

**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 13/2023
Date : 20-03-2023**

Present:

1. Dr. M.P. Ravi Prasad

Additional Commissioner of Commercial Taxes Member (State)

2. Sri. Kiran Reddy T

Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. CAE FLIGHT TRAINING (INDIA) PRIVATE LIMITED, Sy. No. 26 & 27, IVC Road, Bandaramanahalli Village, Uganawadi Post, Devanahalli Taluk, Bangalore - 562110, Karnataka.
2.	GSTIN or User ID	29AADCC1248A1Z5
3.	Date of filing of Form GST ARA-01	08-11-2022
4.	Represented by	Sri. Syed M Peeran, Advocate & Authorised Representative
5.	Jurisdictional Authority – Centre	The Commissioner of Central Tax, Bangalore North Commissionerate, Bengaluru. (Range-AND8)
6.	Jurisdictional Authority – State	ACCT, LGSTO-153, Doddaballapur.
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 reference No. DC2911220010095 dated 03.11.2022.

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

M/s. CAE Flight Training (India) Private Limited (herein after referred to as 'Applicant'/'CAE'), Sy. No. 26 & 27, IVC Road, Bandaramanahalli Village, Uganawadi Post, Devanahalli Taluk, Bangalore - 562110, Karnataka., having GSTIN 29AADCC1248A1Z5, 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 stated that they are a Directorate General of Civil Aviation (DGCA) Approved Training Organisation (ATO) engaged in the business of providing type rating training on simulators for various fleet of aircraft to the trainees aspiring to obtain licenses and ratings from the DGCA; that the flight training services imparted by the applicant (ATO) enhances the skill and knowledge of trainees.

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

Whether the supply of the aircraft type rating 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 & Karnataka Goods and Service Tax.

4. **Admissibility of the Application :** The applicant claimed that the question on which advance rulings has been sought is with regard to “Determination of the liability to pay tax on any goods or services or both” which is covered under Sections 97(2)(e) of the CGST Act 2017 and hence the instant application is admissible.

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

5.1 CAE Group (with its ultimate parent company CAE Inc, Canada) has a worldwide presence and is engaged in manufacture and sale of aircraft simulation products, provision of aviation training and services. CAE Group is a world leader in providing simulation and modeling technologies and integrated training solutions for the civil aviation industry, defense forces and healthcare around the globe. CAE Inc. was founded in 1947 and is headquartered in Montreal, Canada. CAE Inc. has the broadest global reach of any simulation and training equipment and services company in the market.

5.2 CAE provides both classroom-based training about the operations of aircraft and cockpit-based training. The training includes both dry as well as wet training. Dry training is training on the simulator, wherein the person undergoing training is able to obtain usage time on the simulator, in order to undertake the necessary simulation exercises on his own accord. Such dry training is to be undergone by all pilots for a minimum of eight hours during a period of six months on a regular basis. On the other hand, wet training is a 35-day type rating training session, wherein classroom as well as cockpit training is provided by CAE’s trainers.



5.3 CAE is currently engaged in providing dry training to the Commercial Pilot License ('CPL') holders from various airlines, who have already been type rated for specific aircraft. Under dry training, airline companies are granted the right to use the full flight simulators for scheduled hours, with their pilots training under the guidance of the airline company's own instructors.

5.4 CAE is also engaged in type rating training to CPL holders who are not employed by any airlines if they approach directly for undergoing this training. CPL holders who are also on the rolls of various airlines on a stipend basis (as a trainee) and whose confirmation depends on getting aircraft-specific type rating certification can approach CAE for undergoing such training. CAE offers pilots the most advanced type rating training, using a practical and operational learning approach

5.5 These training services are provided in accordance with the training curriculum approved by the DGCA to the trainees for obtaining the licenses and ratings specified in Rule 38 of the Aircraft Rules, 1937, and for obtaining aircraft type ratings (hereinafter referred to as "**ATRs**") thereafter.

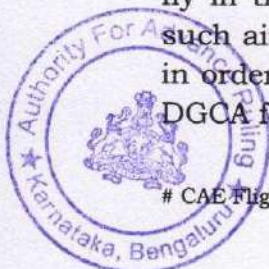
5.6 Under Section 5(2) of the Aircraft Act, 1934, the Central Government has been empowered to make Rules in respect of the licensing of persons engaged in the operation of aircrafts, and the manner and conditions of the issue or renewal of any such licenses. In pursuance of the provision of Section 5 of the Aircraft Act, the Aircraft Rules, 1937 have been notified.

5.7 Further, Section 5A of the Aircraft Act empowers the DGCA to issue directions in respect of the topics covered under Section 5(1) and 5(2). It is understood that Section 5A read with Rule 133A of the Aircraft Rules have empowered the DGCA to issue the Civil Aviation Requirements (hereinafter referred to as "**CARs**").

