

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, 1st floor, B-Wing, Mazgaon, Mumbai - 400010.
(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)
(2) Shri B. V. Borhade, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAECA9262B1ZU
Legal Name of Applicant	Attest Testing Services Limited
Registered Address/Address provided while obtaining user id	Merchant Chamber, 3rd Floor, 41, New provided Marine Lines, Mumbai - 400020
Details of application	GST-ARA, Application No. 07 Dated 25.04.2019
Concerned officer	Division - X, Commissionerate Mumbai East.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Service Provision ,
B Description (in brief)	Services provided for conduct of examination
Issue/s on which advance ruling required	(ii) Applicability of a notification issued under the provisions off the Act (v) determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act"] by M/S. Attest Testing Services Limited, the applicant, seeking an advance ruling in respect of the following questions.

- a) Whether the services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the Central Goods and Services Tax Act, 2017 or a mixed supply defined under section 2(74) of the Central Goods and Services Tax Act, 2017?
- b) If the services provided by Applicants are considered as composite supply, whether conduct of examination can be considered as principal supply?
- c) If the above services are considered as composite supply and conduct of examination is considered as principal supply, whether the exemption provided under entry 66 of Notification 12/2017 - Central Tax (Rate) as amended vide Notification No 02/2018 - Central Tax (Rate) w.e.f. 25.01.2018 shall be granted?

- d) In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to **services** provided to educational institution?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

- “1. “Attest Testing Services Ltd (“Applicant”), a Company incorporated & registered under the Companies Act, 1956 with GSTIN 27AAECA9262B1ZU, is engaged in the business of providing exam, certification and other allied services including various types of surveys, **assessments, and exam services** to various clients including individuals, educational institutions, firms, corporate bodies, government undertakings etc.
2. Applicant has entered into various contracts with customers to provide services which are, conducting online examinations along with pre exam management processes, post exam management processes across different cities & examination centers. Copies of agreement entered with various customers are attached & marked as Annexure "A-1" to provide for detailed nature of services provided by us. Further, sample copies of invoices are also marked & attached as Annexure "A-2". The broad scope of work can be understood to be as under:
 - Applicant shall provide necessary exam services through the Exam center infrastructure installed at its Authorized Centers. Applicant shall also ensure that the center installs and maintain necessary security controls and measures in respect of equipment / infrastructural resources provided to students.
 - Applicant will completely manage the exam process electronically right from allowing the candidates to choose their required exam slots, to conducting & evaluating the exam.
 - Pre-Exam slot booking process including exam registration process. The facilitating of online booking of exam shall be done through the internet.
 - Question Bank Management wherein the client shall provide with database of questions in soft format and the applicant shall provide with a secure process of question bank management which will facilitate generation of unique question sets to eliminate the risk of malpractices.



- Conducting of online examination which includes providing for infrastructure & applicant shall also ensure a secure, foolproof exam process limiting the scope for fraud and errors.
 - The Applicant shall also be responsible for managing the invigilation process and shall have a supervisor at each center.
 - Applicant shall also generate the results and shall provide the results to the client in desired format.
3. Applicant's fees is a consolidated fee based on the exam hours conducted. The fees shall be charged based on the exam hours booked irrespective of the students appearing for the exams or not. The fees details can be better understood by referring to the rate chart as provided in the agreement attached to this application.
4. Applicants have been discharging applicable GST on such services provided by them up to the period 25.01.2018. In this regard, a reference may be made to the Not. No 12/2017 – C.T. (Rate) dt 28.06.2017 & amended vide Not. No 02/2018 – C.T.(Rate) dated 25.01.2018. The relevant entry for exemption has been tabulated below for ready reference:

Entry 66 (b)(iv) before 25.01.2018	Entry 66 (b) (iv) after 25.01.2018
Services provided - (a)..... (b) to an educational institution, by way of, (i) (ii) (iii) (iv) services relating to admission to, or conduct of examination by such institution; up to higher secondary 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.	Services provided - (a)..... (b) to an educational institution, by way of - (i) (ii) (iii) (iv) services relating to admission to, or conduct of examination by such institution; up to higher secondary Provided that nothing contained in entry (b) 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.



