

**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 24 / 2022

Dated: 12-08-2022

Present:

1. Dr. M.P. Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy
Additional Commissioner of Customs & Indirect Taxes Member (Central)

1.	Name and address of the applicant	M/s. P.K.S CENTRE FOR LEARNING, No.1010, 1 st Floor, 26 th Main Road, 4 th 'T' Block, Jayanagar, Bengaluru-560 041.
2.	GSTIN or User ID	29HSTPS6182K1ZE
3.	Date of filing of Form GST ARA-01	22-03-2022
4.	Represented by	Sankari V. Krishnan, Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Bangalore South GST Commissionerate, South Division-6, RANGE-ASD6, Bangalore.
6.	Jurisdictional Authority - State	ACCT, LGSTO-090, Bengaluru
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 and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger vide reference No.DC2903220164670 dated 19-03-2022

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

M/s. P.K.S Centre for Learning, (hereinafter referred to as the applicant), No.1010, 1st Floor, 26th Main Road, 4th 'T' Block, Jayanagar, Bengaluru -560 041 having GSTIN 29HSTPS6182K1ZE have 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 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.

The applicant is a Proprietary concern registered under the provisions of the Central Goods and Services Tax Act, 2017 as well as the Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively).



The Applicant is proposing to submit a bid in response to the tender floated by the Karnataka Secondary Education Examination Board for the printing of question papers and other examination materials.

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

- i. *Whether the activity proposed to be undertaken by the Applicant, of printing stationery items such as question papers, admit cards, answer booklets, SSLC Pass Certificate, the overprinting of variable data and lamination, fail marks cards, Circulars, ID Cards and other formats used for and during examinations, envelopes for packing answer booklets on contract basis for the Karnataka Secondary Education Examinations Board and utilized for the conduct of examinations, would constitute a supply of service to an "educational institution" as defined in Notification 12/2017 CT(R)?*
- ii. *If the answer to the above Question 1 is yes, then whether the service provided to educational institutions, specifically the Karnataka Secondary Education Examinations Board by way of printing of stationery pertaining to the conduct of examination would be covered by Sr.No.66 (Heading 9992) of Notification No.12/2017-Central Tax (Rate), as amended and subject to Nil rate of tax?*

4. Admissibility of the application: The question is about the "Applicability of a notification issued under the provisions of this Act" 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 services or both" and hence is admissible under Section 97(2) (b) & (g) of the CGST Act 2017.

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

5.1 The applicant states that they are proposing to submit a bid in response to the tender floated by the Karnataka Secondary Education Examination Board for the printing of question papers and other examination materials.

5.2 The applicant states that the Karnataka Secondary Education Examination Board is a statutory body established under the Karnataka Secondary Education Examination Board Act, 1966 for the purpose of holding and conducting public examinations.

5.3 The applicant states that the conduct of examinations is an essential and inseparable part of education and a standardized measure of progress through the educational system.



6. Applicant's Interpretation of Law:

6.1 The applicant states that the proposed activity of printing stationery items on contract basis for the Karnataka Secondary Education Examinations Board and utilized for the conduct of examinations, would constitute supply of service to an "educational institution" as defined in Notification No.12/2017-CT(R).

6.1.1 The applicant states that the Act at Section 21(aa) defines "educational institutions" as follows:

(aa) "educational institutions" means any University, any college affiliated to or maintained by the University, any junior college, any school or institution imparting primary, secondary or technical education and includes the Karnataka State Secondary Education Examination Board, the Karnataka State Board of Technical Education, the Karnataka Pre-University Board and such other institution or classes of institution as may be notified by the State Government in the official Gazette;

6.1.2 "Educational Institution" is defined at 2(y) of the Notification No.12/2017-Central Tax (Rate) as follows:

"(y) educational institution" means an institution providing services by way of,-

- (i) pre-school education and education upto higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;"

Further, clause (iv) of Explanation of said notification reads as below:

"(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"

6.1.3 The applicant states that the legislative intent is very clear in that it defines "educational institution" as one which provides services facilitating in obtaining a qualification recognized by any law in force. Examinations form an integral part of this process of obtaining a degree and are in fact the determinant factor for whether a particular student obtains the said qualification or not. As such, they are "educational institutions".

