

	KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM	
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BEFORE THE AUTHORITY OF: *Shri. Sivaprasad.S, IRS &*

: Shri.B.S. Thyagarajababu, B.Sc, LL.M.

Legal Name of the applicant	M/s. Logic Management Training Institutes Pvt. Ltd.
GSTIN	32AABCL8151B1Z1
Address	7 Providence, Mahakavi Vyloppilli Road, Palarivattom, Ernakulam 682025
Advance Ruling sought for	<ol style="list-style-type: none"> 1) Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Govt.-recognized institutes, on the basis of the specific syllabus (curriculum) published by the very same institutes formed under Acts of Parliament and also facilitating the students to appear for the examinations conducted by the same institutes. 2) Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Government-recognized institutions like Universities and also availed from online facilities of the said institutions, on the basis of the specific syllabus (curriculum) published by various Universities including Mahatma Gandhi University, formed under Acts of State Legislature. 3) Whether the education programme and training being offered by the applicant is exempted from GST as

	<p>imparting of education since the applicant is giving lecture classes and notes including printed books published by Government-recognized institutions like ACCA, IMA USA, etc and also availed from online facilities of the said institutions, on the basis of the specific syllabus (curriculum) published by international institutions like ACCA, IMA USA, etc. Which are approved by Govt. of India.</p> <p>4) What is the Service Accounting Code (SAC) of the applicant's services, under GST laws.</p> <p>5) Is there any tax liability under GST laws on the applicant for collecting and transferring examination fees and other fees of the recognized institutes or universities on behalf of students studying at the applicant institute.</p> <p>6) The applicant offers hostel facility to its students at a rate of less than Rs.200/- per day per person including food and at a monthly rate of maximum Rs.6000/-. Whether there is any tax liability on such hostel fee.</p> <p>7) Whether there is any tax liability on hostel fees collected from outside students staying at the hostel for study purpose at a rate of Rs.250/- per day per person including food.</p> <p>8) Whether there is any tax liability on the applicant for selling text books to its students.</p>
Date of Personal Hearing	10.01.2020
Authorized Representative	Adv.K.S Hariharan.

ADVANCE RULING No. KER/76/2019 Dated 20.05.2020

1. M/s. Logic Management Training Institutes Pvt. Ltd. is an institute imparting education to students to facilitate them in obtaining qualifications like Chartered Accountancy, Cost Accountancy, Company Secretary, Certified Management Accountant, Certified Public Accountant, Association of Chartered Certified Accountant etc. The applicant requested advance ruling on the following:

1. Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Govt.-recognized institutes, on the basis of the specific syllabus (curriculum) published by the very same institutes formed under Acts of Parliament and also facilitating the students to appear for the examinations conducted by the same institutes.
2. Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Government-recognized institutions like Universities and also availed from online facilities of the said institutions, on the basis of the specific syllabus (curriculum) published by various Universities including Mahatma Gandhi University, formed under Acts of State Legislature.
3. Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Government-recognized institutions like ACCA, IMA USA, etc and also availed from online facilities of the said institutions, on the basis of the specific syllabus (curriculum) published by international institutions like ACCA, IMA USA, etc which are approved by the Government of India.
4. What is the Service Accounting Code (SAC) of the applicant's services, under GST laws?
5. Is there any tax liability under GST laws on the applicant for collecting and transferring examination fees and other fees of the recognized institutes or universities on behalf of students studying at the applicant institute?

6. The applicant offers hostel facility to its students at a rate of less than Rs.200/- per day per person including food and at a monthly rate of maximum Rs.6000/-. Whether there is any tax liability on such hostel etc.
7. Whether there is any tax liability on hostel fees collected from outside students staying at the hostel for study purpose at a rate of Rs.250/- per day per person including food.
8. Whether there is any tax liability on the applicant for selling text books to its students.

