

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
**GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai - 400010.**  
**(Constituted under section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

- (1) Shri B. Timothy, Addl. Commissioner of Central Tax, (Member)  
(2) Shri A.A. Chahure, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAATC0279K1ZN
Legal Name of Applicant	M/s. CHILDREN OF THE WORLD INDIA TRUST
Registered Address/Address provided while obtaining user id	PLOT NO. 9, 10 VISHWABALAK KENDRA, SECTOR 10, NERUL WEST, NAVI MUMBAI --400706.
Details of application	GST-ARA, Application No. 15 Dated 13.05.2019
Concerned officer	RAI-VAT-C-021,Raigad Division.
Nature of activity(s) (proposed /present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	The Applicant is a Charitable Trust engaged in the providing the following Charitable Activities:  a) <i>To provide help, assistance and guidance for the benefit and welfare of children, women, particularly abandoned babies and infant children;</i>  b) <i>To set up, establish, maintain, run and operate welfare centers, houses, institutions and agencies for catering to children of all ages particularly new born infants, unmarried mother, destitute women and families;</i>  c) <i>To provide development aid and support to the needy children</i>  d) <i>To open, establish, conduct, own, acquire, run, manage maintain, support and/or assist homes and or institutions for the destitute and/or the invalids including centers for women, widows, orphans and/or children.</i>  e) <i>To arrange for the adoption of abandon children or children whose parents are unable to support them.</i>
Issue/s on which advance ruling required	(ii)Applicability of a notification issued under the provisions of this Act
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.



**PROCEEDINGS**

**(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively ] by **M/s. CHILDREN OF THE WORLD INDIA TRUST**, the applicant, seeking an advance ruling in respect of the following question.

*Whether the activities conducted by The Children of the World (India) Trust are the "Charitable Activities" exempted under the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended and consequently, the receipt of the Adoption Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax*

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a reference is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

**2. FACTS AND CONTENTION - AS PER THE APPLICANT**

The submissions, as reproduced verbatim, could be seen thus-

**A. Statement of the relevant facts having a bearing on the question(s) on which the advance ruling is required.**

1.1 The Children of the World (India) Trust, Bombay (hereinafter referred to as the "Applicant") is a non-political Charitable Trust established in India pursuant to an Indenture of Trust dated 29.03.1982 (hereinafter referred to as "*The Trust Deed*"). Clause 3 (iii) of the Trust Deed provides about 26 (A to Z) objects/ purposes of the Trust, of which, the relevant objects/ purposes are reproduced below:

\*3(iii).....

- a. *To provide help, assistance and guidance for the benefit and welfare of children, women, particularly abandoned babies and infant children;*
- b. *To set up, establish, maintain, run and operate welfare centers, houses, institutions and agencies for catering to children of all ages particularly new born infants, unmarried mother, destitute women and families;*
- c. *To provide development aid and support to the needy children;*

- .....
- h. *To open, establish, conduct, own, acquire, run, manage maintain, support and/or assist homes and or institutions for the destitute and/or the invalids including centers for women, widows, orphans and/or children. to arrange for the adoption of abandon children or children whose parents are unable to support them*



- .....
- 1.2 Applicant is registered under Section 12 AA of the Income Tax Act, 1961 (IT Act) as the Trust's purposes/ objects activities are covered under the Charitable Purpose as defined vide Section 2(15) of the IT Act.
- 1.3 Applicant has established a "Vishwa Balak Kendra" in its own building constructed on Plot No. 9 and 10, Sector 12, Nerul, Navi Mumbai-400 706 where we provide shelter to abandoned, orphaned or homeless children. All the **aspects regarding** admission, registration, maintenance, nutrition, health, process of adoption (including fees on adoption) and handing over of the adopted children to the adoptive parents is strictly regulated to the minutest details by the Government of India under various provisions of The Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'The JJ Act') read with The Juvenile Justice ( Care and Protection of Children) Model Rules, 2016 (hereinafter referred to as "The JJ Rules") as well as The Adoption Regulations, 2017 (hereinafter referred to as the 'The Adoption Regulations').
- 1.4. One of the avowed aims of the JJ Act could be noted in Section 1(4) of the JJ Act which states as under:

