

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

Advance Ruling No. KAR ADRG 07/2022

Date : 08-03-2022

Present:

1. Dr. M.P. Ravi Prasad

Additional Commissioner of Commercial Taxes Member (State)

2. Sri. T. Kiran Reddy

Additional Commissioner of Customs & Indirect Taxes . . . Member (Central)

1.	Name and address of the applicant	M/s. Teamlease Education Foundation, 6 th Floor, BMTC Commercial Complex, 80 Feet Road, Koramangala, Bengaluru-560 095, Karnataka.
2.	GSTIN or User ID	29AADCT8958N1ZA
3.	Date of filing of Form GST ARA-01	09-11-2021
4.	Represented by	Ms. Disha, Advocate & Authorised Representative
5.	Jurisdictional Authority – Centre	The Principal Commissioner of Central Tax, Bengaluru South Commissionerate, Bengaluru. (Range-DSD5)
6.	Jurisdictional Authority – State	ACCT, LGSTO-17, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from Electronic Cash Ledger vide entry Ref.No.DC2910210112695 dated 18.10.2011.

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

M/s. Teamlease Education Foundation, (herein after referred to as The Applicant) 6th Floor, BMTC Commercial Complex, 80 Feet Road, Koramangala, Bengaluru-560 095, Karnataka, having GSTIN 29AADCT8958N1ZA, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act & KGST Act.



: Teamlease

2. The Applicant submitted that they are a Section 25 company, registered under the provisions of the Companies Act, 1956, incorporated on 27.06.2011; They also obtained registration under Section 12AA of the Income Tax Act 1961; They are engaged in charitable activities with an objective to promote and sponsor educational institutions including universities dedicated to inculcation of domain specific, workplace relevant and life related skills and competences for enhancing employability, work culture, enhanced productivity, economic development, social harmony and social life through offer of technology supported, industry relevant and low-cost academic programs with employment at the heart of academic offerings.

3. In view of the above, the applicant has sought advance ruling in respect of the following questions:

- a. *Whether, the Applicant is acting as a pure agent of the Industry partner to the extent of reimbursement received towards stipend paid to trainees on behalf of Industry partner as part of training agreement and therefore the said reimbursement is not chargeable to GST ?*
- b. *Whether, the Applicant is acting as a pure agent of the Industry partner to the extent of reimbursement received against cost of medical and accident insurance obtained for the benefit of trainees by the Applicant and reimbursed by the Industry partner as per the training agreement and therefore the said reimbursement is not chargeable to GST ?*

4. **BRIEF FACTS OF THE CASE:** The applicant furnishes the following relevant facts having a bearing on the questions on which advance ruling has been sought.

4.1 TeamLease Education Foundation (hereinafter referred as 'Applicant' or 'TLEF') is a section 25 company, registered under the provisions of the Companies Act, 1956, engaged in charitable activities and obtained registration under section 12AA of the Income Tax Act 1961, with an objective to promote and sponsor educational institutions including universities dedicated to inculcation of domain specific, workplace relevant and life related skills and competences for enhancing employability, work culture, enhanced productivity, economic development, social harmony and social life through offer of technology supported, industry relevant and low-cost academic programs with employment at the heart of academic offerings.

4.2 The Applicant is an approved NEEM (National Employability Enhancement Mission) Facilitator under the All India Council for Technical Education (National Employability Enhancement Mission) Regulations, 2017 ("NEEMS Regulations"). The objective of National Employability Enhancement Mission (NEEM) is to offer on the job practical training to enhance employability of a person either pursuing his or her Post-Graduate / Graduate / Diploma in any technical or non-technical stream or has discontinued studies after class 10th to enhance his / her employability.



4.3 As per the NEEM Regulations, a person registered under NEEM Regulations for receiving training is called a Trainee ('NEEM trainee' or 'Trainee'). Further, a contract is required to be executed between NEEM Facilitator and the NEEM trainee to capture all terms and conditions ('NEEM contract'). However, the NEEM contract is neither an offer of employment nor a guarantee of employment. Further, the Trainees are entitled for payment of remuneration / stipend under the NEEM Regulations which shall be at par with the prescribed minimum wages for unskilled category. Such remuneration / stipend shall be paid at as a single consolidated amount without any statutory deductions applicable to regular employees viz. PF/ESI etc. since the NEEM contract assures training and does not constitute employment. The NEEM Facilitators are required to partner with various trainers and Employers / Company / Industry (Industry partner) for imparting training to NEEM trainees.

