

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. D.P. Gojamgunde, Joint Commissioner of, State Tax (Member)

(2) Smt. Himani Dhamija, Joint Commissioner of Central Tax, (Member)

ARN No.	AD270421026253J	
GSTIN Number, if any/ User-id	27AAGCE3732N1ZC	
Legal Name of Applicant	M/s. EDUGUIDE OVERSEAS STUDIES PRIVATE LIMITED	
Registered Address/Address provided while obtaining user id	3RD FLOOR, FLAT NO.361, EVA APARTMENT, ANAND NAGAR, NEAR PLATFORM NO.1, Anand Nagar, Vasai Virar, Palghar, Maharashtra, 401202.	
Details of application	GST-ARA, Application No. 29 Dated 10.08.2021	
Concerned officer	Division - DIVISION-I, Range-II, PALGHAR Commissionerate.	
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Factory/ Manufacturing
B	Description (in brief) (As per applicant)	The applicant is engaged in the business of providing students to foreign universities situated in different countries. They provide the students consultation for education and overseas courses in these foreign universities. In return, the universities give them commission on each successful admission process. The amount received from foreign universities is in the form of commission received in foreign currency. There is a proper written agreement with them on providing students to their universities.
Issue/s on which advance ruling required		<ul style="list-style-type: none">➤ Determination of time and value of supply of goods or services or both.➤ Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

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. EDUGUIDE OVERSEAS STUDIES PRIVATE LIMITED, the applicant, seeking an advance ruling in respect of the following question.

- 1. Whether the service of providing students to foreign universities against commission from them comes under Export of services and no**



GST is chargeable and whether refund can be claimed on the accumulated input tax credit?

- 2. Fees charged from students is ancillary service, is it liable to GST?**
- 3. In case, where no fees is charged from the students under promotional offer, how GST will be attracted in this transaction?**

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.

1. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

- 1.1 The applicant is a private limited firm engaged in the business of doing contract from all foreign universities abroad situated in different countries, where they provide them students from their consulting firm for education and overseas courses in their campus, in return the universities will give the applicant commission on each successful admission process.
- 1.2 Also consulting firm will charge from students residing in India some amount for guiding them and helping them in making application, Loan, visa, e ticketing process. Even at times consultancy may run any promotional offers or scheme then all the chargeable services will be given for free of cost to these students.
- 1.3 The amount received from foreign universities is in the form of commission received in foreign currency and there is a proper written agreement with them on providing students in their universities, the reason for which advance ruling is seek

1.4 As per applicant submission, Gst section 13(2), if location of recipient of service is available in the normal course of business and located in non-taxable territory, then no gst is levied. The applicant is supplier located in India and providing services to various universities in foreign countries by canvassing students in India for those university for the consideration which is received from universities abroad.

2. STATEMENT CONTAINING APPLICANT'S INTERPRETATION

- 2.1 The applicant is a consulting firm to provide the consultation in the field of education and overseas courses. The applicant has made agreement

with different foreign university for their courses in different countries and provide consultation to the student about the foreign university's courses. To provide the consultation to the students, the applicant has received commission from the foreign universities on each successful admission process. Hence, the applicant provides the consultation from the basic details of foreign universities courses to complete the admission process and also helping the students to making application, loan, vis, e-ticketing process etc. Even, at the times consultancy, the applicant runs many promotional offers or scheme and provides the all services at free of cost to the students. Hence, the applicant received the amount of commission in foreign currency in respect of the consultation services provided to the foreign university is asked whether the above services come under export or services and Gst is payable on the same or not.

2.2 In terms of the Section 13 of the IGST Act, 2017 is as under: -

Place of supply of services where location of supplier or location of recipient is outside India. --

(1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

2.3 In view of the above, the applicant is of the opinion that the consultation services provided to the foreign university and received the commission in foreign currency comes under the export of services. The CBIC clarifies conditions for considering the supply of services as an export of services under the Integrated Goods & Services Tax Act, 2017 (IGST Act) vide circular No. 202/14/2023-GST, dated 27th October, 2023. The focus of this circular is on the payment aspect, specifically pertaining to the use of INR (India Rupees) in export remittances.

