

THE MAHARASHTRA APPELLATE AUTHORITY FOR ADVANCE RULING FOR GOODS AND SERVICES TAX
(constituted under Section 99 of the Maharashtra Goods and Services Tax Act, 2017)
ORDER NO. MAH/AAAR/SS-RJ/19/2018-19 **Date- 04.02.2019**

BEFORE THE BENCH OF

- (1) Smt. Sungita Sharma, MEMBER**
(2) Shri Rajiv Jalota, MEMBER

GSTIN Number	27AAACI7332J2ZH
Legal Name of Appellant	IMS PROSCHOOL PVT. LTD.
Registered Address	704, G Square Business Park, Sector 30A, Plot No. 25 & 26, Vashi, Navi Mumbai – 400703.
Details of appeal	Appeal No. MAH/GST-AAAR-16/2018-19 dated 06.11.2018 against Advance Ruling No. GST-ARA-37/2017-18/B-44 dtd.05.06.2018
Jurisdictional Officer	Deputy Commissioner of State GST, RAI-VAT-E-008, Raigad division, Belapur, Navi Mumbai

PROCEEDINGS

(under Section 101 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

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 such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the MGST Act.

The present appeal has been filed under Section 100 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 IMS PROSCHOOL PVT. LTD(herein after referred to as the “Appellant”) against the Advance Ruling No. GST-ARA-37/2017-18/B-44 dtd.05.06.2018.



BRIEF FACTS OF THE CASE

- A. IMS Proschool Pvt Ltd. (herein after referred to as 'Appellant') is a company incorporated under the Companies Act, 1956 having its registered office at Mumbai, Maharashtra.
- B. The Appellant is an initiative of IMS Learning Resources and offers educational training and skilling courses through classroom training and virtual coaching, in many areas such as data science, digital marketing, IFRS, ACCA, Fitter – Mechanical Assembly, Basic Electrical, Sales Person Retail etc. across many cities in India including Mumbai, Pune, Chennai, Bangalore, Delhi, Hyderabad, Gurgaon, Kochi and several districts of Gujarat.
- C. The Appellant has obtained registration under Goods and Service Tax (hereinafter referred to as 'GST') regime in states of Maharashtra, Haryana, New Delhi, Karnataka, Kerala, Tamil Nadu, Telangana and Gujarat.
- D. Appellant is engaged in the business of skilling the youth with the objective of helping them find decent job, make them employable and to help them earn better living. This includes preparing graduates and working professionals to appear for various National and International certifications for career development needs, including NCFM Financial Modeling, Financial Analysis, Management Accounting, Business Analytics and various other post graduate programs in areas of finance, business analytics and marketing as well as technical programs such as Fitter, Basic Electrical and Sales Person Retail.
- E. For imparting the aforesaid training, Appellant has developed its own proprietary training formats, materials and methodology, which are conducted at its centers located in various cities and sometimes at location of business institutions and Govt. organizations. The clientele of the Appellant includes individuals, corporates, educational institutions, Govt. organizations.
- F. The Appellant has tie-ups with various educational institutes / Govt. organizations, including National Skill Development Corporation (herein referred to as 'NSDC'), National Stock Exchange Academy, Symbiosis International University, Indira Institute



of Management, Lovely Professional University, Chartered Financial Institute, Chartered Institute of Management Accountant.

- G. NSDC is a not-for-profit public limited company incorporated under Section 25 of the Companies Act, 1956 (corresponding to section 8 of the Companies Act, 2013). NSDC was set up as part of a national skill development mission of Government of India to fulfill the growing need of skilled manpower across sectors in India and narrow the existing gap between the demand and supply of skills. NSDC was set up by Ministry of Finance as Public Private Partnership (PPP) model.
- H. Appellant is an approved training partner of NSDC and till date, 12 educational courses offered by it have been approved by NSDC. Further, 2 educational courses for which Qualification Packs (herein referred to as 'QP')/ National Occupational Standards (herein referred to as 'NOS') have not been defined by NSDC yet, have been conditionally approved by NSDC. All such courses offered by the Appellant are directed towards skill development and to help increase skilled employment in India.
- I. The technical and vocational educational courses offered by the Appellant are either funded by NSDC/ Central Government/ State Government or are paid up courses which are enrolled by individuals, corporate.
- J. With advent of GST, there are various services which are exempt under the new indirect tax regime vide Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Relevant to current context, Appellant would like to reproduce Entry No. 69 in the said notification as under:

Any services provided by,-

- (a) the National Skill Development Corporation set up by the Government of India;*
- (b) a Sector Skill Council approved by the National Skill Development Corporation;*
- (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;*
- (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-*



- (i) *the National Skill Development Programme implemented by the National Skill Development Corporation; or*
- (ii) *a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or*
- (iii) *any other Scheme implemented by the National Skill Development Corporation.*

K. Appellant believed that the activities performed in relation to the courses approved by National Skill Development Corporation is eligible for exemption under the above entry. However, there were certain doubts with respect to eligibility of exemption in following situations:

- a. The said courses are offered to corporate and business institutions
- b. The approved courses are imparted by business partners of Appellant as sub-contractor
- c. For certain courses QP/ NOS are not defined by NSDC but exceptional approval is given. These are subsequently defined and eventually approved by NSDC
- d. For certain courses QP/NOS are subsequently upgraded by way of adding more topics/ content. These modifications are not yet approved by NSDC

L. Therefore, to seek clarification regarding the above doubts, Appellant had approached the Maharashtra Authority for Advance Ruling (herein after referred to as 'ARA') under Section 97 of Central Goods and Services Tax Act, 2017 (herein referred to as 'CGST') and State Goods and Services Tax Act, 2017 (herein referred to as 'SGST'). The application had sought for the clarifications on the following questions of law:

Q.1. Whether educational courses offered by the Applicant, which have been approved by NSDC, would be construed as in relation to National Skill Development Programme implemented by NSDC?

Q.2. The Applicant offers certain educational courses for which qualification standards / framework i.e. QP/ NOS have not been defined by NSDC and will be approved by NSDC as and when the relevant QP/ NOS would be defined by NSDC. In the interim period, NSDC has given exceptional approval on such courses. Till the time QP/ NOS are defined for such educational courses and are eventually approved by NSDC, whether



such courses will be treated as in relation to National Skill Development Programme implemented by NSDC?

Q.3. In certain situations, NSDC approved educational courses are subsequently upgraded by the Applicant within pre-defined QP/ NOS framework, by way of adding more topics/ contents /modules. However, such modified version of NSDC approved educational courses have not been approved by NSDC yet. Whether such modified version will be treated as in relation to National Skill Development Programme implemented by NSDC?

