

RAJASTHAN AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICES TAX

KAR BHAWAN, AMBEDKAR CIRCLE, NEAR

RAJASTHAN HIGH COURT

JAIPUR - 302005 (RAJASTHAN)

**ADVANCE RULING NO. RAJ/AAR/2021-22/37, Dated 25th January, 2022**

J.P.MEENA Additional Commissioner	:	Member (Central Tax)
M. S. Kavia Joint Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Stonorti Marketplace Private Limited,  153, Padmawati Colony A, Kings Road, Jaipur,  Rajasthan-302019.
GSTIN of the applicant	:	08ABACS1676C1ZI
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	(b) applicability of a notification issued under the provisions of the Act;  (e) determination of the liability to pay tax on any goods or services or both.
Date of Personal Hearing	:	11.01.2022
Present for the applicant	:	CA, Shuchi Sethi.
Date Of Ruling	:	25.01.2022

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

At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

The issue raised by M/s Stonorti Marketplace Private Limited, 153, Padmawati Colony A, Kings Road, Jaipur, Rajasthan-302019(hereinafter the Applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (b)& (e)given as under:-

(b) applicability of a notification issued under the provisions of the Act;

(e) determination of the liability to pay tax on any goods or services or both.

Further, the applicant being a registered person (GSTIN is 08ABACSI676C1ZI)as per the declaration given by him in Form (ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

#### **A. SUBMISSION OF THE APPLICANT;(in brief)**

> M/s Stonorti Marketplace Private Limited (hereinafter referred to as "applicant"), having its registered address as 153, Padmawati Colony A, Kings Road, Jaipur, Rajasthan, 302019 (GSTIN 08ABACSI676C1ZI) is engaged in educating and training physical, mental and spiritual practices of Yoga. The applicant is engaged in providing such services both virtually and physically.

> That the applicant offers various courses of Yoga such as Fitness Yoga, Immunity Boost Yoga, Pregnancy Yoga, Nidra Yoga, Stress Management Yoga, Meditation, and other such courses for improving mental and physical wellness.

> That the applicant also offers Yoga Teacher Training Courses, wherein the applicant is engaged in educating and training physical, mental and spiritual practices of Yoga to existing Yoga Practitioners.

> That the applicant charges fees from the students registering for one or more Yoga Courses. The duration of such courses may range from 30 Hours to 1500 Hours.

> That the practices of Yoga are taught by instructors with the following qualifications:-

- Diploma in Yoga, or

- Graduates from a Recognized Institute, or

- Yoga Certification Board Certified or Yoga Alliance Certified

That the applicant is desirous to know if the services of training and coaching students in Yoga is covered under entry 80(a) of the notification no. 12/2017-CT Rate dated 28.06.2017.

### **APPLICANT'S INTERPRETATION**

> That the applicant contents that activities of educating and training physical, mental and spiritual practices of Yoga is a service and is exempt under entry 80, Tariff 9996 of Notification no. 12/2017-CT Rate dated 28.06.2017.

> That the applicant is engaged in supplying of services of educating and training physical, mental and spiritual practices of Yoga. As per definition of service, the essential conditions to qualify as Services can be highlighted as under:-

a. anything other than goods, money and securities

b. for which a separate consideration is charged

> That, in exercise of the powers conferred by section 11 of CGST/SGST Act, 2017, the government has exempted supply of services as notified in Notification no. 12/2017-CT Rate dated 28.06.2017 as amended from time to time.

> That, entry 80 of the Notification no. 12/2017-CT Rate dated 28.06.2017 reads as:

<b>Sl. No.</b>	<b>Chapter, Section, Heading, Group or Service Code (Tariff)</b>	<b>Description of Services</b>	<b>Rate (%)</b>	<b>Condition</b>
80	Heading 9996	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.	Nil	Nil

> That, entry 80 of the **notification no. 12 CGST Rate dated 28-06-2017** for understanding purpose can be sub-divided in in sub-parts for better understanding.-

a. There should be activity of training or coaching

b. It should be in recreational activities

c. The said training or coaching should relate to art or culture

> That firstly, "Training" is globally defined as the action of teaching a person a particular skill or knowledge or type of behaviour. On perusal of the broacher of the applicant it is evident that it is engaged in training various types of Yoga to the students. In fact it explains after coaching how same shall benefit the student. The name of person who is performing Yoga is also "Yoga Trainer". Hence it is clear without any confusion that activity undertaken by the applicant for its service recipient is a training or coaching.