*\*Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all matters concerning children in need of care and protection and children in conflict with law, including -*

- (i).....
- (ii) *Procedure and decisions or orders relating to rehabilitation, adoption, re-integration and restoration of children in need of care and protection":*

Section 2(14) of the JJ Act defines "Child in need of care and protection" means a child -

- (i) Who is found without any home, or settled place of abode and without any ostensible means of subsistence; or
- (ii) .....
- (iii) .....
- (iv) .....
- (v) Who has parents or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board to take care for and protect the safety and well being of the child;

Or

- (vi) Who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him; or
- (vii)
- (viii)
- (ix)
- (x)
- (xi)

This definition encompasses the term "abandoned, orphaned, or homeless children" as mentioned in the Exemption Notification No.12/2017-C.T. (Rate) dated 28.06.2017 as amended.

- 1.5 The Applicant is registered as a Specialized Adoption Agency (hereinafter referred to as **The SAA'**) under Section 41 of the JJ Act read with Rule 21 of the JJ Rules. The copies of Certificate of Recognition bearing N013-7/2001 CARA dated 28.02.2012 issued by Central Adoption Resource Authority for Inter-country adoption and Certificate of Recognition bearing No. RIPA-8/2011 dated 25.05.2011 issued by Central Adoption Resource Authority for In-country adoption are submitted.



- 1.6 Section 2(57) of the JJ Act defines "Specialized Adoption Agency" means an institution established by the state government or by a voluntary or non-governmental organization and recognized under Section 65 for housing orphans abandoned and surrendered children placed there by order of the Committee for the purpose of adoption."
- 1.7 As such, the Applicant is a voluntary non-governmental organization recognized by the Government as "agency to implement the provisions of the JJ Act and the JJ Rules and The Adoption Regulations for housing, restoring & protecting, and facilitating adoption of the children on behalf of the Government and the society at large.
- 1.8 The Applicant says and submits that as an agency of the Government the Applicant has no control over the admission of a child in the SAA, nor has any control over selection of a child for adoption, nor has any control over selection of the prospective adoptive parents or their selection of any adoptive child, nor has any control over approving the adoption application. Every aspect is controlled and processed by the Government through its organ -Central Adoption Resource Agency (CARA) established by the Government under Section 68 of the JJ Act.
- 1.9 Under the said SAA registration, the Applicant is obliged, and duty bound to house the abandoned, orphaned or homeless children (as "The Adoptive Children") only if **approved by the CARA** in the age group of 0-6 years. Presently, there are 44 children with the Applicant. Of these, 22 children are below 3 years and other 22 are in the age group of 3-6 years. Of these, 6 children are children with special needs, who require special care like physio-therapy, occupational therapy.
- 1.10 From the time of admission of a child till he/ she is given in adoption or transferred to other Government Organization, the Applicant provides shelter, food, clothing, foster care, maintenance, medical treatment and schooling to these Adoptive Children. The Applicant also looks after the mental, physical as well as psychological needs of these Adoptive Children for their social integration.
- 1.11 (i.) Children below 3 years old are provided with baby-sitting care. There are about 20 care taker lady-servants and nursing staff around 9 who look after these infants adoptive children round the clock for all the days. (ii.) Children in the age group of 2-3 years are taught fine motor skills - a medical term which denotes ability or skill in coordination of small muscles in movements - usually synchronization of hands and fingers - with the eyes. Development of fine motor skills involves clay activities, paper sticking, joining and separating links and blocks. Development of cognitive skills involves naming and identifying objects, body part recognition, identifying colours building blocks, shape sorter, etc. It's an educational as well as a skill development for a child in that age group. Professional persons and volunteers are engaged to teach these children. (iii.) Children in the age group of 3 to 6 years are enrolled in the school. During the academic year 2018-19, 11 children were enrolled in the municipal school and 4 children in a private school. A letter bearing No. 482 dated 03.04.2019 from the Principal of the Municipal School confirming the enrolment of 11 students is submitted. These Children are also provided in-house computer training, sports facilities, library facilities, etc. The Applicant **therefore, says** and submits that the services provided by him to these Adoptive Children are in the nature of advancement of educational programme and skill development relating to the abandoned orphaned or homeless children.
- 1.12 Formerly, the adoption process in India was regulated, controlled and supervised by the Central Government under the Guidelines Governing Adoption of Children, 2015 (herein after referred to as 'The Adoption Guidelines') issued by it on 17th July, 2015. In