Q.4. If the answer to Q.1, Q.2 and Q.3 is Yes, then whether the benefit of GST exemption as per Notification No. 12/2017- Central Tax (Rate), dated the 28th June 2017 would be available to the Applicant?

Q.5. If answer to Q.4 is yes, whether benefit of GST exemption as per Notification No. 12/2017- Central Tax (Rate), dated the 28th June 2017 would be still available if such educational courses are offered to corporate and business institutions?

Q.6. Whether the NSDC approved educational courses which are actually imparted by the business partners of the Applicant, on behalf of the Applicant as sub-contractor of Applicant, at various centres located across the country, will be considered as offered by the Applicant?

Q.7. If answer to Q.6 is Yes, whether benefit of GST exemption as per Notification No. 12/2017- Central Tax (Rate), dated the 28th June 2017 would be available to the Applicant?

M. The concerned jurisdictional officer had submitted contention against the ruling sought by Appellant. The said submissions against each of the above questions are summarized in the following table:

Q. No.	Questions by Appellant	Submissions by concerned officer
1	Whether educational courses offered by the Applicant which have been approved by NSDC would be construed as in relation to National Skill Development Programme	Yes. As the applicant is engaged in the business of skilling the youth with the objective of helping



Q. No.	Questions by Appellant	Submissions by concerned officer
	implemented by NSDC?	them find decent job make them employable and to help them earn better living. It fulfills the norms of the NSDC.
2	The Applicant offers certain educational courses for which qualification standards / framework i.e. QP/ NOS has not been defined by NSDC and will be approved by NSDC as and when the relevant QP/ NOS would be defined by NSDC. In the interim period, NSDC has given exceptional approval on such courses. Till the time QP/ NOS are defined for such educational courses and are eventually approved by NSDC, whether such courses will be treated as in relation to National Skill Development Programme implemented by NSDC?	No comment.
3	In certain situations, NSDC approved educational courses are subsequently, upgraded by the Applicant within pre-defined QP/ NOS framework, by way of adding more topics/ content /modules. However, such modified version of NSDC approved educational courses have not been approved by NSDC yet. Whether such modified version will be treated as in relation to National Skill Development	Decision will be taken by NSDC.



Q. No.	Questions by Appellant	Submissions by concerned officer
	Programme implemented by NSDC?	
4	If the answer to Q.1, Q.2 and Q.3 are Yes, then whether the benefit of GST exemption as per Notification No. 12/2017- Central Tax (Rate), dated the 28th June 2017 would be available to the Applicant?	If all the norms of NSDC fulfills, then yes.
5	If answer to Q.4 is Yes, whether benefit of GST exemption as per Notification No. 12/2017- Central Tax (Rate), dated the 28th June 2017 would be still available if such educational courses are offered to corporates and business institutions?	No.
6	Whether the NSDC approved educational courses which are actually imparted by the business partners of the Applicant, on behalf of the Applicant as sub-contractor of Applicant, at various centres located across the country, will be considered as offered by the Applicant?	Should be approved by the NSDC, not for sub-contractor of the applicant.
7	If answer to Q.6 is Yes, whether benefit of GST exemption as per Notification No. 12/2017- Central Tax (Rate), dated the 28th June 2017 would be available to the Applicant?	Should be approved by the NSDC, not for sub-contract of the applicant.

- N. The ARA, in this case, has observed that the copy of certificate for training partner of NSDC was not produced for FY 2018-19.



- O. The ARA further observed that National Skill Development Programme would cover only the actual schemes and programmes of skill development that are undertaken by the Government through its various ministries, departments, directorates, attached offices and organizations and cannot, in any way, be construed to be including each and every way under the sun which enhances skills in one way or other. Hence, the ARA answered all the questions in negative.
- P. Being aggrieved by the said Order, Appellant has preferred the present Appeal on the following grounds.

Grounds of Appeal

1. The ARA has failed to understand that in absence of conflict, decision may not be necessary.
 - 1.1. Appellant states that the decision of ARA is required only when there is a question with respect to possibility of a prospective conflict. The very purpose of creating an ARA under the Statute is to avoid the germination of a future conflict and obtain clarity with respect to levy of tax on a particular transaction in advance. Hence, in a way Advance Ruling is intended to reduce litigation where there is a likelihood of conflict or difference of opinion/ view between the tax payer and the tax officer.
 - 1.2. In this context Appellant would like to refer to the definition of “advance ruling” in clause (a) of Section 95 of Central Goods and Services Tax Act, 2017 as under:

“advance ruling” means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant
 - 1.3. As the nomenclature suggests that is a “ruling obtained in advance”. It is apparent from the above definition that Advance Ruling is a “decision obtained in advance”. Therefore, in cases, where there is no conflict, a decision is not required. For instance, if there is a conflict between landlord and tenant with respect to tenancy fees, then a decision of a judicial forum is required. In case, there is no conflict or no difference of view then none of parties would approach a judicial forum for resolution of the conflict/ dispute. Under Section 105 of Central Goods and Services Tax Act, 2017, ARA is considered as a



“Court”. Hence, an applicant approaches ARA for obtaining decision for a dispute which “may arise” in future. Therefore, in case there is no dispute, then decision of ARA is not required.

1.4. Under tax laws, the tax payer and the jurisdictional tax officer are parties between whom a dispute or difference of opinion may arise. ARA is intended to resolve possible conflicts between the tax payer and the jurisdictional tax officer. In this case, Appellant had posed certain questions before ARA with respect to entitlement of exemption. However, if the jurisdictional tax officer is of the view that Appellant is eligible for exemption then there is no possibility of a dispute and the decision of ARA is not required.

1.5. On page 10 of the Order, the ARA has taken, on record, submissions from the jurisdictional tax officer. In the submissions while answering Question No.1, the jurisdictional tax officer has categorically mentioned that exemption is available, which can be seen from the table, which has been reproduced in Statement of Facts, supra. Considering brevity, the same is not reiterated here. In such case, when the jurisdictional tax officer has confirmed the eligibility of exemption, then there is no likelihood of a dispute between the tax payer, i.e. the Appellant and the tax officer in future.

1.6. Therefore, Appellant states that the in such case, the ARA has failed to understand that in absence if any conflict or difference of opinion, decision of ARA is not required.

