

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, 8th floor, H-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		27AAATN0040P1ZI
Legal Name of Applicant		NATIONAL INSTITUTE OF BANK MANAGEMENT
Registered Address/Address provided while obtaining user id		NIBM PO, Kondhwe Khurd, Pune 411048
Corresponding Address		NIBM PO, Kondhwe Khurd, Pune 411048
Details of application		GST-ARA, Application No. 139 Dated 25.03.2019
Concerned officer		Dy. Commissioner of S.T. (E-611), LTU-1, Pune.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Recipient
B	Description (in brief)	The National Institute of Bank Management a premier Academic cum Training Institute was established in 1969 by RBI in consultation with Government of India as an autonomous Apex Institute, with the mandate of playing a proactive role of "Think-Tanks of the banking system. NIBM is registered as a society under the Indian Society Registration Act (XX1) of 1860. RBI, SBI & Other Public Sectors Banks were the first members of Governing Board of this society to which, by rules of the society, the management of its affairs was entrusted. Copy of Memorandum is attached for reference. RBI SBI and other public sector banks in capacity of promoters of the Institute contribute annually an amount of Rs. 100.00 lakh as subscriptions towards <i>recurring expenses</i> . The entire CAPEX is also contributed at actuals by RBI,SBI & Other PSBs in ratio of RBI 40%, SBI 20% & Other Public Sector Banks 40%. We would like to seek an advance ruling on whether this amount of subscription for recurring expenses and contribution for non-recurring expenses would be covered under GST.
Issue/s on which advance ruling required		(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 **NATIONAL INSTITUTE OF BANK MANAGEMENT**, the applicant, seeking an advance ruling in respect of the following question.

1. Whether consideration paid as subscription or contribution towards recurring or capital expenses or reimbursement or by whatever name called to National Institute of Bank Management (NIBM); a society registered under Societies Registration Act, 1860 by its members (being Banks) for its recurring and non-recurring expenses is leviable to GST?

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 National Institute of Bank Management a premier Academic cum Training Institute was established in 1969 by Reserve Bank of India (RBI) in constitution with Government of India as an autonomous Apex Institute, with the mandate of playing a proactive role of "Think Tank" of the banking system.

NIBM is registered as a society under the Indian Society Registration Act (XXI) of 1860. RBI, State Bank of India (SBI) & Other Public Sector Banks were the first members of Governing Board of this society to which, by rules of the society, the management of its affairs was entrusted. Copy of Memorandum is attached for reference.

As per Memorandum of Association, the objects for which the society is established are as under:

1. to plan, promote and provide for education and training in operations and management of banking and financial institutions and to undertake, organize, and facilitate Conferences, Seminars, Study Courses, Lectures and similar other activities for the purpose;
2. to promote and conduct research in matters pertaining to:
 - (a) the improvement of banking operations,
 - (b) the *education*, training and development of personnel of banking and financial Institutions,
 - (c) the maximum augmentation and effective deployment of banks' resources including *analytical and* perspective studies of various sectors of the economy with a view to promoting national development;
3. to assist banking and financial institutions in matters such as designing measurement tests for employee selection, appraisal programs, conducting morale and productivity studies, streamlining organizational structure and to review, from time to time, the impact of educational, training and research activities and offer suggestions for filling the gaps in the banking and financial systems;

4. to promote and undertake faculty development programs to assure an adequate supply of competent trainers to institutions conducting training programs for the personnel of banking and financial institutions;
5. to maintain liaison with banking and financial institutions.

RBI, SBI and other Public sector banks in capacity of promoters of the Institute contribute annually an amount of Rs. 100.00 lakh as subscriptions towards recurring expenses. The entire CAPEX is also contributed at actuals by **RBI SBI & Other Public Sector Banks** in ratio of RBI 40%, SBI 20% & Other Public Sector Banks 40%. This annual contribution of the promoters is for ensuring that we are not in deficit as regards our operations.

3b. Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought)

RBI, SBI and other Public Sector Banks are contributing towards fixed amount of Rs. 100 lakh for recurring expenses and Capex at actuals in the capacity of Promoters without receiving any services in exchange.

NIBM runs different courses and training programs in their campus for which it collects fees and other charges from the participants. NIBM charges GST on the said fees and charges collected from the participants.

