

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICE TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 20 / 2018

Dated : 13th August 2018

Present:

1. Sri. Harish Dharnia,
Joint Commissioner of Central Tax,
..... Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of
Commercial Taxes
..... Member (State Tax)

1.	Name and address of the applicant	M/s Emerge Vocational Skills Private Ltd., 30, Galaxy, 3 rd Floor, 1 st Main, 3 rd Phase, J.P.Nagar, Bengaluru – 78.
2.	GSTIN or User ID	29AADCE4523A1Z3
3.	Date of filing of Form GST ARA-01	08.03.2018
4.	Represented by	Sri Abhi Parakh, Advocate
5.	Jurisdictional Authority – Centre	Bengaluru South Commissionerate – SD 06
6.	Jurisdictional Authority – State	NA
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.10,000/- i.e. (CGST-Rs.5,000-00 & KGST-Rs.5,000/-) vide CIN SBIN18012900131684 dated 17.01.2018

ORDER UNDER SUB-SECTION (4) OF SECTION 98 OF CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SUB-SECTION (4) OF SECTION 98 OF KARNATAKA GOODS AND SERVICES TAX ACT, 2017 AND SECTION 20 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

1. M/s Emerge Vocational Skills Private Limited, (called as the ‘Applicant’ hereinafter), having its registered office at 30, Galaxy, 3rd Floor, 1st Main, 3rd Phase, J.P.Nagar, Bengaluru 560078, having GSTIN number 29AADCE4523A1Z3, has filed an application for Advance Ruling under Section 97 of CGST Act, 2017, KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.

2. The Applicant is a private limited company engaged in providing specified educational services in the field of Hotel Management. The question on which advance ruling is sought is as follows:

“Whether the services provided by the applicant in affiliation to specified universities and providing degree courses to students under related curriculums are exempt from Goods and Services Tax vide entry no. 66 of the Notification No. 12/ 2017 – Central Tax dated 28.06.2017?”

3. The applicant furnishes some facts relevant to the stated activity:
- a. The applicant states that he is a private limited company engaged in providing specified educational services in the field of Hotel management. The courses offered by the applicant can be classified under the following two structures:
 - i. The applicant is an approved training partner to the National Skill Development Corporation of the Government of India and has been engaged in providing education to students under the said scheme;
 - ii. The applicant is affiliated to specified universities and provides degree courses to students under related curriculum. While the administration and the curriculum is managed by the applicant, the examination is conducted and degree is granted by the University (“university curriculum”).
 - b. The Government of India has with effect from 1st July 2017, introduced a unified GST to replace the various indirect tax levies (i.e. Central Excise, VAT, Service Tax, Entry Tax, etc.) The Government has exempted certain services from levy of GST and has issued a Notification No. 12/ 2017 –Central Tax (Rate) dated 28th June 2017 to that effect.
 - c. Entry No. 66 of the said notification exempts services provided by education institutions to its students, faculty and staff. The said notification also defines an “educational institution” as follows:
“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 recognized by any law for the time being in force;
 - (iii) Education as a part of an approved vocational education course.
 - d. The applicant submits that the operational and legal framework of the “Education sector” in respect of higher education is as follows:
 - Governance of educational institutions is undertaken by the State Governments
 - State Government is empowered to set up Universities
 - University is in essence an administrative body which regulates the education curriculum within its geographical jurisdiction
 - University is empowered to affiliate colleges and other institutions which are thereafter allowed to grant admission, deliver education services, develop course content, hold examinations, etc.

- University grants qualification/ degree to the students enrolled with the colleges/ institutions affiliated to the University
- e. Section 59 of the Karnataka Universities Act 2000 empowers the University, to be set up by the Government, to affiliate colleges to run education curriculum. Further section 66 of the said Act empowers the University to affiliate or recognize other institutions other than colleges, within its jurisdiction to provide education in the State. Accordingly, while the University set up by the Government grants degree / qualification, the education is delivered by institutions like colleges etc. under an approval or affiliation by the University.
- f. The applicant states that he is already affiliated to the following universities:
- i. Bharathiyar University, Tamil Nadu
 - ii. Osmania University, Telangana
 - iii. Acharya Nagarjuna University, Andhra Pradesh

The applicant proposes to obtain an affiliation with a university in the State of Karnataka and shall thereafter be engaged in provision of education in affiliation with the said university in the State of Karnataka.

- g. The applicant proposes to undertake the following activities under the University curriculum:
- i. Granting and processing admission
 - ii. Collection of fee for the prescribed curriculum
 - iii. Development of the course content
 - iv. Core education service, i.e. delivering education
 - v. Overall administration of the center

The University would hold the examination and grant the qualification or degree for the course.

