

**KERALA AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX DEPARTMENT
TAX TOWER, THIRUVANANTHAPURAM**



BEFORE THE AUTHORITY OF: Dr S.L. Sreeparvathy, IRS &
: Shri Abraham Renn S, IRS

Legal Name of the applicant	M/s. TUTOR COMP INFOTECH INDIA PRIVATE LIMITED
GSTIN	32AAECT3772F1ZH
Address	Athulya Building, 2 nd Floor, Infopark SEZ, Kakkanad, Ernakulam, Kerala – 682042.
Advance Ruling sought for	Whether the (i) transaction between applicant and individual student on a one to one basis; and (ii) providing education up to Higher Secondary School; falls under Sl.No.66(a) of Notification No.12/2017 – Central Tax (Rate).
Date of Personal Hearing	05.07.2022
Authorized Representative	Sri. R. Krishna Iyer & CO, CA

ADVANCE RULING No.KER/143/2021 Dtd 27.07.2022

1. M/s Tutor Comp Info Tech Private limited (**hereinafter referred to as the applicant**) is a company registered under the Companies Act, 1956 and a unit in the Infopark SEZ, Kakkanad.
2. At the outset, it is clarified that 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 the 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 an advance ruling on the following:

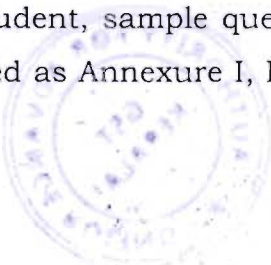
3.1. Whether the (i) transaction between applicant and individual student on a one to one basis; and (ii) providing education up to Higher Secondary School; falls under Sl.No.66(a) of Notification No.12/2017 – Central Tax (Rate).

4. Contentions of the Applicant:

4.1. The applicant submits that they are offering education services to student's through its own online platform. The applicant provides services in the following categories;

- a. Educational services to individual students.
- b. Educational services to institutions and the students.
- c. Educational services to Government.

4.2. The applicant submitted the process of registration and the nature of services rendered by them in detail .In order to register the students has to visit website of the applicant the student submits the application, the resource person of the applicant namely; www.tutorcomp.com and enter the necessary particulars in the application. On submission of the application the student will be contacted by the resource person of the applicant. After ascertaining the particulars, requirement of the student, the academic coordinator (teacher) will be allocated to each student. Academic coordinator will assess the details filled in and speak to the student to understand student specific academic, assignment or homework. Students are taken through diagnostic assessment or pre-assessment before instruction, which focuses on the area of domain knowledge before beginning the tutoring. Lesson plans are designed according to the outcome of the assessment. Thereafter customized study materials are prepared and send to each student and also shared during the class. Classes are taken as per the timing convenient to the student and coordinator. The invoices are raised with description "Tuition Fees". The sample copy of the communication with the student, sample question paper and sample invoices raised on student is attached as Annexure I, II and III to the application. The



applicant further submits that at present the main source of revenue for them is from providing services to overseas students, and hence the services of the applicant constitute export of services. They are remitting IGST and claiming refund of the same.

4.3. The applicant contends that that on verification of various provisions, they are of the view that the services provided by them to individual students is liable to NIL rate since it falls under Sl.No.66(a) of Notification No.12/2017 CT(Rate) dated 28.06.2017.

4.4. The term educational institution has been defined in clause (y) of Para 2 of the said notification, which reads as under;

(y) 'educational institution' means an institution providing services by way of,-

- a. pre-school education and education up to higher secondary school or equivalent;*
- b. education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;*
- c. education as a part of an approved vocational education course;*

4.5. It is further submitted that reading the above definition of educational institution, it is clear that educational institution, is an institution providing services by way of preschool and education up to higher secondary school. The Black's Law Dictionary defines "institution" as "is sometimes used as descriptive of an establishment or place where the business or operations of a society or association is carried on, at other times it is used to designate the organized body. Benjamin Rose Institute Vs. Myers, 92 Ohio St. 252, 110 N.E. 924, 926, 927, L.R.A. 1916D, 1170; Bartling Vs. Wlt, 96 Neb. 532, 148 N.W. 507, 509." Admittedly the applicant is an organization having a well defined organization structure consisting of advisory board, resource persons, infrastructural facilities and the applicant has 75+ educators i.e., instructors,



500+ students. Hence the applicant clearly qualifies as an institution. Next condition is that the said institution should provide “education” up to Higher Secondary School or equivalent. Education is the systematic instruction, schooling or training given to the young persons in preparation for the work of life. It also connotes the whole courses of scholastic instruction which a person has received. Education connotes the process of training and developing the knowledge, skill, mind and character of students by formal schooling. Education is necessary to develop the personality of a person as a whole and in totality as it provides the process of training and acquiring the knowledge, skills, developing mind and character by formal schooling. State of Orissa Vs. Mamata Mohanty, (2011) 3 SCC 436.

