


GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING (APPEAL) NO. GUJ/GAAAR/APPEAL/2022/08

(In Application No. Advance Ruling/SGST&CGST/2020/AR/43)

Date:12.05.2022

Name and address of the appellant	:	M/s. State Examination Board, Nr. State Government Library, Sector-21, Gandhinagar-382021.
GSTIN of the appellant	:	24AACTS9590F1Z6
Advance Ruling No. and Date	:	GUJ/GAAR/R/105/2020 dated 05.11.2020
Date of appeal	:	05.12.2020
Date of Personal Hearing	:	15.04.2021 & 22.03.2022 (Through Video Conferencing)
Present for the appellant	:	CA. Devam S. Sheth

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘CGST Act’ and the ‘GGST Act’) are in parimateria and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. M/s State Examination Board (hereinafter referred to as “appellant”) is a Governmental Authority, having registered office at Nr. Govt. Library Sector 21, Gandhinagar 382021. Further it validly holds GST registration certificate bearing No. 24AACTS9590F1Z6 under terms of GST Regime.

3. The appellant has stated that on formation of Gujarat State on 01.05.1960, a department named Education and labour department came into existence and social welfare, labour, prohibition, excise and employment were included in Education Department and later subjects were gradually taken away from the Education and Labour Department on administrative grounds; that since August, 1976, Education Department came into existence as separate secretariat department, which looks after education including primary education, continuous education, literacy

education, secondary education, higher education, technical education, pharmacy education.

4. The appellant has stated that the State Examination Board was established by the Gujarat Education Department in November, 1966 to arrange and conduct examinations; that this Board was declared 'autonomous' by a Notification No.1099/1081/N dated 26.10.1999 and 24.05.2000 of the Education Department in 1999 and has submitted a copy of the same; that the State Examination Board is registered under Societies Registration Act 1860.

5. The appellant sought ruling from the Gujarat Authority for Advance Ruling ['GAAR'] with respect to list of 23 exams on the following question—

Whether the applicant is eligible to claim exemption benefit under Sr.No.5 and Sr. No. 66(a) & (aa) of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017?

6. The GAAR examined the issue and observed that out of the list of 23, the 7 exams conducted by the appellant[at Sr. No. 9 to 15 of the list of exams i.e. (i) Elementary Drawing Grade Exam, (ii) Intermediate Drawing Grade Exam, (iii) Primary Scholarship Exam, (iv) Secondary Scholarship Exam, (v) National Talent Search Exam Stage-1(NTSE), (vi) National Means cum Merit Scholarship-Exams(NMMS-Exam) and (vii) Rashtriya Indian Military College, Dehradun-Entrance Exam(RIMC-Dehradun)],can be said to be pertaining to '*education including primary and secondary schools*'.It was stated that since these exams are covered under Entry at Sr. No. 17 ('*Education including primary and secondary schools*') under the list of functions entrusted to a Panchayat under Article 243G of the Constitution of India, the services supplied by the appellant in respect of these exams are eligible for the benefit of exemption available at Sr.No.5 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

7. For the remaining 16 exams [exams at Sr. No. 1 to 8 of the list of exams i.e. (i) Diploma in Pre School Education (DPSE), (ii) Diploma in Elementary Education (D.El.Ed.), (iii) Art Teacher Diploma(ATD), (iv) Applied Arts, (v) Drawing and Painting (vi) Sculpture, (vii) Diploma in Home Science, (viii) GCC Type Steno and exams at Sr. No. 16 to 23 of the list of exams i.e. (ix) Department Exam, (x) Teacher Eligibility Test-1 (TET-1), (xi) Teacher Eligibility Test-2 (TET-2), (xii) Head Teacher Aptitude Test (HTAT), (xiii) Teacher Aptitude Test (TAT(Sec.)), (xiv) Teacher Aptitude Test (TAT(HS)), (xv) Head Master Aptitude Test (HMAT) and

(xvi) Departmental Exam(Class III)], conducted by the State Examination Board, the GAAR further observed that these exams pertain to employment for the successful candidates i.e. the clearing of these examinations would either make the successful candidates eligible for the posts of the jobs of teachers or lecturers in various government or private schools/colleges or result in them getting employed in various posts of teachers, lecturers, stenographers, clerks for PGVCL, forest guards, Jail Sipahi for Home Department, Stenographers for GIDC, CRC/BRC/URC for Education Department, School Inspector for Education Department, Environment Officer and Scientific Officer for GPCB etc. As these exams, being qualifying exams or exams, which results in the employment of the successful candidates, cannot, by any stretch of imagination be covered under the Entry at Sr. No. 17 (i.e. '*Education, including primary and secondary schools*') under the list of functions entrusted to a Panchayat under Article 243G of the Constitution of India. Therefore, these services supplied by the appellant are not eligible for the benefit of exemption available at Sr. No. 5 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

8. In addition, the GAAR observed that the State Examination Board, although established by the Education Department of the Government of Gujarat, is an autonomous body, established for the sole purpose of conducting various types of examinations and cannot, be considered as a State Education Board as the functions of the State Examination Board are completely different from that of a State Education Board. It was further observed that in order to be eligible to avail the benefit of exemption available under the aforementioned Sr. No. 66 (a) and (aa), the primary criteria of being an '*Educational Institution*' as defined in para-2(y) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 has to be fulfilled/satisfied, failing which, the appellant will not be considered eligible for availing the benefit of the said exemption. Since, the appellant does not get covered under the definition of '*Educational Institution*' thus rendering themselves ineligible for the benefit of exemption of GST available under Sr.No.66(a) and 66(aa) of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017 as amended from time to time.

9. In view of the foregoing, the GAAR, vide Advance Ruling No. GUJ/GAAR/R/105/2020 dated 05.11.2020, ruled as under:

- (i) The applicant is eligible to claim exemption benefit under Sr.No.5 of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017(as

amended from time to time), in respect of services supplied for the exams mentioned at Sr.No.9 to 15 of the list of exams (mentioned at para-5 above). However, no such exemption is available in respect of services supplied for the exams mentioned at Sr.No.1 to 8 and 16 to 23 of the list (mentioned at para-5 above) for the reasons discussed hereinabove.

- (ii) The applicant is not eligible to claim exemption benefit under Sr.No.66(a) & (aa) of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017 (as amended from time to time), for the reasons discussed hereinabove.