2. The ARA has failed to understand that the exemption under Notification 12/2017-Central Tax (Rate) is comprehensive

2.1. On page 24 of the impugned Order, following findings have been made:

- a. *We find that the main schemes that would be covered under National Skill Development Programme would be – Pradhan Mantri Kaushal Vikas Yojana (PMKVY), Sankalp, Udaan, Star, Polytechnic schemes, Vocationalization of education, run by the Ministry of Skill Development and Entrepreneurship and similar other skill development schemes that may be, and are, run under, or by, various other ministries or departments, their attached or subordinate offices or institutions.*



b. *If the services in relation to the schemes, as mentioned in the above paragraph, are provided through the partner approved by NSDC, then only, the benefit of Notification, as claimed, would be applicable to the Appellant and it would not be applicable in respect of other services, relating to skill development, provided by the applicant.*

2.2. Appellant states that the ARA has erred in drawing such conclusions and has incorrectly narrowed the scope of the exemption sought. Appellant would like to reproduce the exemption entry no. 69 under Notification No. 12/2017-Central Tax (Rate) as under:

Any services provided by,-

(a) the National Skill Development Corporation set up by the Government of India;

(b) a Sector Skill Council approved by the National Skill Development Corporation;

(c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;

*(d) **a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-***

(i) the National Skill Development Programme implemented by the National Skill Development Corporation; or

(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or

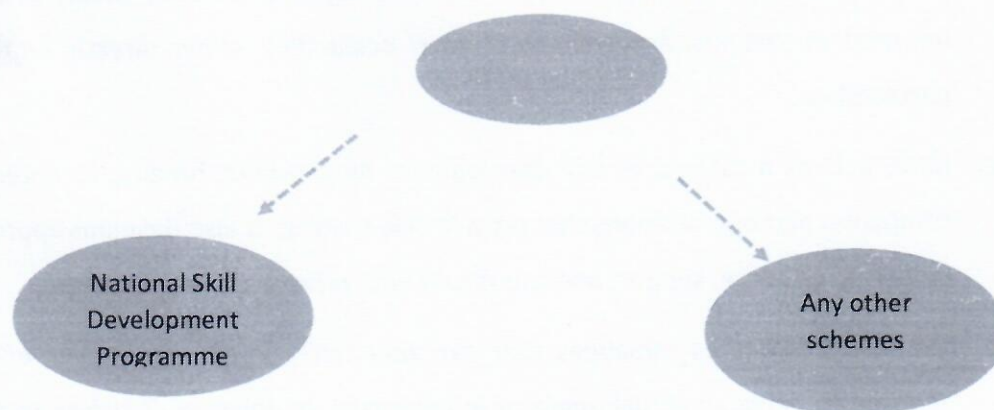
(iii) any other Scheme implemented by the National Skill Development Corporation.

2.3. Appellant state that there is no dispute that IMS Proschool Pvt. Ltd. is a training partner approved by NSDC as mentioned in clause (H) above. This has been acknowledged on page 14 of the impugned Order. However, the ARA had observed that the copy of certificate for training partner of NSDC was not produced for FY 2018-19. Appellant state that they are training partners for NSDC for FY 2018-19 and the certificate has been attached to support this claim as being the training partner in the F.Y. 2018-19. Hence, the first pre-requisite for exemption is achieved.



2.4. To be eligible for exemption, the services provided by Appellant has to be in relation to either of the items listed under clause (i) to (iii) above. The scope of the phrase “in relation to” has been explained, in detail, in subsequent grounds of Appeal. Appellant state that sub-clause (i) and sub-clause (iii) give exemption to activities which are implemented by NSDC. Following diagram explains the scope of these sub-clauses:

2.5.



2.6. Hence, the primary emphasis of the exemption is that the activity which is conducted by Appellant should be implemented by NSDC. The scope of sub-clauses (i) and (iii) has to be understood to grant exemption to training courses/ programmes where NSDC is involved. In this case, the involvement of NSDC has been explained in subsequent grounds of appeal in detail along with evidences.

2.7. Therefore, once it is established that NSDC is involved in the implementation activity of the training programmes/ educational courses, then exemption should be granted to Appellant.

2.8. Hence, Appellant states that the ARA has failed to understand that the scope of the exemption Notification No. 12/2017-Central Tax (Rate) is comprehensive to grant exemption in this case.

3. Notwithstanding to other grounds of appeal, the ARA has failed to understand the scope of exemption provided for “National Skill Development Programme”

3.1. It is important to understand the scope of sub-clause (i), i.e. “services in relation to National Skill Development Programme”. At this juncture, Appellant refers to operating method of NSDC which is also available on www.nsdcindia.org as under:



- a. The objective of NSDC is to contribute significantly to the overall target of skilling up of people in India, mainly by fostering private sector initiatives in skill development programmes and to provide funding.
- b. NSDC provides funding to build scalable and profitable vocational training initiatives. Its mandate is also to enable support system, which focuses on quality assurance, information systems, and train the trainer academies, either directly or through partnerships.
- c. NSDC acts as a catalyst in skill development by providing funding to enterprises, companies and organizations that provide skill training. It also develops appropriate models to enhance, support and coordinate with private sector initiatives.
- d. The NSDC facilitates initiatives that can potentially have a multiplier effect as opposed to being an actual operator in this space. In doing so, it strives to involve the industry in all aspects of skill development. The approach is to develop partnerships with multiple stakeholders and build on current efforts, rather than undertaking too many initiatives directly, or duplicating efforts currently underway.
- e. NSDC plays three key roles:

Funding and incentivizing: In the near term, this is a key role. This involves providing financing either as loans or equity, providing grants and supporting financial incentives to select private sector initiatives to improve financial viability through tax breaks, etc. The exact nature of funding (equity, loan and grant) will depend on the viability or attractiveness of the segment and, to some extent, the type of player (for-profit private, non-profit industry association or non-profit NGO). Over time, the NSDC aspires to create strong viable business models and reduce its grant-making role.

Enabling support services : A skills development institute requires a number of inputs or support services such as curriculum, faculty training standards, quality assurance, technology platforms, student placement mechanisms and so on. NSDC plays a significant enabling role in these support services, most importantly in setting up standards and accreditation systems in partnership with industry associations.



Shaping/creating : In the near-term, the NSDC will proactively seed and provide momentum for large-scale participation by private players in skill development. NSDC will identify critical skill groups, develop models for skill development and attract potential private players and provide support to these efforts.

- 3.2. It is evident from the above that NSDC does not provide any training directly. The primary objective of NSDC is to increase skill employable personnel in India. The method adopted by NSDC in achieving this objective is by providing financial support to various private sector enterprises and also by acting as a catalyst to support private sector initiatives for skill development. The Finance Minister of India in his 2008-09 Budget Speech while announcing the formation of NSDC mentioned that *“There is a compelling need to launch a world-class skill development programme in a mission mode.....”*.
- 3.3. At this juncture, it is pertinent to refer pages 36 to 39 of NSDC Annual Update 2014-15, the relevant extract of which is being reproduced as under:

Programme Development

The Programme Development (PD) team is responsible for building a robust pipeline of proposals that create large scale, sustainable skilling capacity on the ground across the country. All proposals have to adhere to the NSDC proposal evaluation process both financial and social.....

