



**BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
Goods and Service Tax**

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Edupugallu, Vijayawada-521151

Present

1. Sri. D. Ramesh, Additional Commissioner of State Tax (Member)
2. Sri. M. Sreekanth, Joint Commissioner of Central Tax (Member)

AAR No.08 /AP/GST/2020 dated:05.03.2020

1	Name and address of the applicant	M/s. Master Minds, D.No.5-25-72, 3/11, Brodipet, Guntur
2	GSTIN	Unregistered
3	Date of filling of form GST ARA-01	12.12.2019
4	Date of Personal Hearing	19.12.2019
5	Represented by	Shri Y.Sreenivasa Reddy, Advocate
6	Jurisdictional Authority	Not applicable
7	Clause(s) of section 97(2) of CGST/SGST Act,2017 under which the question(s) raised	(b) Applicability of a Notification issued under the provisions of this Act. (e) Determination of the liability to pay tax on any goods or services or both;

ORDER

(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub- section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to CGST Act and APGST Act respectively) by M/s. Master Minds, Brodipet, Guntur (hereinafter referred to as 'applicant'), not registered under the Goods & Services Tax Act, 2017.



2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE:

3.1 The applicant herein is a proprietary firm and a leading educational institution providing coaching to students for Chartered Accountancy certificate ('CA'); Cost and Works Accountancy Certificate ('ICWA') and Intermediate Certificate. The coaching provided by the applicant enables the students to appear for the examinations

conducted by the respective statutory bodies i.e., Intermediate (Higher Secondary Education), Chartered Accountancy Course (consisting of three levels i.e. CA Foundation Course (earlier referred as 'CPT'), CA-Intermediate (earlier referred as 'IPCC') Course and CA-Final Course), and Cost Management Accountancy (Consisting of three levels i.e. CMA Foundation Course, CMA-Intermediate Course and CMA-Final Course) and to obtain the necessary qualifications. The applicant's registration with Service tax department was migrated to GST under GST Act w.e.f. 01.07.2017. However, on the request of the applicant on the ground that the educational services provided by the applicant were exempted under GST vide entry no 66 of Notification No.12/2017-Central Tax dated 28.06.2017, the department approved cancellation of Migrated Registration.

3.2. The applicant was initially registered with the service tax department as a service provider under the category of 'Commercial Training or Coaching Centre and was paying service tax. However, when exemption was provided to the services of a Commercial Training or Coaching center by way coaching that leads to any certificate recognized by law under Notification No.33/2011-ST dt.25.4.2011, he stopped payment of service tax on due intimation to the service tax department.

3.3. The service tax department issued show cause notices demanding service tax on the fee collected by the applicant and certain demands were dropped and some confirmed with the reasons detailed below, as can be seen from the copies of the show cause notices and orders submitted by the applicant along with his application:



- (a) The demands in respect of the coaching provided for obtaining certificates of CA-Final, CA-Inter (IPCC) and ICWA Final are not sustainable since the coaching provided for these courses lead to grant of any certificates issued by statutory bodies duly recognized under Law enacted by the Parliament.
- (b) The demands in respect of the coaching provided for CPT (now called CA-Foundation) and ICWA-Foundation (presently called ICWA-Foundation) are sustainable since the coaching provided for these courses does not lead to grant of any certificates recognized by Law.
- (c) The demands in respect of coaching provided for the Intermediate course is not correct since the intermediate certificate issued by the Board of Intermediate Education is a certificate recognized under law but since the demand is sustainable as the applicant had not provided the details of all the students to whom the coaching is provided and since the applicant is collected more fee than that prescribed by the Board of Intermediate Education.

3.4. The above orders were accepted by the committee of Chief Commissioners of the department and the service tax department had not filed any appeal against the said orders. However, the applicant filed appeals before the Tribunal against the confirmation of demands on certain courses and the same are pending before it. The applicant was even granted refund of the service tax paid on such services by the jurisdictional Assistant Commissioner and the department had not filed any appeal against such refund order.

3.5. The latest show cause notice was issued to the applicant for the period from 1.4.2012 to 30.6.2017 demanding service tax on the coaching provided by the applicant for the courses of CA and ICWA but the demand was dropped by the Commissioner of Central Tax, Guntur both on merits and limitation.