10. Aggrieved by the aforesaid advance ruling issued by the GAAR for the remaining 16 exams, the appellant has filed the present appeal under the provisions of section 100 of the CGST Act and GGST Act.

Submissions made by the appellant:

11. The appellant has submitted his view on interpretation of the law and stated that the list of 16 (sixteen) examinations conducted by the appellant falls either under Entry No. 5 or under Entry 66(a)&(aa) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

12. The appellant relied upon entry No. 5 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, which is produced as under:

Sl. No.	Chapter	Description of Service	Rate	Condition
5.	Chapter 99	<i>Services by a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.</i>	NIL	NIL

13. In the instant case, the AAR stated that the activity of conducting examinations by the appellant squarely falls under Heading 9992 (which covers Education Services) and further stated that it appears that the ‘State Examination Board’ is a Board which is fully controlled by the Government of Gujarat through the Members of the said Board who are all appointed by the Government of Gujarat and are all State Government employees and therefore, the said Board appears to be a Government body wholly owned by the State Government of Gujarat. Thus, appellant submitted that ‘State Examination Board’ can be considered as “Governmental Authority” in order to avail benefit under Entry No. 5 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.

14. The appellant submitted that the term “in relation to” have been interpreted by the Supreme Court in the case of CCE V/s Rajasthan State Chemical Works 1999(55) ELT 444 (SC) and Union of India V/s Ahmedabad Electricity Co. Ltd. 2003(158) ELT 3(SC), wherein it has been held that such words widen and expand the scope, meaning and content of expressions. Further, appellant submitted that Hon’ble Supreme Court in case of M/s. Doypack Systems (P) Ltd. Vs UOI 1988 (36) ELT 201 SC held that,

“The expression “in relation to” (so also “pertaining to”), is a very broad expression, which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context.”

15. Moreover, the activity carried out by the appellant i.e. conducting various examinations are in relation to the function entrusted to the panchayat under article 243G of the Constitution of India. As per article 243G of the Constitution, the lists of functions are enumerated in the Eleventh Schedule to the Constitution. Entry at Sl. No. 17 in the Eleventh Schedule enumerates the function relating to education, which is reproduced below.

“17. Education, including primary and secondary schools.”

16. The appellant has stated that on referring to the aforesaid entry in the Eleventh Schedule, the services provided by State Examination Board are in relation to discharge of functions entrusted to Panchayat under article 243G of the Constitution and therefore, looking to all dimensions, the appellant is eligible to claim exemption benefit under Entry 5 of Notification No.12/2017-Central Tax Rate.

17. The appellant has also referred to entry at Sl. No. 66 (a) & (aa) along with related explanations of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 which reads as under:

Sl. No.	Chapter	Description of Service	Rate	Condition
66.	Heading 9992	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	NIL	NIL

		against consideration in the form of entrance fee;		
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18. Definition of “educational institution” as stated at Para 2 (y) of the said notification as follows-

“(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;”;*

Further, clause (iv) of Explanation of said notification reads as below:

“(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*”

19. The appellant referred Circular No. 151/07/2021-GST dated 17th June 2021 providing clarification in respect of taxability of various services supplied by Central and **State Board** such as National Board of Examination (NBE). As per the said Circular, NBE is construed as “*Educational Institution*” in so far as it provides services by way of conduct of examinations, including any entrance examination, to the students. While referring this Circular, the appellant submitted that M/s State Examinations Board should also be given the same recognition of “*Educational Institution*” as is given to NBE.

20. In addition, the appellant also referred to Judgement of Hon. Gujarat High Court in case of M/s Educational Initiatives Pvt Ltd v. Union of India (Special Civil Application No. 16476 of 2021) dated 18th February, 2022 for clarifying “examination” as an essential component of *education*. The relevant para of the Judgement is reproduced below:

“18. *We are of the view that the word ‘education’ cannot be given a natural meaning by restricting it to the actual imparting of education to the students but should be given a wider meaning which would take within*

its sweep all the matters relating to imparting and controlling education. Examination is an essential component of education as it is one of the major means to assess and evaluate the skills of a candidate and the knowledge, be it a school test, university examination, professional entrance examination or any other examination. As held by the Supreme Court, the examination is considered as a common tool around which the entire education system revolves. In State of Tamil Nadu vs. K.Shyam Sunder (2011) 8 SCC 737, the Supreme Court held thus:

“21. There has been a campaign that right to education under Article 21-A of our Constitution be read in conformity with Articles 14 and 15 of the Constitution and there must be no discrimination in quality of education. Thus, a common syllabus and a common curriculum is required. The right of a child should not be restricted only to free and compulsory education, but should be extended to have quality education without any discrimination on the ground of its economic, social and cultural background.”

19. Thus, the Supreme Court, in the above decisions, has held that:

- the expression ‘education’ is of wide import and includes all matters relating to imparting and controlling education;

- the examination is always considered as one of the major means to assess and evaluate candidate's skills and knowledge be it a school test, university examination, professional entrance examination or any other examination.

- the candidate's fitness for his/her further assignment whether in studies or employment is, therefore, judged on the basis of his/her performance in the examination. It is for this reason, the examination is considered as a common tool around which the entire education system revolves.

- For the purpose of bringing the right to education under Article 21 of the Constitution in conformity with the Articles 14 and 15 respectively, there must be no discrimination in the quality of education, which requires a common syllabus and a common curriculum.”

Thus, referring to the aforesaid judgement, appellant stated that the word “examination” is sub-set of the word “education”. Appellant further stated that various examinations conducted by the State Examination Board are recognised by the law, appellant can be covered under the definition of “*Educational Institution*”.

21. Thereafter, the appellant classified the examinations into six different categories and submitted all relevant documents clarifying how various examinations are eligible to claim the exemption benefits under the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017. Detailed submissions on taxability for conducting various exams are made as under:

21.1 Category - 1:

21.1.1 This category includes the following two exams:

- (i) Teacher Eligibility Test – 1 (TET-1)
- (ii) Teacher Eligibility Test – 2 (TET-2)

Hereinafter, these exams are referred to as “TET”. This examination is required for a person to be eligible for appointment as a teacher in primary school (i.e. in class I to VIII in a school).