The submitted proposals undergo an initial screening process where the proposals are vetted and discussed by the members of the PD team. Proposals that pass the initial screening are submitted for further diligence conducted by the investing and incentivizing team at NSDC.

- 3.4. The above Annual Update document is available on NSDC website as well. Hence, it is clearly understandable that National Skill Development Programme is a methodology adopted by NSDC to achieve the objective of skilling youth and increasing skilled employability in India. Hence, again referring to the aforementioned Annual Update 2014-15, if the following steps are followed for any educational/ training course, the said services of training partner are in relation to “National Skill Development Programme”:

- a. Project Development team of NSDC or the potential TPs approach the other party;



- b. Discussions with the potential training partner regarding the training process;
 - c. NSDC guidelines for submission of proposals shared;
 - d. After a clear understanding of the guidelines, objectives and methods of the training programme, potential partners draft technical and financial proposals with the supporting annexure and share it with the Project Development team of NSDC;
 - e. The PD team analyses the proposals and gives necessary feedback for improvement of the proposal
 - f. After complete handholding in the drafting process, refined proposals are finally submitted with supporting documents to NSDC for further due diligence
 - g. After evaluation the proposals are approved
- 3.5. In the instant case, all the necessary steps as enumerated above are followed for Appellant as well. The relevant extract of cover page of the proposal invitation by NSDC is reproduced as under:

*'The National Skill Development Corporation ('NSDC') has been set up under the PM's National Council on Skill Development with the **primary mandate** of enhancing, **supporting and coordinating private sector initiatives** for skill development. **To fulfill its objectives, NSDC is looking for proposals to create training institutes** that are innovative in operating model and can have a 'multiplier' effect for skill development ('Proposal(s)'). They have referred to the Proposal template(enclosed) to understand NSDC's evaluating guidelines.....'*

- 3.6. It is important to note that the approval process takes place online through Skill Development & Management System (SDMS). Once the entire process of proposal and evaluation is completed, a contract is made between NSDC and Appellant. Sample copy of the agreement is attached as part of the submission of the appeal.
- 3.7. Appellant State that NSDC does not primarily engage into training directly. Further, NSDC does not have its own schemes or projects. It merely acts as an implementing agency for schemes framed by other bodies or supports financial/ technically and monitors private sector initiatives.



- 3.8. Therefore, Appellant state that the ARA has erred in concluding that only the schemes as mentioned supra qualify as “National Skill Development Programme”. Instead this, “programme” has to be understood to be the method of approving the training partner and the project undertaken by the training partner. If the project is approved by NSDC then it qualifies to be in relation to “National Skill Development Programme”.

4. The ARA has failed to understand the intention of legislature to give benefit to entities involved in skill development

- 4.1. Appellant state that the intention of the legislature has to be given utmost importance while determining the eligibility of any exemption. In the case of Doypack Systems (Pvt) Ltd vs. Uoi [1988 (36) E.L.T. 201 (S.C.)], the Apex court has made the following unequivocal observation:

‘57. It has to be reiterated that the object of interpretation of a statute is to discover the intention of the Parliament as expressed in the Act. The dominant purpose in construing a statute is to ascertain the intention of the legislature as expressed in the statute, considering it as a whole and in its context. That intention, and therefore the meaning of the statute, is primarily to be sought in the words used-in the statute itself, which must, if they are plain and unambiguous, be applied as they stand....

- 4.2. In Suksha International vs. UOI, [1989 (39) E.L.T. 503 (S.C.)], the Hon'ble Supreme Court has observed that an interpretation unduly restricting the scope of beneficial provision is to be avoided so that it may not take away with one hand what the policy gives with the other.
- 4.3. In the Union of India vs. A.V. Narasimhalu, [1983 (13) E.L.T. 1534 (S.C.)], the Apex Court also observed that the administrative authorities should, instead of relying on technicalities, act in a manner consistent with the broader concept of justice.
- 4.4. Appellant would like to refer to the provisions applicable under the erstwhile Finance Act, 1994 as under:



Provisions	Extract of provision
From 01.07.2012 upto 10.05.2013	
Section 66D – clause (I) (negative list)	Services by way of- (i)... (ii)... (iii) education as a part of an approved vocational educational course
Section 65B(11)	approved vocational educational courses means- (iii) a course run by an institute affiliated to the National Skill Development Corporation set up by the Government of India.
w.e.f. 10.09.2013	
Notification No. 25/2012-ST dated 20.06.2012 – Entry 9A	Any services provided by, - (i) the National Skill Development Corporation set up by the Government of India; (ii) a Sector Skill Council approved by the National Skill Development Corporation; (iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation; (iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council in relation to (a) the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward; or (c) any other Scheme implemented by the National Skill Development Corporation.



- 4.5. From the historical provisions under the erstwhile law and the Budget Speech it is apparent that the intention of the law makers is to promote skill development for increasing skilled employee strength of India. Hence, granting exemption from payment of service tax under the erstwhile law for all skill development courses affiliated with NSDC supplements this intention of the Government of India.
- 4.6. It is not disputed that Appellant is an approved training partner of NSDC and is seeking exemption on educational courses/ projects which are approved by NSDC. Appellant is engaged in the business of skilling of youth with the objective of helping them find decent job, make them employable and to help them earn better living. This includes preparing graduates and working professionals to appear for various National and international certifications for career development needs.
- 4.7. Appellant would also like to refer some sample copies of term sheets which are approved by NSDC and the same have been annexed with the appeal submission. These term sheets depict the targeted number of trainees, the sector in which the trainees can work, the course duration, the target training segment, etc. Hence, these make the fact apparent that Appellant is working with NSDC to achieve the objective of skill development in India.
- 4.8. Once it is obvious that the law makers intend to give exemption, denial of substantial benefit based on erroneous interpretation would defeat the objective of law makers. Therefore, Appellant state that ARA has failed to understand the intention of legislature and has erred in denying exemption.

