



TELANGANA STATE AUTHORITY FOR ADVANCE RULING
CT Complex, M.J Road, Nampally, Hyderabad-500001.
(Constituted under Section 96(1) of TGST Act, 2017)

Present:

Sri B. Raghu Kiran, IRS, Additional Commissioner (Central Tax)
Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax)

A.R.Com/18/2021

Date:14.07.2022

TSAAR Order No.49/2022

Sub: Referring application to Appellate Authority for Advance Ruling in terms of Section 98(5) of TGST Act, 2017 for hearing and decision– Reg.

M/s. Magnetic Infotech Pvt Ltd, Plot NO.08, Krishna Nagar Colony, Kakaguda Village, Wellington Road, Picket, Secunderabad, Hyderabad, Telangana- 500009 (36AACCM2333F1ZV) has filed an application in FORM GST ARA-01 under Section 97(1) of TGST Act, 2017 read with Rule 104 of CGST/TGST Rules, seeking Advance Ruling on the following as under :

- a. Whether GST exemption is applicable to applicant in respect of the pre and post Examination services being provided to the Educational Boards and Universities (including Open Universities)?
- b. If answer to Q.No.1 is affirmative, whether the exemption is available to the applicant in case of the services are provided on sub-contract basis i.e., the applicant provides pre and post examination services to the main contractor who in turn provides the said services to the Educational Boards and Universities (including Open Universities)?

I. Statement of relevant facts submitted by the applicant having a bearing on the question(s) raised:

1. M/s. Magnetic Infotech Private Limited (hereinafter referred to as "Applicant") is engaged in providing pre and post examination services to the Educational Boards, Universities and Open Universities (hereinafter referred to as 'Educational Institutions').
2. The applicant has entered into agreements with various educational institutions located in different States such as Board of Secondary Education, Telangana, Board of Intermediate Education, Telangana, Board of Secondary Education, Andhra Pradesh, Board of Intermediate Education, Andhra Pradesh, Osmania University, Hyderabad, JNTU, Hyderabad, Dr. BR Ambedkar Open University, Hyderabad, Swamy Ramanand Teerth Marathwada University, Nanded, Maharashtra and Yeshwantrao Chavan Maharashtra Open University, Nasik, Maharashtra. Copies of the agreements entered by the applicant with State Education Boards and Universities (including open universities) are enclosed as Annexure - III.
3. The scope of work in respect of the services being provided to the educational institutions by the applicant can be divided into the following three categories.
 - i. Data processing for conduct of examination
 - ii. Results Preparation

- iii. Generation and printing of statistical data and reports in the prescribed proformas as required by the educational institutions.
4. The aforesaid three categories of services include processing of examination results which involves collection of examination forms from students and processing, generation of checklist which are sent to the corresponding education institutions for verification and error correction, then the checklist corrections are updated to make it error free data, generation of hall tickets/admit cards, photo attendance sheets which are sent to the examination centers. Processing the nominal roll data, generation of OMR sheets for obtaining marks, conducting of the examinations with nominal roll data and student information.
5. Post-examination services include getting the marks awarded from the evaluation centers capturing the data and summarizing it, purifying it. Processing the examination results by applying all the rules and generating the result sheet, tabulation of result and declaration of result, then issuing the marks memos to the students. The same procedure is followed for the supplementary exams to be conducted for the failed candidates.

Scope of work for State Education Boards:

6. The scope of services from the contract entered with Director of Government Examinations (DGE), Nampally, Hyderabad, Telangana is mentioned below.

Scope of work:

The entire project work can be broadly divided into two parts.

- i. Pre-examination work
- ii. Post-examination work

Pre-examination and Post examination work is required to be carried out in the premises of DGE, Telangana in the room allocated for the purpose.

The applicant cannot sub-let any part / item of work to other agencies as the work is very sensitive, time bound and most confidential in nature. Relevant clauses enumerating the scope of service to be provided by the applicant are extracted herein below:

Data Processing:

The data processing consists of data entry and other activities. The applicant should arrange sufficient required equipment for scanning of ICR forms & OMR sheets viz. Servers, ICR Scanners, OMR Scanners, PCs along with Printers, Modems, UPS, etc. The secured office area and power will be provided by the DGE, Telangana. The activities under data processing would inter alia include the following.

