


GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/27/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/09)

Date: 02.07.2020

Name and address of the applicant	:	M/s Educational Initiative Pvt. Ltd. A-201, Baleshwar Square, Op. Iscon Temple, S.G. Highway, Ahmedabad
GSTIN/ User Id of the applicant	:	24AAACE9834B1ZY
Date of application	:	01.02.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	b) Applicability of the Notification issued under the provisions of the Act.
Date of Personal Hearing	:	11.06.2020 (Through video Conferencing)
Present for the applicant	:	Shri Nitesh Jain C.A

M/s. Education Initiatives Pvt. Ltd. is a private limited company registered under the provisions of Companies Act, 1956 and having a GSTIN : 24AADCS0861R1ZZ, is a company filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the SGST Act.

2. M/s. Education Initiatives Pvt. Ltd. an applicant, iner alia, deals in the products and solutions mainly intended to be used by K-12 education segment i.e. primary and secondary schools for the assessment and learning. The applicant is working with private schools, public schools and leading organization like World Bank, Michael and Susan Dell Foundation, Google, Azim Premji Foundation and is doing large scale assessment projects with various state Governments.

2.1 Among others, one of the offering offered by the Applicant to the schools is ASSET (Assessment of Scholastic Skills Through Educational Testing). The Schools use ASSET for the purpose of assessment, ASSET has gained the wide acceptance across the schools for the purpose of diagnostic assessment of its students. The detailed description is mentioned here in below:

ASSET

2.2 ASSET stands for Assessment of Scholastic Skills Through Educational Testing. It is a scientifically designed, skill-based assessment Exam. Rather than testing rote learning, it uses multiple-choice question to focus on measuring how well SKILLS and CONCEPTS have been understood by the students. The basis nature of ASSET service is an examination to be conducted by Education Institution (School) but outsourced to the Educational Initiatives (EI). The assessment generates examination reports for students, indicative of their progress and topics that require attention and improvement. ASSET is an educational assessment exam taken at school and it does not envisage any kind of coaching and/or training of teachers or administrators. ASSET exam is conducted without any pre/post teaching business relation with the school. The exam is conducted at school and schools, based on their internal policy, make ASSET a part of their evaluation system. They also give student wise appropriate weightage to ASSET score.

2.3 **Salient Features of ASSET are as under:**

- For student of classes 3-10
- Core subject: English, Maths and Science
- Optional Subjects: Social studies and HINDI
- Asset is skill- based exam
- Provides details customised skill-wise Examination Reports highlighting strengths and weaknesses
- Benchmarks the student's performance against peers all over the country
- The ASSET exam is conducted at school. And School based on their internal policy makes ASSET a part of their examination evaluation system.
- Schools choose to take the ASSET exam in summer (July-August) or winter (December).

2.4 The applicant submitted that apart from the pen and paper version, ASSET also offers a dynamic online Exam. It has all the advantages of ASSET with some additional benefits like – immediate reports, easy online access to report, increased accuracy in reporting, faster remediation, flexible test dates, fewer logistics hassles etc.

2.5 Benefit of ASSET/ ASSET Dynamic

- Provide feedback/Detailed examination Reports on real learning
- Allows students to know they stand and pinpoints areas of strengths and weaknesses
- Allows schools to benchmark themselves against the best and identify areas requiring improvement
- Provides teachers with insights into where exactly their students stand compared to the national average or another section or school

2.6 The ASSET Student MyBook presents students with customized feedback on their performance. Individual exam results are accompanied by a detailed analysis listing out student's strengths and weakness. Students also receive practice test concentrating on their weak points. The answer to the exam are made available, with elaborate explanations to enhance the self-learning process and to equip students with skills to avoid misconception in future.

2.7 The Asset teacher My Book is a customized report for each subject teacher on the performance of every class. It points out learning gaps for each students, overall strengths and weaknesses and recommendations to address these.

2.8 The applicant further submitted that customized reports help in determining the strengths and weaknesses of the entire class to enable further improvement, indicates the improvement in the school performance each year, provides sectional analysis of each division of a grade in order to weigh the performance in comparison to other divisions in the same school as well nationally.

