

MAHARASHTRA AUTHORITY FOR ADVANCE RULING
GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.
(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)

(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

ARN No.	AD270220036159D
GSTIN Number, if any/ User-id	27AAGCC6533K1ZF
Legal Name of Applicant	M/s. CLR Skills Training Foundation (Beeup Skills Foundation)
Registered Address/Address provided while obtaining user id	A-1, Minar Apartments, 1st floor, Plot No. 83, Law College Road, CTS No. 124/1, Erandwana, Pune - 411 004
Details of application	GST-ARA, Application No. 122 Dated 11.03.2020
Concerned officer	PUN-VAT-C-313, Division PUNE -001
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	Contract Staffing Services
Issue/s on which advance ruling required	➤ Determination of time and value of supply of goods or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 122/2019-20/B- 54

Mumbai, dt. 27/04/2022

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" respectively] by **M/s. CLR Skills Training Foundation**, the applicant, seeking an advance ruling in respect of the following questions.

Whether the reimbursement amount received by the Applicant from Trainer towards "Stipend and other expenses incurred by the Applicant in accordance with AICTE (NEEM) Regulations to ensure wealth, safety and health of NEEM Trainees" is in the capacity of pure agent and hence not includible in the value of taxable supply made by the Applicant to Trainer for the purpose of payment of Goods and Service Tax ("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 FACTS:

- 2.1 CLR Skills Training Foundation, the **Applicant**, is a Not-for-Profit Company registered under Section 8 of the Companies Act, 2013, and is also registered under the CGST Act, 2017, read with Rule 10(1) of the CGST Rules, 2017.
- 2.2 With an objective to offer on the job practical training to enhance employability of a person either pursuing his or her Post/diploma in any technical or non-technical stream or has discontinued studies after Class 10th, Ministry of Human Resource Development, Govt. of India, through All India Council for Technical Education ("**AICTE**") has launched a program known as National Employability Enhancement Mission ("**NEEM**").
- 2.3 AICTE is a statutory body established under All India Council for Technical Education Act, 1987 (52 of 1987) ("**AICTE Act**") and further, in exercise of powers conferred under sub-section (1) of Section 23 read with Section 10 of the AICTE Act, AICTE has formulated All India Council for Technical Education (National Employability Enhancement Mission (NEEM)] Regulations, 2017 ("**AICTE (NEEM) Regulations**") which applies to Society/Trust/Company registered under Section 25/Section 8 of Company Act, 2013 or Relevant Act as amended from time to time; Bodies of Central Government etc., who wish to obtain registration as Facilitator under NEEM.
- 2.4 In terms of AICTE (NEEM) Regulations, a company registered under Section 8 of the Companies Act, 2013 and in the business of training for more than five years either itself or through its parent company can apply for registration as a NEEM Facilitator under AICTE (NEEM) Regulations.
- 2.5 The NEEM Facilitator engages with candidates registered under AICTE (NEEM) Regulations as Trainees ("**NEEM Trainees**") for seeking training under NEEM, formulate their "Training Program" & make suitable arrangements for facilitating their training in companies/industries registered as Trainer ("**NEEM Trainer**") with the said NEEM facilitator. Upon successful completion of the training period, NEEM facilitator shall further issue a training skill



assessment certificate to the NEEM Trainee. Applicant is a NEEM Facilitator recognized by AICTE vide Letter bearing F. No. 1-3173947111/NEEM/CLRSTF/2016 dated 15.03.2018.

2.6 Before initiation of training under NEEM, a NEEM Trainee has to first enroll himself with the Applicant by signing a contract letter in the format prescribed in Annexure-II to AICTE (NEEM) Regulations. The contract letter is neither an offer nor a guarantee of employment.

2.7 The Applicant has partnered with various companies/ industries who are desirous of registering themselves with the Applicant under AICTE (NEEM) Regulations as NEEM Trainer for deployment of NEEM Trainees and facilitation of their on-job training. The agreement between Trainer and Applicant, inter alia, provides thus:

- (a) Applicant shall execute an agreement with each NEEM Trainee prior to deploying them to Trainer for training.
- (b) NEEM Trainees under no circumstances shall be deemed to be the employees of Trainer/Applicant.
- (c) Trainer shall be solely responsible for providing adequate facilities in accordance with AICTE (NEEM) Regulations or as may be deemed appropriate by the Applicant for the training.