6.2 The applicant submits that the Examination Board falls within the ambit of the term "educational institution" by virtue of judgments not only of different High Courts but also affirmed by the Supreme Court. It has been held on several occasions that have the nature and functions being discharged by Boards and authorities constituted by the State Government and have held them to be educational institutions.



6.3 The applicant submits that in the case of Sahitya Mudranalaya Private Limited v Additional Director General, adjudicated by the Gujarat High Court on 29-01-2020, which was affirmed by the Supreme Court also held that *examinations are an indispensable component of education, without which such education is incomplete. Therefore, to say that Boards/Universities are not “educational institutions” would amount to divorcing examinations from education.*

6.4 The applicant states that Clause (1) of Section 66D of the Finance Act may be examined in the light of the above. Sub-clause (i) of clause (1) refers to pre-school education and education up to higher secondary school or equivalent. When the sub-clause says education up to higher secondary school or equivalent, it goes without saying that it includes the examination leading to conferment of a certificate of having passed the higher secondary school or equivalent.

Similarly when sub-clause (ii) says education as a part of the curriculum for obtaining a qualification recognized by any law for the time being in force, it is apparent that the Legislature meant the entire process of preparation of curriculum to the holding of examination leading to obtaining of a qualification recognized by any law for the time being in force. If the contribution of the Boards/Universities is excluded, there would be no curriculum for obtaining a qualification nor would there be examination leading to conferment of such qualification. Therefore, it was not the intention of the Legislature to exclude preparation of curriculum and holding of examinations from the ambit of clause (1) of Section 66D of the Finance Act, 1994. Therefore, the School Boards and the University in question would clearly fall within the ambit of the expression “educational institution” as contemplated under clause (oa) of Entry No.2 of Notification No.25/2012-S.T and services provided by such Boards/University would also fall within the ambit of the services as postulated under clause (1) of Section 66D of the Finance Act.

6.5 The applicant states that the Government of India has also adopted a similar approach in its Notification No.14/2018-Central Tax (Rate), dated 26th July, 2018 issued in exercise of powers conferred by sub-section (1) of Section 11 of the Central Goods and Services Tax Act, 2017, wherein it has been 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.

6.6 The applicant draws attention to the clarification on taxability of printing contracts issued by the Government of India, Ministry of Finance, Department of Revenue, Tax Research Unit, vide Circular No.11/11/2017-GST dated 20-10-2017, as follows-

2. *In the above context, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.*

3. *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 the*



predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. In the case of printing of 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 belong to 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.

6.6.1 The manuscript material for printing the Question Papers, answer booklets/scripts, etc. relating to the examinations is supplied by the Board and the usage rights of the manuscript material of Question Papers, answer booklets/scripts, Circulars, Marks Cards (intangible inputs) are owned by the Board. In this connection, Section 21 of the Karnataka Education Act, 1983, states that answer scripts as well as question papers are the property of the “competent authority”, i.e., the Examination Board which is administering the said examinations.

6.6.2 The scope of work of the applicant is only to compose, typeset, print, pack, transport, unload and supply sealed Question Papers to the Education Board / Educational Institutes. 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.

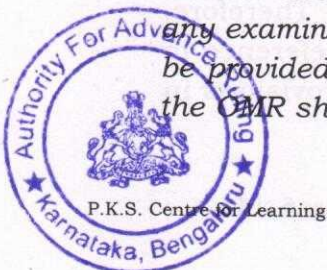
6.6.3 The content of the printed matter is specific to the Board, and, neither is the matter pre-printed, nor has the tenderer entrusted with the task of printing the materials any ownership to the content at any point of time, and, therefore, cannot transfer title of the said printed items. Hence, the Question Papers, answer booklets / scripts, admit cards, etc. are the property of the Board at all times, and cannot be said to have been goods belonging to anyone including the tenderer at any point in time.

