

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH

Goods and Service Tax()

O/o THE COMMISSIONER, COMMERCIAL TAX,

MOTI BUNGALOW,

MAHATMA GANDHI MARG, INDORE (M.P.) - 452007

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PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017

Members Present

1. Rajiv Agrawal
Additional Commissioner ,
Office of the Commissioner,CGST and Central Excise, Indore
2. Manoj Kumar Choubey
Joint Commissioner ,
Office of the Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AAAJI0057R1Z3
Name and address of the applicant	INDIAN INSTITUTE OF MANAGEMENT PRABANDH SHIKHAR, RAU-PITHAMPUR ROAD INDORE (M.P.)- 453556
Point on which advance ruling sought	1. Whether the course Executive Post Graduate Programme in Management, after enactment of IIM Act 2017 notified with effect from 31.01.2018, is exempted from GST 2. In case of exemption to EPGP, will total amount of fees collected towards EPGP for academic session 2018-19 is exempted, whether collected before or after enactment of IIM Act 2017, or only amount collected after enactment of IIM Act 2017.
Date of Personal hearing	05-07-18
Present on behalf of applicant	Shri Arvind Chawla, Chartered Accountant
Case Number	14/2018
Order dated	10-08-18
Order No.	10/2018



PROCEEDINGS

1. BRIEF FACTS OF THE CASE:

- 1.1.** Indian Institute of Management, Indore (IIM, Indore) [hereinafter referred to as the Applicant] is one of the nineteen IIMs set up by the Government of India. The Applicant institute was established in 1996 by the Government of India as registered society under the Madhya Pradesh Societies Registration Act, 1973 and is governed by a Board of Governors.
- 1.2.** The India Institute of Management Act 2017, received the Presidential assent on 31.12.2017, and the same has been notified to be effective from 31.01.2018. As per the said Act, the Board of Governors shall be Principal Executive Body of the Institute.
- 1.3.** The applicant is providing various types of courses, some of which are explicitly exempted under GST and tax is payable on fees towards other courses including Executive Post Graduate Programme (EPGP), which is a one year residential programme.
- 1.4.** Under the GST regime, Notification number 11/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017 provides for a GST rate @18% (9% CGST + 9% SGST), on Education Services under Heading no.9992 of SAC. Further, the Notification number 12/2017-Central Tax (Rate) dtd.28.06.2017 provides for exemption from CGST as under:

Sr. No	Chapter/Section/Heading/Group or Service code (Tariff)	Description of Service	Rate (per cent)	Condition
66	Heading 9992	Services provided – (a) By an educational institution to its students, faculty and staff; (b) To an educational institution by way of- 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 house-keeping services provided in such educational institution; iv. Services relating to admission to or conduct of examination by such institution; upto higher secondary;	NIL	NIL



		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		
67	Heading 9992	Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government to their students by way of following educational programmes, except Executive Development Programme- (a) Two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which the admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management; (b) Fellow Programme in Management; (c) Five year integrated programme in Management.	NIL	NIL

1.5. Further, Notification no.12/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017 defines 'Educational Institutions' as follows:

2. Definitions – For the purpose of this Notification, unless the context otherwise requires'-

- (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 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

1.6. Indian Institutes of Management Act 2017 promulgated with effect from 31.01.2018, has declared IIMs as institutions of National importance and by Section 7(f) of the Act, the IIMs, including the Applicant, have been authorised 'to grant degrees, diplomas and other academic distinctions or titles and to institute and award fellowships, scholarships, prizes and medals, honorary awards and other distinctions.'



1.7. In view of the circumstances foregoing, the Applicant has sought to submit it's own views as under :

- a. *Services provided by IIM exempted by virtue of exemption Notification no.12/2017-CT(Rate) with effect from 01.07.2017 and corresponding notification under MPGST Act, 2017 are –*
 - i. *Two year full time Post Graduate Programmes in Management to which admissions are made on the basis of Common Admission Test;*
 - ii. *Fellow programme in Management;*
 - iii. *Five year integrated programme in Management.*
- b. *Services provided by an education institution which, inter alia, provides education as a part of curriculum for obtaining a qualification recognized by any law for the time being in force is exempted under notification no.12/2017-CT (Rate)*
- c. *Degrees and Diplomas granted by Applicant are recognized by law by virtue of being granted under IIM Act itself.*
- d. *As Executive Post Graduate Programme (EPGP) is provided by Applicant as Institute under the IIM Act, it (EPGP) qualifies to be an exempted from GST.*

2. QUESTIONS RAISED BEFORE THE AUTHORITY:

The following questions have been posed before the Authority, with reference to the activity undertaken by the Applicant:

- 2.1. *Whether the course – Executive Post Graduate Programme in Management (EPGP), after enactment of Indian Institute of Management Act 2017 notified effective from 31st January 2018, is exempted from Goods and Service Tax?;*
- 2.2. *In case of exemption to EPGP, will total amount of fees collected towards EPGP for the academic session 2018-19 is exempted, whether collected before or after enactment of IIM Act 2017 or only amount collected after enactment of IIM Act 2017?*

3. DEPARTMENT'S VIEW POINT:

The Joint Commissioner, CGST & Central Excise, Manik bagh Palace, Indore, vide his letter I(Gen)30-08/18-19/GST/T dtd.13.08.2018 has furnished the opinion of the department and it has been categorically opined that the course Executive Post Graduate Programme does not qualify for exemption as envisaged under Notification No.12/2017-Central Tax (Rate). It has been further mentioned that the exemption shall be available only to the programmes mentioned in the Notification and EPGP is not covered thereunder. It has, therefore, been concluded that IIM Indore does not appear to be entitled to exemption from GST as far as EPGP is concerned.