- *Data entry and verification of the student details with the validation rules given by DGE*
- *Printing of checklists until data is proved to be accurate and error free and approved by DGE.*
- *Preparation of data for hosting of hall ticket numbers with photo in the website.*
- *Maintenance of updated data in the server.*
- *The applicant should supply CDs/DVDs after completion of processing at every stage as per the directions of the DGE from time to time,*

Results Preparation:

- *Generation of various output reports at different stages as prescribed by DGE.*
- *Preparation of data for hosting of results in the website.*

Input from DGE, Telangana and Output from the applicant:

The DGE, Telangana shall supply the following documents/information to the applicant

- i. OMR cum ICR forms for scanning
- ii. Schools list
- iii. Centre/School Master
- iv. OMR award sheets for scanning
- v. Control bundle slips
- vi. Marks strips for data entry of marks
- vii. Any other important record required.

The applicant has to supply the following output for Pre-examination and Post examination work:

For Pre-Examination work

- a. 3 Copies of School Nominal Roll on pre-printed stationery.
- b. 3 Copies of Centre wise Nominal Roll on pre-printed stationery
- c. 2 Copies of marks strips on pre-printed stationery for vocational practical examination
- d. One copy of hall ticket on pre printed stationery (printing of data along with photo of the candidate)
- e. 20 copies of centre master on plain stationery
- f. Question paper figure statements denomination wise centre wise and district wise
- g. Centre wise attendance sheets
- h. District wise and centre wise D-forms
- i. Scanned data of entire OMR cum ICR Forms
- j. Two CDs after completion of every stage.

For Post Examination Work:

- i. T-Sheet school wise on pre-printed stationery
- ii. T-Sheet centre wise on plain stationery of the applicant
- iii. Results sheets hard copies 10-15 sets on plain stationery.
- iv. Results along with marks data on quality CDs
- V. Pass certificates: The service provider has to supply the data structure of the passed candidates in the prescribed format on CDs in order to print SSCs with variable data with images (photos).
- vi. Pass memos on printed stationery

- 7. The applicant has to establish the processing unit at designated location, deploy the required manpower, arrange required stationery as per the specifications of DGE, printing & supply of OMR Sheets, Attendance Sheets, submission of various reports, etc.

Scope of work for Universities:

- 8. The Scope of work from the contract entered between the applicant and the Controller of Examinations, Osmania University, Hyderabad, Telangana is mentioned below.

The scope of work for Digitization of answer scripts and onscreen evaluation:

- a) Scanning of answer scripts
- b) Uploading of the scanned answer scripts data into server.
- c) On-screen evaluation of answer scripts
- d) Providing of marks data for result processing

Responsibilities of University:

- i) The University shall provide necessary accommodation, infrastructure, stabilized electric power, power backup, Air conditioning, furniture and other basic facilities like internet bandwidth to carryout the scanning of answer books, storage facility for storing the answer books and transportation of answer books.
- ii) The University shall provide evaluation server for on-screen evaluation with security features along with internet bandwidth.
- iii) The University shall identify the evaluation centres with prescribed infrastructure as per the requirement of the university such as work stations, software, UPS, sufficient internet bandwidth, Generator backup and security features, furniture, LAN, etc.

- iv) The University shall identify the list of evaluators and also issue the intimation letters with the schedule to the examiners for On-screen evaluation.
- v) The University shall provide the list of evaluators to the applicant incharge for mapping the scripts to the evaluators.

Responsibilities of the applicant:

- i) The applicant shall provide the infrastructure such as scanning servers, workstations and book scanners for scanning of answer books at the University scanning centre as per the requirement.
- ii) Applicant shall maintain work flow management from receiving the answer script bundles from the examination centres, accounting the answer scripts, reconciliation with attendance received.
- iii) The applicant shall scan and digitize the answer scripts, maintain time schedules as required by the University with proper controls and uploading the scanned images to the evaluation server for onscreen evaluation in the encrypted format. The applicant shall provide required technical manpower, scanning operators and managerial staff for scanning and digitization of answer scripts, physical security at the centres in addition to the security provided by the University.
- iv) Applicant shall allocate the answer scripts to the subject experts (evaluators) provided by the University for On-Screen evaluation.
- v) Applicant shall make the scanned copies of answer scripts available to the students after declaration of results through internet for downloading on receiving of required payment and approval by the University.
- vi) The applicant shall provide examination wise complete scanned data to the University.
- vii) The applicant shall provide training to the evaluators/University staff on the process of evaluation and evaluation software.
- viii) The applicant shall make arrangement to export the evaluation data in encrypted format to the central server for further process and also data shall be given in the electronic media to the Director of Evaluation of the University Scope of work for Open Universities:

Scope of work for open Universities

9. The applicant has also entered into contracts with open Universities for providing pre and post examination services. The scope of work under the contract entered with the Registrar, Yeshwantrao Chavan Maharashtra Open University, Nashik, Maharashtra is mentioned below.