21.1.2 Eligibility of a person to appear in TET:

It is submitted that examination of TET -1 can be appeared by candidate who has completed 12thHigher Secondary (HSC) and Diploma in Elementary Education (D.El.Ed.). **For examination of TET-2**, a person should have completed Graduation and Bachelor of Education (B.Ed) or Diploma in Elementary Education (D.El.Ed.).

21.1.3 Statutory provision of TET for appointment as a teacher:

TET exams are undertaken as per the provisions contained in the Right of Children to Free and Compulsory Education Act, 2009 (herein after referred to as “the RTE Act”). Section 23 of the RTE Act decides the qualification for appointment of teacher, which is as under:

“Section 23 Qualification for appointment and terms and conditions of service of teachers- (1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by Central Government, by notification, shall be eligible for appointment as a teacher.”

21.1.4 Authorising NCTE to decide the qualification of a teacher:

In exercise of the powers conferred by sub-section (1) of Section 23 of the RTE Act, Department of School Education and Literacy, Ministry of Human Resource Development, the Central Government issued the Notification No. SO 750 (E), dated 31st March 2010 and authorised the National Council for Teacher Education (NCTE) as the academic authority to lay down the minimum qualifications for a person to be eligible for appointment as a teacher in primary school.

21.1.5 Qualifications for a person to be eligible for appointment as a teacher:

In addition, in exercise of the powers conferred by sub-section (1) of section 23 of the RTE Act and in pursuance of the Notification No. SO 750 (E), dated 31st March 2010 issued by Department of School Education and Literacy, Ministry of Human Resource Development, the Central Government, the National Council for Teacher Education (NCTE), vide the Notification No. 61-03/20/2010/NCTE/(N&S) dated 23rd August 2010, lays down the following minimum qualifications for a person to be eligible for appointment as a teacher in class I to VIII in a school referred to in clause (n) of section 2 of the RTE Act.

“1 Minimum Qualifications

(i) Classes I-V

(a)

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government [i.e. State Government as per Section 2 (a) (ii) (A)] in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) Classes VI-VIII

(a)

(b) Pass in the Teacher Eligibility Test (TET) to be conducted by the appropriate Government [i.e. State Government as per Section 2 (a) (ii) (A)] in accordance with the guidelines framed by the NCTE for the purpose.”

A Guidelines for conducting Teacher Eligibility Test (TET) under the RTE Act has been issued by NCTE on 11th February 2011. These guidelines state that for a person to be eligible for appointment as a teacher in classes I to VIII in any of the schools referred to in clause (n) of section 2 of RTE Act, he/she should pass the Teacher Eligibility Test (TET) **as conducted by the appropriate Government in accordance with the Guidelines framed by NCTE.**

21.1.6 Framing Syllabus and authorising State Examination Board for conducting TET:

In exercise of the powers conferred by sub-section (1) of Section 23 of the RTE Act and in pursuance of the Guidelines by NCTE, the Education Department of Government of Gujarat has passed a resolution No. PRE-1111-711-K dated 27th

April 2011 and framed the syllabus for TET and decided that TET shall be conducted by the State Examination Board, Gandhinagar.

21.1.7 On perusal of aforesaid details, the appellant submitted that the TET is a qualification recognised by the RTE Act. The State Examination Board provides services by way of conducting TET and issues Mark-sheet to the successful candidates. Thus, it is submitted that the State Examination Board, being an educational institution, is eligible to avail benefit of exemption as per entry 66 (aa) Notification No. 12/2017 – Central Tax Rate dated 28th June 2017

21.2 Category - 2:

21.2.1 This category includes the following three exams:

- (i) Teacher Aptitude Test (TAT (Sec.))
- (ii) Teacher Aptitude Test (TAT (HS))
- (iii) Head Master Aptitude Test (HMAT)

TAT (Sec.) and TAT (HS) is required for a person to be eligible for appointment as a teacher in the Secondary School (Std.9 to Std.10) and Higher Secondary School (Std.11 to Std.12) respectively. HMAT is required for a person to be eligible for appointment as Head Master in secondary and higher secondary school. Hereinafter, Teacher Aptitude Test (TAT (Sec.)) and Teacher Aptitude Test (TAT (HS)) are collectively referred to as “TAT”.

21.2.2 Eligibility of a person to appear in TAT/ HMAT:

It is submitted that examination of TAT (Sec.) can be appeared by candidate who has completed Graduation and Bachelor of Education (B.Ed). A candidate who has completed Post-Graduation and Bachelor of Education (B.Ed) can appear for TAT (HS). A teacher of Government or Grant-in-aid School with more than 7 years’ experience can appear in HMAT.

21.2.3 Statutory provision of TAT and HMAT for appointment as Teachers and Head Masters:

TAT and HMAT exams are undertaken as per the provisions contained in the Gujarat Secondary and Higher Secondary Education Act, 1972 (herein after referred to as “the GSHSE Act”). Section 35 of the GSHSE Act deals with the procedure for selection of Teachers and Head Masters of registered private secondary and higher secondary schools, which is as under:

“Section 35 Selection of Teachers and Head Masters, etc. - The procedure for selection of teachers and headmasters of registered private secondary and higher secondary schools shall be such as may be notified by the State Government by rules from time to time.”

In exercise of the powers conferred by section 35 of the GSHSE Act, the Education Department, Government of Gujarat vide Notification No. GH/SH/2/BMS-1109-1906-G dated 11th February, 2011 made “*the Teachers and Head Masters of Registered Private Secondary and High Secondary Schools (Procedures for Selection) Rules, 2011*” for the selection of teachers and head masters. Relevant provisions of the said rules are as under:

“Rule 2. Definitions

(e) “Teachers Aptitude Test (TAT)” means the teachers aptitude test conducted by the Gujarat Secondary and Higher Secondary Education Board, Gandhinagar.

Rule 7. Eligibility for appointment: To be eligible for appointment as Teacher or Head Master, a candidate shall possess-

(a) requisite educational qualifications and age in accordance with the provisions of **the Gujarat Secondary Education regulations, 1974**; and

(b)

21.2.4 Qualifications of Teachers and Head Masters:

The Education Department, Government of Gujarat has passed the Secondary Education Regulations, 1974 and laid down the qualifications of head masters and teachers. Relevant regulation No. 20 is as under:

20. Qualifications of Head Masters, Teachers and members of non-teaching staff in a registered school: (1) No person shall be appointed as a Head Master or a second Head unless he is trained graduate (B.T or B.Ed) or its equivalent as declared by the State Government, with post training teacher/ inspecting experience of not less than five years of which at least three years teaching experience must be in a secondary school.

