

**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 12/2024**

**Date : 15-04-2024**

Present:

1. **Dr. M.P. Ravi Prasad**

Additional Commissioner of Commercial Taxes

. . . . Member (State)

2. **Sri. Kiran Reddy T**

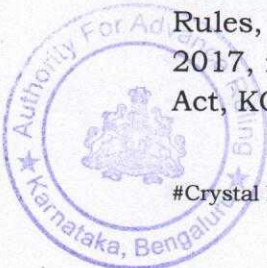
Additional Commissioner of Customs & Indirect Taxes . . . .

Member (Central)

|    |                                                                       |                                                                                                                                                                             |
|----|-----------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Name and address of the applicant                                     | M/s. CRYSTAL INFOSYSTEMS AND SERVICES, #5597, N S S Complex, 2 <sup>nd</sup> Floor, B H Road, Nelamangala, Bengaluru – 562 123, Karnataka.                                  |
| 2. | GSTIN or User ID                                                      | 29ABCPV2897B1ZB                                                                                                                                                             |
| 3. | Date of filing of Form GST ARA-01                                     | 06-01-2024                                                                                                                                                                  |
| 4. | Represented by                                                        | Sri. Viyayakumar, Proprietor                                                                                                                                                |
| 5. | Jurisdictional Authority – Centre                                     | The Commissioner of Central Tax, Bengaluru North West Commissionerate, Bengaluru.                                                                                           |
| 6. | <b>Jurisdictional Authority – State</b>                               | ACCT, LGSTO-65, Bengaluru.                                                                                                                                                  |
| 7. | Whether the payment of fees discharged and if yes, the amount and CIN | Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act through debit from Electronic Cash Ledger vide reference No. DC2912230042874 dated 12.12.2023. |

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

M/s. Crystal Infosystems and Services (herein after referred to as 'Applicant'), #5597, N S S Complex, 2<sup>nd</sup> Floor, B H Road, Nelamangala, Bengaluru – 562 123, Karnataka, having GSTIN 29ABCPV2897B1ZB, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act, KGST Act.





2. The applicant stated that they provide teachers and Lecturers to BBMP, Bengaluru on outsourcing basis; it is a pure service and no goods are associated with the service; they are billing with 18% GST but the BBMP is not paying GST on the said bills on claiming that the service is of pure service and the BBMP is a municipality constituted with Government of Karnataka, in relation to functions covered under 11<sup>th</sup> & 12<sup>th</sup> schedule to the constitution of India in terms of Article 243W and 243G of the constitution of India and hence the said services are exempted under entry No.3 and 3A of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended.

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

a. Whether the contract (excluding works contract service or other composite supplies involving supply of any goods) we are providing as 'supply of Teachers and Lecturers to BBMP schools and colleges on outsourcing basis' are exempted from both CGST and SGST?

b. Can we raise the bills to BBMP without CGST and SGST?

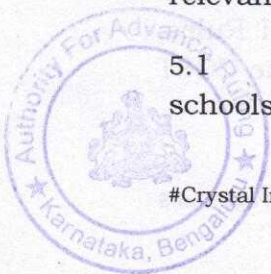
c. Shall we claim the payment for our services received from BBMP towards 'supply of Teachers and Lecturers to BBMP schools and colleges on outsourcing basis' as EXEMPTED SUPPLIES in our regular GST filing and 'CRYSTAL INFOSYSTEMS AND SERVICES GSTIN 29ABCPV2897BZB' is not liable to pay CGST and SGST to the Government of India?

d. In order to ascertain taxability under GST for supply of teachers/Lecturers to the schools of BBMP on outsourced basis?

4. **Admissibility of the Application** : The applicant claimed that the questions on which advance rulings have been sought are with regard to "classification of any goods or services or both"; "Applicability of a notification issued under the provisions of the CGST Act 2017" and "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 service or both, within the meaning of that term", which are covered under Sections 97(2) (a), (b) and (g) respectively of the CGST Act 2017. It is observed that only one question is with regard to applicability of notification and the remaining are not covered under the issues mentioned under Section 97(2) of the CGST Act 2017. Thus only one question, with regard to applicability of a notification issued under the provisions of the CGST Act 2017 to the services being provided by the applicant to BBMP, is admissible under Section 97(2)(b) supra and accordingly the instant application is **partially admissible**.

