

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH**

4, Vibhuti Khand, Gomti Nagar, Lucknow-

ADVANCE RULING NO. UP ADRG 02/2021

DATED 02/5/2021

PRESENT:

1. Shri Abhishek Chauhan

Additional Commissioner, Central Goods and Service Tax

Audit Commissionerate, Lucknow

.... Member (Central Tax)

2. Shri Vivek Arya

Joint Commissioner, State Goods and Service TaxMember (State Tax)

1.	Name of the Applicant	M/s MEL Training and Assessment Limited , 03/294, Ground Floor, Vastu Khand-3, Gomti Nagar, Lucknow- 226010
2.	GSTIN or User ID	09AAFCA8287M2ZW
3.	Date of filing of Form GST ARA-01	02.03.2022
4.	Represented by	Shri Saroj Parida (VP) Shri Keval Shah (CA)
5.	Jurisdictional Authority-Centre	Range-I, Division- Lucknow I
6.	Jurisdictional Authority-State	Sector- Lucknow Sector 20 Range- Lucknow (C)
7.	Whether the payment of fees discharged and if yes, the CIN	Yes UTIB22020900414468

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

1. M/s MEL Training and Assessment Limited , 03/294, Ground Floor, Vastu Khand-3, Gomti Nagar, Lucknow- 226010 (here in after referred to as the applicant) is a registered assessee under GST having GSTN: 09AAFCA8287M2ZW.

2. The applicant has submitted as under-

(i) the applicant is engaged in the business of providing exam, certification and other allied services including various types of surveys, assessments and exam services to various clients including individuals, educational institutions, firms, corporate bodies, government undertakings etc.

(ii) the applicant have entered into various contracts with customers to provide services which are conducting online examinations.

(iii) the present application is with respect to applicability of GST for services of examination conducted for ALL INDIA INSTITUTE OF MEDICAL SCEINECES (AIIMS)

(iv) the broad nature of services provide to AIIMS are as under-

(a) Recruitment Examination for recruiting various persons within the organization.

- (b) Entrance Examination for granting admissions to students in different courses in AIIMS.
- (c) Semester Examination/Course Examination
- (v) they charge fee based on the number of candidates appearing for each examination.
- (vi) the applicant believes that the services provided by them in respect to sl. No. (iv) (a) and (iv)(c) are liable for payment of GST and the services provided by them with respect to sl. No. (iv)(b) is exempt from payment of GST as per entry 66((b)(iv) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended.
- (vii) entry 66 of Notification No. 12/2017-Central Tax (Rate) exempts services provided to an educational institution by way of service relating to admission to, or conduct of examination by, such institution.
- (viii) The term educational institution has been defined as "*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*
- (ix) AIIMS was created in 1956 and has been declared as Institute of National Importance through the 'All India Institute of Medical Sciences Act, 1956'.
- (x) Circular No. 82/01/2019-GST-CENTRAL TAX clarified that IIM's are also considered as educational institutions after 31st January, 2018.
- (xi) Similarly, AIIMS is listed as an institution of national importance and also covered by the definition of educational institution.
- (xii) customer of the applicant believes that services mention in sl. No. (iv) above are exempted as per entry 66((b)(iv) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

3. The applicant has sought advance ruling on following question-

Whether the services provided by the applicant can be considered as exempted under Entry 66 of Notification 12/2017-Central Tax (Rate).

4. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

5. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. The Deputy Commissioner, Commercial Tax, Sector 20, Lucknow vide his letter No. 33/डी०कमि०वा०क०खंड 20 लखनऊ dated 19.04.2022 submitted that-

- (i) the applicant has accepted tax liability on Recruitment examination and Semester Examination/course examination.
- (ii) the applicant has asked question as to whether Entrance examination is covered in entry 66 of Notification No. 12/2017-Central Tax (Rate).
- (iii) the applicant is neither educational institution nor it provides core education service.
- (iv) No proceedings are pending against the applicant on the questions on which ruling has been sought.

6. The applicant was granted a personal hearing on 19.04.2022 which was attended by Shri Saroj Parida and Shri Keval Shah, the authorized representatives of the applicant during which they reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

7. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST 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 provision under the UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

8. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling required-

- (1) *Applicability of a notification issued under the provisions of the Act*
- (2) *Determination of the liability to pay tax on any goods or services or both*

At the outset, we find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

9. We have gone through the submissions made by the applicant and have examined the same. We observe that the applicant has sought advance ruling on the following questions-

Whether the services provided by the applicant can be considered as exempted under Entry 66 of Notification 12/2017-Central Tax (Rate).