5. The ARA has failed to understand that the phrase 'in relation to' is very wide and increases the scope of exemption

- 5.1. For Q2, Q3, Q5 and Q6 as mentioned in facts supra, the ARA has denied exemption for certain activities which are in relation to the training for skill development. Appellant state that entry 69 of Notification No. 12/2017-Central Tax (Rate), is wider than interpreted by ARA and the exemption has been erroneously denied. At the risk of repetition, the relevant extract is reproduced as under:



(d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, **in relation to....**

- 5.2. Once it is established based on the preceding grounds of appeal, that Appellant is entitled for exemption under sub-clause (i) of the said notification, it is imperative to establish the scope of the said exemption. Appellant state that the phrase '*in relation to*' expands the scope of the exemption and in fact it exempts any activity which is associated with or helps in achieving the objectives of "National Skill Development Programme". The Hon'ble Apex Court in the case of Doypack Systems (Pvt) Ltd. vs. Union of India [1988 (36) E.L.T. 201 (S.C.)] has observed as under:

'48. The expression "in relation to" (so also "pertaining to"), is a very broad expression which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context, see State Wakf Board v. Abdul Aziz (A.I.R. 1968 Madras 79, 81 paragraphs 8 and 10, following and approving NitaiCharanBagchi v. Suresh Chandra Paul (66 C.W.N. 767), ShyamLal V. M. Shayamlal (A.I.R. 1933 All. 649) and 76 Corpus JurisSecundum 621.....

In this connection reference may be made to 76 Corpus JurisSecundum at pages 620 and 621 where it is stated that the term "relate"" is also defined as meaning to bring into association or connection with. It has been clearly mentioned that "relating to" has been held to be equivalent to or synonymous with as to "concerning with" and "pertaining to". The expression "pertaining to" is an expression of expansion and not of contraction.'

- 5.3. Further, in the case of CCE vs. Solaris Chemtech Limited [2007 (214) ELT 481 (SC)], the Apex Court again observed that:

'8.....It is for this reason that this Court has repeatedly held that the expression "in relation to" must be given a wide connotation. The Explanation to Rule 57A shows an inclusive definition of the word "inputs". Therefore, that is a dichotomy between inputs used in the manufacture of the final product and inputs used in relation to the manufacture of final products. The Department gave a narrow meaning to the word "used" in Rule 57A. The Department would have been right in saying that the input must



be raw-material consumed in the manufacture of final product, however, in the present case, as stated above, the expression “used” in Rule 57A uses the words “in relation to the manufacture of final products”. The words “in relation to” which find place in Section 2(f) of the said Act has been interpreted by this Court to cover processes generating intermediate products and it is in this context that it has been repeatedly held by this Court that if manufacture of final product cannot take place without the process in question then that process is an integral part of the activity of manufacture of the final product. Therefore, the words “in relation to the manufacture” have been used to widen and expand the scope, meaning and content of the expression “inputs” so as to attract goods which do not enter into finished goods.....’

5.4. Similar observations are made in various judicial pronouncements:

- a. National Co-operative Sugar Mills Ltd. vs. CCE, Madurai [2016 (344) E.L.T. 832 (Mad.)]
- b. CCE, Chandigarh vs. Oswal Agro Mills Ltd. [2000 (118) E.L.T. 166 (Tribunal)]
- c. Sipta Coated Steel Ltd. vs. CCE, Aurangabad [1998 (99) E.L.T. 553 (Tribunal)]
- d. Northern Coalfields Ltd. vs. CCE, Bhopal [2017 (5) G.S.T.L. 217 (Tri. - Del.)]
- e. Indian Iron & Steel Co. Ltd. vs. CCE, Bolpur [2002 (141) E.L.T. 695 (Tri. - Kolkata)]
- f. CCE, Patna vs. Hari Nagar Sugar Mills Ltd. [2001 (136) E.L.T. 255 (Tri. - Kolkata)]
- g. CCE, Allahabad vs. Hindalco Industries Ltd. [1997 (96) E.L.T. 328 (Tribunal)]

5.5. Hence, Appellant state that the phrase “in relation to” expands the scope of the exemption granted under the said notification in the instant case. To draw analogy, Appellant would like to take an example where assuming that there is a tax on all activities undertaken by a University “in relation to” certain designated courses. Now, many prospective students enroll for the course and pay a one-time non-refundable enrollment fee. Further, the students are also required to compulsorily buy certain apparatus required for the course from the University. Tax is payable on such enrollment fee. The first question arises is tax payable only on enrollment fee for the course or also on the selling price of apparatus? Now, there may be many cases where students either drop out from the course in between the semester or unable to pass



the course. The second question here arises that is the tax payable on the enrollment fees where students did not complete the course? The phrase “in relation to” here has a wide connotation to tax all the collections which relate to the course, directly or indirectly. Since apparatus is indirectly used in completing the course, it has a connection with the course. Once this connection is established then all such connected (directly or indirectly) activities become taxable.

- 5.6. Drawing inference from the above, Appellant state that once exemption is given all the activities as mentioned in Q2, Q3, Q5 and Q6 above become exempt. The following table explains how these activities are connected with the training activity for skilling the youth:

Q. No.	Questions by Appellant	Explanation establishing connection
2	The Applicant offers certain educational courses for which qualification standards / framework i.e. QP/ NOS has not been defined by NSDC and will be approved by NSDC as and when the relevant QP/ NOS would be defined by NSDC. In the interim period, NSDC has given exceptional approval on such courses. Till the time QP/ NOS are defined for such educational courses and are eventually approved by NSDC, whether such courses will be treated as in relation to National Skill Development Programme implemented by NSDC?	Such exceptional approved educational courses are aimed to develop the skills of the candidate and help them find a job or better job role.
3	In certain situations, NSDC approved educational courses are subsequently, upgraded by the Applicant within pre-defined QP/ NOS framework, by way of adding more topics/ content /modules. However, such	These modifications do not change the primary structure of already approved courses. The existing modules are not deleted from it, only,



Q. No.	Questions by Appellant	Explanation establishing connection
	modified version of NSDC approved educational courses have not been approved by NSDC yet. Whether such modified version will be treated as in relation to National Skill Development Programme implemented by NSDC?	supplementary modules/ programs are added to it. Such modified courses are aligned to QP/NOS and are more beneficial for students, to enhance their skill.
5	If answer to Q.4 is Yes, whether benefit of GST exemption as per Notification No. 12/2017- Central Tax (Rate), dated the 28th June 2017 would be still available if such educational courses are offered to corporates and business institutions?	The exemption notification does not require that the services should be rendered to individuals only. Further, even when services are provided to corporate or business institutions, the person undergoing training is the employee, who is an individual.
6	Whether the NSDC approved educational courses which are actually imparted by the business partners of the Applicant, on behalf of the Applicant as sub-contractor of Applicant, at various centers located across the country, will be considered as offered by the Applicant?	The business partners manage and run centers for imparting training of the courses for which approval is taken by Appellant from NSDC. Hence, the business partners provide infrastructural and support services to the Appellant for agreed fees. All the receipt/ invoices issued by business partners to students are on the letter head of Appellant.



Q. No.	Questions by Appellant	Explanation establishing connection
		The sample copy of Business Partner Agreement and the corresponding invoices raised by business partners are attached herewith.

