

**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 18 / 2022

Dated: 01-07-2022

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. Karnataka Text Book Society (R) No.4, DSERT Building, 1 st Floor, 80 Feet Ring Road, Hosakerehalli, Banashankari 3 rd Stage, Bangalore-560 085.
2.	GSTIN or User ID	29AABAT3059Q1ZS
3.	Date of filing of Form GST ARA-01	09-02-2022
4.	Represented by	Shri Veerabasana Gouda S, Chartered Accountant
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Taxes, Bangalore West GST Commissionerate, West Division-5, RANGE DWD 5, Bangalore.
6.	Jurisdictional Authority - State	ACCT, LGSTO-060 Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide CIN No.SBIN22022900028049 Dated 04-02-2022

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

M/s. Karnataka Text Book Society (hereinafter referred to as the applicant), No.4, DSERT Building, 1st Floor, 80 Feet Ring Road, Hosakerehalli, Banashankari 3rd Stage, Bangalore-560 085, having GSTIN 29AABAT3059Q1ZS 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 and the KGST Act.



2. The Applicant is a Society registered under the Karnataka Societies Act, 1960. The Applicant is also registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The Applicant is engaged in the preparation, printing and distribution of textbooks to all Government approved schools.

3. The applicant has sought advance ruling in respect of the following questions:

- i. *Whether the service of printing and supply of textbooks received by government entity (the Applicant) from private printers where content belongs to the Applicant and physical inputs belong to the printer, would be covered by Notification No.12/2017-Central Tax (Rate), as amended and subject to Nil rate of tax. This clarification is sought so as to enable the Applicant to avail the benefit of the Notification during the tendering process.*
- ii. *If the printing and supply of textbooks is held to be taxable, what would be the rate of GST and the SAC Code.*
- iii. *Whether the amendment of Sl.No.27 of Notification No.11/2017 vide Notification No.06/2021 would apply to the Applicant, or whether the Notification 12/2017 Central Tax (Rate) would supersede it so as to make the Applicant liable for nil rate of GST on printing and supply of textbooks.*
- iv. *Whether GST should be collected on rental income from property leased by the Appellant to Karnataka Food & Civil Supplies Corporation Limited (Government of Karnataka Undertaking), and if yes, whether rent received in January 2022 for past periods (2005-2021) is liable for GST.*
- v. *Whether GST is applicable on sales of scrap by the Applicant.*
- vi. *Whether the Applicant's GST registration should be retained or surrendered.*

4. **Admissibility of the application:** The question is about the “classification of any goods or services or both”, “Applicability of a notification issued under the provisions of this Act”, “determination of the liability to pay tax on any goods or services or both” and “Whether applicant is required to be registered” and hence is admissible under Section 97(2)(a)(b)(e) & (f) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The applicant is a Society registered under the Karnataka Societies Act, 1960. It was established vide Government Order ED 95 DGO 2005, Bangalore, dated 04-01-2006, and promulgated to form an umbrella body in the context of preparation, printing and distribution activities of all Government approved school textbooks.

5.2 The applicant states that they receive grants from the Government of Karnataka for the supply of text books freely to students enrolled in government and aided schools and by sales to private schools affiliated to the Karnataka State Board. They call for tenders for the printing and supply of textbooks on contract basis, wherein the



Contractor supplies the service of printing and supply of the textbooks. The materials (physical inputs) are supplied by the Contractor, and all the content is provided by and belongs to the applicant.

5.3 The applicant states that they are registered under GST and is currently paying GST @ 12% on the contracts for the printing and supply of textbooks.

5.4 The applicant is functioning under the Education Department, Government of Karnataka. The Society is wholly financed by the Government of Karnataka. The objective of the Society is to provide quality textbooks to Primary and Secondary School students of the schools across the State of Karnataka in accordance with the rules. Free textbooks are provided to 1st to 10th Standard students of all government schools and 9th & 10th class students of all aided schools as per the Government policy and to 1st to 8th Standard students of all aided schools as sponsored under the project of Sarva Shikshana Abhiyana (SSA), Karnataka.

5.5 The applicant states that it is pertinent to note that the Querist is governed by its Bye-Laws and Rules and Regulations, which state that the control of the Society, its functions and utilization of all funds is done with government approvals and exercised by government officials who form the Governing Council.

5.6 The Applicant also states that it has received rental income from a property owned by it, by leasing it to Karnataka Food and Civil Supplies Corporation Ltd.

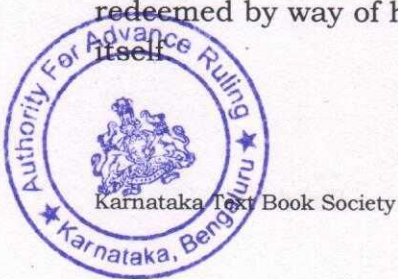
6. Applicant's Interpretation of Law:

6.1 The applicant submits that they fall within the definition of "governmental authority" as envisaged under the GST law, being setup by a Government Order and carrying out functions envisaged under Article 243G and 243W of the Constitution. Their primary function is to print and supply textbooks in accordance with the Karnataka State Government's Sarva Shikshana Abhiyana Policy, which is one of the State Government's public responsibilities.

