

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH

Goods and Service Tax

O/o THE COMMISSIONER, COMMERCIAL TAX,

MOTI BUNGALOW,

MAHATMA GANDHI MARG, INDORE (M.P.) - 452007

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PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017

Members Present

1. Rajiv Agrawal
Additional Commissioner,
Office of the Commissioner,CGST and Central Excise, Indore
2. Manoj Kumar Choubey
Joint Commissioner,
Office of the joint Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AAAAN1769J1ZK
Name and address of the applicant	M/s.Network For Information & Computer EB 109, NICT House, Scheme No. 94, opposite Bombay Hospital, Indore, Madhya Pradesh(452010)
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	b) applicability of a notification issued under the provisions of this Act;
Present on behalf of applicant	Shree S.C. Tiwari, Consultant and Advocate
Case Number	24/2018
Order dated	10.04.19
Order Number	04/2019

PROCEEDINGS

**(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act,
2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)**



1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and MP Goods & Services Tax Act, 2017 (hereinafter also referred to CGST Act and MPSGT Act respectively) by M/s. Network For Information & Computer (hereinafter referred to as the Applicant) , registered under the Goods & Services Tax.
2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE:

- 3.1 M/s. Network for Information and Computer Technology (hereinafter referred to as 'the Applicant'), having their registered office at EB 109, NICT House, Scheme No. 94, opposite Bombay Hospital, Indore, Madhya Pradesh(452010) and are registered with the GSTN holding **GSTIN 23AAAAN1769J1ZK**.
- 3.2 The Applicant is engaged inCOMMERCIAL TRAINING & COACHING and BUSINESS AUXILIARY SERVICES.
- 3.3 Thus the Applicant have approached the Authority for limited and specific ruling about applicability of exemption as envisaged under Notification Number 12/2017-Central Tax (Rate) and corresponding notification issued for State Tax, in respect of their activity of providing Skill development training in different sectors/courses under Uttar Pradesh Skill development Mission (UPSDM) to train the youth of Uttar Pradesh for gainful employment of the candidates.

4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

The following questions have been posted before the Authority:-

4.1 Whether exemption provided under Sr. No. 72 of Not. No. 12/2017 Central Tax(Rate), dated 28-06-17 issued by the Central Government under CGST Act, 2017 and exemption provided under Sr. No. 72 of Not. No. FA-3-42/2017/1/V(53) dated 30-06-2017 issued by the Madhya Pradesh Government under M.P. Goods & Services Act, 2017 is applicable for the applicant?

4.2 Whether services provided by the applicant fall under Sr. No. 72 of the Not. No. 12/2017 Central Tax(Rate), dated 28-06-17 issued by the Central Government under CGST Act, 2017 and exemption provided under Sr. No. 72 of Not. No. FA-3-42/2017/1/V(53) dated 30-06-2017 issued by the Madhya Pradesh Government under M.P. Goods & Services Act, 2017?

5. **RECORD OF PERSONAL HEARING:**Shree S.C. Tiwari, Consultant and Advocate of the applicant for personal hearing and he reiterated the submissions already made in the application and attached submission.



- 5.1 During course of hearing a clarification was sought from him to clarify, what is the composition of Uttar Pradesh Skill development society (UPSDS) to which the applicant is providing the service.
- 5.2 A further clarification was asked on the point that as the service is not provided to either Central Government or State Government or any Union territory Government then why the entry no. 72 of the Notification no. 12/2017 Central Tax(Rate), dated 28-06-17 will be applicable in the case.
- 5.3 However the applicant didn't provide any response, oral or in written, till this date.
6. **CONCERNED OFFICER'S VIEW POINT:** The Concerned Officer in his view submitted that the service provided by the applicant doesn't qualify for exemption under 12/2017 Central Tax(Rate), dated 28-06-17.
- 7.
8. **DISCUSSIONS AND FINDINGS:**

7.1 We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing. At the outset, we find that the issue raised in the Application is squarely covered under Section 97(2)(b) of the CGST Act 2017 being a matter related to applicability of a notification issued under the provisions of this Act, and the applicant have complied with the all the requirements for filing this application as laid down under the law. We therefore admit the application for consideration on merits.

