

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 18.02.2020 from M/s The Leprosy Mission Trust of India, Masodha, Faizabad, Uttar Pardesh – 224 201-Order- Reg.

1) M/s The Leprosy Mission Trust of India, The Leprosy Mission Community Hospital, Vocational Training Center, Post- Motinagar, Masodha, Faizabad, Uttar Pardesh – 224 201 (here-in-after called 'the applicant') is a registered assessee under GST having GSTN: 09AAATT0691A4ZM.

2) The applicant is a society registered under Section 12A of the Income Tax Act, 1961. It is Non-Governmental Organisation working for the people affected by leprosy. The applicant works with the Government of India, State Governments, World Health Organisation and other likeminded national and international organisation in the areas of Health, Education, Sustainable livelihood, Community Development, Advocacy and research. The applicant has 14 leprosy referral hospitals, 6 Vocational Training Institute, Media Centre, Molecular Biology Research Laboratory, Mercy homes etc. spread over 9 states in India.

3). As per applicant, they are providing following Vocational Training Courses at Faizabad:-

- i. Vocational Training Courses recognized under National Council of Vocational Training (NCVT) such as Diesel Mechanic, COPA, Welder and Cutting Sewing.
- ii. Vocational Training Courses recognized under Jaan Shikshan Sansthan (Ministry of HRD) i.e. Refrigeration & Air Conditioning, Electrician & Wiring, Electronic, 2/3 wheeler Mechanic & Beautician.
- iii. Informal trades with TLM Certification such as Beautician, Pickle Making & Tailoring.

4). Accordingly, the applicant has sought an advance ruling on the following issues:-

“Whether services provided under vocational training courses recognized by National Council for Vocational Training (NCVT) or Jaan Shikshan Sansthan (JSS) is exempt either under Entry No. 64 of exemption list of Goods and Service Tax Act, 2017 or under Educational Institution defined under Notification No. 22/Central Tax (Rate)”.

5). The applicant has further submitted that they fall under the category of “Educational Institution” in terms of clause (iii) of definition of “Educational institutions” defined under Notification No. 12/2017 – Central Tax (Rate) dated 28th June 2017 (incorrectly mentioned as Notification 22 of Central Tax (Rate) dated 28th June 2017 in the application filed by the applicant). They further submitted that they provide courses approved by the National Council for Vocational Training and accordingly sought ruling on whether vocational training courses (under NCVT, JSS and others) conducted by the applicant are exempt either under educational service or vide entry no. 64 of Exemption list.

6). As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant. Further, the applicant also submitted a written submission on 09.06.2020 enclosing therewith copies of trade certificates and affiliation order, wherein the appellant is affiliated as Industrial Training Institute.

7) The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer his comments/views/verification report on the matter. However no reply was received despite of repeated reminders. Accordingly it is deemed that they are in agreement with the applicant and no proceeding is, neither pending nor decided, against the applicant on the question raised in the advance ruling application.

8). The applicant was granted a personal hearing on 23.06.2020 through video conferencing. Sh. Ajay Singh, CA and Sh. Abhay Upadhye, CA /Authorised representative of the applicant attended the virtual hearing. During the course of said virtual hearing they reiterated that the courses approved by the National Council for Vocational Training are exempt and also informed that they are not pressing for the courses approved by the Jan Shikshan Sansthan.

DISCUSSION AND FINDING

9). At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the UPGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

10). We have gone through the submissions made by the applicant and have examined the explanation submitted by them. At the outset, we find that the issue raised in the application is squarely covered under Section 97(2)(b) of the CGST Act 2017 being a matter related to applicability of a notification issued under the provisions of this Act. We therefore, admit the application for consideration on merits.

11) We observe that the applicant society is registered with the Income Tax department under Section 12A of the Income Tax Act. It is a Non-Governmental organization working for the people affected by leprosy, with the Government of India, State Governments, World Health Organisation etc. The applicant have many leprosy referral hospitals, Vocational Training Institute, Media Centre, Molecular Biology Research Laboratory, Mercy homes etc. spread over 9 states. At their Faizabad Branch, they are providing following courses:-

- i. Vocational Training Courses recognized under National Council of Vocational Training (NCVT) such as Diesel Mechanic, COPA, Welder and Cutting Sewing.
- ii. Vocational Training Courses recognized under Jan Shikshan Sansthan (Ministry of HRD) i.e. Refrigeration & Air Conditioning, Electrician & Wiring, Electronic, 2/3 wheeler Mechanic & Beautician.
- iii. Informal trades with TLM Certification such as Beautician, Pickle Making & Tailoring.

