

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

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

BEFORE THE BENCH OF

(1) Shri. B. V. Borhade, Joint Commissioner of State Tax

(2) Shri. Pankaj Kumar, Joint Commissioner of Central Tax

GSTIN Number, if any/ User-id	27AOVPS9419L1ZR
Legal Name of Applicant	Simple Rajendra Shukla
Registered Address/Address provided while obtaining user id	409, 4 th Floor, Saileela, Commercial Complex, S. V. Road, Borivali (West), Mumbai-400092.
Application	No. 06/ dated 11/12/2017.
Jurisdictional officer	DC, CGST, Division-IV, Thane Commissionerate
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	Private Tuition Classes.
A Category	Service Provision
B Description (in brief)	Tuition Classes
Issue/s on which advance ruling required /The question posed.	Whether the services related to providing the <u>coaching for entrance examination</u> will come in the ambit of Goods and Service Tax.

PROCEEDINGS

(Under section 98 of the Maharashtra Goods and Services Tax Act, 2017

NO.GST-ARA-06/2017/B- 05

Mumbai, dt. 09/03/2018

The applicant **Simple Rajendra Shukla** has filed the application under section 97 of the Maharashtra Goods and Services Tax Act, 2017 and requested to decide the question "whether the services related to providing the coaching for entrance examination will come in the ambit of Goods and Service Tax.



02. Fact of the case:-

The applicant runs **Simpple Shukla Tutorials** and is thus engaged in providing the service of teaching to the students of Class XIth and XIIth science. This activity prepares the students for entrance examinations related to MBBS, Engineering and other science related examinations.

03. The contention of the applicant:-

3.1 The applicant has stated that the activity is covered by the Notification No.12/2017- Central Tax (Rate) dated 28/06/2017 vide S.No.66, Heading 9992 as described **“Services provided by an educational institution to its students will be taxed at Nil rate with condition Marked “NIL”.**

3.2 The applicant has argued that the word “Education” and “institution” has not been defined in GST Act. However, the dictionary meaning of Education means “Imparting of knowledge”. The word institution as per dictionary meaning means an organization formed to provide services. Therefore in the layman’s language the word education institution means an organization formed to impart educational services. The rendering of educational services falls under the chapter heading of 9992.

04. The legal position, Analysis and Discussion

The charging section 9(1) of MGST and CGST ACT, 2017 provides for **levy and collection of state tax and central tax on goods and services on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person. Accordingly the State and central government have issued the notification for levy of tax. The provisions for implementing the CGST ACT and MGST ACT, 2017 are similar.**

Now we sequentially discuss the provisions that are applicable in the present case---

The taxability of education services is as per notification no. 11/2017 Central Tax (Rate) which is reproduced as under ---



4.1 G.S.R. 690(E) - In exercise of the powers conferred by sub-section (1) of section 9, subsection (1) of section 11, sub-section (5) of section 15 and sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:- **Table**

Sr. No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
30	Heading 9992	Education services.	9	-

On perusal of scheme of taxation related to supply of services, we find that the education service is taxable at the rate of 9 percent under CGST ACT and SGST at 9 percent as provided.

However, we also find that Government has issued another notification No. 12/2017 – Central Tax (Rate) by virtue of which Government has granted exemption in respect of education services when rendered by or in relation to certain institutions which is as under ---

4.2 The Notification No. 12/2017- Central Tax (Rate).

G.S.R. 691(E) .- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, **namely:-**



Table

Sl. No.	Chapter, Section, Heading, Group or Service Code(Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
66	Heading 9992	<p>Services provided -</p> <p>(a)by an educational institution to its students, faculty and staff;</p> <p>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;</p> <p>(b) to an educational institution, by way of, -</p> <p>(i) transportation of students, faculty and staff;</p> <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;</p> <p>(v) supply of online educational journals or periodicals:</p> <p>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.)</p> <p>Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-</p> <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>	Nil	Nil



From the above notification it can be seen that the exemption is granted in respect of services provided to and by an educational institution.

4.3 Further we find that the specific definition is provided for an educational institution in clause 2 (y) of above referred notification which is reproduced as under—

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

(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;

4.4 The applicant runs private institute, **Simmple Shukla’s Tutorials** and is engaged in providing the service of teaching to the students of Class XIth and XIIth science. This activity prepares the students for entrance examinations related to MBBS, Engineering and other science related examinations. However her claimed institution “ **Simmple Shukla’s Tutorials**” is in no way covered in the definition of Educational institution as given in the above notification.

The private institute does not have any specific curriculum and does not conduct any examination or award any qualification recognized by any law which would be covered in the above notification. The activity of applicant is not covered by the specific definition provided for interpretation of exemption notification. We find that the education service provided in the case is taxable at the rate of 9 percent under CGST ACT and 9 percent SGST Act.

In view of the deliberations as above, we pass an order as follows.



ORDER

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

NO.GST-ARA-06/2017/B- 09

Mumbai, dt. 09/03/2018

As per discussions held above, the question is answered as below.

Q.1 "Whether the services related to providing the coaching for entrance examination will come in the ambit of Goods and Service Tax?"

A.1 The question is answered in the affirmative and rate of tax shall be applicable at the rate of **9 percent under CGST ACT, 2017 and 9 percent under MGST ACT, 2017.**



_____ sd _____
B. V. BORHADE
(MEMBER)

_____ sd _____
PANKAJ KUMAR
(MEMBER)

Copy to:-

1. Applicant.
2. The Commissioner (SGST)
3. The Commissionerate, (CGST), Thane.
4. The jurisdictional officer, DC, CGST, Division-IV, Thane Commissionerate

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ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI