

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Dr Tanisha Dutta, Joint Commissioner, CGST & CX Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	SARASWATY PRESS LIMITED
Address	11, B T ROAD, BELGHARIA, Pin code –700056
GSTIN	19AAECS6328J1ZZ
Case Number	WBAAR 17 of 2023
ARN	AD1906230111678
Date of application	June 28, 2023
Jurisdictional Authority (State)	LARGE TAXPAYER UNIT
Jurisdictional Authority (Central)	Khardah Division, Kolkata North Commissionerate
Order number and date	20/WBAAR/2023-24 dated 13.09.2023
Applicant's representative heard	Mr. Amit Das, Authorized Representative

1.1 At the outset, we would like to make it clear that the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for

certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant is an entity engaged in the business of printing including question papers of educational institutions, which requires maintenance of secrecy, accuracy and timely delivery of the material. The applicant has been undertaking the job of printing of question papers for different Universities of various states and charging GST on invoices raised for such services. All its clients are primarily Government Based- both Central and State Governments.

1.3 The applicant has made this application under sub section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01 as to whether :

1. The service of printing question papers for the conduct of examinations to educational institutions, supplied by the applicant will be covered by Sr. No 66 of the Notification No. 12/2017-Central tax (rate) as amended, and Notification No. 12/2017-State tax (rate) as amended, and whether such supply of services shall be treated as exempt supply.
2. The GST previously charged on invoices to educational institutions for printing question papers for examinations is to be refunded.
3. Whether the applicant is eligible to claim the refund of GST collected on such invoices and deposit to the exchequer of the GST relating to the printing of question papers following the principle of unjust enrichment u/s 54(5) and 54(8).

1.4 Section 97 of the GST Act deals with application for advance ruling. As per sub-section (1) of section 97, an applicant may make an application to obtain an advance ruling stating the questions on which the ruling is sought. Further, the questions on which advance ruling can be sought for shall be in respect of matters specified under clause (a) to (g) of sub-section (2) of section 97. In course of hearing under sub-section (20) of section 98 of the GST Act, it has been brought to the notice to the applicant's authorised representative that amongst the aforesaid questions on which the advance ruling is sought for, only the question at point no. 1 is found to be covered under clause (e) of sub-

section (2) of section 97 of the GST Act. Questions raised by the applicant at point no. 2 and 3 respectively which are related to refund of tax paid by the applicant are out of the ambit of advance ruling since the subject matter is found not to be covered by any of the clauses from (a) to (g) of sub-section (2) of section 97 of the GST Act. The authorised representative of the applicant admits the aforesaid observation.

1.5 The applicant states that the question raised in the application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.6 The application is, therefore, admitted only in respect of the question raised at point 1 of Sl. No. 14 of FORM GST ARA 01.

Submission of the applicant

2.1 The applicant submits that one of his clients - Jharkhand University of Technology is of the view that the services provided by the applicant to them by way of printing of question paper to conduct examination is exempted from payment of tax in terms of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended vide Notification No. 2/2018 – Central Tax (Rate) dated 25.01.2018 and therefore the aforesaid client, by way of a letter ref No: 507-1015/2023/1040 dated 31/5/2023, has asked for a refund of integrated tax charged by the applicant on supply of such services.

2.2 In terms of entry at serial no 66 of the aforesaid Notification and subsequent clarification given in Circular No. 151/07/2021-GST dated 17.06.2021 issued by the Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India that supply of input services by way of printing of question papers, admit card to the university is not subject to tax and the university is not required to pay GST on such supply of input services to conduct such examination.

2.3 The applicant has also been requested not to charge GST in all future bills/ invoices for the services supplied for the aforesaid purposes. Further, a refund of Rs. 12,90,814/- paid as GST by the University towards the services supplied by way of printing of question papers has also been claimed.

Statement containing applicant's interpretation of law:

2.4 Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes predominant element of a

composite supply and to which any other supply forming part of that composite supply is ancillary.

2.5 In case of printing books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing being provided by the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

2.6 As per the applicant, their product is covered by Section X Chapter 4911 which covers 'Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans' under supply of service.

2.7 As the usage rights of the manuscript material of question are owned by the Education Boards/ Educational Institutes and the physical inputs used for printing belong to the applicant, supply of printing is the principal supply in this case and the same would constitute supply of service falling under the heading 9989 of the scheme of classification of services. Accordingly, pursuant to Sr. No. 27(i) of Notification No. 11/2017-Central Tax (Rate), as amended, and Notification No. 11/2017-State Tax (Rate), as amended, they are charging GST @ of 18% (9%+ 9%).

2.8 However, as per Sr. No. 66(b) (iv) of Notification No. 12/2017-Central Tax (Rate), as amended, services provided to an educational institution, by way of printing of question paper for conducting examination by such institution is exempted from payment of Goods and Services Tax.

