

RAJASTHAN AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICES TAX

KAR BHAWAN, AMBEDKAR CIRCLE, NEAR

RAJASTHAN HIGH COURT

JAIPUR - 302005 (RAJASTHAN)

ADVANCE RULING NO. RAJ/AAR/2020-21/, Dated 18th September 2020

J.P. MEENA Additional Commissioner	:	Member (Central Tax)
Hemant Jain Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Markk Business Private Limited, Plot No. 338, Near Seva Sadan, Adarsh Nagar, Jaipur-302004 Rajasthan
GSTIN of the applicant	:	08AAICM8786G1ZT
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	a. Classification of goods and /or services or both
Date of Personal Hearing	:	03.09.2020
Present for the applicant	:	Shri Ankit Totuka (Authorized Representative)
Date Of Ruling	:	18.09.2020

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

> At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST 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 provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

> The issue raised by M/s Markk Business Private Limited, Plot No. , Near Seva Sadan, Adarsh Nagar, Jaipur-302004 Rajasthan -(hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under: -

a. Classification of goods and /or services or both;

> Further, the applicant being a registered person (GSTIN is 08AAICM8786G1ZT as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

A. SUBMISSION AND INTERPRETATION OF THE APPLICANT;

1. The applicant is engaged in the business of supplying answer booklets / copies to educational institutions. The process involves:-

> procuring of raw material i.e. paper roll

> performing the activity of printing of the content provided by such educational institution such as its Name, Logo, Serial No. and other particulars and lines on such paper roll with the help of the machinery.

> Printed paper is then cut in required size and numbers. It is important to mention here that answer booklet is usually blank except for name of the educational institution on cover page with some particulars and its logo on every page so that it can be identified to that educational institution.

> Paper so cut is then stitched in required number of sheets to form answer booklet. Then the number of booklets is arranged in lot of 100/200 to form bundles which are then packed and delivered to the educational institutions.

> The answer booklets may be with or without OMR sheets which is printed separately depending upon the work order. If the work order is with OMR sheet, then the OMR sheet is printed separately and then tied to answer booklet.

> Consideration from educational institution is received on the basis of number of answer booklets supplied. The major component of cost of the answer booklet is paper. Out of total cost per answer booklet approx. 80% of cost is of the paper and the balance 20% is cost of printing, packaging etc. of the required content.

2. Question -1: Whether the activity of printing of Answer Booklets / Answer Copies and supplying it to Educational Institutions to be used in examinations by using its own raw material consisting of paper, printing ink etc. is 'Supply of Goods' or 'Supply of Service'?

Applicant's interpretation of law

From the facts narrated in Annexure-II it is evident that the supply of Answer Booklet to the Educational Institutions is Composite Supply of goods and services. The issue as to whether the supply of answer booklet is supply of goods or supply of service would be determined on the basis of what constitutes the Principal Supply in such Composite Supply. The term 'Composite Supply' and 'Principal Supply' have been defined under Section 2(30) and 2(90) of the CGST Act, 2017 respectively. Relevant extract of which is reproduced as under: -

Sec. 2(30) "Composite Supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Sec. 2(90) "Principal Supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

3. The activity of printing of Answer Booklet involves procuring of raw material which is paper and thereafter, printing the content provided by educational institution such as its Name, Logo, Serial No. and other particulars and lines on such paper with the help of the machinery and once the printing is done the printed paper is cut in required size and numbers. Paper so cut is then stitched in required number of sheets to form answer booklet. It is important to mention here that lined pages of answer booklet are blank except for name of the educational institution on the cover page with some particulars and its logo on every page so that it can be identified to that educational institution. Then the number of booklets is arranged in lot of 100/200 to form bundles which are then packed and delivered to the educational institutions. Consideration from educational institution is received on the basis of number of Answer Booklets supplied. The major component of cost of the Answer Booklet is paper. Out of total cost per answer booklet approx.80% of cost is of the paper and the balance 20% is cost of printing, packaging etc. of the required content. Further, the printing is incidental to its primary use which is writing. The major cost of the answer booklet is of paper and the cost of printing is only minimal. That even under the Pre-GST era such answer booklets were considered as an activity of manufacturing and not service as evident from the Circular No. 1052/1/2017-CX dated 23.02.2017 according to clause (d) of which Answer Booklet was classifiable under CETH-4820. Reliance is also placed on the Circular No. 11/11/2017-GST dated 20.10.2017 which also postulates the theory that in case of printing contracts whether supply constitutes supply of goods or supply of services would be determined on the basis of what constitutes the principal supply. Para 5 of the said circular clarifies that in case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper, etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content supplied by the recipient of supply is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff. Hence, the supply of Answer Booklets to Educational Institution is Supply of Goods and not Service.

