

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH**

4, Vibhuti Khand, Gomti Nagar, Lucknow-

ADVANCE RULING NO. UP ADRG- 14/2022
PRESENT:

DATED 02/12/2022

- 1. Shri Rajendra Kumar**
Additional Commissioner, Central Goods and Service Tax
Audit Commissionerate, LucknowMember (Central Tax)
- 2. Shri Vivek Arya**
Joint Commissioner, State Goods and Service TaxMember (State Tax)

| | | |
|----|---|--|
| 1. | Name of the Applicant | M/s CAE Simulation Training Private Limited, Sector KP-III, 25/3, Gautam Budh Nagar, Greater Noida, Uttar Pradesh – 201306 |
| 2. | GSTIN or User ID | 09AAECC7113K1ZL |
| 3. | Date of filing of Form GST ARA-01 | 01.09.2022 |
| 4. | Represented by | Shri Kunal Agarwal, Advocate |
| 5. | Jurisdictional Authority-Centre | Range-IV, Division- I Gautam Budh Nagar |
| 6. | Jurisdictional Authority-State | Gautam Budh Nagar Zone Sec-3, Gautam Budh Nagar (B) |
| 7. | Whether the payment of fees discharged and if yes, the CIN | Yes KKBK22080900481616 |

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. M/s CAE Simulation Training Private Limited, Sector KP-III, 25/3, Gautam Budh Nagar, Greater Noida, Uttar Pradesh – 201306 (here in after referred to as the applicant) is a registered assessee under GST having GSTIN: 09AAECC7113K1ZL.
2. The applicant has submitted an application for Advance Ruling dated 05.09.2022 enclosing dully filled Form ARA-01 (the application form for Advance Ruling) along with annexure and attachments. The applicant in his application has sought advance ruling on following question-

“Whether the supply of education and training services to commercial pilots in accordance with the training curriculum approved by the Directorate General of Civil Aviation for obtaining the extension of aircraft type ratings on their existing licenses would be covered under Sl. No. 66 (a) of the Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017 and Sl. No. 66 (a) of the Notification No. A.NI.-2-843/XI-9(47)/ 17- U.P. Act-I-2017-Order- (10) -2017 dated 30.6.2017, and thereby, exempted from levy of Central Goods and Service Tax & Uttar Pradesh Goods and Service Tax.”

3. 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.

The applicant has submitted that-

- 3.1 Applicant is a group company of Inter Globe Enterprises Private Limited ("hereinafter referred to as **Inter Globe**"), which is engaged in the business of facilitating the training of commercial pilots on the Aircraft Simulators installed at its training facilities. Such training is provided in accordance with the training curriculum approved by the Directorate General of Civil Aviation (hereinafter referred to as "**DGCA**") for obtaining the extension of aircraft type ratings (hereinafter referred to as "**ATRs**") on their existing licenses.
- 3.2 Under Section 5(2)(g) and (o)¹ of the Aircraft Act, 1934 (hereinafter referred to as "**Aircraft Act**"), the Central Government has been empowered to make Rules in respect of the licensing of persons engaged in the operation of aircrafts, and the manner and conditions of the issue or renewal of such licenses. In pursuance of Section 5 of the Aircraft Act, the Aircraft Rules, 1937 (hereinafter referred to as "**Aircraft Rules**") have been notified.
- 3.3 Further, Section 5A (1)² of the Aircraft Act empowers the DGCA to issue directions in respect of the topics covered under Section 5(1) of the Aircraft Act. It is understood that Section 5A of the Aircraft Act read with Rule 133A(1)³ of the Aircraft Rules have

¹ 5. Power of Central Government to make rules.

...

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

...

(g) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;

...

(o) the manner and conditions of the issue or renewal of any licence or certificate under the Act or the rules, the examinations and tests to be undergone in connection therewith, the form, custody, production, endorsement, cancellation, suspension or surrender of such licence or certificate, or of any log-book;

² 5A. Power to issue directions.

(1) The Director General of Civil Aviation or any other officer specially empowered in this behalf by the Central Government may, from time to time, by order, issue directions, consistent with the provisions of this act and the rules made thereunder, with respect to any of the matters specified, in 6[clauses (aa), (b), (c), (e), (f), (g), (ga), (gb), (gc), (h), (i), (m) and (qq) of sub-section (2) of section 5, to any person or persons using any aerodrome or engaged in the aircraft operations, air traffic control, maintenance and operation of aerodrome, communication, navigation, surveillance and air traffic management facilities and safeguarding civil aviation against acts of unlawful interference, in any case where the Director General of Civil Aviation or such other officer is satisfied that in the interests of the security of India or for securing the safety of aircraft operations it is necessary so to do.

³ 133A. Directions by Director-General.

(1) The Director-General may, through Notices to Airmen (NOTAMS), Aeronautical Information Publication, Aeronautical Information Circulars (AICs), Notices to Aircraft Owners and Maintenance Engineers and publication entitled Civil Aviation Requirements, issue special directions not inconsistent with the Aircraft Act, 1934 (22 of 1934) or these rules, relating to the operation, use, possession, maintenance or navigation of aircraft flying in or over India or of aircraft registered in India.

empowered the DGCA to issue the Civil Aviation Requirements (hereinafter referred to as "CARs").

- 3.4 Rule 41B⁴ of the Aircraft Rules provides for the setting up of Flying Training Organisations (hereinafter referred to as "FTOs"), which provide training in respect of aircrafts below 5700 kgs all-up-weight (hereinafter referred to as "AUW"), with the approval of the DGCA. Other approved training organisations (hereinafter referred to as "ATOs") can be set up under Rule 133B⁵ of the Aircraft Rules, for all aviation subjects, except for those covered under Rules 41B and 114 of the Aircraft Rules.

- 3.5 Rule 6⁶ of the Aircraft Rules provides that every aircraft shall carry and be operated by licensed personnel, as provided in Part V read with Schedule II to the said Rules, and Rule 38⁷ of Part V of the Aircraft Rules enumerates the list of licenses and ratings that can be issued by the Government of India.