- h. The applicant submits that it would be relevant to evaluate the scope of the exemption under entry no. 66 of the Notification No. 12/ 2017 – Central Tax (Rate) dated 28.06.2017. The said provision provides for exemption to “services provided by an educational institution to its students, faculty and staff”. While services which would be exempt have not been defined or specified in relation to the said entry, the notification defines “educational institution” to mean “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 recognized by any law for the time being in force;
 - (iii) Education as a part of an approved vocational education course.

- i. The essence of the above exemption is that the institution in question must qualify as an “educational institution”. Once this condition is fulfilled, the services provided by such institution to its students and faculty shall by default be eligible for the above exemption.
- j. The National Academy of Customs, Indirect Taxes and Narcotics has issued a write up on Educational Services from which the following is extracted:

“What is the meaning of ‘education as a part of curriculum for obtaining a qualification recognized by law?”

*It means that only such educational services are in the negative list as are related to delivery of education as ‘a part’ of the curriculum that has been prescribed for obtaining a qualification prescribed by law. It is important to understand that to be in the negative list the service should be delivered as part of curriculum. **Conduct of degree courses by colleges, universities or institutions which lead grant of qualifications recognized by law would be covered.** Training given by private coaching institutes would not be covered as such training does not lead to grant of a recognized qualification.”*

In this relation, from a plain reading of the above clarification, it is apparent that the key criterion for qualification of any service under the above exemption would be that education delivered results in a legally recognized qualification being granted to the student.

- k. The applicant states that, he offers a curriculum to a student which enrolls him / her with a university recognized by an Indian Law. Further the education is granted through a combination of theoretical and practical training sessions. The curriculum also involves examination being conducted by the University and all successful candidates are granted University degrees.
- l. The applicant submits, in view of the above, university curriculum offered by the applicant may qualify as services provided by educational institution to its students and accordingly exempt from goods and services tax.

4. FINDINGS & DISCUSSION:

- (a) The contention of the applicant is examined. The applicant has submitted that he proposes to obtain an affiliation with a University in the State of Karnataka and shall thereafter be engaged in provision of education in affiliation with the said university in the State of Karnataka.
- (b) The applicant also undertakes that the courses would be conducted as per the curriculum of the university concerned in affiliation with them and the examination would be conducted by the University and degrees shall be granted to the successful candidates of the institution.

(c) Notification No. 12/ 2017 – Central Tax (Rate) dated 28.06.2017 defines “educational institution” in clause 2(y) as under:

(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;

The applicant is not imparting pre-school education or education up to higher secondary school or equivalent and hence is not covered under clause (i) above. Further he is also not imparting education as a part of an approved vocational education course and hence is also not covered under clause (iii) above.

As per the contention of the applicant, he is getting the institution affiliated to a University in the State of Karnataka and is also proposing to impart education as a part of a curriculum provided by the University and the examination would be conducted by the University and qualifications which are recognized by law would be issued to the successful candidates. Hence the institution would qualify as an “educational institution” for the purposes of such courses only which lead to a qualification recognised by any law for the time being in force.

(d) Entry No. 66 of the Notification No. 12/ 2017 Central Tax (Rate) dated 28.06.2017 gives the applicable rate of tax on services and the same reads as under

Sl. No .	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
66	Heading 9992	<p>Services provided –</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(b) to an educational institution, by way of,-</p> <ul style="list-style-type: none"> (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or housekeeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary: <p>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.</p>	Nil	Nil

Since the “Services provided by an educational institution to its students, faculty and staff” is exempt from tax under the Central Goods and Services Tax Act and the applicant qualifies as an educational institution in so far as those courses for which affiliation has been obtained from the University in the State of Karnataka and for which University Curriculum is prescribed and the qualifications recognized by the law for the time being in force is given after the conduct of examinations by such University, the applicant is exempted from Goods and Services Tax. Similar notification is also present in the Karnataka Goods and Services Tax Act and hence the exemption is applicable mutatis mutandis under the Karnataka Goods and Services Tax Act also.

5. In view of the foregoing, we rule as follows

R U L I N G

- a. The services provided by the applicant in affiliation to specified universities and providing degree courses to students under related curriculums to its students exempt from Central Goods and Services Tax vide entry no. 66 of the Notification No. 12/ 2017 – Central Tax (Rate) dated 28.06.2017 subject to the condition that such education services provided must be as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force.
- b. The services provided by the applicant in affiliation to specified universities and providing degree courses to students under related curriculums to its students exempt from Karnataka Goods and Services Tax vide entry no. 66 of the Notification No. 12/ 2017 – State Tax (Rate) dated 28.06.2017 subject to the condition that such education services provided must be as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force.

(Harish Dharnia)
Member

(Dr.Ravi Prasad.M.P.)
Member

Place : Bengaluru,
Date : 13.08.2018

To,

The Applicant

Copy to :

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.

The Asst. Commissioner, LGSTO - , Bengaluru.

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