

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)

(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)

ARN NO	AD2710200022233
GSTIN Number, if any/ User-id	278PVPR4228G1ZB
Legal Name of Applicant	M/s. Rahul Ramchandran (Inspire Academy)
Registered Address/Address provided while obtaining user id	C-1, Ishwar Park, Wadala Pathardi Road, Near Nashik Cambridge School, Indira Nagar, Nashik- 422009
Details of application	GST-ARA, Application No. 43 Dated 13.10.2020
Concerned officer	Division Nashik-I, Commissionerate - Nashik
Nature of activity(s) (proposed/present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	The applicant is registered under Goods and Services Act 2017 for Trade Name "Inspire Academy vide GSTIN 278PVPR4228G1ZB w.e.f. 28/05/2020". Under the aforesaid Trade Name, the business is of selling stationery, educational books etc. mainly to school students. This application is pertaining to their new business under the Trade name "Nashik Cambridge Pre-School".
Issue/s on which advance ruling required	• 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.
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below

NO.GST-ARA- 43/2020-21/B- 64

Mumbai, dt. 23-05-2022

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as "the CGST Act and MGST Act" respectively] by M/s. Rahul Ramchandran the applicant, seeking an advance ruling in respect of the following question.

Question 1:- Whether "Nashik Cambridge Pre-School" is covered under Notification No. 12/2017-CT, dated 28th June, 2017 Sl No. 66, under the Heading 9992 under GST Act?

Question 2:- Whether Nashik Cambridge Pre-school" is entitled for Nil rate of tax as per Serial No. 66 of the Notification no. 12/2017-CT (Rate) dated 28/06/2017, on the supply of Pre-school education service to its students against fee?

Question 3:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax as per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of some goods to its Pre-school students, without any consideration?

Question 4:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of some goods to its Pre-School students for some consideration?

Question 5:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of transportation service to tits Pre-school students without any consideration?



Question 6:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of transportation service to its Pre-school students for some consideration?

Question 7:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of transportation service to its faculty and staff for some consideration?

Question 8:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of canteen service to its faculty and staff for some consideration?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

2.1 The applicant is registered under Goods and Services Act 2017 for Trade Name "Inspire Academy w.e.f. 28/05/2020", under which it is in the business is of selling stationery, educational books etc. mainly to school students.

2.2 This application is pertaining to applicant's new business, under the Trade name "Nashik Cambridge Pre-school", for which he is holding Udyog Addhar Registration Certificate No. MH23D0045306 issued by the Ministry of Micro, Small and Medium Enterprises, Govt of India. Applicant is not registered u/s 12AA of Income Tax Act for "Nashik Cambridge pre-school".

2.3. "Nashik Cambridge Pre-school" intend to supply the following to its students, faculty and staff:

1) Pre-School education service to its students against fee.

2) Necessary goods such as books, stationery, drawing material, sports goods, foods items, milk, beverages etc. to its students without any considerations, as the cost thereof will be covered in the fee charged.

3) Some of the aforesaid goods to its students for some consideration.

4) Transportation service to its Pre-school students without any consideration.

5) Transportation service to its Pre-school students for some consideration.

6) Transportation service to its faculty and staff for some consideration.

7) Canteen service to its faculty and staff for some consideration.

Relevant Part of Notification No. 12/2017-CT (Rate) dated 28/06/2017 is reproduced below:

Sl. No.	Chapter, Section Heading, Group or Service Code	Description of Services	Rate (Percent)	Condition
66	Heading 9992	Services Provided- (a) by an educational institution to its students, faculty and staff; (b) to an educational institution, by way of,- (i) transportation of students, faculty and staff;	Nil	Nil

	<p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution; up to higher secondary;</p> <p>Provided that nothing contained in entry (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.</p>		
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2. Definitions. – For the purposes of this notification, unless the context otherwise requires,-

(y) "Education Institution" means an institution providing services by way of:-

(i) Per-school education and education up to higher secondary school or equivalent,

(ii) Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force,

(iii) Education as a part of an approved vocational educational course.

3. Explanation.- For the purpose of the notification,-

Reference to "Chapter", "Section" or "Heading", wherever they occur, unless the context otherwise requires, shall mean respectively as "Chapter", "Section" and "Heading" in the scheme of classification of services.

(ii) Chapter, Section, Heading, Group, or Service Code mentioned in Column (2) of the Table are only indicative.



03. CONTENTION – AS PER THE CONCERNED OFFICER:

OFFICER SUBMISSIONS DATED 21.01.2022:-

3.1 Whether "Nashik Cambridge Pre-School" is entitled for NIL tax rate as per Sr. No. 66 of Notification No. 12/2017-CTR dt 28.06.2017, on supply of Pre-school education services to its students against fee?

Answer: Yes, only for applicable services provided as per Notification No. 12/2017-CTR dt 28.06.2017.

3.2 Whether "Nashik Cambridge Pre-School" is entitled for NIL tax rate as per Sr No. 66 of Notification No. 12/2017-CTR dt 28.06.2017, on supply of some goods to its pre-school students, without any consideration?