2.9 The applicant further submitted that the ultimate users/ beneficiaries of the applicant services are the students of primary and secondary schools, educational institutions, state / central for the purpose of framing public policy in connection with education. These solutions are focused on improving the learning levels of the child in the private schools and government school system.

3. Accordingly, the applicant sought the Advance Ruling on the following,
'Whether the educational assessment examination (ASSET) with its variants) provided by the applicant to school/educational organization is exempted from payment of GST under Sr. No. 66(b)(iv) of the Not. No.

12/2017-CT (rate) dated 28.06.2017 and entry No. 69(b)(iv) of Not. No. 9/2017-Integrated Tax (Rate) dated 28.06.2017 as well as equivalent SGST Notification.'

Applicant's Interpretation of Law/Taxation under GST Regime

4.1 The applicant has quoted Sections 95 to 106 of the CGST Act, 2017 and stated that the question on advance ruling put forward by him is in respect of determination of whether the liability to pay tax on any goods or services or both, and also the applicability of a notification issued under the provisions of the GST Act is covered under Section 97(b) and (e) and therefore the applicant satisfies the criterion required for filing the application for advance ruling.

4.2 The applicant submitted that they provide the service of diagnostic assessment examination of students of educational institutions. The said services are availed by the educational institutions. By availing the said service, the educational institutions conduct tests/ examination on students on a yearly basis. Sample copy of Contract for providing services of conducting ASSET exam to educational institution is enclosed.

4.3 The said technique of examination helps assess the student learning and it also aid teachers in identifying the focus areas to support students. Educational institution gets insights about the students learning levels and accordingly plans the remediation for the identified learning gaps.

4.4 The applicant further submitted that services provided by the Applicant to the educational institution are services relating to conduct of examination by educational institution and it is exempted under Sr. No. 66 of Not No. 12/2017-C.T. (Rate) dated 28.06.2017. The said entry is read as under:

66 Services provided -

(a) by an educational institution to its students, faculty and staff;

(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee:

(b) to an educational institution, by way of,-

(i) transportation of students, faculty and staff

(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;

(iii) security or cleaning or housekeeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by, such institution; up to higher secondary:

(v) supply of online educational journals or periodicals;

Provided that nothing contained in sub-items (i), (ii), and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent

Provided further that nothing contained in sub item (v) of item (b) shall apply to an institution providing services by way of-

- (i) pre-school education and education up to higher secondary school or equivalent: or*
- (ii) education as a part of an approved vocational education course;*

Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

4.5 Term 'Educational Institution' is defined in point No. 2 of the same Notification, it reads as under:

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

- (i) pre-school education and education up to higher secondary school or equivalent;*
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;*
- (iii) education as a part of an approved vocational education course;*

4.6 The applicant submitted that on perusal of the above mentioned Entry No. 66, it is observed that various specified services provided by/ to an educational institution are exempt. Service specified under Entry No. 66 are exempt only when the same are provided by/to an institution which qualifies the definition of an 'educational institution'.

4.7 The applicant further submitted that the phrase "relating to" expands the scope of this entry to include such support services which has relation to conduct of the examination of students.

4.8 The applicant submitted that the service provided by the Applicant is in relation to conduct of online examination by schools and it does not have any other use than in conducting a specific examination. The supply of service is a supply related to conduct of that examination. The applicant is, therefore not liable to pay tax on the service provided to the Educational institution.

4.9 The applicant has placed reliance on the decision in the case of West Bengal AAR in case of Ashok Kumar Basu reported at 2018 (10) TMI, wherein it was held that service to such Educational Institution relating to conduct examination, as described in 66(b) (v) of Not No. 12/2017-CT (Rate) dated 28.06.2017, includes supply of the service of printing question papers and is exempt under the GST Act.

4.10 The applicant, hence stated that he is entitled to get the benefit of exemption under Not. No. 12/2017-CT (rate) dated 28.06.2017.

5. The applicant submitted that term examination is not defined in the CGST ACT; that therefore they resort to law dictionary meaning for sake of reference. The applicant submitted the Dictionary meaning of the terms 'examination' as under:

- a. Collins Dictionary: An examination is a format test that you take to show your knowledge or ability in a particular subject, or to obtain a qualification.
- b. Cambridge Dictionary: the act of looking at or considering something carefully in order to discover something.
- c. Marriam Webster Dictionary: an exercise designed to examine progress or test qualification or knowledge, A detailed inspection or study.