4.4 The Applicant has entered into training agreements with various companies (industry partners) for imparting practical training and has registered them as training partner in accordance with NEEM Regulations. The applicant furnished a copy of sample agreement ('training agreement' or 'agreement') with one of the clients M/s LG Electronics India Private Limited ('Industry partner').

4.5 The Industry partner, as per the training agreement, is under the following obligations:

- Providing adequate facilities (viz. requisite personnel, facilities, industry knowledge and infrastructure) in accordance with the NEEM Regulations for the training.
- Payment of monthly stipend ('stipend') to the Applicant for the purpose of paying to the trainees in consideration of dedicated deployment of the trainees and in accordance with the NEEM Regulations.
- Reimbursement of cost of medical and accident insurance obtained by the Applicant for the benefit of the Trainees.
- Payment of administrative fee, sourcing fee, fee for enrolment and other fee charged by Applicant towards the services provided in its own account
- Ensure health, welfare and safety standards during the training and compliance with other terms and conditions as per the agreement.

4.6 The applicant is entrusted with the following obligations as per the training agreement:

To execute an agreement with each trainee, prior to deploying the Trainees to the Industry partner for the Training In accordance with NEEM Regulations.



- b. Furnish appropriate data to the Industry partner in relation to the Trainees.
- c. Undertake administrative tasks as may be required from time to time.
- d. Implementation of digit workforce solution (DWS) for attendance and leave management of Trainees.
- e. Assistance in enrolment of Trainees under various courses like Bachelor of Management Studies (BMS), etc.
- f. Payment of premium towards Medical and Accident Insurance obtained for Trainees for their benefit.
- g. Payment of stipend to the trainees engaged by Industry partner at par with the prescribed minimum wages payable for unskilled category under the Shops & Establishment Act / Factories Act as applicable.

4.7 The Applicant is charging following amounts from the Industry partner for carrying out the above-mentioned functions:

- a. 'Administration fee' per trainee per month for assisting the Industry partner with the administrative tasks for deployment of Trainees for the Training.
- b. 'Sourcing fee' as one-time charge towards sourcing of Trainees.
- c. 'Enrolment fee' per trainee towards enrolment of Trainees for various courses.
- d. Reimbursement of monthly 'stipend' paid to Trainees on behalf of Industry partner and in accordance with NEEM Regulations.
- e. Reimbursement of cost of medical and accident insurance obtained for welfare of Trainees as agreed with the Industry partner.

4.8 The Applicant, as agreed upon with the Industry partner, raise invoices for the stipend payable to the Trainees and administration fee on a monthly basis including applicable taxes (relevant invoice copy enclosed). Further, the said invoice also includes amount of insurance premium as and when charged.

4.9 Currently, the Applicant is collecting GST on the entire transaction value which is the price payable by Industry partner in accordance with section 15 of the CGST Act which includes administration fee, sourcing fee, enrolment fee and the following reimbursements:

a. Monthly stipend paid to trainees on behalf of Industry partner



b. Cost of medical and accident insurance obtained for benefit of the Trainees and reimbursed by Industry partner.

4.10 However, the Applicant is of the view that the reimbursement received towards stipend and cost of medical and accident insurance is an expenditure or costs incurred as a pure agent of the Industry partner (recipient of supply) as per rule 33 of the CGST Rules 2017. Therefore, such reimbursements should be excluded from the taxable value and hence, GST should not be charged on such reimbursements.

4.11 Considering the aforesaid facts, the Applicant seeks to obtain a ruling with regard to the questions of law and thus files the instant application.

5 Applicant's Interpretation of Law : The applicant furnishes their interpretation of law, in respect of the questions on which advance ruling has been sought, as under:

5.1 The Applicant contends that they are acting as pure agent of the Industry partner in as far as providing stipend and incurring cost of insurance and submits the following in their support.