5. Copy of Not. No 12/2017 - CT (Rate) dated 28.06.2017 and Notification No 02/2018 - Central Tax (Rate) dated 25.01.2018 are attached and marked as Annexure "A-3".
6. After the above referred amendment made w.e.f. 25.01.2018, it is felt that the services provided by Applicants are exempted from payment of GST & accordingly Applicants have applied for advance ruling determining the following questions for consideration:
- a) Whether the services provided by Applicant can be considered to be a composite supply as defined under Section 2(30) of the CGST Act, 2017 or a mixed supply defined under Section 2(74) of the CGST Act, 2017?
 - b) If the services provided by Applicant are considered as composite supply, whether conduct of examination can be considered as principal supply?
 - c) If the above services are considered as composite supply and conduct of examination is considered as principal supply, whether the exemption provided

under entry 66 of Not. 12/2017 - CT (Rate) as amended vide Notification No 02/2018 - Central Tax (Rate) w.e.f. 25.01.2018 shall be granted?

- d) In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to services provided to educational institution?

3A. STATEMENT CONTAINING APPLICANTS INTERPRETATION

Whether the services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the CGST Act, 2017 or a mixed supply defined under section 2(74) of the CGST Act, 2017?

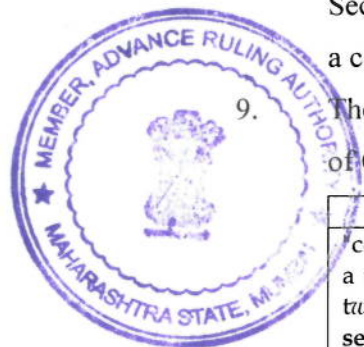
If the services provided by Applicants are considered as composite supply, whether conduct of examination can be considered as principal supply?

7. As already explained in the facts of the case, the scope of work as conducted by Applicants includes various activities to be conducted right from enrolling the student for examination, allowing the students to choose the examination slots, to manage the question bank, to conduct the examination and finally till providing of results.
8. The scope of term supply has been provided under Sec. 7 of the CGST Act, 2017 to mean and include all forms of supply. Further in case where two or more supplies are provided, Sec. 8 provides for determination of tax liability based on whether such supplies constitute a composite supply or a mixed supply.

9. The term composite supply and mixed supply are defined under section 2(30) and 2(74) of CGST Act, 2017 as under:

Composite Supply	Mixed Supply
<p>"composite supply" means 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;</p> <p>Illustration - Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;</p>	<p>"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.</p> <p>Illustration. - A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;</p>

10. From the above definition, it is evident that point of differentiation between a composite supply and a mixed supply is to identify whether the supply is naturally bundled or not. In case all the supplies are so connected with each other naturally then the same shall be considered as composite supply and one of them shall be a principal supply.



11. In the present case, the services which are provided by the Applicants can be broadly summarized as under:

- Pre exam process of registering the students
- Identifying or earmarking the exam center
- Conducting the examination
- Evaluation of exams
- Providing the results in desired format

12. It is the considered view of the Applicant that the entire contract revolves around one important factor i.e. conduct of examination & the other activities are additional elements which enable smooth conduct of examination. In view of the Applicant, the services provided by the Applicant are composite supply since each of the above activities mentioned as so naturally bundled and connected with each other and enable provision of main supply which is conduct of examination.

13. The said view of the Applicant is further supported by the decision of Advance Ruling Authority in the case of BC Examinations and English Services India Private Limited (2018 (15) G.S.T.L 107 (A.A.R. - GST)), wherein it has been stated that since the **above services are** for conducting the IELTS exams and are so bundled with each other that these cannot 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 9992 as education support service.

14. Based on above submissions, the Applicants state that the services provided by them are composite supply where the principal supply is conduct of examination.

If the above services are considered as composite supply and conduct of examination is considered as principal supply, whether the exemption provided under entry 66 of Notification 12/2017 - Central Tax (Rate) as amended vide Notification No 02/2018 - Central Tax (Rate) w.e.f. 25.01.2018 shall be granted?

15. Entry 66 of Not. No 12/2017 as amended w.e.f. 25.01.2018 provides for exemption as under:

Services provided -

(a).....

(b) to an educational institution, by way of -

(i).....

(ii).....

(iii).....