5.8 On the other hand, Rule 41B 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, and in accordance with a Training and Procedure Manual (hereinafter referred to as "**TPM**") and a Quality Assurance Manual approved by the DGCA. Copy of the TPM of the Applicant is enclosed as Annexure-1.

5.9 Further, other ATOs can be set up under Rule 133B of the Aircraft Rules for all aviation subjects except those covered under Rules 41B and 114.

5.10 Moreover, sub-section 4 of Section J of Schedule II to the Aircraft Rules provides that a licence shall indicate the types of aeroplane the holder is entitled to fly in the form of aircraft rating, and sub-section 5 provides for the extension of such aircraft rating to include an additional type of aeroplane 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.



5.11 For making an application for the extension of ATR, the following documents need to be submitted by the applicant:

- a. Duly certified log book 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.

Sample copies of the documents specified above have been collectively enclosed as Annexure-2.

5.12 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.

5.13 Against this background, it is noted that CAE also operates an ATO in Bengaluru, Karnataka wherein they are providing ATR extension training courses to pilots who are already holding the CPL(A), as per the DGCA approved syllabus and training manual, and in conjunction of various commercial airlines. Copy of the approval issued to the Applicant to operate as an ATO is enclosed as Annexure-3.

5.14 The following phases of instruction are covered in the ATR extension training courses provided by the Applicant, in respect of the ATR extension to the Airbus A320 and the Boeing 737NG:

- a. Ground school, both performance and technical, which is followed with an examination conducted by the Applicant itself;
- b. Flight simulation training in respect of the particular aircraft for which the ATR is to be applied for.

5.15 Further, it is notable that the pilots holding the CPL(A) have to mandatorily undergo the ATR extension 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 certain particular aircrafts that they fly in the ordinary course of business.

5.16 After completing the training with the Applicant, the pilots have to file an application for the extension of ATR, and the documents required to be submitted with the said application have to be issued by the ATO where the applicant has undergone the ATR extension training. Sample copies of the course completion certificates/graduation certificates issued by the Applicant have been enclosed as Annexure-4.

The Applicant charges course fee for providing the training Programme.



6. **Applicant's Interpretation of Law:**

6.1 **DETERMINATION OF THE TAXABILITY OF THE SUPPLY**

Relevant legal provisions

Supply

6.2 In order to determine the taxability of the training provided by the Applicant, it is important to examine whether there is a supply under the GST law.

6.3 For this purpose, reference can be made to the scope of supply defined under Section 7(1) of the CGST Act, wherein it has been provided that all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business is a supply.

6.4 Further reference is made to Section 2(102) of the CGST Act, which defines "services" as anything other than goods, money and securities, which provides a wide scope for the term "services" under the GST law.

6.5 Furthermore, the definition of "business" under Section 2(17) states that this term includes "*any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit*".

Taxability

6.6 Thereafter, in order to determine the taxability of the said services, reference has to be made 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*



6.7 Further reference is made to the Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017 (hereinafter referred to as “**Rate Notification**”) and the Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 (hereinafter referred to as “**Exemption Notification**”).

6.8 The relevant entry of the Rate Notification is produced hereunder:

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

6.9 The relevant entry of the Exemption Notification and the Explanation in that regard have been extracted below:

66	Heading 9992 or Heading 9963	<u>Services provided -</u> (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;”

6.10 In terms of the above entries, the education services classified under Heading 9992 will be chargeable to GST @ 18% under Sl. No. 30 of the Rate Notification, unless they fall under any of the exemptions provided under the Exemption Notification.

Composite supply

6.11 Reference is made to Section 2(30) of the CGST Act, wherein “composite supply” has been defined as “a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply”.

6.12 Further under Section 2(90), “principal supply” has been defined as “the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary”.



Applicability of Legal Provisions

Supply of services

6.13 As already stated, the Applicant is an ATO, which is providing ATR extension training to their trainees for obtaining various licenses and ratings issued by the DGCA.

6.14 With reference to the scope of "supply" under Section 7(1)(a) of the CGST Act and the definition of "services" under Section 2(102), as discussed hereinabove, the ATR extension training provided by the Applicant can be covered in the ambit of services, and if such services are provided by the Applicant in exchange for the fees payable by the trainees, the same is being made for consideration, as required under Section 7(1)(a).

6.15 With reference to the definition of "business" under Section 2(17), since a commercial activity is being undertaken by the Applicant in the instant case, it is submitted that the Applicant is providing the training services in the course or furtherance of business.

6.16 Thus, it is clear that there is a supply of the flying training services by the Applicant, in terms of Section 7(1)(a) of the CGST Act.

