

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. Rammohan Rao, Additional Commissioner of Central Tax, (Member)**
(2) **Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

ARN No.	AD270221021801P	
GSTIN Number, if any/ User-id	27AENPK2969M1ZP	
Legal Name of Applicant	M/s. MAKARAND VASANT KULKARNI	
Registered Address/Address provided while obtaining user id	201, Dhananjay Enternia, 2 nd Floor, Vijayanagar Colony, 2129 Sadashiv Peth, Pune, Maharashtra 411030.	
Details of application	GST-ARA, Application No. 80 Dated 01.03.2021	
Concerned officer	Commissionerate-Pune-II, Division-II, Swargate	
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in brief) (As per applicant)	The Applicant is engaged in the business of confidential printing of educational test papers for various Educational Boards, Universities and Educational Institutes. The activity of the Applicant requires maintenance of top secrecy, accuracy and timely delivery of the test papers to the educational boards and educational institutes. The ownership and usage rights of the contents as well as printed test papers are always with the respective University, Board or the Educational Institute.
Issue/s on which advance ruling required		<ul style="list-style-type: none">➤ Classification of any goods or services or both➤ Applicability of a notification issued under the provisions of this Act➤ whether any particular thing done by the applicant with respect to any goods and/or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.

NO.GST-ARA- 80/2020-21/B- 110

Mumbai, dt. 01/12/2021

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. MAKARAND VASANT KULKARNI, the applicant, seeking an advance ruling in respect of the following questions.

- (i) Whether activity of printing and supply of question papers for Universities, Educational Boards and Educational Institutes can be classified as supply of goods or supply of services?
- (ii) Whether the benefit under Sl. No.66 of the Notification No.12/2017-Central Tax (Rate) as amended from time to time, and Noti. No.12/2017-State Tax (Rate) is allowable to Applicant, if the activity is treated as supply of services?
- (iii) If the activity is to be classified as supply of goods, then whether the same can be treated as exempted goods under SL. No. 119 of the exempted list at Nil rate of tax under CH 4901 i.e. Printed Books including braille books?

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

2. FACTS AND CONTENTION – AS PER THE APPLICANT FACTS:

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

The Applicant

1. The Applicant, M/s. Prabhakar & Sons is a proprietary firm owned by Shri. Makarand Vasant Kulkarni, having registered office at 201, Dhananjay Eternia, 2nd Floor, Vijayanagar Colony, 2129, Sadashiv Peth, Pune - 411030. The Applicant is registered under GST vide GSTIN 27AENPK2969MIZP.

Nature of activity undertaken by the Applicant in respect of which Advance Ruling is sought

2. The Applicant is engaged in the business of confidential printing of educational test papers for various Educational Boards, Universities and Educational Institutes. The activity of the Applicant requires maintenance of top secrecy, accuracy and timely delivery of the test papers to the educational boards and educational institutes. The ownership and usage rights of the contents as well as printed test papers are always with the respective University, Board or the Educational Institute.
3. For the activity of printing and supply of test papers, the contents for printing the question papers relating to examination is supplied to the Applicant by the University, Board or Educational Institutes. As per the agreement, paper is also to be supplied by them. In case, the white paper is not supplied by them, the Applicant has to procure the paper, for which the Applicant gets reimbursement from the University or Board as the case may be. The scope of work relates to compose, typeset,



print, pack, transport, and supply of sealed question papers at the given addresses to the University, Board or Educational Institute.

B. STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW APPLICANT'S INTERPRETATION

Statement containing the Applicant's interpretation of law and / or facts.

1. *As per the understanding of the Applicant printing of examination or test paper is a composite supply where the printing of the contents provided by the University or Board or Educational Institute is the principal supply.*
2. *As per Sec 2(30) of the CGST Act, 2017 "Composite Supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply".*
3. *As per Sec 2(90) of the CGST Act, 2017 "Principal Supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary."*
4. *The Applicant refer to the clarification issued by CBIC vide Circular No. 11/11/2017-GST, dated 20-10-2017 (F. No. 354/263/2017-TRU) issued by Government of India, Ministry of Finance (Department of Revenue), wherein it has been clarified that in the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing (of the content supplied by the recipient of supply) is the principal supply and therefore such supplies would constitute supply of service falling under heading 999295 of the scheme of classification of services.*
5. *Circular No.11/11/2017-GST*
Subject: Clarification on taxability of printing contracts.