(iv) *services relating to admission to, or conduct of examination by, such institution; Provided that nothing contained 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.*

16. The above exemption provides for services relating to conduct of examination by the educational institution. The purpose interpretation of such entry is not just to provide an exemption to services relating to conduct of examination but also to conduct of examination per se. Further the advance ruling in the case of K.L. Hi Tech Secure Print Limited (2018 (18) G.S.T.L. 112 (AAR - GST)), it was held that printing of pre-examination items, post examination items, scanning & processing of results are integral part of conduct of examination & accordingly shall be exempted under entry 66 as stated above.
17. Similarly in the case of Edutest Solutions Private Limited (2018 (18) G.S.T.L. 77 (AAR - GST)), it is also stated that the exemption entry uses the words "relating to" and accordingly widens the scope of the exemption entry and the exemption can be extended even to activities which are not per se conduct of examination.
18. Based on above submissions, the services provided by the Applicant should be covered under the exemption entry 66 of Not. 12/2017-CT (Rate) & shall be exempted from payment of GST.

In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to services provided to educational institution?

19. In certain cases services are not directly provided by the Appellants to the educational institutions but are provided to customers who in turn provide services to educational institutions. The relevant exemption entry has been reproduced for ready reference:

Services provided -

- (a).....
- (b) *to an educational institution, by way of -*
- (i).....
- (ii)
- (iii)
- (iv) *services relating to admission to, or conduct of examination by, such institution; Provided that nothing contained 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.*

20. Further the term education institution has been defined as under:

- (v) *"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;*



21. Since in the present case, the services are provided to educational institution in spite of the fact that the agreement is done with someone else. It is a considered view of the Applicant that the supply of services are effectively made to the educational institution and accordingly the same should also be exempted from the purview of GST.
22. Similar issue was raised under the VAT law wherein the legal position regarding non-applicability of VAT/Sales Tax on the main contractor, in case the entire work is sub-contracted has already been clarified by the Hon'ble Supreme Court in the case of State of Andhra Pradesh and Others Vs. Larsen & Toubro and Others [(2008) 17 VST 1 (SC)]. The Supreme Court held that property in goods gets transferred from sub-contractor to the contractee even though there is no privity of contract between them. There are no two deemed sales in the transactions - one between the main contractor and contractee and another between the main contractor and the sub-contractor. There is only one deemed sale between the sub-contractor and the contractee.
23. Therefore, based on above submissions the Applicant submit that the contract for supply of services entered with parties other than educational institution shall also be covered within the exemption entry as provided above since the services are provided directly to educational institutions.

03. **CONTENTION - AS PER THE CONCERNED OFFICER**

The submission, as reproduced verbatim, could be seen thus-
Submissions by the Department

Whether the services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the Central Goods and Services Tax Act, 2017 or a mixed supply defined under section 2(74) of the Central Goods and Services Tax Act, 2017?

With respect to the broad scope of services provided by the Applicant, under GST, a composite supply would 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.

The concept of composite supply under GST is identical to the concept of naturally bundled services prevailing in the existing service tax regime. This concept has been explained in the **Education Guide** issued by CBEC in the year 2012 as under –

'Bundled service' means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services The rule is - If various elements of a bundled service are:



naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character

On the other hand, Mixed Supply under GST 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.

On perusal of the sample agreement submitted to this Office by the Applicant as well as the list of services mentioned under Para 2 of Statement of Facts, it can be seen that they appear to provide software powered services for conduct of examinations online by using internet as a medium. The Applicants provide services to completely manage the conduct of examinations electronically in three phases: Pre-Examination, Examination and Post-Examination. In the first stage, they offer to facilitate online booking of examination slots by the candidates and question bank management. Furthermore, they facilitate the proctored conduct of online examinations in their authorized examination centers including invigilation services. The Applicants also provide exam evaluation services in order to minimize human error. If these services are described as conduct of examination services, the term is able to capture the entire essence of the package. The payment is made on a 'per-student-exam-hours' basis. i.e. pricing is on the basis of number of students and duration of examination. Therefore, it can be said that these services offered by the Applicants appear to be naturally bundled services which are supplied in conjunction with each other.