⁴ **41B. Approved Training Organisation.**

(1) A Flying Training Organisation (hereinafter referred to as FTO) providing training on aircraft below 5700 kgs all-up-weight shall obtain the approval of the Director-General before the students are enrolled to acquire flying experience and the level of competency required for obtaining a licence or rating specified in rule 38 and Schedule II of these rules.

⁵ **133B. Approved Organisations-** (1) (a) In this part 'organisation' refers to an organisation or a person engaged in one or more of the following activities, namely :-

- (i) design and manufacture of aircraft, aircraft components and items of equipment including materials, forging, castings, standard parts;
- (ii) maintenance, overhaul, modification, repair, inspection, treatment, processing of aeronautical products and continuing airworthiness management of an aircraft;
- (iii) manufacture, storage, distribution and supply of aircraft fuel, lubricants, special products;
- (iv) laboratories and tests to be carried out therein;
- (v) training organisations for all aviation subjects except those covered under rules 41B and 114.

⁶ **6. Licensing of personnel.**

Every aircraft shall carry and be operated by the personnel prescribed in Part V and such personnel shall be licensed in the manner prescribed in that part and in Schedule II:

⁷ **38. Licensing Authority.**

(1) The authority by which the licences and ratings specified below may be granted, renewed or varied shall be the Central Government, which may withhold the grant or renewal of a licence or a rating, if for any reason it considers it desirable to do so:-

- (a) Student Pilot's Licence (for aeroplanes, helicopters, gliders, balloons and microlight aircraft),
- (b) Private Pilot's Licence (for aeroplanes and helicopters),
- (c) Commercial Pilot's Licence (for aeroplanes and helicopters),
- (d) Airline Transport Pilot's Licence (for aeroplanes and helicopters),
- (e) Instrument Rating (for aeroplanes and helicopters),
- (f) Assistant Flight Instructor's Rating (for aeroplanes and helicopters),
- (g) Flight Instructor's Rating (for aeroplanes and helicopters),
- (h) Pilot's Licence (for gliders, balloons and microlight aircraft),
- (i) Student Flight Navigator's Licence,
- (j) Flight Navigator's Licence,
- (k) Student Flight Engineer's Licence

- 3.6 Further, Rule 6A⁸ provides that no person shall fly as pilot of an aircraft, which is not included in the aircraft rating of his license.
- 3.7 Furthermore, Rule 41⁹ of the Aircraft Rules provides that the applicants for licences and ratings shall produce proof of having acquired the flying experience and having passed satisfactorily the test and examinations specified in Schedule II in respect of the licence or rating concerned.
- 3.8 Sub-section 4 of Section J of Schedule II to the Aircraft Rules provides that a licence shall indicate the types of aircrafts the holder is entitled to fly in the form of aircraft ratings, and sub-section 5 provides for the extension of such aircraft rating to include an additional type of aircraft in their license, and in order to extend such aircraft rating, the pilot has to make an application to the DGCA for an endorsement in respect of their license.
- 3.9 For making an application for the extension of ATR, the following documents need to be submitted by the applicant:
- a. Duly certified logbook of the applicant.
 - b. Duly certified training progress statement.
 - c. Duly certified ATR skill test report.
 - d. Duly certified Form CA-39, for the preceding six months and for the preceding 12 months, each.
- 3.10 Thus, the training provided for the extension of ATR can be undertaken only at training organisations approved by the DGCA, and the documents referred to above have to be issued by such an organisation and the pilots holding the Commercial Pilot License (CPL(A)) have to mandatorily undergo the ATR training for the specific type of aircraft(s) that they will be flying with any commercial airlines, i.e. the pilots cannot fly for any commercial airlines unless they hold the ATR for particular aircrafts that such airlines fly in the ordinary course of business.
- 3.11 In order to standardize and streamline the process, Civil Aviation Requirement (hereinafter referred to as 'CAR') has been issued under the provisions of Rule 29 C and Rule 133A of the Aircraft Rules, 1937 which provides the basic guidelines for pilots to undertake endorsement training in various Type Rated Training Organization

(l) Flight Engineer's Licence,

(m) Flight Radio Telephone Operator's Licence,

(n) Flight Radio Telephone Operator's Licence (Restricted);

⁸ **6A. Type of aircraft to be included in rating.**

No person shall fly as pilot of an aircraft which is not included or entered in the aircraft rating of the licence except as provided in rules 6B and 6C.

⁹ **41. Proof of competency.**

Applicants for licences and ratings shall produce proof of having acquired the flying experience and having passed satisfactorily the test and examinations specified in Schedule II in respect of the licence or rating concerned:

(TRTO) / Approved Training Organisation (ATO) for Scheduled, Non-Scheduled and General Aviation Operations. CAR lays down the rules governing the initial and continuing qualification and use of all aircraft Synthetic Flight Training Devices (FTD) levels 4, 5, and 6 and Full Flight Simulators (FFS) levels A, B, C and D used for meeting training, evaluation, or flight experience requirements for flight crewmember training, certification or qualification.

- 3.12 Applicant is an ATO in Noida, Uttar Pradesh, wherein ATR training courses are provided to pilots who are already holding their CPL(A), as per the DGCA approved syllabus and training manual, to independent pilots.
- 3.13 The ATR training programme provided by the Applicant involves the phases of ground school, and flight simulation training in respect of the particular aircraft(s) for which the ATR is to be applied for.
- 3.14 For supply of ATR training, the Applicant entered into the Flight Training Services Agreement ("**Agreement**") with its trainees. This Agreement provides that it is entered into by the trainee for professional purposes, and it prescribes the fees to be paid by them to the Applicant for the said training programme.
- 3.15 After completing the training with the Applicant, the pilots have to undertake skill tests and checks, and thereafter, they have to file an application for the extension of ATR, and as discussed in the foregoing paragraphs, the documents required to be submitted with the said application have to be issued by the ATO from where the applicant pilot has completed the ATR training.
- 3.16 The agreements with the trainees are still continuing and would continue to supply these services in the coming years.