(2).....

(3) No person shall be appointed as a teacher unless he-

(a) has attained the age of eighteen years, and

(b) possesses –

(i) a degree in any faculty of any university in India established by law, and

(ii) a degree of Bachelor in Teaching or Bachelor in Education or any degree recognised by the Board as equivalent thereto, or

(iii) a diploma in Education given by the raduates Basic Training Centre, or

(iv) any other degree, diploma or certificate which the State Government or the inter University Board has Sanctioned as equivalent to any of the qualifications mentioned in paragraphs (i) to (iii).

.....

Further, the Education Department, Government of Gujarat has amended the Secondary Education Regulations, 1974 vide Resolution No MSB-1211-946-Chh dated 5th August 2011 and inserted Regulation No. 20A in the above Regulations, which is as under:

“20A. Requirement of TAT and other qualification: As per the procedure for selection of teachers and Head-masters under section 35 of the Gujarat Secondary and Higher Secondary Education Act, 1972, a person for the selection of Teachers and Head Masters of Registered Private Secondary and High Secondary Schools, shall possess qualifications including TAT as declared by the state government from time to time.

Subsequently, the Education Department, Government of Gujarat has passed the Resolution No. MSB/1116/12/CHH dated 11th January, 2021 and framed the revised qualifications for appointment of Head-master and teacher.

Thus, as per the Regulation No. 20A, TAT and HMAT qualification is required for the purpose of appointment of teachers and head masters.

21.2.5 Framing Syllabus and authorising State Examination Board for conducting TAT:

In exercise of the powers conferred by section 35 of the GSHSE Act, the Education Department of Government of Gujarat has amended the Teachers and Head Masters of Registered Private Secondary and High Secondary Schools (Procedures for Selection) Rules, 2011 vide Notification No. GH/SH/3/BMS/1109/G dated 3rd February 2017 and substituted clause (e) of rule 2 as under:

“(e) “Teachers Aptitude Test (TAT)” means the teachers aptitude test conducted by the State Examination Board, Gandhinagar.”

Further, the Education Department, Government of Gujarat has passed the Resolution No. BMS/1117/773/G dated 20th May, 2017 and **framed the syllabus for TAT** and decided that TAT shall be conducted by the State Examination Board, Gandhinagar.

21.2.6 Framing Syllabus and authorising State Examination Board for conducting HMAT:

The Education Department, Government of Gujarat has passed the Resolution No. BMS/1117/2425/G dated 9th August, 2017 and framed the syllabus for HMAT and decided that HMAT shall be conducted by the State Examination Board, Gandhinagar.

21.2.7 On the basis of aforesaid details, the appellant submitted that the TAT / HMAT is a qualification recognised under the GSHSE Act. The State Examination Board provides services by way of conducting TAT / HMAT and also issues Mark-sheet to the successful candidates. Thus, it is submitted that the State Examination Board, being an educational institution, is eligible to avail benefit of exemption as per entry 66 (aa) Notification No. 12/2017 – Central Tax Rate dated 28th June 2017.

21.3 Category - 3:

21.3.1 This category deals with exam relating to Head Teacher Aptitude Test (HTAT). This examination is required for a person to be eligible for appointment as Head-teacher in in Primary and Upper Primary school (class I to VIII in a school).

21.3.2 Eligibility of a person to appear in HTAT:

It is submitted that examination of HTAT can be appeared by candidate who has completed Graduation and Bachelor of Education (B.Ed) or Diploma in Elementary Education (D.El.Ed.) with 5 years' experience of teaching can appear in HTAT.

21.3.3 Statutory provision of HTAT for appointment as Head-teacher:

HTAT exam is undertaken as per the provisions contained in the Gujarat Primary Education Act, 1947 (herein after referred to as “the GPE Act”). As per section 23 of the GPE Act, *the State Government may constitute the State Level Staff Selection Committee to select candidates for appointment on the posts of Head Teacher.*

In exercise of the powers conferred by sub-section (3) of section 23 of the GPE Act, Education Department, Government of Gujarat issued the Notification No. GH/SH/2/PRE/Single file/3/K dated 18th January 2012 and made - *the Head Teacher, Class III, in the subordinate service of the Directorate of Primary Education or respective District or Municipal Primary Education Committee, Recruitment Rules, 2012.* These rules are prepared to provide for regulating recruitment to the post of Head Teacher, Class III. As per sub-clause (iv) of clause (a) of rule 2 of the said rules, for the purpose of appointment of Head Teacher (class

III), a person should have passed the Head Teachers Aptitude Test (HTAT) as prescribed by the Government.

21.3.4 Statutory provision for requirement of Head-teacher for school:

As per section 19 of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), norms and standards for school are decided. The said section is reproduced below:

“Section 19 Norms and standards for school- (1) *No school shall be established or recognised under section 18, unless it fulfils the norms and standards specified in the Schedule.*

.....

The Schedule:

(see section 19 and 25)

NORMS AND STANDARDS FOR A SCHOOL

Sl. No.	Item	Norms and Standard	
1	<i>Numbers of teachers</i>	Admitted children	Number of teacher
	(a) For first class to fifth class Above One hundred and fifty children 5 plus one <u>Head Teacher</u>
	(b) For sixth class to eighth class (3) Where admission of children is above hundred (i) A full time head-teacher;
		—

21.3.5 Framing Syllabus and authorising State Examination Board for conducting HTAT:

It is submitted that the Education Department, Government of Gujarat has passed the Resolution No. PRE/1111/2834/K dated 18th January 2012 and framed the syllabus for HTAT and decided that HTAT shall be conducted by the State Examination Board, Gandhinagar.

21.3.6 On the basis of aforesaid details, the appellant submitted that post of Head-teacher is created based on norms and standards as decided under the RTE Act, the qualification of HTAT is recognized under the GPE Act. The State Examination

Board provides services by way of conducting HTAT and also issues Mark-sheet to the successful candidates. Thus, it is submitted that the State Examination Board, being an educational institution, is eligible to avail benefit of exemption as per entry 66 (aa) Notification No. 12/2017 – Central Tax Rate dated 28th June 2017.

