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. Dipak Gojamgunde, Joint Commissioner of State Tax, (Member)

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

ARN No.		**AD2271222022400V**
GSTIN Number, if any/ User-id		**27AAATS4434Q1ZY**
Legal Name of Applicant		**M/s. Shri Ambika Yoga Kutir**
Registered Address/Address provided while obtaining user id		1st Floor (Admin office), B.K. Mill Compound, Meenatai Thackrey Chowk, (Castle Milll Naka), L.B.S. Marg, Near Ginger Hotel, Thane, Maharashtra
Details of application		GST-ARA, Application No. 90 Dated 14.12.2022
Concerned officer		**DIVISION-ANDHERI, CHARGE-MAROL-706**
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	**Service Provision**
B	Description (in brief)	Imparting yogic knowledge and teaching Asanas without charging any fees by Shri Ambika Yoga Kutir (SAYK) volunteers to yoga sadhakas at various yoga centers Unconditional donations are given by some of the Sadhakas to SAYK.
Issue/s on which advance ruling required		➢ Applicability of a notification issued under the provisions of the Act ➢ Determination of the liability to pay tax on any goods or services or both ➢ Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply or 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.

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. Shri Ambika Yoga Kutir,** the applicant, seeking an advance ruling in respect of the following questions.

1. **Whether the unconditional donations received by Shree Ambika Yoga Kutir which is imparting Yoga training without charging any fees at its Yoga Centers attract GST although there is no mandatory obligation (quid pro quo) on part of supplier or the recipient and specially in view of the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga which is exempt from GST?**
2. **Whether Shree Ambika Yoga Kutir can avail exemption from GST on fees received for providing yoga training, conducting yoga examination and issuing certificates as per norms laid down by Yoga Certification Board (YCB) under Ministry of AYUSH, Govt. of India, considering the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga?**
3. **Whether Shree Ambika Yoga Kutir can avail exemption from GST on fees received for providing AYUSH certified yoga instructors to MGM Hospital, Parel and ESIS Hospitals, considering the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga?**
4. **Whether Shree Ambika Yoga Kutir can avail exemption from GST on fees received for providing AYUSH certified yoga instructors under Shiv Yoga Scheme to BMC (Brihanmumbai Municipal Corporation) for yoga training to common citizens to enable them to practice preventive health care through Yoga as spelt out in scope of work defined by BMC, in view of**

the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga and the fact that the said services are "pure services provided to Municipality in relation to "public health" function entrusted to Municipality under Schedule XII read with article 243W of Constitution?

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:

1.1 Providing advanced yoga training to students pursuing courses under Yoga Certification Board (YCB) under AYUSH Ministry and then conducting yoga examination and issuing certificates as per norms laid down by Yoga Certification Board (YCB) and AYUSH Ministry. SAYK trust is charging fees from students for these activities.

1.2 Providing AYUSH certified yoga instructors to MGM Hospital, Parel and ESIS Hospitals for agreed upon fees as per MOU with respective hospitals.

1.3 Providing AYUSH certified yoga instructors to Bombay Municipal Corporation under 'Shiv Yoga Scheme for Community Health' for agreed upon fees as per MOU with BMC.

1.4 Shree Ambika Yoga Kutir (SAYK) is Public Charitable Trust Reg. No. F-892-(T) registered under The Public Trust Act, a *Leading Yoga Institute Accredited by Yoga Certification Board*, *Ministry* of *AYUSH,* Govt. of *India* (*Certificate No*: *YCB/19/LY/000009)* having its registered office at: B. K. Mill Compound, Meenatai Thackrey Chowk, LBS Road, Thane West 400 601 holding GST No. 27AAATS4434Q1ZY. It is pertinent to note that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961.

1.5 The activities of SAYK Trust can be primarily bifurcated into following 4 categories:

1.5.1 Imparting yogic knowledge free of cost by SAYK volunteers to yoga sadhakas. Some of the Yoga Sadhakas give unconditional donations to SAYK trust.

1.5.2 Providing advanced yoga training to students pursuing courses under Yoga Certification Board (YCB) under AYUSH Ministry and then conducting yoga examination and issuing certificates as per norms laid down by Yoga Certification Board (YCB) and AYUSH Ministry. SAYK trust is charging fees from students for above-mentioned activities.

1.5.3 Providing AYUSH certified yoga instructors to MGM Hospital, Parel and ESIS Hospitals for agreed upon fees as per MOU with respective hospitals.

1.5.4 Providing AYUSH certified yoga instructors to Bombay Municipal Corporation under 'Shiv Yoga Scheme for Community Health' for agreed upon fees as per MOU with BMC.

1.6 Imparting yogic knowledge free of cost by SAYK volunteers to yoga sadhakas-

1.6.1 Main object of the SAYK Trust is to impart the Ancient knowledge of Yoga to all and any individual. The activity of imparting yogic knowledge is carried out by various SAYK volunteers who learnt Yoga at SAYK trust and are now imparting the yogic knowledge without charging any fees at SAYK's Thane yoga centre and also at various other yoga centers. It is important to reiterate that the said activity is carried out "Free of Cost".

1.6.2 SAYK trust is receiving unconditional "Donations" from sadhakas and kind hearted people of the society. SAYK trust is presently not levying GST on the unconditional donations received since there is no mandatory consideration (quid pro quo) on part of SAYK Trust in terms of scope of supply u/s 7 as defined under CGST Act. Reliance is also placed on Circular: 116/35/2019-GST dated 11-Oct-2019 which inter alia states that *quid pro quo* (something for something in return) is necessary to constitute supply which is absent in an unconditional donation without any specific

instruction. Hence, presently SAYK trust is not paying GST on unconditional donation without any specific instruction. SAYK trust has preferred application before this Hon'ble Authority to seek ruling as to whether its understanding is correct for past as well as future GST implications on the said unconditional donation without any specific instruction.

1.7 Providing advanced yoga training to students pursuing courses under Yoga Certification Board (YCB) under AYUSH Ministry. Furthermore, in addition to training services, SAYK also conducts Yoga Examination for above-mentioned courses and issues certificates as per norms laid down by Yoga Certification Board (YCB) and AYUSH Ministry-

1.7.1 In order to standardize different yogic Kriyas, YCB under the Ministry of 'AYUSH', Govt. of India, prepared syllabus for various courses to train Professional Yoga Trainers, Teachers and Practitioners. YCB under AYUSH Ministry accredited Shri Ambika Yoga Kutir as Leading Yoga Institute and authorized it to conduct examinations and train Yoga Professionals of all prescribed courses.

1.7.2 Accordingly, SAYK trust is teaching respective students for course opted by them, conduct the examinations-theory and practical and grant certificates to the students who successfully complete the course by which they can get gainful employment and profession.

1.7.3 Since SAYK needs to incur additional expenditure to comply with YCB under AYUSH Ministry's norms such as inviting various reputed faculties, printing and stationery, additional administrative expenses such as keeping records etc. Hence, SAYK trust is. charging fees from students for the above-mentioned Professional Yoga Training, examinations and certification.

1.7.4 Presently SAYK trust is paying GST on fees received from students for providing yoga training, conducting yoga examination and issuing certificates as per norms laid down by Ministry of Ayush (Gov of India). SAYK trust has preferred application before this Hon'ble Authority to seek

ruling as to whether GST exemption can be availed on such fees received in the future for yoga training, examination and certification since services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities are exempt from GST as per entry no 1 of Notification no 12/2017 CT (R) and Notification no 9/2017 IT (R) dated 28-06-2017.

1.8 Providing AYUSH certified yoga instructors to MGM Hospital, Parel and ESIS Hospitals for agreed upon fees-

1.8.1 SAYK trust has agreed to provide adequately trained Yoga teachers /Yoga wellness instructor in terms of Scope of Work as per MGM Hospital, Parel for agreed upon monthly fees subject to such terms and conditions as specified in the said MOU.

1.8.2 SAYK trust has preferred application before this Hon'ble Authority to seek ruling as to whether GST exemption can be availed on such fees received for providing AYUSH certified yoga instructors since services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities are exempt from GST as per entry no 1 of Notification no 12/ 2017 CT (R) and Notification no 9/2017 IT (R) dated 28-06-2017.

1.9 Providing AYUSH certified yoga instructors to Brihanmumbai Municipal Corporation (BMC) under Shiv Yoga Scheme for agreed upon fees-

1.9.1 Recently, BMC has started "SHIV-YOGA" programme which comprises of training group of 30 citizens in common yoga practices at Shiv Yoga Kendra (Yoga Centres at Community Level) to enable the common citizens to practice preventive health care through Yoga as spelt out in scope of work defined by BMC. BMC has empanelled Shree Ambika Yoga Kutir (SAYK) to provide qualified yoga teachers. BMC is going to pay an agreed sum of Rs. 1000/- per hour to SAYK for providing teachers and SAYK will pay to its teachers.

1.9.2 SAYK trust has agreed to provide adequately trained Yoga teachers Yoga wellness instructor in terms of Memorandum of Understanding (MOU)

with Bombay Municipal Corporation (BMC) for agreed upon fees of Rs. 1,000/- per hour subject to such terms and conditions as specified in the said MOU.

1.9.3 SAYK trust has preferred application before this Hon'ble Authority to seek ruling as to whether GST exemption can be availed on such fees received for providing AYUSH certified yoga instructors since services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities are exempt from GST as per entry no 1 of Notification no 12/2017 CT (R) and Notification no 9/2017 IT (R) dated 28-06-2017.

1.9.4 Without prejudice to above, since the said services are to enable the common citizens to practice preventive health care through Yoga as spelt out in scope of work defined by BMC, whether the said services are covered under "pure services provided to Municipality in relation to "public health" function entrusted to Municipality under Schedule XII read with article 243W of Constitution, and hence eligible for exemption as per Sr no 3 of Notification no 12/2017 CT (Rate) and Notification no 9/ 2017 IT (Rate) dated 28-06-2017 as inserted with effect from 27-7-2018.