3.6. With the introduction of the GST, the applicant desires to know whether the same exemption provided under the Finance Act, 1994 is applicable to him under the GST Law also since identical exemption was provided under both the Laws. He accordingly filed the present application.

4. APPLICANT'S INTERPRETATION OF LAW AND FACTS:

4.1. Intention of the Government was always to keep the services provided in relation to education and medical services out of the ambit of service tax as they are related to public welfare.



4.2. Under the service tax regime introduced since 1994, commercial coaching or training was made a taxable service. However, Notification No.33/2011-ST dt.25.4.2011 provided exemption to a commercial institute providing any coaching that lead to any certificate recognized by law.

4.3. After the introduction of the negative list in the Finance Act, 1994 with effect from 1.7.2012, Section 66D(1)(ii) of the Act dealing with the exclusions of certain services from the levy of service tax reads as follows:

“Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force”

4.4. This entry had been subsequently deleted vide Notification No.9/2016-ST dt.1.3.2016 and the service of training or coaching in educational activities provided by an educational institution is granted exemption from service tax by way of amendment to Notification No.25/2012-ST vide entry no.9. The relevant entry is as follows:

(9) Services provided, -

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

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

(i) transportation of students, faculty and staff;

(ii) catering, including and mid-day meals schemes sponsored by the Government;

(iii) security or clearing or house-keeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by, such institutions;

4.5. The said Notification No.25/2012-ST defined an ‘educational institution’ as follows:

Till March 2016:

(oa) “educational institution’ means an institution providing services specified in clause (l) of section 66D of the Finance Act, 1994’



From March 2016:

“2(oa): Educational institution means an institution providing service by way of:

- (i) Pre-school education and education up to higher secondary school or equivalent.*
- (ii) Education as a part of curriculum for obtaining qualification of any law time being in force.*
- (ii) Education as a part of an approved occasional educational course.”*

4.6. Similar exemption granted under negative tax regime of service tax is extended to the educational services in GST regime also. Entry no.66 of Notification No.12/2017-Central Tax (Rate) dt.28.06.2017 as amended by Notification No.2/2018-Central Tax (Rate) dated 25.01.2018, extracted below specifies the following education services as exempted from GST.

“Services provided –

- (a) By an educational institution to its students, faculty and staff;*
- (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 house-keeping services performed in such educational institution;*
 - (iv) Services relating to admission to, or conduct of examination by, such institution; upto higher secondary;*

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.”

4.7. The term ‘educational institution’ is also defined under the GST Act in Notification No. 12/2017- Central Tax (Rate), dated 28.06.2017 as follows:



“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;

4.8. It is clear from the above that the definition of the term ‘educational institution’ under the Finance Act, 1994 and GST Act, 2017 are one and the same. Therefore, prior to introduction of GST i.e., during the negative list regime and thereafter i.e., after introduction of GST, exemption was provided to any coaching provided if the coaching is provided as a part of curriculum and for obtaining a qualification recognized by any law for the time being in force by the student to whom the education is imparted.

4.9. Basing on identical definitions and exemption entries, demands against him during the service tax regime were dropped holding that it is an educational institution.

4.10. The above definition and the entries in the Notification thus, brought educational services out of the purview of service tax/GST, if provided by an educational institution and if

,(a) The service provided is related to education.

(b) The education is provided as a part of a curriculum and

(c) The education is provided for obtaining a qualification recognized by any law for the time being in force.

4.11. The terms ‘education’ and ‘curriculum’ are not defined in the Finance Act, 1994 or Central Excise Act, 1944 and it is a settled legal position that when the definition is not given in the Act general definitions are to be taken or considered, which are explained below:

Education’ means:

As per Cambridge Dictionaries online:



“the process of teaching or learning in a school or college, or the knowledge that you get from this:”

As per Dictionary.Com

- 1.the act or process of imparting or acquiring general knowledge ,
developing the powers of reasoning and judgment, and
generally preparing oneself or others intellectually for mature life.*
- 2.the act or process of imparting or acquiring particular knowledge or skills, as for a profession.*
- 3.a degree, level, or kind of schooling: a university education.*
- 4.the result produced by instruction, training, or study: to show one's education.*
- 5.the science or art of teaching; pedagogics.*

'Curriculum' means:

As per Dictionary.Com:

- 1.the aggregate of courses of study given in a school, college, university, etc.:*
- 2.the regular or a particular course of study in a school, college, etc.*

As per Oxford Dictionary:

-the subjects comprising a course of study in a school or college.