6.6.4 The printed materials supplied to the Board by the Applicant in accordance with the tender conditions are not marketable commodities in the open market and as goods they have no legitimate value to persons other than the Board, who provides the input content.

6.7 The applicant states that the supply in this case would be the service of printing and not the supply of printed materials as goods. In support of this point, the applicant has placed reliance on the ruling of the Hon'ble Uttar Pradesh Authority for Advance Rulings in the case of M/s. Maxwell Co. Private Limited, dated 30-06-2019.

6.8 In case of M/s. Orient Press Limited, the Maharashtra Authority for Advance Ruling, when posed the same query as to the taxability under GST of the supply of service of printing of Educational Boards, held as follows:

“5.4. We find that question papers, OMR sheets (Optical Mark Reading), answer booklets are very essential and necessary requirements to conduct any examination. To print question papers the content i.e., the questions will be provided by the institution conducting the examination. The contents of the OMR sheets and answer sheets will also be provided accordingly by the



institution. Para No.4 of Circular No.11/11/2017-GST dated 20-10-2017 issued vide F.No.354/263/2017-TRU by the Board states that "in the case of printing of 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 belongs to 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". Hence in the subject case there is a supply of services and since the same are provided to educational institutions, the same shall be classified under Heading 9992 and will be exempted from payment of GST vide Entry No.66 of the Notification No.12/2017-Central Tax (Rate), dated 28th June, 2017 as amended.

5.5 Coming to the second part of the question i.e., whether supply of service of printing of post examination items like marks card, grade card, certificates to educational boards (up to higher secondary) after scanning of OMR sheets and processing of data are also exempted under the said Notification, applicant is of the opinion that conduct of any examination by an educational institute includes both pre examination works, actual conduct of the exams and post-examination works. As per reasons at para 5.4 supra, the applicant is of the view that such supply is also a supply of services and classifiable under Heading 9992 and will be exempted from payment of GST vide Entry No.66 of the Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017 as amended. The applicant states that they do not agree with the jurisdictional officer who has opined that the said supply is a supply of goods and not services."

6.9 The applicant is of the view that the activities of printing and supply of examination materials to the Karnataka Secondary Education Examinations Board relevant to the conduct of examinations would be a supply of service, which is liable to Nil rate of GST as per the Notifications and case laws quoted above.

PERSONAL HEARING / PROCEEDINGS HELD ON 26-04-2022

7. Sankari V. Krishnan, Advocate and Duly Authorised Representative appeared for personal hearing proceedings held on 26-04-2022 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 matter 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 have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the applicant.

10. The Applicant wants to know whether printing of question papers, admit cards, answer booklets, SSLC Pass Certificate, the overprinting of variable data and lamination, fail marks cards, Circulars, ID Cards and other formats used for and during examinations, envelopes for packing answer booklets on contract basis for the Karnataka Secondary Education Examinations Board would constitute a supply of service.

11. The applicant states that material for printing the Question Papers, answer booklets/scripts, etc. relating to the examinations is supplied by the Board and the usage rights of the material of Question Papers, answer booklets/scripts, Circulars, Marks Cards (intangible inputs) are owned by the Board. Only the physical inputs used for printing belong to the Applicant. The issue to be decided here in this case is to whether the activities carried out by the applicant is to be treated as supply of goods or supply of services.

12. Circular No. 11/11/2017, dated: 20.10.2017 clarifies taxability of printing contracts as below:

1.....

2.....

3.....

4. *In the case of printing of 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 belong to 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.*

5. *In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.*



13. As per the Circular, if the activity of printing gives essential character to the printed product, it will be supply of service. If the usage of the product gives essential character, it will be supply of goods.