terms of Para 47 of the said Adoption Guidelines, the Prospective Adoptive Parents were required to *bear the expenses for adoption* in the SAA's Child Care Corpus (Hereinafter referred to as '*The CCC*') up to the amount as prescribed in Schedule 13 of the said Adoption Guidelines. The Adoption expenses to be borne by the Prospective Adoptive Parents as provided in Schedule 13 were INR 40,000 in case of the intra-country adoption, and US\$5,000 in case of inter-country adoption. The SAA was NOT permitted to accept any donation in cash or kind directly or indirectly, for adoption of a child from the prospective adoptive parents. Enclosed and marked as *Exhibit 'G'* is a copy of the said Adoption Guidelines 2015

- 1.13 On 16th January, 2017, the Government of India notified The Adoption Regulations. Regulation 2(3) defines "*Adoption Fee*" means the fee as prescribed by the authority to be received from the prospective adoptive parents directly, in case they are living in India and through Authorized Foreign Adoption Agency or Central Authority or the Government Department, as the case may be, in cases of inter-country adoptions; Regulation 46(1) provides: *Adoption fees – The prospective adoptive parents shall bear the expenses for adoption, as prescribed by the Authority from time to time.* Regulation 46(2) provides: *The Specialized Adoption Agency and the Authority may receive adoption fee from the prospective adoptive parents and utilize the funds in accordance with norms prescribed by the Authority from time to time.* Regulation 46(3) provides: *The Specialized Adoption Agency is not permitted to accept any donation in cash or kind, directly or indirectly, from the prospective adoptive parents for adoption of a child.*
- 1.14 On 23rd March 2017 CARA issued an Office Memorandum No.IP03/20/2016/CARA dated 23rd March 2017 ("**The March Memorandum**") wherein it was notified that "*in accordance with Regulation 46(1) & (2) of the Adoption Regulations 2017 and Section 61 of the JJ Act, CARA notifies that the Adoption Fee as prescribed under Schedule 13 of the Adoption Guidelines shall continue to remain in force with effect from 16-1-2017 till the further orders.*"
- 1.15 On 5th April, 2017, CARA issued an Office Memorandum No. IP03/20/2016/CARA dated 5th April, 2017 ("**The April Memorandum**") wherein CARA has notified that

*"Payment of Adoption fees (earlier known as CCC) is under revision and awaiting Govt. approval. However, the existing Fee has been continued as intimated vide our circular dated 23rd March, 2017, shall be made by the Prospective Adoptive Parents in the following instalments:*

(a) *In-Country Adoption*

- (i) *At time of acceptance:* Rs. 24,000/  
(ii) *At time of handing over the Court Order:* Rs. 16,000/  
Total: Rs. 40,000/

*Note: The legal fee is included in the above amount and the expenditure by Specialized Adoption Agencies (SAA) on this head shall not exceed 20% of total Adoption Fees received. The ratio of payment shall also be similar i.e. Rs. 4,800/- on filing of application & Rs. 3,200 after obtaining the Court Order.*

(b) *Inter-country Adoption*

- (i) *At time of acceptance:* US\$ 3000/  
(ii) *At time of handing over the Court Order:* US\$ 2000/  
Total: US\$5000/



Note: The legal fee is included in the above amount and the expenditure by SAA on this head shall not exceed 5% of total Adoption Fees received. The ratio of payment shall also be similar i.e. equivalent to US\$ 150 on filing of application & equivalent to US\$ 100 after obtaining the Court Order."

