

**THE AUTHORITY FOR ADVANCE RULING  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU – 560009**

**Advance Ruling No. KAR ADRG ROM 02/2021  
Date : 30-07-2021**

Present:

1. Dr. Ravi Prasad M.P.  
Additional Commissioner of Commercial Taxes . . . . Member (State )
2. Sri. Mashhood Ur Rehman Farooqui,  
Joint Commissioner of Central Tax, . . . . Member (Central)

1.	Name and address of the applicant	M/s. Informatics Publishing Ltd., No.194, R.V.Road, Basavanagudi, Bengaluru 560004.
2.	GSTIN or User ID	29AACCT4896Q1Z8
3.	Date of filing of application for ROM	12-11-2019
4.	Represented by	Sri K. Dayananda, Chartered Accountant.
5.	Jurisdictional Authority – Centre	Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru (Range – BSD3)
6.	Jurisdictional Authority – State	LGSTO-100, Bengaluru

**PROCEEDINGS UNDER SECTION 102 OF THE CGST ACT, 2017  
& UNDER SECTION 102 OF THE KGST ACT, 2017**

1. M/s. Informatics Publishing Limited., (called as the 'Applicant' hereinafter) No.194, R.V.Road, Basavanagudi, Bengaluru 560004, having GSTIN 29AACCT4896Q1Z8 have filed an application for rectification of mistake (ROM), under Section 102 of CGST/KGST Act, 2017, alleging an error apparent on the face of the record in the Order No.74/2019 dated 23.09.2019 of this authority.
2. The applicant filed the instant application, for rectification of alleged error apparent on record, in the aforesaid Order No.74/2019 dated 23.09.2019, that the authority has not addressed the issues raised by the applicant.
3. The applicant submitted that they had filed two applications for advance ruling; one about the online journal provided through their portal called J Gate and another application about the import of online journal through online and sale of

ROM – Informatics Publishing Ltd

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the same to the eligible educational institutions. The authority, in the impugned ruling, linked the matter pertaining to the J Gate, whereas the subject matter was totally different. The applicant had sought advance ruling on the eligibility of input service tax credit, on the import of service of online journal for supplying the same to the eligible educational institutions and hence the applicability of Notification No.2/2018-Central Tax (Rate) dated 25.01.2018 is not the subject matter. Thus the applicant filed the instant application for Rectification of the advance ruling order No.74/2019 dated 23.09.2019.

4. Sri K. Dayananda, Chartered Accountant & authorized representative of the applicant appeared for personal hearing proceedings held on 28.01.2021 before this authority and reiterated their submissions made in the ROM application.

## 5. **DISCUSSION & FINDINGS**

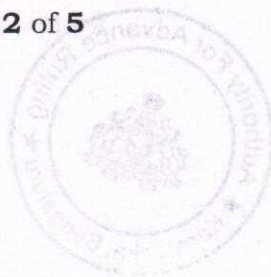
5.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by them during the personal hearing sought for rectification of mistake.

5.2 We examined the application filed by the applicant for advance ruling as well as the Order No.74/2019 dated 23.09.2019 wherein it was ruled as under :

*" The providing of access to the online content by the applicant to his users is covered under SAC 998431 and is liable to tax at 9% CGST under the entry no.22 of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 and at 9% under the KGST Act as it is covered by entry no. 22 of Notification (11/2017) No. FD 48 CSL 2017 dated 29.06.2017. Since the transaction is not exempt, there is not restriction on input tax credit claims as per Section 17(1) or 17(2) of the CGST Act/SGST Act/IGST Act"*

We observe that the aforesaid ruling Order No.74/2019 dated 23.09.2019 did not address the question in the application as the same contained the information pertains to another application, filed by the applicant and hence the instant application for rectification is being allowed.

5.3 The applicant engaged in the supply of online journals, for which they import various online journals from the foreign suppliers, on payment of IGST, on the said import services, under Reverse Charge Mechanism and supply the same mainly to the educational institutions, Notification No.2/2018-Central Tax (Rate) dated 25.01.2018 vide entry number 66 (b) (v) exempts services provided to an educational institution by way of supply of online educational journals or periodicals, provided that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-





- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course.

In view of the above, the supply of educational journals or periodicals to the educational institution is exempt subject to the above conditions supra i.e. the said exemption shall not apply to the educational institutions providing services by way of pre-school education and education up to higher secondary school or equivalent or education as a part of an approved vocational education course.