7.2 The Applicant, vide instant application, has posed following two questions before us, seeking ruling on the same –

- i. *Whether exemption provided under Serial Number 72 of Notification No.12/2017-Central Tax (Rate) dtd.28.06.2017 issued by the Central Government under CGST Act 2017 and exemption provided Sr.No.72 of the Notification No.FA-3-42/2017/V (53) dtd.30.06.2017 issued by the Government of Madhya Pradesh under M.P.Goods and Service Tax Act 2017 is applicable to the applicant?, and*
- ii. *Whether services provided by the applicant fall under Sr.No.72 of the Notification No.12/2017-Central Tax (Rate) dtd.28.06.2017 issued by the Central Government under CGST Act 2017 and exemption provided Sr.No.72 of the Notification No.FA-3-42/2017/V (53) dtd.30.06.2017 issued by the Government of Madhya Pradesh under M.P.Goods and Service Tax Act 2017?*

7.3 We find that the issue to be addressed in both the questions is identical. We find from the application that the Applicant is a Society registered under the Madhya Pradesh Societies Registration Adhinyam, 1973 and an NGO. The applicant, reportedly, provides services in various socio economic sectors and projects launched by the Central and State Governments in the field of information technology. The Applicant have entered into an agreement with Uttar Pradesh Skill Development Society (UPSDS) [being represented by the Mission Director, Uttar Pradesh Skill Development Mission, GITI Campus, Lucknow], for providing



services of imparting skill training to various candidates enrolled under the program. It is forthcoming from the copy of agreement, provided by the applicant as enclosure to application, that the applicant have been engaged as Private Training Partner for providing skill training.

7.4 The Applicant has sought a ruling whether the services provided by them under such agreement would be entitled for exemption as envisaged under Sr.No. 72 of the Notification No.12/2017-CT(R) dtd.28.06.2017 for CGST and parallel notification dtd.30.06.2017 for SGST, in as much as the services provided by them would be 'intra-state' in the State of Uttar Pradesh.

7.5 It is essential to have a look at the text of Sr.No.72 of the Notification No.12/2017-CT(R), in order to arrive at conclusion. The relevant part of the Notification No.12/2017-CT(R) is reproduced below:

In exercise of the powers conferred by sub-section (1) of Section 11 of the Central Goods and Service Tax Act 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on 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 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

1	2	3	4	5
Sl.No.	Chapter, Section, Heading, group or Service Code (tariff)	Description of service	Rate (per cent)	Condition
72	Heading 9992	Services provided to the Central Government, State Government, Union Territory Administration under any training program for which total expenditure is borne by the Central Government, State Government, Union Territory Administration	NIL	NIL



While the above notification provides exemption from Central Tax, an identical notification No.FA-3-42/2017/1/V(53) dtd.30.06.2017 issued by the MP Government on similar lines provides exemption to such services from State Tax.

7.6 It is, thus, amply clear from the text and language of the exemption notification as detailed above that the intent of the legislature is to exempt services provided to the Central Government, State Government or Union Territory Administration under any training program for which total expenditure is borne by such Governments. In the instant case, though, we find that the service is being provided by the applicant to a Society namely Uttar Pradesh Skill Development Society. Although, we have been given to understand that the entire training program would be fully funded by Central and State Governments, but nothing has been brought on record to prove that UPSDC can be construed as Central or State Government. In fact, this query was put before the authorised representative of the applicant during the course of personal hearing, and he was asked about the constitution of the said UPSDC. However, no reply, whatsoever, has been received from the applicant. In absence of any evidence to bring the UPSDC within the ambit of Central or State Government, we do not see any reason to extend the exemption under Sr.No.72 of the Notification No.12/2017-CT(R), and parallel notification issued by MP Government for State Tax, to the applicant.

7.7 To cap it all, we hold that the exemption under Sr.No.72 of the Notification No.12/2017-CT(R) and parallel notification issued for State Tax exemption, shall be available only if the service is provided to the Central Government, State Government or Union Territory Administration under any training program for which total expenditure is borne by the Government. We thus hold that the said exemption shall not be applicable/available to the applicant.

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8. RULING

8.1 The Applicant shall not be entitled to avail benefit of exemption as envisaged under Sl.No.72 of Notification No.12/2017-Central Tax (Rate) dtd.28.06.2017 and Sl.No.72 of Notification No.FA-3-42/2017/1/V(53) dtd.30.06.2017 in respect of the services of training provided to Uttar Pradesh Skill Development Corporation.

8.2 This ruling is valid subject to the provisions under section 103(2) until and Unless declared void under Section 104(1) of the GST Act.

SJK
RAJIV AGRAWAL
(MEMBER)

NO. 25/2018/A.A.R/R-28/09
Copy to:-

1. Applicant
2. The Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

SJK
MANOJ KUMAR CHOUBEY
(MEMBER)

INDORE dt. 10/04/2019

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