21.4 Category - 4:

21.4.1 This category includes the following six exams:

- (i) Diploma in Pre School Education (DPSE) - 2 years course (Old name Pre-primary)
- (ii) Diploma in Elementary Education (D.El.Ed.) - 2 years course (Old name PTC)
- (iii) Art Teacher Diploma (ATD) (or Diploma in Arts Education) – 2 years course
- (iv) Applied Arts - 5 years course
- (v) Drawing & Painting 5 years course
- (vi) Sculpture - 5 years course

These exams are required for appointment as teacher / lecturer in school or college like DPSE - for teacher in BAL MANDIR (Pre Primary School), D.El.Ed. - teacher in Primary school (Std.1 to Std.8), ATD - drawing teacher in Primary and Secondary Schools, Applied Arts - drawing lecturers in ATD colleges or Art colleges or Institutes, Drawing and Painting - lecturers in ATD colleges or Art colleges or Institutes, Sculpture - lecturers in ATD colleges or Art colleges or Institutes. These disciplines are collectively referred to as “education programme”

21.4.2 Eligibility of a person to appear in education programme:

It is submitted that a candidate who has completed 12th Higher Secondary (HSC) can appear in the examination of DPSE and D.El.Ed. A candidate who has completed 12th Higher Secondary (HSC) with Drawing subject in SSC and HSC can appear for ATD. Any candidate who has completed 12th Higher Secondary (HSC) with Drawing subject in SSC and HSC or ATD can appear in Applied Arts, Drawing & Painting and Sculpture.

21.4.3 Statutory provision for deciding qualifications of school teacher:

The Central Government has enacted the National Council for Teacher Education Act, 1993 (the NCTE Act) to provide for the establishment of a National Council for Teacher Education (NCTE) with a view to achieving planned and co-ordinated development of the teacher education system throughout the country, the

regulation and proper maintenance of norms and standards in the teacher education system including qualifications of school teachers.

Section 12 of the NCTE Act enlists the duty of NCTE for co-ordinated development of teacher education, which is reproduced as under:

“Section 12 Functions of the Council.— It shall be the duty of the Council to take all such steps as it may think fit for ensuring planned and co-ordinated development of teacher education and for the determination and maintenance of standards for teacher education and for the purposes of performing its functions under this Act, the Council may –

(a).....

.....

(e) lay down norms for any specified category of courses or trainings in teacher education including the minimum eligibility criteria for admission thereof and the method of selection of candidates, duration of the course, course contents and mode of curriculum;

(f).....

(g) lay down standards in respect of examinations leading to teacher education qualifications, criteria for admission to such examinations and schemes of courses or training;

.....

(l) formulate schemes for various levels of teacher education and identify recognised institutions and set up new institutions for teacher development programmes;

..... ”

Section 12A of the NCTE Act gives power to NCTE to determine minimum standards of education of school teacher. This provision is reproduced as under:

“12A. Power of Council to determine minimum standards of education of school teachers.—For the purpose of maintaining standards of education in schools, the Council may, by regulations, determine the qualifications of persons for being recruited as teachers in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate school or college, by whatever name called, established, run, aided or recognised by the Central Government or a State Government or a local or other authority:

Provided that nothing in this section shall adversely affect the continuance of any person recruited in any pre-primary, primary, upper

primary, secondary, senior secondary or intermediate schools or colleges, under any rule, regulation or order made by the Central Government, a State Government, a local or other authority, immediately before the commencement of the National Council for Teacher Education (Amendment) Act, 2011 (18 of 2011) solely on the ground of non-fulfilment of such qualifications as may be specified by the Council:

Provided further that the minimum qualifications of a teacher referred to in the first proviso shall be acquired within the period specified in this Act or under the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009).”

Section 32 of the NCTE Act gives power to NCTE to make regulations to carry out the provisions of this Act. This provision is reproduced as under:

“Section 32. Power to make regulations. –

(1).....

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: –

(a).....

.....

(d) the norms, guidelines and standards in respect of –

(i)

(ii) the specified category of courses or training in teacher education under clause (e) of Section 12;

(i)

(ii) Standards in respect of examinations leading to teacher education qualifications referred to in clause (g) of Section 12;

.....

(dd) the qualifications of teachers under section 12A;

.....”

In exercise of the powers conferred by sub-section (2) of Section 32 of the NCTE Act, NCTE, vide the Notification No. F. 51-1/2014-NCTE (N&S), dated 28th November 2014, has made the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014. Regulation 9 of the said Regulations deals with norms and standards of various teacher education programmes.

“9. Norms and standards.– Every institution offering the following programmes shown in the Table shall have to comply with norms and standards for various teachers education programmers as specified in Appendix 1 to Appendix 15:

Sl. No.	Norms and standards	Appendix No.
1	<i>Diploma in early childhood education programme leading to Diploma in Pre School Education (DPSE) [Formerly known as D.E.C.Ed or Pre-PTC]</i>	<i>Appendix – 1</i>
2	<i>Elementary teacher education programme leading to Diploma in Elementary Education (D.El.Ed) [Formerly known as PTC]</i>	<i>Appendix – 2</i>
11	<i>Diploma in arts education (Visual Arts) programme leading to Diploma in Arts Education (Visual Arts) [This programme includes programme relating to Painting, Sculpture, Applied Arts – As per Para 4.1 (a) in Appendix – 11]</i>	<i>Appendix – 11</i>
12	<i>Diploma in arts education (performing arts) programme leading to Diploma in Arts Education (Performing Arts)</i>	<i>Appendix – 12</i>

Various Appendix as per Resolution 9 of the said Regulations provides the details of Norms and Standards for various teacher education programmes such as Duration and Working Days; Intake, Eligibility, Admission Procedure and Fees; Curriculum (i.e. syllabus), Programme Implementation and Assessment; etc.

21.4.4 Authorising State Examination Board for conducting exams:

Further, the Education Department, Government of Gujarat has passed the Resolution No. MISE/1067/L dated 4th November 1966 and constituted the State Examination Board for conduct of the various examinations. The said list includes examinations relating to aforesaid education programme.

