

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

Advance Ruling No. KAR ADRG 85/2019

Dated: 25th September, 2019

Present:

1. Sri. Harish Dharnia,
Additional Commissioner of Central Tax Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

1.	Name and address of the applicant	M/s CADMAXX SOLUTIONS EDUCATION TRUST No.2095, 5 th Main, 9 th Cross, Vijayanagar 2 nd Stage, Bengaluru 560104
2.	GSTIN or User ID	29AABTC0127F1Z6
3.	Date of filing of Form GST ARA-01	14.03.2019
4.	Represented by	Sri Sanjay Kalliguddi, Chartered Accountant
5.	Jurisdictional Authority - Centre	Pr Commissioner of Central Tax, Bangalore West
6.	Jurisdictional Authority - State	LGSTO-070, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of 1. Rs.5,000-00 under CGST Act vide CIN SBIN19032900091111 dated 13.03.2019 2. Rs.5,000-00 under KGST Act vide CIN SBIN19022900323325 dated 26.02.2019

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

1. M/s Cadmaxx Solutions Education Trust, (called as the 'Applicant' hereinafter), having GSTIN number 29AABTC0127F1Z6, has filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 and Section 97 of the KGST Act, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.

2. The Applicant is a trust and is registered under the Goods and Services Act, 2017. The applicant is a 12A registered trust under the



Income Tax Act, 1962 and the applicant is seeking advance ruling on the following issues

- a) Under this scheme the resource provided by trust, these called as "On Job Trainee". It will be paid monthly stipend amount determined by the client and Trust. The Trust is expected to collect stipend amount from the client and transfer the entire amount to the trainee – Does this stipend reimbursement attracts GST or not?
- b) The Trust is expected to keep training the trainee for acquainting the skills and enhancement of employability. The Trust will charge a predetermined training charges – Does this attract GST or not?
- c) The Trust also obtains Group Health Insurance Policy and Workman Compensation Policy for the trainee's deployed at client place. Trust recovers this amount on monthly basis, the rate which is determined based on the premium amount. – Does this attract GST or not?
- d) The Trust is also obliged to recover the expenditure, then against on boarding the trainee – Does this attract GST or not?
- e) If client finds our trainee suitable for absorption of the roles of the Company, trust would like to charge certain amount on-Rolls conversion charges – Does this attracts GST or not?

3. The applicant furnishes some facts relevant to the stated activity:

- a. The applicant states that they are a registered Trust under section 12A of the Income Tax Act and also an approved NEEM (National Employability Enhancement Mission) Facilitator under All India Council for Technical Education Regulation 2017. The objective of National Employability Enhancement Mission (NEEM) is to offer on the job practical training to enhance employability of a person either pursuing his or her Post-Graduate / Graduate / Diploma in any technical or non-technical stream or has discontinued studies after Class 10th to enhance his / her employability.
- b. The applicant states that this service falls under the service classification head 9992, 9983 and 9991 which are exempted services. The applicant states that he strongly believes that the above supply of services falls under the exempted services classification under heads 9992, 9983, 9991, 9983 and 9985.

4. Sri Sanjay Kalliguddi, Chartered Accountant and duly authorised representative of the above concern appeared and made the following submissions:

4.1 The applicant is a trust involved in imparting education for skill development and trains the trainees in General Aptitude and Computer Training. They are not charging any consideration for the training imparted by them and they are involved in the Deen Dayal Upadhyaya Scheme and National Skill Development.

4.2 The AICTE has the NEEM (National Employability Enhancement Mission) which aims to improve the employability of the trainees and the applicant is selected to provide this training. The AICTE is not paying any amount but only registers the institutes. The on-job training, which is imparted to the trainees in the mission, is for 3 to 36 months and stipend is paid to the trainees by the companies through the applicant and no consideration is paid to the applicant for the training services imparted by the companies where the trainees are posted for on-job training. There is no employee-employer relationship between the company and the trainee and the stipend is paid for the services obtained from the trainee and the applicant acts as a pure agent for collecting the amount from the company and paying to the trainee. The company also pays Insurance and Workmen compensation premiums which the applicant takes in the name of the trainee to cover the risk for the trainees as there is no ESI coverage for them. In these cases the applicant is the proposer and the beneficiary is the trainee.

4.3 Sometimes, the applicant charges the companies for the aptitude building training provided by the applicant to the trainees. Sometimes the applicant also charges the companies for mobilisation of trainees which is not mandatory and in actual they are expenses that are reimbursed and are not linked to the exact amount of expenses and is called "Sourcing fees" and the applicant wants to know whether GST is payable on all the amounts collected by them.

5. FINDINGS & DISCUSSION:

We have considered the submissions made by the applicant in their application for advance ruling as well as the additional submissions made by Sri. Sanjay kalligudi, CA, and Sri Arun Kumar Patil, Managing Trustee, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts. 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.

