

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

BENCH

Mr Brajesh Kumar Singh, Joint Commissioner, CGST & CX
Mr Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Tax Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed thereunder, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	Management & Computer Consultants
Address	Plot DH 6/34, MCC Towers Premises No 12-315, Action Area 1D, New Town, Rajarhat, North 24 Parganas, Pin Code 700156
GSTIN	19AAFFM8472K1ZN
Case Number	09 of 2021
ARN	AD190621002427B
Date of application	July 05, 2021
Order number and date	08/WBAAR/2021-22 dated 13/09/2021
Applicant's representative heard	Mr. Rajendra Mittal, Authorized Representative Mr. Rohit Mudi, Authorized Representative Mr. Sajal Adak, Authorized Representative

1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like matter except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the earlier, henceforth for the purposes of these proceedings, the expression 'GST Act' would mean the CGST Act and the WBGST Act both.

1.2 The applicant is stated to be in the business of supplying services relating to conduct of examination by educational institutions as well as Information Technology services to entities engaged in the businesses other than education sector.

1.3 The applicant submits that he provides services related to conduct of examinations to various Educational Boards, Councils & Universities which can be broadly categorized as (i) Pre-Examination (ii) Technical assistance provided for Online Examinations, and (iii) Post-Examination services.

1.4 The supply of such services involves printing of documents for online and offline mode both viz., registration certificates, examination forms, admit cards, mark sheets, pass certificates to manage design, development of web-based application software where examination can take place in online mode.

1.5 Based on the aforesaid nature of supply being undertaken by him, the applicant has made this application under sub-section (1) of section 97 of the GST Act and the rules made there under raising following questions vide serial number 14 of the application in FORM GST ARA-01:

Whether Supply of services related to: -

- (i) *Online and offline printing of Pre-Examination items such as Registration Certificate, Examination Enrollment Forms, Admit Cards, Award List for marks entry and other Pre examination related services to Educational Boards, Council and Universities.*
- (ii) *Designing, Developing and managing Web based applications and related services for conducting online Examination of Educational Boards, Council and Universities.*
- (iii) *Post examination services of Scanning and Processing of Examination Results, generation and printing of Mark Sheets (Online and offline), Printing of Pass certificates and other related Examination activities for Educational Boards, Council and Universities.*

be treated as exempted supply in terms of Entry No 66 under Notification 12/2017-Central Tax (Rate) dated 28/06/2017 as amended vide Notification 02/2018-Central Tax (Rate) dt 25/01/2018.

1.6 The aforesaid question on which the advance ruling is sought for is found to be covered under clause (b) and (e) of sub-section (2) of section 97 of the GST Act.

1.7 The applicant states that the question raised in the Application has neither been decided by nor is pending before any authority under any provision of the GST Act.

1.8 The officer concerned from the Revenue has raised no objection to the admission of the Application.

1.9 The Application is, therefore, admitted.

2. Submission of the applicant

2.1 The applicant submits that he provides services to different Educational Boards, Councils, Universities related to conduct of examinations online as well as offline mode and the entire activities carried on by him in this regard may be categorized as under:

- (i) Pre-examination
- (ii) Technical assistance provided to conduct online examinations
- (iii) Post-examination

2.2 Pre-examination activities: As regards to pre-examination process, the applicant submits that he provides services mainly related to design and developing of online Registration Forms, Examination Forms, Admit cards, Award List, Attendance Register as well as generation and printing of these forms in desired formats using security check stationery. In addition to the above, numerous reports are generated and various validation exercises undertaken in order to achieve the objective of rendering error free services for conducting examinations.

2.3 Technical assistance provided to conduct online examinations: It is submitted by the applicant that he also provides technical assistance for conducting the online examinations as desired by some educational institutions wherein question papers are uploaded in cloud server. After downloading the question, candidates write the answers and upload it within the stipulated time. These answer sheets are allotted to examiners through online process for their evaluation and then the marks awarded are submitted by examiners in Marks Entry Portal.

2.4 Post-examination activities: As stated by the applicant, supply of services also includes post-examination services which involve numerous activities undertaken to deliver result data in electronic device for web publication as well as printing of Mark sheets / Pass certificates in specially designed, colorful, security check stationery and laminations. A brief list of activity undertaken which is not exhaustive and may vary as per requirements of the educational institutions to generate error free result keeping in mind secrecy of the exercise required, is given below:

- Allocation of Answer scripts to the Examiners for evaluation
- Online marks entry by the Examiners after evaluation
- Online marks verification/Scrutiny by the Scrutinizer and Head Examiner

- Processing of Online submitted marks
- Generation of Incomplete list of Marks and communicate with the concerned Education Board/Council/University
- Minimize the Incomplete Marks after getting new marks from the concerned Education Board/Council/University
- Audit the processed marks
- Preparation of Results
- Online Publication of Results
- Printing of Marks Sheets & Certificates and handed over to the concerned Education Board/Council/University.