However, NIBM contends that the GST is not applicable on the contributions collected from the Public Sector Banks on following grounds:

- i) it is a settled 'legal position that unless the link or nexus between the amount and the taxable activity can be established, the amount cannot be subjected to the tax;
- ii) contribution, donation or grant-in-aid is not specifically meant for a person receiving such training or to the specific activity, but is in general meant for the charitable cause championed by the registered foundation;
- iii) the contributions given by the Public Sector Banks are given freely in which the said banks do not receive any exclusive benefit in return;
- iv) the contribution, received by NIBM from the Public Sector Banks shall not be treated as "consideration" received for training or other taxable supplies;
- v) the supply" is defined u/s 7(1) of the GST Act as follows:
"For the purposes of this Act, the expression "supply" includes
(a) all forms of supply of **goods or services** or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a **consideration** by a person **in the course or furtherance of business**;
(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration


Thus, the three factors, namely, Goods or Service, Consideration and Business must exist simultaneously to complete the definition of supply

- vi) Since, the contributions received / receivable by NIBM from the Public Sectors banks cannot be held as "consideration", there is no "supply" and thus, GST should not become applicable on these amounts.
- vii) NIBM relies on following decisions / circulars, wherein, it has been held / clarified that:
 - a, the amounts received as charitable donations out of free will and public/ Government grants for activities of society are not related to services provided by Society. These are excludible from taxable value for charging service tax - *Cultural Society of Angamally v. CCE (2008) 13 STT 277 (CESTAT)*;
 - b. Donations and grants-in-aid received by charitable institution received from different sources for conducting training courses is not consideration received for coaching service provided - MF(DR) circular No. 127/9/2010-ST dated 16. 8.2010.

Additional submissions on 06.06.2019

a. Activities of NIBM

The Memorandum of Association of the NIBM (copy attached herewith) states its main objects as follows:

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- 2) To plan, promote and provide for education and training in operations and management of banking and financial institutions and to undertake, organize and facilitate Conferences, Seminars, Study Courses, Lectures and similar other activities for the purpose;
 - a) to promote and conduct research in matters pertaining to:
 - a) the improvement of banking operations,
 - b) the *education*, training and development of personnel of banking and financial institutions,
 - c) the maximum augmentation and effective deployment of banks' resources including *analytical* and perspective studies of various sectors of the economy with a view to promoting national development;
 - 3) to assist banking and financial institutions in matters such as designing measurement tests for employee selection, appraisal programmes, conducting morale and productivity studies, streamlining organizational structure and to review, from time to time, the impact of educational, training and research activities and offer suggestions for filling the gaps in the banking and financial systems;
 - 4) to promote and undertake faculty development programmes to assure an adequate supply of competent trainers to institutions conducting training programmes for the personnel of banking and financial institutions;

c. Contributions collected from member banks:

RBI, SBI & other Public sector banks in capacity of promoters of the Institute contribute now annually an amount of Rs.100.00 lakh as subscriptions towards recurring expenses. The planned non-recurring expenses including the capital expenditure is also contributed based on the budget approved by the finance committee in their annual meeting.

The member banks contribute towards the recurring and non-recurring expenditure in the following proportion:

- i) RBI 40% of - Rs.100 lakh and the budgeted expenditure;
- ii) SBI 20% of - Rs.100 lakh and the budgeted expenditure;
- iii) Other Public Sector Banks - 40% of Rs.100 lakh and the budgeted expenditure in proportion to their deposits with RBI.

d. Source of income for NIBM

- (i) Short term Training courses offered by NIBM to banks;
- (ii) Consultancy related to specific needs of banks;
- (iii) Research activities for banks
- (iv) Post Graduate Diploma in Management (Banking and Financial Services) PGDM
PGDM course offered by NIBM is recognised under AICTE & hence, exempt under GST. For all the other above revenue generating activities, GST is levied on the fees collected by NIBM.

e. Question Raised

Whether amount paid as subscription or contribution towards recurring or capital expenses or reimbursement or by whatever name called to National Institute of Bank Management (NIBM); a society registered under Societies Registration Act, 1860 by its members (being Banks) for its recurring and non-recurring expenses is leviable to GST?