21.4.5 On the basis of aforesaid details, the appellant submitted that qualifications of persons for being recruited as teachers in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate school or college is created based on norms and standards as decided under the NCTE Act. The State Examination Board provides services by way of conducting examination of various

education programme and also issues Mark-sheet to the successful candidates. Thus, it is submitted that the State Examination Board, being an educational institution, is eligible to avail benefit of exemption as per entry 66 (aa) Notification No. 12/2017 – Central Tax Rate dated 28th June 2017.

21.5 Category - 5:

21.5.1 This category includes the following two exams:

- (i) Diploma in Home Science
- (ii) GCC Type Steno

For the above category of exam, the appellant has not submitted any details or relevant documents showing curriculum of the programme and qualification recognised by any statute.

21.5.2 The appellant submitted that as per entry at Sl. No. 17 in the Eleventh Schedule, function relating to “*education, including primary and secondary schools*” is entrusted to a Panchayat under article 243G of the Constitution. It is further stated that referring the Judgement of Hon. Gujarat High Court in case of M/s Educational Initiatives Pvt Ltd v. Union of India (Special Civil Application No. 16476 of 2021) dated 18th February, 2022 “examination” can be considered as an essential component of education. Examinations included in this category (i.e. Diploma in Home Science and GCC Type Steno) are conducted by the State Examination Board. Therefore, the State Examination Board, being a Governmental Authority, is eligible to avail benefit of exemption as per entry 5 of the Notification No. 12/2017 – Central Tax Rate dated 28th June 2017.

21.6 Category - 6:

21.6.1 This category includes various Departmental Examinations.

21.6.2 It is submitted that services rendered by the State Examination Board in terms of Departmental Exam can be attained by the employees who are in service as Assistant Teacher in the Government Secondary & Higher Secondary School, Assistant Education Inspector in District Education Office, Assistant Education Inspector (Kelavani Nirikshak in District Panchayat); School Inspector, Block Resource Centres (BRCs), Cluster Resource Centres (CRCs), Urban Resource Centres(URCs) (in the Education Department); Forest guard (in the Forest Department), Jail Sipahi (in the Home Department), Clerk (in Paschim Gujarat Vij Co. Ltd. PGVCL), Stenographer (in Gujarat Industrial Development Corporation (GIDC)), Environment officer and Scientific officer (in Gujarat Pollution Control Board (GPCB)).

21.6.3 It is submitted that various Departmental exams are conducted by the State Examination Board based on basis of the Resolutions passed by the respective Department of the State Government. As per these Resolutions, no fees have been charged from any employees for three trials. Subsequently, fee amounting Rs. 200/- is charged from the candidates.

21.6.4 The appellant has referred section 7 of the CGST Act, which is reproduced below:

“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, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

.....;

21.6.5 It is submitted that the appellant does not charge any fee from the candidates and therefore there is not consideration in rendering services either to the candidates or to the Government. Therefore, such activities are outside the scope of section 7 of CGST Act and no tax is leviable on such activity.

22. In the instant case, the appellant submitted that the prime role of the State Examination Board is limited to conducting of these above examinations. Completion of exam does not provide guarantee of employment to the candidates. In addition, appellant is not affiliated with any agency to ensure employment.

23. The appellant submit that it is now well-settled that even in tax statutes, an exemption provision should be liberally construed in accordance with the object sought to be achieved if such provision is to grant incentive for promoting education or otherwise has some beneficial reason behind it. The exemption notification should be given a literal meaning. The recourse to other principles or canons of interpretation of statute should be resorted to only in the event the same gives rise to anomaly or absurdity. As observed earlier, the exemption notification must be construed having regard to the purpose and object it seeks to achieve. The notification in the case on hand should be read as a whole.

DISCUSSION & FINDINGS:

24. We observe that the present appeal filed on 05.12.2020 against the Ruling dated 05.11.2020, has been filed within the prescribed time limit of 30 days from

the date of communication of Ruling, as prescribed under section 100(2) of the CGST Act, 2017.

25. Virtual Hearing in the aforesaid appeal was held online before the Gujarat Appellate Authority for Advance Ruling on 15.04.2021. However, consequent upon the transfer and posting of the Chief Commissioner, State Goods and Services Tax, Ahmedabad vide Office Order dated 29/10/2021, there has been change in one of the two Members of the Gujarat Appellate Authority for Advance Ruling. The appellant was therefore offered a fresh opportunity of personal hearing. The appellant has vide his mail dated 4th January, 2022 requested for personal hearing in the matter. We have carefully heard the authorised representative of the appellant - CA. Devam S. Sheth through video conferencing and further considered the written submission made in the appeal memorandum and the additional submission made on 17th March 2022 & 29th March 2022 as well as Advance Ruling given by the GAAR and other materials available on record.

26. First, we have considered the list of different examinations (along with the eligibility to appear in the exam) conducted by the State Examination Board for which the appellant has filed the present appeal, which is summarised as under:

Sr. No.	Exams	Eligibility
1.	Teacher Eligibility Test-1 (TET-1)	12 th Higher Secondary (HSC) + D.El.Ed.
2.	Teacher Eligibility Test-1 (TET-2)	Graduate + B.Ed / D.El.Ed.
3.	Teacher Aptitude Test (TAT (Sec.))	Graduate + B.Ed.
4.	Teacher Aptitude Test (TAT (HS))	Graduate + Post Graduate + B.Ed.
5.	Head Master Aptitude Test (HMAT)	Teacher of Government/Granted School with more than 7 years.
6.	Head Teacher Aptitude Test (HTAT)	Graduate + B.Ed/ D.El.Ed + 5 years experience of teaching.
7.	Diploma in Pre School Education (DPSE) – 2 years course (Old name Pre-primary)	Std.12 th passed
8.	Diploma in Elementary Education (D.El.Ed.) - 2 years course (Old name PTC)	Std.12 th passed
9.	Art Teacher Diploma (ATD) - 2 years course.	Std.12 th passed who have Drawing subject in SSC and HSC.