4 The applicant has submitted their interpretation of law as under-

- 4.1 In the understanding of the Applicant, as referred in the facts above, the Applicant is an ATO approved by the DGCA and is engaged in supply of ATR training to commercial pilots in accordance with the training curriculum approved by the DGCA for obtaining the extension of aircraft type ratings on their existing licenses, and therefore, would be covered under Sl. No. 66 (a) of the Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017 (hereinafter referred to as '**Notification No. 12/2017**') and Sl. No. 66 (a) of the Notification No. A.NI.-2-843/XI-9(47)/ 17- U.P. Act-1-2017-Order- (10) -2017 dated 30.6.2017 (hereinafter referred to as '**Notification dated 30.6.2017**'), and thereby, exempted from levy of Central Goods and Service Tax & Uttar Pradesh Goods and Service Tax (hereinafter collectively referred to as '**GST**').

APPLICABLE PROVISIONS OF THE CGST ACT

Levy of GST

- 4.2 Section 9(1) of the CGST Act is the charging section levying Central Goods and Service tax (for short '**Central tax**' or '**CGST**') on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under Section 15 of the CGST Act.
- 4.3 The term 'supply' has been given meaning under Section 7 of the CGST Act to include -
- a. all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
 - b. import of services for a consideration whether or not in the course or furtherance of business.
 - c. the activities specified in Schedule I, made or agreed to be made without a consideration; and
 - d. the activities to be treated as supply of goods or supply of services as referred to in Schedule II.
- 4.4 Section 2(102) of the CGST Act, defines "services" as anything other than goods, money and securities. With the wide ambit given to the meaning of services under the GST law, it can be said that the education and training provided by Applicant are in the nature of services, and where such services are supplied in exchange for fees payable by the trainees, there is a supply in terms of the scope prescribed in the GST law.
- 4.5 Reference is drawn to the SAC 999294 under the Explanatory Notes to the Scheme of Classification of Services (hereinafter referred to as "**Explanatory Notes**"), which has been reproduced hereunder:

"999294 Other education and training services n.e.c.

This service code includes:

- i. training for car, bus, lorry and motorcycle driving licences*
- ii. training for flying certificates and ship licences*
- iii. computer training services*
- iv. management training services*
- v. services provided by music camps, science camps, computer camps and other instructional camps, except for sports*
- vi. education services not definable by level*

This service code does not include:

- services related to literacy programmes for adults, cf. 999220, 999231*
- higher education services comparable to the regular education system, cf. 99924, 99925*
- cultural education services, cf. 999291*

- education services provided by instructors, coaches, etc., as part of sporting activities, cf. 999292”

- 4.6 Further reference has to be made to the Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 (hereinafter referred to as “**Notification No. 11/2017**”), Notification No. KA.NI.-2-842/XI-9(47)/ 17- U.P. Act-1-2017-Order- (09) -2017 dated 30.6.2017 (hereinafter referred to as ‘**state rate notification**’), the Notification No. 12/2017 and Notification dated 30.6.2017.

- 4.7 The relevant entry of the Notification No. 11/2017 is produced hereunder:

| | | | | |
|----|---------------------|---------------------|---|---|
| 30 | Heading 9992 | Education services. | 9 | - |
|----|---------------------|---------------------|---|---|

- 4.8 The relevant entry of the state rate notification is produced hereunder:

| | | | | |
|----|---------------------|---------------------|---|---|
| 30 | Heading 9992 | Education services. | 9 | - |
|----|---------------------|---------------------|---|---|

- 4.9 The relevant entry of the Notification No. 12/2017 and the Explanation in that regard have been extracted below:

| | | | | |
|----|---|---|-----|-----|
| 66 | Heading 9992 or Heading 9963 | Services provided - (a) <u>by an educational institution to its students, faculty and staff;</u> | Nil | Nil |
|----|---|---|-----|-----|

“2. Definitions. - For the purposes of this notification, unless the context otherwise requires, -

...

(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;”

- 4.10 The corresponding exemption notification under UPGST is Notification dated 30.6.2017. The relevant entry of the Notification dated 30.6.2017 and the Explanation in that regard have been extracted below:

| | | | | |
|----|---|---|-----|-----|
| 66 | Heading 9992 or Heading 9963 | Services provided - (a) <u>by an educational institution to its students, faculty and staff;</u> | Nil | Nil |
|----|---|---|-----|-----|

“2. Definitions. - For the purposes of this notification, unless the context otherwise requires, -

...

(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;”

4.11 In view of the above, education services are classified under Heading 9992 will be chargeable to GST (CGST + SGST) @ 18% under Sl. No. 30 of the Rate Notification, unless they fall under any of the exemptions provided under the Central and State Exemption Notification.

4.12 In the present case, reference is made to the relevant Sl. No. 66(a) of the Notification No. 12/2017 and Sl. No. 66 (a) of the Notification dated 30.6.2017 (exemption notification for UPGST), whereunder the education training services provided by Applicant to its trainees are in the nature of the services provided by an educational institution to its students, and thereby exempted.

4.13 At the outset it is made clear that as reiterated above Sl. No. 66 (a) of the Notification No. 12/2017 and Sl. No. 66 (a) of the Notification dated 30.6.2017 are *pari materia* and have the same explanation to the said entry. Therefore, a reference to the Sl. No. 66 (a) of the Notification No. 12/2017 would also mean reference to the corresponding exemption entry no. 66 (a) of the state Notification dated 30.6.2017.

ANALYSIS OF APPLICABLE PROVISIONS AS PER APPLICANT

4.14 In the present case, the Applicant is an ATO approved by the DGCA and is engaged in supply of ATR training to commercial pilots in accordance with the training curriculum approved by the DGCA for obtaining the extension of aircraft type ratings on their existing licenses.

4.15 These services, by virtue of SAC 999294 under the Explanatory Notes qualifies as education services. However, for the supply to fall under Sl. No. 66 (a) of the Notification No. 12/2017, it is imperative that the education and training services provided by the Applicant to its trainees are in the nature of the services provided by an educational institution to its students.

