

	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. Senil A.K. Rajan.

Legal Name of the applicant	M/s. CIGMA MEDICAL CODING PRIVATE LTD.
GSTIN	32AAHCC6772H1ZL
Address	38/852 D3, Pallippadan High Light, Opp: St. George Forona Church, Edappally, Ernakulam – 682024
Advance Ruling sought for	<p>i) Whether the payment made to American Academy of Professional Coders (AAPC) as examination fee for students on behalf of some of the students of the applicant institute as a pure agent is service under GST and is there any tax liability for the same, when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.</p> <p>ii) Whether the payment made to AAPC as examination fee on behalf of outside students as pure agent is service under GST and is there any tax liability for the same, when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.</p> <p>iii) Whether the applicant may follow the essence of the Karnataka Advance Ruling in M/s. Arivu Educational Consultants Pvt. Ltd. (Advance Ruling Order No.KAR-ADRG-116/2019) that such payment of examination fee is not a service chargeable to tax under GST laws.</p>
Date of Personal Hearing	05-01-2021
Authorized Representative	Adv. K.S.Hariharan

ADVANCE RULING No. KER/111/2021 Dated 26-05-2021

M/s. Cigma Medical Coding Private Ltd (**hereinafter referred to as the applicant**) is engaged in providing training for students in medical coding. The medical coding examination is conducted and certified by American Academy of Professional Coders [AAPC] having its headquarters in Salt Lake City, Utah, United States of America [USA].

2. At the outset, the provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) and the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as KSGST Act) are same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued there under shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued there under.

3. The applicant requested for advance ruling on the following;

1. *Whether the payment made to American Academy of Professional Coders (AAPC) as examination fee for students on behalf of some of the students of the applicant institute as a pure agent is service under GST and is there any tax liability for the same, when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.*
2. *Whether the payment made to AAPC as examination fee on behalf of outside students as pure agent is service under GST and is there any tax liability for the same, when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.*
3. *Whether the applicant may follow the essence of the Karnataka Advance Ruling in M/s. Arivu Educational Consultants Pvt. Ltd. (Advance Ruling*

Order No.KAR-ADRG-116/2019) that such payment of examination fee is not a service chargeable to tax under GST laws.

4. Contentions of the Applicant:

4.1. The applicant submits that they are engaged in providing training for students in medical coding. The AAPC was founded in 1988, as the American Academy of Professional Coders, with the aim of providing education and certification to coders working in physician-based settings. This coding examination is well known in the world by the name "AAPC Coding Exams". AAPC provides certification and other services to individuals and organizations across the world in medical coding, medical billing, auditing, compliance and practice management. The applicant is an independent medical coding training service provider and not conducting any examination. The applicant is collecting fees for providing training to students in medical coding and is paying GST at the rate of 18%.

4.2. The applicant also helps some of their students to pay examination fee for the medical coding examination conducted by AAPC by arranging an online facility / platform for making payment without collecting any service charge. Students can also pay their examination fee directly to AAPC. The applicant provides this fee payment facility to interested students for easy payment of fees without any hardship to students since the e-payment of fees through conversion of Indian Rupee to Dollar may not be easy to students who are not familiar with online foreign currency transfer payment. Moreover, there is every chance for errors in depositing fee to the particular account head of the foreign recipient. Neither the student nor AAPC is paying any service charge to the applicant for such remittance for examination fees. The applicant is providing this free fee payment facility to all interested students, including those who are not attending the training programme of the applicant.

4.3. The Karnataka Authority for Advance Ruling in the case of M/s. Arivu Educational Consultants Pvt. Ltd (KAR ADRG 116/2019) has held that the activity of collecting exam fee (charged by any university or institution) 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 of the applicant as per Rule 33 of the Central GST Rules / Karnataka GST Rules.

5. Contentions of the Jurisdictional Officer:

5.1. The jurisdictional officer submitted that as per Rule 33 of the CGST Rules, 2017 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 on behalf 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. In the first case the applicant acts as a pure agent and hence there is no tax liability for the services of collecting the examination fee from the students and remitting the same to AAPC on behalf of students of the applicant as there is no value addition to the services.

5.2. In the second situation the applicant will not get the benefit of pure agent, even though no service charges are collected from outside students, as the condition in sub-rule (iii) of Rule 33 specifies that 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. In the case of outside students, the applicant is not providing any service on their own account. Hence, they are not eligible for the exemption claimed.

6. Personal Hearing:

The applicant was granted opportunity for personal hearing on 05.01.2021. Shri. K.S.Hariharan, Advocate represented the applicant in the personal hearing. He reiterated the contentions made in the application and

also submitted a Hearing Note summarising the submissions made in the application. Since we have already extracted in detail all the contentions raised by the applicant in the application, the contents of the argument note is not reproduced to avoid repetition.

7. Discussion and Conclusion:

7.1. The matter was examined in detail. The questions to be answered are;

(i) the GST liability on the activity of collection of examination fees and payment of the same to AAPC from the students who are enrolled for training in medical coding in the institution of the applicant without collection of any service charge for the same from the students or from AAPC;

(ii) the GST liability on the activity of collection of examination fees and payment of the same to AAPC from the outside students who are not enrolled for training in medical coding in the institution of the applicant without collection of any service charge for the same from the students or from AAPC.

(iii) Whether the applicant can follow the ruling of the Karnataka Authority for Advance Ruling in M/s. Arivu Educational Consultants Pvt Ltd that such payment of examination fee is not a service chargeable to tax under GST laws.