1. *Requests have been received to clarify whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes, etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) or supply of services falling under heading 999295 of the scheme of classification of services annexed to notification No. 11/2017-CT(R).*
2. *In the above context, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the*



12

question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

3. *Principal supply has been defined in Section 2(90) of the Central Goods and Services Tax Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.*
4. *In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing (of the content supplied by the recipient of supply) is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.*
5. *In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper, etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content (supplied by the recipient of supply) is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.*
6. *Difficulty if any, in the implementation of the circular should be brought to the notice of the Board. Hindi version would follow.*
6. *In view of the above, the Applicants have classified the supply of printed question papers under SAC 999295.*
7. *The Applicant refers to the Sr. No.66 of Notification No. 12/2017-Central Tax (Rate) dt.28.06.2017. For the ready reference the same is reproduced below.*

Sl. No.	Chapter Heading	Description of Service	Rate (per cent)	Condition
66	9992	Services provided - <i>(a) by an educational institution to its students, faculty and staff;</i> <i>(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fees;</i> (b) to an educational institution, by way of, <i>(i) transportation of students, faculty and staff;</i>	Nil	Nil



		<p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution;</p> <p>(v) supply of online educational journals or periodicals</p>		
		<p>Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Provided further that nothing contained in sub-item (w) of item (b) shall apply to an institution providing services by way of,-</p> <p>(i) pre-school education and education up to higher secondary school or equivalent; or</p> <p>(ii) Education as a part of an approved vocational education course.</p>		

8. As per clause 2(y) of Noti. No.12/2017-Central Tax (Rate) "educational institution" means an institution services by way of:

- (i) Pre-school education and education upto 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 approved vocational education course.

9. Printing and supply of question papers is a service relating to conduct of examination. It is submitted that the words "in relation to" or "relating to" widen the scope of the definition. In this connection the Applicant rely upon following decisions of Hon. Supreme Court and High Court.

- **Doypack Systems Pvt Ltd vs UOI- 1988(36) ELT201(SC)**
- **Coca Cola India Pvt Ltd. vs CCE, Pune III-2009(242) ELTO168 (Bom HC)**

10. The Applicant undertakes the activities of printing question papers only for the University, Board or Institutes fulfilling the above stated conditions. In view of the abovementioned legal position, the Applicant is under bonafide belief that printing and supply of question papers to University, Board and Educational Institutes is the service relating to conduct of examination and therefore the same is exempt from GST under Sl. No.66 of Noti. No. 12/2017-Central Tax (Rate).

11. The Applicant now refer to Sl. No.27 of the Noti. No.12/2017-Central Tax (Rate). For the ready reference, the same is reproduced below.



Sl. No.	Chapter Heading	Description of Service	Rate (per cent)	Condition
27	9989	i) Services by way of printing of all goods falling under Chapter 48 or 49 [including newspapers, books (including Braille books), journals and periodicals), which attract CGST @ 6 per cent. or 2.5 per cent. or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer;	6	-
		ii) Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (i) above.	9	-

12. The Applicant also refers to Chapter 4901 which covers 'Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans'. Since the question papers cannot be treated as printed books or leaflets, in the opinion of the Applicant question papers cannot be classified under CH 4901.
13. The Applicant also refers to CH 4911. The said tariff heading covers other printed matter, including printed pictures and photographs, such as Trade advertising material, commercial catalogues and the like, printed posters, commercial catalogues, printed inlay cards, pictures, designs and photographs, plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices. The Applicant submit that the said tariff heading predominantly deals with the commercial printing, however question papers are not used for any commercial purpose. Therefore printing and supply of question papers also cannot be classified under CH 4911.
14. The Applicant also refers to the decision of the Authority for Advance Ruling under GST, Gujrat in the case of **Edutest Solutions Pvt Ltd. - 2018(18)GSTL77(AAR-GST)**, in the similar activities wherein the following has been held by the Hon. Authority:
- (i) The activity of printing of question papers by M/s. Edutest Solutions Private Limited is activity of supply of services classifiable under heading 9989 of the scheme of classification of services.
 - (ii) The service provided by M/s. Edutest Solutions Private Limited to educational institutions by way of printing of question papers for conduct of examination by such institutions would be covered by Sr. No.66 of Noti. No. 12/2017-Central Tax (Rate) as amended and Notification No. 12/2017-State Tax (Rate), as amended.
 - (iii) As the activity of printing of question papers by M/s. Edutest Solutions Private Limited is held to be activity of supply of service, the questions of appropriate classification as 'goods' and applicable rate on such 'goods' dose not arise.