1.16 Based on the above Office Memorandum, the Applicant receives Adoption Fees from the Prospective Adoptive Parents for adoption of Child.

**B. Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the aforesaid question(s) (i.e. applicant's view point and submissions on issues on which the advance ruling is sought).**

**POSITION UNDER JJ ACT**

- A.1 Based on the conjoint reading of the JJ Act, the JJ Rules, Regulation 46 of The Adoption Regulations and Schedule 13 of the Guidelines, the Applicant submits that the 'adoption fee' under the JJ Act and the Child Care Corpus (CCC) under the old Guidelines are parimateria **i.e. both refer to the reimbursement of adoption expenses** and both provide for "The prospective adoptive parents shall bear the expenses for adoption as prescribed". Thus, it is submitted that in the scheme of the JJ Act, the adoption fee is nothing but a partial reimbursement of the expenses incurred by the SAA and not a *consideration* for any services rendered.
- A.2 Sections 56 to 73 under Chapter VIII titled ADOPTION of the JJ Act extensively provides for the adoption of children and the procedures to be followed. While Section 65 provides for role and recognition of the Specialized Adoption Agencies, Rules 23 to 32 of the JJ Rules provide for the Recognition, Inspection, and functions of Adoption Agencies. The Applicant submits that it has no control of whatsoever nature in admitting any child, nor in selecting the adoptive parents, nor over the process of adoption nor in charging any fees. Once a child is admitted in the SAA, the Applicant has to follow precisely the applicable Rules and Regulation for his care, protection, food, nutrition, health/ medical education and over all development and social integration.
- A.3 The Applicant in a way, provides help support and protection to the Child as a good samaritan on humanitarian and compassionate grounds. It provides an opportunity for education and development of skills of a child through rehabilitation and social integration by facilitating adoption, foster care, etc. The Applicant is a charitable, philanthropic and social welfare activity with no business or commercial interest at all. It is also true that a Child under the JJ Act is not a 'goods' nor is any service rendered to him.

**POSITION UNDER THE GST ACT**

B.1 The Central Government has, pursuant to the powers vested under Section 11 of the CGST Act, issued a Notification No. 12/2017-Central Tax Rate dated 28.06.2017 (hereinafter referred to as '*The Exemption Notification*') whereby an exemption as specified therein is granted for intra-state supply of services of services specified therein. The said Exemption Notification provides that

*Services by an entity registered under section 12AA of the Income Tax Act, 1961 by way of charitable activities are exempt from whole of the GST.*

Section 2 (r) of the said Exemption Notification defines charitable activities means activities relating 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).....
  - (C).....
  - (D).....
- (iv) preservation of environment.....

B.2 The Applicant submits that the Applicant is a charitable trust registered under Section 12AA of the Income Tax Act and the activities of the Applicant as explained vide the foregoing paras are the "charitable activities" under the GST Act.

B.3 This brings Applicant to the other obvious conclusion that the Applicant is NOT engaged in any business. Adoption of a child cannot be a business in view of the stricter provisions of the JJ Act and the JJ Rules. In fact, if there is any element of business in the adoption activities, the Applicant will have to face criminal proceedings for violation of the JJ Act.