Section 9(1) of the KGST Act prescribes the levy and collection of the Karnataka State Goods and Services Tax which states that, "Subject to the provisions of sub-section (2), there shall be levied a tax called the Karnataka State goods and services tax 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** and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person."

5.2 Thus, KGST is levied on the value of supply determined under section 15 of the KGST Act. Now, as per section 15 of the KGST Act:

"(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply

(2) The value of supply shall include

(a) Any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the Central Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;



- (b) Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
- (c) **Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;**
- (d) Interest or late fee or penalty for delayed payment of any consideration for any supply; and
- (e) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments;

Explanation. For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy

(3) *The value of the supply shall not include any discount which is given—*

- (a) *Before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and*
- (b) *After the supply has been effected, if—*
 - (i) *Such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and*
 - (ii) *Input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply*

(4) **Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed**

(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.”

[Emphasis supplied]



: Teamlease

5.3 It is clear from the plain reading of section 15 that KGST is leviable on the transaction value if it satisfies the following conditions:

- a. Transaction value should be the price paid or payable for the said supply
- b. The supplier and recipient of the supply are not related
- c. Price should be the sole consideration for the supply

Further, the transaction value shall include the incidental expenses incurred by the supplier **on its own** in relation to supply of goods or services or both.

5.4 However, in case, the aforesaid conditions of section 15(1) are not fulfilled, then the value of taxable supply is determined by virtue of section 15(4) which has prescribed Chapter IV of the KGST Rules, 2017 containing various rules (Rule 27 to Rule 35) for determination of value of supply in certain cases.

5.5 One of the such case is determination of value of supply of services in case of pure agent as envisaged under Rule 33 of the KGST Rules which prescribes the following:

“Notwithstanding anything contained in the provision of this chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied namely-

- i. *The supplier acts as a pure agent of the recipient of the supply when he makes the payment to the third party on authorisation by such recipient.*
- ii. *The payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and*
- iii. *The supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services, he supplies on his own account*

Explanation- For this rule, the expression “pure agent” means a person who-

- a) *Enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs during supply of goods or services or both;*
- b) *Neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;*
- c) *Does not use for his own interest such goods or services so procured; and*



d) Receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account."

[Emphasis supplied]

5.6 From above, it is clear that any cost or expenditure incurred by supplier on behalf of the recipient of service shall be excluded from the value of supply u/s 15 of the KGST Act if the conditions prescribed under Rule 33 are satisfied. However, in case, any cost or expenditure is incurred by supplier on its own account for provision of supply, then such cost or expenditure shall form part of the value of supply.

5.7 In the present case, in order to determine the taxability of various amounts charged by the Applicant from the Industry partner, we need to first evaluate the relevant terms of the agreement which is provided below:

Para reference	Particulars as per training agreement
Clause 2	SCOPE OF TRAINING
Clause 2.1	Subject to the terms of this Agreement, the Company is hereby registered by TeamLease as Training partner in accordance with NEEM Regulations. The Trainees shall under no circumstance be deemed to be the employees of the Company or of TeamLease
Clause 2.2	The Company shall be solely responsible for providing adequate facilities in accordance with the NEEM Regulations or as maybe deemed appropriate by TeamLease for the Training, from time to time
Clause 3	<p>STIPEND</p> <p>In consideration of dedicated deployment of the Trainees to the company in accordance with this Agreement, the Company shall pay a monthly stipend ("Stipend") in the Bank Account as detailed in Annexure B, to be utilized by TEAMLEASE solely for the purposes of paying the Trainees in accordance with the NEEM Regulations. Which shall be equal to or greater than the prescribed minimum wages for unskilled category under applicable law and employee compensation insurance premium on or before the [2nd] day of each calendar month. For the avoidance of doubt it is clarified that the Stipend payable shall be a single consolidated amount and shall not be subject to further withholding tax, namely Tax Deducted at Source or any other statutory deductions or payments, except for income tax if applicable</p> <p>In addition to the Stipend, the company shall pay an administration fee of Rs 375/- per trainee per month with GST extra to TEAMLEASE for assisting the Company with the administrative tasks for deployment of Trainees to the Company for the Training.</p> <p>TEAMLEASE shall, as agreed upon with the Company, raise invoices for the Stipend payable to the Trainees and</p>