5.1 The applicant submitted that every activity of education institution by which it examines progress or test qualification or knowledge of student would fall under meaning of examination by the educational institution. In the instant case, applicant is providing contents to the school for conducting examinations and after examination provides reports on performance of students. These reports are used by the schools for evaluation of the students. Thus in view of the above, it is submitted that the service provided by the applicant is in relation to conduct of examination.

6. The applicant has submitted that the term "relating to" expands the scope of the entry. The terms have been interpreted by the Supreme Court in the case of CCE V/s Rajasthan State Chemical Works 1999(55) ELT 444 (SC) and Union of India V/s Ahmedabad Electricity Co. Ltd. 2003(158) ELT 3(SC), wherein it has been held that such words widen and expand the scope, meaning and content of expressions. Further, applicant submitted that Hon'ble Supreme Court in case of M/s. Doypack Systems (P) Ltd. Vs UOI 1988 (36) ELT 201 SC held that, "*The expression "in relation to" (so also "pertaining to"), is a very broad expression, which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context.*"

7. The applicant has submitted Flyer No. 40 (Education Service) issued by the CBIC provides the clarification that the auxiliary services availed by the educational institutions are exempted. The relevant part of the Flyer is reproduced as under:

Education is fundamental to the nation building process. Right to Education is now a fundamental right of every child in India. GST Law recognises this and provides exemption to educational institutions, providing education up to higher secondary school or equivalent, from the levy of GST. Auxiliary services received by such educational institutions for the purpose of education up to Higher Secondary level is also exempt from

GST. Other services related to education, not covered by the exemption, would be taxed at a standard rate of 18% with full admissibility of ITC for such taxable services in cases where the output service is not exempt. In a nutshell, every attempt is made to ensure that the core educational services are fully exempt from GST.

7.1 Further, applicant submitted that even as per press release on education issued by CBEC, it is provided that education up to Higher Secondary School level should not suffer GST on output service and also on most of the important input services. Thus intention of legislator is to grant exemption on majority of the input services received by the education institution. Relevant part of the press release is extracted and reproduced as under:

3. Transportation of students, faculty and staff services provided to an educational institution (providing pre-school education and education up to higher secondary school or equivalent) are exempt from GST. Similarly, catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory, to an educational institution providing education upto higher secondary school or equivalent, are also exempt from GST. Further, security or cleaning or housekeeping services performed in such educational institutions are also exempt from GST. Finally, services relating to admission to, or conducting of examination by, such institutions, upto higher secondary, too are exempt from GST.

Thus, education upto Higher Secondary School level does not suffer GST on output services and also on most of the important input services. Some of the input services like transport, canteen etc. provided by private players to educational institutions were subject to service tax in pre-GST era and the same is continued in GST regime.

7.2 Further, applicant submitted that Flyer on GST on education service also provides that auxiliary services are exempted from GST. Relevant part is extracted and reproduced as under:

Regarding, input services, it may be noted that where output services are exempted, the Educational institutions may not be able to avail credit of tax paid on the input side. The four categories of services known as Auxiliary Education services, which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, have been exempted (as per Notification No.12/2017- Central Tax (Rate)). Auxiliary education services other

than what is specified above would not be entitled to any exemption. The exemption also comes with a rider. Such services are exempt only for educational institutions providing services by way of education upto higher secondary or equivalent. (from pre-school to HSC). Thus if such auxiliary education services are provided to educational institutions providing degree or higher education, the same would not be exempt. For instance, the services of conducting admission tests for admission to colleges in case of educational institutions are providing qualification recognized by law for the time being in force shall not be liable to GST.