2.9 The Government of India, Ministry of Finance, Department of Revenue, Tax Research Unit, vide Circular No. 151/7/2021 GST dated 17.06.2021, has issued clarification regarding GST on the supply of various services by Central and State Board (such as National Board of Examination)- that input services provided to an educational institution, relating to admission to, or conduct of examination is also exempt from GST [sl. No. 66 (b) (iv)-12/2017-CT (R)].

Educational institutions are defined at 2(y) in the said Notification as follows-

- "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,*

2.10 As per the aforesaid Circular, the Central and State Board provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions, it carries out all functions as are normally carried out by the Central or State Educational Boards and thus the Jharkhand University of Technology falls under the ambit of an Educational institution.

Submission of the Revenue

The jurisdictional officer, in a written submission sent through e-mail, has submitted as follows:

3.1 In respect of the question raised in the instant case by the applicant, it appears that exemption is applicable in case of service of printing question papers for conduct of examinations to educational institutions in terms of Sr. No. 66(b)(iv) of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended vide Notification No 02/2018 – Central Tax (Rate) w.e.f. 25.01.2018 and Circular No. 151/07/2021-GST dated 17.06.2021, provided, the afore-mentioned educational institutions fall under ‘(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 and (iii) education as a part of an approved vocational education course;’, as defined in Notification No. 12/2017-CT(R).

3.2 As mentioned above, the amendment in case of exemption to the services ‘relating to admission to, or conduct of examination by, such institution up to higher secondary’ was brought in prospectively from 25.01.2018 and hence, question of refund does not arise for tax charged previously on invoices to educational institutions for printing question papers.

[Reliance is placed on advance ruling given in case of Management & Computer Consultants dated 13.09.2021]

Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorized representative of the applicant during the course of personal hearing. We have also considered the submission made by the officer concerned from the revenue.

4.2 The issue involved in the instant case is to decide whether the supply of services as detailed by the applicant can be treated as services to an educational institution relating to

conduct of examination by such institution so as to get covered under serial number 66 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No.02/2018-Central Tax (Rate) dated 25.01.2018 [West Bengal State Notification No. 1136 FT. dated 28 06.2017 and Notification No. 130 FT. dated 25.01.2018 respectively],

4.3 The applicant, in his submission, has stated that the said Notification provides definition for 'educational institution'. We further find that following explanation has been inserted vide Notification No. 14/2018 – Central Tax (Rate) dated 26.07.2018 [corresponding West Bengal State Notification No. 1030 FT. dated 27.07.2018]:

"(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institutions for the limited purpose of providing services by way of conduct of examination to the students."

4.4 Furthermore, Circular No 151/07/2021-GST dated 17.06.2021 (CBIC-190354/36/2021-TRU Section-CBEC) has been issued for the purpose of clarification regarding GST on supply of various services by Central and State Boards (such as National Board of Examination) wherein it has been stated that "Central and State Educational Boards" are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE is an 'Educational Institution' in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.

Para 2 of the said circular reads as follows:

Illustratively, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by Central or state educational Boards and is thus a Central Educational Board.

4.5 It is noticed from the documents submitted that the applicant has been awarded agreement/work order by University namely Jharkhand University of Technology. There is no dispute that this University as referred above is regarded as 'educational institution'.

4.6 We now take the issue to decide whether the activities undertaken by the applicant against agreement/ work orders issued to him shall be treated as services relating to conduct of examination or not. It has already been stated that the applicant has undertaken activities like confidential printing of question papers of different educational

institutions and other related examination activities for universities. The process of conducting examination includes pre-examination works, the examination itself and post-examination works. The said activities, as we opine, can be treated as services relating to conduct of examination.

4.7 For reasons as discussed above, we are of the view that the supply of services for printing of question papers being provided by the applicant to different universities for conducting examinations shall get covered under serial number 66 of the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017/West Bengal State Notification No. 1136 FT. dated 28.06.2017, as amended.

4.8 It has already been stated that the instant application is admitted only in respect of question raised by the applicant at point no. 1 of serial No. 14 of FORM GST ARA 01. We therefore pronounce the ruling on question raised at point 1 of the application only as under:

RULING

The services of printing question papers for conduct of examinations to educational institutions, supplied by the applicant will be covered by Sl. No 66 of the Notification No. 12/2017-Central tax (Rate) as amended, and therefore shall be treated as exempt supply.

(Dr TANISHA DUTTA)
Member
West Bengal Authority for Advance Ruling

(JOYJIT BANIK)
Member
West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 13th September, 2023

To,

Saraswati Press Limited
11, B T ROAD, BELGHARIA, Pincode –700056

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-700107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Joint Commissioner, Large Taxpayer Unit, 14, Beliaghata Road, Kolkata-700015
- (4) The Commissioner, Kolkata North Commissionerate, CGST & CX, 1st Floor, 180, Shantipally, R.B.Connector, Kolkata-700107
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