Furthermore, the Applicants have relied upon the **Re BC Examinations and English Services India Pvt. Ltd (AAR Haryana)** Advance Ruling, where the Authority held that services of conducting exams covering sourcing and managing test centres, supplying test material, collecting papers post-test, managing security, managing logistics, printing results, recruiting, training and monitoring invigilators etc were composite supply of services as these did not have independent existence.

a) The Applicants M/s Attest Testing Services Ltd have mentioned a list of services provided by them to various institutions as broad scope of work under Para 2 of the Statement of Facts in their application. It appears that the services so listed in Para 2 are naturally bundled. However, any other services provided by the Applicant that are not naturally bundled with the conduct of examination, will not constitute a Composite Supply. For the same reasons, it is imperative that a detailed list of all additional services, other than those specifically mentioned above, must be provided by the Applicants for detailed scrutiny. The Applicants have enumerated in the application certain services provided using the term "Broad scope of work". However, in order to

avoid giving a blanket exemption to any Applicant, the Hon'ble AAR is requested to direct the Applicants to submit the same before a blanket exemption is granted.

- b) **If the services provided by Applicants are considered as composite supply, whether conduct of examination can be considered as principal supply?**

"Principal Supply" is defined under Section 2(90) of CGST Act as "means the supply of goods or services which constitute the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary."

Conduct of examination may be considered as Principal Supply in the case of the above mentioned services provided by the Applicants. However, it is reiterated that this may apply only to those services that have been mentioned by the Applicants in their application at Para 2 of Statement of Facts and the Sample Agreement provided to this Office.

- c) **If the above services are considered as composite supply and conduct of examination is considered as principal supply, whether the exemption provided under entry 66 of Notification 12/2017 - Central Tax (Rate) as amended vide Notification No 02/2018 - Central Tax (Rate) w.e.f. 25.01.2018 shall be granted?**

The exemption under entry 66 of Notification 12/2017 - Central Tax (Rate) as amended vide Notification 02/2018 - Central Tax (Rate) with effect from 25.01.2018 will apply to the Applicants, only insofar as the services are provided to educational institutions. The entry as amended is reproduced below.



66	Heading 9992	<p>Services provided -- (a) by an educational institution to its students, faculty and staff, (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; (b) to an educational institution, by way of, (1) 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 (v) supply of online educational journals or periodicals:</p> <p>Provided that nothing contained in entry { 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>Provided further that nothing contained in sub-item (V). of item (6) shall apply to an institution providing services by way of,- (i) pre school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course</p>
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Applicant contends that pursuant to the deletion of the words 'upto higher secondary' from the abovementioned entry, the services provided by them to education institutions becomes exempt under the Notification. As per Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017,

“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;

Thus, a detailed scrutiny must be undertaken as to whether the recipients to whom such services are provided fall under the abovementioned definition. It is also pertinent to point out that the definition covers **Only those institutions that provide service by way of education as a part of curriculum for obtaining a qualification recognised by any law or as a part of an approved vocational education course.**

It is, therefore, requested that the Hon'ble AAR may direct the Applicants to submit a list of all the recipients to whom such services are supplied before giving any advance ruling. It is also requested to direct to provide a list of various courses offered by such recipients with documentary evidences establishing that such recipients fall under the definition of 'Educational Institution as mentioned above by way of providing courses recognised by law or part of an approved vocational education course,

- d) **In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to services provided to educational institution?**

It is humbly submitted that the answer of this question depends upon the provision of the following detailed information by the Applicants: (1) List of other services provided by Applicants (2) List of all recipients to whom such services are supplied (3) a list of various courses offered by such recipients (4) other documentary evidences establishing that such recipients fall under the definition of Educational Institution' as mentioned above i.e. those institutions that **provide service by way of education as a part of curriculum for obtaining a qualification recognized by any law or as a part of an approved vocational education course.**

It may be seen that exemption is available only if subject services are provided to an educational institution. Based on such documentary evidences, once it is established that the Applicants provide Composite Supply of services for conduct of examinations to educational institutions falling within the ambit of the abovementioned definition, only then the question at para d would arrive. Even if assumed for the time being that all the courses by all the service recipient are recognised by law or as a part of an approved vocational education course. It the benefit of exemption under the notification can be



granted to the Applicants only in cases where services are provided “to educational institutions” as defined under the notification.