4. Question No. 2: If the answer to the Question No.1 is 'Supply of Goods' then

a. whether the said answer booklet is classifiable under Chapter Heading -4820 or 4911;

b. what will be the rate of tax chargeable on said item 12% or 18%?

Applicant's interpretation of law

a. Classification

That according to the applicant the Answer Booklet is classifiable under Chapter-4820 of the GST Tariff and chargeable to GST rate of 12% which is applicable in case of notebook. As answer book is nature of notebook only the same is also chargeable at 12%. In case of Answer Booklets printing is merely incidental to its primary use which is writing. The same is in case of notebook which is classifiable under Chapter Heading 4820. In the instant case the principal supply is that of goods and supply of printing of the content (Name of educational institution, logo, S. No. etc.) supplied by the educational institution is ancillary to the principal supply which is of goods. The applicant places reliance on the Chapter Note 12 of Chapter-48 of Customs Tariff which are also made applicable to rate schedule of GST in terms of explanation (iii) and (iv) of the GST Rate Schedule. According to Chapter Note 12 paper or paperboard printed with motif, characters or pictorial representations not merely incidental to the primary use of the goods fall in Chapter-49. Whereas in the case of the applicant printing of name, logo and serial no. of educational institution is merely incidental to its primary use which is writing therefore, such answer booklets are classifiable under Chapter-48 of the GST Rate Schedule. Further, reliance is placed on the Circular No.1052/1/2017-CX dated 23.02.2017 issued under the Central Excise Regime relevant extract of which is reproduced as under: -

Representations have been received from trade associations that consequent upon insertion of Chapter note 14 (w.e.f. 28-5-2012) to the Chapter 48 of Central Excise Tariff Act, 1985 disputes have cropped up in respect of classification of railway/bus/other tickets/passes, railway ticket rolls and bus ticket rolls, mark sheets/certificates, OMR Sheets/Answer Books with OMR, Answer booklets, inland letter cards, passbooks, applications forms, paper outer strip seal, Railway receipt (RR) and practical notebook. Also, reports received from field formations suggest that there is divergent practice of assessment of these goods. It is therefore, proposed to clarify the classification of these goods to ensure uniformity in practice of assessment across the country.

2. In this connection, statutory provisions are as under :

(a) As per Rule 3(c) of General Rules for the interpretation of the Schedule, "when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration".

(b) As per Rule 4 of General Rules for interpretation of the Schedule, "goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin".

(c) As per Chapter note 10 of Chapter 48, heading 4820 does not cover loose sheets or cards, cut to size, whether or not printed, embossed or perforated.

(d) As per Chapter note 12 of chapter 48, except for the goods of heading 4814 or 4821, paper, paperboard, cellulose wadding and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of goods, fall in Chapter 49.

(e) As per Chapter note 14 (inserted on 28-5-2012) paper and paper products of heading nos. 4811, 4816 or 4820 intended to be used for further printing or writing are classifiable in their respective headings even if printing is merely incidental to the primary use of goods.

(f) HSN explanatory note (2) to heading 48.20 excludes educational workbooks, sometimes called writing books, with or without narrative texts, which contain printed textual questions or exercises not incidental to their Primary use as workbooks and usually with spaces for completion in manuscript. Further, as per HSN explanatory notes (A) to heading 4901, "...literary works of all kinds, textbooks (including educational workbooks sometimes called writing books) with or without narrative texts which contain questions or exercises (usually with spaces for completion in manuscript); technical publications.... " are classifiable under this heading.