10.	Applied Arts 5 years course	Std.12 th passed (who have Drawing subject in SSC and HSC) or ATD.
11.	Drawing and Painting 5 years course	Std.12 th passed (who have Drawing subject in SSC and HSC) or ATD.
12.	Sculpture 5 years course	Std.12 th passed (who have Drawing subject in SSC and HSC) or ATD.
13.	Diploma in Home Science	Std. 12 th passed.
14.	GCC Type Steno	Std. 10 th passed
15.	Other Department Exam	As per the Recruitment Rules of post for various departments.
	Departmental Exam (Class III)	In Service Asst. Teacher in Govt. Secondary and Higher Secondary School, Asst. Education Inspector in District Education office, Asst. Education Inspector (Kelavani Nirikshak in District Panchayat)

27. The issues involved in the present case are:

- (i) whether the appellant is eligible to claim exemption benefit under Sl. No. 66 (aa) of the exemptions Notifications No. 12/2017 – Central Tax (Rate) dated 28.06.2017 for exams given at Sr. No. 1 to 12 in the list given at para 26 above?
- (ii) whether the appellant is eligible to claim exemption benefit under the Sl. No. 5 of the exemptions Notifications No. 12/2017 – Central Tax (Rate) dated 28.06.2017 for exams given at Sr. No. 13 and 14 in the list given at para 26 above? and
- (iii) whether conducting departmental examination (given at Sr. No. 15 in the list given at para 26 above) by the appellant is considered outside the scope of section 7 of the CGST Act and therefore, no tax is leviable on such activity?

28. The first issue needs to be decided is as to whether the appellant is eligible for exemption as available under Sl. No. 66 of Notifications No. 12/2017 – Central Tax (Rate) dated 28.06.2017. On-going through the aforesaid entry of the said notification, it is found that the said notification has been amended vide notifications No.02/2018-Central Tax(Rate) dated 25.01.2018 and new item (aa) is inserted after item (a) in the entry in column (3) i.e. in Description of Services. After this

amendment, entry at Sl. No.66 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 reads as under:

Sl. No.	Chapter	Description of Service	Rate	Condition
66.	Heading 9992	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;	NIL	NIL

29. In order to avail the benefit under Sl. No. 66 (aa), the services should be provided by an educational institution. The words “educational institution” are defined at Para 2 (y) of the said notification and reads as under:

“(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;”;*

30. Appellant submitted that the State Examination is covered under the definition of “educational institution”. In this context, we find that the appellant has referred to the amendment made in respect of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017 vide Notification No.14/2018-Central Tax(Rate) dated 26.07.2018, which reads as under:

“(ii) in paragraph 3, in the Explanation, after clause (iii), the following clause shall be inserted, namely: -

“(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.”.

31. In addition, the appellant also referred Circular No. 151/07/2021-GST dated 17th June 2021 and submitted that State Examinations Board should be given the same recognition of “*Educational Institution*” as is given to NBE. In the said circular, Central Board such as National Board of Examination (NBE) is construed as “*Educational Institution*” in so far as it provides services by way of conduct of examinations, including any entrance examination, to the students.

32. As already stated, these exams do not provide employment to the successful candidates, but make the successful candidates eligible for the posts of the jobs of teachers or lecturers.

33. Thus, in order to avail the benefit of exemption under Sl. No. 66 (aa) of Notifications No. 12/2017 – Central Tax (Rate) dated 28.06.2017, the following criteria are required to be complied with:

- (i) There should be specific curriculum for the given education course or programme;
- (ii) The examination of the said education course / programme leads to attaining qualification;
- (iii) The education qualification should be recognised by the law for the purpose of achieving certain objectives, say eligibility for the appointment in a specific job; and
- (iv) The given institution should assign the task of conducting examination of such education course or programme.

34. We have applied the above criteria with respect to exams at Sr. No. 1 to 12 in the list given at para 26 above and made the following observations:

Sr. No.	Name of exam (Education course or programme)	Regarding specific curriculum	Recognizing the qualification by Law	Assignment of task for conducting the exam	Benefits of qualification
1.	TET-1	As per the resolution No. PRE-1111-711-K dated 27th April 2011 passed by the	As per the provisions contained in the Right of Children to Free and Compulsory Education Act, 2009	As per the resolution No. PRE-1111-711-K dated 27th April 2011 passed by the Education Department,	Eligibility test to appoint for the Job of Teacher in Primary school (Std. 1 to Std. 5).
2.	TET-2	Education			Eligibility test to appoint for

		Department, Government of Gujarat		Government of Gujarat	the Job of Teacher in Upper Primary school (Std. 6 to Std. 8).
3.	TAT (Sec.)	As per the Resolution No. BMS/1117/773/G dated 20 th May, 2017 passed by the Education Department, Government of Gujarat	As per the provisions contained in the Gujarat Secondary and Higher Secondary Education Act, 1972	As per the Resolution No. BMS/1117/773/G dated 20 th May, 2017 passed by the Education Department, Government of Gujarat	Eligibility test to appoint for the job of Teacher in Secondary School (Std.9 to Std.10).
4.	TAT (HS)				Eligibility test to appoint for the job of Teacher in Higher Secondary School (Std.11 to Std.12).
5.	HMAT	Resolution (No. BMS/1117/2425/G dated 9 th August, 2017) passed by the Education Department, Government of Gujarat		Resolution (No. BMS/1117/2425/G dated 9 th August, 2017) passed by the Education Department, Government of Gujarat	Eligibility test to appoint for the job of Head Master in Grant-in-Aid School.
6.	HTAT	Resolution No. PRE/1111/2834/K dated 18 th January 2012 passed by the Education Department, Government of Gujarat	As per the provisions contained in the Gujarat Primary Education Act, 1947	Resolution No. PRE/1111/2834/K dated 18 th January 2012 passed by the Education Department, Government of Gujarat	Eligibility test to appoint for the Job of Teacher in Primary and Upper Primary school.

7.	DPSE	As per regulation - 9 of the National Council for Teacher Education (Recognition Norms and Procedure) Regulations, 2014	As per the provisions of the National Council for Teacher Education Act, 1993	Resolution No. MISE/1067/L dated 4 th November 1966 (as amended from time to time) passed by the Education Department, Government of Gujarat	Course for the teacher to appoint in BAL MANDIR (Pre Primary School).
8.	D.El.Ed.				Course for the teacher to appoint in Primary school (Std.1 to Std.8)
9.	ATD				Course for the drawing teacher to appoint in Primary and Secondary Schools.
10.	Applied Arts				Course for the drawing lecturers to appoint in ATD colleges or Art colleges or Institutes.
11.	Drawing and Painting				Course for the drawing lecturers to appoint in ATD colleges or Art colleges or Institutes.
12.	Sculpture				Course for the drawing lecturers to appoint in ATD colleges or Art colleges or Institutes.