1.10 In view of above-mentioned factual matrix, the applicant has submitted this advance ruling application before this Hon'ble Authority.

2. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW

2.1 With reference to question 1, unconditional donations received by Shree Ambika Yoga Kutir (SAYK) registered u/s 12AA are not liable to GST since there is no supply for consideration by SAYK to the donor in terms of section 7 read with section 9 of CGST Act, decided case laws and circular 116/35/2019-GST dated 11- Oct-2019.

2.1.1 Shree Ambika Yoga Kutir (SAYK) is Public Charitable Trust Reg. No. F-892-(T) registered under The Public Trust Act, a *Leading Yoga Institute Accredited by Yoga Certification Board, Ministry of AYUSH,* Govt. *of India (Certificate No: YCB/19/LY/000009)* having its registered office at: B. K. Mill Compound, Meenatai Thackrey Chowk, LBS Road, Thane West 400 601

holding GST No. 27AAATS4434Q1ZY. It is pertinent to note that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961.

Main object of the SAYK Trust is to impart the Ancient knowledge of Yoga to all and any individual. The activity of imparting yogic knowledge is carried out by various SAYK volunteers who learnt Yoga at SAYK trust and are imparting the yogic knowledge without charging any fees at SAYK's Thane yoga centre and also at various other yoga centers. It is important to reiterate that the said activity is carried out "Free of Cost".
SAYK trust is receiving unconditional "Donations" from sadhakas and kind hearted people of the society.

2.1.2 Relevant Sections of law reproduced infra for ready reference.

Section 9 of the Central Goods and Services Tax Act, 2017 inter alia states that a tax called GST shall be levied on supply of goods or services or both.
Section 7 of CGST Act inter alia states that the expression supply includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in course or furtherance of business.
Section 2(31) of CGST Act states that *consideration* in relation to the supply of goods or services or both includes –

(a) any payment made or to be made, whether in money or otherwise, in respect of, *in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*

(b) the monetary value of any act or *forbearance, in respect* of, *in response to,* or for *the inducement* of, *the supply* of *goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government* or a *State Government:*

*Provided that a deposit given in respect of the supply of goods **or** services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.*

Section 2 (d) of the Indian Contract Act defines consideration as follows:

When at the desire of promisor,

the promise or *any other person has done* or *abstained from doing*, *or* does *or abstains from doing*, *or promises to do or to abstain from doing something such* act*, abstinence or promise* is *called* a *consideration for the promise*.

2.1.3 SAYK trust is presently not levying GST on unconditional donations received since there is no consideration (quid pro quo) which is sine-qua-non for levy of GST under GST law. Our interpretation is based on the following:

a) *Whether promises of charitable* nature *constitute consideration* or *not is well settled in law. In Doraswami lyer v Arunachala Ayyar AIR 1936 Mad 135, Cornish J held-*

"The question is does this amount to consideration? The definition of consideration in the Contract Act is that where at the desire of the promisor, the promise has done or abstains from doing something, such act or abstinence is called consideration. Therefore, the definition postulates that the promisee must have acted on something amounting to more than a bear promise. There must have been some bargain between them in respect of which consideration has been given. There must have been some request by the promisor to the promisee to do something in consideration of the promised subscription. (The learned judge found support in the English case of Hudson, re (1885) 54 LJ Ch 811)

In view of above, it is submitted that there is no bargain or no *quid pro quo* between SAYK and the donor in respect of the unconditional donation given by donor. There is no specific or general request by the donor to SAYK to do something in consideration for the unconditional donation. Hence, unconditional donation by donor to SAYK is not consideration which is sine-qua-non for levy of GST under GST law and hence GST is not applicable on the unconditional donation received by SAYK.

b) Further, to support our interpretation that unconditional donation by donor to SAYK is not consideration which is sine-qua-non for levy of GST under GST law and hence GST is not applicable on the unconditional donation received by SAYK, reliance **is** placed on following case law of Hon'ble Chennai Tribunal in a service **tax** matter and also Advance Authority Ruling of this Hon'ble Authority in **a** GST matter:

COSMOPOLITAN CLUB VS COMMISSIONER OF SERVICE TAX, CHENNAI 2019 (21) G.S.T.L. 518 (Tri. - Chennai)

Donations from members as well as non-members - Liability to Service Tax under Section 65(25) (a) read with Section 65(105) (zzze) of Finance Act, 1994 No quid pro quo vis-à-vis such donations by way of providing any service to such donors by assessee in return - Amounts not in any way covered within ambit of amounts received against provision of services - Donations even if made by non-members, cannot be made liable to Service Tax under Finance Act, 1994. Section 65(25) (a) read with Section 65(105) (zzze) of Finance Act, 1994. *[paras* 5.7, 5.8*]*

IN RE: JAYSHANKAR GRAMIN VA ADIVASI VIKAS SANSTHA 2022 (57) G.S.T.L. 148 (A.A.R. - GST - Mah.)

Question 2:- Whether the applicant is liable to pay GST on the amounts received in the form of Donation/Grants from various entities including Central Government and State Government.