	<p>administration fee on a monthly basis and shall include therein such taxes as may be applicable.</p> <p>Sourcing Fee: For candidates sourced by TeamLease, there will be a one-time charge of Rs. 1000/- (Rupees One Thousand Only) per candidate. TeamLease shall provide a free replacement if the Trainees leaves within 45 days of joining. No further free replacement will be provided.</p>
Clause 3 (Contd...)	<p>Bachelor of Management Studies (BMS) and DWS – TEAMLEASE will facilitate to enrol trainees under various courses like Bachelor of Management Studies (BMS), etc. and Rs. 500/- shall be borne by the Company. DWS shall be implemented for attendance and leave management.</p> <p>The Company hereby agrees to pay TEAMLEASE towards the cost of Medical and Accident Insurance provided to the Trainees for the respective cover amounts agreed to as per the prevailing premium thereof (As per the below table), initially and during subsequent renewals.</p>

5.8 From above, it is clear that the Applicant is charging following amounts from the Industry partner:

Particulars	Nature of income	Remarks
Administration fee	For assisting the Industry partner with the administrative tasks for deployment of Trainees for the Training	Towards services provided by Applicant on its own
Sourcing fee	One-time charge towards sourcing of Trainees	Towards services provided by Applicant on its own
Enrolment fee	Fee towards enrolment of Trainees for various courses	Towards services provided by Applicant on its own
Stipend	Paid to Trainees on behalf of Industry partner in accordance with NEEM Regulations	Payment made on behalf of Industry partner
Cost of medical and accident insurance	Insurance obtained for the benefit of trainees and reimbursed by Industry partner	Payment made on behalf of Industry partner

5.9 From above, the reimbursement received from Industry partner towards stipend paid to Trainees and the cost of medical and accident insurance would be eligible for deduction from the transaction value since such expenditure are incurred purely on behalf of Industry partner, provided the relevant conditions prescribed under Rule 33 of the KGST Rules, 2017 gets satisfied.



5.10 Further, GST would be payable only on the fee towards administration, sourcing of trainees and enrolment.

5.11 In this regard, the Applicant has drawn below the comparative analysis of relevant conditions prescribed under Rule 33 and the relevant terms forming part of training agreement:

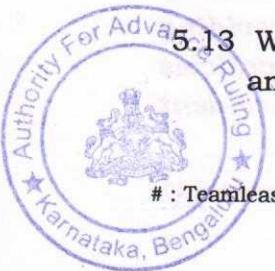
Conditions prescribed under Rule 33 of the KGST Rules	Reference from the training agreement
Conditions for pure agent:	
(i) The supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;	<p>Clause 3: <i>"In consideration of dedicated deployment of the Trainees to the Company in accordance with this Agreement, the Company shall pay a monthly stipend ("Stipend") in the Bank Account as detailed in Annexure B, to be utilized by TEAMLEASE solely for the purposes of paying the Trainees in accordance with the NEEM Regulations, which shall be equal to or greater than the prescribed minimum wages for unskilled category under applicable law and employee compensation insurance premium on or before the [2nd] day of each calendar month.</i></p> <p>The Company hereby agrees to pay TEAMLEASE towards the cost of Medical and Accident Insurance provided to the Trainees for the respective cover amounts agreed to as per the prevailing premium thereof (As per the below table), initially and during subsequent renewals."</p>
(ii) The payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and	<p>Clause 3: <i>"TEAMLEASE shall, as agreed upon with the Company, raise invoices for the Stipend payable to the Trainees and administration fee on a monthly basis and shall include therein such taxed as may be applicable."</i></p>
(iii) The supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.	<p>Clause 3: <i>"In addition to the stipend, the Company shall pay an administration fee of Rs. 375/- per trainee per month with GST extra to TEAMLEASE for assisting the Company with the administrative tasks for deployment of Trainees to the Company for the Training</i></p> <p>Sourcing Fee: For candidates sourced by</p>