2. The authorized representative of the applicant was heard. It is argued that the applicant is providing education to obtain legally recognized professional qualifications. The applicant is conducting classes for the students following the same syllabus and curriculum as specified or recognized by the legally constituted Universities to facilitate students to obtain degree certificates recognized by Universities. The applicant is giving lecture classes and notes on the basis of curriculum published by various Universities, Government recognized institutions like ACCA, IMA USA etc and facilitating the students to appear for the examinations conducted by the respective institutes.

3. The regular colleges, whether aided or self-financed affiliated to universities, are also rendering the same service to students and though they were not awarding any degrees or diplomas, they were not subjected to levy of tax under Service Tax regime. Under GST same exemption is carried forward by virtue of entry 66 of Notification No.12/2017-Central Tax (Rate) dated 28-06-2017.

4. In ITM International Pvt. Ltd v, Commissioner of Service Tax, Delhi [2017 (7) G.S.T.L 448 (Tri-Del)] the Hon'ble CESTAT, Principal Bench had passed an order holding that educational qualifications issued by foreign institutes which are recognized by Government of India, are also to be treated as 'certificate recognized by law' for taxation purposes. Accordingly the applicant's activities fall within the purview of courses recognized by law and is exempted from tax. Moreover in the case of M/s. Emerge Vocational Skills Pvt. Ltd, the Karnataka

Authority for Advance Ruling vide ruling No.KAR ADRG 20/2018 dated 13.08.2018 observed that the services provided for affiliation to specified universities and providing degree courses to students under related curriculum to its students are exempted vide entry 66 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 subject to condition that such education services provided must be as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force. It is common practice for institutions like the applicant to offer university-recognized education simultaneously with training for the professional qualifications, as that helps students to obtain graduation simultaneously with professional studies, and also because the study materials for both are fundamentally similar. Again Hon'ble High Court in The Malappuram District Parallel College Vs Union of India [WPC.No.728 of 2005] and Union of India Vs The Kasaragod District Parallel College & another [2013(3)KHC 509] held that levy of service tax on services offered by parallel colleges in Kerala is invalid.

5. It is also submitted that, exam fees collected by the applicant and paid to respective Exam Bodies in India and Abroad Universities and Education Bodies without any profit motive as a facility to students are also exempted from tax liability. Normally students can pay the examination fees directly to CA, CS, CMA, IMA USA, ACCA UK, IFRS, CPA USA, etc using their debit or credit card. But the applicant helps students having no credit or debit cards or enough technical knowledge to make such payments through online, the applicant helps them to pay it through the applicant's banking facility. There is no profit element in this as the applicant are just collecting the exam fees from students and paying it to the respective institutions. In the case of M/s.Arivu Educational Consultants Pvt Ltd, the Karnataka Authority for Advance Ruling [KAR ADRG 116/2019 Dt.30.09.2019] observed that the activity of collecting exam fee from students and remitting the same to that particular university or institution without any value addition to it is a service as a pure agent and hence the value is excluded from the taxable value as per Rule 33 of the CGST Rules, 2017.

6. Another point raised by the applicant is that the hostel fees are exempted since per day cost of stay is less than Rs.1000/- to their students and outside students. Running a hostel is not profitable to the applicant as a standalone business. But the applicant provides this facility

solely to ease the burden on students and thereby make the applicant institution a more attractive choice for prospective students as well. The applicant pointed out that the Hostel Fees paid by the students is exempted since the per day charges including food is not more than Rs.1000/-.

7. The applicant sells text books and notes pertaining to the courses with very slight margin to ensure that their students get them hassle-free and at reduced prices than that offered by outside sources like book shops or shopping websites. It is argued that sale of text books of universities and other publishers to their students or outside students is exempt from tax liability.

8. The matter was examined in detail. The applicant is engaged in conducting educational programme to students for obtaining qualifications like Chartered Accountancy, Cost Accountancy, Company Secretary, Certified Management Accountant, Certified Public Accountant, Association of Chartered Certified Accountant etc. The primary issue to be considered is whether the education programme and training offered by the applicant is exempt from GST.