Answer: - Supply without Consideration are not taxable as defined under Section 7(1)(a) of CGST, Act, 2017.

- 3.3 Whether "Nashik Cambridge Pre-School" is entitled for NIL tax rate as per Sr No. 66 of Notification No. 12/2017-CTR dated 28.06.2017, on supply of some goods to its pre-school students for some consideration?

Answer: - No, as per Notification No. 12/2017-CTR dt 28.06.2017 only applicable services are exempted.

- 3.4 Whether "Nashik Cambridge Pre-School" is entitled for NIL tax rate as per Sr No. 66 of Notification No. 12/2017-CT(Rate) dated 28.06.2017, on the supply of transportation service to its pre-school students without any consideration?

Answer: - Supply without Consideration are not taxable as defined under Section 7(1) (a) of CGST, Act, 2017.

- 3.5 Whether "Nashik Cambridge Pre-School" is entitled for NIL rate of tax as per Serial No. 66 of the Notification No. 12/2017-CT(Rate) dated 28.06.2017, on the supply of transportation service to its pre-school students for some consideration.

Answer: -Yes, only for applicable services provided as per Notification No. 12/2017-CT(Rate) dated 28.06.2017.

- 3.6 Whether "Nashik Cambridge Pre-School" is entitled for NIL rate of tax as per Serial No. 66 of the Notification No. 12/2017-CT(Rate) dated 28.06.2017, on the supply of transportation service to its faculty and staff for some consideration?

Answer: - Yes, only for applicable services provided as per Notification No. 12/2017-CT(Rate) dated 28.06.2017.

- 3.7 Whether "Nashik Cambridge Pre-School" is entitled of NIL rate of tax as per Serial No. 66 of the Notification No. 12/2017-CT(Rate) dated 28.06.2017, on the supply of canteen service to its faculty and staff for some consideration?

Answer: - Yes, only for applicable services provided as per Notification No. 12/2017-CT(Rate) dated 28.06.2017.

Applicants View:-

- 3.8 The term "Education Institution" defined by para 2(y) of Notification No. 12/2017-CT(Rate) dated 28.06.2017 is not subject to any condition such as, certification by any Government Authority and any Act, that is "Education Institution". Therefore, applicant



qualifies for payment of tax at NIL rate in respect of services supplies to its Pre-school students, faculties and staff.

- 3.9 In case of supply of goods to pre-school students also, the applicant is entitled for payment of tax at NIL rate under the entry at serial No. 66 of the said Notification because in case of "Composite supply". The rate of tax as per clause (a) of Section 8 shall be the one which applies to a "Principal supply" which in this case is service covered by entry at serial no 66 of the said Notification. Notification No. 12/2017 dated 28.06.2017 clearly states that only services provided by an educational institution to its students, faculty and staff are covered under NIL rate and supply of goods to pre school students are not covered under this notification. However whether supply is a composite supply or not is matter of fact and may differ on case to case basis as per the part of supply of goods and services and its nature. Accordingly it may be exempted or taxable.

04. HEARING

- 4.1 Preliminary e-hearing in the matter was held on 24.08.2021. The Authorized representative of the applicant, Shri. Dipak Bapat, Advocate was present. Jurisdictional officer Shri. Arun Barpatre, Superintendent, Division-II, Range- Ambad, Nashik was also present.

The application was admitted and called for final e-hearing on 25.01.2022. The Authorized representative of the applicant, Shri. Dipak Bapat, Advocate was present. Jurisdictional officer Shri. Arun Barpatre, Superintendent, Division-II, Range- Ambad, Nashik was also present. The applicant was asked to explain whether it holds registration under the Maharashtra Self-finance Schools (Establishment and Regulation) Act, 2012. The Applicant was asked to explain tax treatment being adopted by applicant at present. The applicant may file written submission (within weeks' time) in respect of submission filed by jurisdictional officer. Application is heard.

05. OBSERVATIONS AND FINDINGS:

- 5.1 We have gone through the facts of the case, documents on record and written/oral contentions made by both, the applicant as well as the jurisdictional officer at the time of preliminary as well as the final hearings.
- 5.2 M/s Rahul Ramachandran, the applicant has a new business, under the Trade name "Nashik Cambridge Pre-school", and intends to supply his students, faculty and staff : 1) Pre-School education service to its students against fee ; 2) Books, stationery, drawing



material, sports goods, foods items, milk, beverages etc. to his students without any considerations, as the cost thereof will be covered in the fee charged and with consideration in some cases ; Transportation service to its Pre-school students without any consideration and with consideration in some cases; Transportation service to his faculty and staff for some consideration and Canteen service to his faculty and staff for some consideration. It is noticed that the Maharashtra Pre-school Centres (Regulation of Admission) Act, 1996 (MaH XXIX of 1997) At pages 11215-11220 is repealed by the Maharashtra Pre-school Centres (Regulation of Admission) Act, 2000 (MAH XXXI of 2001) Section 2. Thus at present there is no law to certify the pre-schools.