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

5.1 The applicant is involved in supply of Teachers and Lecturers to BBMP schools and colleges on outsourcing basis, which is a pure service as no goods are





associated with the supply. They are charging 18% GST at present, but the recipient BBMP, being a Municipality (Municipal Corporation), is not paying GST on the basis that the service is of pure nature, BBMP is a Municipality constituted by Government of Karnataka and the service is in relation to the functions covered under 12<sup>th</sup> Schedule, Article 243 W of Constitution of India and thus the services are exempted under entry number 3 or 3A of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended. Thus the instant application is filed.

**6. Applicant's Interpretation of Law:** The applicant furnished their interpretation of law in respect of the question inter alia stating as under:

6.1 The services being provided are of nature of pure services, the recipient of services BBMP is a Municipality constituted by Government of Karnataka and the service is in relation to the functions covered under 12<sup>th</sup> Schedule, Article 243 W of Constitution of India and thus the services are exempted under entry number 3 or 3A of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended.

6.2 The applicant furnished the copy of BBMP vide their letter dated 19.12.2023, addressed to them, wherein clarification on applicability of GST on supply of teachers/lecturers to schools/colleges run by BBMP on outsource basis, has been given on the basis of the following grounds:

- a) The BBMP is a division in the Bruhat Bengaluru Mahanagara Palike which is Bangalore City Corporation, established under Karnataka Municipal Act 1976 and now working under The Bruhat Bengaluru Mahanagara Palike Act 2020. The constitution of BBMP is a municipality by virtue of Article 243 Q of the Constitution of India and thus to be considered as Municipality as defined under Article 243 P of the Constitution of India and hence it qualify to be a Local Authority as defined under Section 2(69) of the CGST Act 2017.
- b) The BBMP is engaged in running schools and colleges as one of its functions entrusted to it by Government of Karnataka, for which BBMP receives the services of supply of teachers/lecturers on outsource basis from the applicant, for providing education to the students who are general public.
- c) The BBMP is providing education by running the colleges / schools which is in relation to the functions entrusted under Article 243 W of the Constitution of India and thus the receipt of service of supply of teachers/lecturers to the schools/colleges of BBMP, on outsource basis is exempted in terms of entry number 3 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended.
- d) Section 51 of the CGST Act 2017 that deals with tax deduction at source is not applicable to the instant case as the tax on the services being received by the BBMP are exempted.





7. The Joint Commissioner of Central Tax, Bengaluru North-West Commissionerate, Bengaluru vide letter bearing reference *E-office Legal BNW* dated 07.02.2024 offered comments in respect of the instant application *inter-alia* stating as under:

7.1 The applicant sought advance ruling as to whether the supply of teachers and lecturers to BBMP schools and colleges are exempt from GST, on claiming that the recipient of services BBMP is refusing to pay GST on the basis that the said services are exempted as the said services have been rendered to Municipality under Article 243 W of the Constitution of India.

7.2 Article 243 W of the Constitution of India, under 12<sup>th</sup> Schedule, contains 18 items and the manpower supply of services of supply of teachers/Lecturers to BBMP are not provided by way of any activity in relation to any function entrusted to a Municipality under Article 243 W of the constitution and hence the said services attract GST @ 18%.

#### **PERSONAL HEARING PROCEEDINGS HELD ON 23.01.2024**

8. Sri. Viyayakumar, Proprietor of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

#### **FINDINGS & DISCUSSION**

9. 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.

10. 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.

11. The applicant submitted that they are involved in supply of Teachers and Lecturers to BBMP schools and colleges on outsourcing basis; the said service is of nature of pure service as no goods are associated with the supply; the recipient of said service i.e. BBMP, being a Municipality (Municipal Corporation) constituted by Government of Karnataka qualifies to be a local authority; the service is in relation to the functions of the municipality covered under 12<sup>th</sup> Schedule, Article 243 W of Constitution of India and thus the services are exempted under entry number 3 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended.



12. In view of the above, the issue before us to examine / decide is whether the exemption under entry number 3 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended is applicable to the instant case or not. In this regard we invite reference to the entry supra, which is as under:

| Sl. No. | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services                                                                                                                                                                                                                                                                                                                                                                                                     | Rate (per cent.) | Condition |
|---------|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------|
| (1)     | (2)                                                       | (3)                                                                                                                                                                                                                                                                                                                                                                                                                         | (4)              | (5)       |
| 3       | Chapter 99                                                | Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution. | Nil              | Nil       |

It could be seen from the above that the following three conditions have to be fulfilled in order to apply the exemption supra.

- Whether the impugned services are in the nature of Pure services (excluding works contract service or other composite supplies involving supply of any goods)?
- Whether the said services are provided to the Central Government, State Government or Union territory or local authority?
- Whether the impugned services are provided by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution?