Relevant legal provisions:

Export of services has been defined under clause (6) of section 2 of IGST Act. As per the said definition, any supply of services needs to fulfill five conditions for it to qualify as export of services. Clause (6) of section 2 of the IGST Act is reproduced below for reference:

“(6) “export of services” means the supply of any service when, -

- (i) the supplier of service is located in India,
- (ii) the recipient of service is located outside India,
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;"

One of the conditions mentioned in sub-clause (iv) of Section 2(6) of the IGST Act is that the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India.

2.4 The applicant has mentioned that they are charging fees to students and it is an ancillary service and this service is liable to gst or not. On broadly looking of applicant activities, their primary services are consultation to students and send to different universities to study in the university campus. The fee charged from the student is ancillary services of main supply.

2.5 The applicant has not charged any fees from the students under promotional offer. If the consideration not received by the applicant, there is no GST leviable.

3. CONTENTION - AS PER THE JURISDICTION OFFICER:

Central, Palghar Commissionerate, Division-I, Range-II.

3.1 Applicant is supplier located in India and providing the services to various universities in foreign countries by canvassing students in India for the different courses and the applicant received the commission in lieu of the services provided by them. The services provided to foreign universities considered is an export of services. Export of services are treated as "zero-rated supplies" under GST law. This means that no GST is charged on the final exported service, and the supplier can claim a refund of the Input Tax Credit (ITC) accumulated on the inputs and input services used to provide that service.

3.2 The applicant facilitates to the students in India for guiding them about the courses of foreign universities and helping them in making application, loan, visa, e-ticketing process etc. In lieu of these services, the applicant received commission form the foreign universities.



3.3 The applicant received the commission after the courses start date and the student has fully paid the tuition fees of all applicable semester in the first academic year /of study.

3.4 It appears that the applicant is an agent, who facilitates the supply of goods, services, or securities between two or more other parties in behalf of the different foreign universities. This definition, found in Section 2(13) of the IGST Act, 2017.

3.5 As per Section 2(13) of Integrated Goods and Services Tax ("IGST") Act, Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

In essence, intermediaries act as a conduit for transactions between a supplier and a recipient but do not themselves take possession or ownership of the goods or services involved.

3.6 Intermediary services Vis-A-Vis Export of Services

The term "export of services" is defined under **Section 2(6)** of the **IGST Act, 2017**, which outlines the conditions for a service to qualify as an export.

These conditions are:

- The service provider must be located in India.
- The service receiver must be located outside India.

The place of supply must be outside India.

- Payment must be received in convertible foreign exchange.
- The service provider and the service receiver must not be establishments of distinct persons.

When applying these conditions to **intermediary services**, the place of supply for such services is governed by **Section 13(8)(b)** of the IGST Act, which states that the place of supply for intermediary services is the location of the service provider. Therefore, since the service provider is located in India, the place of supply will be in India, disqualifying it from being considered an export of services.

Despite meeting all other criteria for export of services, intermediary services will not qualify as export services because the place of supply is within India. As a result, intermediary services provided to foreign recipients are taxable under **GST**.



4. HEARING

Preliminary e-hearing in the matter was held on 18.01.2022. The Authorized Representatives made oral submission with respect to admission of their application.

The application was admitted and called for final hearing on 24.09.2025. Ms. R.M. Hasnani, Director appeared and made oral and written submissions. Jurisdictional Officer Mr. Srinath Nair, Superintendent of CGST was appeared. We heard both the sides.

5. OBSERVATIONS AND FINDINGS:

5.1 The applicant is a private limited company engaged in the activity of providing services to various foreign universities situated in different countries. The applicant provides consultation regarding the courses provided by these foreign Universities to prospective students as a result of which students join education courses in their campus. As per the agreement/contract with the universities, the universities give them commission at the contracted rates, on each successful admission process. The amount received from foreign universities is in the form of commission received in foreign currency. They are also seeking a ruling whether their services can be considered as export of services. In addition to the above, the applicant provides certain services to students in India who apply to the foreign universities in the form of guiding them and helping them in making application, Loan, visa, e ticketing process etc. For such services, they charge certain fees from such students. They are also seeking a ruling whether GST is payable on such services provided to the students.

