is taxable @ 18%."
- Regarding question no.3
"The place of supply of the impugned service shall be the location of the recipient of the service."



Record of Personal Hearing

The applicant was afforded a personal hearing for 24.05.2018 and on 31.05.2018. The application seeking advance ruling was admitted only on the following two questions raised:

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1. Whether all the activities involved in the exam support services constitute a mixed supply or a composite supply?
 2. What will be rate of GST applicable on these exam support services?
as these were covered under the provision 97(2)(e) of the CGST/HGST Act, 2017.
- The third question involved determination of place of supply which was beyond the scope of the Authority for Advance Ruling as its rulings were specific to the State only and therefore, the application so far as it sought determination of place of supply was not admitted.

As regards the questions admitted the answer to the first question itself will provide answer for the second question as the Statute itself is clear regarding taxability of composite and mixed supplies.

As per the copy of agreement provided by the Applicant and placed on record, the services proposed to be provided by them to BCUK are divided in three parts. As per schedule-I appended to the copy of agreement submitted on record part-A is for responsibilities of service recipient, part-B specifies 8 types of exam support services and part-C specifies to services pertaining to student facilitation services.

The Ld. Counsel for the applicant had argued that the proposed services as per part-B in schedule -I appended to the copy of agreement are exam support services and constitute a composite supply of conduction of examination and the services mentioned in part-C of the said agreement are other back end support services which are so bundled together that such back end support services cannot be said to have an independent existence. These are only ancillary to conduction of examination. The bundle of these services is classifiable as other educational support services under service code 999299 group code 99929 and heading 9992 as per scheme of classification of services appended to notification no. 11/2017 Central Tax (Rate) dated 28.06.2017 and corresponding State notification no. 46/ST-2 Dt. 30.06.2017. The principal supply is of the service of conducting of exam which is taxable @ 18%.

They had also argued the above issue in the light of several decisions of the court and especially have referred to the scheme of United Nation Central Product Classification (UNCPC). They have drawn our attention to heading 9292 of explanatory notes which provides that the sub clause 92920 (educational support services) includes:-

1. Educational consulting
2. Educational guidance counselling services
3. Educational testing evaluation services
4. Educational testing services
5. Organization of student exchange programmes



It had been argued that the conduct of IELTS exam by them is education testing evaluation services and thus covered under education support services as per the UNCPC schemes as above.

These present had also argued for considering their question for determination of place of supply and had drawn our attention to several case laws and particularly to section 2 (6) of the IGST Act.

After hearing these present in detail the decision on admissibility of the application was pronounced and as regard decision on question 1 & 2, on which the application was admitted, was reserved which is being released today.

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Discussion and finding of the authority

Since the ruling is restricted only to the question of nature of supply and rate of tax applicable, it is relevant to understand the provisions of law on these issues.

1. Section 2(30) of the CGST/HGST Act 2017 defines a "composite supply" to mean a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.
2. Further, Section 2(90) of the CGST/HGST Act 2017 defines a "principal supply" to mean the 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.
3. Section 2(74) of the said Act "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

A perusal of the part-A, B & C of schedule-I appended to the copy of proposed agreement submitted on record, reveals the type of services as mentioned in part-B and part-C of the schedule-I are the services which are proposed to be provided by the applicant.

As per Schedule I part-B of the agreement, the Exam Support Services cover the following:

- (i) To source and manage the running of suitable test centre venues in India for the examination;
- (ii) To receive registration information from BCUK and its registration agents for IELTS;
- (iii) To maintain supplies of Test Materials for administration and comply with security requirement set by BCUK and relevant external exam boards in relation to logging in and out. To distribute test materials to candidates on the test day and collect them after test administration for processing;
- (iv) To manage test administration and logistics for test days, including scheduling of the Applicant's staff and liaison with the test centres;
- (v) To provide back office support in relation to financial controls and accounting processes in respect of examinations held at test centres managed by the Applicant;
- (vi) To print IELTS result in paper form from the BCUK's global system and distribute certificates on BCUK's behalf to successful candidates in India;
- (vii) To recruit, train and monitor invigilators, examiners and test paper markers for the IELTS tests, in accordance with the standards set by BCUK and their own administrative and management staff;
- (viii) To periodically inspect the quality of test centres and provide documented evidence on their performance.



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Under part-C of schedule-I to the agreement it is specified that the Applicant will also provide student facilitation services.

Since the above services are for conducting the IELTS exams and are so bundled with each other that these can not have an independent existence and therefore these are composite supply of services. Since the principle supply is of the service of conducting exams it is rightly classifiable under service code 999299 group 99929 and heading 9992 as education support service and therefore taxable @ of 18% (9% CGST and 9% HGST) vide sr. no. 30 of notification no.11/2017 Central Tax (Rate) dated 28.06.2017 and corresponding State notification no. 46/ST-2 Dt. 30.06.2017.

Advance ruling under section 98 of the CGST/HGST Act 2017

In the backdrop of above discussion and findings the questions raised for seeking advance ruling are answered as follows:-

1. Whether all the activities involved in the exam support service constitute a mixed supply or a composite supply?

Ans. As observed on facts, the activity involved in the exam support service as proposed at schedule-I part-A and B of the proposed agreement constitute a composite supply.

2. What will be the rate of GST applicable on the exam support service?

Ans. Since the principle supply is conducting of IELTS exam it is covered under Service Code 999299 Group 99929 and Heading 9992 as education support service and therefore taxable @ of 18% (9% CGST and 9% HGST) vide sr. no. 30 of notification no.11/2017 Central Tax (Rate) dated 28.06.2017 and corresponding State notification no. 46/ST-2 Dt. 30.06.2017.

Ordered accordingly.

To be communicated.

01.06.2018
Panchkula.


(Sangeeta Karmakar)
Member CGST


(Vijay Kumar Singh)
Member SGST

Regd. AD/Speed Post

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Copy to

1. Deputy Excise & Taxation Commissioner (ST), Gurugram (East)
2. The Assistant Commissioner, Central Tax Division East-II, Sector-32, Gurugram.