4.16 Reference is also made to Circular No. 85/04/2019-GST dated 1.1.2019 (hereinafter referred to as “**Circular dated 1.1.2019**”), where it has been clarified that all the services provided by an educational institution to its students are considered to be exempt under the said entry. Relevant portion of the Circular dated 1.1.2019 is reproduced hereunder:

2.1 *Supply of all services by an educational institution to its students, faculty and staff is exempt under Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017, Sl. No. 66.*

- 4.17 The Applicant, in the present case, submits that the Applicant qualifies as an educational institution who is supplying services to its trainees (students), and therefore, the supplies made by it would be covered under Sl. No. 66 (a) of Notification No. 12/2017.
- 4.18 It is submitted that educational institutions have been defined under clause (y) to Notification No. 12/2017 to mean institutions providing services by way of:
- pre-school education and education up to higher secondary school or equivalent;
 - education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; and
 - education as a part of an approved vocational education course.
- 4.19 From amongst the three categories of educational institutions considered for exemption under the Notification No. 12/2017, the one providing education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force is relevant in the present case.
- 4.20 Thus, to qualify as an educational institution following conditions needs to be specified:
- that they should be providing education as a part of a curriculum, and
 - the curriculum should be for obtaining a qualification recognised by any existing law.

I. Training by the Applicant is a part of curriculum approved by the DGCA

- 4.21 Firstly, it is submitted that education is of wide import and covers training in its fold. Reliance in this regard is placed on the decision in the case of *Dr. Preeti Srivastava and another Vs. State of MP and Others 1999 (7) SCC 120*.
- 4.22 Further, in GST flyer also it has been mentioned that in terms of the ratio laid down in the case of *The Sole Trustee, Lok Shikshana Trust Vs. CIT Mysore 1976 (1) SCC 254* education is process of training and developing knowledge, skill and character of students by normal schooling.
- 4.23 Thus, training given by the Applicant will be covered under the fold of education.
- 4.24 It is submitted that the training/education programme conducted by the ATO, as the case may be, as specified in its TPM, has to be approved by the DGCA, thereby meaning that such training programmes form a part of the curriculum approved by the DGCA for completing the training required for applying for ATR extension.
- 4.25 Thus, first condition is satisfied in the present case.

II. Training/education services supplied by the Applicant is towards obtaining a qualification recognized by law

• **Meaning of term qualification**

- 4.26 It is submitted that term qualification has not been defined under the GST Act, thus, resort has to be made to dictionary meanings, which are as under:
- In accordance with the *Advanced Law Lexicon* by P. Ramanatha Aiyar, “qualification” has been defined as “*the fitness or capacity of the party for a particular pursuit or profession*”, whether such capacity is natural or acquired through training. In a different context, the same term has been defined as qualities, accomplishments, etc. which qualify a person for some office or

function.

- c) the *Black's Law Dictionary (Sixth Ed.)* defines "qualification" as the "possession by an individual of the qualities, properties, or circumstances, natural or adventitious, which are inherently or legally necessary to render him eligible to fill an office or to perform public duty or office".

4.27 From the dictionary meaning of "qualification" above, it is clear that in the legal parlance, qualifications do not refer to the mere possession of degrees, diplomas, etc., but the possession of skills, accomplishments, etc. which have been acquired through training or academic education, and which confer upon a person the ability to undertake a particular profession or pursuit.

4.28 It is submitted that, in the present case, the qualification being referred to is the completion of the training programme provided by the Applicant, where the competency required for applying for an ATR extension in the pilot's license in terms of Schedule II to the Aircraft Rules is acquired, thereby leading the trainees to become qualified to appear for the examination conducted by the DGCA and apply for the said ATR extension, and get employed as pilots in the commercial airlines. Furthermore, the completion of such a training programme confers certain skills relating to the flying of the specific types of aircrafts to which such ATR extension relates.

• **Meaning of terms recognised by law**

4.29 The meaning of the term "recognised by law", is not defined under the GST law. However, it has been observed in the case of *Indian Institute of Aircraft Engineering v. Union of India, 2013 (30) S.T.R. 689 (Del.)* that the expression "recognized by law" is a very wide one, as compared to the expression "conferred by law", and even if a certificate/degree/diploma/qualification is not the product of a statute but has approval of some kind in "law", the same would be exempt.

4.30 It has also been noted that the term "recognise" is defined in the *Black's Law Dictionary (8th Edition)*, as the confirmation of an act done by another person as authorized, or formally acknowledging the existence, and in the *Concise Oxford Dictionary* as acknowledging the existence, validity or legality of something.

4.31 It can further be seen that in the case of *Narsingh Pratap Singh Deo v. State of Orissa AIR 1964 SC 1793*, the Hon'ble Supreme Court held that a law generally is a body of rules which have been laid down for determining legal rights and legal obligations, which are recognized by the Courts. Furthermore, in the case of *R.S. Nayak v. A.R. Antulay (1984) 2 SCC 183*, it was held that the law includes any ordinance, by-law, rule, regulation, notification, custom or usage having the force of law.

4.32 From a perusal of these decisions, it can be said that a qualification recognised by the law refers to any qualification which derives its authorisation from any statute, ordinance, by-law, rule, regulation, notification, custom, usage, and so on.

• **Applicability of aforesaid meanings to present case**

4.33 As reiterated above (i) Applicant is providing ATR training courses, (ii) the trainees of the Applicant need to hold a CPL (A) before embarking upon the training provided

- by the Applicant, (iii) the stages of training provided by the Applicant, and (iv) the application that has to be made for the extension of ATR, for which documents issued and certified by the Applicant have to be provided.
- 4.34 It is submitted that Rule 6A of the Aircraft Rules provides that the type of aircraft that can be flown by a person has to be included in the rating provided on their license, and every category of license dealt with under Schedule II of the Aircraft Rules includes this provision as well.
- 4.35 In terms of Rule 133B read with sub-sections 4 and 5 of Section J of Schedule II to the Aircraft Rules, it is submitted that a CPL(A) specifies the rating of the types of aircraft that the pilot is entitled to fly, and in order to add such additional ATRs to the license, they would have to undergo a training in respect of such an additional aircraft at an ATO providing type rating training, as approved by the DGCA for this purpose, and make an application for the extension of the ATR in their CPL(A).
- 4.36 In pursuance of the above provisions, read in conjunction with Rule 133A of the Aircraft Rules, reference is made to the CAR Section 7, Series D, Part IV dated 15.03.2015 ("**ATO CAR**"), which deals with ATOs set up for type rating of flight crew. Relevant provisions of ATO CAR are reiterated hereunder:

2. GENERAL REQUIREMENTS

2.1 The approval of a training organization by DGCA shall be dependent upon the applicant demonstrating compliance with the requirements of this CAR.