5.4 The applicant sought advance ruling in respect of the following question ***“Whether input tax credit is available when the online educational journals and periodicals are supplied to the Educational institutions other than to pre-school and higher secondary school or equivalent, which is exempt by virtue of Notification No.2/2018-Central Tax (Rate) dated 25.01.2018?”***

5.5 Therefore the question before us to decide is whether the input tax credit is available to the applicant when their outward supply is exempted. The applicant contends that as per Section 17(1), 17(2) of CGST Act 2017 read with Rule 42 of CGST Rules 2017, input tax credit, attributable to exempt supply, is not available, but their supply, made to the eligible educational institution is not an exempt supply for the purpose of Section 17(1), 17(2) of CGST Act 2017 read with Rule 42 of CGST Rules 2017 and hence the input tax credit is available to them.

5.6 The applicant, in substantiation of their argument, submits that the aforesaid exemption is applicable only to the ‘eligible educational institution’ and hence is not exempt “absolutely” and there by it is a conditional exemption i.e. neither the entire service is fully exempted nor it is applicable to all, but only to a particular segment for educational purpose only. Further “exempt supply”, in terms of Section 2(47) of CGST Act 2017, means supply of any goods or services or both which attracts NIL rate of tax or which may be wholly exempt from tax under Section 11 of the CGST Act 2017 or under Section 6 of the IGST Act 2017 and includes non-taxable supply. The exemption in terms of Notification 2/2018 supra is not wholly exempted under Section 11, but a conditional exemption. In general, the impugned supply is a taxable one & the exemption is applicable to only certain segment of buyers. Therefore the exemption is conditional one & hence the provisions of Section 17(1), 17(2) of CGST Act 2017 read with Rule 42 of CGST Rules 2017 are not applicable to the instant case and thus the input tax credit is available to them. The applicant relied upon the case laws pertain to the erstwhile Cenvat Credit Rules.

5.7 In this regard, we invite reference to Section 17(1), 17(2) of CGST Act 2017 and Rule 42 of CGST Rules 2017, which are as under:





**Section 2(47) of CGST Act 2017 – “exempt supply”** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes nontaxable supply.

**Section 17 of the CGST Act 2017 - Apportionment of credit and blocked credits.—**

(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

Rule 42 of CGST Rules 2017 determines the manner of input tax credit in respect of inputs or input services and reversal thereof and specifically Rule 42(1) is as under:

(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies..

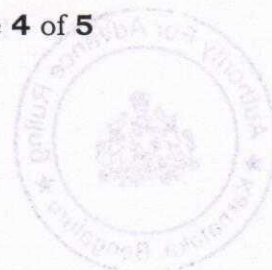
5.8 It could be seen from the definition of “exempt supply” that the following supplies of any goods or services or both are covered under exempt supply.

a) Supplies which attract Nil rate of duty or

b) Supplies which may be fully exempt under Section 11 of the CGST Act 2017 or under Section 6 of the IGST Act 2017.

All non-taxable supplies.

In the instant case, it is an admitted fact that the impugned exemption under Notification No.2/2018 supra is issued under Section 11 of the CGST Act 2017. The exemption is in full only when supplied to specific buyers. Further in case of conditional exemptions, the relevant notification contains the prescribed conditions. In the instant case the Notification No.2/2018-Central Tax (Rate) dated 25.01.2018 does not contain any conditions and hence it is not a conditional exemption notification.





5.9 It is pertinent to mention here that the applicant sought advance ruling as to whether the input tax credit is available when their outward supply is exempted in terms of Notification No.2/2018 supra. The exemption under the said notification is in full only and no tax is liable to be paid by the applicant. Thus the exemption is on the whole duty but not partial / conditional and therefore the impugned supply is wholly exempted. Hence the input tax credit on such supplies is not available to the applicant, in terms of Section 17(1), 17(2) of CGST Act 2017 and Rule 42 of CGST Rules 2017, as the said supply is wholly exempted in terms of the notification supra.

6. In view of the foregoing, we pass the following

### **R U L I N G**

*The input tax credit is not available to the applicant, on the supplies of the online educational journals or periodicals to the eligible educational institutions under entry number 66 (b) (v) of the Notification No.2/2018-Central Tax (Rate) dated 25.01.2018, in accordance with Section 17(1), 17(2) of CGST Act 2017 and Rule 42 of CGST Rules 2017.*

  
(Dr. Ravi Prasad M.P.)

**Member**

Karnataka Advance Ruling Authority

Place : Bengaluru, Bengaluru - 560 009

Date : 30-07-2021

To,

The Applicant

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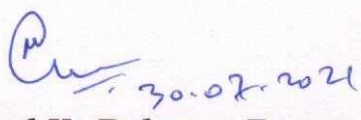
The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.

The Asst. Commissioner, LGSTO-100 , Bengaluru.

Office Folder.

  
(Mashhood Ur Rehman Farooqui)

**Member**

**MEMBER**

Karnataka Advance Ruling Authority  
Bengaluru - 560 009