7.2. In order to answer the questions raised at 7.1 (i) and 7.1 (ii) above it is necessary to examine whether the amount collected and remitted to AAPC, is an expenditure or cost incurred by the applicant as a pure agent of the recipient. Rule 33 of the CGST Rules, 2017 which governs the value of supply of services in case of pure agent reads as follows;

“33. 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.”*

7.3. On the basis of the above provisions, the two situations are to be examined to determine whether the amount of examination fee collected and paid by the applicant to AAPC satisfy the requirement of Rule 33 of the CGST Rules, 2017 so as to be excluded from the value of taxable supply provided by the applicant.

7.4. In the first situation, the applicant is providing training services in relation to medical coding program to the students enrolled with them to appear in the examination conducted by the AAPC. The applicant is collecting fees for such training provided by them and is discharging GST at the rate of 18% on the fees collected. In addition to providing such training to the students enrolled with them they are also facilitating the students to pay the examination fee to AAPC by providing online facility / platform to pay the exam fee without collecting any service charge. They are collecting the amount required to be paid as exam fees from the students in addition to their training fees and making payment of the exam fee amount through the online facility to AAPC. The

applicant is not collecting any service charge for providing the facility for payment of exam fee either from the students or from AAPC.

7.5. In the second situation the applicant is providing the same online facilities for payment of fees to students who are appearing for the examination conducted by the AAPC but are not enrolled with them for training. The facility of payment of fees through online platform is extended to interested students who approach them. In this case the service of facilitation of the payment of examination fee to AAPC is rendered free by the applicant in as much as the amount required to be paid as examination fee alone is collected from the students. The applicant neither receives any service charge from the students nor from AAPC.

7.6 The applicant has to satisfy the conditions stipulated in Rule 33 of the CGST Rules 2017 to exclude the amount collected as examination fees from the taxable value of services provided by the applicant. In the first situation, the applicant collects exam fee from the students who are enrolled for training with them and makes payment to AAPC on the basis of authorisation from the student. The examination fees is paid by the applicant to AAPC for the examination and certification services provided by the AAPC to the students in addition to the training and fee payment facilitation service provided to the students by the applicant. Therefore, all the conditions mentioned in the said Rule 33 for exclusion of the amount collected as examination fee from taxable value of services provided by the applicant is satisfied.

7.7. In the second situation, the students are not enrolled with the applicant for training but have approached the applicant for facilitating payment of fees to AAPC for procuring the examination and certification services provided by AAPC. The applicant collects the actual amount of examination fee and remits that amount to AAPC on behalf of the student without collecting any service charges either from the student or from AAPC. In this situation the applicant collects the examination fee from the students and remits it to AAPC and no service charge is collected for the fee payment facilitation service either from the student or AAPC. In order to come within the scope and meaning of supply as

defined in Section 7 of the CGST Act the activity / transaction shall be for a consideration in the course or furtherance of business. Though the fee payment facilitation services are provided by the applicant in the course or furtherance of their business as the same is being made without consideration it falls outside the meaning and scope of supply as defined in Section 7 of the CGST Act, 2017. Therefore, the applicant is not liable to pay GST on the fee payment facilitation services provided to outside students without consideration.

7.8. The third question raised is whether the applicant can follow the essence of the ruling of the Karnataka Authority for Advance Ruling in M/s. Arivu Educational Consultants Private Ltd. As per Section 97(2) of the CGST Act the question on which the advance ruling can be sought are in respect of;

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

The question not being in respect of any of the matters on which advance ruling can be sought, this authority is not having jurisdiction to give ruling on the question.

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

RULING

1. Whether the payment made to American Academy of Professional Coders (AAPC) as examination fee for students on behalf of some of the students of the applicant institute as a pure agent is service under GST and is there any tax liability for the same, when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.

The collection and payment of examination fee to AAPC by the applicant on behalf of the students who are enrolled for training with the applicant is not liable to GST subject to fulfilment of the conditions stipulated under Rule 33 of CGST Rules 2017.

2. Whether the payment made to AAPC as examination fee on behalf of outside students as pure agent is service under GST and is there any tax liability for the same, when the applicant is collecting the actual examination fee and remitting that amount to AAPC as such without taking any service charges either from students or from AAPC.

The collection and payment of examination fee to AAPC by the applicant on behalf of outside students (who are not enrolled for training with the applicant) without collecting any service charge either from students or AAPC is not liable to GST for the reasons as detailed in Para 7.7 above.

3. Whether the applicant may follow the essence of the Karnataka Advance Ruling in M/s. Arivu Educational Consultants Pvt. Ltd. (Advance Ruling Order No.KAR-ADRG-116/2019) that such payment of examination fee is not a service chargeable to tax under GST laws.

This authority has no jurisdiction to issue ruling on the question for the reasons as stated in Para 7.8 above.



Sivaprasad.S

Joint Commissioner of Central Tax
Member



Senil A.K. Rajan

Additional Commissioner of State Tax
Member

To,

M/s. CIGMA MEDICAL CODING PVT. LTD.
38/852 D3, Pallippadan High Light
Opp: St. George Forona Church
Edappally, Ernakulam – 682024.

Copy to

- 1) The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin-682018. [E-mail ID: cccocchin@nic.in]
- 2) The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
- 3) The State Tax Officer, 1st Circle, Kalamassery, Ernakulam. [E-mail ID: ctokalamassery1@gmail.com]