Handwritten signature

03. CONTENTION – AS PER THE CONCERNED OFFICER:

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

OFFICER SUBMISSION DATED 07.12.2021:

COMMENTS ON THE ISSUE – The assessee has filed an application with Advance Ruling Authority, on the issues & the questions raised in application are as follows:

- i. Classification of goods and/or services or both
- ii. Applicability of a notification issued under the provisions of the CGST Act, 2017
- iii. Whether any particular thing done by the applicant with respect to any goods and/or services or both amount to or results in a supply of goods and/or services or both within the meaning of that term

Questions on which Advance Ruling is required

1. Whether Activity of printing and supply of question papers for Universities, Educational Boards and Educational Institutes can be classified as supply of services?
2. Whether the benefit Under Sr.No.66 of the Notification No.12/2017-Central Tax (Rate) as amended from time to time, and Notfn.No.12/2017-State Tax (Rate) is allowable to Applicant
3. If the activity is to be classified as supply of goods, then whether the same be treated as exempted goods under Sr.No.119 of the exempted list at Nil rate of tax under CH 4901 i.e. Printed Books including Braille books?

In this regard, it is to mention that **M/s Makrand Vasant Kulkarni** trade name- Prabhakar & Sons having GSTIN- 27AENPK2969M1ZP in the state of Maharashtra. The taxpayer has filed their GST Returns till date. The taxpayer has declared the description of goods and services in their registration as under:

Goods		Services	
HSN	Description	HSN	Description
9611 0000	DATE, SEALING OR NUMBERING STAMPS, AND THE LIKE (INCLUDING DEVICES FOR PRINTING OR EMBOSSING LABELS), DESIGNED FOR OPERATING IN THE HAND;	998912	Printing and reproduction services of recorded media, on a fee or contract basis



Handwritten signature/initials

	HAND-OPERATED COMPOSING STICKS AND HAND PRINTING SETS INCORPORATING SUCH COMPOSING STICKS		
4911	OTHER PRINTED MATTER, INCLUDING PRINTED PICTURES AND PHOTOGRAPHS		
4911 9910	OTHER PRINTED MATTER, INCLUDING PRINTED PICTURES AND PHOTOGRAPHS - OTHER : OTHER : HARD COPY (PRINTED) OF COMPUTER SOFTWARE		

The applicant vide their ARA have submitted the application before Advance Ruling Authority stating that printing of examination or test paper is a composite supply where the printing of the contents provided by the University or Board or Educational Institute is the principal supply.

As per "Composite Supply" as defined in Section 2(30) of the CGST Act, 2017 means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply".

As per Section 2(90) of the CGST Act, 2017 "Principal supply" means the supply of goods and services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary"

As per the Circular No.11/11/207-GST, dated 20.10.2017 issued by CBIC, Govt.of India,Ministry of Finance (Deptt. Of Revenue) wherein it has been clarified that "*in the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing (of the content supplied by the recipient of supply) is the principal supply and therefore such supplies would constitute supply of service falling under heading 999295 of the scheme of classification of services.*"

Vide Circular No.11/11/2017-GST the clarification of taxability of printing contracts is given as follows:

Para 4, it is clarified that printing of books, pamphlets, brochures, annual reports, and the like, where



only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing (of the content supplied by the recipient of supply) is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of service.

In para 5, In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper, etc. falling under chapter 48 & 49, printed with designed, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content (supplied by the recipient of supply) is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 29 of the Customs tariff.

In view of above clarifications, the applicant clarified that since question papers cannot be treated as printed books or leaflets or newspaper and hence cannot be classified under CH 4901. Likewise CH 4911 predominantly deals with the commercial printing, however question papers are not used for any commercial purpose, Therefore printing and supply of question papers cannot be classified under CH 4911 also.