4. RECORD OF PERSONAL HEARING:



4.1. Shri Arvind Chawla, Chartered Accountant, appeared on behalf of the applicant and reiterated the submissions already made in the application. He pleaded that pursuant to enactment of IIM Act 2017, with effect from 31.01.2018, the Applicant shall be entitled to exemption in terms of entry no. 66 of Notification 12/2017-CT (Rate), as the Applicants now qualify as Educational Institutions as defined for the purpose of this notification.

5. DISCUSSIONS AND FINDINGS:

5.1. We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing and the Department's view provided by the Joint Commissioner, CGST & Central Excise, Headquarters, Indore.

5.2. We find that the short question before us pertains to applicability of exemption notification no.12/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017, in particular Entry No.66, to the Executive Post Graduate Programme in management in view of the Indian Institute of Management Act 2017. The Applicant has emphasised upon the legal status of the IIMs post enactment of IIM Act 2017, which came into effect from 31st January 2018.

5.3. It is necessary to examine the Entry numbers 66 and 67 of the Notification No.12/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017, which is essentially a general exemption notification. The entry number 66 seeks to exempt services provided 'by an Educational Institution' and 'to an educational institution'. Further, the term 'Educational Institution' has been defined for the purpose of said Notification as under:

2. Definitions – For the purpose of this Notification, unless the context otherwise requires'-

(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 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

5.4. However, before we venture into the examination of the issue regarding whether the Applicant qualifies under the Definition of 'Educational Institution' to fall under the ambit of Entry No.66, it is necessary to have a look at the Entry No.67 of the Notification No.12/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017. It is pertinently noted that this particular entry i.e. Entry No.67 is



exclusively for providing exemption to the services provided by Indian Institutes of Management.

67	Heading 9992	Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government to their students by way of following educational programmes, except Executive Development Programme- (a) Two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which the admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management; (b) Fellow Programme in Management; (c) Five year integrated programme in Management.	NIL	NIL
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5.5. The language of entry no.67 is quite clear and leaves no ambiguity whatsoever. This entry seeks to exempt various education programmes conducted by IIMs, except the Executive Development Programme, from payment of GST. It is thus clear that irrespective of enactment of IIM Act 2017, the intention of the legislature was no to tax the flagship education programmes conducted by these Institutions. However, specific exclusion of Executive Development Programme from exemption has been made loud and clear, leaving no scope for any interpretation or reading between the lines.

5.6. We have carefully considered the plea of the Applicant about the IIMs, including Applicant, having been authorised to grant degrees, diplomas and other certificates by virtue of IIM Act 2017. Applicant have vehemently pleaded that post enactment of IIM Act 2017, the Applicant would be providing a Degree duly recognised by law, and accordingly, the services provided by Applicant would be covered under Entry No.66 of the Notification no.12/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017. However, we find it difficult to subscribe to the views of the Applicant, on two counts. Firstly, the Entry Number 67 of the Notification No.12/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017 has been specifically put for Indian Institutes of Management and therefore there appears to be neither any reason nor any prudence in overlooking this specific entry and going to a General Entry i.e. Entry No.66. Secondly, intention of the legislature has been to provide exemption to various education programmes conducted by Applicant, even to the extent that the '*Five Year Integrated Programme in Management*' appearing at '(c)' of the Entry no.67, which is conducted only by the Applicant in the country, has been granted exemption from GST even prior to enactment of IIM Act 2017. In such



circumstances, the exclusion of Executive Development Programme from exemption becomes even more prominent and emphatic. Moreover, we do not find even an iota of ambiguity in the language of the impugned notification. Further, the principle of 'Strict Interpretation' of the statute has been propounded by the Hon'ble Supreme Court in catena of judgments, and one has to strictly go by what is written in the statute. Though, there is no ambiguity in the matter before us, still we have to conclude that the services provided by the Applicant have a specific mention under Entry No.67 to the Notification 12/2107-Central Tax (Rate) and corresponding notification under MPGST Act, 2017, and therefore, there is no good reason to take shelter of a general entry (entry no.66) just to bring the Executive Post Graduate Programme under the ambit of exemption.

5.7. Having regard to the discussions & findings detailed in foregoing paras, we now give our ruling.

RULING

6. The Advance Ruling on questions posed before the authority are answered as under:

6.1. In respect of Question 1, we hold that the Executive Post Graduate Programme will not be eligible for exemption from GST as the same has been categorically excluded from exemption under Entry No.67 to the Notification No.12/2017-Central Tax (Rate) and corresponding notification under MPGST Act, 2017 ;

6.2. In respect of Question No.2, it is clarified that the Executive Post Graduate Programme being conducted by the Applicant shall be chargeable to GST, irrespective of enactment of IIM Act 2017.

6.3. This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

-sd-
RAJIV AGRAWAL
(MEMBER)

-sd-
MANOJ KUMAR CHOUBEY
(MEMBER)

No. 14/2018/A.A.R/R-28/37

Indore dt, 10-08-2018

Copy to:-

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

सत्यप्रतिलिपि
Manoj