4.6. Further in P.A. Inamdar Vs. State of Maharashtra (2005) (6 SCC 537), the Hon’ble SC observed that:

81. “Education” according to Chambers Dictionary is “bringing up or training; strengthening of the powers of body or mind; culture”.

82. In Advance Law Lexicon (P. Ramanathan Aiyar, 3rd Edn., 2005, Vol.2 “education is defined in very wide terms. It is stated:

“Education is the bringing up; the process of developing and training the powers and capabilities of human beings. In its broadest sense the word comprehends not merely the instruction received at school or college but the whole course of training moral, intellectual and physical; is not limited to the ordinary instruction of the child in the pursuits of literature. It also comprehends a proper attention to the moral and religious sentiments of the child, and it is sometimes used as synonymous with ‘learning’.

83. In Sales Trustee, Lok Shikshana Trust Vs. CIT (1976) (1 SCC 264) the term “education” was held to mean (SCC p.262, para 5).

“the systematic instruction, schooling or training given to the young in preparation for the work of life. It also connotes the whole course of



scholastic instruction which a person has received.....What education connotes..... is the process of students by formal schooling”

88. Education is:

“... Continual growth of personality, steady development of character, and the qualitative improvement of life. A trained mind has the capacity to draw spiritual nourishment from every experience, be it defeat or victory, sorrow or joy. Education is training the mind and not stuffing the brain.”

(see Eternal Values for A changing Society, Vol.III – Education for Human Excellence, published by Bharatiya Vidhya Bhavan, Bombay at p.19)

“we want that education by which character is formed, strength of mind is increased, the intellect is expanded, and by which one can stand on one’s own feet.... The end of all education all training, should be man-making. The end and aim of all training is to make the man grow. The training by which the current and expression of will are brought under control and become fruitful is called education”. (Swami Vivekanand as quoted ibid., at p.20)

4.7. The Applicant submits that the judgments quoted make it clear that “education”, means, (a) systematic instruction, schooling or training given to the young persons in preparation for the work of life; (b) bringing up; the process of developing and training the powers and capabilities of human beings; (c) is not merely the instruction received at school or college but the whole course of training moral, intellectual and physical. And it is sometimes used as synonymous with ‘learning’”. Further it is also contended that these judgments also make it clear schooling is not the only method of providing education, and any kind of systematic training constitutes “education”. Therefore any training or instruction given to the young for their preparation constitutes education. In respect of the exemption relating to education



services of pre-school and up to higher secondary; the course need not have a curriculum, the qualification need not have legal recognition or approval, the words; “by way of “ indicates that the exemption is broad and the emphasis is on the stage of education. The objective is to increase the speed of basic education, reduce the cost and make it free from all taxes. The exemption of sub-clause (i) is without any condition unlike many stipulations for (ii) and (iii) in the definition of educational institution in the same exemption notification. The exemption is targeted towards school education in all forms and as per the definition in the exemption notification, any entity providing basic school up to higher secondary or equivalent is an educational institution. There is no condition that the service should be through or by a school.

4.8. It is further submitted that the applicant is imparting training to the young children. The training imparted is as per the course curriculum followed by the said student in their school. Hence the activity of the applicant clearly falls within the meaning of the term “education” and also that applicant is an “institution”. Since applicant provides education, it is an “educational institution”.

5. Remarks of the Jurisdictional Officer:

5.1. The application was forwarded to the jurisdictional officer as per provisions of Section 98(1) of the CGST Act. The jurisdictional officer has not submitted any remarks and hence it is presumed that the jurisdictional officer has no specific comments to offer. It is also construed that there are no proceedings pending on the issue against the applicant.

6. Personal Hearing:

6.1. The applicant was granted an opportunity for personal hearing on 05.07.2022. The authorized representative of the applicant, Shri R.Krishna Iyer & CO, CA, represented the applicant in the personal hearing. The



representative reiterated the contentions made in the application and requested to issue rulings on the basis of the submissions in the application.

7. Discussion and Finding:

7.1. The matter was examined in detail. In order to answer the questions raised, it is necessary to analyse the activity of the applicant with reference to provisions contained in Sl No. 66 of Notification No. 12/2017 CT (Rate) dated 28.06.2017 and the Scheme of Classification of Services under GST. Sl No. 66 of the Notification No. 12/2017 CT (Rate) dated 28.06.2017 reads as follows;

<i>Sl No</i>	<i>Chapter, Section, Heading, Group or Service code</i>	<i>Description of Services</i>	<i>Rate (per cent)</i>	<i>Condition</i>
66	Heading 9992	<p><i>Services provided</i></p> <p><i>(a) by an educational institution to its students, faculty and staff;</i></p> <p><i>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee</i></p> <p><i>(b) to an educational institution, by way of,-</i></p> <p><i>(i) transportation of students, faculty and staff;</i></p> <p><i>(ii) catering, including any mid-day meals scheme sponsored by the Central</i></p>	Nil	Nil