The activity of the applicant is examined and found that the applicant is an registered trust under Section 12A of the Income Tax Act,



1962. The Government of India, through the Ministry of Human Resources Development, has notified the NEEM regulations with a view to enhance the scope of employability of students who have completed or undergone basic education.

5.2 The applicant is not-for-profit organisation and is registered as a NEEM FACILITATOR under the NEEM regulations and in inter-alia engaged in the business of facilitating education, education related services including providing technical and non-technical training to Trainees in collaboration with companies registered with the applicant under NEEM regulations. The applicant is the facilitator of NEEM and the applicant proposes to implement and operationalize the training program under the NEEM regulations.

5.3 The companies, which provide the on-the-job training to the persons registered under the applicant and who are provided by the applicant, must first partner with the applicant for providing training under the NEEM regulations and must have requisite personnel, facilities, industry knowledge and infrastructure to provide training as required under NEEM regulations.

5.4 The sample agreement entered by the applicant with the companies providing on-the-job training shows the following:

- (a) The trainees shall under no circumstance be deemed to be the employees of the Company or the applicant.
- (b) The Company shall be solely responsible for providing adequate facilities in accordance with the NEEM Regulations or as may be deemed appropriate by the applicant for the Training, from time to time.
- (c) Stipend – In consideration of the dedicated deployment of the Trainees to the Company, the Company shall pay
 - (i) a monthly stipend to the applicant to be utilised by the applicant solely for the purposes of paying the trainees in accordance with the NEEM regulations, which shall be equal to or greater than the prescribed minimum wages for unskilled category under applicable law; and
 - (ii) employee compensation insurance premium

It is also clarified that the stipend payable shall be a single consolidated amount and shall not be subject to further withholding tax, namely TDS or any other statutory deductions or payments, except for Income Tax, if applicable.

- (d) The contract specifies that Workmen Compensation Policy shall be taken for all trainees and cost of the policy be reimbursed in the

actual premium amount paid. The Group Health Insurance Policy shall also be taken for all trainees and cost of the policy be reimbursed in the actual premium amount paid.

- (e) Training Fees- In addition to the stipend, the company shall pay a training fee per trainee per month for training and administrative tasks for deployment of trainees to the Company for the training.
- (f) For the candidates sourced by the applicant there will not be any charges for the Sourcing Fee. Replacement of trainee shall be provided, if the trainee selected leaves the training session.
- (g) On Rolls, absorption fees will not be charged for the trainees deployed by the applicant.

5.5 The second sample agreement is similar the first sample agreement but differs to the extent that there will be no coverage of Group Insurance for the trainees.

5.6 The third sample agreement is similar to the first sample agreement but differs from it in the following respects:

- (a) There will be a sourcing fee as one time charge of Rs.2,750-00 per candidate
- (b) For the trainees deployed by the applicant, there will be a charge of 6.33% of annual CTC if a trainee is selected by the company and it is one time charge per candidate.

5.7 The above agreements point out to the following facts:

1. The applicant and the companies joining the applicant act in partnership to provide on the job training to the trainees, the companies acting as trainers and the applicant acting as facilitator.
2. The applicant has the responsibility of selecting the trainees and sending them to the trainer companies. Sometimes, the companies pay an amount to the applicant for sourcing these trainees and this is not mandatory in all agreements but only a negotiated one.
3. The trainer companies pay a stipend to each trainee through the applicant and the applicant shall not deduct any amount out of it. The companies in addition to the stipend pay a monthly training fees for training to the applicant in additional skills required to suit the needs of the trainer company.
4. The trainer companies may also pay the Group insurance premium and Workmen Compensation premium where the policy is taken by the applicant with the trainee being the beneficiaries.
5. In case the trainees gets selected by the trainer company for regular employment, then there will be a charge called "on Rolls absorption fees" which the trainer company needs to pay and this is not



mandatory in all agreements but only a negotiated one.

5.8 On the whole, the applicant is collecting three types of amounts –

- (a) stipend to be paid to the applicant
- (b) the reimbursement of the insurance and compensation premiums
- (c) The sourcing fee and “on Rolls absorption fees”

6. Entry No. 1 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 exempts the CGST on the “Services by an entity registered under section 12AA of the Income Tax Act, 1961” by way of charitable activities. The applicant has produced a copy of the Order in support of the fact that he is registered under section 12AA of the Income Tax Act and hence charitable services supplied by the applicant are exempted.