- 5.7. Appellant state that the situations referred to all the above questions are connected with the skill development training program undertaken by Appellant. Therefore, all such situations are in relation to “National Skill Development Programme”.
- 5.8. The phrase “in relation to” creates a connection between two otherwise dis-joint activities. In the example taken above, sale of apparatus is a distinct activity. In absence of the phrase “in relation to”, only the designated course becomes exempt even though the apparatus is used for studying the course. The presence of the phrase “in relation to” exempts the sale of apparatus also.
- 5.9. It is a settled principle of rule of interpretation that the Court cannot read any words which are not mentioned in the Section nor can substitute any words in place of those mentioned in the section and at the same time cannot ignore the words mentioned in the section. Equally well settled rule of interpretation is that if the language of statute is plain, simple, clear and unambiguous, then the words of statute have to be interpreted by giving them their natural meaning as observed in *Smita Subhash Sawant vs. Jagdeshwari Jagdish Amin* [AIR 2016 S.C. 1409 at 1416].
- 5.10. Hence, utmost importance has to be given to the phrase “in relation to” which enlarges the scope of exemption. Appellant state that the Ld. ARA has erred in narrowing the scope of exemption and denying the exemption for the aforementioned situations.



6. The ARA has passed the Order based on presumptions and assumptions

6.1. Appellant state that the ARA has passed the Order on preposterous presumptions and assumptions without considering the facts on hand. The following points summarize the assumptions made in the Order:

- a. In the application itself, Appellant are claiming and stating clearly that the services being provided are not in relation to and not covered under clause (ii) and (iii) of the exemption notification.
- b. Services being in the nature of approval and certification of course are provided by NSDC to the Appellant and not by Appellant to NSDC and thus there is no question of the applicant being eligible for any exemption in this respect as they are service recipient and not service provider in relation to NSDC .
- c. "National Skill Development Programme" consists of the schemes, actions and deeds that are actually done or are mandated to be done by various ministries, Government departments or their attached offices.
- d. It can be easily seen that if the intent of the legislature had been to extend the benefit of exemption under notification in respect of all activities in relation to skill development done by NSDC, in that case the wordings of the notification would not have been restrictive.

6.2. Now, Appellant would like to elucidate each of the above point and explain the assumption made by ARA as under:

- Point a above: nowhere the Appellant in the application has stated that clauses (ii) or (iii) are not applicable in the instant case.
- Point b above: NSDC is not engaged in providing any service to Appellant. Further, the moot question posed before the ARA was the eligibility of exemption on services provided by Appellant to various students enrolling for courses. The ARA has confused itself to presume that the question posed before them is for any service relation between NSDC and Appellant.
- Point c above: The ARA has not provided any reasons for concluding that the scope of "National Skill Development Programme" is restricted to schemes,



actions and deeds that are actually done or are mandated to be done by various ministries, Government departments or their attached offices. There is no substantive evidence provided for making such conclusions. Appellant state that ARA has made such observations on mere personal beliefs.

- Point d above: Considering brevity, Appellant state that it has been elucidated supra that the scope of exemption is wider because of the use of the phrase “in relation to”. Here again, such conclusion is made on mere beliefs without any legal explanations for the same.

6.3. Appellant state that the Order cannot be passed on assumptions and presumptions without providing reasons. In this context Appellant refer to the Instruction F. No.390/CESTAT/24/2016-JC issued by Central Board of Excise and Customs on 13.04.2016 referring to the decision of Commissioner of Customs (Import) vs. Do Best Infoway [2016-TIOL-604-CESTAT-MAD] as under:

‘5.0 It is a settled principle in law, that:

a. Justice has not only to be done but seem to have been done in the performance of quasi-judicial functions.

b. If the law prescribes a manner of performance of a function, then that manner is only manner for performance of the same and every other manner is mandatorily barred by law.

c. Thus if the quasi judicial authority has to grant the personal hearing on the date and time decided by him while deciding the case, then that authority alone can grant the said personal hearing on that date and time. The record of such hearing should be essential part of the record of the case under the signature of the said authority in person.

d. The quasi-judicial orders subject to judicial review have to be necessarily speaking orders recording every fact and reason leading to the final decision in the matter. Non-speaking orders or the orders passed without recording the submissions and reasons for passing the final order is nonest in law.’



- 6.4. Applying the legal maxim *Lex plus laudatur quando ratione probatur*; meaning that the law is the more praised when it is supported by reason, Appellant state that the ARA has passed the Order without giving appropriate reasons for making such assumptions.

Personal Hearing

7. A personal Hearing in the matter was conducted on 13.12.2018, wherein Shri Sunil Gabhawalla, C.A., representative of the Appellant, reiterated their written submissions. Shri B.Y. Netke, Asstt. Commissioner of State Tax, appearing as jurisdictional officer, reiterated the submissions, which had been made earlier before the Advance Ruling Authority.

Discussions and Findings

8. We have perused the record of same file and have gone through the facts of the case and the oral and written submissions made by the appellant as well as the department's representative.
9. One of the grounds of appeal raised by the appellant is that under tax laws, the tax payer and the jurisdictional tax officer are parties between whom a dispute or difference of opinion may arise and ARA is intended to resolve possible conflicts between the tax payer and the jurisdictional tax officer. It is contended that, if the jurisdictional tax officer is of the view that Appellant is eligible for exemption then there is no possibility of a dispute and the decision of ARA is not required.
10. The definition of 'advance ruling' under Section 95 (a) of the CGST Act says that 'advance ruling' means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.' Advance ruling' is defined as a decision provided by the authority on an application by the appellant and there is nothing in the definition or the sections relating to advance ruling which suggests that advance ruling, once applied for, is only given when the *jurisdictional officer doesn't agree* with the contention of the appellant. If such was the intention of the Legislature, then it would have specifically provided for the same. Therefore, we do not agree with the contention of the appellant.



11. We have also gone through the Advance Ruling Order passed by the AAR. Question No.1 referred to by the appellant is as follows:-

The AAR have held all the questions put forth in the advance ruling in the negative.