B.4 Section 2(17) of The CGST Act defines the term Business as (17) "business" includes -  
**(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;**

**(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);**

**(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;**

**(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business,**

**(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;**

**(f) admission, for a consideration, of persons to any premises;**

**(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;**

**(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and]**

**(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities,**

B.5 The Applicant further submits that the Adoption activity is not covered also within the scope of the term 'SUPPLY' as provided vide Section 7 of the CGST Act, 2017. The relevant Clause of Section 7 is reproduced below for ready reference:

"Section 7: Scope of Supply

(1) For the purposes of this Act, the expression "supply" includes -

**(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;**

**(b) import of services for a consideration whether or not in the course or furtherance of business, [and]**

**(c) The activities specified in Sch. 1, made or agreed to be made without a consideration;**

[\* \* \*]

[\* \* \*]



*[(1A) where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.]*

....."

- B.6 The Applicant states and submits that *firstly*, the activity of placing a child in adoption does not qualify either as supply of goods or services and *secondly*, complying with the legal formalities of adoption process in terms of the provisions of Adoption Regulations, 2017 and or the JJ Act, 2015 cannot be construed as an activity in the course or furtherance of business nor is it made for any consideration; *Thirdly*, the adoption activity can't be said to be covered under Schedule 11 of the CGST Act which enumerates "Activities ( or Transactions) to be **treated as supply of goods or supply of services.**
- B.7 The term 'Consideration' is defined vide Section 2 (31) of the CGST Act, 2017 and the same is reproduced below:  
**(31) "Consideration" in relation to the supply of goods or services or both includes**  
(a) *any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*  
(b) *The monetary value of any act or forbearance, in respect of, in response to, or for the inducement of the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:*  
*Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;*
- B.8 It is submitted that though the Applicant does not receive any consideration as defined in the GST Act, the adoption activity is not covered under the Schedule I i.e. "activities to be **treated as supply even if made without a consideration**".
- B.9 In the context, Clause (a) is the most relevant Clause which stipulates various categories undertaken whether or not for a 'Peculiar Benefit'. The activities of child adoption and/ or legal compliance undertaken in relation to the Adoption by the Applicant do not fall under any of the above categories. Also, the 'Peculiar Benefit' as mentioned in the above definition denotes nothing but an 'Economic Benefit' only in that context. The adoption fees prescribed by CARA under the authority of JJ Act, 2015 read with the Adoption Regulation, 2017 is, under any circumstances, by any stretch of imagination, whatsoever, cannot considered as a consideration against the business activity.
- B.10 The Applicant also submits that there are two important limbs of any supply under GST i.e. (i) *consideration* and (ii.) *in the course or furtherance of business*. Where the consideration is not extant in a transaction such the one of placing a child in adoption, that transaction does not fall within the ambit of the definition of supply. But in certain scenarios as elucidated in Schedule I of the CGST Act, **the key element** of consideration is not required to be **present for treating certain** activities as supply. However, the Adoption activity is, as stated above, NOT an activity covered under said schedule I.
- B.11 Another key element is whether any invoice is issued by the supplier in the transaction. As stated above, the Applicant do not issue any invoice. It **therefore does not** qualify as "supplier". In fact, under the JJ Act, the Applicant is prohibited to do so. The amount to be reimbursed towards Adoption Expenses by the Prospective Adoptive Parents is





prescribed under Rule 46 of the JJ Rules and the Applicant has no control or discretion on deciding such amount.

B.12 In order to sum up, the Applicant submits that:

- (a) The adoptive child is certainly not "Goods" in terms of section 2(52) of the CGST Act;
- (b) No taxable supply of services as defined in section 2(108) is made by the Applicant to the Adoptive Child, and or to the Government and or to Prospective Adoptive Parents.
- (c) The activities of the Applicant are "Charitable Activities" in terms of the GST Exemption Notification dated 12/2017.
- (d) No consideration is received by the Applicant. What is received is only a partial reimbursement of the expenses up to the limit prescribed by the Government and NOTHING MORE. In terms of the provisions of the Regulations 46(1) of the Adoption Regulations as per the CARA what is contemplated as Adoption Fee is "the adoptive parents shall bear the *expenses for adoption as prescribed by the Authority*".
- (e) The Applicant is not engaged in any Business at all.

