

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. Rajiv Magoo, Joint Commissioner of Central Tax, (Member)
(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id		27AAACY6741P1ZN
Legal Name of Applicant		M/s. YASHASWI ACADEMY FOR SKILLS
Registered Address/Address provided while obtaining user id	Plot No. 1051a, Yashaswi House, Prabhat Road Lane 15, Pune 411004	
Details of application		GST-ARA, Application No. 83 Dated 26.12.2019
Concerned officer		DIV-III Deccan, Commissionerate Pune-II
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in brief)	Yashaswi Academy for Skills, the applicant, is registered under sec. 25 of the Companies Act 1956 and Sec 12AA of Income Tax Act 1961. Applicant is registered as a Third Party aggregator under Apprentices Act 1961. Applicant provides support for mobilizing the trainees under National Apprenticeship promotion Scheme for providing them on-the-job practical training in industries, for which, Applicant enters into agreements with various companies/ organizations (industry partner) who impart actual practical training to the students. As per Apprenticeship Rules 1992 Industry establishments are required to engage apprentices at certain percentage of total employees.
Issue/s on which advance ruling required		(v) Determination of the liability to pay tax on any goods or services or both (vii) 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, within the meaning of that term.
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. YASHASWI ACADEMY FOR SKILLS.**, the applicant, seeking an advance ruling in respect of the following questions.

1. *Whether the reimbursement by Industry Partner to YAS of the stipend paid to students attracts GST?*
2. *Whether the reimbursement by Industry Partner to YAS of the insurance premium attracts GST?*
3. *Whether the reimbursement by Industry Partner to YAS of the expenses for uniform and safety shoes attracts GST?*

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 mention 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 made by the applicant are as under:-

- 2.1 *Yashaswi Academy for Skills, the applicant/YAS, is registered as a ‘not for Profit Company’ under sec. 25 of the Companies Act 1956. Applicant’s activities are Charitable and they hold registration under Sec 12AA of Income Tax Act 1961.*

Third party aggregator under Apprentices Act 1961:

- 2.2 *Applicant is registered as Third Party aggregator under the Apprentice Act 1961. Applicant provides support for mobilizing the trainees under National Apprenticeship promotion Scheme for providing them on-the-job practical training in industries. For that purpose Applicant enters into agreements with various companies/organizations (called as industry partner) who impart actual practical training to the students. As per*

Apprentice Rules 1992, Industry establishments are required to engage apprentices at certain percentage of total employees.

2.3 *During the duration of the training, the apprentices are paid monthly stipend. They are not treated as employees of the company*

Role of the applicant i.e. YAS:

2.4 *As per the agreement with the industry partner (where students are given practical training), applicant is assigned the following functions:*

- A) Preparation of monthly attendance record of the apprentices and getting it certified from the Company*
- B) Processing Stipend of the apprentices*
- C) Payment of stipend to the apprentices in their individual bank accounts*
- D) Providing uniform and safety shoes (as per requirement of industry partner) to the trainees*
- E) Take Insurance policies towards Employee Compensation and Personal Accident Policy for trainees.*

Consideration or monetary aspect and invoicing:

2.5 *For carrying out the above mentioned functions, YAS gets fixed professional service charges fees per candidate, per month from the Industry partner. YAS issues invoices specifying separately the professional service charges and amount for reimbursement of Actual expenses incurred on behalf of industry partner towards:*

- 1. Stipend paid to the trainees*
- 2. Actual cost of uniform and safety shoes provided by YAS to the trainees*
- 3. Actual cost of Insurance Premium towards Employee Compensation and Personal Accident Policy.*

2.6 *Minimum stipend payable by industry to trainee is fixed by the Government considering nature of work to work as trainee and educational qualification of trainee.*

2.7 *The uniform, safety shoes are as per requirements of the Industry partner and are purchased in the name of YAS.*

2.8 Insurance policy is in the name of YAS specifying the names of students/apprentice trainee and industry partner.

2.9 YAS enters into contract with Industry partner for giving Industrial training to students. As per rules under Apprentice Act, applicant is recognized as Third Party Aggregator and is responsible for selecting trainees and choosing suitable industry partner (having infrastructure facilities) for actual job training to selected trainees. Applicant Company enters into contract with such industry partners. As per agreement industry partner is under obligation to pay stipend to trainees and also to provide uniform and safety shoes and insure the trainee students. YAS is acting as agent on behalf of industry partner as far as providing stipend, insurance premium, uniform and safety shoes is concerned

2.10 **Rule 33 of CGST Act is as follows:** Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

(i) The supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;

(ii) The payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(iii) The supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account

Explanation. - For the purposes of this rule, the expression "pure agent" means a person who-

(a) Enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;

(b) Neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;

(c) Does not use for his own interest such goods or services so procured; and

(d) Receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.