Taxability of the supply

6.17 In the present case, in order to determine the taxability of the aforesaid supply, reference can be made to Sl. No. 66(a) of the Exemption Notification, whereunder the question arises as to whether the training services provided by the Applicant to its trainees are in the nature of the services provided by an educational institution to its students.

6.18 Further reference is made to the Circular No. 85/04/2019-GST dated 01.01.2019 (hereinafter referred to as "**Circular**"), which clarifies that all the services provided by an educational institution to its students is considered to be exempt under the said entry. Thus, in the present case, the training services will be exempt from GST, in accordance with the aforesaid clarification, where the Applicant qualifies as an educational institution.

6.19 For the purpose of the Exemption Notification, it is noted that educational institutions have been defined to mean institutions providing services by way of:

- a. pre-school education and education up to higher secondary school or equivalent;
- b. education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; and
- c. education as a part of an approved vocational education course.



6.20 From amongst the three categories of educational institutions considered for exemption under the Exemption Notification, the ones providing education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force are relevant in the present case.

6.21 Thus, in order for the Applicant to be considered as an educational institution in terms of the Exemption Notification, they should be (i) providing education as a part of a curriculum, and (ii) the curriculum should be for obtaining a qualification recognised by any existing law.

6.22 In this context, the meaning of the term “qualification” can be understood from common parlance. 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 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.

6.23 Further, 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*”.

6.24 From these definitions, 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 education, and which confer upon a person the ability to undertake a particular profession or pursuit.

6.25 In the present case, it is submitted that the qualification being referred to is the completion of the training programme offered by the Applicant, where the flying experience required for applying for an ATR extension 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 a license, enabling them to pursue their profession as a pilot for specific aircrafts. Reason being that such a training programme is a qualification in legal terms is because it confers skills relating to flying aircrafts on the prospective pilots.

6.26 Thereafter, the meaning of the term “recognised by law”, which is not defined under the GST law, has to be examined. 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.

6.27 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.

6.28 Reference is also made to 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.

6.29 From a perusal of these decisions, it is clear 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.

That the completion of the training course is a qualification recognized by the law

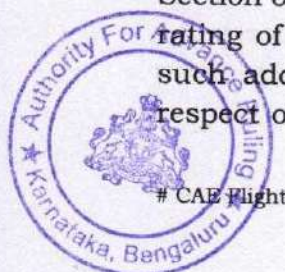
6.30 It is humbly submitted that the completion of the ATR extension training course provided by the Applicant is a qualification in terms of the Exemption Notification. The detailed submissions in this regard have been made hereunder.

6.31 For the purpose of determining the qualification in this scenario, we have already noted: (i) that the Applicant is providing ATR extension training courses, (ii) that the trainees of the Applicant need to hold a CPL(A) or such similar license before embarking upon the training provided by them, (iii) the stages of training provided in the institute, and (iv) the application that has to be made for the extension of ATR, for which documents issued and certified by the Applicant will be a requirement.

6.32 Rule 6 of the Aircraft Rules, 1937 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. Further, Rule 6A provides that no person shall fly as pilot of an aircraft, which is not included in the aircraft rating of his license.

6.33 Furthermore, Rule 41 of the said 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.

6.34 Thus, with reference to Rule 133B read with sub-sections 4 and 5 of Section J of Schedule II to the Aircraft Rules, it is clear that the 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 aircraft at a type rating training organisation approved by the



DGCA for this purpose (ATO), and make an application for the extension of the ATR in their CPL(A).

6.35 In pursuance of the above provisions, read in conjunction with Rule 133A of the Aircraft Rules, reference can be made to the CAR Section 7, Series D, Part IV dated 15.03.2015 ("**ATO CAR**"), which deals with ATOs for type rating of flight crew.

6.36 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;
- b. The approved QATO has to issue a TPM specifying its training programme, and such training programme has to be approved by the DGCA;
- c. The DGCA can authorise an ATO to conduct the examination required for the issuance of a license or rating, which shall be conducted by personnel authorized by the DGCA or 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 the training programme have been met, as prescribed by the DGCA;
- e. The DGCA also maintains a comprehensive and effective supervision over the ATO in order to ensure continuing compliance with the approval requirements.

6.37 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.

6.38 In this regard, it is noted that the ATR extension training can be undertaken either independently through an ATO, or after employment with a scheduled operator/airlines, wherein the operator/airlines send their pilots to a ATO for undertaking such training programmes.

6.39 From the above provisions, it is clear that not only is an ATO approved and supervised by the DGCA, but the training that it provides to its trainees also



has to be in accordance with the syllabus prescribed by the DGCA, and further approved by the DGCA, as a part of their TPM.

6.40 Further, on reading of the Aircraft Rules in conjunction with the ATO CAR and the ATR extension application form, it is clear that the documents issued by the ATO are required for submission along with such application.