10. The relevant portion of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, reads as under-

In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Table

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
	Heading 9992 or Heading 9963	Services provided – (a) by an educational institution to its students, faculty and staff;	Nil	Nil

		(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of 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 house-keeping 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 or periodicals: Provided that nothing contained in [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 school 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 up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course.		
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11. Following amendments were made in Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 vide Notification No. 02/2018-Central Tax (Rate) dated 25.01.2018.

against serial number 66, in the entry in column (3),-

(i) after item (a), the following item shall be inserted, namely:-

“(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;”;

(ii) in item (b),-

- (A) in sub-item (iv), the words "upto higher secondary" shall be omitted;
- (B) after sub-item (iv), the following sub-item shall be inserted, namely:-
 - "(v) supply of online educational journals or periodicals:";
- (C) in the proviso, for the word, brackets and letter " entry (b)", the words, brackets and letters " sub-items (i), (ii) and (iii)of item (b)" shall be substituted;
- (D) after the proviso, the following proviso shall be inserted, namely:-
 - "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 up to higher secondary school or equivalent; or
 - (ii) education as a part of an approved vocational education course.";

12. As such, there is no restriction of 'upto higher secondary level' in respect of exemption covered in entry 66(b)(iv) of the Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017.

13. . We find that the applicant is providing services in respect of (i) Recruitment Examination (ii) Entrance Examination and (iii) Semester/course Examination to the AIIMS. The services provided to an educational institution by way of services relating to admission to, or conduct of examination by, such institution is exempted as per entry 66(b)(iv) of the said notification. As regards the services by way of Recruitment Examination (for recruitment of employee) and Semester/Course examination is not mentioned in the said notification, the same are not exempted.

14. However, as services provided to an educational institution by way of services relating to admission to, or conduct of examination by, such institution is exempt as per entry 66(b)(iv) of the said notification, it is necessary to examine as to whether AIIMS is covered in definition of an educational institution.

15. As per para 2(y) of the notification no 12/2017-Central Tax (Rate) dated 28.06.2017,
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;*

16. We find that the All India Institute of Medical Sciences (AIIMS) was established in 1956 by an Act of Parliament. As per Section 5 of the All India Institute of Medical Sciences Act, 1956, the AIIMS has been declared as an institution of national importance. As per Section 13 of the AIIMS Act, 1956, the objective of the AIIMS is to develop patterns of teaching in undergraduate and postgraduate medical education in all its branches so as to demonstrate a high standard of medical education to all medical colleges and other allied institutions in India; to bring together in one place educational facilities of the highest order for the training of personnel in all important branches of health activity and to attain self-sufficiency in postgraduate medical education. AIIMS conducts teaching programs in medical and para-medical courses both at the undergraduate and postgraduate levels and awards its own degrees.

17. As such, we are of the view that the AIIMS qualifies the definition of educational institution and accordingly services provided by the applicant to AIIMS by way of services relating to admission i.e. by way of entrance examination is exempt under entry no. 66(b)(iv) of the Notification No. 12/2017-ST dated 28.06.2012.

18. In view of the above discussions, we, both the members pass the following ruling-

RULING

19. Question- Whether the services provided by the applicant can be considered as exempted under Entry 66 of Notification 12/2017-Central Tax (Rate).

Answer- Services provided by the applicant to AIIMS by way of Recruitment examination and Semester/Course examination are not exempted under Entry 66 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017. However, services provided by the applicant to AIIMS by way of Entrance examination are exempted under Entry 66 of Notification 12/2017-Central Tax (Rate) dated 28.06.2017.

20. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Vivek Arya)
Member of Authority for Advance
Ruling


(Abhishek Chauhan)
Member of Authority for Advance
Ruling

To,
M/s MEL Training and Assessment Limited,
03/294, Ground Floor, Vastu Khand-3, Gomti Nagar,
Lucknow- 226010

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, 7-A, Ashok Marg, Lucknow.
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-I, Kendriya Bhawan, Sector-H, Aliganj, Lucknow.
5. Through the Additional Commissioner *Gr-1, Commercial Tax, Zone-II, LKO,* Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.