(g) Also, as per HSN explanatory notes to heading 49.01 printed cards bearing personal greetings, messages or announcements (heading 49.09), and printed forms which require the insertion of certain additional information for completion are excluded from this heading.

(h) As per explanatory notes to heading 4907 (F), "Stock, share or bond certificates and similar documents of title are formal documents issued, or for issue, by public or private bodies conferring ownership of, or entitlements to, certain financial interests, goods or benefits named therein. Apart from the certificates mentioned these documents include letters of credit, bills of exchange, travellers' cheques, bills of lading, title deeds and dividend coupons. They usually require completion and validation."

(i) As per explanatory note to heading 49.11, "Certain printed articles may be intended for completion in manuscript or typescript at the time of use but remain in this heading provided they are essentially printed matter. Thus, printed forms (e.g., magazine subscription forms), blank multi-coupon travel (e.g., air, rail and coach) tickets, circulars, letters, identity documents and cards and other articles printed with messages, notices, etc., requiring only the insertion of particulars (e.g. dates and names) are classified in this heading.....". The heading 4911 also includes tickets for admission to places of entertainment (e.g., cinemas, theatres and concerts), tickets for travel by public or private transport and other similar tickets.

3.....

4.....

(a)-(b)

(c) OMR sheets - Like mark sheets and certificates these are loose sheets cut to size and therefore are not covered under heading 4820 and also provision of Chapter note 14 is inapplicable in the matter. The printing on these documents gives their essential character. In view of explanatory note to heading 4911 they are classifiable under heading 4911.

(d) Answer books with or without OMR, answer booklets and passbooks These are not loose sheets, cut to size and therefore these are not out of the purview of heading 4820. Printing on these goods is merely incidental and such goods are intended to be used for further printing or writing. Answer books with or without OMR and answer booklets are intended for completion in manuscript while passbooks are intended for completion in manuscript or typescript. Provisions

of Chapter note 12 and 14 of Chapter 48 and provisions of Rule 4 of General Interpretative Rules are applicable in the matter and therefore these are classifiable under heading 4820.

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From the perusal of the aforesaid circular it is evident that the answer booklets are classifiable under Chapter Heading- 4820. The same principal; whether the printing is incidental to its primary or not is determining factor for deciding the classification of goods between Chapter-48 or 49; has been followed in Circular No. 1057/06/2017-CX dated 07.07.2017 while determining the classification of Printed Workbooks, Exercise Books etc.

b. Rate of tax

The GST rate under S.No. 123 'Exercise Book, Graph Book, & Laboratory Notebook and Notebooks' of Schedule-II of the GST Rate on Goods is 12%, hence, the Answer Booklets being in nature of Notebook is chargeable to GST rate of 12%.

Question No. 3: If the answer to the Question No.1 is 'Supply of Services' then

a) Whether such service is eligible to be treated as exempted supply of service by virtue of S. No. 66(b)(iv) of the Notification No. 12/2017 -Central Tax (Rate) dated 28.06.2017 as amended; Entry No. 69(b)(iv) of Notification No. 2/2018- Integrated Tax (Rate) dated 28.06.2017 as amended; Entry No. 66(b)(iv) of Notification No. F. 12(56) FD/Tax/2017-Pt-I-50 dated 29.06.2017 issued by Tax Division of Government of Rajasthan as amended?

b) If not exempted service, then whether the said service is classifiable under Service Accounting Code / Head - 9989 or 9992 under CGST Notification No.11/2017-CT(Rate) dated 28.06.2017 as amended; IGST Notification No. 8/2017-Integrated Tax (Rate) dated 28.06.2017 as amended; Notification No. F. 12(56) FD/Tax/2017-Pt-I-49 dated 29.06.2017 issued by Tax Division of Government of Rajasthan as amended?