6.41 In light of the above submissions, *firstly*, it is submitted that the completion of the training programme with the Applicant in accordance with the Aircraft Act, the Aircraft Rules, the ATO CAR and the Applicant's TPM is in the nature of "a qualification recognised by any law for the time being in force", since

- (i) the completion of such ATR extension training in accordance with the syllabus approved by the DGCA is recognised under the powers granted by the Aircraft Act, the Aircraft Rules and the ATO CAR, i.e. they are recognised by the law, and
- (ii) the completion of the ATR extension training and acquiring the requisite competency from a ATO are requirements for a person to work make an application to obtain an extension of ATR, which is required for such person to be employed as a pilot with any commercial airlines.

6.42 *Secondly*, the syllabus/training programme of the Applicant is approved by the DGCA for obtaining such ATR extension, and the training programme conducted by the Applicant to certify that the requisite competency has been acquired is in pursuance of such curriculum prescribed by the DGCA.

6.43 Thus, it is humbly submitted that the training provided by the Applicant forms education as a part of the curriculum approved by the DGCA and the same is provided for the purpose of completing the ATR extension training at an ATO, as required by the Aircraft Rules, i.e. a qualification recognised under the existing law, which has to be further used for applying for the CPL(A) and such other licenses.

6.44 In this regard, reference is made to the Service Tax case of **Indian Institute of Aircraft Engineering v. Union of India, 2013 (30) S.T.R. 689 (Del.)**, 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 approved by the DGCA. This is a training programme similar in nature and structure to the flying training provided by FTOs, and an analogy can be drawn from the same to the ATR extension training provided by the Applicant.

6.45 The appellant in this case has challenged the Instruction No. 137/132/2010-ST dated 11.05.2011 ("**ST Instruction**") issued during the Service Tax regime, where it was 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 available to the commercial training and coaching centres, and thereby, it was leviable to Service Tax.

6.46 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 is 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.

6.47 In the course of arriving at the decision, the High Court 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.

[Emphasis supplied]

6.48 On the basis of the above observations, it was held that where the DGCA approves the institute providing 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 the completion of such training at the institute as a qualification recognised by the law.

6.49 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.

6.50 Further, they held that the ST Instruction was based on 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.

6.51 The following is the relevant extract of the reasoning provided by the High Court:

25. We are of the view that the Act, the Rules and the CAR, having provided for grant of approval to such institutes and having laid down conditions for grant of such approval and having further provided for relaxation of one year in the minimum practical training required for taking the DGCA examination, have recognized the Course Completion Certificate and the qualification offered by such Institutes. The certificate/training/qualification offered by Institutes which are without approval of DGCA would not confer the benefit of such relaxation. Thus, the certificate/training/qualification offered by approved Institutes, has by the Act, Rules and the CAR been conferred some value in the eyes of law, even if it be only for the purpose of eligibility for obtaining ultimate licence/approval for certifying repair/maintenance/airworthiness of aircrafts. The Act, Rules and CAR distinguish an approved Institute from an unapproved one and a successful candidate from an approved institute would be entitled to enforce the right, conferred on him by the Act, Rules and CAR, to one year relaxation against the DGCA in a Court of law. The inference can only be one, that the Course Completion Certificate/training offered by such Institutes is recognized by law.

...

27. The reasoning in the impugned Instruction dated 11th May, 2011 that because the qualification awarded by the Institute does not culminate in automatic issuance of license/authorization by the DGCA to certify the repair, maintenance or airworthiness of an aircraft and for which purpose a further examination to be conducted by the DGCA is to be taken, in our view mixes up and confuses, 'qualification' with a license to practice on the basis of that qualification. An educational qualification recognized by law will not cease to be recognized by law merely because for practicing in the field to which the



qualification relates, a further examination held by a body regulating that field of practice is to be taken. Immediate instance can be given of the qualification in the field of law. Though by amendment of the recent years, the right to practice law on the basis of the said qualification has been made subject to clearing /passing a Bar Exam to be held by the Bar Council of India , the same does not make the qualification of law not recognized by law. The recognition accorded by the Act, Rules and CAR supra to the Course Completion Certificate issued by the Institutes as the petitioner cannot be withered away or ignored merely because the same does not automatically allow the holder of such qualification to certify the repair, maintenance or airworthiness of an aircraft and for which authorization a further examination to be conducted by the DGCA has to be passed/cleared.

[Emphasis supplied]

6.52 On the basis of this reasoning, the Delhi High Court 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.

6.53 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 in the order reported at **2014 (2) TMI 1320 - SC ORDER**. Further, they have admitted the special leave petition in 2017, as reported at **2017 (50) S.T.R. J154 (S.C.)**.

6.54 It is to be further noted that the Department withdrew 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.

6.55 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.)**.

6.56 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.