Answer :- Answered in the affirmative in cases of grants received. In case of donations, if the gift or donation is made to a charitable organization; the payment has the character of gift or donation and the purpose is philanthropic *(i.e.* it leads to no commercial gain) and not advertisement, then GST is not leviable. In all other cases GST is leviable.

c) Furthermore, To support our interpretation that unconditional donation by donor to SAYK is not consideration which is sine-qua-non for levy of GST under GST law and hence GST is not applicable on the unconditional donation received by SAYK, reliance is placed on following circular 116/35/2019-GST dated 11-Oct-2019 which states that-

Individual donors provide financial help or any other support in the form of *donation or* gift to *institutions such* as *religious institutions*, *charitable organisations*, *schools*, *hospitals, orphanages*, old *age homes etc. The recipient institutions place a name plate* or *similar such acknowledgement in their premises to express the gratitude*. *When the name* of *the donor* is *displayed in recipient institution premises*, *in such a manner, which can be said to* ***be*** *an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business*, *then it can be said that there* is no *supply* of service for a *consideration* (in *the* form of *donation)*. *There is no obligation* (*quid pro quo*) on *part* of *recipient of the donation or* gift to do *anything (supply* a *service)*. *Therefore*, there is *no GST liability on such consideration*.

In applicant's case also, it is submitted that there is no bargain or *quid pro quo* between SAYK and the donor in respect of the unconditional donation given by donor. There is no specific or general request by the donor to SAYK to do something in consideration for the unconditional donation. Hence, unconditional donation by donor to SAYK is not consideration which is sine-qua-non for levy of GST under GST law and

hence GST in not applicable on the unconditional donation received by SAYK.

2.2 With reference to question 1, without prejudice to above, even if unconditional donations received by Shree Ambika Yoga Kutir (SAYK) registered u/s 12AA are held as supply for consideration, still the same would be exempt services under entry no 1 of Notification no 12/2017 CT (R) and Notification no 9/2017 IT (R) dated 28-06-2017.

2.2.1 Relevant text from the abovementioned exemption notification **is** reproduced infra for ready reference:

Sl. No.	**Chapter, Section, Heading Group of Services Code (Tariff)**	**Description of Services**	**Rate (Percent.)**	**Condition**
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	Services by an entity, registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.	Nil	Nil

"Charitable activities" means activities relating to-

(i) public health by way of,-

(A) care or counseling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) *advancement* of *religion,* spirituality or *yoga;*

(iii) advancement of educational programmes or skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(IV) preservation of environment including watershed, forests and wildlife.

Hence, it is submitted that, "even if" unconditional donations received by Shree Ambika Yoga Kutir (SAYK) registered u/s 12AA are held as supply for consideration, still the same would be exempt services under entry no 1 of Notification no 12/2017 CT (R) and Notification no 9/2017 IT (R) dated 28-06-2017.

2.3 With reference to question 2, 3 and 4, it is submitted that fees received by SAYK for providing-

(a) yoga training, conducting yoga examination and issuing certificates as per norms laid down by Yoga Certification Board (YCB) under Ministry of AYUSH, Govt. of India,

(b) fees received for providing AYUSH certified yoga instructors to MGM Hospital, Parel and ESIS Hospitals and

(c) GST on fees received for providing AYUSH certified yoga instructors under Shiv Yoga Scheme to Bombay Municipal Corporation (BMC)

are exempt services since services by SAYK Trust which is duly registered u/s 12AA and engaged in providing yoga training i.e. activities related to advancement of yoga which are exempt from GST in terms of entry no 1 of Notification no 12/2017 CT (R) and Notification no 9/2017 IT (R) dated 28-06-2017.

2.3.1 Relevant text from the abovementioned exemption notification is reproduced infra for ready reference:

Sl. No	Chapter, Section Heading, Group	Description of Services	Rate (Percent)	Condition

	or Services Code (Tariff)			
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	Chapter 99 Services by an entity registered under section 12AA of the income-tax Act, 1961 (43 of 1961) by way of charitable activities.	N il	Nil

"charitable activities" means activities relating to **–**

(i) public health by way of,-

(A) care or counseling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) *advancement of religion,* spirituality or *yoga*

(iii) advancement of educational programmes or skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests and wildlife

Since the answer to both above questions is in the affirmative, i.e.-

a) since SAYK Trust i.e. entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) and

b) services provided are relating to advancement of yoga are covered under definition of charitable activities as per the above mentioned notification.

Hence it is submitted that the said services relating to Yoga Advancement which are covered under Charitable activity as per above notification by entity registered u/s 12AA of Income Tax Act, 1961 are exempt as per entry no 1 of Notification no 12/ 2017 CT (R) and Notification no 9/2017 IT (R) dated 28-06-2017.