**Prayer**

C. In view of the above factual and legal matrix, it is prayed that the Authority for Advance Ruling be pleased to hold that

- a. the Applicant is a charitable trust and its activities are "charitable activities" within the meaning of the Exemption Notification.
  - b. That the amount of INR 40,000 in the case of Intra-country adoption or on the amount of US\$ 5000 in the case of Inter Country adoption, received by the Applicant is not a consideration in the course or furtherance of business or otherwise.
  - c. the Applicant is not engaged any Business as defined under the CGST Act.
- No GST is payable on the said amount of INR 40,000 in the case of Intra country adoption or on the said amount of US\$ 5000 in the case of Inter Country adoption, received by the Applicant.

**03. CONTENTION - AS PER THE CONCERNED OFFICER:**

The jurisdictional office has not made any submissions.

**04. HEARING**

Preliminary hearing in the matter was held on 20.09.2019. Sh. Shrikant Gharat, Advocate and Sh. Anshul Jain appeared and made written submissions and requested for admission of their application. The request for admission of application was accepted and also taken up for final hearing on the basis of request made by the applicant during the hearing. Jurisdictional Officer was not present.

The representative of applicant has submitted that their activities are not covered in the definition of 'supply or business and hence GST is not leviable. Even if it is held that their



activities are covered under the definition of 'supply or business, it would still be covered under the notification 12/2017 CT dt. 28.07.2017 (as amended), under Entry no 1. i.e. "Advancement of educational programmes or skill development relating to abandoned, orphaned or homeless children". Their activities include, admission and taking care of orphaned, abandoned children between 1-6 years till they are adopted by prospective parents. They are covered by Juvenile justice care and Protection Act, 2015 and Rules, 2016. Their activities are governed by Central Adoption and Resource Agency (CARA) as child welfare committee.

**05. OBSERVATIONS AND FINDINGS:**

We have gone through the facts of the case, documents on record and submissions made by the applicant.

The Applicant seeking ruling on whether their activities are exempted under the Entry No.1 of the Notification 12/2017 CT dated. 28.07.2017 (as amended) and in the second part of the question the applicant queried, whether the receipt of the Adoption Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the applicant Trust is exempted from the levy of Goods and Services Tax.

The question, whether or not the Exemption Notification 12/2017 applies to the Applicant's activities, would be relevant only if it is considered that their activities attract GST. Hence we will discuss whether their activities come under the purview of taxability under GST. The applicant has submitted that 'Children' are neither "goods" nor is there any "service" provided by them to the adoptive parents and therefore the essential element of supply namely "in the course or furtherance of business" is missing from the chain of activities, because their activities neither answer the definition of 'business' under section 2(17) of the CGST Act nor do the fees received from the adoptive parents to be a 'consideration' under the Section 2(31) of the CGST Act. On careful consideration of the definitions of 'business', 'supply' and 'consideration' contained in the CGST/SGST Act, we are of the opinion that the applicant, alongwith providing for advancement of educational programmes or skill development relating to abandoned, orphaned or homeless children, is also providing a 'service of facilitating adoption' and receiving consideration in the form of adoption fees for such facilitation services rendered by them. Therefore, we hold that their activities are covered within the scope of CGST/SGST Act.



Having seen that the activities of the Applicant is covered within the scope of GST we shall now examine whether their activities are covered under Exemption Notification 12/2017 mentioned above.