6.57 Applying the ratio and reasoning of the Delhi High Court in the case of **Indian Institute of Aircraft Engineering (supra)**, as well as of the Allahabad High Court in the case of **Garg Aviations (supra)**, it can be said that completing the training programme offered by the Applicant will, in itself, be considered as a qualification recognised under the law, and therefore, no GST would be chargeable on such training services provided.



6.58 In the context of the GST law, reference can also be made to the 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 (hereinafter referred to as “DGS”) approved maritime courses conducted by the Maritime Training Institutes (hereinafter referred to as “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.

6.59 In order to understand the reasoning behind this clarification, reference can be made to the Agenda Notes of the 37th GST Council Meeting dated 20.09.2019, wherein the issue of granting GST exemption to the DGS approved courses has been discussed.

6.60 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 **Indian Institute of Aircraft Engineering (supra)**, it has been clarified that such courses are exempt from GST.

6.61 From the said discussion in the 37th GST Council Meeting, it is evident that the intention of the GST Council is to exempt the training course itself, 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, like the Applicant.

Alternatively, the completion of the training course is education as a part of a curriculum for obtaining a qualification recognised by the law

6.62 Without prejudice to the above submissions, it is submitted that alternatively, the completion of the flying training course offered by the Applicant is in the nature of education as a part of a curriculum for obtaining a qualification recognized by the existing law, i.e. the endorsement on the CPL(A) by the DGCA in respect of the ATR extension achieved by the pilot.



6.63 In this regard, reference can be made to the ST Instruction, which clarified that the licenses issued by the DGCA are in the nature of a qualification recognised by the law.

6.64 Further reference can be made to the case of **Academy of Maritime Education and Training Trust v. Commissioner of Service Tax, 2014 (36) S.T.R. 1216 (Mad.)**, wherein the Madras High Court has relied upon the decision of the CESTAT in **Bombay Flying Club v. Commissioner of Service Tax, Mumbai, 2013 (29) S.T.R. 156 (Tri. - Mumbai)**, where the Tribunal held that the license issued by the DGCA is a qualification recognised by the law.

6.65 On the basis of the decision in **Bombay Flying Club (supra)**, it was held by the Madras High Court that the same principle will apply in case of courses provided by MTIs approved by the DGS.

6.66 In light of this decision of the ST Instruction and the said Madras High Court, it is submitted that where the DGCA endorsement on the CPL(A) is considered to be a qualification recognised by the law, the training imparted by the ATOs is a part of the curriculum prescribed by the DGCA for obtaining the said qualification.

That the Applicant is an educational institution

6.67 It has been noted that under the definition of “educational institution” under paragraph 2(y) of the Exemption Notification covers an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by the law.

6.68 In the present case, the question arises whether the Applicant qualifies to be an educational institution, as defined above.

6.69 Basis the above discussion with respect to whether the completion of the training courses offered by the applicant will qualify as a qualification recognised by the law and with reference to this definition, it is submitted that the Applicant is an educational institution under the GST law.

6.70 On the basis of our submissions that the completion of the flying training courses provided by the Applicant is in the nature of a qualification recognised by the law, it can be contended that the Applicant is an educational institution, since all the conditions provided in the aforementioned definition has been fulfilled:

- a. The training provided by the Applicant is in the nature of education services,
- b. Such education services are provided as a part of the curriculum prescribed and approved by the DGCA, and



- c. The completion of the training courses is a qualification recognised by the law.

6.71 On the other hand, without prejudice to the above, if we consider the alternative argument that the endorsement for extension of ATR on the CPL(A) by the DGCA is a qualification recognized by the law, the Applicant still qualifies as an educational institution, since they are providing education as a part of the curriculum prescribed and approved by the DGCA, thereby enabling their trainees to obtain the ATR extension from the DGCA.

6.72 Thus, consequent to following either of the arguments discussed in the foregoing paragraphs, the Applicant qualifies as an educational institution.

That the supply is exempt from levy of GST

6.73 Since the Applicant is an educational institution, and on the basis that they are providing services to their trainees, which are in the nature of other education services falling under the ambit of SAC 999294, it is respectfully submitted that such services will be covered under Sl. No. 66(a) of the Exemption Notification.

6.74 Consequently, since Sl. No. 66(a) of the Exemption Notification provides for an exemption with respect to the services provided by an educational institution to its students, faculty and staff, the training services provided by the Applicant to their trainees will qualify for such exemption, and no GST will be leviable thereon.

ISSUES REQUIRING ADVANCE RULING AND APPLICANT'S UNDERSTANDING

6.75 In the light of aforementioned submissions, the Applicant seeks a Ruling on the following questions from the Hon'ble AAR, and their interpretation of the questions is elaborated hereunder.

6.76 **Question 1:** Whether the supply of ATR extension training services provided by the Applicant to their trainees will be taxable or exempt under the GST law?