B) Provisions and Interpretation of Law

1. No "Consideration"

The term 'Consideration' has been defined under Section 2 (31) of the GST Act as under:

"consideration" in relation to the supply of goods or services or both includes -

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;"



From an analysis of the above definition of scope of the term "Supply", it is essential that there has to be a supply of goods or services by a person and that too for a consideration. As stated above in 'facts of the case', it is important to note that the members are required to contribute or subscribe not as per their will but as per the resolution passed by the Governing Board. The contribution by the members is regardless of any services offered by NIBM. As stated in point number 17 of the Object Clause of MoA, the said contribution is to meet the recurring and non-recurring expenses incurred or as deemed fit by the society. The unspent contribution of one year is treated as 'income received in advance' and adjusted against the contribution of subsequent year. The contribution, therefore, cannot be said to be in the nature of consideration but it is more in the nature of aid / grant / subsidy received from the members to support functioning of the NIBM.

2. No "Business"

Section 2(17) of the GST Act defines Business as follows:

"business" includes

- a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- b) any activity or transaction in connection with or incidental or ancillary to sub clause (a);
- c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency; continuity or regularity of such transaction;
- d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business,
- e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- f) admission, for a consideration, of persons to any premises;
- g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club, and]
- i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities,

With reference to the given definition, the applicant, who is registered under the Societies Registration Act, 1860 and can therefore be termed as a carrying on business if it provides facilities or benefits to its members for a subscription/ fees then that society is squarely covered under Section 2(17)(e) above.

In case of NIBM, no facilities are provided to the member banks against the subscription amount. The amount is collected for the recurring and non-recurring expenses of NIBM and thus no facilities are provided as such. As no facilities are provided by NIBM, there is no business and thus no furtherance of business, ultimately there is no supply:

3. No "Supply"

Section 7 of the GST Act defines the term "Supply" as under:

For the purposes of this Act, the expression "supply" includes —

a) *all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,*

b) *import of services for a consideration whether or not in the course or furtherance of business;*

c) *the activities specified in Schedule 1, made or agreed to be made without a consideration, and*

d) *the activities to be treated as supply of goods or supply of services as referred to in Schedule. II.*

Notwithstanding anything contained in sub-section (1),

a) *activities or transactions specified in. Schedule III; of*

b) *such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.*

Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as —

a) a supply of goods and not as a supply of services; or

b) a supply of services and not as a supply of goods.

Perusal of the above would reveal that there has to be a supply of goods or services for a consideration by a person in the course or furtherance of business to meet the definition of "supply".

In case of receipt of recurring and non-recurring contributions by NIBM from the member banks, there is no supply of goods or services neither there is any consideration nor business or furtherance of business thus the said receipts fall outside the scope of supply" and thus, shall not attract GST.

As a matter of fact, there is **no direct nexus / linkage** between the contribution received from members and services offered to them and thus, there is no supply as defined u/s 7 of the GST Act.

NIBM offers various services in the nature of training, coaching, research, consultancy to members for which separate fees are charged and the GST is levied on such services wherever specific exemption is not available under the GST law.

NIBM also relies on following decisions/circulars, wherein, it has been held/clarified that:

a) the amounts received as charitable donations out of free will and public /Government grants for activities of society are not related to services provided by Society. These are excludible from taxable value for charging service tax – Cultural Society of Angamally v. CCE (2008) 13 STT 277 (CESTAT);

b) Prima facie, there was no nexus between grants/donations from donors and medical professionals, who were provided training, thus it was held that in absence of such nexus,

donations cannot be included in gross taxable value - *Public Health Foundation of India vi Commissioner of Service-tax, Delhi*

c) Donations and grants-in-aid received by charitable institution received from different sources for conducting training courses is not consideration received' for coaching service provided – MF(DR) circular No. 127/9/2010 ST dated 16-8-2010.

Without prejudice to whatever stated in the foregoing, NIBM further contends that:

Even if assuming without conceding that the members, derive indirect benefit from the contribution paid by them, the contribution received from the member banks and the related activity conducted from the contribution would be covered under the Principle of Mutuality":

Often, there comes across certain situations where a group of people forms an association and pool in their surplus income in the association's common fund. The fund so collected is then used for the benefit of the members when needed.

Hence, a question would arise whether the monies / contribution / subscription received from the members should be taxed, the answer would be in negative, as principle of mutuality would be applicable.

