

WEST BENGAL AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICES TAX

14 Beliaghata Road, Kolkata – 700015

(Constituted under section 96 of the West Bengal Goods and Services Tax Act, 2017)

Members present:

Tanisha Dutta, Joint Commissioner, CGST & CX

Joyjit Banik, Senior Joint Commissioner, SGST

Preamble

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

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

Name of the applicant	INSTITUTE OF EDUCATION AND EXAMINATION MANAGEMENT PVT. LTD.
Address	8/10, Chinar Park, Rajarhat, Kolkata, West Bengal, PIN: 700157
GSTIN	19AADCI1680C1ZS
Case Number	13 of 2023
ARN	AD190423001760G
Date of application	April 10, 2023
Order number and date	15/WBAAR/2023-24 dated 13/07/2023
Applicant's representative heard	Mr. Arup Dasgupta, F.C.A.

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

1.2 The applicant is stated to be providing pre and post examination services to Universities and they believe that the said supply of services to educational institutions like Universities (including open Universities) are in relation to admission to, or conduct of examination by the said institutions. According to them the services being provided to

the educational institutions would fall under Sl. No. 66(b)(iv) of Notification No. 12/2017-Central (Rate) dated 28.06.2017 as amended vide Notification No. 2/2018- Central Tax (Rate) dated 25.01.2018 and they are eligible for exemption from payment of GST..

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

Whether GST exemption is available to the applicant in respect of the following pre and post Examination services being provided to the Educational Boards and Universities?

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

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

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

1.6 The officer concerned from the revenue has raised no objection to the admission of the application.

1.7 The application is, therefore, admitted.

2. Submission of the applicant

2.1 The applicant submits that they have entered into agreements with various Universities within the state of Bengal namely West Bengal State University, University of North Bengal, Cooch Behar Panchanan Barma University and Alipurduar University.

2.2 The details of the scope of work of the applicant as per contract entered between them and Controller of Examinations, North Bengal University is reproduced below to ascertain the nature of supply made by the applicant.

Pre- Examination: Part-A

- a) Development of online Admission Process/Registration for students.
- b) Design and develop of Online Examination Forms containing details of the students along with subject/papers they are supposed to appear in the examinations.
- c) Uploading Online Examination Form.
- d) Allocation of centers to the students as per direction of the University.
- e) Generation of Roll No. and uploading of admit cards after verification by College/ University by using college domain.
- f) Generation of DR sheets, Allotment Charts, and delivery of the same to the college domain (Online mode).
- g) Generation of Question Paper as required, subject wise/ Centre wise.
- h) Preparation and printing of HDPE Envelopes for collection of used Answer Books after the examination.

Pre-Examination: Part-B

- a) Type-setting, Proof reading, Editing of Question Papers (Manuscript will be provided by the University).
- b) Printing of Question papers/ Question Booklets (tri-lingual) in 70 GSM maplitho paper.
- c) Printing of Answer Books and Additional Sheets using good quality paper.
- d) Answer Books should be thread stitched.
- e) Printing of OMR readable answer sheets when required.
- f) Packaging of Question Papers, Subject wise/ Session wise/ Examination Centre wise.
- g) Packaging of Answer Books.
- h) Delivery of Answer Books and Additional Sheets to all Examination Centres.
- i) Delivery of packed Question Papers to all examination centres.

Post Examination:

- a) Collection of the used answer books of the theoretical examinations from the examination centers.
- b) Coding of the used Answer Books.
- c) Data entry (double entry) of the code-slips of the Examinees.
- d) Labeling the packets of answer books with proper bar-coded serial number.
- e) Packaging of Coded answer books along with marks award sheets/ slips.
- f) Preparation of Master database of Examiners of all subjects.
- g) Schedule for delivery of coded answer books to be fixed in consultation with the Controller of Examinations as per his/ her convenience.
- h) Delivery of packets containing coded answer books to the Examiners at the locations as desired by the Examiners such as College premises/ University within the jurisdiction of Alipurduar district.
- i) Use of Computer based Application to track delivery and receipt of used answer books to and from the Examiners along with access of the same by Vice Chancellor and Controller of Examinations.
- j) Follow-up with the Examiners to find out progress of the evaluation and if required, to make alternate arrangement so that un-evaluated answer books can be evaluated through another Examiner in consultation with the Controller of Examinations/ the Vice-Chancellor.
- k) The entire process should be monitored through customized software for evaluation.
- l) Collecting all the evaluated answer books (of theory papers) along with marks award slips sealed in plastic cover/ envelopes from examiners after evaluation.
- m) Arrange delivery and collection of coded answer books multiple times in order to meet the deadline of publication of results.
- n) Arrange online payment from examiners, if required.
- o) Collection of Practical marks from University
- p) Data Entry of all the filled-in marks award sheets/ slips.
- q) Once marks are collated component-wise/ subject-wise, the same to be processed to submit reports for missing marks, abnormal marks or any other discrepancies.
- r) After preparation of results, the same should be checked manually on sample basis to ensure correctness of the processing software.
- s) Preparation of various reports and statistics for declaration of results.
- t) Uploading results on the Web as desired by the University within the announced time-frame. University will strive to declare results within 45 days from the date of last examination held.
- u) Printing of Marks-Sheets and Certificates to the University.
- v) Packaging of Mark-sheets College-wise for delivery as per the requirement of the University
- w) Delivery of Mark Sheets.