6.1 The term “charitable activities” is defined in clause (r) of paragraph 2 of the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 which reads as under:

- “ (r) “charitable activities” means activities related to –
- (i) Public health by way of,
 - (ii) Advancement of religion, spirituality or yoga;
 - (iii) Advancement of educational programmes or skill development relating to, -
 - (A) abandoned, orphaned or homeless children
 - (B) physically or mentally abused and traumatized persons;
 - (C) prisoners; or
 - (D) persons over the age of 65 years residing in a rural area;
 - (iv) Preservation of environment including watershed, forests and wildlife”

In view of the fact that the activities of the applicant are not related to any activity listed under “charitable activities”, the activities of the applicant cannot be covered under entry no.1 of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017.

6.2 The applicant is a facilitator under NEEM and this scheme is envisaged by the Government of India in collaboration with AICTE. But he has not given evidences on the issue whether he is a training partner approved by the National Skill Development Corporation or Sector Skill Council or is a training provider under Deen Dayal Upadhyaya Grameen Kaushalya Yojana. Hence he is not covered by any exemption entries in Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017.

6.3 Regarding the issue of taxation of stipend, the company which is providing on the job training to the trainees is required to pay the stipend to the trainees and the applicant is only acting as an intermediary in collecting the same from the trainer companies to the students. The

service is provided by the trainees to the trainer as the trainer is liable to make payment of the consideration. This consideration is paid through the applicant and the applicant is not allowed to make any deductions in that amount. Hence the applicant is only a conduit for the payment and the actual service is by the trainee to the trainer. Therefore this amount is not taxable in the hands of the applicant.

6.4 Regarding the second question, the applicant is providing additional training to the trainees and the consideration for the same is charged to the companies where the trainees will go for on-job training and skill development. This consideration is not exempted under Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 and hence is taxable under entry no. 35 of Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017 and liable to tax at the rate 9% under CGST Act and similarly taxable at 9% under the Karnataka Goods and Services Tax Act, 2017 under entry no.35 of Notification (12/2017) No.FD 48 CSL 2017 dated 29.06.2017.

6.5 Regarding the third issue of payment of Group Insurance and Workmen compensation scheme is made by the applicant with the trainee being beneficiary. If any tax is liable on this transaction, it shall be collected by the insurance company, and the insurance company would be the service provider and the applicant will be the service recipient. If the same is reimbursed to the applicant by the trainer company as per the terms of the contract, this amounts to reimbursement of the premium paid and hence this amount reimbursed would not be taxable in the hands of the applicant.

6.6 Regarding the fourth question, the applicant is also collecting certain amount from the trainer company for the purposes of sourcing trainees. This amount is a mutually agreed amount as per the contract between the applicant and the trainer company and is a supply of service by the applicant to the trainer company. This supply is covered under SAC 998519 and is liable to tax at 9% CGST under entry no. 23(ii) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017. Similarly it is taxable at 9% under the Karnataka Goods and Services Tax Act, 2017 under entry no. 23(ii) of Notification (12/2017) No.FD 48 CSL 2017 dated 29.06.2017.

6.7 Regarding the fifth question, the applicant collects a onetime charge if a trainee sourced by the applicant is selected and absorbed by the company into regular employment. This service is also covered under SAC 998519 and is liable to tax at 9% CGST under entry no. 23(ii) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017. Similarly it is taxable at 9% under the Karnataka Goods and Services Tax Act, 2017 under entry no.23(ii) of Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017.

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

RULING

1. The reimbursement of the stipend paid to the trainees does not attract tax under the GST Acts.
2. The additional training to the trainees for which the training fees is paid by the trainer is taxable under entry no. 35 of Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017 and liable to tax at the rate 9% under CGST Act and similarly taxable at 9% under the Karnataka Goods and Services Tax Act, 2017 under entry no. 35 of Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017..
3. The reimbursement of Group Insurance and Workmen Compensation premium by the trainer company to the applicant is not liable to tax under the GST Acts.
4. The Sourcing fees collected by the applicant from the trainer companies is liable to tax at 9% CGST under entry no. 23(ii) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017. Similarly it is taxable at 9% under the Karnataka Goods and Services Tax Act, 2017 under entry no.23(ii) of Notification (12/2017) No.FD 48 CSL 2017 dated 29.06.2017.
5. The “On roll Conversion charges” collected by the applicant from the trainer companies is liable to tax at 9% CGST under entry no. 23(ii) of the Notification No.11/2017- Central Tax (Rate) dated 28.06.2017. Similarly it is taxable at 9% under the Karnataka Goods and Services Tax Act, 2017 under entry no. 23(ii) of Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017.



(Signature)
25.09.2019
(Harish Dharnia)
Member

(Signature)
(Dr.Ravi Prasad.M.P.)
Member

Place: Bengaluru,
Date: 25.09.2019

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Pr. Commissioner of Central Tax, Bangalore-West, Bengaluru.
4. The Asst. Commissioner, LGSTO-070, Bengaluru.
5. Office Folder.