The relevant portion of the exemption under Entry 66 of Notfn 12/2017 – C.T. (Rate) as amended vide Notfn 02/2018 - Central Tax (Rate) with effect from 25.01.2018 is reproduced below:

"Services provided - (b) to an educational institution, by way of, - (iv) services relating to admission to, or conduct of examination by, such institution;"

There is no dispute about the fact that applicant M/s. Attest Testing Services Ltd. is not an educational institution. The benefit of the notification is available only if the subject services are provided to an educational institution. Therefore, it is the Department's submission that only services that are provided directly to the educational institutions falling within the ambit of the above definition may be considered exempt under this notification. The Applicant's contention that exemption may also be extended to the provision of services to those entities who finally supply such services to educational institutions is untenable in law. Attention may be brought to the Apex Court judgment in *Commissioner of Customs (Import), Mumbai vs M/S Dilip Kumar and Co. (dated 30.07.2018)* where a Constitution Bench held,

"(1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of exemption clause or exemption notification.

(2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue."

Thus, it is a settled position of law that while interpreting tax statutes as well as exemption notifications, a strict interpretation is required. On a perusal of Notification 12/2017 - Central Tax (Rate) it is clear that the exemption must only be extended to cases where services are provided to educational institutions which fulfil the criteria given under the definition. Furthermore, the references to case laws related to "Works Contract" and sub-contracting are not applicable to the present case as the nature of services provided is entirely different.

04. HEARING

Preliminary hearing in the matter was held on 02.05.2019. Sh. Keval Shah C.A., appeared and requested for admission of their application. Jurisdictional Officer, Ms. Rhea Joshi, Asstt. Commr., CGST, Divn-X, Mumbai East, appeared & made written submissions.

The application was admitted and called for final hearing on 02.08.2019, Sh. Keval Shah C.A., and Sh. Saroj Parida, V. P. appeared made oral and written submissions. Jurisdictional Officer Ms. Sarita Honrao, Suptt., Range-I, appeared and made written submissions.

05. OBSERVATIONS

We have gone through the facts of the case, documents on record and submissions made by the applicant.

Applicant has entered into contracts with various customers to provide services viz. conducting online examinations along with pre-exam management processes, post exam management processes across different cities & examination centers. Applicant shall provide Exam center infrastructure at its Authorized Centers and ensure that the center installs and maintain necessary security controls and measures in respect of equipment/infrastructural resources provided to students. Applicant will completely manage exam process electronically right from allowing the candidates to choose their required exam slots (Pre-Exam slot booking process including exam registration process, all done through the internet.), to conducting exams (generation of unique question sets to eliminate risk of malpractices on the basis of Question bank i.e. database of questions, provided by their clients, and evaluating the exam (Applicant will manage invigilation process with a supervisor at each center and shall generate results of such exams and provide the results to the client in desired format). Fees are charged based on exam hours booked irrespective of the number of students appearing for the exams. They have submitted that they have discharged GST till 25.01.2018, on such services provided by them and have contended that since 25.01.2018, in view of the amendment made to the Notification No 12/2017 - Central Tax (Rate) dated 28.06.2017 vide Notification No 02/2018 - Central Tax (Rate) dated 25.01.2018, the relevant entry No. 66 of the said Notification provides for exemption to the applicant for providing such services mentioned above.

From the submissions made by the applicant we have no doubt that the subject services provided by them satisfy the definition of 'Composite Services' in as much as they provide services to completely manage the conduct of examinations electronically like facilitation of online booking of examination slots by the candidates, setting up questions based on question bank management, conduction of online examinations in their authorized examination centers, invigilation and exam evaluation services, etc. They have submitted that fees are charged on time basis i.e. per hour basis. We find that the services provided by the applicant are naturally bundled with the principal supply being, conduct of examination. Therefore, the services supplied by the applicant are in the nature of naturally bundled services.

Now since we find that the subject services are in the form of a composite supply where the conduct of examination is considered as principal supply, we need to answer their query as to

whether Entry No 66 of Notfn. No. 12/2017 - CT (Rate) as amended w.e.f. 25.01.2018 is applicable to them. As per the said Entry No. 66 services provided to educational institutions becomes exempt under the said Notification. Hence we now reproduce the definition of an 'Educational Institution' as per the GST Laws. As per Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, an "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;

The applicant, in their submissions, has stated that they are engaged in the business of providing exam, certification, other allied services including various types of surveys, assessments, and exam services to various clients including individuals, educational institutions, firms, corporate bodies, government undertakings etc. They have not submitted whether their clients satisfy the definition of an 'Educational Institution' as mentioned above, in as much as they have not stated whether their clients provide services by way of 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. In the absence of this information it would not be clear whether they are providing services only to educational institutions. However we find they have submitted copies of one agreement with The Institute of Chartered Financial Analysts of India University, Sikkim and a Work Order issued by the University of Delhi in respect of such above mentioned services rendered by them. The same are discussed as under:-

AGREEMENT DATED 01.07.2012 WITH THE INSTITUTE OF CHARTERED FINANCIAL ANALYSTS OF INDIA UNIVERSITY, SIKKIM.