2.2 Approved training for flight crew and shall be conducted within an approved training organization.

...

3. ISSUE OF APPROVAL

3.1 The issuance of an approval for a training organization and the continued validity of the approval shall depend upon the training organization being in compliance with the requirements of this CAR. Unless withdrawn, The ATO approval shall be valid for a period of five years from the date of issue of approval so long as the ATO continue meet the applicable requirements of this CAR.

...

4. TRAINING AND PROCEDURES MANUAL

4.1 The training organization shall provide a training and procedures manual for the use and guidance of personnel concerned.

...

5. TRAINING PROGRAMME

DGCA shall approve the training programme for an ATO prior to the implementation of such training.

Examinations:

5.1 When DGCA has authorized an approved training organization to conduct the examination required for the issuance of a license or rating, the examination shall be conducted by personnel authorized by the DGCA or designated by the training organization in accordance with criteria approved by the DGCA.

...

10. RECORDS

10.1 The training organization shall retain detailed student records to show that all requirements of the training course have been met as agreed by the DGCA.

11. OVERSIGHT

DGCA shall maintain an effective oversight programme of the approved training organization to ensure continuing compliance with the approval requirements.

- 4.37 Under the ATO CAR, the pertinent clauses have been summarised hereunder:
- a. The training organisation has to comply with the conditions and requirements provided under the CAR, in order to receive a certificate of approval from the DGCA, and it has to continue such compliance in order to continue to hold/renew such certificate of approval.
 - b. The approved ATO has to issue a Training and Procedures Manual ("TPM") specifying its training programme, and such training programme has to be approved by the DGCA.
 - c. The DGCA can authorise a ATO to conduct the examination required for the issuance of a license or rating, which shall be conducted by the personnel authorized by the DGCA or the personnel designated by the ATO in accordance with DGCA approved criteria.
 - d. The ATO will have to maintain detailed trainee records to show that all the requirements of completion of the training programme, as prescribed by the DGCA, have been met by the trainees.
 - e. The DGCA also maintains an effective supervision over the ATO in order to ensure its continuing compliance with the approval requirements.
- 4.38 Reference can also be made to the CAR Section 7, Series B, Part I, dealing with the eligibility criteria for examination for the issue/extension of licenses/ratings, which provides that such an applicant may be required to undergo Ground Training Classes on the aircraft from a DGCA approved training institute in case they are seeking an ATR extension in respect of an aeroplane having AUW more than 5,700 kgs, such as an Airbus A320 or a Boeing 737NG.
- 4.39 In this regard, it is submitted that the ATR training can be undertaken by a pilot either independently through an ATO, or in the course of employment with a scheduled operator/commercial airline, wherein the operator/airlines send their pilots to a ATO for undertaking such training programmes.
- 4.40 In order to examine the nature of the training services vis-à-vis its taxability, reference is made to the judgement of the Hon'ble Delhi High Court pertaining to the Service Tax regime in *Indian Institute of Aircraft Engineering v. Union of India, Supra* wherein the writ petitioner was an Aircraft Maintenance Engineering Training School approved by the DGCA for providing Aircraft Maintenance Engineering ("AME") training and conducting examination as per the course curriculum approved by the DGCA. This is a training programme similar to the ones provided by ATOs.
- 4.41 In this case, it has been noted that at that time, under the Finance Act, 1994, the

coaching or training leading to the grant of a certificate or diploma or degree or any educational qualification which is recognized by any law was exempt from the levy of Service Tax. This exemption under the Service Tax law is similarly worded to that prescribed under the Exemption Notification under the GST law.

4.42 It has to also be noted that during the Service Tax regime, the Central Board of Excise and Customs issued the Instruction No. 137/132/2010-ST dated 11.05.2011, which clarified that the training services provided for obtaining the CPL(A) and other such licenses and ratings form a part of commercial training and coaching, on which Service Tax is imposable. Further, it stated that such training did not qualify under any of the exclusions to the commercial training and coaching centres, and thereby, it was leviable to Service Tax. This Instruction was also under challenge before the Delhi High Court.

4.43 In the course of arriving at the decision, the High Court in the case of **Indian Institute of Aircraft Engineering (Supra)** has noted the following:

“14. We have wondered, what could be the reason for exempting from payment of service tax those training or coaching centres, even though commercial, whose certificate/degree/diploma/qualification is recognized by law. The only plausible reason, according to us, can be to exclude from ambit of service tax those training or coaching centres which are otherwise regulated by any law in as much as recognition of certificate/degree/diploma/qualification conferred by such training or coaching centres will necessarily entail regulation by the same law of various facets of such training or coaching centres.

15. Seen in that light, there can be no doubt whatsoever that the activities of the petitioner are very much regulated by the Act and the Rules aforesaid and the instructions/regulations issued thereunder from time to time.

16. An analysis of the counter affidavit of the DGCA as set-out hereinabove would show that, (i) an institute as the petitioner cannot be set-up without the approval of the DGCA; (ii) detailed requirements for approval have been made out in CAR Section 2, Series “E” Part VII; (iii) such approval is given only after the institution satisfies DGCA that it has the facilities, equipments, training aids, faculty, library and other infrastructure for providing such training and follows the syllabus prescribed by the DGCA to be coached/trained/imparted in the said institute; (iv) the approval is not a onetime approval but has to be obtained year after year and at the time of each renewal DGCA has to be satisfied of existence of the compliances/parameters; (v) the institutes are obligated under para 8.4 of CAR to issue Course Completion Certificates to the students who have successfully passed the examination and completed the requisite On Job Training; (vi) that the format of the said Certificate is also approved by the DGCA; (viii) on the basis of the said Course Completion Certificate and On Job Training certificate, the students

are entitled to appear in the examination held by DGCA for grant of licence to be authorized to render services of aircraft repair and maintenance.”

