

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 1st floor, B-Wing, Mazgaon, Mumbai - 400010.

(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Ms. P. Vinitha Sekhar, Addl. Commissioner of Central Tax, (Member)

(2) Shri A. A. Chahure, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAATMO173G1ZT
Legal Name of Applicant		Maneckji Cooper Education Trust
Registered Address/Address provided while obtaining user id		Maneckji Cooper Education Trust School, Juhu Tara Road, Santacruz West, Juhu, Bombay-400 049
Details of application		GST-ARA, Application No. 128 Dated 27.02.2019
Concerned officer		State Tax Officer (C-933), Nodal 6, Mumbai.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		Running a School duly recognised by the Government Authorities
A	Category	
B	Description (in brief)	The Applicant is running a school, known as Maneckji Cooper Education School and is involved in educational activities since 1946.
Issue/s on which advance ruling required		(i) Classification of goods and/or services or both (ii) Applicability of a notification issued under the provisions of this Act
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as the CGST Act and MGST Act"] by M/s. **Maneckji Cooper Education Trust**, the applicant, seeking an advance ruling in respect of the following question.

The applicant would like to know whether the registration under the GST Act should be surrendered.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

“The Applicant is a registered Charitable Trust, running a school, known as Maneckji Cooper Education School and is involved in educational activities since 1946.

2. The Applicant is a Trust registered under the Bombay Public Trust Act, 1950 as well as u/s 12A of the Income Tax Act 1961.
3. As per the last audited financial statements for the year ended 31st March 2017, the main sources of Income of the Applicant Trust were as under :

Sr.No.	Sources	Gross Receipts in Lacs
A	Tuition Fees, Tutorial and Term fees from running the Maneckji Cooper School	787
B	Income from forms, badges, files and other sundries relating to running of the school.	5
C	Interest on securities, debentures, bonds, fixed deposits and savings accounts.	596
D	Dividend on investments made.	20
E	Royalty income from M/s. S. Chand & Co.	98
F	Lease Rent of Plot of land at Peddar Road, Mumbai	0.1
G	Advertisements receipts in school Magazine	1.5

4. The Applicant is an owner of the Copyright of certain educational books, such as grammar book of 'Wren and Martin' (the books). The trust had given publication right to M/s. S. Chand and Co and has been receiving Royalty from M/s. S. Chand and Co. The Applicant trust was paying Service Tax on Royalty amount under protest upto June, 2017. The registration under Service Tax was migrated under GST Act. However, with effect from July, 2017, the GST on Royalty Income was put under 'Reverse charge' and M/s. S. Chand and Co., are responsible to pay the GST.

5. In view of above, the registration under GST Act, has become redundant as the school does not have any taxable income under GST.

The Queries:

As aforesaid, the applicant would like to know whether the registration under the GST Act should be surrendered.

The applicant, **Maneckji Cooper Education Trust** is a charitable trust registered with Charity Commissioner, Mumbai, Maharashtra and engaged in running a school, providing educational services, as principal activity of the Trust.

The receipts of the applicant are divided as under for the period ended **31/03/2018** as per audited Statement of Accounts;

Rent: That is to say rent for lease hold land of residential property situated in Mumbai, Maharashtra. The Land was belonging to Shri **Jehangir Maneckji Cooper**, who at his wish directed the Co-operative Housing Society, whose residential building is constructed on the said lease hold land to remit the lease rental charges to the Maneckji Cooper Education Trust, as, the trust deed was settled by him in the name of his father. In fact, this is in form of regular donation from the family of Maneckji Cooper to the applicant trust. The same is declared as Rent on lease of residential plot in Mumbai.

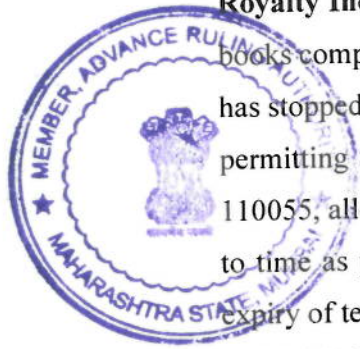
Interest: Interest on securities, debentures and bonds and on Bank accounts of the trust is earned at Rs.60945559/- during the financial year.

Dividend: Some shares are in the name of the applicant trust and every year the trust is receiving Dividend on the said investment. During the financial year ending on 31/03/2018, total Dividend receipt is at 1630868/-.

Advertisement Charges: The applicant is publishing magazine with the intention of providing information of the school activities and other information. Some business personals / entities are giving advertisement in the said Magazine with a very intention to help the trust in their main object, to provide Education in the school run by them. During the financial year ending on 31/03/2018, amount received under the said head is Rs.311788/-.