As per Cambridge Dictionaries online:

-the subjects studied in a school, college, etc. and what each subject includes the school curriculum

4.12. Therefore, the provision 'education as a part of curriculum....' can be understood as 'imparting knowledge (education) through a systematic syllabus in an institution/ college/ school'. The education shall be useful for obtaining a 'qualification' recognized by law to get exemption under the provisions of Section 66D(1)(ii) of the Act and subsequent to April 2016 under the exemption notification



and under GST from 1.7.2017. What is to be seen here is whether, the applicant is an institution, and whether the coaching or training that the applicant imparts / prepares the students for obtaining a qualification duly recognized by any law. It is a settled legal position that the legal provisions are to be read literally and no words shall be added or deleted from the provision. The applicant cites few decisions in this regard below:

- (a) In the case of *Ranbaxy vs. UOI* 2012 (27) STR 193 (SC), the Hon'ble Supreme Court held as follows:

"10. It is a well settled proposition of law that a fiscal legislation has to be construed strictly and one has to look merely at what is said in the relevant provision; there is nothing to be read in; nothing to be implied and there is no room for any intendment. [See: Cape Brandy Syndicate v. Inland Revenue Commissioners, [1921] 1 K.B. 64 and Ajmera Housing Corporation & Anr. v. Commissioner of Income Tax, (2010) 8 SCC 739].

- (b) Even a Court cannot read anything into a statutory provision which is plain and unambiguous as held in the case of *Trutuf Safety Glass Industries vs. Commissioner of Sales Tax, UP* 2007 (215) ELT 14 (SC)., relevant portion is extracted below for ready reference:

"16. It is well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of legislative intent.

17. Words and phrases are symbols that stimulate mental references to referents. The object of interpreting a statute is to ascertain the intention of the Legislature enacting it. [(See Institute of Chartered Accountants of India v. M/s. Price Waterhouse and Anr. (AIR 1998 SC 74)]. The intention of the Legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. As a consequence, a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided. As observed in Crawford v. Spooner (1846 (6) Moore PC 1), Courts, cannot aid the Legislatures' defective phrasing of an Act, we cannot add or mend, and by



construction make up deficiencies which are left there. [(See The State of Gujarat and Ors. v. DilipbhaiNathjibhai Patel and Anr. (JT 1998 (2) SC 253)]. It is contrary to all rules of construction to read words into an Act unless it is absolutely necessary to do so. [(See Stock v. Frank Jones (Tiptan) Ltd. (1978 1 All ER 948 (HL)]. Rules of interpretation do not permit Courts to do so, unless the provision as it stands is meaningless or of doubtful meaning. Courts are not entitled to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself. (Per Lord Loreburn L.C. in Vickers Sons and Maxim Ltd. v. Evans (1910) AC 445 (HL), quoted in Jamma Masjid, Mercara v. KodimaniandraDeviah and Ors. (AIR 1962 SC 847).

4.13. Therefore, the applicant satisfied the first limb of the definition of the term 'educational institution' to avail the exemption, the institution shall provide 'education' as part of its coaching provided to the students and therefore, he is eligible for the exemption.

4.14. As regards to the issue whether the education is imparted as part of a curriculum prescribed by any statutory body or institution, the applicants submits that *he imparts the education as part of curriculum*. The coaching provided by him for the courses is as per the curriculum prescribed by the respective statutory bodies as detailed below:

- (a) Systematic coaching is provided to the students for obtaining the qualification/ certificate of 'Intermediate Course' as per the curriculum prescribed by Board of Intermediate Education of Government of Andhra Pradesh and Telangana or other state governments. Copy of GO issued in this regard and the syllabus prescribed is filed herewith.
- (b) Systematic coaching is provided to the students by the applicant as per the curriculum prescribed by ICAI for obtaining the qualification of Chartered Accountancy Course. Copy of Prospectus for CA course taken from the website of ICAI is filed herewith. The Institute of Chartered Accountants of India [ICAI] functions under the administrative control of the Ministry of Corporate Affairs, Government of India. Apart from other functions such as Regulation of Accountancy Profession, formulation of Accounting Standards, etc., also prescribes curriculum for CA course and conducts examinations along with other certificate course to its registered students and members.