2.4 With reference to question 4, it is submitted that fees received by SAYK Trust for providing AYUSH certified yoga instructors under Shiv Yoga Scheme of BMC (Brihanmumbai Municipal Corporation) for yoga training to common citizens to enable them to practice preventive health care through Yoga as spelt out in scope of work defined by BMC, is exempt from GST in view of the fact that that the said services are "pure services provided to Municipality in relation to "public health" function entrusted to Municipality under Schedule XII read with article 243W of Constitution which is exempt from GST as per Sr. no. 3 of Notification no 12/ 2017 CT (Rate) and Notification no 9/ 2017 IT (Rate) dated 28-06-2017 as inserted with effect from 27-7-2018.

2.4.1 Relevant text from the abovementioned exemption notification is reproduced infra for ready reference**:**

Sr No.	Chapter, Section Heading, Group or Services Code (Tariff)	Description of Services	Rate (percent)	Condition
(1)	(2)	(3)	(4)	(5)
3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article	Nil	Nil

		243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.		

2.4.2 As stated in the factum, Shree Ambika Yoga Kutir shall be providing AYUSH certified yoga instructors under Shiv Yoga Scheme to BMC (Brihanmumbai Municipal Corporation) for yoga training to common citizens to enable them to practice preventive health care through Yoga as spelt out in scope of work defined by BMC.

2.4.3 Hence it is submitted that said services are covered under "pure services provided to Municipality in relation to "*public health*" *function entrusted to Municipality under Schedule XII* read *with article 243W* of Constitution, and hence eligible for exemption as per Sr no 3 of Notification no 12/ 2017 CT (Rate) and Notification no 9/ 2017 IT (Rate) dated 28-06-2017 as inserted with effect from 27-7-2018.

3. CONTENTION – AS PER THE CONCERNED OFFICER:

3.1 As per Circular No. 116/35/2019-GST, dtd. 11th October, 2019 issued by the Government of India, Ministry of Finance, Department of Revenue (Tax research Unit) :

"Representations have been received seeking clarification whether GST is applicable on donations or gifts received from individual donors by charitable organisations involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor.

3.2 The issue has been examined. Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude. When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner

that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

3.3 Notification No. 12/2017- Central Tax (Rate) New Delhi, the 28th June, 2017 This notification exempts services provided by the entity registered under Section 12AA of the Income Tax Act, 1961, by way of charitable activities, vide entry No.1 of the notification.

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

(i) public health by way of ,-

(A) care or counseling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion , spirituality or yoga;

(iii) advancement of educational programmes or skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests and wildlife;}"

Since Shree Ambika Yoga Kutir i.e. entity is registered under section 12AA of the Income Tax Act, 1961 and; services provided by them are related to advancement of yoga, are covered under the definition of charitable activities. This office is of the opinion that, services related to Yoga advancement, which are covered under

Charitable Activities by entity registered u/s 12AA of the Income Tax Act, 1961 are exempt as per entry no.1 of Notification No. 12/2017 CT (R) and Notification No. 9/2017 IT (R) dtd. 28/6/2017.

4. HEARING

Virtual preliminary hearing in the matter was held on 30.07.2025. Mr. Omkar Mahdhav Deshpande, C.A., appeared and requested for admission of the application. Jurisdictional Officer was absent.

Virtual final hearing is held on 07.01.2026. The authorised representative of the applicant, Mr. Omkar Madhav Deshpande, C.A., attended the hearing and reiterated the written submission made by the applicant. The Jurisdictional Officer Ms. Aarti Pawar, Sales Tax officer was appeared. Case is heard.

5. OBSERVATIONS AND FINDINGS:

We have carefully examined the facts of the case, the applicant's submissions, the department's position, and the applicable legal provisions. Our issue-wise findings are set out below.

5.1 Issue No. 1 – Unconditional Donations

A. Statutory Framework

For a transaction to fall within the scope of "supply" under Section 7(1)(a) of the Central Goods and Services Tax Act, 2017, two elements must coexist: (i) there must be a supply of goods or services, and (ii) such supply must be made for a consideration. In the absence of consideration, the activity does not fall within the scope of supply, except in cases covered under Schedule I of the said Act, which are not applicable to donations.

Under Section 2(31) of the Act, "consideration" means any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of a supply of goods or services. A payment qualifies as consideration only if it has a direct and clear nexus with a supply. If a payment is not made in response to any supply, it does not constitute consideration within the meaning of Section 2(31).

B. Principle of Quid Pro Quo

GST law recognises the principle of quid-pro-quo. A pure voluntary donation, where no benefit or service is provided to the donor, is not taxable. However, a donation linked to a service, facility, or benefit extended to the donor is treated as consideration and becomes taxable under GST. The taxability of any transaction depends on its substance rather than the label assigned to it. Merely calling a payment a "donation" does not exempt it from GST if there is a quid-pro-quo relationship between the payer and the recipient.

C. CBIC Clarification

CBIC Circular No. 116/35/2019-GST dated 11.10.2019 expressly states that where a donation is made without any obligation or expectation of any service in return, it does not qualify as "consideration" under Section 2(31) and does not constitute a supply under Section 7. The circular further clarifies that where the payment is linked to any specific service or benefit, such payment assumes the character of consideration and attracts GST.