Royalty Income: The applicant trust was earlier engaged in printing & publication of Education books compiled/written by Wren and Martin under rights given to the trust. Later on the applicant has stopped printing and publishing the said books and entered into agreements from time to time permitting S. Chand & Company Ltd. having it's registered office at Ram Nagar, New Delhi – 110055, allowing them to publish the said educational books for consideration payable from time to time as per the terms of the different agreements entered into with them and renewed after expiry of terms of earlier agreement. Total receipt from S Chand & Co. Ltd. during period ending 31/03/2018 is Rs.9478946/- and tax on the same is paid on reverse charge mechanism by the said company at appropriate rate under GST Act, while discharging their liability under GST Act. Hence the applicant is not liable to make payment of tax on these receipts under Goods and Service Tax Act.

School Fees: Gross total receipts from school fees including fees for conducting special tutorials and Tuition amounting to Rs.90284609/-. An amount of Rs.9540647/- has been reduced as per Government Criteria from the said total receipt and net amount of Rs.80743962/- has been shown in the statement of Income in Audited Statement of Accounts for the year ended 31/03/18. As per the applicant the school fees are exempted from Goods and Service Tax Act.




Miscellaneous Receipts: Receipts toward proceeds of Forms, Badges, files and other sundries to the Student during the year is at Rs.789795/-. The same is basically required for identification of each student of the school and reporting educational progress of the students to parents by the class teachers of each student. The said amount according to the applicant is necessary for educational activities and hence not liable to tax under Goods and Service Tax Act.

03. CONTENTION – AS PER THE CONCERNED OFFICER

The submissions, as reproduced verbatim, could be seen thus-

“This office feels that query raised by applicant is not covered under entries mentioned in section 97(2), hence application requires to be rejected. However, if the Hon’ Advance Ruling Authority hears the applicant for issue raised by him, this office humbly makes following submission-

As per the statements provided by applicant, the main sources of Income of the Applicant Trust were as under-



Sr.No.	Source of Income	Gross Receipts in Rs .lacs (year 2016-17)	Gross Receipts in Rs. lacs (year 2017-18)
1	Tuition Fees, Tutorial and Term fees from running the Maneckji Cooper School	787	807
	Income from forms, budges, files and other sundries relating to running of the school	5	7.90
3	Interest on securities, debentures, bonds, fixed deposits and savings accounts	596	609
4	Dividend in investments made	20	16
5	Royalty income from M/s S Chand and Co	98	95
6	Lease rent of plot of land at Pedder Road, Mumbai	0.1	0.1
7	Advertisement receipts in school Magazine	1.5	3.1

As per provisions of Section 22(1) of CGST/MGST ACT,

*“Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where **he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:***

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

Further, as per Notification No. 10/2019-Central Tax,

*Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year **does not exceed forty lakh rupees, except, -***

- (a) persons required to take compulsory registration under section 24 of the said Act;
- (b) persons engaged in making supplies of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table;
- (c) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
- (d) persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act.

Further as per definition given in section 2(6) of CGST/MGST Act, “**aggregate turnover**” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), **exempt supplies**, exports of goods or services or both and inter-State supplies of persons **having the same PAN**, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, Integrated tax and Cess;

Section 2(47) defines “**exempt supply**” as 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 non-taxable supply.

From the statement made by applicant for year ended 31st March 2017, applicant has income from following sources:-

1. Tuition Fees, Tutorial and Term fees from running the Maneckji Cooper School

As mentioned in Sr. No.66 of Notification No.12/ 2017 – C.T. (Rate) dated 28th June 2017 as amended by Notification No.2 /2018 dated 25th January 2018, following services are exempted. 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 staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - (iii) security or cleaning or housekeeping services performed in such educational institution;
 - (iv) Services relating to admission to, or conduct of examination by, such institution ;
 - (v) supply of online educational journals or periodicals.

Provided that, nothing contained in sub-items (i), (ii) and (iii) of item (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.

Provided further 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.

Breakup of fees collected, i.e. quantum of Tuition fees, Tutorial fees, Term fees, Special coaching fees or any other fees is not available. Hence, this office cannot quantify taxable and exempted supply from supply made by applicant under this subhead.

2. Income from forms, budgets, files and other sundries relating to running of the school

Being supply of goods, items included under this subhead are not covered under notification mentioned in previous paragraphs. Further these items are covered under following entries and they are taxable in GST.