- 4.44 On the basis of the above observations, it has been held that where the DGCA approves the institute providing such AME training, and exercises supervision over the same, and the training is conducted as per the syllabus prescribed and the TPM approved by the DGCA, the training provided by such an institute would be exempt from Service Tax, considering that the completion of such training at the institute is a qualification recognised by the law.
- 4.45 In this case, the Delhi High Court held that the certificate/training/qualification offered by approved training institutes has been conferred some value in the eyes of law by the Aircraft Act, the Aircraft Rules and the relevant CARs, even if it is only for the purpose of eligibility for obtaining the ultimate license from the DGCA to enable the trainees to become commercial pilots.
- 4.46 Further, it was held that the ST Instruction under challenge has been based upon an incorrect reasoning, and that merely because the qualification awarded by the institute does not allow a person to start certifying the repair, maintenance or airworthiness of an aircraft, and a further license is required to be issued by the DGCA on passing an examination in this regard, it cannot be said that such qualification is not one recognised by the law.
- 4.47 On the basis of this reasoning, the Delhi High Court had quashed the ST Instruction issued by the CBEC and held that the training services provided by an institute approved by the DGCA would be exempt from the levy of Service Tax.
- 4.48 The decision of the Delhi High Court has been challenged before the Hon'ble Supreme Court by the Department, and in 2014, the Apex Court imposed a stay on the decision of the High Court till further orders, as reported at **2014 (2) TMI 1320 - SC ORDER**. Further, they have admitted a special leave petition in this regard in 2017, as reported at **2017 (50) S.T.R. J154 (S.C.)**.
- 4.49 Attention is invited to the fact that the Department has withdrawn the appeal filed before the Supreme Court against the Indian Institute of Aircraft Engineering, due to the low tax effect, as on 19.11.2020, and therefore the stay on the said decision of the Delhi High Court can be considered to have been effectively vacated.
- 4.50 Reliance is placed on the decision in the case of ***Institute of Aeronautics and Engineering v. CCE, Bhopal, 2018 (10) G.S.T.L. 267 (Tri. - Del.)***, wherein it has been held that merely because the decision of the Delhi High Court has been stayed does not mean it has been wiped from existence; the ratio is still available, and it can be referred to in subsequent cases.
- 4.51 This decision has been followed by various High Courts in the case of ***Commissioner of Customs & Central Excise v. MP Flying Club Ltd., 2014 (8) TMI 1182 - MADHYA PRADESH HIGH COURT***, and in the case of ***Commissioner of Central Excise, Customs & Service Tax v. Garg Aviations Ltd., 2014 (35) S.T.R. 441 (All.)***.
- 4.52 In the latter case, the appellant was providing both flying training and AME training, and the Allahabad High Court has followed the reasoning in ***Indian Institute of***

Aircraft Engineering (supra) and held that such training services would not be leviable to Service Tax.

4.53 The decision in *Indian Institute of Aircraft Engineering (supra)* has also been followed in more recent cases before the CESTAT, such as in the case of *Gujarat Flying Club v. CCE & ST, Vadodara-II, 2019 (5) TMI 267 - CESTAT AHMEDABAD*.

4.54 Applying the ratio and reasoning of the Delhi High Court in *Indian Institute of Aircraft Engineering (supra)*, as well as of the Allahabad High Court in *Garg Aviations (supra)*, it is submitted that the completing the training programme offered by the Applicant will be considered as a qualification recognised under the law.

4.55 Reference is made to Circular No. 117/36/2019-GST dated 11.10.2019, which deals with the applicability of the GST exemption under Sl. No. 66(a) of the Exemption Notification to the Directorate General of Shipping (“DGS”) approved maritime courses conducted by the Maritime Training Institutes (“MTIs”) of India. The relevant extract from the said Circular is as follows:

“6. From the above discussion, it is seen that the Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (Standards of Training, Certification and Watch-keeping for Seafarers) Rules, 2014. Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017-Central Tax (Rate) dated 28.06.2017.”

7. This clarification applies, mutatis mutandis, to corresponding entries of respective IGST, UTGST, SGST exemption notifications. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

4.56 The reasoning behind this clarification has been discussed in Agenda Notes of the 37th GST Council Meeting dated 20.09.2019, wherein the issue of granting Service Tax/GST exemption to the DGS approved courses has been discussed.

4.57 In this discussion, it was noted that the MTIs are authorized to grant training certificates to their students for making them eligible to appear in the competency examination conducted by the DGS to get the Certificate of Competency. Since the MTIs and their training courses are approved by the DGS under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (Standards of Training, Certification and Watch-keeping for Seafarers) Rules, 2014, and taking into

consideration the decision of the Delhi High Court in the case of in *Indian Institute of Aircraft Engineering (supra)*, it has been clarified that such courses are exempt from GST.