Scope of Examination Management System:

The applicant shall provide –

- a) Pre-Examination services covering exam scheduling, hall ticket generation, generation of attendance sheets, summary, daily report, Jr. Supervisor report and collected fee management, etc.
- b) Customized software for question bank development as per blue print of YCMOU time to time and training to the item writers and all concern, QP generation, uploading QP.
- c) Digital valuation services include pre-CAP, scanning of AB, making available for evaluation, identifying CAP centres as per need throughout Maharashtra State, with necessary IT infrastructure, Controlling the CAP centres, Evaluators mapping as per the list given by the Open University.
- d) Post examination services covering result processing, moderation, gracing, verifying missing entries, post exam report generation, generation of mark sheets, pass certificate, migration certificate and convocation certificate data in PDF format, etc. as per the formats given by the Open University for printing

10. The applicant is claiming exemption from payment of GST in respect of the services being provided to the Education Boards and Open Universities under the heading 9992- 'services provided to an educational institution by way of services relating to admission to, or conduct of examination by, such institution' as per SI. No. 66(b)(iv) under the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended (hereinafter referred to as 'NN-12/2017'). However, in respect of pre and post examination services being provided to Universities, the applicant is not claiming GST exemption.

II. Statement containing the applicant's interpretation of law based on the facts, in respect of the aforesaid questions:

11. That Section 97(2) of the Central goods and Service Tax Act, 2017 (hereinafter referred to as 'CGST Act'), enables an application to be filed for advance ruling on any of the following questions:
- Classification of any goods or services or both;
 - Applicability of a notification issued under the provisions of the CGST Act;
 - Determination of time and value of supply of goods or services or both;
 - Admissibility of input tax credit of tax paid or deemed to have been paid;
 - Determination of the liability to pay tax on any goods or services or both;
 - Whether applicant is required to be registered;
 - 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.
12. The applicant submits that issue on which advance ruling is sought in the instant matter relates to applicability of exemption notification issued under the provisions of the CGST Act in respect of pre and post examination services being provided to the educational institutions.
13. The questions are eligible to be posed for advance ruling before the Advance Ruling Authority in terms of Section 97(2)b) of the CGST Act. Hence, present advance ruling application is maintainable before the Hon'ble Authority for Advance Ruling, Telangana.

ISSUES REQUIRING ADVANCE RULING:

14. The applicant submits the following questions for Advance Ruling and their interpretation on the questions as under:
- Whether GST exemption is available to the applicant in respect of the pre and post Examination services being provided to the Educational Boards and Universities (including Open Universities)?
 - If answer to Q. No.1 is affirmative, whether the exemption is available to the applicant in case the services are provided on sub-contract basis i.e. the applicant provides pre and post examination services to the main contractor who in turn provide the said services to the Educational Boards & Universities (including Open Universities)?

Applicant's understanding:

15. The applicant believes that the supply of pre and post examination services to educational institutions like Educational Boards, Universities (including open Universities) are in relation to admission to, or conduct of examination by the said institutions. Accordingly, the services being provided to the educational institutions would fall under SI. No. 66(b)(iv) NN-12/2017 and eligible for exemption from payment of GST.
16. In case of provision of pre and post examination services by the applicant as a sub-contractor to the main contractor who in turn provide the said services to educational institutions, the applicant is of the understanding that as the services in relation to conduct of examination by the educational institutes are exempted, in this case also the services

are in relation to conduct of examination by educational institutions which are ultimately provided to educational institute, therefore, exemption would also be available to the applicant even though the services are provided on sub-contract basis.

Applicable provisions:

Notification No. 12/2017-Central (Rate) dated 28.06.2017 as amended (NN 12/2017)

17. NN-12/2017 provides the list of exempted intra state supply of services. Similar notification has been issued under the Telangana State GST Act, 2017.
18. The relevant entries under NN-12/2017 have been reproduced below:

<i>Sl. No.</i>	<i>Chapter, Section or Heading</i>	<i>Description of Services</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
66	Heading 9992 or Heading 9963	<i>Services provided – (a) by an educational institution students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; (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 house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; Provided that nothing contained in sub-items (i), (ii) and (iii) of item (6) 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.</i>

Explanation.- For the purposes of this notification,

(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.

