

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

Advance Ruling No. KAR ADRG 36/ 2020

Dated : 21-05-2020

Present:

1. Dr.M.P.Ravi Prasad
Addl. Commissioner of Commercial Taxes Member (State Tax)
2. Sri.Mashhood Ur RehmanFarooqui,
Joint Commissioner of Central Tax, Member (Central Tax)

1.	Name and address of the applicant	M/s MAHALAKSHMI MAHILA SANGHA, Ward No.14, Bazar Road, K.R.Nagara, Mysuru District – 571602
2.	GSTIN or User ID	29AACAM3500A1Z9
3.	Date of filing of Form GST ARA-01	06.02.2020
4.	Represented by	Sri.Srinivasa.S.N.,Consultant
5.	Jurisdictional Authority – Centre	HUNSUR RANGE, Mysuru Rural Division;S1 and S2, Mysuru-570011
6.	Jurisdictional Authority – State	VSO-193, Hunsur
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act vide CIN SBIN20022900070766dtd10.02.2020and Rs 5,000-00 under SGST Act vide CIN SBIN20012900444126dtd24.01.2020

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 AND UNDER SECTION 98 OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. M/s Mahalakshmi Mahila Sangha, Ward No.14, Bazar Road, K.R.Nagara, Mysuru 571602, (hereinafter referred to “the applicant”)and having a GSTIN 29AACAM3500A1Z9, has filed an application for Advance Ruling under Section 97 of the CGST Act,2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of



the KGST Act, 2017 read with Rule 104 of KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The applicant is an association of persons registered under the provisions of the Goods and Services Act, 2017. The applicant states that he is engaged in the provision of catering services to educational institutions.

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

1. *We are providing catering services to educational institutions sponsored by State/ Central / Union territory which is exempted services under Sl. No. 66 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017. As per Circular 65/39/2018, TDS under GST is applicable only for taxable supply contracts and as we are the exempted service provider. TDS is not applicable for our services (HSN Code 9992)*

4. The applicant furnishes some facts relevant to the stated activity.

- a. The applicant states that he is engaged in providing catering services to educational institutions sponsored by State/ Central/ Union territory which is exempted services under Sl.No.66 of the Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017.
- b. The applicant states that as he is doing exempted services (HSN Code 9992), TDS for GST on their services are not to be deducted from their bill. As per Circular 65/39/2018, TDS under GST is applicable only for taxable supply contracts and they are providing exempted services and hence TDS is not applicable to them.

PERSONAL HEARING / PROCEEDINGS HELD ON 10.03.2020

5. Sri Srinivasa.S.N., Consultant and duly authorised representative appeared for personal hearing proceedings on 20.02.2020 before this authority and reiterated the facts and submitted as under:

5.1 The applicant is providing catering services to educational institutions as

per Sarva Shikshana Abhiyana e-tendering and scheme is sponsored by the State Government. Hence the turnover of catering services is exempt from tax as per Notification No.12/2017- Central Tax.

5.2 Since the applicant is dealing in exempted services, the same is also not liable for tax deduction at source under section 50 of the CGST Act, 2017.

FINDINGS & DISCUSSION

6. We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by him when he appeared for the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

6.1 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

6.2 The applicant states he has entered into a contract of catering services to be provided to the educational institutions. The claim of the applicant is that this is exempt from tax as it is covered under entry no.66 of the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

6.3 Entry No.66 of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 reads as under:

66	Heading 9992	Services provided – (a) By an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of	Nil	Nil
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		entrance fee (b) To an educational institution, by way of, - (i) Transportation of students, faculty and staff (ii) Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) Security or cleaning or housekeeping services performed in such educational institution; (iv) Services relating to admission to, or conduct of examination by, such institution (v) Supply of online educational journals and periodicals: Provided nothing in this sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary or equivalent. Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of, - (i) Pre-school education and education upto higher secondary school or equivalents; or (ii) Education as a part of an approved vocational education		
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3. Explanation

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

7. The contract between the applicant and the recipient of service is verified and the following points are noted:

7.1 One tender document is verified and the following are noticed:-

1. The contract is for supplying to the 100 specified students each of the Residential School for Children of Specified Categories, Nazarbad North Zone, and K.G.B.V. Residential School, Kergalli, Mysore Rural and K.G.B.V. Type-4 M.S.A. Residential School, Varakoodu, Mysore Rural.
2. The EMD is collected separately for each of the schools in question and the agreements are signed separately for each of the schools.
3. The condition of the agreement is to separately provide food for each of the residential school and can use the facilities already available in such schools.

The agreement for catering would be between the Heads of the Schools and the bidders.



7.2 Another tender document which is related to supply of food under Comprehensive Education Karnataka to 100 students each of K.G.B.V. Residential School, Bannur and K.G.B.V. Type-4, R.M.S.A. Hostel, Hale Sosale, T.Narasipura Taluk, Mysuru District is produced and the same is verified. Even here the agreement is separately entered with the respective schools and the conditions are same.

7.3 Another tender document which is related to supply of food under the Comprehensive Education Karnataka to 100 students each of K.G.B.V. Residential School, Hunsur and K.G.B.V. Type-4, R.M.S.A. Hostel, Hale Hunsur Taluk, Mysuru District is produced and the same is verified. Even here the agreement is separately entered with the respective schools and the conditions are same.

7.4 From the above contracts, it is seen that the agreements for the supply of services are entered between the Heads of the Residential Schools and the applicant and the recipient of service is hence, the Residential Schools.

8. The nature of the contract is verified and found that the successful bidders have to prepare the food in the respective schools only and there is no provision of providing food cooked outside the premises or from one school to another. Hence the applicant has to prepare the food in the school premises and supply it to the students of the school for a monthly consideration. Further, it is seen that the students to whom the service is provided are from the Primary School category. Hence the service is a catering service provided to an educational institution which is a primary school and hence is covered under the Entry No.66 of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended from time to time and is exempted from the payment of GST.

9. Section 51(1) of CGST Act, 2017 states as under

“Section 51(1): Notwithstanding anything to the contrary contained in this Act, the Government may

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*. .to deduct tax at the rate of one per cent. from the payment made or credited to **the supplier** (hereinafter in this section referred to as “the deductee”) **of taxable goods or services or both**, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:*

. . .”

From the above, it is clear that the provision of tax deduction at source is applicable on the payment made to a supplier of taxable services and since the applicant is supplying exempt services, the said provisions are not applicable to the payments made to him by the educational institutions.

10. In view of the foregoing, we rule as follows

RULING

1. The supply of services made by the applicant in the form of supply of food and drinks to the educational institutions is covered under entry no. 66 of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 and entry no.66 of Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017 and are hence exempted from CGST and SGST.
2. The amount received for such exempted service as covered under para 1 above is not liable for tax deduction at source under section 51 of the CGST Act and section 51 of KGST Act.




(Dr.M.P.RaviPrasad)
Member MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009
Place : Bengaluru
Date :21-05-2020


(Mashhood Ur Rehman Farooqui)
Member MEMBER
Karnataka Advance Ruling Authority
Bengaluru - 560 009
21.05.2020

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, S1 and S2, Vinaya Marg, Siddarth Nagar, Mysuru-570011.
4. The Commercial Tax Officer, VSO-193, Hunsur.
5. Office Folder.