(d) Trainer shall reimburse to the Applicant, the monthly stipend payable to NEEM Trainees along with other expenses incurred by the Applicant in accordance with AICTE (NEEM) Regulations to ensure wealth, safety and health of NEEM Trainees like workmen compensation insurance premium, health insurance premium, uniform, safety shoes etc.

(e) Trainer shall further pay a fixed monthly administrative fee to the Applicant. In addition, Trainer shall also pay a one-time sourcing fee to Applicant for NEEM Trainees sourced by the Applicant.

(f) The above amounts are separately mentioned in the invoice raised by the Applicant on Trainer. Hereto annexed and marked Exhibit "F1" and "F2" are the specimen invoice raised by the Applicant on LG Electronics India Private Limited and Interplex Electronics India Pvt. Ltd.

2.8 Based on the above facts, Applicant wishes to confirm its understanding that the reimbursement amount received from Trainer towards "Stipend and other expenses incurred by the Applicant in accordance with AICTE (NEEM) Regulations to ensure wealth, safety and health of NEEM Trainees" is in the capacity of pure agent and hence, not includible in the value of taxable supply made by the Applicant to Trainer for the purpose of payment of GST.

2.9 Applicant is only acting as an intermediary in collecting the stipend amount from the Trainer and paying it to NEEM Trainees. The service to Trainer is provided by NEEM Trainees for which Trainer is liable to pay stipend. This stipend is paid through the Applicant and the Applicant is not allowed to make any deductions in that amount.

2.10 The contract between the Applicant and Trainer further specifies that the Trainer shall reimburse to the Applicant the premium paid by the Applicant for the Workmen Compensation Policy and/or Group Health Insurance Policy taken to ensure wealth, safety and health of NEEM



Trainees. The beneficiary of the policy taken by the Applicant are NEEM Trainees. This is done to meet the requirement of AICTE (NEEM) Regulations.

2.11 In terms of Rule 33 of the CGST Rules, the reimbursement received by a supplier of the expenditure or cost incurred by him as a pure agent of the recipient of supply shall be excluded from the value of supply. In the instant case, the Applicant satisfies all the criteria prescribed under Rule 33 of the CGST Rules to qualify as "pure agent".

2.12 Since, the Applicant fulfils all the criteria laid down for a pure agent it is not liable to include the "Stipend amount and other expenses incurred by it in accordance with AICTE (NEEM) Regulations, in the value of supply made to Trainee. Further, the Applicant does not dispute its liability to pay GST on administrative fee and sourcing fee.

2.13 The contention of the Applicant is fully supported by the Advance Ruling of the Hon'ble Authority for Advance Ruling under GST, Karnataka, in the case of Cadmaxx Solutions Education Trust [2020 (32) G.S.T.L. 49 (A.A.R. - GST - Kar.)]. Similar views were expressed in the Advance Ruling in the case of Asiatic Clinical Research [2020-TIOL-12-AAR-GST).

2.14 The Applicant submits that the ratio laid down in both the above Advance Ruling is squarely applicable to the present case.

2.15 Contention of the Applicant is further supported by the decision of the Hon'ble Tribunal in the case of Rplex Logistics Pvt. Ltd. v/s. Commissioner of Service Tax, Bangalore [2009 (13) S.T.R. 147 (Tri-Bang.)], wherein, the Hon'ble Tribunal has held that reimbursement of payments made on behalf of service recipient are not includible in the value of service provided by the service provider.

2.16 Hence, the Applicant is not required to include the reimbursement of "Stipend amount and other expenses incurred by the Applicant, in the value of taxable supply made by the Applicant to Trainer for the purpose of payment of GST.

Additional Written Submission filed during personal hearing held on 01.02.2022

2.17 The role of the Applicant can be summarized as under:

- (i) Preparation of monthly attendance record of the NEEM Trainees and getting it certified from the NEEM Trainer.
- (ii) Processing and payment of stipend to NEEM Trainees.
- (iii) Providing uniform and safety shoes (as per requirement of NEEM Trainer) to NEEM Trainees.