- 4.58 From perusal of the said discussion in the 37th GST Council Meeting, it can be inferred that the intention of the GST Council is to exempt the training course since the course and the completion of the same under the MTIs are recognised by the law. By the same analogy, the said exemption should be applicable on the training programmes conducted by the ATOs approved by the DGCA for similar training purposes, like in the case of the Applicant.
- 4.59 In light of the above jurisprudence, it is submitted that the training provided by Applicant is the education imparted under the course approved by the DGCA, and hence, the successful completion of the ATR training programme is a qualification recognised by the law.
- 4.60 Thus, second condition is also satisfied in the present case.
- 4.61 From the above discussion, it can be seen that the requirements discussed for a ATO to qualify as an educational institution in terms of the definition under the Exemption Notification have been fulfilled, as elaborated hereunder:
- 4.62 *Firstly*, the completion of the training programme conducted by the Applicant, which allows the pilots to further apply for the extension of ATR in their CPL(A) after passing the tests conducted by the DGCA, and by way of endorsement provided by the DGCA, is recognised under the Aircraft Rules read with the ATO CAR, and in accordance with the discussion in the foregoing paragraphs, such completion of the training programme would be a qualification recognised under the law.
- 4.63 *Secondly*, the training programme conducted by the ATO, as the case may be, as specified in its TPM, has to be approved by the DGCA, thereby meaning that such training programmes form a part of the curriculum approved by the DGCA for completing the training required for applying for ATR extension.
- 4.64 Since the training services provided by the ATO are essential for fulfilling the competency requirements under the Aircraft Rules in order for pilots to apply for the extension of ATR, and the same is undertaken at ATOs approved by the DGCA, it can be said that such ATOs qualify as educational institutions in terms of the Sl. No. 66 (a) Notification No. 12/2017.
- 4.65 Further, in the collins dictionary student has been defined to mean a person who studies, a person formally engaged in learning. Also, as per Wikipedia student has been defined to be person studying for a specific profession. In present case, since, the pilots undergo the training given by the applicant for obtaining the extension of aircraft type ratings on their existing licenses, pilots will fall under the category of students as provided under Sl. No. 66 (a) of the Notification No. 12/2017.
- 4.66 In the present case, Applicant is one such training organisation providing ATR training, in collaboration with various commercial airlines, and thus, on the basis of the above discussion, it can be said that Applicant qualifies to be an educational institution, and the training services provided by it to its trainees will be exempt from GST under Sl. No. 66(a) of the Notification No. 12/2017.
- 4.67 In conclusion to the above discussion, the training services provided by Applicant to its trainees are in the nature of education services covered under SAC 999294, and

they would be covered under Sl. No. 66(a) of the Notification No. 12/2017, thereby making such supply of services exempt under GST law.

- 4.68 At the cost of repetition, the Applicant submits that all the conditions of Sl. No. 66 (a) of Notification No. 12/2017 and Sl. No. 66 (a) of the Notification dated 30.6.2017 are satisfied, as tabulated below:

4.69

| Sl. No. | Condition | Whether satisfied |
|---------|--|--------------------------|
| 1. | Applicant should be providing education as a part of a curriculum. | Yes, as explained above. |
| 2. | The curriculum should be for obtaining a qualification recognised by any existing law. | Yes, as explained above. |

of the above, it is submitted that the supply of ATR training to commercial pilots in accordance with the training curriculum approved by the DGCA for obtaining the extension of aircraft type ratings on their existing licenses, would be covered under Sl. No. 66 (a) of the Notification No. 12/2017 and Sl. No. 66 (a) of the state Notification dated 30.6.2017 and thereby, exempted from levy of GST.

5. 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.

6. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter and reminder dated 27.10.2022 was sent. But in this case no comments were offered.

7. The applicant was granted a personal hearing on 15.11.2022 which was attended by Shri Kunal Agarwal, the authorized representative of the applicant during which they reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

8. 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 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'.

9. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling is required-

- (1) *Applicability of a notification issued under the provisions of the Act*
- (2) *Determination of the liability to pay tax on any goods or services or both*

At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

10. We have gone through the submissions made by the applicant and have examined the same. We observe that the applicant has sought advance ruling on the following questions-

"Whether the supply of education and training services to commercial pilots in accordance with the training curriculum approved by the Directorate General of Civil Aviation for obtaining the extension of aircraft type ratings on their existing licenses would be covered under Sl. No. 66 (a) of the Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017 and Sl. No. 66 (a) of the Notification No. A.NI.-2-843/XI-9(47)/ 17- U.P. Act-1-2017-Order- (10) -2017 dated 30.6.2017, and thereby, exempted from levy of Central Goods and Service Tax & Uttar Pradesh Goods and Service Tax."

11. The relevant portion of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, reads as under-

In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table

| Sl. No. | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services | Rate (per cent.) | Condition |
|---------|---|--|------------------|-----------|
| (1) | (2) | (3) | (4) | (5) |
| | Heading 9992 | Services provided – (a) by an educational institution to its students, faculty and staff; (aa) by an educational institution | Nil | Nil |

| | | | | |
|--|--|---|--|--|
| | | <p>by way of conduct of entrance examination against consideration in the form of entrance fee;</p> <p>(b) to an educational institution, by way of, -</p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or house-keeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution</p> <p>(v) supply of online educational journals or periodicals:</p> <p>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.</p> <p>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.</p> | | |
|--|--|---|--|--|

12. Following amendments were made in Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 vide Notification No. 02/2018-Central Tax (Rate) dated 25.01.2018.

against serial number 66, in the entry in column (3),-

- (i) after item (a), the following item shall be inserted, namely:-
 - “(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;”;
- (ii) in item (b),-
 - (A) in sub-item (iv), the words “upto higher secondary” shall be omitted;
 - (B) after sub-item (iv), the following sub-item shall be inserted, namely:-
 - “(v) supply of online educational journals or periodicals.”;
 - (C) in the proviso, for the word, brackets and letter “ entry (b)”, the words, brackets and letters “ sub-items (i), (ii) and (iii)of item (b)” shall be substituted;
 - (D) after the proviso, the following proviso shall be inserted, namely:-
 - “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.”;

13. As such, there is no restriction of ‘upto higher secondary level’ in respect of exemption covered in entry 66(b)(iv) of the Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017.

14. As per para 2(y) of the notification no 12/2017-Central Tax (Rate) dated 28.06.2017, *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;*

15. Services Accounting Codes (SAC Codes) **999294** is used for the **Other education and training services n.e.c.(Not elsewhere classified)** under Goods and Service Tax classification. SAC (Services Accounting Code) are used for the identification of the service. This service comes under heading **Education services**.

As per Sl. No. 30 of the Notification No. 11/2017-Central Tax (Rate) dated 28.6.2017, the Educational services classifiable under HSN No. 9992 are taxable at 18% GST rate.

| Sl. No. | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services | Rate (per cent.) |
|---------|---|-------------------------|------------------|
| 30 | Heading 9992 | Education services. | 9 |

16. We find that the applicant is engaged in the business of facilitating the training of commercial pilots on the Aircraft Simulators installed at its training facilities. Such training is provided in accordance with the training curriculum approved by the Directorate General of Civil Aviation (hereinafter referred to as "DGCA") for obtaining the extension of aircraft type ratings on their existing licenses.