We have perused the said agreement and find that in Para 1 it is mentioned that "*This agreementshall come into force on 01.11.2011 valid for a period of 40 months, ending 28.02.2015.*"

We find that the subject agreement has already expired even prior to introduction of the GST Laws and is therefore neither a transaction being undertaken by the applicant nor a transaction proposed to be taken by the applicant. Hence we refrain from discussing the issue raised by the applicant in respect of this agreement.

PURCHASE/WORK ORDER NO. 31 DATED 17.05.2018 ISSUED BY THE UNIVERSITY OF DELHI.

The scope of work includes conduct of entrance examination for admission to undergraduate, all Post Graduate, M. Phil and Ph. D courses, to provide consultancy, training and manpower support to handle the entire Entrance Test, 2018 of the University of Delhi, to provide the required hardware & software since the exams will be an online computer based test.



We have no doubt that the University of Delhi satisfies the definition of an Educational Institution as required under the GST Laws. We have already found that the subject services supplied by the applicant are composite services where the principal service is conduct of exams. Hence, we find that, under this work order, such services are supplied to an Educational Institution and therefore as per Entry No. 66 mentioned above, the said services will be exempt from payment of tax in respect of this work order.

We are therefore restricting our reply to their question nos 3 & 4 only in respect of the above agreements/work order.

In respect of their other clients, as submitted by the applicant, they have not given detailed information. In the absence of this information it would not be clear whether they are providing services to educational institutions and therefore this authority is not be able to come to a conclusion on this issue. In view of all the above discussions, we take up the questions raised by the applicant, as

Question a) Whether services provided by Applicant can be considered to be a composite supply as defined under Sec. 2(30) of the CGST Act, or a mixed supply under Sec. 2(74).

In view of the discussions made above we find that services provided by Applicant can be considered to be a composite supply as defined under Sec. 2(30) of the CGST Act

Question b) If the services provided by Applicants are considered as composite supply, whether conduct of examination can be considered as principal supply?

In view of the discussions made above we find that conduct of examination can be considered as principal supply.

Question c) If services are considered as composite supply & conduct of examination is considered as principal supply, whether exemption provided under entry 66 of Not 12/2017-CT(Rate) as amended vide Not No 02/2018-CT(Rate) w.e.f. 25.01.2018 shall be granted?

The exemption under Entry No. 66 will be available to them only when the provisions mentioned therein are satisfied by the Applicant.

Question d) In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to services provided to educational institution?

The exemption under Entry No. 66 will be available to them only in respect of the Work Order issued by the University of Delhi, as discussed above.

05. In view of the extensive deliberations as held hereinabove, we pass an order as follows :

ORDER

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 07/2019-20/B-

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Mumbai, dt.

23/08/2019

For reasons as discussed in the body of the order, the questions are answered thus -

Question a):- Whether the services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the CGST Act, 2017 or a mixed supply defined under section 2(74) of the CGST Act, 2017?

Answer :- The subject services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the CGST Act, 2017

Question b):- If the services provided by Applicants are considered as composite supply, whether conduct of examination can be considered as principal supply?

Answer :- Answered in the affirmative.

Question c):- If the above services are considered as composite supply and conduct of examination is considered as principal supply, whether the exemption provided under Entry 66 of Notfn 12/2017-Central Tax (Rate) as amended vide Notfn. No 02/2018 - Central Tax (Rate) w.e.f. 25.01.2018 shall be granted?

Answer :- The exemption under Entry No. 66 will be available to the applicant only when the provisions mentioned therein are satisfied by them.

Question d):- In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to **services** provided to educational institution?

Answer :- The exemption under Entry No. 66 will be available to them only in respect of the Work Order issued by the University of Delhi, as discussed above.



—sd—
B. TIMOTHY
(MEMBER)

—sd—
B. V. BORHADE
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax , Mahavikas for Website.

CERTIFIED TRUE COPY


MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai – 400021.