7.3 The applicant has submitted that under GST Tariff, Education Services are classified under heading 9992 as per Notification No. 11/2017-CT (rate) and are further sub-divided into six groups (as per Annexure to the same Notification) comprising of pre-primary, primary, secondary, higher, specialized and other educational & support services. The same is classified herein below:

S. No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
581	Heading 9992		Education services
582	Group 99921		Pre-primary education services
583		999210	Pre-primary education services
584	Group 99922		Primary education services
585		999220	Primary education services
586	Group 99923		Secondary Education Services
587		999231	Secondary education services, general
588		999232	Secondary education services, technical and vocational
589	Group 99924		Higher education services

590		99924 1	Higher education services, general
591		99924 2	Higher education services, technical
592		99924 3	Higher education services, vocational
593		99924 9	Other higher education services
594	Group 99925		Specialised education services
595		99925 9	Specialised education services
596	Group 99929		Other education and training services and educational support services
597		99929 1	Cultural education services
598		99929 2	Sports and recreation education services
599		99929 3	Commercial training and coaching services
600		99929 4	Other education and training services nowhere else classified
601		99929 5	Services involving conduct of examination for admission to educational institutions
602		99929 9	Other educational support services

7.4 The applicant submitted that the above classification is adopted from the CPC code. As per explanatory to the CPC version 2.21, the entry education service are explained as under:

Division 92 Education Service

921 Pre-primary education services

922 Primary education services

923 Secondary education services

924 Post-secondary non-tertiary education service

- 925 Tertiary education services
- 929 Other education and training services and

Educational support services

- 9291 Other education and training services
 - 92911 Cultural education services
 - 92912 Sports and recreation education services
 - 92919 Other education and training services

7.5 Further, applicant submitted that the explanatory note to the Education support services includes testing education services and testing services. The relevant part of the CPC is extracted and reproduced as under:

9292 Educational support services

92920 Educational support services

This subclass includes:

- non-instructional services that support educational processes or systems, such as;
 - educational consulting
 - educational guidance counselling services
 - educational testing evaluation services
 - educational testing services
 - organization of student exchange programmes

7.6 The applicant submitted that thus in view of the above the services provided by the Applicant falls under the category of the education support services as it is providing educational testing evaluation/ education testing services. Further, they stated that services provided by the Applicant are used as modern technique by education institution for examination of students and it is similar to continuous and comprehensive Evaluation (CCE) as mandated by Right to Education Act of India in 2009; applicant service is similar to Continuous and Comprehensive Evaluation (CCE). This approach of assessment was introduced in India, as well as by the Central Board of Secondary Education (CBSE) in India for students of sixth to tenth grades and twelfth in some schools.

7.7 The applicant further submitted that main aim was to evaluate every aspect of the child during their presence at the school. This is believed to help reduce the pressure on the child during/before examinations as the student will have to sit for multiple test throughout the year, of which no test or the syllabus covered will be repeated at the end of the year, of which

method is claimed to bring enormous changes from the traditional chalk and talk method of teaching, provided it is implemented accurately.

7.8 The applicant submitted that ASSET examination being the services relating to the conduct of examination for the educational institution, is passing the tests of exemption notification. Thus in view of the above, it is submitted that the services provided by the applicant to the educations are relating to examination and thus are exempted from GST.

8. The applicant vide their letter dated 22.06.2020 has submitted additional submission wherein it is submitted that following products are offered by them in Normal course of business:

A. LARGE SCALE ASSESSMENTS (LSA)

B. ASSESSMENT OF SCHOLASTIC SKILLS THROUGH EDUCATIONAL TESTING. (ASSET)

C. MINDSPARK

D. DETAILED ASSESSMENT

A. LARGE SCALE ASSESSMENTS (LSA):-

- LSA itself suggests its meaning, large scale educational testing/ assessment. Basically it is educational research projects which includes Research activities. Generally such services are provided to an organizations / agencies who wants to evaluate the Students / teachers / educators on a large scale
- to create knowledge at larger social level; activities 'commissioned' by various agencies with the specific intent of providing them with insights regarding their own programmes and their performance, by evaluating the students/ teachers/ educators.
- The service provided under this segment is a combination of assessment, examination, training and coaching/ consultation.
- We are charging and paying GST @ 18% on the said services provided to the various clients except in a case where it qualifies the conditions of export of service.