12). We observe that the applicant has sought advance ruling on the issue whether vocational training courses provided by the applicant which are recognized by the National Council for Vocational Training (NCVT) or Jan Shikshan Sansthan (JSS) is exempt from payment of GST either under Entry No. 64 of exemption list of Goods and Service Tax Act, 2017 or under Educational

Institution defined under Notification No. 22/Central Tax (Rate)". From this we observe that the applicant has sought advance ruling only on the courses approved by the National Council of Vocational Training (NCVT) or Jan Shikshan Sansthan (Ministry of HRD) and not for the Informal trade with TLM Certification such as beautician, Pickle Making & Tailoring.

13). We observe that the applicant has sought classification in Entry No. 64 of Notification No. 12/2017 CT (Rate) dated 28.06.2017. In this regard, we observe that the said entry deals with "*Services provided by the Central Government, State Government, Union territory or local authority*". The applicant does not fall under these categories, therefore, the said entry is not applicable to them.

14). Now coming to the question whether they are covered under the 'Educational institution', we observe that the Entry No. 66 of the Notification No. 12/2017-CT (Rate) dated 28.06.2017 deals with the Educational institutes, which is as under:-

"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 house-keeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary;

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."

15). We further observe that the term "Educational Institutions" has been defined under clause 2(y) of the Notification No. 12/2017 CT (Rate) dated 28.06.2017 which is as under:-

(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 recognised by any law for the time being in force;

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

As per the applicant the activity being provided by them falls under Sl. No. iii i.e. education as a part of an approved vocational education course.

16). Now coming to the definition of “approved vocational education course”, we find that it has been defined in clause 2(h) of the Notification No. 12/2017 CT(Rate) dated 28.06.2017 as:-

“(h) “approved vocational education course” means, -

(i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or

(ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;”.

17). As per the details provided vide their Annexure 1 of the application for advance ruling filed by the applicant and submission dated 09.06.2020, we observe that Diesel Mechanic, Computer Operator and programming Assistance (COPA), Welder and Cutting sewing trades are affiliated by National Council for Vocational Training under the Ministry of Skill Development and Entrepreneurship. Accordingly, we observe that these courses fall under the definition of “approved vocational education courses”. As regard to the “Informal Trades” as mentioned in the Annexure I of the application filed by the applicant, we observe that as these courses are not approved by the National Council of Vocational Training/ State Council for Vocation Training, so they are not eligible to qualify as “approved vocational education courses”.

18). We also observe that Maharashtra Authority for Advance Ruling, in its Order No. GST-ARA-116/2018-19/B-44 dated 26/04/2019, in the case of M/s The Leprosy Mission Trust of India, Nasik, Maharashtra, has ordered that courses carried out by the applicant which are affiliated to the NCVT are liable to attract “NIL” rate of Tax under GST (Sr. No. 66 of the Notification No. 12/2017 CT (Rate) dated 28.06.2019.

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

RULING

Question):- Whether services provided under vocational training courses recognized by National Council for Vocational Training (NCVT) or Jaan Shikshan Sansthan (JSS) is exempt either under Entry No. 64 of exemption list of Goods and Service Tax Act, 2017 or under Educational Institution defined under Notification No. 22/Central Tax (Rate).

Answer:- In view of aforementioned discussions **only** the course affiliated by the National Council for Vocational Training are exempt from payment of GST under Sr. No. 66 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017.

19). This ruling is valid, only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.



(Ajay Kumar Misra)

Member of Authority for Advance
Ruling



(Dinesh Kumar Verma)

Member of Authority for Advance
Ruling

To,

M/s The Leprosy Mission Trust of India,
Masodha, Faizabad,
Uttar Pardesh – 224 201.

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Order No. 58

Date: 24-06-2020

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 & C. Ex, Allahabad, Uttar Pradesh.
4. The Assistant Commissioner, CGST & Central Excise, Division-Faizabad, Nayar Colony, Civil Lines, Faizabad, Uttar Pradesh;
5. Through the Additional Commissioner, Gr-I, Zone-I, Commercial Tax, Faizabad, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khnad, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.