19. The definition of 'educational institution' as provided under NN-12/2017 is reproduced below.

*2(y) "educational institution" means an institution providing services by way of,
(i) pre-sc 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,*

20. Thus, from the above definition, it is understood that any institution which provides education for obtaining a qualification recognized by any law is treated as an educational institution. Further, any service provided relating to admission to, or conduct of examination by, such institution is eligible for exemption.
21. In the present case, the applicant has entered into agreements with State Education Boards and Universities (including open universities) in different states for providing pre and post examination services.
22. As per the scope of work under the agreements entered between the applicant and educational institutions, the applicant shall arrange required equipment for scanning of ICR forms & OMR sheets viz. Servers, ICR Scanners, OMR Scanners, PCs along with the Printers, Modems, UPS, etc. The secured office area and power will be provided by the service recipient viz. educational institute.
23. The activities being carried out by the applicant under pre and post examination services would inter alia include the following:

I. Pre-Examination Work:

- Constitution of examination centres and zones
- Jumbling of candidates
- Supply of clean copy of school wise and centre wise nominal rolls
- Printing of hall tickets
- Centre/zone master printing
- Centre wise roll number ranges with buffer numbers
- School wise number of candidates in 2 or 3 rounds for verification and updation
- Printing of attendance sheets with photos centre wise
- Question paper packing statements day wise, centre wise, district wise

II. Post Examination Work:

- Feeding of School NR and Centre NR additions
- Checklists, updating of corrections
- Serious error reports and updating of corrections
- Supply of CNR Additions, corrections and deletions updated reports
- Data entry of absentee cases
- Feeding of OMR bar-code sheets
- Printing of memo of marks

24. The applicant submits that in case of State Education Boards, the schools/colleges are affiliated to the State Education Boards and the said schools/colleges impart education to the students. However, the State Education Boards conduct the examinations and issue memo/certificate to the students.
25. In case of Universities, the Universities impart education and the affiliated colleges facilitate the universities in imparting the education. Universities are established by an Act of the Parliament and award degrees and diplomas recognized by law to the qualifying students.
26. The applicant submits that the colleges facilitate delivery of education through instruction of curriculum defined by the universities to the students. Further, the colleges are under control of the Universities. Thus, the colleges only act in accordance with the directions/guidelines of the Universities.
27. The colleges do not prepare curriculum, do not conduct examinations and do not grant certificates to the students. The Universities maintain all the details relating to a student, conduct examinations and grant certificates to the students.

28. Thus, it is submitted that the Universities are imparting education by formulation of courses, prescription of syllabus, academic schedule preparation, conducting examinations, evaluation and award of degrees/qualifications recognized by law.
29. In case of Open Universities, there are no colleges affiliated to the said universities. The open universities directly impart education to students through contact classes. The course material and books are directly supplied by the Open Universities to the students. The degrees or diplomas are also granted by the Open Universities. The Open Universities are also established by law and the qualifications awarded by them are recognized by law.
30. The applicant submits that in case of State Education Boards and Universities, the education boards/universities conduct the examinations and grant certificates/degrees to the students and the affiliated colleges only facilitate for imparting the education to the students.
31. The applicant also submits that the term "education" is very wide and it would include imparting of study, learning, conduct of examination and grant of certificates or degrees to the students by the education boards and universities including open universities.
32. The applicant submits that the Hon'ble Supreme Court in the case of **Gujarat University vs. Krishna Ranganath Mudholkar [AIR 1963 SC 703]**, held that the expression education' is of wide import and includes all matters relating to imparting and controlling education.
33. In the case of **Nidhi Kaim vs. State of M.P., [2016 (7) SCC 615]**, the Supreme Court held that the examination is always considered as one of the major means to assess and evaluate candidate's skills and knowledge be it a school test, university examination, professional entrance examination or any other examination. Candidate's fitness for his further assignment, whether in studies or employment is, therefore, judged on the basis of his performance in the examination. It is for this reason, the examination is considered as a common tool around which the entire education system revolves.
34. Further, the applicant also refers the decision of Hon'ble Gujarat High Court in the case of **M/s. Sahitya Mudranalaya Private Limited vs. Additional Director General [2021 (46) GSTL 245 (Guj.)]**. In this case, the Gujarat High Court has inter alia dealt with the issue as to whether the state education board, state technological university and state council of examination are educational institutes or not. The department contention was that the Board/University work more like a managerial organization to plan the syllabus of education and conduct of examination for the institutes affiliated under them and they are functioning as organizations which are entrusted with the work of creating more schools/colleges/institutes under their affiliation, to prepare the syllabus of education for such institute, to conduct the academic tests and exams, to appoint examiners/supervisors for smooth conduct of examinations, to declare the results of such examinations, etc. According to the department, the board/university are not educational institutes. In this regard, the High Court has held as follows.

the word "education" cannot be given a narrow meaning by restricting it to the actual imparting of education to the students but has to be given a wider meaning which would take within its sweep, all matters relating to imparting and controlling education. Examination is an essential component of education as it is one of the major means to assess and evaluate the candidate's skills and knowledge, be it a: school test, university examination, professional entrance examination or any other examination. As held by the Supreme Court, the examination is considered as a common tool around which the entire education system revolves.