	<p><i>TeamLease, there will be a one-time charge of Rs. 1000/- (Rupees One Thousand Only) per candidate. TeamLease shall provide a free replacement if the Trainees leaves within 45 days of joining. No further free replacement will be provided.</i></p> <p><i>Bachelor of Management Studies (BMS) and DWS – TEAMLEASE will facilitate to enrol trainees under various courses like Bachelor of Management Studies (BMS), etc. and Rs. 500/- shall be borne by the Company. DWS shall be implemented for attendance and leave management.”</i></p>
<p>Meaning of Pure Agent:</p>	<p>Clause 3: As depicted in Sr (i) above</p>
<p>(a) Enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;</p>	<p>The Applicant is only a conduit for the payment and the actual service is provided by the Trainees to the Industry partner and the Industry partner is liable to make the payment of consideration</p>
<p>(b) Neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;</p>	<p>The applicant is providing services as per NEEM regulations. Further, the applicant doesn't retain any portion of the stipend and insurance premium. It is merely acting as an intermediary of the Industry partner.</p>
<p>(c) Does not use for his own interest such goods or services so procured; and</p>	<p>The applicant is recovering actual amount of stipend paid to Trainees and cost of medical and accident insurance from the Industry partner. Further, Applicant is separately charging fee for administration, sourcing and enrolment towards the services provided on its own account</p>

5.12 In light of the above, it is clear that the reimbursement received from the Industry towards the stipend paid to Trainees and the cost of medical and accident insurance incurred for benefit of the Trainees are in the nature of pure agent services provided by Applicant and therefore such reimbursement should not form part of taxable value.

5.13 With regards to payment of stipend, the Applicant neither retains any amount from the reimbursement received nor receives any separate



consideration from Trainees. It merely acts as an intermediary between Trainees (supplier of service) and Industry Partner (recipient of service) for processing of stipend as specified under NEEM Regulations. Thus, the applicant is merely a conduit for the payment of stipend and the actual service is supplied by the Trainees to the trainer companies (Industry partner) against which such stipend is payable.

5.14 Further, with regards to cost of medical and accident insurance, the Applicant has incurred such expenditure for the benefit of the Trainees as agreed with the Industry partner. The Insurance company is the supplier of service, the Applicant is the service recipient and the Trainees are beneficiary in such transaction. Further, the Applicant has obtained such insurance for the benefit of Trainees as per pre-agreed terms and conditions with the Industry partner. The Industry partner is under the obligation to reimburse the Applicant towards cost of such insurance. Hence, the Applicant is acting as an agent of the Industry partner for incurring the expenditure towards the insurance and subsequently reimbursed by the partner to the extent of insurance premium.

5.15 Hence, the Applicant acts as a pure agent of the Industry partner to the extent of payment of stipend and cost of medical and accident insurance and therefore the reimbursement received from Industry partner towards these expenditure shall be excluded from the value of supply in accordance with Rule 33 of the KGST Act.

5.16 The above rationale has also affirmed by the Hon'ble Authority for Advance Ruling, Maharashtra in similar case of **M/s. YASHASWI ACADEMY FOR SKILLS (2021 (8) TMI 1018)** where the Hon'ble Authority has held that **the reimbursement by Industry Partner to the applicant, of the stipend paid to the trainees, does not attract tax under the GST Acts.**

The relevant extract of the judgement is reproduced below:

*"5.10 we find that, **the applicant, is registered as Agent under National Employability Enhancement Mission ("NEEM")** for facilitating and extending support for mobilizing trainees under NEEM Scheme of Government of India as per regulations under notification issued by All India Council for Technical Education (AICTE), for providing trainees on-the-job practical training in industries to enhance their future employability, For that purpose, or which they enter into agreements with various companies/organizations (called as industry partner) who impart actual practical training to the students. **The applicant, in lieu of agreements with the industry partners, is engaged in preparing monthly attendance record of the trainees, getting it certified from the Company; processing stipends of the trainees; making payment of stipend to the trainees ; providing uniform and safety shoes to the trainees ; taking Insurance policies for trainees towards Employee Compensation and Personal Accident***



Policy. For all such services rendered the applicant is paid service charge per month per trainee on which GST is being discharged (as per their submissions). During the duration of the training, the trainees are paid monthly stipend.