We observe that the applicant is a Charitable Trust registered under Section 12 AA of the Income Tax Act, 1961 (IT Act) and is strictly regulated by the Government of India under the provisions of The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) read with The Juvenile Justice (Care and Protection of Children) Model Rules, 2016 (JJ Rules) as well as The Adoption Regulations, 2017. We also observe that the applicant, as per the JJ Act and JJ Rules, are registered as a "Specialized Adoption Agency"(hereinafter referred to as "The SAA') as defined under Section 2(57) of the JJ Act. Thus they are an institution recognized under Section 65 of the said Act, for housing orphans abandoned and surrendered children placed there by order of the Committee for the purpose of adoption. Every aspect of their activity is controlled and processed by the Government through its organ, namely, the Central Adoption Resource Agency (CARA) established by the Government under Section 68 of the JJ Act. We find that the applicant is a Specialized Adoption Agency as defined under the relevant laws and they have established a shelter, namely, "Vishwa Balak Kendra", in their own building and provide shelter, food, clothing, healthcare, foster care and basic education to abandoned, orphaned or homeless children below 6 years of age till the time of adoption. We further find that their activities which are in the nature of "Charitable Activities", also consists of advancement of educational programmes or skill development relating to abandoned, orphaned or homeless children. Such activities are clearly covered under Sr. No. 1 of Notification No.12/2017- C.T. (Rate) dated 28.06.2017 as amended from time to time and the applicant being an entity registered under Section 12AA of the IT Act, such activities carried out by the applicant are exempted by the said notification.

We now take up their query as to whether the receipt of the Adoption Fees paid to them by the Adopting parents, under Regulation 46 of the Adoption Regulations, 2017 is exempted under the Notification No.12/2017. As mentioned above, the applicant is a Charitable Trust registered as a "Specialized Adoption Agency" and is an institution recognized under Section 65 of the said Act, for housing orphans abandoned and surrendered children placed there by order of the Committee for the purpose of adoption. Every aspect of their activity is controlled and processed by CARA. The applicant does not and cannot take any remuneration, donation or any



other amount other than the Adoptions fees paid to them. The Adoption Fees as on the date is affixed amount of Rs. 40,000/- for Intra Country and US\$ 5,000/-, in case of Inter-Country Adoption.

In this context, we find from the FAQs issued by CARA (Central Adoptive Resources Agency) in their official website *cara.nic.in* that the adoption fee collected by the institute is strictly in terms of guidelines fixed by the Adoption Regulations, 2017 issued under the JJ Act. As per the Regulations, a Specialized Adoption Agency (SAC) can charge a fee of Rs.40,000 under the head Child Care Corpus from the adoptive parents. The applicant, being a SAA, charges fees of Rs.40,000 as a corpus which in turn is used for shelter, food, clothing, foster care, maintenance, medical treatment and primary education and basic computer skills of these abandoned children/orphans in their Bal Vikas Kendras till the time they are adopted. During the course of the hearing, the Applicant produced pictures of children learning alphabets, drawing and interaction with computers in support of their arguments.

In view of the submissions made by the applicant and the observations made by us, we find that their activities, including the activity of facilitating the adoption of the children by the Adoptive parents, are in the nature of "Charitable Activities", which also consists of advancement of educational programmes or skill development relating to abandoned, orphaned or homeless children. Such activities are clearly covered under Sr. No. 1 of Notification No.12/2017- C.T. (Rate) dated 28.06.2017 and are exempted by the said notification. Therefore the receipt of the Adoption Fees by the applicant from the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

**ORDER**

**(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

**NO.GST-ARA- 15/2019-20/B-**

**Mumbai, dt.**

For reasons as discussed in the body of the order, the questions are answered thus -

Question - Whether the activities conducted by The Children of the World (India) Trust are the "Charitable Activities" exempted under the Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended and consequently, the receipt of the Adoption



Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax

Answer: - The activities conducted by the applicant are "Charitable Activities" which are exempted under Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended. The receipt of the Adoption Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax exempted under Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 as amended.



—sd—  
B. TIMOTHY  
(MEMBER)

—sd—  
A. A. CHAHURE  
(MEMBER)

**CERTIFIED TRUE COPY**

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

  
**MEMBER**  
**ADVANCE RULING AUTHORITY**  
**MAHARASHTRA STATE, MUMBAI**

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai - 400021.