Thus, education would mean the entire process of learning, including examination

and grant certificate or degree or diploma, as the case may be and would not be limited to the actual imparting of education in schools, colleges or institutions only. Unless the School Boards hold examinations, the education of school students would not be complete, so is the case with college students, whose education would be complete only when the University conducts examinations and awards degrees or diplomas. It is the School Boards which issue the Secondary and Higher Secondary School Certificates after holding examinations and the University which confers degrees/diplomas etc. after holding examinations. Unless a student holds a certificate issued by a Board, his or her school education would not be complete, similarly, without a degree or diploma being conferred by the University, college education would not be complete. Therefore, examinations are an indispensable component of education, without which such education is incomplete. Therefore, to say that boards/universities are not 'educational institutions' would amount to divorcing examinations from education.

35. The term 'educational institution' as defined under NN-12/2017, would include an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force.
36. As per the Sl. No. 66(b)(iv) of the NN - 12/2017, exemption is available to a service provider if the following two conditions are satisfied.
 1. Services are provided to an educational institution; and
 2. The said services are relating to admission to, or conduct of examination by the educational institutes.
37. In the instant case, the applicant is providing services to Educational Boards, Universities and open Universities.

Services provided to Educational Boards:

38. The applicant is providing pre and post examination services to State Educational Boards such as Board of Secondary Education, Telangana, Board of Intermediate Education, Telangana, Board of Secondary Education, Andhra Pradesh, Board of Intermediate Education, Andhra Pradesh.
39. As per the explanation no. (iv) to the NN-12/2017, Central and State Education Boards shall be treated as educational institutions for the purpose of providing services by way of conduct of examination to the students.
40. The applicant also submits that after introduction of GST, certain doubts were raised by the assessee specifically as to whether the services relating to conduct of examinations provided to Education Boards are eligible for exemption or not. Since, the Educational Boards do not conduct classes directly to the students.
41. In this regard, an explanation no. (iv) has been inserted in NN-12/2017 by the Ministry of Finance, Department of Revenue vide Notification No. 14/2018 Central Tax (Rate) dated 26.07.2018 and clarified that State and Central Education Boards would qualify as educational institutions for the purpose of exemption from GST as per Sl. No. 66(b)(iv) of the NN - 12/2017
42. Thus, from the said explanation it is clear that in the instant case, the State educational boards are educational institutions. Accordingly, the first condition viz. "services are provided to educational institution" is satisfied.
43. With respect to the second condition i.e., the services provided are relating to admission to or conduct of examination by the educational institution, it is submitted that there is no doubt that the State Educational Boards conduct the examination and grant degrees/certificates to the students. For this purpose, the educational boards are availing

pre and post examination services from the applicant.

44. The applicant submits that the services such as data processing, generation of hall tickets, result processing, scanning of OMR sheets, printing of Memos, etc., provided to the State Education Boards would qualify as services relating to conduct of examination by the educational institutions (State Education Boards in this case).
45. Thus, the second condition specified under Sl. No. 66(b)(iv) of the NN – 12/2017 is also fulfilled. Accordingly, the applicant submits that in this case, exemption is applicable to the applicant in respect of the pre and post examination services being provided to the State Education Boards.

Services provided to Universities:

46. The applicant has also entered agreements with various Universities for providing pre and post examination services. As submitted above, the Universities impart education to the students and the colleges affiliated to the said universities act as facilitators. The University prescribes the syllabus and provide the same to the colleges. The Universities conduct examination and grant degree to the students.
47. The applicant also refers the recent Hon'ble Madras High Court in the case of Madurai Kamaraj University Vs. Joint Commissioner, Office of the Commissioner of GST and Central Excise, Madurai [2021-VIL-639-MAD ST). In this case, the High Court held that holding or conducting an examination is primarily a job of the university and the colleges affiliated to the university are only facilitators. The relevant extract of the said judgment is reproduced below.

Holding or conducting an examination is primarily a job of the university and the colleges affiliated to the university are only facilitators. Therefore, examinations are not conducted directly by the colleges, it is being conducted by the university, but the facilitator is the college. Therefore, the word "conduct of examination by such institution" means, conduct of examination by the university and the college and not by the college alone. The examination is the examination of the university, for which, facilitation is given by the college, wherein the examinations are conducted and ultimately, valuation is to be done by the university and marks are awarded and degree is conferred by the university. Therefore, it is the university, where, the facilitator is the college, where, the examination is being taken place and therefore, the word "conduct of examination", cannot have such a narrow and pedantic interpretation.