Sr. No.	Description	HSN Code	Rate (%)	Related Export/Import HSN Codes
1	Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non perforated punch-cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 4801 or 4803; hand-made paper and paperboard	4802	12	48021010, 48021020, 48022010, 48022090, 48024000, 48025410, 48025420, 48025430, 48025440, 48025450, 48025490, 48025510, 48025520, 48025530, 48025540, 48025550, 48025560, 48025570, 48025590, 48025610, 48025620, 48025630, 48025640, 48025650, 48025660, 48025670, 48025690, 48025710, 48025720, 48025730, 48025740, 48025750, 48025760, 48025770, 48025790, 48025810, 48025820, 48025830, 48025840, 48025850, 48025890, 48026110, 48026120, 48026130, 48026140, 48026150, 48026160, 48026190, 48026210, 48026220, 48026230, 48026240, 48026250, 48026260, 48026290, 48026910, 48026920, 48026930, 48026940, 48026950, 48026960, 48026990
2	Uncoated kraft paper and paperboard, in rolls or sheets, other than that of heading 4802 or 4803	4804	12	48041100, 48041900, 48042100, 48042900, 48043100, 48043900, 48044100, 48044200, 48044900, 48045100, 48045200, 48045900
3	Other uncoated paper and paperboard, in rolls or sheets, not further worked or processed than as specified in Note 3 to this Chapter	4805	12	48051100, 48051200, 48051900, 48052400, 48052500, 48053000, 48054000, 48055000, 48059100, 48059200, 48059300
4	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; [other than boxes, pouches,	4817	18	48171000, 48172000, 48173010, 48173090



	wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery including writing blocks][Except 48173			
5	Exercise book, graph book, & laboratory note book and notebooks	4820	12	48201010, 48201020, 48201090, 48202000, 48203000, 48204000, 48205000, 48209010, 48209090
6	Registers, account books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, blotting-pads, binders (loose-leaf or other), folders, file covers, manifold business forms, interleaved carbon sets and other articles of stationery, of paper or paperboard; and book covers, of paper or paperboard [other than note books and exercise books]	4820	12	48201010, 48201020, 48201090, 48202000, 48203000, 48204000, 48205000, 48209010, 48209090
	Paper or paperboard labels of all kinds, whether or not printed	4821	18	48211010, 48211020, 48211090, 48219010, 48219090
8	Boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery	481730	12	



3. Interest on securities, debentures, bonds, fixed deposits and savings accounts

Income under this subhead constitutes exempted supply under GST.

4. Dividend in investments made

Income under this subhead constitutes exempted supply under GST.

5. Royalty income from M/s S Chand and Co

The applicant is owner of copyright in school and college textbooks (originally owned by K & J Cooper). Applicant as licensor has entered in agreement, on 30 April 1981, with S Chand and Co (Licensee), to continue articles of agreement dated 1 May 1971, appointing licensees their exclusive publishers of the said school and college text books. The Licensees agreed to pay the royalty to the licensor.

Notification No 13/2017 dated 28th June 2017 is issued as per provisions of Section 9 of the CGST Act, 2017 notifying various categories of supply of services on which GST shall be paid by recipient of services.

Notification No 13/2017 dated 28th June 2017 –

Sr. No.	Category of Supply of Services	Supplier of Service	Recipient of Service
1	<i>Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.</i>	<i>Author or music composer, photographer, artist, or the like</i>	<i>Publisher, music company, producer or the like, located in the taxable territory</i>

The Copyright Act, 1957 defines Author as –

“author” means, —

- (i) in relation to a literary or dramatic work, the author of the work;
- (ii) in relation to a musical work, the composer;
- (iii) in relation to an artistic work other than a photograph, the artist;
- (iv) in relation to a photograph, the person taking the photograph;
- (v) in relation to a cinematograph film or sound recording, the producer;
- (vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created;

Further, the act defines “**exclusive license**” means a license which confers on the licensee or on the licensee and persons authorised by him, to the exclusion of all other persons (including the owner of the copyright) any right comprised in the copyright in a work, and “exclusive licensee” shall be construed accordingly;

Section 17 of Copyright Act, 1956 defines **First owner of copyright** as following-

Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein:

Provided that—

in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the

purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;

- (a) ----
- (b) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;
- (c) ...

In view of above, this office is of opinion that Income received by applicant from S.Chand and Co. does not fall under following service code-

SAC Code 999632	Services of authors, composers, sculptors and other artists, except performing artists This service code includes: i. services of authors, composers, sculptors ii. services of stage designers, set designers, lighting designers, costume designers; restoration services for works of art
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but it should be included under following head.

SAC Code - 997334	Licensing services for the right to reprint and copy manuscripts, books, journals and periodicals. This service code includes licensing services for the right to reproduce, distribute or incorporate literary originals such as reprinting and copying of manuscripts, books, journals and periodicals
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Notification No 13/2017 dated 28th June 2017 allows authors to discharge their tax liability in Reverse Charge Mechanism.

However, this office is of opinion that, as the transaction done by applicant is covered under entry 9997344 which is taxable outward supply at 18% tax rate and is not covered under Reverse Charge Mechanism.

6. Lease rent of plot of land at Pedder Road, Mumbai

SAC Code	Description of Service	Tax Rate
997211	Rental or leasing services involving own or leased residential property	18
997212	Rental or leasing services involving own or leased non-residential property	18

Hence, the transaction is taxable under GST.