> That secondly, "Recreational Activity" denote to activity done for enjoyment and leisure. It has been defined as activity of leisure, leisure being discretionary time. The "need to do something for recreation" is an essential element of human biology and psychology. Recreational activities are often done for enjoyment, amusement, or pleasure and are considered to be "fun". From perusal of the broacher it is evident that all the types of Yoga are not discretionary in nature and a person who wants to learn Yoga of his / her choice may choose from the list offered by the applicant. The same cannot be prescribed but rather is chosen as per wish of the person wanting to get trained.

> That in case of Fast Arithmetic vs Asst. Commr. of C Ex & ST, Mangalore reported in 2010 (17) S.T.R. 158 (Tri. - Bang.) it was held by the CESTAT that

Words and Phrases - Recreation - When an activity' is done for enjoyment it is called recreation - Recreation need not he confined to playing some games or watching television and there are a wide variety of activities which could be called as recreational, [para 7]

> That thus on basis of above it is clear that training in Yoga can be a recreational activity.

> That third, "Culture" which an umbrella term which encompasses the social behaviour and norms found in human societies, as well as the knowledge, beliefs, arts, laws, customs, capabilities, and habits of the individuals in these groups. The Yoga has roots to Indian culture. The evidence and reasoning of same is given as under.

> That Yoga is a way to learn and understand the spiritual India. Also, yoga is associated with the culture and heritage of India. In Sanskrit, yoga means 'to unite' and describes a way to live a healthy life. In yoga, the mind is disciplined through meditation and the body is aligned and strengthened. As per yoga, it is actually the nervous system of the body that affects our health. The nervous system gets purified with daily yoga and thus keeps our body healthy and strong.

> That with increase in urbanization and emergence of start-ups, stressed lifestyles have become the order of the day in most cities. With lesser time to embrace the nature and seek physical and mental calmness, many take to Yoga as a regular regime. This is one of the main reasons why applicant has been able to attract students.

> That Indian Ministry of Culture headed by Shri G. Kishan Reddy (Minister of Culture) has published a National List for Tangible and Intangible Cultural Heritage (ICH), wherein Yoga has been classified as Intangible Indian Culture Heritage.

Name	Domain	Description	Region	Community/ies
Yoga	Knowledge and practices concerning nature and the universe	Yoga essentially is a traditional and time honoured Indian holistic system of personal, physical, mental and spiritual wellness focusing on all-round unification of body, mind and soul. It is a perfect example of a lively interaction between the precepts and practice. Like other Indian traditions, this system is also handed down from master (Guru) to disciple (Shishya), who after rigorous practice attains mastery in the system and qualifies to become a master himself and teach others. The presence of Yoga is well documented in Indian textual tradition right from the Rigveda (RV	While at present Yoga is a Pan-Indian holistic physical and spiritual wellness system practiced throughout the geography of India, the ancient system of Yoga originated well before the Indus valley civilization. This fact is evidenced on the one hand by archaeological finds across Indian sub-continent and on the other by an authentic, almost unbroken textual tradition of Indian literature on the subject, which deals with its physical, practical, metaphysical and spiritual aspects. Also,	Presently Yoga is practised across the length and breadth of India. Being a practice it involves active participation of the master and disciples which may comprise a wide spectrum of individuals, institutions and general public groups, societies, communities, educational institutions, and members of society at large without any restrictions of gender, age or religious dispositions.

		<p>1/18/7; 1/5/3; 1/30/7 etc.) To Satapatha Brahmana (6/3/2/4 and 13/1/9/10 etc.) to philosophical treatises like the Upanishads (Mundaka (6/28), Katha (2/3/10-11) etc. and the Bhagvadgita (2/48; 2/50 etc.), before sage Patanjali systematized it in his Yogasutras. After Patanjali, many great sages and Yoga masters contributed their bit for the intellectual preservation and furtherance of this system through their treatises. According to Indian mythology, god Siva is the first teacher of this system. As per Yogic scriptures the practice of Yoga leads to the union of individual consciousness with universal consciousness</p>	<p>the element is permeated in traditional Indian dance and theatre techniques which draw heavily from Yogic practices of various postures, gestures and breathing exercises.</p>	
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		<p>and thus indicates a perfect harmony between these elements. The aim of Yoga is to realize the inner self, to mitigate or overcome all kinds of sufferings and to pave the way for attaining the state of liberation. The widely practiced Yoga Practices are Yama (five abstentions), Niyama (five observances), Asana (Postures), Pranayama (Suspending Breath), Pratyahara (Abstraction), Dharana (Concentration), Dhyana (Meditation), Samadhi (Fully integrated Consciousness), Bandhas (Lock) &amp; Mudras (Gestures), Shat-karmas (Cleansing practices), Yukta-ahara, (Holistic food), Yukta karma</p>		
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		(Right Action) and Mantra japa (Chanting of the Sacred Words) etc. Yogic practices help millions to learn to maintain a balanced way of life.		
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> That in fact UNSECO has held that

