


<b>GUJARAT AUTHORITY FOR ADVANCE RULING</b> <b>GOODS AND SERVICES TAX</b> <b>D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,</b> <b>AHMEDABAD – 380 009.</b>	
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**ADVANCE RULING NO. GUJ/GAAR/R/2023/06**  
**(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/39 )**

**Date: 22/02/2023**

Name and address of the applicant	:	M/s D.M. Net Technologies (Isha Chirag Patel), 2nd Floor, Shop No. 6, Opp. Jagatnagar P-2, India Colony Road, Bapunagar, Ahmedabad, Gujarat 380024
GSTIN of the applicant	:	24AKYPP8973B2ZG
Date of application	:	24.07.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) (b)
Date of Personal Hearing	:	22.12.2022
Present for the applicant	:	Priyam Shah (C.A.)

**Brief facts:**

M/s D.M. Net Technologies (Isha Chirag Patel) (for short "applicant"), is having office at 2" Floor, Opp. Jagat Nagar P2, India Colony Road, Bapunagar, Ahmedabad-382350. The appellant's GSTIN number is 24AKYPP8973B2ZG.

2. The applicant is engaged in providing specified educational services in the field of Information Systems Education, as detailed below:

(i) the applicant is handling the courses, namely M.Sc.-IT in Animation, M.Sc.-IT in Mobile application, M.Sc.-IT in IMS (Infrastructure Management Systems) and M.Sc.-IT in Network Securities, in partnership under MOU with Gujarat University;

(ii) the applicant designs the aforementioned courses on request of Gujarat University and then the contents of the courses are approved by the Gujarat University;

(iii) the applicant then on the basis of the approved courses, provides training to the students as a partner under MOU with Gujarat University;

(iv) the awareness and admission of the course is done by the Gujarat University. The fees for the said courses are also collected by Gujarat University. The applicant helps to administer the admission and fees collection process;

(v) Gujarat University is providing the infrastructure facilities, viz. Classroom; Computer Systems and office equipment, Internet facilities, required software and other required infrastructure;

(vi) that after the training is completed, the enrolled students undergo examination which is conducted by the Gujarat University. On successful clearance of examination, a Degree is awarded by the Gujarat University;





(vii) On receipt of the fees and completion of training, the applicant submits an information note to the Gujarat University (Partner of MOU), on the basis of which a fixed percentage of share, as specified in agreement is given to the Applicant;

(viii) While the administration and the curriculum is managed by the applicant, the examination is conducted by University on the basis of question papers set by the applicant and results after assessing the answers of all the candidates appeared for exam, is given to the University by the applicant and candidates, who clear this exam, are awarded degree by the Gujarat University;

(ix) The said agreement and MOU with Gujarat University will be in force for 3 years from the date of signing and can be agreed upon with mutual consent. A copy of the detailed MOU & agreement signed between Gujarat University and the applicant is also submitted;

(x) The Gujarat University grants qualification/degree to the enrolled students. Further, in terms of section 4 of the Gujarat University Act, empowers the University to affiliate or recognize other institutions other than colleges, within its jurisdiction to provide education in the State. Accordingly, while the University set up by the Government grants degree/ qualification, the education is delivered by institution like colleges etc. under an approval or affiliation by the University.

3. The applicant's plea in view of the foregoing submission is that they are covered by the exemption notification No. 12/2017-Central Tax (Rate) dated 28.6.2017. Consequent to introduction of Goods and Services Tax wef 1.7.2017, the Govt. has exempted certain services from levy of GST vide notification No. 12/2017-Central Tax (Rate), *ibid*. The relevant text is reproduced below for ease of reference viz:

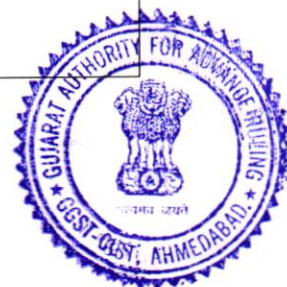
**[Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017]**

*Exemption from CGST on specified intra-State services*

*In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-*

TABLE

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
66	Heading 9992	Services provided - (a) by an educational institution to its students, faculty and staff; (b) to an educational institution, by way of,- (i) transportation of students, faculty and	Nil	Nil





		<p>staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution; up to higher secondary:</p> <p><b>Provided</b> that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p>		
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**2. Definitions.** - For the purposes of this notification, unless the context otherwise requires, -

(y) an “educational institution” means an institute providing services by way of, - (i) Pre-school education and education up to higher secondary school or equivalent; (ii) Education as a part of a Curriculum for obtaining a qualification recognised by any law for the time being in force; (iii) Education as a part of an approved vocational education course.