Applicant's Understanding: According to the Applicant, the ATR extension training services provided thereby are exempt from the levy of GST under Sl. No. 66(a) of the Exemption Notification, since the Applicant qualifies as an educational institution, and such services are provided by them to their own trainees. Further, the training services provided by the Applicant are covered under SAC 999294 as other education services.

6.77 **Question 2:** If such a supply is taxable, what will be the rate of GST applicable?



Applicant's Understanding: Since the ATR extension training services provided by the Applicant are exempt from the levy of GST, there is no requirement for determining the rate of GST applicable thereon, or for the discharge of GST on such services.

PERSONAL HEARING PROCEEDINGS HELD ON 12.12.2022

7. Sri. Syed M Peeran, Advocate & Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

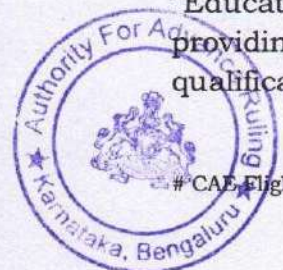
FINDINGS & DISCUSSION

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 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.

9. 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.

10. The Applicant, admitting that their activity is provision of Type Rating Training on simulators; they collect fee for the said activity which is consideration; the said activity is a commercial activity and hence the same are in the course or furtherance of business and thus the said activity amounts to supply in terms of Section 7(1)(a) of the CGST Act 2017 and the said activity falls under the ambit of definition of "Services" in terms of definition under Section 2(102) of the CGST Act 2017; the impugned services are classifiable under SAC 9992 94 as "Other Education & Training Services n.e.c.", covered under training for flying certificates & ship licences and contends that they qualify to be an Educational Institution and thus their services are exempted in terms of entry No.66(a) of Notification 12/2017-Central Tax (Rate) dated 28.06.2017, as amended.

11. In view of the foregoing, the issue before us to decide is whether the Applicant qualifies to be an educational institution and if so whether they are entitled to the benefit of entry number 66(a) of Notification 12/2017 or not. We observe that the services provided by an educational institution to its students, faculty and staff, covered under heading 9992 or 9963, are exempted unconditionally under entry number 66(a) of Notification 12/2017 supra. "Educational institution", for the purpose of this notification means an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force. Therefore an institution



becomes an Educational institution only when the services provided by them are (i) part of a curriculum, (ii) the services yield a qualification and (iii) the said qualification must be recognized by law for the time being in force. Thus we proceed to examine these issues one at a time.

12. It is observed that the Commercial Pilot's Licence (CPL) is granted to the concerned on undergoing the basic flight training at flying schools, which enables them to fly only small aircrafts. The CPL per se does not allow or permit the holder to fly commercial passenger aircrafts, unless the holder undergoes an aircraft specific training which is called "type rating training". Thus the holders of CPL are allowed to fly commercial passenger aircrafts only after undergoing the aircraft specific type rating training and after the licence is endorsed to that effect.

13. The Applicant with regards to the "qualification", quoting the definitions, of Advance Law Lexicon by P Ramanatha Aiyar i.e. "*the fitness or capacity of the party for a particular pursuit or profession, whether such capacity is natural or acquired through training*" and that of Black's Law Dictionary i.e. "*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*", submitted 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 education and which confer upon a person the ability to undertake a particular profession or pursuit. Further, in the instant case the impugned training program provides the flying experience that is required for applying for an ATR extension in terms of Schedule II to the Aircraft Rules.

14. The Applicant, with regards to the term "recognized by law", submitted that the said term is not defined under the GST Law and thus has to be examined; in the case of *Indian Institute of Aircraft Engineering Vs Union of India [2013 (30) STR 689 (Del)]* it is held 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 approved of some kind in 'law', the same would be exempt; the term 'recognise' is defined, in **Black's Law dictionary**, 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; Hon'ble Supreme Court in the case of *Narsingh Pratap Singh Dev Vs State of Orissa AIR 1964 SC 1793* 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; in the case of *R S Naik Vs 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 and basing on the above contended that a qualification recognized 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.



15. The applicant contended that the completion of ATR extension training in accordance with the syllabus approved by the DGCA is recognised under the powers granted by the Aircraft Act, the Aircraft Rules and the ATO CAR, i.e. they are recognised by the law; and that (i) the completion of the ATR extension training and (ii) acquiring the requisite competency from an ATO are requirements for a person to make an application to obtain an extension of ATR, which is required for such person to be employed as a pilot with any commercial airlines; that the syllabus/training programme of the Applicant is approved by the DGCA for obtaining such ATR extension, and the training programme conducted by the Applicant to certify that the requisite competency has been acquired is in pursuance of such curriculum prescribed by the DGCA and hence the completion of the training programme with the Applicant in accordance with the Aircraft Act, the Aircraft Rules, the ATO CAR and the Applicant's TPM is in the nature of "a qualification recognised by any law for the time being in force".