Now we proceed to examine as to Whether the supply of education and training services to commercial pilots in accordance with the training curriculum approved by the Directorate General of Civil Aviation for obtaining the extension of aircraft type ratings on their existing licenses would be covered under Sl. No. 66 (a) of the Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017.

16.1 We observe that the applicant has claimed that their organization has been approved by the DGCA as a Type Rating Training organization and they are conducting Type Rating Courses for pilots who are already holding CPL(A) as per DGCA approved curriculum. The training of pilots on simulators is just for obtaining the extension of aircraft type ratings on their existing licenses. The applicant does not provide any licence to the pilots as they are not the competent authority. Issuance and granting of commercial pilot licenses falls under the exclusive domain of DGCA. The applicant is only conducting training courses which helps the trainees to increase/accumulate ratings for flying specific aircrafts. Moreover, the trainees will have to undergo skill test when they complete simulator training at the institute. It is based on the results of these tests and examination and after fulfillment of other parameters that the DGCA would endorse the type ratings of aircraft in the licenses of trainee pilots. Therefore merely conducting a course or its completion is not a qualification which is recognized by law. The fact that such a completion of course may be taken into account by the DGCA for the purpose of evaluating the experience and content of training, will not make it statutory in character.

16.2 As per point (ii) of para 2(y) of the notification no 12/2017-Central Tax (Rate) dated 28.06.2017:-

Educational institution means 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.

We would like to discuss the term "qualification". As per the University Grants Commission Act 1956 as amended up to 20th December, 1985, the term "qualification" means a degree or any other qualification awarded by a University. In this case, services provided by M/s CAE Simulation Training Private Limited does not qualify the "qualification" as required under the provisions of University Grants Commission Act 1956 and other similar education regulatory bodies in India. In our view, extension of aircraft type ratings on existing licenses of pilots is not any new qualification or degree, it is only upgradation of skill in specific field.

As regards supply of education and training services to commercial pilots in accordance with the training curriculum approved by the Directorate General of Civil Aviation for obtaining the extension of aircraft type ratings on their existing licenses is not mentioned in the said notification, the same are not exempted.

16.3 The applicant, during the course of personal hearing, accepted that they do not provide any licence, degree or diploma certificate to the trainees. It is just the completion of training course which is mentioned. We observe that there is no statutory requirement for the course completion certificate which enables the trainee pilots to apply to DGCA for appearing in the examination conducted by it. It is the examination conducted by the DGCA which is the statutory requirement and not any examination by the applicant. The applicant is merely preparing the trainees for such Type Rating Examinations.

In a clarification issued by the Chief Flight Operation Inspector DGCA on 14-12-2009, it has been mentioned that-

“ This to certify that this sample course completion certificate will enable the trainee to complete some of the several parameters as laid down in Schedule II, sections J and M of Indian Aircraft Rules and apply to Director(Training and Licensing) in order to obtain extension of aircraft type ratings on his professional pilots licence which is the basic requirement to render him eligible for employment as a pilot”

Hence, it cannot be construed that the applicant is an educational institute which provides 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.

16.4 The applicant has declared that the training course conducted by them enables the pilots to get employment in the commercial airlines. This view of the applicant is not supported by the facts. Because the trainees after undergoing type rating training courses with the applicant will not be able to get employment with the airlines directly. As per Rule 6A of the Aircraft Rules, no person shall fly as pilot of an aircraft which is not included or entered in the Aircraft rating of the licence. Meaning thereby, a trainee can fly an aircraft and consequently seek employment with an airlines only after his or her licence has been endorsed with the aircraft rating for the specified aircraft by the DGCA. Merely undergoing simulation training with the applicant without endorsement of the licence by the competent authority will not enable a pilot to fly an aircraft or seek employment. The training does not directly result into an employment or even enable the trainee to undertake self employment. Thus a commercial pilots licence holder cannot seek the job of flying an aircraft for which he has undergone Type Rating Training unless an endorsement to that effect is made in the licence of the CPL holder by the DGCA. It is the endorsement which makes him eligible to obtain employment with Airlines to fly the aircrafts for which he has been type rated and not the fact of having completed the training with the institute.

17. As such, we are of the view that the supply of education and training services to commercial pilots in accordance with the training curriculum approved by the Directorate General of Civil Aviation for obtaining the extension of aircraft type ratings on their existing licenses is not exempted under Sl. No. 66 (a) of the Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017.

18. In view of the above discussions, we, both the members pass the following ruling-

RULING

19. **Question-** "Whether the supply of education and training services to commercial pilots in accordance with the training curriculum approved by the Directorate General of Civil Aviation for obtaining the extension of aircraft type ratings on their existing licenses would be covered under Sl. No. 66 (a) of the Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017 and Sl. No. 66 (a) of the Notification No. A.NI.-2-843/XI-9(47)/ 17- U.P. Act-1-2017-Order- (10) -2017 dated 30.6.2017, and thereby, exempted from levy of Central Goods and Service Tax & Uttar Pradesh Goods and Service Tax."

Answer- Replied in negative.

20. 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.



(Vivek Arya)

Member of Authority for Advance
Ruling



(Rajendra Kumar)

Member of Authority for Advance
Ruling

M/s CAE Simulation Training Private Limited,
Sector KP-III, 25/3, Gautam Budh Nagar,
Greater Noida, Uttar Pradesh – 201306

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

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, G.B. Nagar, 3rd Floor, Wegmans Business Park, K.P.-III, Greater Noida-201306.
4. The Deputy/Assistant Commissioner, CGST & Central Excise, G.B. Nagar, 3rd Floor, Wegmans Business Park, K.P.-III, Greater Noida-201306.
5. Through the Additional Commissioner, G.B. Nagar, Gautam Buddha Nagar Zone, Gautam Buddha Nagar, 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 Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.