(c) With effect from 01.07.2017, the ICAI has implemented the new scheme of education (new syllabus) for Chartered Accountancy Course, which consists of three levels i.e.,

- (a) Foundation (Level One)
- (b) Intermediate (Level Two)
- (c) Final (Level Three)

(d) Under the Scheme of Education and Training, a candidate can pursue Chartered Accountancy Course either through (i) Foundation Course Route or (ii) Direct Entry Route. A student of class XII can register with the Board and study for four months course of Foundation and appear for the examination, if qualified in Class XII. The student who qualified in Foundation course shall eligible for registering for Intermediate (Level Two) and can appear the examination after completion of 8 months period. The student who qualified in either or both groups of Intermediate shall register for practical training of three years with any practicing-chartered accountant. After successful completion of Intermediate, he shall register for Final Course. The student who completes all the three levels along with practical training will be awarded Chartered Accountancy Certificate. A person who qualified bachelor's degree in Commerce & Economics with certain percentage shall eligible to register for Level Two of CA Course i.e., intermediate and the students who qualified in the Intermediate level of examination of the Institute of Cost Accountants of India and The Institute of Company Secretaries of India will be exempted from Foundation Course and shall eligible to enroll directly for Intermediate [Level Two].

(e) Coaching for Cost Management Accountancy Course [CMA] conducted by the Institute of the Institute of Cost and Works Accounts of India [ICWAI], a statutory body established by an Act of Parliament, viz. Cost And Works Accountants Act, 1959 for regulating the profession of Cost Accountancy in India. With effect from 01.08.2016, the institute has implemented the new

scheme of education (new syllabus) for Chartered Accountancy Course, which consists of three levels i.e.

- (a) Foundation Course (Level One)
- (b) Intermediate Course (Level Two)
- (c) Final Course (Level Three)



- (f) The ICAI Institute designs the curriculum of syllabus for the three level of CMA course and provides study material to the enrolled students. After qualifying in the examinations conducted by the institute and successful completion of each level of CMA Course, the institute will issue Marks Memos and Certificates to the students as is done, for a degree course, by any University. Copy of Prospectus for CMA course taken from the website of ICAI is filed herewith. Admission to Foundation and Intermediate Course of CMA is as par with CA course. Further, foundation Course of CA/ CMA is not an admission examination, but it is a Part of CA / CMA Course and only students who qualified in a specified degree courses are eligible for direct entry into Intermediate Course of CA/CMA.

4.15. Therefore, he satisfied the second limb of the definition of the term 'educational institution' to avail the exemption, the institution shall provide 'education' as per the curriculum prescribed by the statutory bodies as part of its coaching provided to the students and therefore, he is eligible for the exemption.

4.16. With regards to the question whether the above qualifications/ certificates issued by the statutory bodies are to be treated as 'qualification' or not, the documentary evidence filed herewith clearly establishes how the above courses are qualifications recognized under law as also held by Commissioner of GST and Central Tax in his order dt.11.3.2015 copy of which is filed herewith.

- (a) Copies of a Marks Memo of CA Course issued by ICAI for the Level-1 course (Foundation) are filed herewith.
- (b) Copies of a Marks Memo and Certificates of CA Course issued by ICAI for the Level-2 course [Intermediate] are collectively filed herewith.
- (c) Copies of a Marks Memo and Certificates of CA Course issued by ICAI for the Level-3 course [Final] are collectively filed herewith.
- (d) Copies of a Marks Memo of CMA Course issued by ICWAI for the Level-1 course [Foundation] is filed herewith.
- (e) Copies of a Marks Memo of CMA Course issued by ICWAI for the Level-2 course [Intermediate] are filed herewith.
- (f) Copies of a Marks Memo and Certificates of CMA Course issued by ICWAI for the Level-3 course [Final] are collectively filed herewith.