The notification under consideration in the said case is as follows:-

Entry No. 69 in the said notification as under:

Any services provided by,-

- (e) the National Skill Development Corporation set up by the Government of India;*
- (f) a Sector Skill Council approved by the National Skill Development Corporation;*
- (g) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;*
- (h) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-*
 - (iv) the National Skill Development Programme implemented by the National Skill Development Corporation; or*
 - (v) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or*
 - (vi) any other Scheme implemented by the National Skill Development Corporation.*

**

12. With respect to the first requirement the service provider has to be a training partner approved by NSDC or the sector Skill Council and at the time of Advance Ruling the appellant had submitted photocopies of certificates which shows that the appellant is a training partner of NSDC for the Financial Years 2014-15, 2015-16, 2016-17 & 2017-18. The appellant had not produced the certificate for the F.Y. 2018-19 and therefore it was held by the AAR that the statement made by the appellant that they continued to be a training partner of NSDC is not clear. However, at the appellate stage the appellant has produced the photocopies of certificates which shows that it is a training partner of NSDC for the F.Y. 2018-19 also. Therefore, the issue that the appellant is a training partner approved by NSDC is now clear.
13. Secondly we have to examine whether the appellant provided services in relation to National Skill Development Program implemented by the NSDC. A reading of the



relevant entry at Sr.No.69 of the Notification No.12 of 2017, shows that in order to claim exemption under it, the appellant has to provide any of the three conditions given at i), ii) and iii). The appellant has to prove that they provide services in relation to a) National Skill Development Program implemented by the NSDC or to Vocational Skill Development Course under the National Skill Certification and Monetary Reward Scheme. b) Any other scheme implemented by the NSDC.

14. The appellant at the time of hearing has stated that the AAR was wrong in concluding that they are not covered and are not eligible for exemption under Sr No (ii) and (iii) as mentioned in Sr. No. 69 of Notification 12/2017 –central Tax. The observations of the AAR are as follow:-

“We find that the applicant is further claiming in their application that NSDC has not announced explicitly any course program which would be considered as part of National Skill Development Program implemented by the NSDC. It is reiterated that at the time of hearing there were requested to confirm and obtain in writing from NSDC as to what are the programmes that are being undertaken by NSDC under National Skill Development Program and submit the same. However, nothing in this regard had been submitted by the appellant from NSDC”.

15. The appellant in the grounds of appeal has mainly emphasized on coverage under (i) and (iii) of Entry No 69. Under (ii) services in relation to a vocational course under the National Skill Certification and Monetary Reward Scheme sr exempted. It is seen that the entire submission is focused on Sr.No. (i) and (iii) and they have not given any documentary evidences which would justify any claim that the program implemented by them is covered by (ii) of the Notification. Therefore, we will examine the claim of the appellant with regard to Sr. No (i) and (iii) of the notification.
16. IMS Proschool Pvt. Ltd. i.e. the appellant in the present case offers educational training and skill courses through classroom training and virtual coaching in many areas such as Data Analysis, Digital Marketing, Fitter, Mechanical Assembly, Electrician Courses, Sales Courses etc. They also prepare programs which includes preparing crews and working professionals to appear for various national and international certification including Financial Modelling, Financial Analysis, Management Account,



Business Analysis etc. The appellant has claimed that they have tie up with various Government Organizations including NSDC.

17. NSDC is a Public Limited Company and was set up as a Public Private partnership model to fulfill the growing needs of skilled manpower in India and narrow the gap between demand and supply of skill.
18. It is seen that neither in the grounds of appeal nor in the hearing the appellant has given any conclusive evidence that the training programmes offered by them are covered under (i) or (iii) of the Notification entry no 69. The appellant has not made any claim in their submission that their training programs or educational courses are implemented under PMKK PMKVY or UDAN, and therefore the AAR was right in coming to the conclusion that the services offered by the applicant are not covered by Sr. No. ii & iii.
19. It is seen from the AAR that they have decided the questions on the basis of the following points:-
 - i) Some of the courses of vocational training that have been designed by the appellant are approved and certified by NSDC and therefore it is NSDC who provides services to the appellant and not *vice-versa*. Therefore, there is no question of the appellant being eligible for any exemption in this respect as they are a services recipient and not service provider in relation to NSDC.
 - ii) The claim of the appellant for exemption is made on the premises that there is no specific programme implemented by NSDC. However, after a detailed study of the National Policy of Skill development, National Skill Development Mission and various organisations that are working under the Ministry of Skill Development and Entrepreneurship, the AAR noted **that there are actual schemes and programmes implemented by the Ministry through its nodal agencies out of which NSDC is one. The various schemes of skill development implemented by the Ministry are PMKVY, Sankalp, Udaan, STAR, Polytechnic Schemes. The benefits of the notification would be applicable only if the services are in relation to the abovereferred programmes which are implemented by NSDC.**
 - iii) National Skill Development Program works in two parts i) skill development program which is very vast in scope and all public, private and individual efforts at skill development undertaken throughout the country by everybody would be



covered under it. However, the words 'National Skill Development Program' is very limited in scope and the scope is restricted only to the efforts that are undertaken through government funding, government schemes and specifically designed government programmes.

- iv) The intention of NSDC are in the nature of engaging and supporting private sector in skill development which is also one of its mandate and function. Apart from this, it is also the implementing agency for various schemes such as **PMKVY, Sankalp, Udaan, STAR, Polytechnic Schemes**. If the intent of the legislature had been to extend the benefit of exemption in respect of all activities in relation to skill development done by NSDC then the wordings of the Notification would not have been restricted. National Skill Development Program would cover only the actual schemes and programmes of skill development that are undertaken by the government through its various ministries, departments, directorate and cannot be construed to include each and every activity under the sun.
20. We agree with the order of the AAR. It is true that the appellant is a training partner approved by the NSDC. It is also true that NSDC has a mandate to promote skill development by catalysing the creation of large quality private vocational institutions and also to create a network of strong institutions which would provide useful and quality training to the youth to make them employable. One of the major ways by which it achieves the above is through funding to select private training initiatives and the funding provide by it is in the form of loans, equity and grant. However, there are also certain schemes which are implemented by the Ministry of Skill Development and Entrepreneurship and NSDC is the nodal employment agency for such scheme. The website of the NSDC www.nsdcindia.org specifically mentions various schemes and initiative conducted by it. Under the various schemes and initiatives, the schemes which have been mentioned are PMKVY, Sankalp, Udaan, International Skill Training under which International Skill Centres were set up. PMKVY is an ambitious program intending to provide skill training and under the PMKVY Training Program, there are 13,810 training centers and 128 training partners. The PMKVY website mentions that NSDC is the implementing agency for the same. SANKALP (Skills Acquisition and Knowledge Awareness for Livelihood Promotion) is a World Bank driven initiative for promoting skill development. It is aimed at institutional reforms



and improving quality & market relevance of skill development training programs rather than providing direct training. As per information available on nsdcudaan.com, UDAAN is a Special Industry Initiative (SII) for J&K is funded by Ministry of Home Affairs and implemented by National Skill Development Corporation (NSDC). The programme is a part of the overall initiative to address the needs of the educated unemployed in J&K. Udaan program is focused on youth of Jammu & Kashmir (J&K) who are graduate, post graduate and three year diploma engineers. Under the International Skill Training, the Ministry of External Affairs in collaboration with the Ministry of Skill Development gives pre orientation training under the technical intern training program and the program offers training in Japan. It is conducted under MSDE and the NSDC is the implementing and monitoring agency for the program.