4. Vide the aforesaid application, the applicant has raised following question for advance ruling on classification of services:

**Whether the services provided by the applicant in affiliation to/ partnered with Gujarat University and providing education for degree courses to students under specific curriculum as approved by the Gujarat University, for which degrees are awarded by the Gujarat University are exempt from GST vide Entry No. 66 of the Notification No. 12/ 2017- Central Tax (Rate) dated 28th June, 2017?**

5. The aforementioned application filed by the applicant was decided vide Advance Ruling No. GUJ/GAAR/75/2020 dated 17.9.2020, by the Gujarat Authority for Advance Ruling [for short ‘GAAR’], wherein it was held as follows:

- the services provided by an educational institution to students, faculty and staff are exempt;
- as per the term “educational institution” defined in para 2(y) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, it is clear that above entry exempts only following services imparted by any School, Colleges, Universities or Institutions by way of;
  - (i) Pre-school education and education up to higher secondary school or equivalent;
  - (ii) Education as a part of a Curriculum for obtaining a qualification recognised by any law for the time being in force
  - (iii) Education as a part of an approved vocational education course;
- the term “educational institution”, sub clause (ii) covers institutions providing services by way of education as a part of a Curriculum for obtaining a qualification recognised by any law for the time being in force;



- that as per the GST E flyer\_40\_Education Service issued by the NACEN, while referring to the Explanation given in the Education Guide of 2012, the meaning of education as a part of a Curriculum for obtaining a qualification recognised by any law means the service should be delivered as a part of curriculum; that the conduct of degree courses by Colleges, Universities or Institutions which leads to grant of qualifications recognised by law would be covered; that however, training given by Private Coaching Institutes would not be covered as such training does not lead to grant of a recognized qualification;
- Training given by the applicant as a Private Institute would not be covered, as such training does not lead to grant of a recognized qualification;
- The applicant does not have any specific curriculum and does not conduct any examination or award any qualification/degree. Hence, the applicant does not qualify as educational institution.

6. Resultantly, the question posed before the GAAR was answered in negative vide the order dated 17.9.2020.

7. Feeling aggrieved, the applicant filed an appeal before the Gujarat Appellate Authority for Advance Ruling [for short 'GAAAR']. GAAAR vide Advance Ruling (Appeal) No. GUJ/GAAAR/APPEAL/2022/16, remanded the matter back to GAAR holding as follows:

- that the appellant vide his letter dated 25.08.2020, had submitted that they were willingly to withdraw their application dated 24.07.2019 for advance ruling;
- that the appellant had vide application dated 09.10.2020 sought rectification of order passed by GAAR;
- that the principles of natural justice have not been followed in as much as the ruling/order passed does not give any findings with respect to the withdrawal application submitted by the appellant; that no order on application for rectification of mistake has been passed as required under the provisions of Section 102 of CGST Act, 2017;
- that the appellant for the first time has raised additional plea before this appellate authority that their services are exempted as covered by Entry No.3 of Notification No.12/2017-Central Tax dated 28.06.2017;
- that relying on the case of Riddhi Siddhi Collection [2019 (368) ELT 852 (Bom.)], Associated Hotels Ltd. [2015 (37) STR 723 (Guj.)] & Honda Seil Power Products Ltd. [2013(287) ELT 353 (Tri.-Del.)] the GAAR held that it would be just and proper to remand the matter back to GAAR for fresh decision.

8. It is in this afore-stated background that the matter has been taken up. Personal hearing was granted on Dt.22.12.2022 wherein Shri Priyam Shah appeared and reiterated the facts as stated in the application.





### Discussion and findings

9. At the outset, we would like to state that the provisions of both the CGST Act and the GGST 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 GGST Act.

10. Vide their letter dated 05.09.2022, the applicant has requested to permit him to withdraw the appeal filed for determination, on the grounds that

- their contract with Gujarat University was not renewed;
- that they would like to rely on the case of [a]M/s. C Ramappa KAR/ADG 14/2020 dtd 20.3.2020 by GAAR, Karnataka;[b] M/s. S K Properties [KAR ADRG 41/2020]; Sampada Caterers [GST-ARA-45/2018-19/B-97] by GAAR, Maharashtra;
- that even the ICAI reference handbook clearly states that there is no restriction or any time line prescribed for withdrawal.

11. In view of the foregoing, we rule as follow:

### Ruling

The application filed by the applicant for advance ruling is dismissed as withdrawn. The application for rectification of order dated 9.10.2020 in view of the foregoing has become infructuous.

(MILIND KAVATKAR)  
MEMBER (S)

(AMIT KUMAR MISHRA)  
MEMBER (C)



Place: Ahmedabad

Date: 22 /02/2022