5.10 Regarding the issue before us in respect of stipend paid to the trainees by the applicant, the industry partner that provides training to the trainees is required to pay stipend to the trainees. **This stipend is not directly paid to the trainees by the companies, rather the same are routed through the applicant.** The applicant has submitted that the entire amounts received as stipend from the companies are paid to the trainees without any amount being retained. Thus, the applicant is only acting as an intermediary in collecting the stipend from the companies and then disbursing the same to the trainees in full since the applicant is not allowed to make any deductions from the stipend before disbursing the same to the trainees. **The applicant is only a conduit for the payment of stipend and the actual service is supplied by the trainees to the trainer companies (industry partners) against which stipend is payable.** Hence the amount of stipend received by the applicant from the industry partners and paid in full to the trainees is not taxable at the hands of the applicant. Hence, in view of the submissions made by the applicant and also in agreement with the observations made by the jurisdictional officer, it is held that the reimbursement by Industry Partner to the applicant of the stipend paid to students does not attract GST.”

[Emphasis supplied]

5.17 The Applicant also draws attention of this Hon'ble Authority in its own judgement passed in the similar case of **M/s CADMAXX SOLUTION EDUCATION TRUST (KAR ADRG 85/2019 dated 25 September 2019)** where the Hon'ble Authority has held the following:

“1. The reimbursement of the stipend paid to the trainees does not attract tax under the GST Acts”

“3. The reimbursement of Group Insurance and Workmen Compensation premium by the trainer company to the applicant is not liable to tax under the GST Acts”

The relevant extract of the judgements is reproduced below:

“6.3 Regarding the issue of taxation of stipend, the company which is providing on the job training to the trainees is required to pay the stipend to the trainees and **the applicant is only acting as an intermediary in collecting the same from the trainer companies to the students. The service is provided by the trainees to the trainer as the trainer is liable to make payment of the consideration.** This consideration is paid through the applicant and the applicant is not allowed to make any

dedications in that amount. **Hence the applicant is only a conduit for the payment** and the actual service is by the trainee to the trainer. Therefore this amount is not taxable in the hands of the applicant.

6.5 Regarding the third issue of payment of Group Insurance and Workmen compensation scheme is made by the applicant with the trainee being beneficiary. **If any tax is liable on this transaction, it shall be collected by the insurance company, and the insurance company would be the service provider and the applicant will be the service recipient. It the same is reimbursed to the applicant by the trainer company as per the terms of the contract, this amounts to reimbursement of the premium paid and hence this amount reimbursed would not be taxable in the hands of the applicant.”**

5.18 Considering all the above facts and legal provisions the Applicant makes the following submissions:

- The Applicant is acting as a pure agent of the Industry partner to the extent of reimbursement received towards stipend paid to trainees on behalf of Industry partner as part of training agreement and therefore the said reimbursement is not chargeable to GST
- Further, the applicant is also acting as pure agent to the extent of reimbursement received against cost of medical and accident insurance obtained for the benefit of Trainees by the Applicant and reimbursed by the Industry partner as per the training agreement and therefore the said reimbursement is not chargeable to GST.

In view of the above submissions, the applicant requests for pronouncement of the ruling on the questions raised in the instant application and also requests for an opportunity of personal hearing.

PERSONAL HEARING PROCEEDINGS HELD ON 06.01.2022

6. Ms. Disha, Advocate & Authorised Representative of the applicant appeared for personal hearing proceedings held on 06.01.2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

7. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matters and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.



8. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts along with the arguments made by the applicant & the submissions made by their learned representative during the time of hearing.

9. The applicant, being an approved NEEM (National Employability Enhancement Mission) facilitator partner with various trainers and Employers/Company/Industry (industry partner) for imparting training to NEEM trainees. The applicant as well as the Industry partner have certain obligations as per the NEEM Regulations and thus to fulfill the obligations, the applicant charges Administration Fee, Sourcing Fee, Enrollment Fee, Reimbursement of monthly stipend paid to trainees on behalf of Industry partner and Reimbursement of cost of medical and accident insurance obtained for welfare of trainees as agreed by the Industry Partner.