4.17. In the earlier Adjudication Orders passed by the Commissioner of Central Tax under the service tax regime, demands were confirmed on the coaching provided for the CPT course and ICWA Foundation courses on the ground that they do not lead to grant of certificates but only qualifications. Under negative list of service tax regime and GST regime, there is no such stipulation of granting of a certificate but obtaining a qualification is sufficient to claim the exemption.

4.18. Further, prospectus of CA Course issued by ICAI and CMA Course issued by ICWAI, clearly specifies that Foundation is Level-1 Course out of three levels of CA/CMA Courses, and it has specified syllabus and part of curriculum prescribed by these institutes and the students of intermediate education who studied the four months Foundation Course and qualified in the examinations conducted by the institutes will only be eligible for Second Level of CA/CMA otherwise they should have had a prescribed degree certificate with the specified subjects secured a minimum of 55% marks for commerce degree and 60% for non-commerce degree, issued by recognized university. Hence, it is very much clear that Foundation Course is a qualification recognized under law and issued by the Institute which established under an Act of Parliament. Further, the student who wishes to study CA/CMA courses shall have to register with respective Institute, which is valid for three years and he has to pass the Foundation Course. If he fails to pass through the above within three years, he has to register again for completion of Foundation Course. The enrolment number given at the time of registration will remain as his ID No for entire duration of the completion of CA/CMA Course.

4.19. The ICAI issues a Marks Memorandum under Chartered Accountants Act, 1949 read with Regulation 25D(3) of the Chartered Accountants Regulations, 1988 when a candidate passes the CPT/Foundation examination. The Marks Memorandum issued under statutory authority and it is showing as issued for passing the exam and as a qualification to go to next stage. The certificate for CA completion is issued under Regulation 25E of the said Regulations. The confusion appears to be due to not understanding the replacement of the term 'certificate' with 'qualification'.

4.20. In respect of the CA-Intermediate Course (previously known as Integrated Professional Competence Course (IPCC)), it is the second stage in completion of CA course after the completion of CA-Foundation (CPT). Intermediate Course (IPCC) consists of two groups i.e., Group-1 and Group-2 with a duration of 8 months i.e., a



student has to wait for a minimum of 8 months to write the IPCC exam after registering for IPCC with ICAI. Student will be issued a certificate from ICAI (Annexure-L) under Chartered Accountants Act, 1949 read with Regulation 25D (3) of the Chartered Accountants Regulations, 1988 when he/she passes the IPCC/CA-Inter examination. The certificate issued by statutory authority shows that it has been issued for passing the exam and as a qualification to go to next stage i.e., article-ship for 3 years. It is an intermediate stage to cross for obtaining the qualification/ certificate of CA and is a continuing education for the students.

4.21. CA Final is the final stage of CA course and a student will get the eligibility to write this examination after getting qualification of CA-IPCC/CA-Inter and after completion of 2.5 years of article-ship. A student who has passed both the groups of CA Final examination will receive a certificate issued from ICAI, a statutory authority (Annexure-M) under Chartered Accountants Act, 1949 read with Regulation 25D(3) of the Chartered Accountants Regulations, 1988 which was must to apply for the CA-Membership. According to Chartered Accountants Act 1949, 'Chartered Accountant' means a person who is a member of the Institute.

4.22. At present ICWA course has been renamed as CMA which stands for Cost Management Accounting. ICWA Foundation is the first stage of CMA and to apply for this course, students must have passed 10th or equivalent from any recognized Institution or Board and the candidate must have completed the age of 17 years. The duration of this course is four months i.e., a student must wait for a minimum of 6 months to write the CMA Foundation exam after registering with ICWAI. Every

student who has passed Senior Secondary School Examination (10+2) and Foundation Course of the Institute of Cost Accountants of India/ Graduation in any discipline other than Fine Arts/ Foundation (Entry Level) Part I Examination of CAT of the Institute/ Foundation (Entry Level) Part I Examination and Competency Level Part II Examination of CAT of the Institute/ Passed Foundation of ICSI/Intermediate of ICAI is eligible to apply to ICMAI for CMA Inter. It is an intermediate stage to cross for obtaining the qualification/ certificate of CMA and is a continuing education for the students. A Student who passed the Foundation exam will be awarded with a Marks Memorandum issued by the Institute showing obtaining of qualification of Foundation Course.