Thus, the applicant have classified the activity of printing and supply of question papers for Universities, Educational Boards and Educational Institutes under HSN 999295 as supply of services relating to conduct of examination and therefore the same is exempt from GST under Sr.No.66 of Notfn.No.12/2017 Ctax dtd. 28.6.2017. In this connection, the applicant rely upon following decisions of Hon`ble Supreme Court ad High Court.

- i. Doypack Systems Pvt.Ltd. Vs UOI-1988(36)ELT201(SC)
- ii. Coca Cola India Pvt.Ltd. Vs CCE, Pune III-2009(242)ELT0168(Bom HC)

Comments of the Department – In the instant case it is observed that the taxpayer is undertaking activity of printing and supply of test papers to the Education Boards, Universities & Educational Institutes where content for printing of question papers relating to examination is supplied to the tax payer by University, Board or Education Institutes and the ownership and uses rights of the contents as well as printed test paper are always with the respective educational institute. Hence as per Para 4 of clarificatory Circular No.11/2017-GST dated 20.10.2017 – *“In the case of printing of books, pamphlets, brochures, annual reports, and the like where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing (of the content supplied by the recipient of supply) is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.”*



Even though the activity of printing of test paper/question papers is not mentioned in services mentioned in Para 4(as quoted above) of the Circular No.11/2017-Central Tax(Rate) dated 20.10.2017, the intent is that the ownership of usage rights to the intangible inputs lies with the Universities, Educational Boards/Institutes is also applicable in the instant case and the supply of service in the instant case would constitute supply of service falling under CH 9989. However, as per entry no.66 of Notfn.No.12/2017-Central Tax dt.28.6.2017, the exemption is available to the service falling under CH 9992. Therefore, the department is of the view that the activity undertaken by the taxpayer does not qualify the exemption provided under Notification 12/2017.

04. HEARING

Preliminary e-hearing in the matter was held on 17.11.2021. The Authorized representative of the applicant, Shri. Sanjay Bhargave, Learned Consultant and Shri. Makrand Kulkarni were present. The Jurisdictional officer was absent.

The application was admitted and called for final e-hearing on 15.11.2022. Sanjay Bhargave, GST Consultant, Authorized Representative, appeared made oral and written submissions. Jurisdictional Officer was absent. We heard both the sides.

05. OBSERVATIONS AND FINDINGS:

Preliminary e-hearing in the matter was held on 17.11.2021. The Authorized representative of the applicant, Shri. Sanjay Bhargave, Learned Consultant and Shri. Makrand Kulkarni were present. The Jurisdictional officer was absent. The application was admitted with following directions to the applicant.

Applicant to produce invoices, agreements and details to explain exact nature of work/activity being undertaken by the applicant. Applicant to inform exactly to which particular recipients (with details of name and course of details) the applicant provides the services and the types/nature of services. The jurisdictional officer to file written submission. Application is admitted.

In spite of specific directions in writing and explained during the course of hearing at the time of admission as well as at the time of final hearing on 15/11/2022, no details are produced. The case is finally heard on 15/11/2022. No such details are produced before the Advanced Ruling Authority. The applicant wants to know the answer to certain question. The answer to the question can only be given after considering the underlying facts. If no records, bills, tender documents or correspondence, or agreement which govern the transaction or any document whatsoever related to transaction being undertaken or proposed to be undertaken is produced, it is not possible to comprehend the transaction. Hence, there is no other alternative, but to hold that the answer to the question cannot be given in the absence of proper details.

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



ORDER

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

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

Question-1:- Whether activity of printing and supply of question papers for Universities, Educational Boards and Educational Institutes can be classified as supply of goods or supply of services?

Answer:- Question cannot be answered in view of above discussion.

Question-2:- Whether the benefit under Sl. No.66 of the Notification No.12/2017-Central Tax (Rate) as amended from time to time, and Noti. No.12/2017-State Tax (Rate) is allowable to Applicant, if the activity is treated as supply of services?

Answer:- Question cannot be answered in view of above discussion.

Question-3:- If the activity is to be classified as supply of goods, then whether the same can be treated as exempted goods under SL. No. 119 of the exempted list at Nil rate of tax under CH 4901 i.e. Printed Books including braille books?

Answer:- Question cannot be answered in view of above discussion.




M. RAMMOHAN RAO
(MEMBER)


T. R. RAMNANI
(MEMBER)

Copy to:-

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



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