16. In view of the foregoing the applicant, concluding their interpretation of law, submitted that the training provided by the Applicant forms education as a part of the curriculum approved by the DGCA and the same is provided for the purpose of completing the ATR extension training at an ATO, as required by the Aircraft Rules, i.e. a qualification recognised under the existing law, which has to be further used for applying for the CPL(A) and such other licenses.

17. It is observed from the facts of the case that the applicant undertakes the supply of the ATR extension training services to their trainees as per the agreement. The pilots holding the CPL(A) have to undergo the ATR extension training for the specific type of aircraft(s) so as to fly the said aircraft with the commercial airlines. Thus they approach the applicant either directly on their own or through the airlines with whom they are employed (on stipend basis as trainee or otherwise). The applicant institute is approved by the DGCA to conduct aircraft-specific type rating training courses, as per the curriculum approved by the DGCA. The applicant issues a course completion certificate once the type rating training is completed. The pilots have to file an application with the DGCA, for extension of ATR, along with the required documents amongst which the course completion certificate is the one which evidences that the said pilot has undergone the training. Therefore the specific issue of whether the training and course completion certificate issued thereafter amount to a qualification recognized by any law or not has to be decided.

18. We find that in the same facts and on the same issue for the same applicant company, advance ruling AAR/ST/1/2010 dated 4.2.2010 was given in service tax regime. We observe that the law, under which ruling was given, has changed but the facts and issues raised before the subject authority remains the same i.e. whether the services provided by the applicant is part of a curriculum for obtaining a qualification recognized by any law for the time being in force. Thus we intend to borrow certain facts and inferences from the said ruling.



19. It is learnt that the Director (Training & Licencing), DGCA, vide letter dated 17-12-2009 clarified that "The certificate issued by CAE Flight Training (India) Pvt. Ltd., Bangalore enables the Commercial Pilot to appear in the written examination conducted by DGCA for issue of Aircraft Type Rating pursuant to the requirement of series "J" and "M" of Schedule II of the Aircraft Rules, 1937. However, there is no statutory provision directly requiring issuance of such a certificate by the training organization"

20. Further it is also learnt that the Chief Flight Operation Inspector, DGCA vide clarification dated 14-12-2009 stated that "This is to clarify that the 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 Licencing) in order to obtain extension of aircraft type rating on his professional Pilot's licence, which is the basic requirement to render him eligible for employment as a pilot".

21. In view of the foregoing, there is no statutory requirement for the Course Completion Certificate by DGCA and that such a certificate only enables the trainee pilot to apply to DGCA for appearing in the examination conducted by it. In fact the examination conducted by the DGCA is the statutory requirement and not any examination by the applicant. The applicant is merely coaching / preparing the candidates- for this Type Rating Examination.

22. The applicant submitted that the trainees acquire required flying experience, for applying for an ATR extension in terms of Schedule II to the Aircraft Rules, on completion of their training and thus the trainees become qualified to appear for the examination conducted by the DGCA. The DGCA endorses the licences of the trainees who are successful through the said DGCA exam to the effect of type rating of specific aircraft, so as to enable them to pursue their profession as pilot for specific aircrafts. Therefore the applicant contends that the training program confers skills relating to flying specific aircrafts and thus the completion of the said training program itself becomes a qualification. This contention is not acceptable as the DGCA is not endorsing the licences of the trainees, on the basis of course completion certificate issued by the applicant, but conducts separate examination. In fact the course completion certificate doesn't have universal acceptability but is merely a pre-requisite document for submission of the ATR extension application form, prescribed by DGCA, only to show that the required competency has been acquired by the said trainee. Pilots requiring an endorsement in their Licence for permission to fly an aircraft for which they have undergone type rating training are required to fill up this form. The format has the instructions to the applicant for filing the application form, which specify the guidelines for filling up each Serial No. of the form and the list of documents which are required to be enclosed with the form and the documents required to be enclosed are to be certified / signed by "approved examiner". The instructions do not require these documents to be certified by the training institutes / establishments.



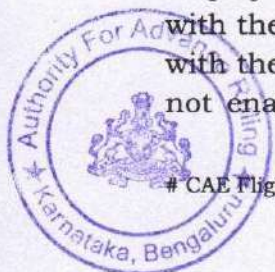
23. The applicant claimed that undergoing Type Rating Training is mandatory as per Rule 6A of the Aircraft Rules, 1937. However, it is observed that the said rule prohibits a person from flying an aircraft as pilot unless the said aircraft is included or entered in his licence. There is no specific mention of training in Rule 6A though the training and passing of the prescribed examination is a step in aid for such aircraft rating.