5.3 The applicant has asked whether Nashik Cambridge Pre-School" and the activities mentioned in para 5.2 above are covered under Sr. No. 66 of Notification No. 12/2017-CT, dated 28.06.2017.

5.4 Notification No. 12/2017-CT(R), dated 28.06.2017 fully exempts certain intra-State supply of services of description specified therein subject to the relevant conditions as specified therein. The relevant Sr. No. 66 of the said Notification is reproduced as under:-

Sr. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate %	Condition
1	3	4	5	
	Heading 9992	Services provided – (a) by an educational institution to its students, faculty and staff; (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 housekeeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary; Provided that nothing contained in entry (b) shall	NIL	NIL

		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.		
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2. Definitions. – For the purposes of this notification, unless the context otherwise requires,-

2. Definitions. – For the purposes of this notification, unless the context otherwise requires,-

(y) "Education 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 para of a curriculum for obtaining a qualification recognized by any law for the time being in force,

(iii) Education as a part of an approval vocational educational course..

5.5 In the subject case, the applicant provides services by way of Pre-School education and as per 2(y) (i) above, the applicant i.e. Nashik Cambridge Pre-School can be considered as an "Educational Institution"

5.6 Since, Nashik Cambridge Pre-School can be considered as an "Educational Institution", services provided by them to its students, faculty and staff attracts NIL rate of GST in view of Sr. No. 66 mentioned above. We therefore hold that, the services provided by "Nashik Cambridge Pre-School" to its students, faculty and staff attracts is covered under Sr. No. 66 of Notification No. 12/2017-CT, dated 28th June, 2017. Furthermore, "Nashik Cambridge Pre-school" is also entitled for Nil rate of tax as per Serial No. 66 of the Notification no. 12/2017-CT (Rate) dated 28/06/2017, on the supply of Pre-school education service to its students against fee; on the supply of transportation service to its Pre-school students without any consideration; on the supply of transportation service to its Pre-school students for some consideration ; on the supply of transportation service to its faculty and staff for some consideration and on the supply of canteen service to its faculty and staff for some consideration.

This would answer all the applicant's questions except Question No. 3 and 4, involving supply of services.

5.7.1 We now deal with Question Nos 3 and 4 as under:-

Question 3:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of some goods to its Pre-school students, without any consideration?



5.7.1.1 From the submissions made by the applicant, it appears that the applicant will be supplying goods such as: books, stationery, drawing material, sports goods, foods items, milk, beverages to its students without any considerations, as the cost thereof will be covered in the fee charged.

5.7.1.2 From the submissions made by the applicant, it is seen that, the cost of such goods, are included in the education fees charged by the applicant which would imply that the applicant will be supplying the said goods as part of a composite supply comprising of principal supply in the form of educational services and Since, the necessary books, stationery, drawing material, sports goods, foods items, milk, beverages are supplied to its students as a part of such composite supply wherein the principal supply of service is exempted under Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28.06.2017, "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of the mentioned goods to its Pre-school students, without any consideration.

Question 4:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of some goods to its Pre-School students for some consideration?

The very fact that the applicant has mentioned that some of the goods mentioned above are also sold by the applicant for some consideration would imply that the said sale of goods are not a part of any composite supply. Therefore, as a standalone supply of goods the impugned activity cannot be covered under Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, which is applicable only in respect of supply of service.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

For reasons as discussed in the body of the order, the questions are answered thus –

Question 1:- Whether "Nashik Cambridge Pre-School" is covered under Notification No. 12/2017-CT, dated 28th June, 2017 SI No. 66, under the Heading 9992 under GST Act



Answer:- Answered in the affirmative.

Question 2:- Whether Nashik Cambridge Pre-school" is entitled for Nil rate of tax as per Serial No. 66 of the Notification no. 12/2017-CT (Rate) dated 28/06/, on the supply of Pre-school education service to its students against fee?

Answer:- Answered in the affirmative.

Question 3:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of some goods to its Pre-school students, without any consideration?

Answer:- Answered in the affirmative.

Question 4:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of some goods to its Pre-School students for some consideration?

Answer:- Answered in the negative.

Question 5:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of transportation service to tits Pre-school students without any consideration?

Answer:- Answered in the affirmative.

Question 6:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of transportation service to its Pre-school students for some consideration?

Answer:- Answered in the affirmative.

Question 7:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of transportation service to its faculty and staff for some consideration?

Answer:- Answered in the affirmative.



Question 8:- Whether "Nashik Cambridge Pre-school" is entitled for Nil rate of tax is per Serial No. 66 of the Notification No. 12/25017-CT (Rate) dated 28/06/2017, on the supply of canteen service to its faculty and staff for some consideration?

Answer:- Answered in the affirmative.




RAJIV MAGOO
(MEMBER)


T. R. RAMNANI
(MEMBER)

2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. The Joint Commissioner of State Tax, Mahavikas for Website.

Note:-An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on gst.gov.in for online appeal application against order passed by Advance Ruling Authority.