This doctrine rests on the principle that a person cannot make a profit from himself. An amount received from oneself is not regarded as income and is therefore not subject to tax. In short, since there is no commercial element embedded in such transaction, they are exempted from being taxed. Even in circumstances where surplus money is raised than what is needed to be pursued for the common purpose it would simply mean an increase of the common fund and hence would neither be considered as income nor it would be taxable.

Principle of Mutuality is guided by the gospel that "No man can trade with himself; he cannot make, in what is its true sense or meaning, taxable profit by dealing with himself". Mutuality principle offers a tax shelter, as long as its character of a mutual association is retained, with its income not tainted / derived by commerciality.

The 'Principle of Mutuality' has been held as a cogent ground for non-taxability of an activity across various taxes such as VAT, Sales Tax as well as Service Tax in several cases. The 'Principle of Mutuality' would, therefore, be applicable even in respect of applicability of Goods & Services Tax.

Principle of Mutuality was considered in CIT. v. Bankipur Club [1997] 92 Taxman 278 (SC). These principles are applicable and have been applied by the Calcutta High Court in Saturday Club Ltd. v. Asstt. CST [2005] ISTT 64 (Cal.) as concurred to in Dalhousie Institute v. Asstt. CST [2005] 1 STT 15 (Cal.)(EXHIBIT A-1 to A-3).2012 (26) S.T.R. 401 (Jhar.) In The High Court of Jharkhand At Ranchi, Prakash Tatia. CJ. & Aparesh Kumar Singh. J. Ranchi Club Ltd. v. Chief commr. of C. EX. & S.T., RANCHI ZONE [2012] 22 taxmann.com217/36 STT 64 (Mag.)

In case of NIBM, it is registered as a society under the Indian Society Registration Act (XXI) of 1860 wherein RBI, SBI & Other Public Sector Banks are the members. The contribution by the members is regardless of any services offered by NIBM. As stated in point number 17 of the Object Clause of MoA, the said contribution is to meet the recurring and non-recurring expenses incurred or as deemed fit by the society. The unspent contribution on one year is treated as 'income received in advance and adjusted against the contribution of subsequent year. Thus, no profit accrues to NIBM in receipt of such contribution received from its members. There is no commercial element in the activities related to such contribution.

The essential conditions of the principle of mutuality are met in case of receipt of contributions by NIBM from the member banks towards recurring and non-recurring expenses as the members bank contributes the amounts under a mandate from the Memorandum of Association of the NIBM, the said contributions are utilized for activities of NIBM as per the terms mentioned in the MOA of NIBM and no profit is earned by the NIBM from such contributions.

Hence, NIBM contends that the activities undertaken from the receipt of the contributions from the member banks is squarely covered under the 'Principle of Mutuality' and thus, the receipt of the said contributions are not exigible to GST.

Points of Comparison between BCSBI and NIBM

Sr. No.	Point of comparison	Banking Codes	NIBM
1	Contribution by members.	Voluntary membership	Compulsion to contribute
2	Contribution amount	Membership and subscription fees	Contribution towards recurring expense (fix, amount shared in defined ratio) and towards non-recurring and capital expenditure based on approved budget (after adjusting earlier year's unspent amount)
3	Services received out of contribution collected	Developing, publishing and publicizing banking codes	No service
4	Benefit to members	Increased credibility of the banks, advertising, etc.	No benefit
5	Consideration for services offered	No separate consideration, annual membership fees are utilised for the same .	Separate fees are charged and GST is levied on the same.
6	Furtherance of business	advertising and publishing promotional literature in newspapers and are also organizing, teaching and training courses, conferences, seminars and lectures and also publishing journals, pamphlets, reports, books and booklets in this regard	No facilities are provided to members against the subscription amount, as the said amount is utilised for recurring and non-recurring expense. As there is no business, there is no furtherance of business.
7	Supply	- publishing and promotions - increased credibility of member banks - increased client base - supply	- No facility - No business - No furtherance of business and no supply



8	Necessity of the service provided	Yes, in case no service was provided by banking codes, there was requirement of the service as per the mandatory guidelines of RBI	No such requirement
9	Promoting national development	By using the unique codes developed, credibility of the member banks is increased, hence no national development	the services provided are for spreading of education, creating awareness and promoting national development