B. ASSESSMENT OF SCHOLASTIC SKILLS THROUGH EDUCATIONAL TESTING. (ASSET) :-

- ASSET is an examination tool for educational assessment of students in class 3-10 in schools across India and outside India.
- Under ASSET we provide a set of questions on various subjects which are set by us based on the class level, board (like state or CBSE or ICSE etc) and the methodology adapted by the school for teaching. These set of questions are either provided in hard copy or also through online mode.

- Under ASSET we do not provide any pre or post exam teaching to the students. Once the class takes the test under ASSET we evaluate the answers and provide student wise and class wise results. The exam is conducted at school and based on their internal policy, all schools make ASSET mandatory for evaluation of the student and ASSET results are included in the overall evaluation system of the school. This is confirmed by the agreement cum application form for ASSET also.

C. MINDSPARK :-

- Mindspark is a computer based online self-learning tool that enhances children's understanding of the concern subject. It adapts to each student's individual learning pace in sync with school curriculum and provides instant feedback that clears incorrect understanding.
- We are charging and paying GST @ 18% on the said services provided to the various clients except in a case where it qualifies the conditions of export of services.

9. Further, they submitted the following:

1. ASSET is optional for individual student or compulsory for whole class?

- Basic description of ASSET as narrated above and also in our earlier submission is that it is curated to give an overall evaluation of a student in different subjects, we have also clarified and it is also clear from clause 8 of the agreement given under our submissions that schools have to mandatorily include ASSET examination results in overall schools assessment system. It will serve no purpose if ASSET was made optional for students because if that be the case the school will not be able to give comparable results for all students of a class. A schools will be able to meet its desired objective of using ASSET only and only if the tool is used equally for all students of the class. Accordingly we categorically submit that the ASSET is mandatory for the entire class and schools cannot choose to make it optional for its students.
- We would like to seek your attention to the sample application cum agreement form submitted at page 22 of our paper book, please refer point number 11 and 12 of the "School Summary Form" wherein the school has to categorically mention following 2 details:

A. Participation Details – Full School (All Classes) OR Full Class /Classes

B. Classes Taking ASSET - _____

School has to choose whether they are taking ASSET for full school or for a

particular class, here there is no option to select it for some students only. Hence it is clear that that ASSET is given to either a full class or to full school, it cant be bought for individual students. School also has to give details as to for which classes it is taking ASSET.

- As per Clause 6 of the agreement, we have kept limit of minimum 50 students for a school. In other words if a school wishes to take ASSET for one of its class which has only 40 students then we will not serve them because it is not cost effective for us to design questions bank for them at that level. But this nowhere means that if a school who has say 60 students in a class can choose to take ASSET only for 50 of the students of that class. If they wish to take ASSET then they will have to take it for all 60 students. We have kept limit of 50 ASSET order, otherwise it's difficult for us to reach at economical breakeven point. But nowadays strength of individual classes is below 50 students, but if such school has other branches of school of the same school group then we allow to order less than 50 ASSET order of particular School but in totality the student count has to be more then 50, but here also it is mandatory for the schools to take ASSET for entire class as a whole.
- Further, we would also like to mention that we are providing ASSET service to Schools and contract for the same is with Schools only, not with students. No. of Students is only medium of calculation as we charge amount from School based on number of student in each class/school.

2. ASSET program offered other than schools:-

- A part from ASSET offering to Schools, we are offering "ASSET Retail" program online whereby we are providing old test papers of ASSET exams. Anybody can go online and buy such offering. As its not Exams conducted on behalf of Schools we are duly charging and paying GST @18% except the services qualifies for export of service and ready to continue with the same in future.

10. The applicant rely upon the following Orders of Authority of Advance Ruling:

- M/S. EDUTEST SOLUTIONS PRIVATE LIMITED, Gujarat AAR (2018 (10) TMI 201):-
 - ❖ Where it is held that The expression '**relating to**' used in sub-item (iv) of item (b) of Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) **widens the scope of the said entry and printing of question**

papers would be covered by the phrase ‘services relating to admission to, or conduct of examination by, such institution’ in entry no. 66(b)(iv) of CGST Rate Notification 12/2017 r.w. entry no. 69(b)(iv) of IGST Rate Notification 10/2017.