- x) Processing of review forms online and keeping record thereof. Verification of review forms by College/ university through college domain
- y) Publication of Review results and printing of Mark-sheets.
- z) Submission copies of examination data to the university

2.3 The applicant believes that the supply of pre and post examination services to educational institutions like Universities (including open Universities) are in relation to admission to, or conduct of examination by the said institutions. Accordingly, the services being provided to the educational institutions would fall under Sl. No. 66(b)(iv) of Notification No. 12/2017-Central (Rate) dated 28.06.2017 as amended vide Notification No. 2/2018 Central Tax (Rate) dated 25.01.2018 and are eligible for exemption from payment of GST. Similar notification has been issued under the West Bengal State GST Act, 2017.

2.4 The relevant entries under Notification No. 12/2017 have been reproduced below:

Sl. No.	Chapter, Section or Heading	Description of Services
(1)	(2)	(3)
66	Heading 9992 Or Heading 9963	Services provided – (a) by an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; (b) to an educational institution, by way of (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house- keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; (v) supply of online educational journals or periodicals: Provided that nothing contained in sub- items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services, by way of- (i) pre-school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational

		education course.
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Explanation.- For the purposes of this notification,

(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.

2.5 The definition of 'educational institution' as provided under Notification No. 12/2017 is reproduced below.

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 recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course,

2.6 Thus, from the above definition, it is understood that any institution, which provides education for obtaining a qualification recognized by any law is treated as an educational institution. Further, any service provided relating to admission to, or conduct of examination by, such institution is eligible for exemption.

2.7 The applicant further submits that (i) in case of Universities, the Universities impart education and the affiliated colleges facilitate the universities in imparting the education. Universities are established by an Act of the Parliament and award degrees and diplomas recognized by law to the qualifying students. (ii) The colleges do not prepare curriculum, do not conduct examinations and do not grant certificates to the students. The Universities maintain all the details relating to a student, conduct examinations and grant certificates to the students. (iii) The Universities are imparting education by formulation of courses, prescription of syllabus, academic schedule preparation, conducting examinations, evaluation and award of degrees/ qualifications recognized by law. (iv) The term "education" is very wide and it would include imparting of study, learning, conduct of examination and grant of certificates or degrees to the students by the education boards and universities including open universities.

2.8 The applicant, in support of his argument that exemption as outlined in the above-referred notification will be applicable to the instant case, has submitted copy of an agreement with Alipurduar University in course of hearing. The applicant has also placed reliance on the following case laws:

(I) Hon'ble Supreme Court in the case of Gujarat University vs. Krishna Ranganath Mudholkar [AIR 1963 SC 703], wherein it was held that the expression 'education' is of wide import and includes all matters relating to imparting and controlling education.

(II) In the case of Nidhi Kaim vs. State of M.P. [2016 (7) SCC 615], the Supreme Court held that 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. Candidate's fitness for his further assignment, whether in studies or employment is, therefore, judged on the basis of his performance in the examination. It is for this reason, the examination is considered as a common tool around which the entire education system revolves.

(III) Hon'ble Gujarat High Court in the case of Sahitya Mudranalaya Private Limited vs. Additional Director General [2021 (46) GSTL 245 (Guj.)] has inter alia dealt with the issue as to whether the state education board, state technological university and state council of examination are educational institutes or not.

(IV) Hon'ble Madras High Court in the case of Madurai Kamaraj University Vs. Joint Commissioner, Office of the Commissioner of GST and Central Excise, Madurai [2021-VIL-639- MAD ST] held that holding or conducting an examination is primarily a job of the

university and the colleges affiliated to the university are only facilitators. Therefore, examinations are not conducted directly by the colleges, it is being conducted by the university, but the facilitator is the college. Therefore, the word "conduct of examination by such institution" means, conduct of examination by the university and the college and not by the college alone. The examination is the examination of the university, for which, facilitation is given by the college, wherein the examinations are conducted and ultimately, valuation is to be done by the university and marks are awarded and degree is conferred by the university. Therefore, it is the university, where, the facilitator is the college, where, the examination is being taken place and therefore, the word "conduct of examination", cannot have such a narrow and pedantic interpretation.

2.9 The applicant also places reliance on the following cases wherein it was held that the provision of service of scanning of OMR sheets, Bar-codes, printing of marks, memos, certificates, etc. to the educational boards and universities are covered under Sl.No. 66(b)(iv) of the Notification No. 12/2017 and therefore, eligible for exemption from payment of GST.

- Orient Press Limited, AAR, Maharashtra (GST/ARA/89/2018-19/B-23 dated 27/02/2019]
- Manali Enterprise, AAR, West Bengal [18/WBAAR/18-19 dated 28/09/2018]
- Hitech Print Systems Ltd AAR, Andhra Pradesh [24/AP/GST/2020 dated 15/12/2020]
- Management and Computer Consultants, AAR, West Bengal (08/WBAAR/2021-22 dated 13/09/2021)

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

3. Submission of the Revenue

3.1 The officer concerned from the revenue has stated that the query raised by the applicant whether GST exemption is available on on-line and off-line printing of Pre-examination items; designing, developing and managing Web based applications and related services for conducting online Examination; and post-examination services of scanning and processing of examination results is in affirmative under Sl. No. 66 of Notification No. 12/2017. A similar matter has been dealt with same decision in The Advance Ruling Authority of Telengana in the case of M/s. KL Hitech Secure Print Limited in their Order No. 10/2018, A.R. Com/13/2018 dated 26/07/2018.

4. Observations & Findings of the Authority

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

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

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

"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 recognised by any law for the time being in force;***
- (iii) *education as a part of an approved vocational education course;*

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

“(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.”

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

Para 2 of the said circular reads as follows:

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

4.6 It is noticed from the documents submitted that the applicant has been awarded agreement/work orders by different universities namely West Bengal State University, University of North Bengal, Cooch Behar Panchanan Barma University and Alipurduar University. There is no dispute that all the universities as referred above are regarded as ‘educational institution’.

4.7 We now take the issue to decide whether the activities undertaken by the applicant against agreement/work orders issued to him shall be treated as services relating to conduct of examination or not. The process of conducting examination includes pre-examination works, the examination itself and post-examination works. It has already been stated that the applicant has undertaken activities like Online and offline printing of Pre-examination items such as Registration Certificate, Examination Enrolment Forms, Admit Cards, Award List for marks entry and other Pre-examination related services, Designing, Developing and managing Web based applications and related services for conducting online Examination, Post examination services of Scanning and Processing of Examination Results, generation and printing of Mark Sheets (Online and offline), Printing of Pass certificates and other related Examination activities for Universities. The said activities, as we opine, can be treated as services relating to conduct of examination.

4.8 For reasons as discussed above, we are of the view that supply of services details of which are submitted by the applicant in the course of hearing shall get covered under serial number 66 of the Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017/ West Bengal State Notification No. 1136 F.T. dated 28.06.2017, as amended and shall therefore, be exempted from payment of tax under the GST Act.

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

RULING

Question: Whether GST exemption is available to the applicant in respect of the following pre and post Examination services being provided to the Educational Boards and Universities?

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

Answer: Services provided by the applicant to the universities in respect of conduct of examination (both pre and post examination) is exempted from payment of tax under the GST Act vide serial number 66 of Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 and West Bengal State Notification No. 1136 F.T. dated 28.06.2017.

(TANISHA DUTTA)

Member

West Bengal Authority for Advance Ruling

(JOYJIT BANIK)

Member

West Bengal Authority for Advance Ruling

Place: Kolkata

Date: 13th July, 2023

To,

Institute of Education and Examination Management Pvt. Ltd.

8/10, Chinar Park, Rajarhat, Kolkata, West Bengal, 700157

Copy to:

- (1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-7000107
- (2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata-700015
- (3) The Deputy/Assistant Commissioner, BIDHANNAGAR DIVISION, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata-7000107
- (4) The Commissioner, Kolkata North Commissionerate, 180, Shantipally, R.B. Connector, Kolkata-7000107
- (5) Office Folder