(iv) Take insurance policies towards workman compensation and personal accident specifying name of the NEEM Trainee and NEEM Trainer.

2.18 For carrying out the above functions, the Applicant gets a fixed administrative per NEEM Trainee from the NEEM Trainer and also gets reimbursement of the actual expenses incurred on behalf of the NEEM Trainer towards:

- (i) Stipend paid to NEEM Trainees
- (ii) Actual cost of uniform and safety shoes provided to the NEEM Trainees as per the requirement of the NEEM Trainer
- (iii) Actual cost of insurance premium paid towards workman compensation and personal accident policies.

2.19 The contention of the Applicant is fully supported by the Advance Ruling of this Honb'le Authority for Advance Ruling under GST, in the case of Yashaswi Academy for Skills wherein the issue was identical to the Applicant's case.

2.20 Similar views were expressed in the Advance Ruling in the case of:

- (i) Asiatic Clinical Research [2020-TIOL-12-AAR-GST]
- (ii) DRS Marine Service Pvt. Ltd. [2018-TIOL-304-AAR-GST]

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The jurisdictional/concerned officer has not made any submissions in the matter.

04. HEARING

4.1 Preliminary e-hearing in the matter was held on 08.06.2021. The applicant was represented by Authorized Representatives Shri. Arun Jain, Advocate, Shri. Mangesh Shiledar, Finance Controller and Shri. Rohit Bhandarkar. Jurisdictional officer was absent. The Authorized Representatives made oral submission with respect to admission of their application.

4.2 The application was admitted and called for final e-hearing on 01.02.2022. The Authorized representative of the applicant, Shri. Sanjeev Nair, Advocate, Shri. Arun Jain, Advocate & Shri. Mangesh Shiledar, Finance Controller were present. The Jurisdictional officer Shri. Pradip Ranpise, Deputy Commissioner PUN-VAT-E-607, LTU-I was also present. Applicant informed that it incurs other expenses. Applicant was asked to produce details of other expenses with sample vouchers and what tax treatment is being adopted at present and also to explain tax treatment adopted by applicant regarding the administration fees collected from company and the sourcing fees collated by applicant from employees. The Jurisdictional officer was asked to file written submission with copy to applicant. The Application is heard.



05. OBSERVATIONS AND FINDINGS:

5.1 We have gone through the facts of the case, documents on record and submissions made by the applicant. The jurisdictional officer, even after having been directed during the course of the final hearing held on 01.02.2022, has not made any written submissions till the date of passing this order.

5.2 In the submissions, the applicant has stated that it has partnered with various companies/industries under AICTE (NEEM) Regulations as NEEM Trainer for deployment of NEEM Trainees and facilitation of their on-job training and the applicant has annexed and marked as Exhibit "E1" and "E2", specimen copies of the Training Collaboration Agreement dated 07.03.2019 entered between the Applicant and LG Electronics India Private Limited and Training Services Agreement dated 12.02.2019 between the Applicant and Interplex Electronics India Pvt. Ltd. Thus, the applicant has submitted that the specimen copies are similar to the agreements that they have entered into with the various companies/industries under AICTE (NEEM) Regulations as NEEM Trainer for deployment of NEEM Trainees and facilitation of their on-job training.

5.3 We therefore take up the impugned Agreements as under:-

Training Collaboration Agreement dated 07.03.2019 entered between the Applicant and LG Electronics India Private Limited

5.3.1 We find that the copy of the said Training Collaboration Agreement does not contain the signatures of the Authorized Signatory/Signatories of LG Electronics India Private Limited (LGEIPL) on any of the pages. The Agreement is supposedly dated 07.03.2019 and the subject application has been filed on 11.03.2020. Further, Clause 4 of the Agreement is reproduced as under:-

4. TERM

This Agreement shall be valid and effective from 1st Mar 2019, till 29th Feb 2020 and shall be renewable at the option of the Parties, on terms and conditions mutually decided by the Parties.