▪ M/S. THE BANGALORE PRINTING AND PUBLISHING CO. LIMITED, Karnataka AAR (2019 (11) TMI 157):-

- ❖ Here it is held that, *“There may be several services relating to the conduct of examination like invigilation, distribution of question papers, collection of answer sheets, assessment of answer sheets, printing of question papers etc. Therefore, the ambit of the services relating to conduct of examination **includes** services of printing of question papers also. Therefore, the services supplied by the applicant are covered under the scope of SI. 66 of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017.”*

Personal Hearing :

11. Shri Nitesh Jain, Chartered Accountant duly authorized representative of the company appeared and re-iterated the submission made in the Application.

Discussion and Finding

12. We have considered the submissions made by the Applicant in their application for advance ruling as well as additional submission submitted vide letter dated 22.06.2020. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant’s interpretation of law. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

13. The applicant has stated that they deal in the products and solutions mainly intended to be used by K-12 education segment i.e. primary and secondary schools for the assessment and learning. The applicant is working with private schools, public schools and leading organization like World Bank, Michael and Susan Dell Foundation, Google, Azim Premji Foundation and is doing large scale assessment projects with various state Govts.

14. The applicant, among other services, has been providing services relating to ASSET (Assessment of Scholastic Skills Through Educational Testing) to schools. The School uses ASSET for the purpose of diagnostic assessment of its students. It is a scientifically designed, skill-based assessment Exam. It

contains multiple-choice question to focus on measuring how well SKILLS and CONCEPTS have been understood by the students. The basic nature of ASSET service is an examination to be conducted by Education Institution (School) but outsourced to the Educational Initiatives (EI). The assessment generates examination reports for students, indicative of their progress and topics that require attention and improvement. ASSET is an educational assessment exam taken at school and it does not envisage any kind of coaching and/or training of teachers or administrators. ASSET exam is conducted without any pre/post teaching business relation with the school. The exam is conducted at school and schools, based on their internal policy, make ASSET a part of their evaluation system. They also give student wise appropriate weightage to ASSET score.

15. Applicant has further stated that ASSET is an examination tool for educational assessment of students in class 3-10 in schools across India and outside India; that, under ASSET, they provide a set of questions on various subjects which are set by them based on the class level, board (like state or CBSE or ICSE etc) and the methodology adapted by the school for teaching.

16. The applicant has been supplying the course viz. ASSET in two variants i.e. 1. Physical question paper and 2. Online question Paper to the students of class 3rd to 10th standard which contains multiple questions. The applicant makes contract with the Schools for supply of ASSET multiple questions of various subjects to their students. The basic nature of ASSET is an examination of multiple questions conducted by School and supplied by the applicant i.e. Educational Initiatives (EI). The applicant has also claimed that under ASSET, they do not provide any pre or post exam teaching to the students. Once the class takes the test under ASSET, they evaluate the answers and provide student wise and class wise results. The exam is conducted at school and based on their internal policy, all schools make ASSET mandatory for evaluation of the student and ASSET results are included in the overall evaluation system of the school; that the same is confirmed by the agreement cum application form for ASSET also.

17. The applicant's contention is that ASSET, as an examination tool provided to the educational institution i.e. Schools is a services relating to conduct of examination by educational institution and it is exempted under Sr. No. 66 of Not. No. 12/2017-C.T. (Rate) dated 28.06.2017. Therefore, the issue is to be examined, whether the ASSET Examination tool including multiple question paper (both Physical and online) provided by the applicant to Schools is eligible for exemption under Sr. 66 of Not. No. 12/2017-CT (Rate) dated 28.06.2017, as amended or otherwise.

18. Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 reads, as below:

(1)	(2)	(3)	(4)	(5)
Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
66	Heading 9992	<p><i>Services provided – (a) by an educational institution to its students, faculty and staff;</i></p> <p><i>(b) to an educational institution, by way of,-</i></p> <p><i>(i) transportation of students, faculty and staff;</i></p> <p><i>(ii) catering, including any midday meals scheme sponsored by the Central Government, State Government or Union territory;</i></p> <p><i>(iii) security or cleaning or housekeeping services performed in such educational institution;</i></p> <p><i>(iv) services relating to admission to, or conduct of examination by, such institution; up to higher secondary:</i></p> <p><i>Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</i></p>	NIL	NIL