		<p><i>Government, State Government or Union territory;</i></p> <p><i>(iii) security or cleaning or house-keeping services performed in such educational institution;</i></p> <p><i>(iv) services relating to admission to, or conduct of examination by, such institution;</i></p> <p><i>(v) supply of online educational journals or periodicals:</i></p> <p><i>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:</i></p> <p><i>Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of, -</i></p>		
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		<p>(i) pre-school education and education up to higher secondary school or equivalent; or</p> <p>(ii) education as a part of an approved vocational education course.</p>		
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7.2. The educational services are classified under Heading 9992 in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. As per the Scheme of Classification of Services under GST notified as Annexure to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 the education service under Heading 9992 are further sub-divided into six groups comprising of pre - primary, primary, secondary, higher, specialised and other educational and support services as below:

Heading and Group	Service Code (Tariff)	Service Description
9992		Educational Services
Group 99921		Pre-primary education services
	999210	Pre-primary education services
Group 99922		Primary education services
	999220	Primary education services
Group 99923		Secondary Education Services



	999231	Secondary education services, general
	999232	Secondary education services, technical and vocational
Group 99924		Higher education services
	999241	Higher education services, general
	999242	Higher education services, technical
	999243	Higher education services, vocational
	999249	Other higher education services
Group 99925		Specialised education services
	999259	Specialised education services
Group 99929		Other education and training services and educational support services
	999291	Cultural education services
	999292	Sports and recreation education services
	999293	Commercial training and coaching services
	999294	Other education and training services n.e.c.
	999295	Services involving conduct of examination for admission to educational institutions
	999299	Other educational support services



7.3. The term “educational institution” is defined under clause (y) of Para 2 of Notification No. 12/2017 CT (Rate) dated 28.06.2017 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.*

7.4. The applicant claims that they are eligible for exemption under Sl. No. 66(a) to the Notification No. 12/2017 CT (Rate) dated 28.06.2017. In order to qualify for exemption under this entry the applicant should be an educational institution as defined under clause (y) of Para 2 of the said notification.

7.5. The first kind of educational institution defined in clause (y) of Para 2 of Notification No. 12/2017 CT (Rate) dated 28.06.2017 is an institution providing services by way of **pre-school education and education up to higher secondary school or equivalent**. “Education” is not defined in the CGST Act but as per Apex Court decision in “Loka Shikshana Trust v/s CIT”, education is process of training and developing knowledge, skill and character of students by normal schooling.

7.6. The entry exempts educational institutions from pre-school to higher secondary school or an educational institution which is equivalent to a ‘school’. Admittedly, the applicant is not a formal school, but an institution providing special training / coaching to students who are enrolled in formal schools for education up to higher secondary or equivalent. Even though the activity; training and coaching undertaken by the applicant can be claimed to be education services in layman’s understanding, those activities do not qualify to be classified under any of the Groups; 99921 – Pre-primary education services; 99922 - Primary education services or 99923 – Secondary education services



as core educational services provided by schools up to higher secondary or equivalent. On the contrary the services provided by the applicant are appropriately classifiable under Heading 9992 – Group – 99929 – SAC – 999293 as commercial training and coaching services. Therefore, the applicant do not fall under the scope of educational institution as defined in sub-clause (i) of clause (y) of Para 2 of Notification No. 12/2017 CT (rate) dated 28.06.2017.

7.7. Further, institutions providing services by way of education as a part of curriculum for obtaining a qualification recognized by any law for the time being in force and those engaged in providing education as a part of an approved vocational education course are covered by the definition of “educational institution” in sub-clauses (ii) and (iii) respectively of clause (y) of Para 2 of the said notification. The training provided by the applicant neither leads to grant of any qualification recognised by any law for the time being in force nor is part of an approved vocational education course. Therefore the applicant is not covered under the scope of definition of “educational institution” in Para 2(y) of Notification No. 12/2017 CT (Rate) dated 28.06.2017.

7.8. Accordingly, the applicant is not eligible for the exemption as per the entry at Sl. No. 66 of the said notification.

Given the observations stated above, the following rulings are issued:

RULING

Question: Whether the (i) transaction between applicant and individual student on a one to one basis; and (ii) providing education up to Higher Secondary School; falls under Sl.No.66(a) of Notification No.12/2017 – Central Tax (Rate).



Ruling: The applicant is not an educational institution as defined in clause (y) of Para 2 of Notification No. 12/2017 CT (Rate) dated 28.06.2017. Therefore, the services provided by the applicant are not exempt under Sl. No. 66 of the said notification.

~~Sreeparvathy S.L.
Joint Commissioner of Central Tax
Member~~


Abraham Renn S.
Additional Commissioner of State Tax
Member

To,

M/s. TUTOR COMP INFOTECH INDIA PRIVATE LIMITED
Athulya Building, 2nd Floor, Infopark Sez, Kakkanad,
Ernakulam, Kerala - 682042.

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; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram - 695002.
3. The State Tax Officer,
Circle - II, Kalamassery, Ernakulam
[E-Mail ID: ctoernakulam2@gmail.com]