5.3.1.2 We first of all observe that the Agreement submitted by the applicant is not signed by LGEIPL and therefore the validity of the said Agreement is in question and in doubt. Further, we also seen that, as per Clause 4 of the Agreement mentioned above, the said Agreement has expired on 29.02.2020 and therefore not valid after the said date and even if the contents of the said Agreement are taken into account, notwithstanding the invalidity of the same due to absence of signatures of the relevant parties to it, it would appear that the supply under the said



Agreement has been completed even prior to the date of the subject application which has been made on 11.03.2020 and in view of the provisions of Section 95 of the CGST Act, 2017 the application pertaining to this Agreement would not be maintainable since the questions raised by the applicant would not be in respect to a supply being undertaken or proposed to be undertaken by the applicant at the time of filing the subject application. Therefore, we do not take into consideration the specimen copy, of the Training Collaboration Agreement dated 07.03.2019 entered between the Applicant and LGEIPL.

5.3.2 Training Services Agreement dated 12.02.2019 between the Applicant and Interplex Electronics India Pvt. Ltd.

5.3.2.1 We observe that the said Agreement submitted by the applicant is signed by both, the applicant as well as Interplex Electronics India Pvt. Ltd. (IEIPL) and is valid through the date of the subject application. However, the Annexure 'B' to the said Agreement (Statement of Works) which mentions details with respect to Stipend, Other Charges, and CLR appear to be only for the period 2018-19 as per Sr. No. 1 under 'Other Terms & Conditions', while the agreement is for the period upto 13.02.2022. It therefore appears that, the impugned Statement of Work does not pertain to the entire period of the impugned Agreement dated 12.02.2019.

5.3.2.2 Further from Clause 4 (b) of the said Agreement pertaining to CLR Skill's (applicant's) obligations, it is seen that CLR Skills (applicant) agrees to ensure compliance with respect to welfare, safety and health aspects of the NEEM Trainee under the applicable laws and also, from Clause 4 (c) of the said Agreement pertaining to CLR Skill's (applicant's) obligations, it is seen that CLR Skills (applicant) will be liable for the compensation in accordance with the provisions of the Workmen Compensation Act, 1923 in case of any personal injury to the NEEM Trainee by any accident arising out of or in the course of his/her training. It is also seen from Clause 4 (e) of the Agreement that, all NEEM Trainees deputed for Company shall, remain to be engaged as Trainees by CLR Skills only, for the purpose of payment of stipend or other required contributions that may arise out of such arrangement.

5.3.2.3 Thus, from para 5.3.2.2 above, it is clear that the whereas Agreement mandated the applicant as responsible for the purpose of payment of stipend or other required contributions in respect of the NEEM Trainees, statement of Work attached (Sr. No. 4 of the 'Other Terms and Conditions') to the said Agreement mentions payment of reimbursement the actual cost of uniform, safety shoes, etc. provided to NEEM Trainees.



5.3.2.4 Thus, there appears to be some contradictions between clause 4 of the Agreement, where the applicant is held responsible “for payment of stipend or other required contributions” and from a reading of the Statement of Work (Annexure B- Sr. Sr. No. 4 of the ‘Other Terms and Conditions’), it appears that the ‘client’ (not known whether it applies to IEIPL) is required to reimburse the actual cost of uniform, safety shoes, etc. provided to NEEM Trainees.

5.4 From the above we find that, both the Agreements attached by the applicant as ‘Specimen Copies’ in respect of the subject application do not provide a clear picture of the actual facts in respect of the present matter before us and we therefore, cannot answer the questions raised, due to incomplete and inconclusive documentation submitted by the applicant in respect of the subject application.

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)

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

Question- Whether the reimbursement amount received by the Applicant from Trainer towards “Stipend and other expenses incurred by the Applicant in accordance with AICTE (NEEM) Regulations to ensure wealth, safety and health of NEEM Trainees” is in the capacity of pure agent and hence not includible in the value of taxable supply made by the Applicant to Trainer for the purpose of payment of Goods and Service Tax (“GST”)?

Answer:- Not answered in view of discussions made above.




RAJIV MAGOO
(MEMBER)


T. R. RAMNANI
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai

4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint Commissioner of State Tax, Mahavikas for Website.

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. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.