Inscribed in 2016 (11 .COM) on the Representative List of the Intangible Cultural Heritage of Humanity'

The philosophy behind the ancient Indian practice of yoga has influenced various aspects of how society in India functions, whether it be in relation to areas such as health and medicine or education and the arts. Based on unifying the mind with the body and soul to allow for greater mental, spiritual and physical wellbeing, the values of yoga form a major part of the community's ethos. Yoga consists of a series of poses, meditation, controlled breathing, word chanting and other techniques designed to help individuals build self-realization, ease any suffering they may be experiencing and allow for a state of liberation. It is practised by the young and old without discriminating against gender, class or religion and has also become popular in other parts of the world Traditionally yoga was transmitted using the Guru-Shishya model (master-pupil/ with yoga gurus as the main custodians of associated knowledge and skills. Nowadays, yoga ashrams or hermitages provide enthusiasts with additional opportunities to learn about the traditional practice as well as schools, universities, community centres and social media. Ancient manuscripts and scriptures are also used in the teaching and practice of yoga. and a vast range of modern literature on the subject available

> That, from the contention in paragraphs above, it is evident that yoga is a recreational activity and that it qualifies to be a part on Indian Culture being a traditional and time honoured Indian holistic system of personal, physical, mental and spiritual wellness focusing on all-round unification of body, mind and soul.

> That thus all the requirements of entry 80 (a) of the Notification No. 12/2017-CT dated 28.06.2017 have been duly satisfied. Thus the services supplied by the applicant are duly covered by the exemption from levy of GST.

> That further it is also brought on record the exemption given under entry 80(a) is qua the activity but not qua the status of service supplier. The same entry 80 of the notification no 12/2017-CT (Rate) dated 28.06.2017 has clause (b) which is applicable for specific service supplier i.e. entity which is registered under the provisions of Section 12AA of the Income Tax Act 1961. The said condition is disjunct to entry 80(b) only and has no bearing on the nature of activities covered under the entry 80(a) of the Notification No 12/2017-CT (Rate) dated 28.06.2017.



> That, on apparent reading of entry 80 of exemption notification as mentioned in Para 9, it is clear that services by way of training or coaching in recreational activities relating to sports are eligible for exemption only when provided by charitable entities registered under section 12AA of the Income-tax Act.

> That the nature of services listed under clause 80(a) and 80(b) have been separated by a use of comma before "or" after clause (a). From perusal of same it is clear that an entity providing services by way of training or coaching in recreational activities relating to arts or culture is not required to be registered under section 12AA of the Income Tax Act for availing such exemption.

> That in English Language comma before and, but, or, nor, for, so, or yet is used to join two independent clauses that form a compound sentence. A compound sentence is a sentence that has 2 independent clauses. Hence, it is clear that the condition of registration u/s 12AA of the Income-tax Act to avail the exemption is only for clause (b) and not for clause (a). The list of activities mentioned in clause 80(a) are complete in itself and is independent.

> That further assistance can also be taken from the language of gazetted Hindi version of the said notification. While reading the said notification in Hindi as under, it gets affirmed that the condition of registration u/s 12AA of the Income-tax Act to avail the exemption is only for services by way of training or coaching in recreational activities relating to sports. Hence, providing services by way of training Yoga is exempt under said notification by any supplier.

.....

> That on perusal of above it is evident that activity clause (ii) of entry starts with"(ii) ..... 1961 (1961 ..... 43).....The said requirement is not there in case of clause (i) and hence it clearly means that requirement of registration of the service supplier under clause (i) is not required at all to claim benefit of exemption under given entry.