4.23. In respect of the Intermediate Course, it is the second stage in completion of CMA course after the completion of CMA-Foundation]. Intermediate Course consists of two groups i.e., Group-1 and Group-2 with a duration of 8 months i.e., a student has to wait for a minimum of 8 months to write the CMA Inter exam after registering for CMA-Inter with ICWAI. Student will be issued a certificate from



ICWAI when he/she passes the CMA-Inter examination. The certificate issued under statutory authority for passing the exam and as a qualification to go to next stage i.e. Final Course and Practical Training. It is an intermediate stage to cross for obtaining the qualification/ certificate of CMA and is a continuing education for the students.

4.24. A student can apply for ICWA-Final after qualifying both the groups of ICWA Intermediate course conducted by the Institute of Cost Accountants of India. Every student who has registered for the intermediate course of CMA, must undergo a practical training (articleship) of total 3 years. It is mandatory to complete 6 months of practical training before appearing for either groups or both groups of CMA Final examination. A student who has passed both the groups of CMA Final examination will receive a certificate issued from ICWAI, a statutory authority. After passing both the groups of CMA Final, one can apply for the membership of CMA after which he/she will become Cost Management Accountant. According to Sec 2(b) of CWA Act 1959, "Cost Accountant" means a person who is a member of the Institute.

4.25. The Intermediate Education (also known as Higher Secondary Classes (HSC)) is a two-year course conducted by Board of Intermediate Education Andhra Pradesh (BIEAP) or any other state government. The student undergoes coaching for obtaining the intermediate qualification and the students who passed the examination conducted by the Board will be awarded a Marks Memorandum by the respective State Boards.

4.26. Therefore, the applicant satisfied the third limb of the definition of the term 'educational institution' to avail the exemption as it is imparting coaching to the students for obtaining qualifications recognized under any Law.

4.27. As per the entry in the exemption notification under GST, if the coaching is provided by an educational institution to its students for obtaining a qualification it is exempted. The phrase 'for obtaining a qualification' is unambiguous. The student takes the coaching for obtaining a qualification by himself. The institution has no role except coaching the students to enable him to obtain the qualification.

4.28. In the past, the department contended that the exemption is to be provided only if the educational institution is (a) affiliated to ICAI and ICWAI (b) has an authorization or accreditation or affiliation or MOU or any partnership with these institutes (c) having a role in the entire scheme of issue of CA/CMA certificates. But



this argument was not accepted even by the Commissioner of GST and Central Tax, Guntur in his Original Order No.22/2013-ST dt.29.3.2013 as explained above.

4.29. As already explained above, it is a settled legal position that words in a notification or statute shall be read as they are and no word shall be added or deleted for reading the statute. In the case of Gujarat Vs Reliance Petroleum Ltd 2008 (227) ELT 3 (SC), the Hon'ble Apex Court has held that an exemption notification should be read literally and to be construed liberally. As held by the Hon'ble Supreme Court in the case of Commissioner of Customs (Prev), Amritsar vs. Malwa Industries Ltd 2009 (235) ELT 214 (SC), exemption notification cannot be unduly stretched to produce unintended results in derogation of the plain language employed therein. Thus, when the words employed in the legislature are simple, plain and unambiguous there is no reason to qualify or restrict by addition or deletion of any other words.

4.30. The essential condition, as seen from the definition of the term 'educational institution', is that, providing service as education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force. This has been satisfied by the applicant as detailed above. The coaching provided for CA, ICWA etc., can be distinguished with the coaching given for IIT exam etc., in as much as the coaching for IIT exams etc., is not for obtaining any qualification but for joining in another course. The coaching for IIT is not part of the course the student joins. Once the test is conducted the students have to further opt for the courses and pursue any one of them. In the case of coaching for CA, ICWA etc., the coaching is meant for obtaining the same specific qualification. Registration number allotted by these institutes at the time of for their foundation courses will be continued till their final exam. In case of EAMCET etc., student needs to pay only exam fee but not registration fee, whereas in the case of CA Foundation, student has to enroll with the ICAI / ICWAI Institute and pay Registration fee and exam fee also. EMCET/ IIT entrance examinations are conducted on the syllabus of Intermediate Education but do not have any specific syllabus / curriculum and not part of the Course that is going to be admitted into it, whereas, Foundation for CA/ CMA is having specific syllabus, duration, examination, qualifying nature and moreover it is a part of CA / CMA Course as first level and part of its curriculum.