13. Now we proceed to examine the fulfillment of above conditions one by one. The applicant is involved in supply of teachers / lecturers to the schools/colleges run by BBMP. There is no supply of goods involved in provision of service. Further the impugned service is neither a works contract service nor a composite supply of service involving supply of any goods. Thus the impugned service qualifies to be a pure service.

14. Now we proceed to examine the second condition as to whether the recipient BBMP qualifies to be a local authority or not. In this regard we invite reference to



Section 2(69)(b) of CGST/KGST Act 2017 which defines “Local Authority” to mean “a Municipality as defined in clause (e) of article 243P of the Constitution”.

The impugned services are being supplied to the BBMP, a division in the Bruhat Bengaluru Mahanagara Palike which is Bangalore City Corporation, established under Karnataka Municipal Act 1976 and now working under The Bruhat Bengaluru Mahanagara Palike Act 2020. The constitution of BBMP is a municipality by virtue of Article 243 Q of the Constitution of India and thus to be considered as Municipality as defined under Article 243 P of the Constitution of India. Thus it qualifies to be a Local Authority as defined under Section 2(69) of the CGST Act 2017.

15. Now we proceed to examine whether the impugned services are provided by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution or not. In this regard we invite reference to the list of functions entrusted to municipality under article 243 W of the constitution, which is as under:

*243W : Powers, authority and responsibilities of Municipalities, etc Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow*

*(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law, may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to*

*(i) the preparation of plans for economic development and social justice;*

*(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;*

*There are 18 items in the twelfth schedule of the Constitution which are as below:*

Twelfth Schedule [Article 243W of the Constitution (Seventy-Fourth Amendment) Act, 1992]

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.



9. *Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.*
10. *Slum improvement and upgradation.*
11. *Urban poverty alleviation.*
12. *Provision of urban amenities and facilities such as parks, gardens, playgrounds.*
13. **Promotion of cultural, educational and aesthetic aspects.**
14. *Burials and burial grounds; cremations, cremation grounds and electric crematoriums.*
15. *Cattle pounds; prevention of cruelty to animals.*
16. *Vital statistics including registration of births and deaths.*
17. *Public amenities including street lighting, parking lots, bus stops and public conveniences.*
18. *Regulation of slaughter houses and tanneries.*

It could be seen from the list supra that the functions entrusted to the municipalities at Sl.No.13 are **Promotion of cultural, educational and aesthetic aspects**, from which it can be inferred that promotion of educational aspects are part of the functions. There are four main aspects of education i.e cognitive, affective, psychomotor and social. Each one contributes to a student's overall development and learning. Cognitive development is all about acquiring knowledge and understanding concepts. Thus the impugned services of supply of teachers/lecturers is meant for imparting education to the students and hence it is part of promotion of educational aspects. Thus the impugned services are provided by way of an activity in relation to the function of **promotion of educational aspects** entrusted to the Municipality (BBMP) under article 243W of the Constitution.

16. The remaining questions raised by the applicant do not fall under the issues covered under Section 97(2) of the CGST Act 2017 which specifies the issues in respect which the questions shall be asked seeking advance ruling and the said section is as under:

97 (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

17. It could be seen from the above that the authority can't give any decision on the issues that are not covered under Section 97(2) of the CGST Act 2017. In the instant case the questions on which advance ruling has been sought for, by the applicant, are not covered under the issues mentioned under Section 97(2) supra. Thus no rulings are given in respect of the remaining questions i.e. questions 2 to 4 as they are not covered under the issues specified under Section 97(2) of the CGST/KGST Act 2017.

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

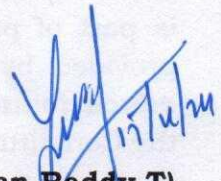
### **RULING**

*The service of supply of teachers/lecturers to schools/colleges run by BBMP, on outsource basis is covered under pure services being provided to a local authority (BBMP) by way of an activity in relation to a function "Promoting educational aspects" entrusted to a Municipality under article 243W of the Constitution of India and hence are exempted in terms of entry number 3 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017, as amended.*

  
(Dr. M.P. Ravi Prasad)

Member

Karnataka Advance Ruling Authority  
Place : Bengaluru,  
Date : 15-04-2023

  
(Kiran Reddy T)  
Member

Karnataka Advance Ruling Authority  
Bengaluru-560 009

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 Commissioner of Central Tax, Bangalore North West Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-65, Bengaluru.
5. Office Folder.