9. The exemption for educational services are contained in Sl No. 66 of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 which reads as follows;

“Sl No. 66 – Heading – 9992 or 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.”

The term “educational institution “is defined in Para 2 (y) of the above notification as follows;

“Para 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.”

10. The applicant is not approved / recognised by the Institute of Chartered Accountants of India or Institute of Cost Accountants of India or Institute of Company Secretaries of India or Universities to conduct coaching / training of students as per the syllabus / curriculum prescribed by them to obtain the qualifications / certificates granted by the institutes / universities. Therefore, the applicant is not covered under the definition of “educational institution” in Para 2 (y) of the exemption notification and hence the services provided by the applicant is not exempted from GST.

11. Next point sought for clarification is regarding the Service Accounting Code of the service of the applicant under GST law. As per the Scheme of Classification of Services notified

as Annexure to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 the education services provided by the applicant come under SAC – 9992- 999293 – Commercial training and coaching services.

12. As per Explanatory Notes to the Scheme of Classification of Services the service code – 999293 includes any training or coaching provided by any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes.

13. Next issue to be clarified is that whether there is any tax liability under GST law on the applicant for collecting and transferring examination fees and other fees of the recognised institutes or universities on behalf of the students studying at the institute of the applicant. The value of taxable supply of goods and / or services is governed by the provisions of Section 15 of the CGST Act, 2017.

The provisions of sub – section (2) of Section 15 are reproduced below;

“(2) The value of supply shall include —

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

- (d) interest or late fee or penalty for delayed payment of any consideration for any supply; and
- (e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Rule 33 of the CGST Rules, 2017 read as follows;

“RULE 33. Value of supply of services in case of pure agent. — Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely, -

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

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

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.”

14. As per Section 15 of the CGST Act, 2017 the entire consideration received by the applicant from the recipient of services is liable to GST. However, if in respect of the amount collected as examination fees / other fees the conditions prescribed in Rule 33 of the CGST Rules, 2017 are satisfied then such amount can be excluded from the value of taxable supply as expenditure incurred by the applicant as a pure agent of the recipient of services.

15. Another issue sought for clarification is that the applicant offers hostel facility to its students at a rate of less than Rs. 200/- per day per person including food and at a monthly rate of maximum Rs. 6000/-. Whether there is any tax liability on such hostel fee. Section 2 (30) of the CGST Act, 2017 defines composite supply as follows;

“(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.”

16. Section 8 of the CGST Act, 2017 contains the provisions of tax liability on composite and mixed supplies. Section 8 is reproduced below;

“SECTION 8. Tax liability on composite and mixed supplies. — The tax liability on a composite or a mixed supply shall be determined in the following manner, namely: —

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.”

17. The provision of coaching / training provided by the applicant to their students along with hostel facility qualifies as a composite supply as defined in Section 2 (30) of the CGST Act, 2017 and the tax liability on the composite supply has to be determined as per provisions of Section 8 (a) of the CGST Act, 2017. Therefore, the entire supply is to be treated as falling

under SAC - 9992- 999293 – Commercial training and coaching services; being the principal supply and will be liable to GST at the rate applicable for the principal supply.

18. The next issue to be clarified is whether there is any tax liability on hostel fees collected from outside students staying at the hostel for study purpose at a rate of Rs. 250/- per day per person including food. The hostel facility provided by the applicant to outside students falls under the Service Classification Code – 9963 – 996322 - Room or unit accommodation services provided by Hostels, Camps, Paying Guest and the like as per the Scheme of Classification of Services notified as Annexure to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017. Sl No. 14 of Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 reads as follows;

“Sl No. 14 – Heading 9963 - Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent.”

