

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

4, Vibhuti Khand, Gomti Nagar, Lucknow

**PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING U/S. 98 OF
THE GOODS AND SERVICES TAX ACT, 2017**

Sub:- GST ACT, 2017 – Advance Ruling U/s 98 – liability to tax under GST Act in respect to application dated 29.03.2019 from M/s Maxwell Co. Pvt. Ltd. , Lucknow, Uttar Pradesh – Order– Reg.

1) M/s Maxwell Co. Pvt, 64 64 A, Talkatora Road, Lucknow, U.P. (here-in-after, called the Applicant) is a registered assessee under GST having GSTN: 09AACCM6341F1ZK.

2) The applicant is engaged in the business of Confidential Printing and supply of Board and University examination papers.

3) The Applicant has submitted application for Advance Ruling dated 29.03.2019 enclosing duly filled Form ARA-01(the application form for Advance Ruling) along with annexure and attachment.

4) The Applicant in his application sought clarification and Advance Ruling as follows : –

a) Whether activity of printing of question papers on behalf of educational institutions can be classified as activity of supply of goods or supply of services?

b) If it is supply of services, referring to Sr. No. 27 of Notification 11/2017 CTR dtd. 28.06.2017 as amended by Notification 31/2017 CTR dtd. 13.10.2017,

then benefit of S. No. 66 of Notification 12/2017 CTR dtd. 28.06.2017 is allowable as amended by Notification No. 2/2017 CTR off 25.01.2018; or

c) If it is supply of goods, then question paper should be treated as exempted goods at S. No. 119 of exempted list at NIL rate of tax under chapter heading/sub-heading of 49011010 of “printed books including Braille books”; or

d) It should be covered by schedule I at S. No. 201 liable to tax at 2.5 CGST under “brochures, leaflets and similar printed matter, whether or not is single sheets”.

5) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter, which were received in the office vide letter C. No. V(30)61-Advance Ruling/LKO-II/19/998 dated 07/05/19.

6) The applicant was granted a personal hearing on 22.05.2019. Shri Ravindra Joshi, Advocate and the Authorized representative on behalf of applicant appeared for hearing.

During the personal hearing Shri Ravindra Joshi stated that they have already submitted their views and supporting documents along with their application dated 29/03/19. He also requested to take them on record and consider while deciding the matter.

DISCUSSION AND FINDING

7) We have gone through the submissions made by the applicant and examined the detailed explanation submitted by them. We observe that the questions sought by the applicant are-

a) Whether activity of printing of question papers on behalf of educational institutions can be classified as activity of supply of goods or supply of services?

b) If it is supply of services, referring to Sr. No. 27 of Notification 11/2017 CTR dtd. 28.06.2017 as amended by Notification 31/2017 CTR dtd. 13.10.2017, then benefit of S. No. 66 of Notification 12/2017 CTR dtd. 28.06.2017 is allowable as amended by Notification No. 2/2017 CTR off 25.01.2018; or

c) If it is supply of goods, then question paper should be treated as exempted goods at S. No. 119 of exempted list at NIL rate of tax under chapter heading/ subheading of 4901 10 10 of "printed books including Braille books"; or

d) It should be covered by schedule I at S. No. 201 liable to tax at 2.5% CGST under "brochures, leaflets and similar printed matter, whether or not is single sheets".

8) We find that the applicant is engaged in the activity of confidential printing of Educational Examination Papers and it is imperative for them to deploy a team of highly experienced and talented persons after maintaining top secrecy, accuracy and timely delivery of the material as well. The applicant is doing printing of Educational Examination Papers for Secondary and Higher Secondary Educational Boards as well as for State Universities of various States.

9) As per the understanding of the applicant, in its submission, applicant submits that, their product is covered by Section X of Chapter 49 which covers "Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans".

The applicant also refers to entry at Sr. No. 119 of notification No.2/2017-Central Tax (rate) dated 28/06/2017, as amended, which provides Nil rate for Printed book, Including Braille books, of Chapter heading 4901. The applicant also refers to entry at Sr. No. 201 of Schedule-I of notification no. 1/2017 Central Tax (Rate) dated 28/06/2017,as amended, which provide CGST rate of 2.5% for 'Brochures, leaflets and similar printed matters whether or not in single sheets' of Chapter Heading 4901.

10) We also find that the Applicant has submitted that its entire operations are in the field of education and relates to printing of Question Papers for examination conducted by various state Universities and Educational Boards; all its customers are governments Bodies of the State Governments. Further, as per Chapter heading 4901 'Printing of Books' attracts no GST as they have been given exemption in view of their contribution to the betterment of society through the field of education. Applicant's work is also part of the same objective. It is submitted that exemption is given for printing of books, printing of question papers should also be exempted. The applicant has submitted that the printing of question paper is of sheet/confidential nature therefore it should attract Nil rate/exempt from tax, otherwise disclosure of name of customer/buyer in Tax Invoice and providing

details in GSTR-1 in certain cases would be contradictory to secrecy clause of agreement with the leakage of Question papers becoming a huge cause of concern at the National level, it has become all the more important to have the commerce of printing of examination papers.