14. In the instant case, the applicant is supplying question papers, admit cards, SSLC Pass Certificate, the overprinting of variable data and lamination, fail marks cards, Circulars, ID Cards printed with the content supplied by the recipient i.e., KSEEB, made using physical inputs including paper belonging to the printer. Here, supply of printing (of content supplied by the recipient of supplier) is the principal supply and therefore such supplies would constitute supply of service falling under Heading 9989 of the scheme of classification of services.

15. Notification No.14/2018-Central Tax (Rate) dated: 26.07.2018 has inserted a clause (iv) which reads as below:

"(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."

From the above clause it is evident that Karnataka Secondary Education Examination Board is an educational institution for the limited purpose of providing services by way of conduct of examination to the students.

16. Entry No.66 of Notification No.12/2017-Central Tax(Rate) dated 28th June, 2017 as amended vide Notification No.02/2018-Central Tax(Rate) dated 25th January, 2018 reads as under:

Sl. No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
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 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	Nil	Nil



		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		
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In view of the above, the services provided by the applicant in the para mentioned at 14 supra are exempted as per entry No.66 of Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017 as amended vide Notification No.02/2018-Central Tax (Rate) dated 25th January, 2018

17. In the instant case, the applicant is also supplying answer booklets, other formats used for and during examinations and envelopes for packing answer booklets printed with the content supplied by the recipient i.e., KSEEB made using physical inputs including paper belonging to the printer. Here, the usage of the products gives its essential characteristic while printing (of content supplied by the recipient of supplier) is an ancillary activity and therefore such supplies would constitute supply of goods falling under respective Headings of Chapter 48 and 49 of the Customs Tariff.

18. The supply of answer booklets and other formats used for and during examinations falling under the heading 4802 is taxable as per entry No.112 of Schedule II of Notification No.1/2017-Central Tax(Rate), dated 28th June, 2017 and the supply of envelopes for packing answer booklets falling under the heading 4817 is taxable as per entry 152 of Schedule III of Notification No.1/2017-Central Tax (Rate) dated 28th June, 2017, which are reproduced below:

Schedule II -6%

Sl. No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
112	4802	Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non-perforated punch-cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 4801 or 4803; hand-made paper and paperboard



Schedule III -9%

Sl.No	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
152	4817 [Except 4817 30]	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; [other than boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery including writing blocks]

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

RULING

- i. (a) *The activity proposed to be undertaken by the Applicant, of printing stationery items such as question papers, admit cards, SSLC Pass Certificate, the overprinting of variable data and lamination, fail marks cards, Circulars, ID Cards on contract basis for the Karnataka Secondary Education Examinations Board and utilized for the conduct of examinations, would constitute a supply of service to an "educational institution".*
- (b) *The activity proposed to be undertaken by the Applicant, of printing stationery items such as answer booklets, other formats used for and during examination and envelopes for packing answer booklets on contract basis for the Karnataka Secondary Education Examinations Board and utilized for the conduct of examinations, would constitute a supply of Goods to an "educational institution".*
- ii. *The services provided by the applicant to educational institutions (KSEEB) by way of printing of stationery pertaining to the conduct of examination covered under para i(a) supra is exempted as per entry No.66 (Heading 9992) of Notification No.12/2017-Central Tax (Rate), dated 28th June, 2017 as amended vide Notification No.02/2018-Central Tax (Rate) dated 25th January, 2018.*

(Dr. M.P. Ravi Prasad)

Member
MEMBER

Karnataka Advance Ruling Authority
Place : Bengaluru
Bengaluru - 560 009

Date : 12-08-2022

(T. Kiran Reddy)

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 of Central Taxes, Bengaluru South GST Commissionerate, South Division-6, RANGE ASD 6, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-90, Bengaluru.
5. Office Folder.