D. Finding of the Authority

It is clarified that where donations are genuinely voluntary and unconditional, without any corresponding obligation to provide goods or services, such receipts cannot be treated as “consideration” under the provisions of the CGST Act. However, where amounts collected as donations are linked to participation, admission, training, entry, or any specific benefit or service, such receipts may assume the character of consideration and become liable to GST. The taxability in each case must therefore be determined having regard to the true nature and substance of the transaction.

We concur with the clarification issued by the CBIC. In the present case, yoga knowledge is imparted free of cost through volunteers, and the donations received by the trust are voluntary and unconditional in nature. No obligation exists upon the trust to provide any identifiable service in return to the donor, and there is no quid-pro-quo relationship between the donation received and the activities carried out by the trust.

Accordingly, such voluntary and unconditional donations do not qualify as "consideration" within the meaning of Section 2(31) of the CGST Act, 2017 and consequently do not fall within the scope of "supply" under Section 7 of the said Act. Therefore, GST is not leviable on such donations.

It is, however, clarified that if any amount described as donation is found to be linked directly or indirectly to participation, entry, training, or receipt of any identifiable benefit or service, the same shall be treated as consideration for supply and shall be liable to GST in accordance with law.

5.2 Issue No. 2 – Yoga Training and Certification Courses

A. Statutory Framework and Exemption Conditions

Entry No. 1 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts "services by an entity registered under Section 12AA of the Income-tax Act, 1961 by way of charitable activities." Two conditions must be simultaneously satisfied:

1. The service provider must be registered under Section 12AA of the Income-tax Act; and
2. The activity must qualify as "charitable activity" as defined in Clause 2(r) of the Notification.

Merely being a registered charitable trust does not automatically grant GST exemption. The nature of the service itself must fall within the statutory definition of charitable activity.

B. Definition of 'Charitable Activities'

Clause 2(r) of Notification No. 12/2017-CT(R) defines "charitable activities" to mean activities relating to: (i) public health by way of care or counselling of terminally ill persons, persons with severe physical or mental disability, persons afflicted with HIV/AIDS, or persons addicted to dependence-forming substances, or public awareness of preventive health and family planning; (ii) advancement of religion, spirituality, or yoga; (iii) advancement of educational programmes or skill development relating to abandoned, orphaned, or homeless children, physically or mentally abused persons, prisoners, or

persons over 65 years in rural areas; and (iv) preservation of environment including watershed, forests and wildlife.

C. Nature of the Yoga Training Services

From the facts, it is observed that the applicant provides structured yoga courses recognised by the Yoga Certification Board under the Ministry of AYUSH, imparts systematic training, conducts examinations, and issues certificates that facilitate students in securing employment as yoga trainers. Consideration in the form of course fees is charged for these services. The essential characteristics are:

- Structured and curriculum-based professional training;
- Systematic instruction, assessment, examination, and certification;
- Fees charged as consideration; and
- Employment-oriented professional qualification.

These characteristics establish that the activity is organised, systematic, and commercial in character.

D. Interpretation of 'Advancement of Yoga'

The phrase "advancement of yoga" in Clause 2(r)(ii) of the Notification is intended to cover activities such as free yoga camps, public awareness programmes, spiritual yoga dissemination, and non-commercial yoga promotion. Where yoga is imparted through structured, curriculum-based courses for a prescribed fee resulting in a professional qualification, the activity assumes the character of a formal educational or training service provided for consideration. In such cases, students receive systematic instruction, evaluation, and certification in return for payment, and the nature of the activity remains commercial for GST purposes, even if carried out by a charitable trust, unless it specifically qualifies for exemption.

E. Finding of the Authority

The exemption under Entry No. 1 of Notification No. 12/2017-Central Tax (Rate) is available only in respect of services by an entity registered under Section 12AA/12AB of the Income Tax Act, 1961, by way of “charitable activities” as defined in the said notification. The scope of the exemption is

therefore restricted to activities specifically covered within the definition of charitable activities.

While free yoga camps, awareness programmes, and yoga sessions conducted may qualify as charitable activities, structured training programmes conducted for consideration, culminating in examination and certification, stand on a different footing. Such programmes possess the characteristics of professional education or coaching services and cannot automatically be treated as charitable merely because they relate to yoga or wellness.

In the present case, the applicant conducts structured yoga training courses for consideration, which include training, examination, and certification and facilitate professional engagement or employment opportunities for participants. The consideration charged is directly linked to the services provided.

Accordingly, the activity constitutes supply of training or coaching services for consideration within the meaning of Section 7 read with Section 2(31) of the CGST Act, 2017.

In view of the above, the said services do not qualify as "charitable activities" for the purpose of exemption under Entry No. 1 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Therefore, the exemption is not available, and the services are liable to GST under the applicable provisions of the CGST Act, 2017.