Additional submissions on 21.06.2019

1. Statement of decided cases of Advance Ruling in comparison to NIBM

- a) Banking Codes & Standards Board of India
- b) Lions club of Poona Kothrud
- c) Association of Inner Wheel Club, West Bengal AAR
- d) Maharashtra Rajya Sahakari Sangh Maryadit

Points of Comparison between BCSBI and NIBM

Sr. No.	Point of comparison	Banking Codes	NIBM
1	Contribution by members	Voluntary membership	Non Voluntary contribution
2	Contribution amount	Membership and subscription fees	Contribution towards recurring expense (fix amount shared in defined ratio) and towards non-recurring and capital expenditure based on approved budget (after adjusting earlier year's unspent amount)
3	Services received out of contribution collected	Developing, publishing and publicizing banking code	No service
4	Benefit to members		No benefit
5	Consideration for services offered	No separate consideration, annual membership fees are utilised for the same.	Separate fees are charged i.r.o other revenue generating activities and GST is levied on the same.
6	Furtherance of business	advertising and publishing promotional literature in newspapers and are also organizing, teaching and training courses, conferences, seminars and lectures and also publishing journals, pamphlets, reports, books and booklets in this regard	No facilities are provided to members against the subscription amount, as the said amount is utilised for recurring and non-recurring expense. As there is no business, there is no furtherance of business.
7	Supply	- publishing and promotions - increased credibility of member banks - increased client base – supply	- No facility - No business - No furtherance of business and no supply
8	Necessity of the service provided	Yes, in case no service was provided by banking codes, there was requirement of the service as per the mandatory guidelines of RBI	No such requirement
9	Promoting national development	By using the unique codes developed, credibility of the member banks is increased, hence no national development	the services provided are for spreading of education, creating awareness and promoting national development



Similarities between Poona Club and NIBM

Sr. No.	Similarity	Poona Club	NIBM	Ruling
1	Utilization of contribution by members	The contribution is received for defraying meeting expenses, administrative expenses and other common expenses	The contribution is received towards recurring and non-recurring expenses	in favour of assessee
2	Principle of mutuality	Exists	Exists	the club is not formed to provide any supply of goods or services to its members qua the fees received from them. There being no supply qua the fees received, there arises no occasion for us to visit the definition of 'Supply' under the GST Act. The applicant club as per the facts put up before us does not render any 'Supply for the purposes of the GST Act. Having observed so, we refrain from any further discussion.
3	Services received out of contribution collected	No services received by members out of contribution collected	No services received by members out of contribution collected	
4	Benefit to members	No benefit to members	No benefit to members	
5	Consideration for services offered	No service offered to members	Separately received for services offered	
6	Furtherance of business	No furtherance of business	No furtherance of business	
7	Supply	No supply	No supply	

Points of Comparison

Sr. No.	Point of Comparison	Poona Club	NIBM
1	Nature of activities	Humanitarian and charitable	Promoting national development
2	Membership	Voluntary	Non voluntary

Comparison between AIWC and NIBM

Sr. No.	Point of comparison	AIWC	NIBM
1	Benefits not extended to non-members or restricted to members	Only the members are granted various facilities and/or benefits, enabling them to attend conventions/meetings for the furtherance of the objectives of the organisation. Such facilities/benefits are not available to the non- members of the organisation.	Services in the nature of education, training, etc are offered to members as well as non-members for separate consideration in the form of fees. No services are provided to members against the contribution received from them as the contribution is received towards meeting of recurring and non-recurring expenses
2	Utilisation of fund raised / contribution received	The Balance sheet has no indication of expenses made by them towards social work except some amount of expense towards 'Relief Fund for Cyclone' in the year ending on 30th June, 2018. But from 'income' side it appears that much amount was raised by the club for that very	Contribution is received every year to meet the recurring as well as non-recurring expenses.

		purpose. Hence, the club has no regular social activity and also has no segregated fund for that purpose though the Appellant claimed in their grounds of Appeal that the subscription / membership fees collected from the members are utilised entirely for funding charitable work and towards administrative expenses incurred in the furtherance of the objectives of the organisation	
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Comparison between MRSSM and NIBM