- 2.11 *Apprentice students are paid remuneration in the form of stipend for their work as Apprentice. Thus industry is recipient of supply of service. Hence the expenditure on behalf of industry will qualify as agent.*
- 2.12 *YAS does not procure goods and services for his own interest. Shoes, uniform and insurance premium are not for use of YAS. YAS gets reimbursement of actual amount incurred for procurement of goods and/or services on behalf of principal (industry Partner).*
- 2.13 *YAS gets separate charges for providing the services of selecting Apprentices, preparing stipend statement and disbursing stipend, taking out insurance policies, procuring uniform and safety shoes.*
- 2.14 *The Authority for Advance Ruling – Karnataka under GST Act in similar case of CADMAXX SOLUTION EDUCATION TRUST has held that reimbursements for stipend and insurance premium are not taxable under GST (ref : KAR ADRG 85/2019 DATED 25/09/2019).*

2.15 *Considering all the above facts and legal provisions the Applicant contends that the receipts on account of reimbursements for stipend, uniform, shoes, insurance premium are not taxable in the hands of Applicant under CGST/SGST Acts.*

APPLICANT SUBMISSIONS DATED 27.07.2021:-

2.16 *Article 41 of the Constitution provides Directive principles which state that "the State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment."*

It is the duty of the State to apply these principles by making laws to attain the objectives. Governments, established employment exchanges all over the country. The number of educated unemployed were exploding. Industries were coming up all over India. Technical education was all theory and without practical experience it was of no use. The Apprentice Act provided obligations on industries to impart practical training to qualified unemployed. The employment exchanges were not able to cope up with the

work load and hence it became necessary to outsource the work. However, there was apprehension of exploitation in the hands of private sector operators. Hence regulations were made to formulate the boundaries within in which such agents have to work. Now let us consider the issue under consideration.

Agreement made as agent appointed under Apprentices Act.

2.17.1 The Apprentices Act 1961 is a Central legislation to regulate and control training of apprentices and matters connected thereto. The qualification as trainees and criteria as employer and the duties and obligations of trainees and employer are provided in the Act. The trainees and industries are spread all over India. To bring them together the government approves organizations having expertise in this field. Such organization is required to get itself empaneled. The Ministry of Skill Development and Entrepreneurship has selected the Applicant to do this job and has registered and empaneled the applicant as "Third Party aggregator". In proof of registration a letter from Ministry of Skill Development and Entrepreneurship is attached (refer Page no.26 & 27). Agent's job is to select trainees and also suitable industrial establishments for imparting practical training and to coordinate between them for the proper implementation of scheme of training.

As per the terms of employment, applicant is required to prepare and submit report of stipend and claim reimbursement of it every month. Applicant is not entitled to charge any amount to apprentices but can charge administration fees to the establishment who actually run the apprenticeship programme.

2.17.2 The applicant, in pursuance of its registration as "third party aggregator" enters into agreement with industrial establishments for imparting actual training to the trainees. The agreements are required to be in conformity with the scheme and regulation under Apprentices Act. Therefore, all agreements, in sum and substance, are identical. The applicant has attached one agreement with Gharda Chemicals Ltd. as specimen.

2.17.3 The monthly attendance of the trainees is to be jointly prepared and shall be certified by officer of the establishment, the establishment will pay the consolidated sum of stipend payable to trainees to the Applicant, who in turn will pay it to respective trainees. Only

the actual amount of stipend is thus paid to the trainees through the "Third Party aggregator". The Invoice, Statement of Trainee wise Stipend paid and calculation of stipend makes it crystal clear that the applicant has acted as conduit for disbursement of stipend.

The character of amount received for disbursement of stipend on behalf of industry partner/establishment:

2.18 *The consideration by way of stipend is legally and contractually payable by industry or establishment imparting actual training to the trainees. Whatever amounts are received by the applicant in respect of stipend payable to trainees are not by way of consideration of service by the applicant to industry. These receipts do not have character of consideration within the meaning of CGST/SGST Act.*

2.19 *As per the terms of agreements the applicant is entitled for and also has charged professional service charges/administrative fees for services rendered as agent/facilitator /Third Party aggregator on which applicant has charged GST.*

2.20 *The Applicant therefore contents that he acts as pure agent for transfer of funds from industrial establishment to the trainees, by way of reimbursement. In these transactions the Applicant does not get any consideration from the trainees, and hence the amount received as reimbursement of stipend is not taxable under CGST/SGST Act.*

2.21 *The applicant does not wish to press other two points/question nos 2 and 3, on which advance ruling is sought, namely: amount received towards insurance premium and amount received for uniform and safety shoes.*

03. CONTENTION – AS PER THE CONCERNED OFFICER:

The submissions made by the jurisdictional officer are as under:-

Clarification / comments on the queries raised by the applicant are as under:

3.1 As per the nature of work / activities described and submission made, it appears that the applicant is acting as a pure agent on behalf of industry partner for the provision of services of selecting trainees, preparing stipend statement and disbursing stipend, taking out insurance policies, procuring uniform and safety shoes. The applicant, in the said

application, has declared / submitted that they are acting as a pure agent of the recipient of supply and fulfils all the conditions required as per Rule 33 of the CGST Act, 2017.

3.2 In view of the above facts, following findings has been chalked out.

1. Whether the reimbursement by Industry Partner to M/s Yashaswi Academy for Skills of the stipend paid to students attracts GST?

Ans: The Company (industry partner) 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 trainers to the trainees 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 trainers to the trainees. Therefore, the reimbursement by the industry partner to the applicant of the stipend paid to students is not taxable in the hands of the applicant.

2. Whether the reimbursement by Industry Partner to M/s Yashaswi Academy for Skills of the insurance premium attracts GST?

Ans: The payment of insurance premium towards Employee Compensation and Personal Accident 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 (industry partner), as per the terms of the agreement, this amounts to reimbursement of the premium paid and hence, this amount reimbursed would not be taxable in the hands of the applicant.

3. Whether the reimbursement by Industry Partner to M's Yashaswi Academy for Skills of the expenses for uniform and safety shoes attracts GST?

Ans: The expenses incurred towards uniform and safety shoes for the trainees are made by the applicant. As per the agreement with the industry partner, the uniform and safety shoes provided to the trainees are as per the requirement of the industry partner and are purchased in the name of the applicant. If any tax is liable on this

transaction, it shall be collected by the actual supplier of the uniform and safety shoes and the applicant will be the recipient of supply of goods. Hence, the applicant is just a channel for the payment of the goods procured. Therefore, the reimbursement of actual amount incurred for procurement of uniform and safety shoes, by the industry partner to the applicant is not taxable in the hands of the applicant.

04. HEARING

- 4.1 Preliminary hearing in the matter was held on 28.01.2020. Shri G. Y. Patwardhan, Advocate and Authorized Representative, appeared, and requested for admission of the application. Jurisdictional Officer was absent.
- 4.2 The application was admitted. Final hearing in the matter was fixed on 27.07.2021. Shri G. Y. Patwardhan, Advocate, and Authorized Representative, appeared and made oral and written submissions. Jurisdictional Officer was absent.
- 4.3 Heard the matter.

05. DISCUSSIONS AND FINDINGS:

5.1 We have gone through the facts of the case, documents on record, oral and written submissions made by the applicant as well as the written submissions made by the jurisdictional officer.

5.2 The applicant withdrew Question nos. 2 and 3 during their oral submissions made on 27.07.2021 and have further confirmed the same vide their correspondence dated 28.07.2021. Hence our discussions will only be in respect of Question No. 1 namely; ***“Whether the reimbursement by Industry Partner to the applicant, of the stipend paid to students attracts GST”***.