5.3 Issue No. 3 – Supply of Yoga Instructors to Hospitals

A. Nature of Transaction

The applicant provides AYUSH-certified yoga instructors to hospitals such as MGM Hospital, Parel and ESIS Hospitals in terms of Memoranda of Understanding executed with such institutions. Under these arrangements, trained instructors are supplied on a continuous basis for an agreed monthly consideration. The essential characteristics of the transaction are:

- Deployment of trained personnel under contractual arrangements;
- Consideration received periodically for such deployment;
- Contractual arrangement through MOUs with hospitals; and

- Service provided in the course of an organised business activity.

B. Applicability of Section 7 – Supply of Services

Under Section 7(1)(a) of the Central Goods and Services Tax Act, 2017, the term "supply" includes all forms of supply of goods or services made for a consideration in the course or furtherance of business. In the present case, the activity involves supply of services in the form of providing yoga instructors, for which consideration is received as agreed contractual fees, carried out as part of an organised activity of training and deployment. All essential elements of "supply" are satisfied, and the transaction clearly qualifies as supply of services under Section 7(1)(a).

C. Classification of the Service

The applicant is essentially supplying skilled human resources to the recipient institutions in a structured and contractual manner. The transaction assumes the character of supply of manpower or provision of professional services wherein personnel are made available to the recipient for rendering services. Accordingly, the activity is appropriately classifiable under SAC 9985 – Support Services (specifically, manpower supply services), involving provision of trained personnel for consideration.

D. Applicability of Charitable Activity Exemption

The applicant claims exemption under Entry No. 1 of Notification No. 12/2017-CT(R). However, the exemption is conditional and applies only where the nature of the service itself qualifies as a "charitable activity" as defined under Clause 2(r) of the Notification, and not merely on account of the status of the service provider.

The present activity does not fall within the definition of charitable activity under Clause 2(r) for the following reasons:

- The trust is not directly providing free public health services to beneficiaries;
- The activity constitutes contractual manpower deployment in the course of business;

- The hospitals pay consideration for the services rendered; and
- The service is commercially structured through MOUs.

F. Finding of the Authority

The activity, in substance, amounts to provision of trained manpower on contractual terms for consideration. The yoga instructors are deployed as part of wellness programmes conducted in hospitals and other institutions; however, the essential character of the transaction is that of professional manpower services rendered in the course or furtherance of business.

Providing yoga instructors under agreed contractual arrangements for consideration constitutes a "supply" within the meaning of Section 7 read with Section 2(31) of the Central Goods and Services Tax Act, 2017. The consideration received is directly linked to deployment of trained personnel and the services rendered by them.

The activity cannot be treated as a charitable activity, as the services are provided for commercial consideration under contractual obligations. The mere fact that the services relate to health or wellness does not alter the taxable nature of the transaction in absence of a specific exemption applicable to the activity.

Accordingly, the services are liable to GST under the applicable provisions of the CGST Act, 2017 and the relevant rate notifications.

5.4 Issue No. 4 – Services Provided to BMC under Shiv Yoga Scheme

A. Relevant Statutory Provision

The applicant claims exemption under Entry No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, which provides exemption for: "Pure services (excluding works contract services or other composite supplies involving supply of goods) provided to the Central Government, State Government, Union territory, local authority, or a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243G or to a Municipality under Article 243W of the Constitution."

Three cumulative conditions must be satisfied:

- The service must be a pure service (no supply of goods);

- The service must be provided to Government, a local authority, or a governmental authority; and
- The service must relate to functions entrusted to a municipality under Article 243W read with the Twelfth Schedule of the Constitution.

Failure to satisfy any one condition renders the exemption unavailable.

B. Condition 1 – Pure Service

The term "pure service" refers to a supply that involves only the provision of services without any element of transfer of goods or materials. In the present case, the applicant provides trained yoga instructors to the Brihanmumbai Municipal Corporation without supplying any goods, equipment, or materials, and the consideration of Rs. 1,000 per hour pertains solely to service components. Accordingly, the activity involves only the service element and satisfies the condition of pure service.

It is noted that the arrangement involves deployment of personnel resembling manpower supply service. However, even accepting this characterisation, the activity remains a service with no goods component, and the pure service condition is satisfied. The dominant purpose and context of the activity requires further examination under Condition 3.

C. Condition 2 – Supply to Local Authority

The Brihanmumbai Municipal Corporation is a Municipal Corporation established under the Mumbai Municipal Corporation Act, 1888. Under Section 2(69) of the Central Goods and Services Tax Act, 2017, a Municipal Corporation is treated as a "local authority." Accordingly, the second condition is clearly satisfied, as the service is supplied to a local authority.

D. Condition 3 – Relation to Municipal Functions

Article 243W of the Constitution of India empowers municipalities to perform functions listed in the Twelfth Schedule. The Twelfth Schedule specifically includes functions relating to "public health, sanitation conservancy and solid waste management," thereby indicating that activities directly connected with

maintenance and improvement of public health fall within the domain of municipal functions.

The Shiv Yoga Scheme introduced by the Brihanmumbai Municipal Corporation is aimed at promoting preventive healthcare and encouraging citizens to adopt yoga for overall health and wellness. This activity has a direct nexus with public health objectives and aligns with functions entrusted to municipalities under Article 243W read with the Twelfth Schedule of the Constitution.