11) The applicant further submitted that Sr. No. 66 Notification No. 12/2017 Central Tax (Rate) dated 28/06/2017 (tax free services) refers to Heading 9992- "Educational services, which includes pre-primary education services, primary education services, secondary education services, higher education services, specialized educational services and also other education and training services are covered at Sr. No. 66 (b) (iv), which covers services provided to an educational institution, by way of, services relating to admission to, or conduct of examination by, such institution, upto higher secondary. It is further submitted that the word upto "higher education" have been "omitted" at aforesaid Sr. No. 66 vide Notification No. 2/2018- Central tax (rate) dated 25/01/2018.

12) Circular No. 11/11/2017-GST dated 20.10.2017, of the Government of India, Ministry of Finance, Department of Revenue, Tax Research Unit, on clarification on taxability of printing contracts needs to be taken in consideration, which read as follows:-

"Supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with logo, design, name, address are composite supply of goods or services would be determined on the basis of what constitutes the principal supply."

Principal supply has been defined in Section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

In the case of printing of books, pamphlets, brochure, annual reports and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of services.

13) We have considered the submissions made by the applicant in their application for advance ruling as well as views of the Jurisdictional office. The first issue to be decided in this case is whether activity of printing of question papers by the applicant for its clients should be treated as supply of goods or

supply of service, since,

a) The manuscript material for printing the question papers relating to the examination is supplied to the applicant by the Education Board/Educational Institutes. The scope of work of the applicant relates to compose, typeset, print, pack, transport, unload and supply sealed Question Papers to the Education Board / Educational Institutes.

b) As the usage right of the manuscript material of Question Papers (intangible inputs) are owned by the Education Boards / Educational Institutes and the physical inputs used for printing belong to the applicant, supply of printing is the principal supply in this case and the same would constitute supply of service falling under heading 9989 of the scheme of classification of services.

14) In other words, the content of the printed matter is specific to the customer, and, neither is the matter pre-printed, nor has the Applicant any ownership to the content at any point of time, and, therefore, cannot transfer title of the above printed matters. Hence, the Question Papers are not the property of the Applicant.

Furthermore, the Question Papers supplied by the Applicant to their customers are not marketable commodities in the open market and as goods they have no legitimate value to persons other than the specific customer who provides the input content. The Applicant, therefore, cannot be said to be supplying Question Papers as "goods" under the GST Act, but to be supplying the service of printing.

13) Now, coming to the second question raised by the applicant, regarding, the issue of applicability of benefit of Sr. No. 66 of Notification No. 12/2017 Central tax (Rate) dated 28.06.2017 as amended by Notification No. 2/2017 CTR dated 25.01..2018 if rate of GST to be charged on such supply it is observed as under:-

a) As defined in clause (y) of Para 2 of the said Notification No. 12/2017-Central Tax (Rate) 'Educational Institutions' means an institute providing

services by way of:- i) pre-school education and education up to higher secondary school or equivalent; ii) education as a part of curriculum for obtaining a qualification recognized by any law for time being in force; iii) education as a part of an approved vocational education course. The benefit (exemption from payment of GST) of Sr. No. 66 of Notf. No. 12/2017- Central Tax (Rate) is admissible only in case where service is provided to an educational institution.

b) The services of printing of question paper, supplied by the applicant to other than 'educational institutions' will be covered by Sr. No. 27(i) of Notf. No. 11/2017 Central Tax (Rate), as amended, and will attract Goods and Services Tax @ 12% (CGST 6% + SGST 6% or IGST 12%).

14) In their third question, applicant raised the issue whether supply of question papers is supply of goods, which is not applicable as we have already clarified that the activity of printing of question papers is supply of services. Hence, there is no need to consider the third question.

15) Fourth question raised by the applicant is applicable only when third question is affirmative i.e., activity of printing of question papers on behalf of educational institutions is considered as supply of goods, as the answer to the question is negative, hence fourth question is not applicable.

In view of the above, we unanimously rule as under;

RULING


Question 1:- The activity of printing of question papers by the applicant is activity of supply of services classifiable under heading 9989 of the scheme of classification of services.

Question 2:- The benefit of Sr. No. 66 of Notf. No. 12/2017- Central Tax (Rate) is admissible only in case where service is provided to an educational institution (as defined in clause (y) of Paragraph 2 of the Notification No. 12/2017-Central Tax (Rate)). *The services of printing of question paper, supplied by the applicant to other than 'educational institutions' will be covered by Sr. No. 27(i) of Notf. No. 11/2017 Central Tax (Rate), as amended, and will attract Goods and Services Tax @ 12% (CGST 6% + SGST 6% or IGST 12%).*

Question 3:- No, it is not supply of goods.

Question 4:- Fourth question raised by the applicant is applicable only when third question is affirmative i.e., activity of printing of question papers on behalf of educational institutions is considered as supply of goods, as the answer to the third question is negative, hence fourth question is not applicable.


Vivek Kumar Jain
Member of Authority for Advance
Ruling


Sanjay Kumar Pathak
Member of Authority for Advance
Ruling

To,

M/s Maxwell Co. Pvt,
64 64 A, Talkatora Road,
Lucknow, U.P

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 32

Date: 02/06/19

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
- ✓ 2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & CX, Lucknow, Uttar Pradesh.
4. The Deputy Commissioner, CGST & Central Excise, Division-II, Lucknow, Uttar Pradesh;
5. Through the Additional Commissioner, Commercial Tax, Lucknow, Uttar Pradesh to jurisdictional tax assessing officers.