18.1 The said Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide clause (o) of Notification No. 2/2018-Central Tax (Rate) dated 25.01.2018. After such amendment, the said Sr. No. 66 of Notification No. 12/2017-Central Tax (Rate) reads, as below:

(1)	(2)	(3)	(4)	(5)
SI. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
66	Heading 9992	<p>Services provided – (a) by an educational institution to its students, faculty and staff;</p> <p>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;</p> <p>(b) to an educational institution, by way of,-</p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any midday meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution; up to higher secondary:</p> <p>(v) supply of online educational journals or periodicals:</p> <p>Provided that nothing contained in sub-items (i), (ii) and (iii) of</p>	NIL	NIL

		<p><i>item (b) shall apply to an educational institution other than an institution providing services by way of preschool education and education up to higher secondary school or equivalent : Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,</i></p> <p><i>(i) pre-school education and education up to higher secondary school or equivalent;</i></p> <p><i>or</i></p> <p><i>(ii) education as a part of an approved vocational education course.</i></p>		
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18.2 The term, ‘Educational Institution’ has been defined vide clause (y) of Paragraph 2 of the said Notification No. 12/2017-Central Tax (Rate), as below:-

- (y) “educational institution” means an institution providing services by way of,-*
- (i) pre-school education and education up to higher secondary school or equivalent;***
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;*
- (iii) education as a part of an approved vocational education course;*

19. In view of above, the applicant has to satisfy following two conditions in order to be eligible for exemption under Sr. No. 66(b)(iv):

- (i) The recipient of the services should be ‘Educational Institution’ as defined under the clause (y) of Paragraph 2 of the said Notification No. 12/2017-Central Tax (Rate).
- (ii) the supply of service should be in relation to the examination conducted by the educational institution.

20. We find that the applicant has stated that they are supplying “ASSET” multiple question to the Schools for the students of 3rd to 10th Standard. Therefore, such schools are already covered under the definition of ‘Educational Institution’, as provided under sub-clause (i) of clause (y) of Paragraph 2 of the said Notification No. 12/2017-Central Tax (Rate). We find

that schools are providing education to the students up to higher secondary standard and therefore fall under the definition of Educational Institution as defined vide clause (y) of Paragraph 2 of the said Notification. In this regard, we refer to a sample copy of agreement held between applicant i.e. Educational Initiative and B R Birla Public School, Jhawar Road, Jodhpur submitted by the applicant. Upon perusal of the said agreement and web site of said School <http://brbirlaschool.org/>, it is observed that the said school is providing education up to Higher Secondary and affiliated to Central Board of Secondary Education (CBSE). Further, the terms and condition of the said agreement reveal that the applicant has made an agreement with School for supply of ASSET multiple question paper. Accordingly, we hold that the first condition has been fulfilled in respect of claim of subject exemption.

21. It is now to be seen whether the conditions mandated by entry 66 (b) (iv) of notification 12/2017-Central Tax as reproduced are fulfilled or not as far as the **services relating to conduct of examination by, such institution; up to higher secondary**. We find from the submissions of the applicant that they are supplying ASSET multiple questions to the School for taking the examination on students on yearly basis. Sample agreement submitted by the applicant vide clause 8 stipulates as under:

“It is expressly agreed that test undertaken by school under ASSET FS/FC are mandatory part of the examination and evaluation of the students and ASSET results will be taken into account for overall assessment done by the school. If the need arises the school shall issue a certificate to EI in this regards”

21.1 On reading the above, it comes out that schools taking ASSET will use its results for its examination process and overall assessment of the students. The Schools uses ASSET for the purpose of assessment and diagnostic assessment of its students. ASSET uses multiple-choice question to focus on measuring how well SKILLS and CONCEPTS have been understood by the students. The basic nature of ASSET service is an examination to be conducted by Education Institution (School) but outsourced to the Educational Initiatives (EI). We also find from the submissions of applicant that ASSET is an educational assessment exam taken at school and it does not envisage any kind of coaching and/or training of teachers or administrators. We also find that applicant has submitted that the exam is conducted at school and schools, based on their internal policy, make ASSET a part of their evaluation system. They also give student wise appropriate weightage to ASSET score. In view of above, we find

that under ASSET, they provide a set of questions on various subjects which are set by them based on the class level, board (like state or CBSE or ICSE etc) and the methodology adapted by the school for teaching. We find from the sample copies of agreements submitted by the applicant that they make contract with the Schools for supply of ASSET multiple questions of various subjects to their students.