c) What will be the rate of tax on such service under aforesaid notification?

i. if classifiable under - 9989 whether

a. 12% under S. No. 27(i) or

b. 18% under S. No. 27(ii)

of the Notification or;

ii. if classifiable under - 9992 under S. No. 30 then 18%

Applicant's interpretation of law

a. Eligibility of exemption under Entry No. 66(b)(iv) of the Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017, Entry No. 69(b)(iv) of Notification No. 2/2018- Integrated Tax (Rate) dated 28.06.2017, Entry No. 66(b)(iv) of Notification No. F. 12(56) FD/Tax/2017-Pt-I-50 dated 29.06.2017 issued by Tax Division of Government of Rajasthan

The applicant submits that without causing prejudice to the fact that the supply of Answer Booklets to the Educational Institution is supply of goods. However, if for the sake of discussion,

it is presumed that such supply is supply of services then applicant submits that the service provided to an educational institution by the applicant in relation to conduct of examination is exempt by virtue Entry No. 66(b)(iv) of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 [Entry 69(b)(iv) of Notification issued under IGST] which is reproduced as under: -

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
66	Heading 9992	<p>Services provided -</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee</p> <p>(b) to an educational institution, by way of,-</p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p> <p>(iv) services relating to, admission to or conduct of examination by, such institution;</p> <p>(v) supply of online educational journals or periodicals:</p> <p>Provided that nothing contained in sub-items (1), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution</p>	Nil	Nil

		<p>providing services by way of pre-school education and education up to higher secondary' school or equivalent.</p> <p>"Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of, -</p> <p>(i) pre-school education and education up to higher secondary school or equivalent; or</p> <p>(ii) education as a part of an approved vocational education course.</p>		
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2(y) "Educational Institution" means an institution providing services by way of,-

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

(ii) Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;

(iii) education as a part of an approved vocational education course,

From the perusal of the aforesaid entry of the exemption notification it is evident that the service of supply of answer booklets to educational institution is towards conduct of examination. The service so provided by the applicant towards pre-examination items will be used by the educational institution for conduct of examination. The applicant submits that the aforesaid exemption as outlined in the notification will be applicable to the applicant's case. Thus, the services provided by the applicant to the educational institutions by way of supply of preexamination materials will not be liable to Goods and Service tax.

b. Classification

The applicant submits that without causing prejudice to the fact that the supply of Answer Booklets to the Educational Institution is supply of goods if for the sake of discussion, it is presumed that such supply is supply of services then for deciding the classification following entries of Notification No. 11/2017- Central Tax (Rate) needs to be perused: -

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
27	Heading	(i) Services by way of printing of all	6	-

	9989	goods falling under Chapter 48 or 49 [including newspapers books (including Braille books), journals and periodicals], which attract CGST @ 6 per cent, or 2.5 per cent, or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.		
		(ii) Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (1) above.	9	-
30	Heading 9992	Education services.	9	-

From the perusal of the aforesaid entries according to the applicant the more appropriate classification of the said service of supply of answer booklets to educational institution would be under the head 'Education Services' classifiable under Service Accounting Code (SAC) - 9992 as the said service of printing and supplying Answer Booklets to an educational institution enables the educational institution to conduct the examination.

c. Rate of tax

Rate of tax on such education services would be 18% as mentioned at S No. 30 of CGST Notification No. 1 1/2017-CT(Rate) dated 28.06.2017 as amended; IGST Notification No. 8/2017-Integrated Tax (Rate) dated 28.06.2017 as amended; Notification No. F. 12(56) FD/Tax/2017-Pt-I-49 dated 29.06.2017 issued by Tax Division of Government of Rajasthan as amended.

B. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

1. Whether the activity of printing of Answer Booklets / Answer Copies and supplying it to Educational Institutions to be used in examinations by using its own raw material consisting of paper, printing ink etc. is 'Supply of Goods' or 'Supply of Service'?

2. If the answer to the Question No.1 is 'Supply of Goods', then

a. whether the said answer booklet is classifiable under Chapter Heading - 4820 or 4911;

b. what will be the rate of tax chargeable on said item?

If the answer to the Question No.1 is 'Supply of Services', then

a) Whether such service is eligible to be treated as exempted supply of service by virtue of S. No. 66(b)(iv) of the Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 as amended; Entry No. 69(b)(iv) of Notification No. 2/2018- Integrated Tax (Rate) dated 28.06.2017 as

amended; Entry No. 66(b)(iv) of Notification No. F. 12(56) FD/Tax/2017-Pt-I-50 dated 29.06.2017 issued by Tax Division of Government of Rajasthan as amended?

b) If not exempted service, then whether the said service is classifiable under Service Accounting Code / Head - 9989 or 9992 under CGST Notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended; IGST Notification No. 8/2017-Integrated Tax (Rate) dated 28.06.2017 as amended; Notification No. F. 12(56) FD/Tax/2017-Pt-I-49 dated 29.06.2017 issued by Tax Division of Government of Rajasthan as amended?

c) What will be the rate of tax on such service under aforesaid notification?

i. if classifiable under - 9989 whether

a. 12% under S. No. 27(i) or

b. 18% under S. No. 27(ii) of the Notification or;

ii. if classifiable under - 9992 whether 18%

PERSONAL HEARING

In the matter personal hearing was conducted on 03.09.2020 through Video conference. Shri Ankit Totuka (Authorized Representative) of applicant appeared for personal hearing. During the personal hearing, he reiterated the submissions already made in the application. He further requested that the case may be decided at the earliest.

D. COMMENTS OF THE JURISDICTIONAL OFFICER:

Comments received from the Assistant Commissioner, CGST, Division -I, Jaipur vide letter dated 01.09.2020 are reproduced as under: -

1. The M/s Markk Business Private Limited i.e. the applicant is engaged in the business of supplying answer booklets/copies to educational institution and it is evident from Annexure-II that supply of Goods and Services, as mentioned by the applicant in their form GST ARA-01 dated 27.05.2020.

2. The applicant has sought advance ruling on classification and nature of the activity of printing of Answer Booklets/ Answer copies and supplying it to Educational Institutions to be used in examinations by using its own raw material consisting of paper, printing ink etc. and rate of tax chargeable on the said activity/item in their GST ARA-01 dated 27.05.2020.

3. The Circular No. 11/11/2017-GST dated 20.10.2017 has clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

4. Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

5. In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services. Circular No. 11/11/2017-GST dated 20.10.2017.

6. In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

7. The Circular No. 1057/06/2017-CX 07.07.2017 has clarified that that exercise Books have been explained in HSN under explanatory note (2) to Heading 4820 as, "These may simply contain sheets of lined paper but may also include printed examples of handwriting for copying in manuscript". Such exercise Books are specifically classified under heading 4820 of the erstwhile CETA, 1985. These are nothing but stationary items having blank pages with lines for writing and may also include printed texts for copying manually. In common parlance they are more akin to handwriting "note books" for practicing rather than "work books" containing printed exercise. This definition of Exercise Books is in harmony with other items specified under Chapter Heading 4820 of erstwhile CETA, 1985 such as registers, note books, diaries, letter etc. where printing is incidental to their primary use i.e. writing. The fact that printing is incidental to their primary use is the guiding Principle for classification of Exercise Books under heading 4820 of erstwhile CETA, 1985.

Printed work books on the other hand are books where printing is not merely incidental to the primary use. HSN Explanatory notes (A) to the heading 49.01 reads as, "Books and booklets consisting essentially of textual matter of any kind, and printed in any language or characters...include...textbooks (including educational workbooks sometimes called writing books), with or without narrative texts, which contains questions or exercises (usually with spaces for completion in manuscript)

Thus, printed work books containing questions followed by spaces for writing or other exercises would fall within the scope of Chapter 49. The said goods are different from Exercise Books falling under Chapter 48 which are stationary items with blank pages with lines for writing and some time may also include printed texts for copying manually, as explained in the preceding para. Further, since printing in case of printed workbooks is not merely incidental to the primary use of the goods, such goods are classifiable under Chapter 49, in terms of chapter note 12 to chapter 48 of erstwhile CETA, 1985.