35. As all criteria are complied with and the State Examination Board being the 'educational institution' in so far as it provides services by way of conduct of exams at Sr. No. 1 to 12 in the list given at para 26 above, it is observed that the appellant is eligible to avail the benefit of exemption under Sl. No. 66 (aa) of Notifications No.

12/2017 – Central Tax (Rate) dated 28.06.2017 for exams at Sr. No. 1 to 12 in the list given at para 26 above.

36. The second issue requires to be addressed is as to whether the appellant is eligible to claim exemption benefit under the Sl. No. 5 of the Notifications No. 12/2017 – Central Tax (Rate) dated 28.06.2017 for exams given at Sr. No. 13 and 14 in the list given at para 26 above.

37. In this regard, the appellant has submitted that they are eligible to avail the benefits of exemption under Sl. No. 5 of the Notification No. 12/2017 – Central Tax Rate dated 28th June 2017, due to the following reasons:

- (i) Diploma in Home Science and GCC Type Stenois for the students who have completed 12th standard;
- (ii) Students have to pursue the 3 years course conducted by the specific college and therefore such courses can be considered as education programme;
- (iii) Final examination is conducted by the appellant and in turn issues Certificate of Diploma along with marksheet to the successful students;
- (iv) As per the Judgement of Hon. Gujarat High Court in case of M/s Educational Initiatives Pvt Ltd v. Union of India (Special Civil Application No. 16476 of 2021) dated 18th February, 2022, examination can be considered as an essential component of education;
- (v) It has already met with all conditions of being the “Governmental Authority” as held by the AAR;
- (vi) As a Governmental Authority, services supplied by way of conducting exam are in relation to functions entrusted to a Panchayat under article 243G of the Constitution read with entry at Sl. No. 17 in the Eleventh Schedule.

38. In order to address the issue, we need to refer to entry at Sl. No. 3 of Notification No.12/2017-CentralTax (Rate)dated 28.06.2017. Sl. No. 5 of the said notification reads, as under:

Sl.No.	Chapter	Description of Service	Rate	Condition
5.	Chapter 99	Services by a Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.	NIL	NIL

39. In the instant case, the AAR stated that the activity of conducting examinations by the appellant squarely falls under Heading 9992 (which covers Education Services) and further held that ‘State Examination Board’ can be considered as “Governmental Authority”.

40. Now, we consider whether the activities carried out by the appellant i.e. the conducting of examinations are in relation to any functions entrusted to a panchayat under Article 243G of the Constitution. The same are listed hereunder. The appellant has referred to an entry at Sl. No. 17 in the Eleventh Schedule, wherein functions are entrusted to a panchayat under Article 243G of the Constitution, which reads as under:

ELEVENTH SCHEDULE

(Article 243G)

.....

17. Education, including primary and secondary schools.

.....

41. Appellant has referred definition of ‘Education’ as per Dictionary.com, which reads as under:

“the act or process of imparting knowledge, especially at a school, college, or university”

As per the above definition, ‘education’ can be considered as the act or process of imparting knowledge, especially at a school, college or university. This act of imparting knowledge also includes all the matters relating to imparting and controlling education. As held by Hon. SC, in State of Tamil Nadu vs. K. Shyam Sunder (2011) 8 SCC 737, the examination is always considered as one of the major means to assess and evaluate candidate's skills and knowledge be it a school test, university examination, professional entrance examination or any other examination. Thus, examination can be considered as an essential component of education.

42. However, appellant failed to submit the details of specific curriculum for the Diploma in Home Science and GCC Type Steno. The appellant has not submitted any documents revealing the fact that qualification of these courses are recognised by any law for the time being in force. Primary and secondary schools education or education at higher secondary schools or colleges are always recognised by the law. These education programme i.e. Diploma in Home Science and GCC Type Steno,

not being recognised by any law, cannot, by any stretch of imagination be considered as functions entrusted to a Panchayat under article 243G of the Constitution.

43. Thus, it can be seen from the above, that the appellant is not eligible to avail the benefit of exemption under Sl. No. 5 of Notifications No. 12/2017 – Central Tax (Rate) dated 28.06.2017 for exams at Sr. No. 13 to 14 in the list given at para 26 above.

44. The applicant submitted that conducting departmental examination (given at Sr. No. 15 in the list given at para 26 above) is outside the scope of section 7 of the CGST Act, as consideration is not received either from the candidates or from the Government and therefore, such activities are outside the purview of GST.

45. As seen from para 5, the advance ruling is sought whether the applicant is eligible to claim exemption benefit under Sl. No. 5 or Sl. No. 66 (a) & (aa) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017. Therefore, issue is regarding applicability of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 to the departmental examinations conducted by the appellant.

46. As discussed above, Departmental exam at Sl. No. 15 in the list given at para 26 above, cannot be covered either under Sl. No. 5 or under Sl. No. 66 (a) and (aa) of the exemptions Notifications No. 12/2017 – Central Tax (Rate) dated 28.06.2017 and therefore, appellant is not eligible to claim the exemption benefit.

47. In view of the foregoing, we modify the Advance Ruling No. GUJ/GAAR/R/105/2020 dated 05.11.2020 of the Gujarat Authority for Advance Ruling in the case of M/s. State Examination Board, and hold that –

- (i) The appellant is eligible to claim exemption benefit under Sl. No. 66 (aa) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time), in respect of services supplied for the exams mentioned at Sr. No. 1 to 12 of the list of exams (mentioned at para-26 above).
- (ii) The appellant is not eligible to claim exemption benefit under Sl.No.5 of Notification No.12/2017-Central Tax(Rate) dated 28.06.2017(as amended from time to time), in respect of services supplied for the exams mentioned at Sr.No. 13 and 14 of the list of exams (mentioned

at para-26 above) for the reasons discussed hereinabove. In addition, the appellant is also not eligible to claim exemption benefit either under Sl. No. 5 or Sl. No. 66 (a) & (aa) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time), in respect of services supplied for the exams mentioned at Sr. No. 15 of the list of exams (mentioned at para-26 above) for the reasons discussed hereinabove.

(Milind Torawane)

Member (SGST)

(Seema Arora)

Member (CGST)

Place: Ahmedabad

Date: 12.05.2022