4.31. The CA and CMA qualification is recognized equivalent to Post Graduate Course in Commerce by 103 Universities, 9 IIMs & 2 IITs in India and the persons who completed CA / CMA Course shall directly do the Ph.D Course in the said universities & Institutes. Therefore, the applicant opines that CA /CMA course is a qualification recognized under law in India.

4.32. The applicant also opines that the services of provision of food and accommodation to the students perusing the said courses are also not liable to GST under the same notification and also as clarified vide CBIC Circular No.85/04/2019-GST dt.01.01.2019 that supply of food, beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt under Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, vide Sl. No. 66 w.e.f. 01-07-2017 itself. He is providing accommodation and food services to the students of Intermediate Course and three levels of CA / CMA courses individually and with various combinations. If the value of accommodation is below or equal to Rs.1000/- per day, the same is separately exempted vide Notification No.12/2017-Central Tax (Rate) dt.28.06.2017 (Sl.No.14). Sample copies of receipts issued by the applicant to the students for charging fee for accommodation are filed herewith. The amounts charged as about Rs.2,500/- per course spanning for a period of 10 months and therefore, the daily fee works out to less than the threshold limit provided under the said notification and accordingly, he is not required to pay any GST on the said charges.

4.33. In view of the above, he opines that:

- (a) The applicant falls within the definition of the term 'educational institution' as per the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended till now.
- (b) The services provided by him are related to provision of education.
- (c) The education is provided as a part of a curriculum and
- (d) The service is provided by him to his students for obtaining qualifications duly recognized under any Law for the time being in force and
- (e) He is eligible to claim the exemption from payment of GST on the coaching service provided to his students for the above courses and also for provision of accommodation and catering.



5. QUESTIONS RAISED IN THE APPLICATION:

5.1. The applicant filed the present application seeking a ruling from this Authority on the following issues:

- (a) Whether the coaching/ training provided by the applicant to the students for the above courses falls within the wider meaning of the term 'education' and in relation to education?
- (b) Whether the education/ coaching provided by him to the students is as per the curriculum or part of the curriculum prescribed by the Institutes (i.e., ICAI, and ICWAI) established by an Act of Parliament & Government of various States of India?
- (c) Whether the Intermediate Course conducted by Board of Intermediate Education of Government of Andhra Pradesh, Telangana and other State Governments of India, Chartered Accountancy Course & Cost Management Accountancy Course with different levels conducted by the Institute of Chartered Accountants of India & the Institute of Cost Works Accounts of India respectively, are qualifications recognised under law as per the provisions of GST Acts / other laws in India?
- (d) Whether the education/coaching provided by him to the students is for obtaining a qualification recognised under the law as explained in detail by the applicant above?
- (e) Accordingly, whether the applicant falls within the definition of the term 'educational institution' as defined in Notification No.12/2017-Central Tax (Rate) dt.28.06.2017, as has been held by the Commissioner of Central Tax in his order dt.23.05.2015 as the said service is provided to the student for obtaining a qualification recognised under the law?
- (f) If so, whether the service of coaching/ education provided by the applicant is exempted vide Notification No.12/2017-CT (Rate) dt.28.06.2017, as amended?
- (g) Whether the charges collected for providing accommodation to the students undergoing the above courses are exempted from GST as provided under Notification No.12/2017-CT (Rate) dt.28.06.2017 as amended?



- (h) Whether the charges collected for supplying food to the students undergoing the above courses are exempted from GST as provided under Notification No.12/2017- CT (Rate) dt.28.06.2017?