Similarly, HSN Chapter note (6) to Chapter 49 read with HSN explanatory note under heading 49.03 covers children's workbooks consisting essentially of pictures with complementary texts, for writing or other exercises, and children's drawing or colouring books, provided the pictures form the principal interest and are not subsidiary to the text. Thus, children's drawing books which are in harmony with said HSN Chapter note (6) and HSN Explanatory note to heading 4903 would fall under Chapter 49.

In view of above, it appears that the nature of the activity of printing of Answer Booklets/ Answer copies and supplying it to Educational Institutions to be used in examinations by using its own raw material consisting of paper, printing ink etc. is nothing but 'Supply of goods' as defined under Section 2 of the Central Goods and Services Tax Act and classifiable under Ch. 49.

8. FINDINGS, ANALYSIS & CONCLUSION:

1. We have gone through the record of the case and taken into consideration submission made by the Appellant in their application and additional submission made by the applicant at the time of personal hearing.

2. The applicant is engaged in the business of supplying answer booklets/copies to educational institutions as mentioned by the applicant in their form GST ARA-01 dated 27.05.2020.

3. The applicant has sought advance ruling on classification and nature of the activity of printing of Answer Booklets/ Answer copies and supplying it to Educational Institutions to be used in examinations by using its own raw material consisting of paper, printing ink etc.

4. The nature of the activity carried out by the applicant for printing of Answer Booklets/Answer copies with or without OMR and supplying it to Educational Institutions which is to be used in examinations by using its own raw material consisting of paper, printing ink etc. further it is observed that the content as provided by educational institutions such as its name, logo, serial No., watermark is printed on the answer booklets for its identification.

The issue to be decided in this case is to whether the activity carried out by him will be treated as a supply of goods or supply of service.

5. In this regard, we find that the CBIC has issued Circular No. 11/11 /2017-GST dated 20.10.2017. which is as under:

it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes the predominant element of a composite supply and to which if any other supply forming part of that composite supply is ancillary.

In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

6. As per the circular, if the activity of printing gives essential character to the printed product, it will be supply of service. If the usage of the product gives essential character, it will be supply of goods.

7. In the instant case applicant is supplying answer booklets/copies with or without OMR having its name logo etc. of his customer and the printing material used in printing of the said items pertains to the applicant. We further observe that the supply of printing to the content as supplied by the recipient of the supply is the ancillary to the principal supply of the answer booklets/copies with or without OMR, therefore the supply will be considered a supply of goods falling under respective heading of chapter 48 or 49 of custom tariff.

8. To ascertain under which chapter heading will supply of goods be covered either Chapter 48 or 49 of the customs Tariff, the Circular No. 1052/1/2017-CX dated 23.02.2017 issued under the Central Excise Regime relevant extract of which is reproduced as under: -

Representations have been received, from trade associations that consequent upon insertion of Chapter note 14 (w.e.f. 28-5-2012) to the Chapter 48 of Central Excise Tariff Act, 1985 disputes have cropped up in respect of classification of railway / bus/ other tickets/passes, railway ticket rolls and bus ticket rolls, mark sheets/ certificates, OMR Sheets/Answer Books with OMR, Answer booklets, inland letter cards, passbooks, applications forms, paper outer strip seal, Railway receipt (RR) and practical notebook. Also, reports received from field formations suggest that there is divergent practice of assessment of these goods. It is therefore, proposed to clarify the classification of these goods to ensure uniformity in practice of assessment across the country.

2. In this connection, statutory provisions are as under:

(a) As per Rule 3(c) of General Rules for the interpretation of the Schedule, "when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration".

4. in the light of above statutory provisions and decision of the Hon'ble Apex Court, Classification of the goods ibid was examined and it is clarified as under: (a)- (b).....