5.2 In order to examine whether the services provided by the applicant to the universities can be considered as export of services, it is necessary to examine the provision governing export of services. Section 2(6) of the IGST Act, 2017, reads as under: -

(6) "export of services" means the supply of any service when, -

(i) the supplier of service is located in India;

(ii) the recipient of service is located outside India;

(iii) the place of supply of service is outside India;

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange ¹[or in Indian rupees wherever permitted by the Reserve Bank of India];

and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;



iii) *such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.*"

We find that as per Section 13(8)(b) of the IGST Act, the place of supply for intermediary services is the location of the supplier of the service. In order to determine the place of supply in the instant case, we have to find out whether the services provided by the applicant would fall under the category of intermediary services. We find that the term "intermediary" is defined under Section 2(13) of the IGST Act as:

"a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account."

The key characteristics that determine whether a service is an intermediary service are:

1. There must be three parties i.e. the primary supplier, the ultimate recipient, and the intermediary who arranges/facilitates the main supply between the other two.
2. The intermediary's role is to arrange or facilitate the main supply and they do not provide the main supply themselves.
3. A person supplying goods or services on a principal-to-principal basis (on their own account) is not an intermediary.

5.4 In this regard, we find that the Circular No. 159/15/2021-GST dated 20.9.2021 issued by the Central Board of Indirect Taxes and Customs explains the scope of intermediary services. The Circular acknowledges that there is broadly no change in the scope of intermediary services in the GST regime vis-à-vis the service tax regime. The relevant extract of the said circular is set out

below: -

"2. Scope of Intermediary services

2.1 *"Intermediary" has been defined in the sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST" Act) as under -*

"Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account."

2.2 The concept of 'intermediary' was borrowed in GST from the Service Tax Regime. The definition of 'intermediary' in the Service Tax law as given in Rule 2(f) of Place of Provision of Service Rules, 2012 issued vide Notification No. 28/2012-S.T., dated 20-06-2012 was as follows:

"Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the 'main' service) or a supply of goods, between two or more persons, but does not include a person who provides the main service or supplies the goods on his own account."

3. Primary Requirements for Intermediary services

The concept of intermediary services, as defined above, requires some basic prerequisites, which are discussed below:

3.1 Minimum of Three Parties: By definition, an intermediary is someone who arranges or facilitates the supplies of goods or services or securities between two or more persons. It is thus a natural corollary that the arrangement requires a minimum of three parties, two of them transacting in the supply of goods or services or securities (the main supply) and one arranging or facilitating (the ancillary supply) the said main supply. An activity between only two parties can, therefore, NOT be considered as an intermediary service. An intermediary essentially "arranges or facilitates" another supply (the "main supply") between two or more other persons and, does not himself provide the main supply.

3.2 Two distinct supplies: As discussed above, there are two distinct supplies in case of provision of intermediary services:

(1) Main supply, between the two principals, which can be a supply of services or securities:

(2) Ancillary supply, which is the service of facilitating or arranging the main supply between the two principals. This ancillary supply is supply of intermediary service and is clearly identifiable and distinguished from the main supply.

A person involved in supply of main supply on principal-to-principal basis to another person cannot be considered as supplier of intermediary service.

3.3 Intermediary service provider to have the character of an agent, broker or any other similar person: The definition of "intermediary" itself provides that intermediary service providers means a broker, an agent or any other person, by whatever name called... "This part of the definition is not inclusive but uses the expression "means" and does not expand the definition by any known expression of expansion such as "and includes". The use of the



expression "arranges or facilitates" in the definition of "intermediary" suggests a subsidiary role for the intermediary. It must arrange or facilitate some other supply, which is the main supply, and does not himself provides the main supply. Thus, the role of intermediary is only supportive.

3.4 Does not include a person who supplies such goods or services or both or securities on his own account: The definition of intermediary services specifically mentions that intermediary "does not include a person who supplies such goods or services or both or securities on his own account". Use of word "such" in the definition with reference to supply of goods or services refers to the main supply of goods or services or both, or securities, between two or more persons, which are arranged or facilitated by the intermediary. It implies that in cases wherein the person supplies the main supply, either fully or partly, on principal-to-principal basis, the said supply cannot be covered under the scope of intermediary".