19. In the instant case as the value of supply of a unit of accommodation in the hostel facility provided by the applicant to outside students is below one thousand rupees per day, the applicant is eligible for the exemption under Sl No. 14 of the above notification in respect of the supply.

20. It is also sought for clarification regarding the tax liability on the applicant for selling text books to its students. The sale of text books to the students will attract GST as per the schedule of rates notified under Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017.

In view of the observations stated above, the following rulings are issued:

- 1) Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Govt.-recognized institutes, on the basis of the specific syllabus (curriculum) published by the very same institutes formed under Acts of Parliament and also facilitating the students to appear for the examinations conducted by the same institutes.

The applicant is not covered under the definition of “educational institution” in Para 2 (y) of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 and hence the services provided by the applicant is not exempted from GST.

- 2) Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Government-recognized institutions like Universities and also availed from online facilities of the said institutions, on the basis of the specific syllabus (curriculum) published by various Universities including Mahatma Gandhi University, formed under Acts of State Legislature.

The applicant is not covered under the definition of “educational institution” in Para 2 (y) of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 and hence the services provided by the applicant is not exempted from GST.

- 3) Whether the education programme and training being offered by the applicant is exempted from GST as imparting of education since the applicant is giving lecture classes and notes including printed books published by Government-recognized institutions like ACCA, IMA USA, etc. And also availed from online facilities of the said institutions, on the basis of the specific syllabus (curriculum) published by international institutions like ACCA, IMA USA, etc. Which are approved by Govt. of India.

The applicant is not covered under the definition of “educational institution” in Para 2 (y) of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 and hence the services provided by the applicant is not exempted from GST.

- 4) What is the Service Accounting Code (SAC) of the applicant’s services, under GST laws?

As per the Scheme of Classification of Services notified as Annexure to Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 the education services provided by the applicant come under SAC – 9992- 999293 – Commercial training and coaching services. As per Explanatory Notes to the Scheme of Classification of Services the service code – 999293 includes any training or coaching provided by any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes.

- 5) Is there any tax liability under GST laws on the applicant for collecting and transferring examination fees and other fees of the recognized institutes or universities on behalf of students studying at the applicant institute?

As per Section 15 of the CGST Act, 2017 the entire consideration received by the applicant from the recipient of services is liable to GST. However, if in respect of the amount collected as examination fees / other fees the conditions prescribed in Rule 33 of the CGST Rules, 2017 are satisfied then such amount can be excluded from the value of taxable supply as expenditure incurred by the applicant as a pure agent of the recipient of services.

- 6) The applicant offers hostel facility to its students at a rate of less than Rs.200/- per day per person including food and at a monthly rate of maximum Rs.6000/-. Whether there is any tax liability on such hostel etc.

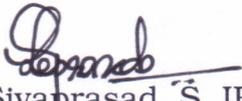
The provision of coaching / training provided by the applicant to their students along with hostel facility qualifies as a composite supply as defined in Section 2 (30) of the CGST Act, 2017 and the tax liability on the composite supply has to be determined as per provisions of Section 8 (a) of the CGST Act, 2017. Therefore, the entire supply is to be treated as falling under SAC - 9992- 999293 – Commercial training and coaching services; being the principal supply and will be liable to GST at the rate applicable for the principal supply.

- 7) Whether there is any tax liability on hostel fees collected from outside students staying at the hostel for study purpose at a rate of Rs.250 per day per person including food.

As the value of supply of a unit of accommodation in the hostel facility provided by the applicant to outside students is below one thousand rupees per day, the applicant is eligible for the exemption under Sl No. 14 of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 in respect of the supply.

- 8) Whether there is any tax liability on the applicant for selling text books to its students.

The sale of text books to the students will attract GST as per the schedule of rates notified under Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017.



Sivaprasad S, IRS
Joint Commissioner of Central Tax
Member



B.S. Thyagarajababu, B.Sc, LL.M.
Additional Commissioner of State Tax
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To

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