> That further it is also explained that applicant's activity is rightly covered under entry 80 of the notification no 12/2017-CT (Rate) and not under entry 1, Chapter 99 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017. The said entry exempts an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities. The entry reads as under:

<b>Sl. No.</b>	<b>Chapter, Section, Heading, Group or Service Code (Tariff)</b>	<b>Description of Services</b>	<b>Rate (%)</b>	<b>Condition</b>
1	Chapter 99	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by	Nil	Nil

		way of charitable activities.		
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> That, "Charitable Activities" as mentioned in entry 1 of the notification has also been defined for the purposes of this notification, which includes advancement of religion, spirituality or yoga. The definition reads as:-

(r) "charitable activities" means activities relating to -

(ii) advancement of religion, spirituality or yoga;

> That, entry 1 of the said notification exempts advancement of Yoga i.e. promoting, improving, spreading Yoga.

> That, since the applicant is not registered under section 12AA of the Income-tax Act, 1961, and is not involved in advancement or promotion of Yoga, entry 1 of the said notification shall not be applicable to him.

> That, on the contrary the services of educating and training physical, mental and spiritual practices of Yoga which may not be undertaken with the sole objective of advancement of Yoga but is being done to provide training is being covered under entry 80, Tariff 9996 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 and not by entry 1 of the said notification.

#### **APPLICANT'S UNDERSTANDING**

> That in above case, supplying of services of educating and training of physical, mental and spiritual practices of Yoga is exempt under entry 80, Tariff 9996 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017.

#### **B. QUESTION(S) ON WHICH ADVANCE RULING IS SOUGHT**

Whether the services supplied by the applicant by way of educating and training physical, mental and spiritual practices of Yoga is exempted under Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 under entry number 80?

#### **C. COMMENTS OF THE JURISDICTIONAL OFFICER**

The Assistant Commissioner, CGST Division-G, Jaipur vide F. No. V(16)Misc/Div-G/Advance Ruling /14/2020-21/3419 dated 20.12.2021 has submitted comments, which may be summarized as under:

The applicant i.e. M/s. STONORTI Marketplace Pvt. Ltd. has filed application for advance ruling to decide as to whether the activities of Yoga training is exempt under Entry No. 80 of Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 or not.

As per the detailed submission of the applicant, they are providing services by way of training in "recreational activities" relating to 'Culture'.

In this regard, it is submitted that the said notification exempts only intrastate supply of services mentioned in its table. The applicant, as per their submission in Annexure-1, is engaged in physical training, mental and spiritual practice of Yoga both 'virtually and physically' and charging fees as per yoga courses.

Further, as per the Law Insider Dictionary 'Recreation activity' means any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" does not include any organised team sport activity sponsored by the owner of the property on which the activity take place. Similarly, as per Merriam-Webster Dictionary "Culture" means the belief, customs, arts, etc. of a particular society, group, place or time/ a particular society that has its own beliefs, ways of life, art, etc..

In view of above, it appears that "training for Yoga courses" does not fulfill the meaning of "Recreational activity relating to Culture " Accordingly the benefit under Entry No. 80 of the Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 would not be available to the applicant.

#### **D. PERSONAL HEARING**

In the matter personal hearing was granted to the applicant on 11.01.2022 through video conferencing. On behalf of the applicant CA, Shuchi Sethi appealed for PH. During the PH, she reiterated the submissions already made in the application.

#### **E. FINDINGS, ANALYSIS & CONCLUSION:**

We have considered the submissions made by the Applicant in their application for advance ruling. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

1. Based on the written submission made by the applicant, we find that the applicant is engaged in educating and training physical, mental and spiritual practices of virtually and physically. The applicant offers various courses of Yoga for improving mental and physical wellness. The applicant charges fees from the students registering for one or more Yoga Courses. The applicant is not registered under section 12AA of the Income-tax Act, 1961.

2. In the present case, we have to decide Whether the services supplied by the applicant by way of educating and training physical, mental and spiritual practices of Yoga is exempted under Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 under entry number 80 or otherwise?

3. In this regard, we are of the view that activity of offering of various courses of Yoga for improving mental and physical wellness for consideration in form of fees is covered under 'supply' as per section 7 of the CGST Act, 2017.