5.5. In the instant case, we find that the applicant is providing services to the foreign universities. They do not have any contractual agreement with the students. They are providing marketing services to the foreign universities and the ultimate decision whether to admit a student to the university is with the foreign university. The applicant merely forwards the details of students who wish to secure the admission in a particular university and the final decision is taken by the university. Thus, the applicant is not an intermediary who is facilitating supply of services between two different persons but is providing the services of advertising and marketing to the universities on its own behalf. This is done on principal-to-principal basis. Therefore, we hold that the services provided by the applicant to the universities would not be considered as intermediary services.

5.6. We also find that the issue is no longer res-integra. In the decision in Ernst & Young Ltd v. Add. Commr. CGST Appeals-II, Delhi, 2023 (73) G.S.T.L. 161 (Del.), a Coordinate Bench of Delhi High Court, while dealing with intermediary services, observed as under:

The principal question to be addressed is whether the Service rendered by the petitioner to EY Entities in terms of the service agreement constitutes services as an 'intermediary'.

19. The term 'intermediary' is defined under Section 2(13) of the IGST Act. "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;



20. A plain reading of the aforesaid definition makes it amply clear that an intermediary merely "arranges or facilitates" supply of goods or services or both between two or more persons. Thus, it is obvious that a person who supplies the goods or services is not an intermediary. The services provided by the intermediary only relate to arranging or facilitating the supply of goods or services from the supplier. In the present case, there is no dispute that the petitioner does not arrange or facilitate services to EY entities from third parties; it renders services to them. The petitioner had not arranged the said supply from any third party.

21. It is important to note that the Adjudicating Authority had also accepted that the petitioner has provided the Services. As noted hereinbefore, the Adjudicating Authority had returned a categorical finding that "the party provides services on behalf of E&Y Ltd., UK in India to its (E & Y Ltd., UK) overseas client". The Adjudicating Authority had reasoned that since the petitioner provides services on behalf of E&Y Limited (the petitioner's head office), it was an intermediary. This reasoning is fundamentally flawed. The Adjudicating Authority has misunderstood the expression 'intermediary' as defined under Section 2(13) of the IGST Act. A person who provides services, as opposed to arranging or facilitating of goods from another supplier, is not an intermediary within the definition of Section 2(13) of the IGST Act."

5.7. In the above decision it has been categorically held that a person who supplies the goods and services is not an 'intermediary'. It is only a person who arranges or facilitates the said services who would be considered as an 'intermediary'. Thus, since the recipient of the services provided by the Petitioner therein, was located outside India, the services provided by the Petitioner therein were held to be export of service under Section 2(6) of the IGST Act.

This judgment of the Co-ordinate Bench of this Court was considered by the Bombay High Court in K.C. Overseas Education Pvt. Ltd. (Supra). The Division Bench of the Bombay High Court has followed the principles laid down in Ernst & Young Ltd (Supra) and has observed as under:

"2. Only contention raised by Mr. Bhuttad, the learned Counsel for respondents, is that sub-clause 3 of sec 2(6) of the IGST Act is not complied with. Section 2(6) of the IGST Act defines the expression "export of services", one of the ingredients of which is "when the place of supply of service is outside India". We however find that the entire definition, has to be read as a whole and not in a piecemeal manner and will have to be read in the background of what the statute defines a 'recipient' to mean as indicated in section 2(6)(ii), as defined in Section 2(93) of the GST Act in conjunction with Sec.13(2). All these provisions, in light of the definition of 'intermediary' as defined in Section 2(13) of the IGST Act has been considered by the learned Division Bench of the Delhi High Court in Ernst & Young Ltd Vs. Add. Com. CGST 12023 (73) GSTL 161 (Del.), which also considers, the circular dtd 20.9.2021 bearing No. 159/15/21-GST issued by the Central Board of Indirect Tax and Customs.