2.5 The applicant submits that the services detailed in the preceding paras are related to conduct of examination and shall therefore get covered under entry serial number 66 of the Notification No.12/2017-Central Tax (Rate) dated 28/06/2017, as amended from time to time [corresponding West Bengal State Notification No. 1136 F.T. dated 28.06.2017, as amended from time to time] which, post-amendment vide Notification No. 02-2018-Central Tax (Rate) dated 25.01.2018 [corresponding West Bengal State Notification No. 130 F.T. dated 25.01.2018] reads as under:

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 Government, State Government or Union territory;

(iii) security or cleaning or housekeeping 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.

Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services, by way of-

(i) pre-school education and education up to higher secondary school or equivalent; or

(ii) education as a part of an approved vocational education course.

2.6 The applicant, in support of his argument that exemption as outlined in the above-referred notification will be applicable to the instant case, has submitted a number of work orders in course of hearing. The applicant has also placed his reliance on the following advance rulings:

(I) In the case of Datacon Technologies 2020 (41) G.S.T.L 380 (A.A.R-GST-KAR), the Karnataka Authority for Advance Rulings has observed that 'Examination is an incomplete activity without assessment. Scanning of answer sheets and quantifying marks is an essential part albeit main objective of the examination process. Educational institutions or the examinees do not look at these activities in isolation.'

(II) In the case of Edutest Solutions Private Limited (2018 (18) G.S.T.L.77(AAR-GST), the Gujarat Authority for Advance Rulings has observed that 'the expression 'relating to' used in sub-item (iv) of item (b) of Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) widens the scope of the said entry'.

(III) In the case of K.L. Hi Tech Secure Print Limited (2018 (18) G.S.T.L 112 (AAR-GST), the Telengana Authority for Advance Rulings held that printing of pre-examination items, post examination items, scanning & processing of results are integral part of conduct of examination & accordingly shall be exempted under entry 66 as stated above.

2.7 The applicant thus submits that the services provided by him shall be covered under the entry serial number 66 of Notification 12/2017-Central Tax (Rate) dated 28/06/2017/ West Bengal State Notification No. 1136 F.T. dated 28.06.2017, as amended, and shall be exempted from payment of tax under the GST Act.

3. Submission of the Revenue

3.1 The concerned officer from the revenue has furnished a written submission wherein various work orders submitted by the applicant in course of hearing have been detailed in a table. For the sake of brevity, description of work against some of the work orders issued by different Universities and Council, as noted in the said table are given herein under:

- Pre and Post Examination data processing job relating to B.A. /B.Sc. Examination (under 1+1+1 System & CBCS).
- Data Processing job for On Line Submission of PPR/FSI Forms relating to B.A. /B.Sc. Examinees of 2018.
- Alteration work on existing online Registration Portal, to make available such portal for the use of academic session 2020-21 for both U.G. and P.G. level courses.
- Upgradation of existing software towards development of Pre & Post examination system through automation of existing registration process of UG & B PG Courses.
- Offline eligible list generation; Eligible file validation checking; Offline Examination Application form Unique ID generation; examination application form generation for B.Ed.; Online uploading & validation of Eligible data; online creation of required master data.
- Grade data processing & testing; audit run; Grade card printing; Grade card challan and Label printing.

However, in respect of the question raised in the instant case by the applicant, the concerned officer has stated that exemption is applicable only in case the services relating to admission to, or conduct of examination by, such institution are provided to an educational institution as defined in Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended vide Notification No 02/2018 – Central Tax (Rate) w.e.f. 25.01.2018.

4. Observations & Findings of the Authority

4.1 We have gone through the records of the issue as well as submissions made by the authorised representatives of the applicant during the course of personal hearing. We have also considered the submission made by the officer concerned from the Revenue.

4.2 The issues involved in the instant case is to decide whether the supply of services as detailed by the applicant can be treated as services to an educational institution relating to conduct of examination by such institution so as to get covered under entry serial number 66 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended by Notification No.02/2018-Central Tax (Rate) dated 25.01.2018 [West Bengal State Notification No. 1136 F.T. dated 28.06.2017 and Notification No. 130 F.T. dated 25.01.2018 respectively].