6.2 Without prejudice to the foregoing, the Applicant could also be covered under the definition of "Government Entity" as per Section 2(zfa) of Notification 12/2017.

6.3 The applicant is of the view that the printing and supply of textbooks provided to government entity would be covered by Notification No.12/2017-Central Tax (Rate), as amended, as this is an integral part of the function of education, which is a function entrusted to the Panchayat under Article 243G as per Sl.No.17 of the 11th Schedule to the Constitution and therefore subject to 'Nil' rate of tax.

6.4 The amendment of Sl.No.27 of Notification No.11/2017 Central Tax (Rate) vide Notification No.06/2021 Central Tax (Rate) dated 30-09-2021 would not apply to the Applicant, as the provisions of Notification No.12/2017 Central Tax (Rate) would supersede it. Further, if GST were to be levied on the activities of government entities or governmental authorities, there would be a disproportionate input tax credit accumulation on the account of the State Government. This in turn would have to be redeemed by way of huge amounts of refunds from the State and Central Governments



6.5 The applicant is of the view that in respect of rental income, if the ultimate recipient of the income is the Department of Education, Government of Karnataka, then there would be no GST applicable on the rent received.

PERSONAL HEARING / PROCEEDINGS HELD ON 10-02-2022 & 14-03-2022

7. Shri Veerabasana Gouda S, Chartered Accountant and Duly Authorised Representative appeared for personal hearing proceedings held on 10-02-2022 & 14-03-2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. 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 matter 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.

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

10. The Applicant is engaged in free distribution of textbooks to all the students enrolled in Government and aided schools. The Applicant states that the contract for printing of text books is given to the other vendors by calling tenders for the same. This makes the applicant, the recipient of services and not the supplier of services.

11. The Applicant is receiving rental income by leasing a property to Karnataka Food and Civil Supplies Corporation Ltd and likes to know whether GST should be collected on this rental income. The Applicant, Karnataka Text Book Society, is a society registered under Karnataka Societies Registration Act 1960, is supplier and Karnataka Food and Civil Supplies Corporation Ltd, is a company incorporated under the Companies Act 1956, is the recipient.

12. Now we invite reference to Section 95(a) of the CGST Act 2017, which defines "advance ruling" to mean

a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;



Further, Section 95 (c) of the CGST Act 2017 defines "Applicant" as any person registered or desirous of obtaining registration under the said Act.

It could be easily inferred from above that any person registered or desirous of obtaining registration under CGST Act 2017 can seek advance ruling only in relation to the supply of goods or services or both being undertaken or proposed to be undertaken.

13. In the instant case, we observe that the Applicant, who has filed the application, is not the supplier of services related to printing of text books. Thus the Authority refrains itself from giving any ruling in respect of the same

14. As per Sl. No. 2(b) of schedule II of the CGST Act 2017, "any lease or letting out of the building including commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply". Since the Applicant has leased a property to Karnataka Food and Civil Supplies Corporation Ltd, the same is taxable at 9% CGST from 1.06.2017, as per Sl. No. 16 of Notification No.11/2017-Central Tax (Rate), dated 28.06.2017, which is reproduced below:

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
16	Heading 9972	Real estate services	9	-

15. The Applicant wants to know whether GST is applicable on sales of scrap. But the Applicant has not specified the exact nature/type of scrap. In the absence of the same, the question cannot be answered.

16. The Applicant wants to know whether he should retain his registration or it should be surrendered. Section 97(2) of CGST Act 2017 specifies the questions on which advance ruling to be sought and the same is reproduced below:

Section 97. Application for advance ruling.-

1)

2) *The question on which the advance ruling is sought under this Act, shall be in respect of,-*

(a) *classification of any goods or services or both;*

(b) *applicability of a notification issued under the provisions of this Act;*

(c) *determination of time and value of supply of goods or services or both;*

(d) *admissibility of input tax credit of tax paid or deemed to have been paid;*

(e) *determination of the liability to pay tax on any goods or services or both;*

(f) *whether applicant is required to be registered;*

(g) *whether any particular thing done by the applicant with respect to*



any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

This question on which advance ruling is sought by the applicant is not covered under section 97(2) of CGST Act 2017. Hence, the same cannot be answered.

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

RULING

- i. This question cannot be answered for the reasons mentioned supra.
- ii. Same as (i)
- iii. Same as (i)
- iv. GST should be collected on rental income from property leased by the Applicant to Karnataka Food & Civil Supplies Corporation Limited at 18%(9% CGST and 9% SGST) from 01.07.2017.
- v. The Applicant has not specified the exact nature/type of scrap. In the absence of the same, the question cannot be answered.
- vi. This authority refrains from giving any ruling in respect of the question that Whether the Applicant's GST registration should be retained or surrendered as the said question is beyond the jurisdiction of this authority, in terms of Section 97(2) of the CGST Act 2017.



(Dr. M.P. Ravi Prasad)

MEMBER

Karnataka Advance Ruling Authority
Place : Bengaluru 560 009



(T. Kiran Reddy)

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date : 01-07-2022

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 of Central Taxes, Bengaluru West GST Commissionerate, West Division-5, RANGE DWD 5, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-60, Bengaluru.
5. Office Folder.