3. We have perused the reasons and conclusion in *Ernst & Young Ltd Vs. Add. Com. CGST* and upon hearing the contention of Mr. Bhattad, learned Counsel for respondent Nos. 3 and 4, do not see any ground made out for us to take a different view.

4. It is also necessary to note, that the function, which the petitioner is performing under the agreement with the foreign university is also considered by the Service Tax Appellate Tribunal in *Service Tax Appeal No 85867/16* in the order dtd 11.10.2023, in the case of the petitioner itself, which has held that the appellant is providing service to universities located in foreign countries who are paying consideration to the appellant on account of which in view of the definition of service it has been held that the appellant was not providing service to the students in India by recommending their names to the foreign university for being enrolled as students. It is not disputed by learned counsel Mr. Bhattad that the definition of 'intermediary' in service tax regime as well as the GST regime are identical.

5. We have also perused the impugned decision dtd 7.3.2024 by the Addl. Commissioner Appeals and the discussion and findings as recorded therein. We however in view of what has been held in *Ernst & Young Ltd Vs. Add. Com. CGST (supra)* which considers a similar position and similar provisions, are unable to agree with the reasons stated therein. We are unable to hold, that considering the definition of 'recipient' as contained in sec 2(93) of the GST Act, which holds an entity to be a recipient in case their consideration is payable supply of services, is the person who is liable to pay that consideration and the language of Sec 13(2) r/w sec 2(6) of IGST in light of the definition of intermediary as contained in sec 2(13) as indicated above, that the petitioner would not fall within that definition and therefore, would be entitled to a refund of the GST paid by the petitioner to the department subject to receipt of the consideration in foreign currency. We therefore, quash and set aside the impugned decision dated 7.3.2024 and allow the petitions in the above terms. Considering the circumstances, there shall be no costs."

5.9. This decision of the Bombay High Court which relates to identical education consultancy services was challenged before the Supreme Court. The Hon'ble Supreme Court in *Union of India & Ors. v. K.C. Overseas Education Pvt. Ltd.,* Petition(s) for Special Leave to Appeal (C) Nos. 21104-21105/2025 vide its order dated 25.8.2025 dismissed the said SLP in the following terms:

"Having regard to the judgment dated 06.05.2025 passed by this Court in Civil Appeal Nos. 10815- 10819/2014 (*Commissioner of Service Tax III, Mumbai Vs. M/s. Vodafone India Ltd.*) and connected matters, these special leave petitions also stand dismissed. We also bear in mind the dictum of this Court dated 04.11.2024 in SLP (C) No. 25992/2024 (*Commissioner, Central Excise, CGST-Delhi South Commissionerate and Anr. Vs. Blackberry India Pvt. Ltd.*) Pending application(s) shall also stand disposed of."



Thus, the Supreme Court reiterated its decisions in Vodafone India Limited and Blackberry India Pvt Ltd.

5.10. A similar situation had arisen in the case of Commissioner of Central Excise and Service Tax, Chandigarh-I v. Oceanic Consultant Pvt. Ltd., (2025) 30 Centax 434 (SC) wherein the Supreme Court dismissed the SLP against a decision by CESTAT wherein it was held that when services are rendered to students in India, foreign universities which pay the commission to such a person as the Respondent cannot be considered as an 'intermediary'. Similar is the view taken by CESTAT, Mumbai Bench in M/s Krishna Consultancy v. Commissioner of CGST, Nagpur Service Tax Appeal No. 85867/2016 decided on 11th October, 2023 wherein the CESTAT has observed as under:

"Appellant is engaged in giving guidance to prospective students to seek admissions in universities located outside India. The appellant does not collect any consideration from prospective students. Appellant has entered into contracts with the universities abroad and arrangements are that when a student guided by the appellant secures admission in university in the foreign country and pays fee, a part of the fee is paid to the appellant as commission. Appellant paid Rs. 48,06,310/- in cash and through cenvat account Rs. 2,66,831/- towards service tax on the said activity during the period from 04.05.2013 to 07.02.2014. After making the above payments towards service tax, appellant realized that the service tax was leviable on services provided within India and there was no service tax leviable on services which are provided outside India. On realization that their services were export of service, they filed on 07.04.2014 a claim for refund of already paid service tax amounting to Rs. 50,73,141/-. Appellant was issued with a show cause notice dated 27.06.2014. The show cause notice contended that the appellant had not uploaded the revised ST-3 return for the period from October 2012 to March 2013 and that for the period from October 2012 to March 2013, the appellant had disclosed their transaction as domestic service. It was further contended in the said show cause notice that the appellant was providing service to Indian students who were beneficiaries of the activities of the appellant. It was further contended that the appellant was functioning like intermediary defined under Rule 2(f) of Place of Provision of Services Rules, 2012. The said show cause notice also stated that the appellant has not provided proof of having received entire consideration in convertible foreign exchange. The refund application was adjudicated through order-in-original dated 12.05.2015. Appellant's contentions were not accepted by the original authority and the refund was rejected. Appellant preferred appeal against the said order before learned Commissioner (Appeals) who did not interfere in the original order and, therefore, the appellant is before this Tribunal. xxx

4. We have carefully gone through the record of the case and submissions made. We note that the appellant is providing guidance to Indian students without charging any consideration from them. In view of the definition of service, we hold that the appellant is not providing any service to prospective students in India We hold that the appellant is providing service



to universities located in foreign countries who are paying consideration to the appellant. We, therefore, hold that the services covered by these proceedings are export of services. We have also gone through the decision of this Tribunal in the case of Sunrise Immigrations Consultants Pvt. Ltd. decided by Chandigarh Bench of this Tribunal. We note that this Tribunal has held that such organisations cannot be treated as intermediaries under the definition of Rule 2(f) of Place of Provision of Service Rules, 2012. We, therefore, hold that the contention of Revenue that the appellant is an intermediary is not in accordance with law. We further note that the appellant has foregone the refund of Rs. 26,43,969/-. Therefore, now the refund claim works out to the tune of Rs. 24,30,172/-. We note that the appellant has not provided all the foreign inward remittance certificates covering the transactions involving service tax of Rs. 24,30,172/-. We, therefore, remand the matter to the original authority with a direction not to rake up any other issue but to collect foreign inward remittance certificates from the appellant in respect of those transactions which involve refund of Rs. 24,30,172/- out of the refund claim of Rs. 50,73,141/- and allow the refund out of Rs. 24,30,172/- in respect of such transactions where FIRCS get produced by the appellant before the original authority. We direct the appellant to produce all FIRCS concerned with the refund amount of Rs. 24,30,172/- before the original authority. For the said purpose, we set aside the impugned order."

5.11. We find that the aforesaid decisions of the Hon'ble Supreme Court and the various High Courts clearly establish the law that the services provided by the applicant to various foreign universities would not qualify as 'intermediary services'. Therefore, we find that the place of supply of such services would be outside India i.e. the place of the recipient of the service. Since the services provided by the applicant fulfills all the conditions laid down under Section 2(6) of the IGST Act, the services would be considered as export of service under the IGST Act and the consequential reliefs sought by the applicant in the form of refund would be available to the applicant subject to verifications as required following due process of law.

5.12. In this regard, it would not be out of place to mention that during the 56th GST Council Meeting (September 2025), the Council has proposed amendment to Section 13(8)(b) of the IGST Act with regard to intermediary services as under:

6. Amendment in place of supply provisions for intermediary services under section 13(8) of the IGST Act: The Council recommended omission of clause (b) of section 13(8) of IGST Act 2017. Accordingly, after the said law amendment, the place of supply for "intermediary services" will be determined as per the default provision under section 13(2) of the IGST Act, 2017 i.e. the location of the recipient of such services. This will help Indian exporters of such services to claim export benefits.