4.3 We find that the said Notification also provides definition of 'educational institution' which reads as follows:

"educational institution" means an institution providing services by way of,—

- pre-school education and education up to higher secondary school or equivalent;*
- education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;*
- education as a part of an approved vocational education course;*

4.4 Further, following explanation has been inserted vide Notification No.14/2018-Central Tax (Rate) dated 26.07.2018 [corresponding West Bengal State Notification No. 1030 F.T. dated 27.07.2018]:

“(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.”

4.5 Furthermore, Circular No. 151/07/2021-GST dated 17.06.2021 (CBIC-190354/36/2021-TRU Section-CBEC) has been issued for the purpose of clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination) wherein it has been stated that “Central and State Educational Boards” are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE is an ‘Educational Institution’ in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.

Para 2 of the said circular reads as follows:

“Illustratively, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board.”

4.6 It is noticed from the documents submitted that the applicant has been awarded work order by different universities like University of Calcutta, Jadavpur University, University of Gour Banga, Netaji Subhas Open University, The West Bengal University of Teachers' Training, Education Planning and Administration. The applicant has also been given the job by The West Bengal Council of Rabindra Open Schooling and West Bengal State Council of Technical and Vocational Education and Skill Development.

4.7 There is no dispute that all the universities as referred in the preceding para are regarded as ‘educational institution’. However, we need to consider whether the councils namely The West Bengal Council of Rabindra Open Schooling and West Bengal State Council of Technical and Vocational Education and Skill Development can also be termed as educational institution.

4.8 From the website of The West Bengal Council of Rabindra Open Schooling (www.twbcros.org.in), we find as follows:

“From the point of view of its constitution and responsibilities, this Council is analogous to other State Boards, Councils like the West Bengal Board of Secondary Education, West Bengal Board of Madrasah Education or the West Bengal Council of Higher Secondary Education. The West Bengal Council of Rabindra Open Schooling is recognised by the Government of West Bengal as well as the Government of India, the National Institute of Open Schooling (NIOS), other Boards etc and it is a member of the Council of Boards of School Education in India (COBSE).”

4.9 On the other hand, the West Bengal State Council of Technical & Vocational Education and Skill Development (erstwhile West Bengal State Council of Vocational Education and Training) is a statutory body under the West Bengal State Government for administration and examining Vocational courses in West Bengal. The courses are offered from various affiliated Institution like Higher Secondary, Secondary Schools and Polytechnic Colleges across the State of West Bengal. The Higher Secondary Course offered by the Council consist of two parts, i.e. Class XI and Class XII, under various section like Engineering and Technology, Agriculture, Business and Commerce, Home Science etc. [source: Wikipedia.org]

4.10 It transpires from above that the West Bengal State Council of Technical & Vocational Education and Skill Development, a statutory body, offers courses under various sections like Engineering and Technology, Agriculture, Business and Commerce etc. and also conducts examinations for admission

to different vocational education courses and therefore the function of the council is similar to other education boards.

4.11 We now take the issue to decide whether the activities undertaken by the applicant against work orders issued to him shall be treated as services relating to conduct of examination or not. The process of conducting examination includes pre-examination works, the examination itself and post-examination works. It has already been stated that the applicant has undertaken activities like pre and post examination data processing job relating to B.A./B.Sc. Examination, data processing job for online submission of PPR/FSI Forms relating to B.A./B.Sc. Examinees, upgradation of existing software towards development of pre & post examination system through automation of existing registration process of UG & B PG Courses etc. The said activities, as we opine, can be treated as services relating to conduct of examination.

4.12 For reasons as discussed above, we are of the view that supply of services details of which are submitted by the applicant in course of hearing shall get covered under entry serial number 66 of the Notification No. 12/2017 - Central Tax (Rate), dated 28th June, 2017 as amended and shall therefore be exempted from payment of tax under the GST Act.

In view of the above discussions, we rule as under:

RULING

Question: Whether Supply of services related to: -

- (i) Online and offline printing of Pre-Examination items such as Registration Certificate, Examination Enrollment Forms, Admit Cards, Award List for marks entry and other Pre examination related services to Educational Boards, Council and Universities.
- (ii) Designing, Developing and managing Web based applications and related services for conducting online Examination of Educational Boards, Council and Universities.
- (iii) Post examination services of Scanning and Processing of Examination Results, generation and printing of Mark Sheets (Online and offline), Printing of Pass certificates and other related Examination activities for Educational Boards, Council and Universities.

be treated as exempted supply in terms of Entry No 66 under Notification 12/2017-Central Tax (Rate) dated 28/06/2017 as amended vide Notification 02/2018-Central Tax (Rate) dt 25/01/2018.

Answer: Answered in the affirmative.

(BRAJESH KUMAR SINGH)

Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)

Member

West Bengal Authority for Advance Ruling