4. As far as taxability under section 9 of the CGST Act, 2017 on the said activity is concerned, we can visit relevant entries of following notifications, which are as under: -

4.1 Entry No. 80 of the Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 reads as:

<b>Sl. No.</b>	<b>Chapter, Section, Heading, Group or Service Code (Tariff)</b>	<b>Description of Services</b>	<b>Rate (%)</b>	<b>Condition</b>
80	Heading 9996	Services by way of training or coaching in recreational activities relating to (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.	Nil	Nil

4.2 Entry No. 35 of the Notification No. 11/2017-CT(R) dated 28-06-2017 reads as:

<b>Sl. No.</b>	<b>Chapter, Section, Heading, Group or Service Code (Tariff)</b>	<b>Description of Services</b>	<b>Rate (%)</b>	<b>Condition</b>
35	Heading 9997	Other services (washing, cleaning and dyeing services; beauty and physical well-being services; and other miscellaneous services including services nowhere else classified).	9	-

4.3 Entry No. 711 of the Notification No. 11/2017-CT(R) dated 28-06-2017 reads as:

**Scheme of classification of services**

<b>Sl. No.</b>	<b>Chapter, Section, Heading or Group</b>	<b>Service code (Tariff)</b>	<b>Service Description</b>

711	99972	999723	Physical well-being services including health club and fitness centre.
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5. The analysis of aforesaid relevant entries are as under:

5.1 In light of above, the entry 80 of the Notification No. 12- CT(R) dated 28-06-2017 can be sub-divided in sub-parts for better understanding.-

- a. There should be activity of training or coaching
- b. It should be in recreational activities
- c. The said training or coaching should relate to art or culture

On gone through the aforesaid entry' No. 80 of the 12/2017-CT( R) dated 28-06-2017, we are of the view that there should be training or coaching in recreational activities. Now, the 'recreational activities' may be discussed.

As per the Law Insider Dictionary' "Recreation activity" means:

**Recreational activity** means any outdoor activity under- taken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. "Recreational activity" includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird- watching, motorcycling, operating an all-terrain vehicle, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting and any other outdoor sport, game or educational activity.

5.2 Further, Entry No. 711 of the Notification No. 11/2017-CT(R) dated 28-06-2017 can be sub-divided in in sub-parts for better understanding.-

- a. There should be Physical well-being services
- b. including health club and fitness centre.

5.3 It is pertinent to mention here the relevant portion of circular No. 66/40/2018-GST dated 26.09.2018, which reads as under:-

"The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. Fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt".

6.In view of above both the entry No. 80 of the Notification No. 12/2017-CT(R) dated 28-06-2017 and entry No. 711 of the Notification No. 11/2017-CT(R) dated 28-06-2017, we are of the view

that services by way of training or coaching of various Yoga courses by applicant for consideration, is not exactly for "Recreation activity" whereas the same is for 'Physical well-being activities' and hence, it is not covered under entry No. 80 of the Notification No. 12/2017-CT(R) dated 28-06-2017. Further, as per circular No. 66/40/2018-GST dated 26.09.2018, only those services which provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga, are exempt. The essence of the said circular is to provide exemption in respect of services of advancement of yoga to only those entities who registered under Section 12AA of the Income Tax Act, 1961. Thus, we are of the view that the intention of the law maker in respect of entry No. 80 of the Notification No. 12/2017-CT(R) dated 28-06-2017, is to provide benefits of GST exemption to only those entities which are registered under Section 12AA of the Income Tax Act, 1961. This intention also confirmed from the aforesaid circular No. 66/40/2018-GST dated 26.09.2018. As the applicant (as mentioned in their written submission) is not registered under Section 12AA of the Income Tax Act, 1961, therefore in light of above referred circular, we find that the applicant is not eligible to avail benefits of entry No. 80 of the Notification No. 12/2017-CT(R) dated 28-06-2017.

7. On the other hand, we find that the training or coaching of various courses of Yoga for consideration by the applicant is nothing but "Physical well-being service and more suitably covered under Service Description "Physical wellbeing including health club and fitness centre" under Entry No. 711 of the Notification No. 11/2017-CT(R) dated 28-06-2017 and attracts GST @ 18% (9% CGST+ 9% SGST) as per Entry No. 35 of the Notification No. 11/2017-CT(R) dated 28-06-2017.

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

### RULING

**Question:** Whether the services supplied by the applicant by way of educating and training physical, mental and spiritual practices of Yoga is exempted under Notification No. 12/2017-CT(R) dated 28-06-2017 under entry number 80?

Answer: NO, it is not exempted. It will be covered under service having description "Physical well-being including health club and fitness centre " under service code 999723 and will attracts GST @ 18% (9% CGST+ 9% SGST) as per Entry No. 35 of the Notification No. 11/2017-CT(R) dated 28-06-2017.

25/01/2022	
(J. P. MEENA)	(M. S. Kavia)
Member	Member
(Central Tax)	(State Tax)

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