21. We do not find any submissions made by the appellant that they are approved training partners of the NSDC with regard to the above mentioned schemes. Therefore, we come to the conclusion that the contention of the appellant is with regard to the general mandate given to NSDC of skill development in the country and as NSDC also approves courses and funds private sector initiative of which the appellant is one, and therefore it is the contention of the appellant that they are covered by the Entry No.69 of the Notification 12/2017. It seems to be the contention that the term 'in relation to' which occurs in Entry No.69 is a broad term and even programmes or courses conducted by private sector schools which are approved and funded by the NSDC would be covered by the Entry. Let us now have a look at the other initiatives of the NSDC which are *different and separable from the actual programmes implemented by it*.

It is submitted by the appellant in their grounds of appeal that the NSDC plays three key roles.

- 1) Funding and Incentivizing: This involves providing finance either as loan or equity or providing grants and financial incentives to select private sector initiatives. The exact nature of funding i.e. equity loan and grant will depend on the viability and attractiveness of the scheme.
- 2) Enabling Support Services: A Skill Development Institute requires the number of inputs or support services such as Curriculum Facility, Training Standards, Quality



Assurance, Technology Platform, Student Placement Mechanism and so on. NSDC plays a role in this support services in setting up standard and accreditation systems in partnership with industrial associations.

- 3) Shaping/Creating: In the near term, NSDC proposes to provide momentum for large scale participation by private players in skill development
22. In short NSDC has twin mandates- one of that is to implement the specific scheme of the government like PMKVY, SANKALP, UDAAN etc. and the other mandate is a general mandate which is to encourage and support private sector and skill development. As mentioned earlier, the general mandate of skill development is fulfilled through funding and also funding is given to private sector initiatives by giving loans at a concessional rate and certain tax breaks are given. In other words, the question is whether a private sector initiative which comes under the general mandate of NSDC would come under the purview of entry no.69? The question then is what benefit would the private sector initiative derive from the classification under entry no 69? The AAR has mentioned that NSDC provides accreditation, support services, placement platforms to the appellant and therefore it is the appellant who receives the services. However, the benefit the appellant intends to derive is by coverage under entry no 69 is an exemption from CGST on the fees charged by them from their students on the grounds that the training given by them comes under the purview of NSDC programmes (as described in serial no (i) and (iii) of entry no 69). This in turn brings us to one very important difference between the twin mandates of the NSDC- training given to students under the specific schemes like PMKVY, SANKALP, UDAAN etc. are completely free of cost. However, in the instant case, the students are charged fees for the courses and classification under the entry would mean that there would be exemption from CGST on the above fees. Therefore, there is a significant difference in the treatment, purpose, content between the twin mandates of NSDC. The exemption given in the entry is to give exemption to the schemes implemented through ministries when NSDC works as an agency under the specific schemes and not to the general initiatives taken by NSDC.
23. The appellant has produced a copy of the agreement between him and NSDC. It is seen from the terms of the agreement (2.1 of Part II of the agreement) that the appellant 'undertakes to comply with the guidelines as mandated by NSDC'. Clause 2.1



(v) states that NSDC will terminate the agreement if the project is not implemented as per the Project Proposal. The Project proposal is defined as the proposal submitted by the appellant mentioning the cost, benefits and shown in Schedule IV. The Project Proposal just outlines the cost and benefits of the proposal. The tenor of the agreement shows that the project, milestones all should be as per the NSDC guidelines. Nowhere does the agreement mention that the project proposal is as per any NSDC programme or any NSDC scheme. The agreement also shows that the Trainees are charged fees based on the programme enrolled into and this all shows that the impugned activity of the appellant falls under the general mandate of NSDC of skill development and has nothing to do with any programme implemented of NSDC.

24. The annual report of NSDC for the year 2017-18 says the following :-

..."The Company is the implementation agency for key skill development schemes like Pradhan Mantri Kaushal Vikas Yojna (PMKVY), Pradhan Mantri Kaushal Kendra (PMKK), Pravasi Kaushal Vikas Yojana (PKVY), UDAAN, Capacity Building & Technical Assistance Scheme (North East Project). The Company in collaboration with Ministry of Housing and Urban Poverty Alleviation, GOI is implementing National Urban Livelihood Mission (NULM). The Company, in partnership with Industry is carrying out skill development activities under Corporate Social Responsibility (CSR).

25. What is clear from the above is that the NSDC is implementing certain programmes which are specific and identified. The appellant has stated that the NSDC has not announced specifically any course/programme which would be considered as a part of the National Skill Development programme implemented by NSDC. But the Annual Report is very clear. The NSDC does implement programmes independently which is very clear from the NSDC website as well as from the Annual report and it is a prime implementing agency for such programmes which come through the Ministry of Skill Development and Entrepreneurship (MSDE). The main schemes and programmes that would be covered under the National Skill Development Programmes would be PMKVY, Sankalp, Udaan, STAR, Polytechnic Schemes, Vocationalisation of education run by the Ministry of Skill Development and Entrepreneurship and similar other skill



development schemes that are run by the various ministries or departments or their directorates. If the services in relation are provided by training partners in relation to the schemes as mentioned above through the partners approved by NSDC, then only the benefit of Notification as claimed would be applicable and it would not be applicable in respect of other services relating to skill development provided by the appellant.

26. The appellant has also contended that a broad meaning should be given to the expression 'in relation to' as occurring in Entry no 69 of the Notification. Even if a broader meaning is given to the term 'in relation to', it cannot be denied that the training *has to be in relation to a National Skill Development Programme implemented by NSDC as also any scheme implemented by NSDC*. We have already interpreted as to what is meant by the above expressions and how restrictive is the scope of the expressions. It is agreed that any training coming under the schemes mentioned above, even if are in relation to such schemes will be covered by the Entry but if the training itself is outside the scope of expressions (i) and (iii) of the Entry no 69 , then nothing fruitful can be achieved by giving a broad expression to the term 'in relation to'.

ORDER

We uphold the ruling pronounced by the Advance Ruling Authority vide their Order no GST-ARA37/2017-18/B-44 dtd.05.06.2018.


(RAJIV JALOTA)
MEMBER




(SUNGITA SHARMA)
MEMBER

- Copy to- 1. The Appellant
2. The AAR, Maharashtra
3. The Pr. Chief Commissioner, CGST and C.Ex., Mumbai
4. The Commissioner of State Tax, Maharashtra
5. The Jurisdictional Officer
6. The Web Manager, WWW.GSTCOUNCIL.GOV.IN
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