7. Advertisement receipts in school Magazines

For advertisement in school magazines, following SAC codes defines services related to it.

SAC Code	Description of Service	Rate
998362	Purchase or sale of advertising space or time, on commission	18
998363	Sale of advertising space in print media (except on commission)	18

Hence, this transaction is taxable under GST. Additionally, applicant has not mentioned about annual function held by him and levy of GST in it.

In view of the above discussion, as the aggregate turnover of the applicant, which includes taxable and exempted outward supply, of more than prescribed limit by CGST/MGST Act, 2007; this office is of opinion that the applicant requires to remain as registered person under CGST/MGST Act, 2007 and should not surrender or cancel his registration.

04. HEARING

Preliminary hearing in the matter was held on 26.03.2019. Sh. Bharat Shah, State Tax Practitioner and Ms. Dantra, C.A. appeared, and requested for admission of their application. Jurisdictional Officer was not present.

Further, hearings fixed on 07.05.2019, 23.05.2019, 18.06.2019, 02.08.2019 and 19.09.2019 were adjourned on requests made, once by the jurisdictional officer and on other occasions by the applicant. Final hearing in the matter was held on 05.11.2019. Sh. Bharat Shah, State Tax Practitioner appeared, and submitted that, out of the items mentioned under Sources of income in the table mentioned at point no.3 of their submissions, GST was leviable on Tutorial fees, Income from forms, badges, files and other sundries relating to running of the school, Royalty income from M/s. S. Chand & Co. and Advertisements receipts in school Magazine. Shri Bharat Shah also submitted that they were required to be registered under the GST Act. Further, Shri Bharat Shah also informed that they were interested in knowing, whether GST on Royalty Income received from M/s. S. Chand & Co. was required to be paid by them.

The applicant's representatives were informed that the question raised by them i.e. "whether the registration certificate which they are presently holding should be surrendered", is not within the purview of Section 97 (2) of the CGST Act and therefore their application cannot be entertained. In response Shri Bharat Shah stated that he was in agreement and submitted that they would file a fresh application with respect to their query on Royalty Income.

Jurisdictional Officer, Shri Harshad Kumar, Asstt. Commr., Nodal-6, State GST, was present and submitted his say as well as written response to the subject application.

05. OBSERVATIONS

5.1 We have gone through the facts of the case, documents on record and submissions made by the applicant as well as the jurisdictional office.

5.2 We find that applicant is registered person under GST Act and receiving taxable income for goods/services supplied by them.

5.3 The subject application was admitted on the basis of oral contention and written submission made by the applicant. However, on perusal of the submissions and documents on record, we find that the query raised by the applicant is, whether they should surrender their existing GST registration.

The questions posed by the applicant before us are reproduced as follows.

1) *The applicant would like to know whether the registration under the GST Act should be surrendered.*

5.4 We feel it necessary first to decide whether the questions raised by the applicant are covered under Section 97(2) of the CGST Act, 2017, and thus maintainable, or liable for rejection. Having said so, we invite attention to the questions that can be posed in an application for an Advance Ruling under the provisions of the GST Act. Sub-section (2) of Section 97 is the relevant section which is reproduced as below:

(2) *The question on which the advance ruling is sought under this Act, shall be in respect of,—*

- a. classification of any goods or services or both;*
- b. applicability of a notification issued under the provisions of this Act;*
- c. determination of time and value of supply of goods or services or both;*
- d. admissibility of input tax credit of tax paid or deemed to have been paid;*
- e. determination of the liability to pay tax on any goods or services or both;*
- f. whether applicant is required to be registered;*
- g. whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.*

5.5 We observe in the instant case, the question which has been raised by the applicant is not pertaining to any of the matters mentioned in Section 97 (2) of the GST Act. In other words, Section 97(2), which encompasses the questions, for the ruling by this Authority does not deal with the issue of whether a GST registration should be surrendered. Hence, it is held that this authority does not have jurisdiction to pass any ruling on such matters.

5.6 In view of the above discussion, we reiterate that, the question posed before us does not pertain to matter in respect of which an Advance Ruling can be sought under the GST Act. In view thereof, we find that the impugned application is not maintainable. No proceeding of Advance Ruling under the GST Act lies in the instant case.

5.7 The applicant is at liberty to file a fresh application, as submitted by them.

06. In view of the above findings, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 128/2018-19/B-

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Mumbai, dt.

02/12/2019

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

The application for advance ruling is rejected, as being non-maintainable.



—sd—
P. VINITHA SEKHAR
(MEMBER)

—sd—
A. A. CHAHURE
(MEMBER)

CERTIFIED TRUE COPY

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.


MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India building, Nariman Point, Mumbai - 400021.