24. Further, Para 5 of Section J, Schedule II of the Aircraft Rules, 1937 specifies the evidence required to be produced by an applicant for extension of Aircraft Rating. The said provision requires the applicant to produce evidence of having passed written examination in subjects pertaining to aircraft and engines and of having gained experience in flying the aircraft or on approved fling simulators etc.,

25. The applicant claimed that the examination would be conducted by DGCA approved examiner or personnel designated by them in accordance with DGCA proved criteria; the applicant functions as a self contained institute which would not only impart skills to pilots seeking aircraft rating but also conduct the examination based on syllabus of DGCA. The results would then be recognized by DGCA in the form of endorsement of aircraft rating in the licence. However, this claim is incorrect as the examination is conducted by the DGCA and the results also are declared by the DGCA. Further, as per the clarification given by the DGCA, the candidates trained by the applicant would be examined by DGCA approved examiners and not the applicant. This clarification appears to be in consonance with the rule position. Thus the course completion certificate given by the applicant doesn't attain recognition under the Rules.

26. The candidates who receive training from the applicant would be subjected to examination / test by the DGCA approved examiner. It is based on the results of these examinations and fulfilment of other prescribed conditions that the DGCA would endorse the type rating of aircraft in the licence of the trainee pilots. Therefore, the course completion certificate issued by the applicant can't said to be a certificate which is recognized by law for the time being in force. The fact that such a certificate may be taken into account by the DGCA approved examiner for the purpose of evaluating the experience and content of training will not make it statutory in character.

27. Now we proceed to examine whether the Type Rating Training by the applicant enables the trainee to seek employment or undertake self employment directly after such training or coaching. If the trainee can seek employment directly after the training then it can be considered that the training of the institute results into a qualification. Further 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. Thus a person can fly an aircraft and consequently seek employment with an Airlines company only after his licence has been endorsed with the aircraft rating for the said aircraft by the DGCA. Mere undergoing training with the applicant without endorsement of the licence by a 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.

28. In view of the foregoing it is very clear that the applicant imparts training to the trainees and thus provides ATR extension services. On completion of the said training the applicant issues course completion certificate, which is a pre-requisite document for preferring application before the DGCA, who conducts the examination through an approved examiner and on passing of the said exam the DGCA records the said ATR extension in the CPL of the pilots concerned. Thus the training of the applicant does not result into any qualification and also is not recognized by the law.

29. The applicant placed reliance on the service tax case of Indian Institute of Aircraft Engineering Vs. Union of India 2013 and in the said case the petitioner was an Aircraft Maintenance Engineering Training School, approved by the DGCA, for providing Aircraft Maintenance Engineering (AME) training and also to conduct examination as per the course approved by the DGCA. These facts are different from the facts of the case at hand in as much that the applicant is not empowered to conduct the examination but imparts training and issues completion certificate, which serves the purpose of a document required for filing the application with the DGCA so as to attend the examination. Thus the said case law is not applicable to the facts and circumstances of the case in hand.

30. The applicant also referred the Circular No.117/36/2019-GST dated 11.10.2019 wherein a clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India to the effect that the Maritime Training Institutes and their training courses are approved by the Director General of Shipping and are recognized 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 thus the said institutes are educational institutions. It is observed that the said institutes are empowered to impart training and certification of the said training in terms of Merchant Shipping Act, 1958 read with relevant rules supra, whereas in the instant case the Aircraft Act and the Aircraft rules did not approve the applicant institute for conduction of examination that yields to a qualification, but only to issue course completion certificate which is useful only as one of the enclosure to file the application for the Type Rating examination conducted by the DGCA. Further, there is no circular applicable to the said Type Rating training, being given by the applicant and thus the Circular dated 11.10.2019 relevant to Shipping courses is not applicant to the instant case.

31. Therefore the impugned services of the applicant are not covered under entry number 66(a) of the Notification 12/2017-Central Tax (Rate) dated 28-06-2017, as amended and hence do not qualify for exemption. Thus the said services are exigible to GST.



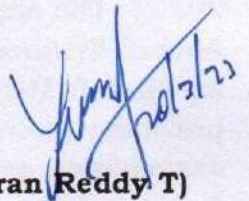
32. In view of the foregoing, we pass the following

RULING

The supply of the aircraft type rating 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, do not result into a qualification as the applicant imparts training and issues only course completion certificate and thus the impugned services are not covered under Sl. No. 66 (a) of the Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017 and thus are exigible to GST under the CGST / KGST Act 2017.


(Dr. M.P. Ravi Prasad)
Member
MEMBER

Karnataka Advance Ruling Authority
Place : Bengaluru,
Bengaluru - 560 009
Date : 20-03-2023
To,


(Kiran Reddy T)
Member

MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009

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 Commissioner of Central Tax, Bangalore North Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-153, Doddaballapur.
5. Office Folder.