Sr. No.	Point of comparison	MRSSM	NIBM
1	Levy of GST on fees for education and training	Activities of MRSSM of conducting education and training programmes by charging fees from the participants are covered under the definition of supply; and hence liable to GST.	NIBM conducts similar activities of education and training; GST is charged on the fees received from the participants as such activities are covered by definition of supply.
2	Services provided to members hence the annual fees / contribution received	Services are provided only to the members, is in the nature of consideration	Services are offered to members as well as non-members. However, the same are charged with GST. Contribution received from members, is and / or non members towards the recurring and non-recurring expenses and thus in our view should be exempted from levy of GST

03. CONTENTION - AS PER THE CONCERNED OFFICER

The submission, as reproduced verbatim, could be seen thus- on 15.04.2019

“Ms. National institute of Bank Management (NIBM) is registered as a society under the Indian Society Registration Act,

Activities of National Institute of Bank Management are to plan, promote, and Doc-wide for education and training in operation and management of Banking and financial institutions and to undertake, organize and facilitate conferences, seminars etc, to promote and conduct research, to assist banking and financial institutions, to promote and undertake faculty development programs.

The question on which advance ruling required is as under:

“ Whether considerations paid as subscription or contribution towards recurring or capital expenses or reimbursement or by whatever name called to National Institute of Bank Management by its Members for its recurring and non-recurring expenses is leviable to GST.”

National Institute of Bank Management has informed that the Reserve Bank of India, State Bank of India and other public sector banks in capacity of promoters of the institute contribute annually an amount of Rs. 100 lakh as subscription towards recurring expenses. The entire CAPEX is also contributed at actuals by RBI, SBI, and other public sector banks in ratio of RBI 40%, SBI 20%, and other public sector banks 40%.

On perusal of nature of activities undertaken by NIBM it appears that the annual subscription and reimbursement received from RBI and other public sector Banks are used for carrying out the activities of NIBM. NIBM carries out its activities on commercial basis and the promoter banks have control over its activities being the members of governing board. Hence, there is a direct relation between the activities of NIBM and the funds received. Hence the considerations paid as subscription or contribution towards recurring or capital expenses or reimbursement to M/S NIBM by its members for its recurring and non-recurring expenses is leviable to GST.

The ratio of cultural society of Angamally V.CCE (2008) is not applicable as in that case donations were received from various persons by cultural society of Angamally and there was no nexus between donations received and services availed.

Submission on 06.06.2019 dated 04.06.2019

While going through the submissions made by M/s. National Institute of Bank Management it is observed that the NIBM is an academic cum training institute established in 1969 by Reserve Bank of India in consultation with Govt. of India as an autonomous Institute. NIBM is registered as a society under the Indian Society Registration Act (XXI) of 1860.

The objects of NIBM are as follows:

1. To plan, promote and provide for education and training in operation and management of banking and financial institutions, to undertake conferences, seminars.
2. To promote and conduct research in :
 - (a) Improvement of banking operations
 - (b) Training and development of banking personnel.
 - (c) Maximum augmentation and effective deployment of Bank's resources:
3. To assist banking and financial institutions in matters such as designing measurements for employee selection etc.
4. To promote and undertake faculty development programmes.
5. To maintain liaison with banking and financial institutions.

RBI, SBI and other Public Sectors Banks in capacity of promoters of the institute contribute annually an amount of Rs.100 lakhs as subscriptions towards recurring expenses.

NIBM runs different courses and training programs in their campus for which it collects fees and other charges from the participants.

After going through above details it is evident that NIBM fulfills the ingredients of section 2 as follows:

- Section 2(84) "person" includes
- Society as defined under the societies Registration Act, 1860; trust
- Section 2(17) "business" includes

Any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity whether or not it is for a pecuniary benefit.

- Section 7: scope of supply:
- (1) For the purpose of this Act, the expression "Supply" includes
- All forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal
- Made or agreed to be made for a consideration by a person in the course of furtherance of business;
- Section 2(31):" consideration "in relation to the supply of goods or services or both includes
- Any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of,
- The supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the central Government or a State Govt.

The annual subscription and reimbursement received from RBI and other public Sector Banks are used for carrying out the activities of NIBM.

NIBM carries out its activities on commercial basis and the promoter banks have control over its activities being the members of governing board. Hence, there is direct relation between the activities of NIBM and the funds received.

In view of above facts it is seen that NIBM is a person doing business of supply of services for monetary consideration received in the form of annual subscription.