21.2 Term, 'in relation to' has been a matter of discussion in many judgements, Applicant has relied upon the Supreme Court judgement in the case of Doypack Systems (P) Ltd Vs UOI 1988 (36) ELT 201 SC, wherein it was held by the Hon'ble Apex Court that the expressions "in relation to" is a very broad expression and has a very wide meaning, it pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context. The term "relating to" has been held to be equivalent to or synonymous with as to "concerning with" and "pertaining to". Exemption entry uses this term 'relation to' and therefore we are of the opinion that any service provided which helps the education institution in its act of examination will be covered and shall be eligible for exemption from levy of GST.

21.3 Further, GST flyer 40 dated 1.01.2018 was issued for explaining taxability of education sector where the issue of taxability of auxiliary services procured by educational institutions was clarified as under:

"Education is fundamental to the nation building process. Right to Education is now a fundamental right of every child in India. GST Law recognises this and provides exemption to educational institutions, providing education up to higher secondary school or equivalent, from the levy of GST. Auxiliary services received by such educational institutions for the purpose of education up to Higher Secondary level is also exempt from GST. Other services related to education, not covered by the exemption, would be taxed at a standard rate of 18% with full admissibility of ITC for such taxable services in cases where the output service is not exempt. In a nutshell, every attempt is made to ensure that the core educational services are fully exempt from GST."

21.4 Therefore, we hold that services have been provided to the schools in relation to conduct of examination of students by such educational Institutes. We also take cognizance of case laws, CCE V/s Rajasthan State Chemical Works 1999(55) ELT 444 (SC); Union of India V/s Ahmedabad Electricity Co. Ltd. 2003(158) ELT 3(SC) and M/s. Doypack Systems (P) Ltd. Vs UOI 1988 (36) ELT 201, cited by the applicant, wherein Honorable Supreme Court, while interpreting the term 'relating to' and 'in relation to', has assigned wide and broad view of the term. Therefore, we hold that second condition for availing the exemption has also been satisfied in the instant matter.

22. The applicant has also placed reliance on the decision in the case of West Bengal AAR in case of Ashok Kumar Basu reported at 2018 (10) TMI, wherein it was held that service to such Educational Institution relating to conduct of examination, as described in 66(b) (v) of Not No. 12/2017-CT (Rate) dated 28.06.2017, includes supply of the service of printing question papers and is exempt under the GST Act. The said Authority has passed their rulings with respect to eligibility of GST on supply of printing question paper to the educational institute with respect to conducting the examination recognized by education Board. The applicant has also placed reliance on the ruling of M/S. EDUTEST SOLUTIONS PRIVATE LIMITED, Gujarat AAR (2018 (10) TMI 201) and M/S. THE BANGALORE PRINTING AND PUBLISHING CO. LIMITED, Karnataka AAR (2019 (11) TMI 157), wherein it was held that supply of printing question paper is eligible for exemption under Sr. No. 66(b)(iv) of Not. No. 12/2017-CT (Rate) dated 28.06.2017, as amended. In these cases, the supplier received orders for printing of question papers, with the content of questions provided to them. However, in the instant case, the applicant has been preparing the questions too apart from printing them. Therefore, we find that in the above cases too, similar kind of service was provided by the service provider to Educational Institutions.

23. In view of the foregoing, we rule as follows:

RULING

- (i) Whether the educational assessment examination (ASSET) with its variants) provided by the applicant to school/educational organization is exempted from payment of GST under Sr. No. 66(b)(iv) of the Not. No. 12/2017-CT (rate) dated 28.06.2017 and entry No. 69(b)(iv) of Not. No. 9/2017-Integrated Tax (Rate) dated 28.06.2017 as well as equivalent SGST Notification.

Ans. Yes, exemption is available in view of the above discussion in respect of ASSET services provided to educational institution.

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 02.07.2020.