48. Thus, the applicant submits that though the universities are not specifically covered under explanation no. (iv) to the NN-12/2017, the purpose/motive of the universities is to impart education, conduct examinations and grant certificate/degrees to the students.
49. Therefore, the applicant submits that pre and post examination services being provided to the Universities by the applicant are similar to the services being provided to the State Educational Boards.
50. Further, as mentioned above, conducting of examination is part of education services and any institution providing education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force is treated as an education institution. Accordingly, any institution conducting examination for obtaining qualification will be treated as an educational institution'.
51. Thus, the applicant submits that Universities are imparting education, conducting examinations and granting certificates/degrees to the students as part of a curriculum for obtaining a qualification. Therefore, the said Universities are also covered under the

definition of 'educational institute' as provided under NN-12/2017

52. The services being provided by the applicant to the Universities are in relation to conduct of examination. Accordingly, in this case also the two conditions viz. services are provided to educational institutes and the services are in relation to conduct of examination are fulfilled.
53. Further, the applicant submits that there would not be any distinction between Education Boards and Universities for providing exemption when the same services are provided by the applicant to the Education Boards and Universities. Accordingly, the applicant submits that exemption would also be available to the applicant in respect of the pre and post examination services being provided to the Universities.
54. Thus, the applicant submits that the services being provided to the Universities are also covered under Sl. No.66(b)(iv) of the NN-12/2017 and the applicant is eligible for the exemption.
55. The applicant also submits that if GST exemption is not available in respect of pre and post examination services provided to Universities, the entry under Sl. No.66(b)(iv) of the NN-12/2017 will make redundant as exam related services are provided only to Universities.

Open Universities:

56. With respect to the pre and post examination services being provided to the open Universities, the applicant submits that the students are registered with open universities and the said universities directly interact with the students, provide study material, impart education, conduct examinations and grant degree/certificate to the students.
57. Thus, the applicant submits that Open universities are imparting education to the students as a part of a curriculum for obtaining a qualification recognized by law. Accordingly, the Open universities qualify as educational institutions.
58. Further, the services being provided by the applicant to the Open universities are in relation to conduct of examinations and grant of certificates to the students by the said universities.
59. Thus, in case of supply of pre and post examination services to Open Universities also, two conditions viz. services are provided to educational institution and the said services are in relation to conduct of examinations by the educational institution are satisfied.
60. Accordingly, the applicant submits that pre and post examination services being provided to open universities are also covered under Sl. No.66(b)(iv) of the NN 12/2017 and the applicant is eligible for the exemption.
61. The applicant also places reliance on the Ruling given by this Hon'ble Authority for Advance Ruling in the case of M/s. K L Hi-Tech Secure Print Limited [2018-VIL-185-AAR]. In this case, the Hon'ble Advance Ruling Authority has held that the provision of service of scanning of OMR sheets, Bar-codes, printing of marks memos, certificates, etc. to the educational boards and universities are covered under Sl. No.66(b)(iv) of the NN-12/2017 and eligible for exemption from payment of GST.
62. Further, the Hon'ble Authority for Advance Ruling, Andhra Pradesh has also taken similar view in the case of **Hitech Print Systems Limited [2021-VIL-296 AAR]** and it was held that Printing of Pre- examination items like question papers, OMR sheets (Optical Mark Reading), Answer booklets for conducting of an examination by the educational boards be

treated as exempted supply of service. The relevant extract from the ruling given by the Andhra Pradesh Advance Ruling Authority in the said is reproduced below.

In the instant case, the educational institutions as referred to by the applicant for whom the supplies of the services of printing of examination related material are made intended to be made are Mumbai university examination Committee, Bihar University Examination Committee, JNTU, Kakinada. All of the three institutions invariably fall under the category of educational institution" as they fulfil the criterion of 'institution providing services by way of, - (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;!

Further, with reference to the services provided by the applicant, they are nothing but 'services relating to admission to, or conduct of examination by, such institution' falling under Sl.No.66 of the said exemption notification of No. 12/2017-CGST [Rate) dated 28.06.2017 as amended.

63. The applicant also places reliance on the following cases wherein it was held that the provision of service of scanning of OMR sheets, Bar-codes, printing of marks memos, certificates, etc. to the educational boards and universities are covered under Sl. No.66(b)(iv) of the NN-12/2017 and eligible for exemption from payment of GST.