In a similar case of The Banking codes and standards Boards of India Advance Ruling is decided by Hon'ble Maharashtra Authority for Advance Ruling.

The BCSBI is registered under the Societies Registration Act-1860 and public trust under Maharashtra Public Trust Act, 1950. BCSBI undertakes various activities viz. to advertise and publish promotional literature in newspaper about codes and standards, to organize teaching & training courses, seminars, to publish journals, reports etc. BCSBI raise annual invoices upon its member banks and member banks pay annual membership fees in monetary terms.

In this case it is held that the activity of BCSBI is falling under the definition of "supply" as per Section 7 of the CGST Act, 2017, the contribution made by members banks to "corpus Fund" can be considered as "consideration as per section 2(31) of the CGST Act, 2017, the activity of BCSBI is to be termed as "Business" as provided under section 2(17) (e) of the CGST Act, 2017. The case of NIBM is very similar to the case of BCSBI and the ratio of Advance Ruling in case of BCSBI squarely applies to NIBM.

Therefore the consideration paid as subscription or contribution towards recurring or capital expenses or reimbursement or by whatever name called to National Institute of Bank Management (NIBM); a society registered under Societies Registration Act, 1860 by its members for its recurring and non-recurring expenses is leviable to GST.

04. HEARING

Preliminary hearing in the matter was held on 16.04.2019. Ms. Anagha Kotwal, Accounts Manager, appeared and requested for admission of their application. Jurisdictional Officer Sh. M. A. Bhagat, Dy. Commr. of S.T. (E-611), LTU-1, Pune appeared and made written submissions.

The application was admitted and called for final hearing on 06.06.2019. Ms. Anagha Kotwal, Accts Mgr & Sh. Abhijit Kulkarni, C.A. appeared, made oral & written submissions. Jurisdictional Officer Sh. M. A. Bhagat, Dy. Commr of S.T. (E-611), LTU-1, Pune also appeared and made written submissions.

05. OBSERVATIONS

- 5.1 We have gone through the facts of the case, documents on record and submissions made by both, the applicant, as well as the jurisdictional office.
- 5.2 The applicant, a registered society under the Indian Society Registration Act (XXI) of 1860 is an Academic cum Training Institute established by the Reserve Bank of India (RBI) in constitution with Government of India as an autonomous Apex Institute. RBI, State Bank of India (SBI) & Other Public Sector Banks were the members of Governing Board to whom, by rules of the society, the management of its affairs was entrusted. They have submitted that the RBI, SBI & other Public sector banks in their capacity of promoters, contribute an amount of Rs. 100.00 lakh, per annum, as subscriptions towards recurring expenses. Their entire CAPEX is also contributed at actuals by them in a certain ratio. The contribution is to ensure that the applicant is not in deficit as regards their operations.
- 5.3 They have also submitted that their operations, as per Memorandum of Association, include: (A) promotion and conducting of research in matters pertaining to (a) the improvement of banking operations, (b) the *education*, training and development of personnel of banking and financial Institutions, (c) the maximum augmentation and effective deployment of banks' resources including *analytical* and perspective studies of various sectors of the economy with a view to promoting national development; (B) to assist banking and financial institutions in matters such as designing measurement tests for employee selection, appraisal programs, conducting morale, productivity studies, streamlining organizational structure and to review, from time to time, the impact of educational, training and research activities and offer suggestions for filling the gaps in the banking and financial systems and to maintain liaison with banking and financial institutions.
- 5.4 They have further submitted that GST is not applicable on the contributions collected/received from the Public Sector Banks, as mentioned above, because the such contributions received cannot be held as 'consideration' as defined under the GST Act, since there is no supply on their part. Further they have stated that there is no link or nexus between the amount received and the activities conducted by them; contributions received are



meant for the charitable cause championed by the registered foundation; the Public Sector Banks do not receive any exclusive benefit in return for the contributions so made.

5.5 The applicant has stated that the sources of income is from (i) Short term Training courses offered to banks; (ii) Consultancy related to specific needs of banks; (iii) Research activities for banks and (iv) Post Graduate Diploma in Management (Banking and Financial Services) PGDM. PGDM course offered by NIBM is recognized under AICTE and hence, exempt under GST and for all the other above revenue generating activities, GST is levied on the fees collected by NIBM.