The analysis of the proposed changes in the Law is as under: -

Sr. NO.	Current Law (Before Amendment)	Proposed Change (Recommended by GST Council)
01	<i>Section 13(8)(b) of IGST Act deems the place of supply for intermediary services as the location of the supplier (India).</i>	<i>Omit (Delete) Section 13(8)(b) of the IGST Act.</i>
02	<i>Service is treated as a domestic supply and is taxable at 18% GST (even if payment is received in foreign currency).</i>	<i>The general rule (Section 13(2)) will apply, making the place of supply the location of the recipient (Outside India).</i>
03	<i>Denied "Export of Service" status and refund of Input Tax Credit (ITC).</i>	<i>Services to foreign recipients will qualify as "Export of Services" (zero-rated), making the Indian intermediary eligible for an ITC refund.</i>

Thus, without prejudice to what has been stated in the paragraphs, hereinabove, once the said amendment is affected, the place of supply in the case of Intermediary services would be the place of recipient of the service and accordingly in the case of export of services where the recipient is located outside India, the place of supply would be considered to be located outside India.

5.13. We now come to the second question raised by the applicant. The applicant has stated that they are providing some services to the students in India such as guiding them and helping them in making application, getting education Loan, visa, e-ticketing process etc. For the said services rendered to the students, they charge certain fees from the students. We find that the applicant is providing consultancy services to the students for which they are receiving consideration in the form of fees. The said services would amount to supply under Section 7(1) of the CGST Act, 2017. Section 7(1) of the CGST Act reads as under: -

'Supply' includes: 1. all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

We find that in the instant case, the applicant is providing consultancy and support services to the students for which they are receiving consideration in the form of fees. These services are provided in the course of or furtherance of business and therefore the said services would qualify as a 'supply' under the



CGST Act, 2017. Since the said services qualify as supply under the Act, the said applicant is liable to pay GST on the said services. The argument of the applicant that the said services are ancillary services does not help them in any manner. The word ancillary services is not defined under the Act. Further, there is nothing under the Act which provides any exemption from payment of GST to ancillary services. Further the said service cannot be considered as a composite supply of services tagging the same alongwith the supply of services made to foreign universities. As per the section 2(30) of the GST Act,2017 is as under: -

"Composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

One of the main conditions to qualify as a composite supply is that two or more goods or services must be supplied to a recipient. In the instant case, the supply of marketing services is made to the Foreign University and the supply of consultancy services is made to the students. Both of them cannot be combined to consider the same as composite supply. In view of the above, we find that the services provided by the applicant to the students would qualify as a supply under the CGST Act and the applicant would be liable for payment of GST on the said supply.

- 5.14. The third question on which a ruling is sought is whether GST would be payable on the services provided to students when no fee is recovered from them. We find that one of the primary conditions for any service to qualify as a 'supply' under the CGST Act, 2017, is that there should be receipt of consideration for the services. In the instant case, the applicant has stated that in order to promote their business, sometimes they do not charge any consideration or fees from the students. In such cases, it is obvious that the service is given free of charge and no consideration is received from the students. We find that the said services also do not fall under Schedule I of the CGST Act, 2017. In view of the above, we find that such services would not qualify as 'supply' under the GST Act and therefore, the applicant would not be liable to pay any GST on such services wherein no fee is received from the students.

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)**

NO.GST-ARA- 29/2020-21/ 642

Mumbai, dt. 30.12.2025

For reasons as discussed in the body of the order, the question is answered
thus -

Question: - 1. Whether the service of providing students to foreign universities against commissions from them comes under Export of services and no GST is chargeable and whether refund can be claimed on the accumulated input tax credit?

Answer: - The services provided by the applicant to foreign Universities for facilitating student admission, where the contractual relationship and consideration are directly between the applicant and the foreign university qualify as "Export of Services" under IGST Act. Accordingly, such transactions are eligible for refund subject to verifications as required following due process of law.

Question: - 2. Are the fees charged from students being ancillary service liable to GST?

Answer: - GST is leviable on the transactions of services provided by the applicant to the students for which fee is collected from the students.

Question: - 3. In case where no fees is charged from the students under promotional offer, how GST will be attracted in this transaction?

Answer: - If the applicant is not charging any fees from the students under the promotional scheme, such services rendered free of charge would not qualify as 'supply' and hence, no GST is leviable on such transactions.



Gojamgunde
DP GOJAMGUNDE
(MEMBER)

Himani Dhamija
HIMANI DHAMIJA
(MEMBER)

Copy to

1. The applicant
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.