- Orient Press Limited, AAR, Maharashtra [2019-VIL-169-AAR]
- Edutest Solutions Private Limited, AAR, Gujarat [2018-VIL-195-AAR]
- Manali Enterprise, AAR, West Bengal [2018-VIL-178-AAR]
- KL Hitech Secure Print Ltd, AAR, Telangana [2018-VIL-185-AAR]
- Hitech Print Systems Ltd, AAR, Andhra Pradesh [2021-VIL-296AAR]
- Sahitya Mudranalaya Pvt Ltd, Gujarat [Special Civil Application No. 20748 of 2018] •
- Madhurai Kamaraj University, Tamil Nadu [2021-VIL-639-MAD-ST]

Copies of the High Court Judgements and Advance Ruling orders relied by the applicant are enclosed as Annexure - IV.

Services provided on sub-contract basis:

64. The applicant submits that as per Sl. No. 66 of the NN – 12/2017, education services falling under the heading 9992 are exempted from payment of GST. Thus, from the said entry, it is clear that the intention of the Government is to provide exemption from payment of GST in respect of supply of various services to educational institutions. The reason being, services provided to educational institution should not be burdened with the GST component as the education services provided by them are also exempted from GST. Thereby, GST is not levied on the fee paid by students for education.

65. The applicant is planning to enter into contract for providing pre and post examination services to the main contractor who in turn provide the said services to the State Educational Boards and Universities (including Open Universities). In this case, the employees of the applicant are deputed at designated Education Boards, Universities, etc., and carryout activities relating to pre and post examinations.

66. Therefore, the applicant submits that in cases where pre and post examination services are provided to the main contractor who in turn provide the same to the educational institutions, then the exemption would also be available to the sub contractor as the services are relating to education and ultimately provided to the educational institutions which impart education to the students, conduct examinations and grant certificates/ degrees to the students.

67. In view of the above, the applicant requests the Hon'ble Authority for Advance Ruling to

grant an opportunity of personal hearing to serve the principles of natural justice.

69. The applicant also respectfully prays that they may be permitted to file additional material / written submissions at the time or after the personal hearing as may be required.

III. Personal Hearing:

The Authorized representatives of the unit namely Sri S. Purushotham, Accountant & G. Jagannath, Advocate, authorized representatives of the firm attended the personal hearing held on 27-04-2022. The authorized representatives reiterated their averments in the application submitted and contended as follows:

1. That, they are making supplies under Clause (IV) of (b) of Sl.No.66 of Notification 11 of 2017 which was amended subsequently vide Notification No.2 of 2018 to omit the phrase 'upto higher secondary education' from the provision to the said entry. They are desirous of ascertaining their eligibility for exemption under the said provision.
2. That, they are also executing the above service as sub-contractor and are desirous of ascertaining whether the said exemption extends even to the sub-contractor.

IV. The opinion expressed by Sri S.V. Kasi Visweswara Rao, Additional Commissioner (State Tax), on the issues raised by the applicant.

The CBIC has issued a Circular No. 151/07/2021-GST CBIC- 190354/36/2021, dated:17.06.2021 and issued clarification regarding activities falling under serial no. 66 of Notification No. 12/2017.

Accordingly, the following services supplied by an educational institution are exempt from GST vide Serial. No. 66 of the notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017, Services provided –

- (a) by an educational institution to its students, faculty and staff;
- (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;

Similarly, services provided to an educational institution, relating to admission to, or conduct of examination is also exempt from GST [sl. No. 66 (b)(iv)-12/2017-CT(r)].

Educational institutions are defined at 2(y) of the said notification as follows-

"(y) educational institution" means an institution 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 recognized by any law for the time being in force;*
- (iii) *education as a part of an approved vocational education course;"*

Further, clause (iv) of Explanation of said notification reads as below:

"(iv)For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students"

Therefore it was clarified that GST is exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards under S. No. 66 (b) (iv) of Notification No. 12/2017-CT(R).

As seen from the averment of the applicant they claim to supply services which are related to conduct of examination. And the Sl.No.66 of Notification No.12 of 2017-Central Tax (Rate), dt: 28-06-2017 provides for exemption for services related to admission to or conduct of examination by such institution.

Further the proviso to the entry at Serial No. 66(b) read as follows earlier to its modification vide Notification No.2 of 2018 to omit the phrase 'upto higher secondary education' from the provision to the said entry :

"Provided 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".

After omission of the phrase 'upto higher secondary education' service provide to all educational institution the services provided to Universities is also covered under this entry.

Further the entry 66(b) regarding this service is abstracted as under:
"Services provided - ...
(b) to an educational institution, by way of,- ...
(iv) services relating to admission to, or conduct of examination by, such institution."

Thus the service relating to admission to or conduct of examination is exempt when provided to such educational institution.

Therefore as a service itself is exempt, this exemption can be claimed by any taxable person including a sub-contractor.

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Whether GST exemption is applicable to applicant in respect of the pre and post Examination services being provided to the Educational Boards and Universities (including Open Universities)?	Yes
2. If answer to Q.No.1 is affirmative, whether the exemption is available to the applicant in case of the services provided on sub-contract basis i.e., the applicant provides pre and post examination services to the main contractor who in turn provides the said services to the Educational Boards and Universities (including Open Universities)?	Yes.

V. The views expressed by Shri B. Raghu Kiran, Additional Commissioner, Central Tax on the issues raised by the applicant are as given below.

The CBIC has issued a Circular No. 151/07/2021-GST CBIC- 190354/36/2021, dated:17.06.2021 and issued clarification regarding activities falling under serial no. 66 of Notification No. 12/2017.

Accordingly, the following services supplied by an educational institution are exempt from GST vide Serial. No. 66 of the notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017, Services provided –

- (a) by an educational institution to its students, faculty and staff;
- (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;

Similarly, services provided to an educational institution, relating to admission to, or conduct of examination is also exempt from GST [sl. No. 66 (b)(iv)-12/2017-CT(r)].

Educational institutions are defined at 2(y) of the said notification as follows-

"(y) educational institution" means an institution 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 recognized by any law for the time being in force;

(iii) education as a part of an approved vocational education course;"

Further, clause (iv) of Explanation of said notification reads as below:

"(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students"

Therefore it was clarified that GST is exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards under S. No. 66 (b) (iv) of Notification No. 12/2017-CT(R).

As seen from the averment of the applicant they claim to supply services which are related to conduct of examination. And the Sl.No.66 of Notification No.12 of 2017-Central Tax (Rate), dt: 28-06-2017 provides for exemption for services related to admission to or conduct of examination by such institution.

Further the proviso to the entry at Serial No. 66(b) read as follows earlier to its modification vide Notification No.2 of 2018 to omit the phrase 'upto higher secondary education' from the provision to the said entry :

"Provided 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".

After omission of the phrase 'upto higher secondary education' service provide to all educational institution the services provided to Universities is also covered under this entry.

Further the entry 66(b) regarding this service is abstracted as under:

"Services provided - ...

(b) to an educational institution, by way of, - ...

(iv) services relating to admission to, or conduct of examination by, such institution."

Thus the service relating to admission to or conduct of examination is exempt when provided to such educational institution. The said entry specifies that the services are required to be supplied to educational institution. Nevertheless, where the privity of contract is between the applicant (as a sub-contractor) and a main contractor, in such cases, the main-contractor does not fall under the definition of 'educational institution' and therefore, such supply is not covered under entry 66(b) of Not. No. 12/2017-CT (R) dated 28.06.2017 as amended. As such, the benefit of exemption is not available to the sub-contractor who supplies service to main contractor even though service is ultimately rendered to education institution.

In view of the above discussion, the questions raised by the applicant are clarified as below:

Questions	Ruling
1. Whether GST exemption is applicable to applicant in respect of the pre and post Examination services being provided to the Educational Boards and Universities (including Open Universities)?	Yes
2. If answer to Q.No.1 is affirmative, whether the exemption is available to the applicant in case of the services are provided on sub-contract basis i.e., the applicant provides pre and post examination services to the main contractor who in turn provides the said services to the Educational Boards and Universities (including Open Universities)?	No.

Referring the application to Appellate Authority for Advance Ruling:

Since there is no uniform opinion arrived by the Members of the Authority for Advance Ruling in respect of Question No. 2 raised by applicant representing Central Tax and State Tax and they have expressed two different views on the issue raised by the applicant on the applicability of GST as sub-contractor or the application filed by M/s. Magnetic Infotech Pvt Ltd, Plot NO.08, Krishna Nagar Colony, Kakaguda Village, Wellington Road, Picket, Secunderabad, Hyderabad, Telangana- 500009 (36AACCM2333F1ZV), is being referred to the Appellate Authority for Advance Ruling for the state of Telangana in terms of Section 98(5) of the CGST/TGST Act, 2017 for hearing and decision on the question No. 2 on which advance ruling is sought.

Sd/- S.V. Kasi Visweswara Rao
ADDL. COMMISSIONER(STATE TAX)

Sd/- B. Raghu Kiran
ADDL. COMMISSIONER(CENTRAL TAX)

To,
The Appellate Authority for Advance Ruling for the State of Telangana, Office of the Commissioner of State Tax, Telangana, CT Complex, M.J Road, Nampally, Hyderabad-500001.

//t.c.f.b.o//

Superintendent (Grade-I)