(c) OMR sheets - Like mark sheets and certificates these are loose sheets cut to size and therefore are not covered under heading 4820 and also

Provision of Chapter note 14 is inapplicable in the matter. The printing on these documents gives their essential character. In view of explanatory note to heading 4911 they are classifiable under heading 4911.

(d) Answer books with or without OMR, answer booklets and passbooks These are not loose sheets, cut to size and therefore these are not out of the purview of heading 4820. Printing on these goods is merely incidental and such goods are intended to be used for further printing or writing.

Answer books with or without OMR and answer booklets are intended for completion in manuscript while passbooks are intended for completion in manuscript or typescript. Provisions of Chapter note 12 and 14 of Chapter 48 and provisions of Rule 4 of General Interpretative Rules are applicable in the matter and therefore these are classifiable under heading 4820.

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9. Further the Circular No. 1057/06/2017-CX 07.07.2017 has clarified that exercise Books have been explained in HSN under explanatory note (2) to Heading 4820 as, "These may simply contain sheets of lined paper but may also include printed examples of handwriting for copying in manuscript". Such exercise Books are specifically classified under heading 4820 of the erstwhile CETA, 1985. These are nothing but stationary items having blank pages with lines for writing and may also include printed texts for copying manually. In common parlance they are more akin to handwriting "Note books" for practicing rather than "work books" containing printed exercise. This definition of Exercise Books is in harmony with other items specified under Chapter Heading 4820 of erstwhile CETA, 1985 such as registers, note books, diaries, letter pads etc. where printing is incidental to their primary use i.e. writing. The fact that printing is incidental to their primary use is the guiding principle for classification of Exercise Books under heading 4820 of erstwhile CETA, 1985.....

10. According to circular No. 1052/1/2017-CX dated 23.02.2017, and the Circular No. 1057/06/2017-CX 07.07.2017, the Answer booklets with or without OMR fall under chapter heading 4820. It is including Note books, Exercise book, etc. where the predominant activity is its use for writing and printing is merely incidental or ancillary to the primary activity.

11. The goods falling under heading no. 4820 falls under Schedule II & III to the Notification No. 01/2017-Central Tax (Rate), dated 28/06/2017 as detailed below:-

(i) 4820 (S. No. 123 of Schedule II): - Exercise book, graph book & Laboratory note book and Notebooks.

(ii) 4820 (S. No. 154 of Schedule III): - Registers, account books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, blotting pads, binders, folders, file covers, manifold business forms, interleaved carbon sets and other articles of stationery', of paper or paperboard; and book covers, of paper and paperboard [other than note books and exercise books].

The definition of the Notebook in the dictionary is that: - A notebook is a blank book that you can write in. Students often carry notebooks, where they can take notes (and doodle). The pages in a notebook are often lined, so that you can write neatly.

Similarly, the Answer Booklets/Answer copies is also blank books and pages in often lined and used to write during examination. Accordingly, classifiable under Chapter Heading 4820 of entry 123 of the schedule II as is applicable in case of Note books.

12. In view of the above, we find that the activity of printing of Answer Booklets/ Answer copies and supplying it to Educational Institutions to be used in examinations by using its own raw material consisting of paper, printing ink etc. is 'Supply of goods' falling under chapter Heading/ Tariff item 4820 of entry 123 of the schedule II to the notification 01/2017 central tax (Rate) dated 28/06/2017 as amended and chargeable to GST @ 12% (CGST 6% + SGST 6%).

In view of the foregoing, we rule as the follows: -

RULLING

1. The activity of printing of Answer Booklets/ Answer copies and supplying it to Educational Institutions to be used in examinations by using its own raw material consisting of paper, printing ink etc. is "Supply of Goods" falling under Heading/Tariff item 4820 of entry no. 123 of the schedule II to amended and chargeable to the Notification 01/2017 dated 28/06/2017 as GST @ 12% (CGST 6% + SGST 6%).

18/09/2020	
(J. P. MEENA)	(Hemant Jain)
Member	Member
(Central Tax)	(State Tax)

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