F. Finding of the Authority

The activity bears certain characteristics of manpower supply service, as the yoga instructors are deployed on an hourly basis. However, exemption notifications are required to be interpreted strictly, having regard to the true nature and substance of the transaction. In the present case, the arrangement is not merely for supply of manpower, but for implementation of a public health and wellness programme undertaken by the Brihanmumbai Municipal Corporation (BMC) in discharge of its constitutional functions.

The yoga instructors constitute the means through which BMC implements the Shiv Yoga Scheme aimed at promoting preventive healthcare and public well-being. The dominant objective of the arrangement is execution of a civic health initiative and not commercial manpower supply.

It is observed that the applicant provides trained yoga instructors to BMC without any transfer of goods or materials, and the consideration received pertains entirely to service components. Accordingly, the condition of "pure services" stands satisfied. Further, BMC qualifies as a "local authority" under Section 2(69) of the CGST Act, 2017.

The activity undertaken under the Shiv Yoga Scheme relates to promotion of public health and wellness, which falls within the functions entrusted to municipalities under Article 243W read with the Twelfth Schedule to the Constitution of India.

Therefore, all the conditions prescribed under Entry No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 are fulfilled. Accordingly, the services provided to BMC under the Shiv Yoga Scheme qualify for exemption as pure services provided to a local authority in relation to functions entrusted under Article 243W of the Constitution.

6. 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- 90/2022-23/B-159 Mumbai, dt. 28.09.2026

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

Q.1: Whether the unconditional donations received by Shree Ambika Yoga Kutir which is imparting Yoga training without charging any fees at its Yoga Centers attract GST although there is no mandatory obligation (quid pro quo) on part of supplier or the recipient and specially in view of the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga which is exempt from GST?

Answer: - Where donations are purely voluntary and unconditional, and are not linked to any obligation or benefit in return, they do not assume the character of consideration as defined under Section 2(31) of the Central Goods and Services Tax Act, 2017. In the absence of consideration, such transactions do not fall within the scope of "supply" under Section 7 of the said Act, and accordingly, GST is not applicable.

Q.2: Whether Shree Ambika Yoga Kutir can avail exemption from GST on fees received for providing yoga training, conducting yoga examination and issuing certificates as per norms laid down by Yoga Certification Board (YCB) under Ministry of AYUSH, Govt. of India, considering the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga?

Answer: - The training services provided by the applicant are in the nature of structured professional courses conducted for consideration, which culminate in certification and facilitate employment opportunities for the

participants. These features clearly establish that the activity is organized, systematic, and commercial in character, falling within the ambit of training or coaching services supplied for consideration under Section 7 read with Section 2(31) of the Central Goods and Services Tax Act, 2017.

In view of the above, such services cannot be regarded as "charitable activities" for the purpose of exemption under Entry No. 1 of Notification No. 12/2017-Central Tax (Rate). Accordingly, the exemption is not available, and the said services are liable to GST under the applicable provisions.

Q.3: Whether Shree Ambika Yoga Kutir can avail exemption from GST on fees received for providing AYUSH certified yoga instructors to MGM Hospital, Parel and ESIS Hospitals, considering the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga?

Answer: - Providing instructors under contractual arrangements for agreed consideration constitutes a supply of services within the meaning of Section 7 read with Section 2(31) of the Central Goods and Services Tax Act, 2017. The activity involves deployment of trained personnel and assumes the character of professional manpower services rendered in the course of business.

Such services cannot be classified as charitable activities, as they are provided for consideration and are commercial in nature. Accordingly, the benefit of exemption is not available, and the said services are liable to GST under the applicable provisions.

Q.4: Whether Shree Ambika Yoga Kutir can avail exemption from GST on fees received for providing AYUSH certified yoga instructors under Shiv Yoga Scheme to BMC (Brihanmumbai Municipal Corporation) for yoga training to common citizens to enable them to practice preventive health care through Yoga as spelt out in scope of work defined by BMC, in view of the fact that Shree Ambika Yoga Kutir is duly registered u/s 12AA of the Income Tax Act, 1961 as a Charitable Trust and are engaged in advancement of Yoga and the fact that the

said services are "pure services provided to Municipality in relation to "public health" function entrusted to Municipality under Schedule XII read with article 243W of Constitution?

Answer: - The services provided to the Brihanmumbai Municipal Corporation involve deployment of trained yoga instructors without any supply of goods or materials, and the consideration is solely towards service components, thereby satisfying the condition of "pure services." Further, the activity promotes preventive healthcare and overall well-being of citizens, which falls within the ambit of public health functions entrusted to municipalities under Article 243W read with the Twelfth Schedule of the Constitution of India.

Accordingly, the said activity may be considered as pure services provided to a local authority in relation to public health functions, and subject to fulfillment of all prescribed conditions, qualifies for exemption under Entry No. 3 of Notification No. 12/2017-Central Tax (Rate).

D.P. GOJAMGUNDE
(MEMBER)

HIMANI DHAMIJA
(MEMBER)

PLACE - Mumbai

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.