5.6 We find that in the subject case, the applicant receives certain amount of contribution from public sector banks and RBI to cover certain recurring and non-recurring expenses incurred by them. The question that comes to our mind is as to what these recurring and non-recurring expenses are. From the submissions made by the applicant, we find that as per Memorandum of Association, the expenses are incurred for promotion and conducting of research in matters pertaining to the improvement of banking operations, pertaining to the maximum augmentation and effective deployment of banks' resources including analytical and perspective studies of various sectors of the economy with a view to promoting national development, to assist banking and financial institutions in matters such as designing measurement tests for employee selection, appraisal programs, conducting morale, productivity studies, streamlining organizational structure and to review, from time to time, the impact of educational, training and research activities and offer suggestions for filling the gaps in the banking and financial systems and to maintain liaison with banking and financial institutions.

5.7 Hence it is very clear that to receive the contributions as mentioned above, they must carry out the activities entrusted to them and these activities are nothing but supply of services by them, rendered in lieu of the receipt of contributions. Thus their argument that, the contributions are not 'consideration' received for taxable supply is not acceptable. They have submitted that the contributions received cannot be said to be in the nature of consideration but it is more in the nature of aid / grant / subsidy received from the members to support functioning of the NIBM. We find that the contribution has been received with a caveat i.e. to perform the activities mentioned in the MOA mentioned above.

5.8 In view of the above, we find that there is a supply of taxable services by the applicant which are performed for consideration (in this case contributions received for performing activities mentioned in the MOA) received in furtherance of their business. As per Section 2 (17) (e) 'business' includes provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members. Here, the applicant is a society formed by the RBI and various Public



Sector Bank/s and are providing services mentioned in para 5.6 above to their member banks. Therefore it can safely be said that they are receiving consideration (contribution) for supply of taxable services rendered in furtherance of their business.

5.9 We now direct our attention to their next line of submissions which states that *“Even if assuming without conceding that the members, derive indirect benefit from the contribution paid by them, the contribution received from the member banks and the related activity conducted from the contribution would be covered under the Principle of Mutuality”*.

5.10 We do not agree with the applicant’s contention that their activity would be covered under the ‘Principal of Mutuality’ i.e. "No man can trade with himself; he cannot make, in what is its true sense or meaning, taxable profit by dealing with himself". This assumption is made by the applicant considering that they and the various Public Sector banks and RBI are one and the same. We find that :

- a. in the subject case, as per the definition of “person” under the GST Act, 2017, there are two persons namely, the applicant and the other person being the members of the applicant i.e the Public Sector Banks. Hence the club and member are distinct entities.
- b. The GST law has given very wide connotation for services, which will cover any activity other than which involves goods, money and securities. Therefore the activities of the applicant mentioned above can clearly be considered as service being provided by the respondents to its members.

From the inclusive definition of the term ‘consideration’ it can decisively be construed that the contributions received by the applicant from the RBI and other Public Sector Banks is meant for both recurring as well as non-recurring expenses which includes activities which are being carried out by the applicant as mentioned in para 5.6 above.

Thus, any contributions collected/received by the applicant will definitely be understood as ‘consideration’ as the same has been paid for supply of services.

- d. The applicant has fulfilled both the conditions prescribed by Section 7 of the CGST Act; firstly that such supply is made by them in lieu of consideration i.e contribution and secondly, such supply has been made in the course or furtherance of business since the term business includes provision by club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members.
- 5.11 In view of the discussions made above we are firmly of the opinion that the contributions received by the applicant from the RBI and other Public Sector Banks is nothing but consideration for the entire gamut of services supplied by them as mentioned in para 5.6 supra and GST is payable on such contributions received.



06. 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- 139/2018-19/B- 75

Mumbai, dt. 25.06.2019

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

Question 1:- Whether consideration paid as subscription or contribution towards recurring or capital expenses or reimbursement or by whatever name called to National Institute of Bank Management (NIBM); a society registered under Societies Registration Act, 1860 by its members (being Banks) for its recurring and non-recurring expenses is leviable to GST?

Answer :- Answered in the affirmative, in view of discussions made above.



— sd —
B. TIMOTHY
(MEMBER)

— sd —
B. V. BORHADE
(MEMBER)

CERTIFIED TRUE COPY

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.


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.