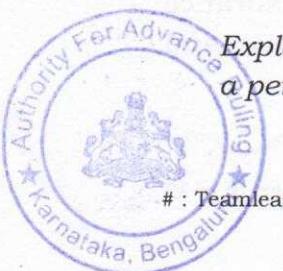
10. The applicant, though collecting GST on the entire transaction value including the reimbursement amounts, is of the view that the reimbursement received towards stipend and cost of medical & accident insurance is an expenditure or cost incurred as pure agent of the Industry Partner as per rule 33 of the CGST Rules 2017 and therefore such reimbursements should be excluded from the taxable value and hence GST should not be charged on such reimbursements. Thus the applicant sought advance ruling in respect of the said issue in two questions.

11. In view of the above, we proceed to examine whether the applicant qualify to be a pure agent of the Industry Partner or not. In this regard, we invite reference to rule 33 of the CGST Rules 2017, which is as under:

33. Value of supply of services in case of pure agent. -Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Explanation.- For the purposes of this rule, the expression –pure agent means a person who-



- a. enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- b. neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- c. does not use for his own interest such goods or services so procured; and
- d. receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

12. It could be seen from the above that a pure agent would be a person (supplier i.e. applicant in this case) who enters into a contractual agreement with the recipient of supply (Industry partner in this case) to act as recipient's pure agent to incur expenditure or costs, in the course of supply of goods or services or both. It is an admitted fact that the applicant herein is raising invoice for stipend and insurance cost and distributes the same to the trainees on receipt of the said amount and also not furnished any contractual agreement to incur expenditure first and to claim the said amounts later. Thus the applicant does not qualify to be a pure agent at all, in terms of rule 33 of the CGST Rules 2017.

13. The applicant has furnished a copy of agreement entered with one of the Industry partner i.e. LG Electronics India Pvt. Ltd., wherein clause 3 clearly specifies that "**the Industry partner shall deposit the amount towards stipend to the trainees and also towards the medical and accident insurance of the trainees on or before 2nd day of each calendar month**", from which it is clearly evident that the applicant is not incurring the said amount initially and latter claiming the said amount by raising an invoice. Further the applicant also has not furnished any documentary evidence wherein the Industry Partner has authorised the applicant to make the payment to third party and later to claim the actual amounts. Thus even on this account also the applicant is not fulfilling the required condition.

14. Further the applicant were requested to furnish the copy of agreement entered between the trainee and the applicant, but furnished the copies of Course Registration Letters, addressed to two different trainees by email dated 28.01.2021. Clause 17 of the said letter stipulates that "**The stipend for a particular month shall be paid on or before the 10th of the following month**", which clearly indicates that the applicant receives the stipend amount from the Industry partner by 2nd of the month and distributes / disburses the same by 10th of the month to the trainees. Thus it is proven beyond doubt that the applicant is not incurring the expenditure towards the stipend/insurance etc. & later claiming the reimbursement but receives the said amounts and



disburses the same and hence the applicant is not fulfilling the required condition.

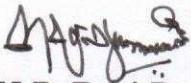
15. Rule 33 (iii) of the CGST Rules 2017 stipulates that the applicant must procure certain supplies from the third party, as a pure agent of the recipient of supply, which are in addition to the services he supplies on his own account. In the instant case, the applicant has not furnished any information with regard to procurement of supplies from the third party i.e. trainees. Thus the applicant is not fulfilling the required condition.

In view of the above the applicant does not qualify to be a pure agent and hence the GST is chargeable on the entire transaction value.

16. In view of the foregoing, we pass the following

R U L I N G

1. The Applicant does not qualify to be a pure agent of the Industry partner to the extent of reimbursement received towards stipend paid to Trainees on behalf of Industry partner as part of training agreement and therefore the said reimbursement is chargeable to GST.
2. The Applicant does not qualify to be a pure agent of the Industry partner to the extent of reimbursement received against cost of medical and accident insurance obtained for the benefit of Trainees by the Applicant and reimbursed by the Industry partner as per the training agreement and therefore the said reimbursement is chargeable to GST.



(Dr. M.P. Ravi Prasad)

Member

Karnataka Advance Ruling Authority
Place : Bengaluru
Bengaluru - 560 009

Date : 08-03-2022

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-17, Bengaluru.
5. Office Folder.