5.3 We find that, the Applicant is registered as a Third Party aggregator as per the provisions of the Apprentice Act 1961 for which it is empanelled with the Ministry of Skill Development and Entrepreneurship, as a “Third Party aggregator”.

5.4 The Applicant has submitted that, they select trainees and also suitable industrial establishments for imparting practical training to the trainees and to coordinate between them for the proper implementation of scheme of training envisaged under the Apprentice Act 1961. The applicant for such purpose enters into a written agreement with such

industrial establishments (industry partner) as per which : the applicant prepares monthly attendance record of the apprentices, getting it certified from the Company ; processes stipends of the apprentices ; makes payment of stipend to the apprentices in their individual bank accounts ; provides uniform and safety shoes (as per requirement of industry partner) to the trainees ; takes Insurance policies towards Employee Compensation and Personal Accident Policy for trainees. For the said services, the applicant receives from the industry partner: fixed professional service charges fees per candidate, per month; reimbursement of Stipend paid to the trainees; reimbursement of actual cost of uniform and safety shoes provided by the applicant to the trainees and reimbursement of the actual cost of Insurance Premium towards Employee Compensation and Personal Accident Policy.

- 5.5 Further, the applicant has also submitted that, the minimum stipend payable by industry to trainee is fixed by the Government considering the nature of work of the trainees and educational qualification of trainee. The applicant is paying GST on the service charges that is received from the industry partners for the supply of services by the applicant.

- 5.6 The jurisdictional officer has submitted that, “the industry partner 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 industry partners to the students. The service is provided by the trainers to the trainees 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 trainers to the trainees. Therefore, the reimbursement by the industry partner to the applicant of the stipend paid to students is not taxable in the hands of the applicant.

- 5.7 We find that, the applicant, is empanelled with the Ministry of Skill Development and Entrepreneurship, as a “Third Party aggregator” for mobilizing the trainees under National Apprenticeship Promotion Scheme (NAPS) for providing them on-the-job practical training in various industries, for which they enter into agreements with various companies/ organizations (called as industry partner) who impart actual practical training to the students. The applicant, in lieu of agreements with the industry partners, is engaged

in preparing monthly attendance record of the apprentices, getting it certified from the Company ; processing stipends of the apprentices ; making payment of stipend to the apprentices ; providing uniform and safety shoes to the trainees ; taking Insurance policies for trainees towards Employee Compensation and Personal Accident Policy. For all such services rendered the applicant is paid service charge per month per trainee on which GST is being discharged (as per their submissions).

5.8 Regarding the issue before us in respect of stipend paid to the trainees by the applicant, the industry partner that provides training to the trainees is required to pay stipend to the trainees. This stipend is not directly paid to the trainees by the companies, rather the same are routed through the applicant. The applicant has submitted that the entire amounts received as stipend from the companies are paid to the trainees without any amount being retained. Thus, the applicant is only acting as an intermediary in collecting the stipend from the companies and then disbursing the same to the trainees in full since the applicant is not allowed to make any deductions from the stipend before disbursing the same to the trainees. The applicant is only a conduit for the payment of stipend and the actual service is supplied by the trainees to the trainer companies (industry partners) against which stipend is payable. Hence the amount of stipend received by the applicant from the industry partners and paid in full to the trainees is not taxable at the hands of the applicant. Hence, in view of the submissions made by the applicant and also in agreement with the observations made by the jurisdictional officer, it is held that the reimbursement by Industry Partner to the applicant of the stipend paid to students does not attract GST.

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- 83/2019-20/B- 47

Mumbai, dt. 20.08.2021

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

Question 1. Whether the reimbursement by Industry Partner to YAS of the stipend paid to students attracts GST?

Answer: - *The reimbursement by Industry Partner to the applicant (YAS), of the stipend paid to the trainees, does not attract tax under the GST Acts.*

Question 2. *Whether the reimbursement by Industry Partner to YAS of the insurance premium attracts GST?*

Answer: - *Not answered since question is withdrawn by the applicant.*

Question 3. *Whether the reimbursement by Industry Partner to YAS of the expenses for uniform and safety shoes attracts GST?*

Answer: - *Not answered since question is withdrawn by the applicant.*




RAJIV MAGOO
(MEMBER)


T.R. RAMNANI
(MEMBER)

Copy to:-

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

Note:-An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.