5.2. The advocate of the applicant filed a memo dt.19.12.2019 seeking to modify the above questions when asked to clarify under which sub-clause of Section 97(2), the above questions fall. The re-phrased questions are as follows:

- (a) Whether the services of 'supply of service of education' as per the curriculum prescribed by the statutory authorities/ government to the students of the applicant for obtaining qualifications/ certificates of CA-Foundation, CA-Inter, CA-Final, CMA (ICWA)-Foundation, CMA-Inter, CMA-Final and Intermediate duly recognized by the respective statutory authorities/ government are exempted under Notification No.12/2017-CT (Rate) dt.28.06.2017 (entry no.66(a)), as amended?
- (b) Whether the charges collected for providing accommodation to the students undergoing the above courses are exempted from GST as provided under Notification No.12/2017-CT (Rate) dt.28.06.2017 (entry no.14), as amended read with Circular No.32/06/2018-GST dt.12.2.2018 since the amount charged from the students by the hostel run by the applicant is less than Rs.1000/- per day?
- (c) Whether the charges collected by the applicant for catering service by supplying food to the students undergoing the above courses are exempted from GST as provided under Notification No.12/2017-CT (Rate) dt.28.06.2017 (entry no.66(a)), as amended?

6. On Verification of basic information of the applicant, it is observed that the applicant is an unregistered dealer located in the territorial limits of the Assistant Commissioner (ST), Brodipet Circle, Narasarao Pet Division, Guntur. Accordingly, the application has been forwarded to them to offer their remarks as per the Section 98(1) of CGST/APGST Act 2017. In response, the officer concerned stated that there are no proceedings lying pending or passed relating to the applicant on the issue, for which the Advance Ruling sought by the applicant.

7. RECORD OF PERSONAL HEARING:

Sri Y. Sreenivasa Reddy, the authorized representative of the Applicant firm appeared for Personal Hearing on 19.12.2019 and during the hearing he reiterated the submissions already made in the application.



8. DISCUSSION AND FINDINGS:

8.1. We have examined the issues raised in the application. The issues raised by the applicant before us were under litigation since long under the service tax regime as narrated by the applicant in the application. Though we are not concerned with the issues under litigation under the service tax regime, with the identical exemption provided for educational services both under the service tax regime and GST regime and identical issues being presented before the Central Tax authorities in the past, we wish to discuss the proceedings under the service tax regime without ignoring the past history. Accordingly, we do so.

8.2. The question basically raised in the proceedings before us and even before the authorities under the service tax regime is whether the coaching provided by the applicant to its students is exempted from GST and service tax as the case may be. The term coaching is no more used in the GST and supply of the service is the criteria. We understand from the legal provisions, narration of the issue and the documents submitted by the applicant along with the application that the questions that are to be addressed by us in these proceedings are:

- (a) Whether the applicant falls within the definition of the term 'educational institution' as defined under Notification No.12/2017-Central Tax (Rate) dt.28.06.2017?
- (b) Whether the applicant is supplying the services to the students as an educational institution?
- (c) Whether the service of supply of food i.e. catering and accommodation to the students for these courses is exempted under the said notification?

8.3. The relevant entries in the said Notification No.12/2017- Central Tax (Rate) dt.28.06.2017 in entry no.66 as applicable from 1.7.2017 are reproduced below again:

Services provided –

- (a) *By an educational institution to its students, faculty and staff;*

The term 'educational institution' as per the said Notification is as under:



“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;*

8.4. The relevant entry prior to 1.7.2017 under the service tax regime under Notification No.25/2012-ST (entry no.9) is as follows:

(9) Services provided, -

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

The said Notification No.25/2012-ST defined an ‘educational institution’ as follows:

“2(oa): Educational institution means an institution providing service by way of:

- (i) Pre-school education and education up to higher secondary school or equivalent.*
- (ii) Education as a part of curriculum for obtaining qualification of any law time being in force.*
- (iii) Education as a part of an approved occasional educational course.”*

8.5. In the last show cause notice O.R.No.49/2018-ST dt.23.10.2018 for which Order-In-Original No.GUN-EXCUS-000-COM007-19-20-S.Tax dt.23.05.2019 was passed under the service tax regime, the demand of service tax was proposed alleging the following:

- (a) The coaching/ training provided by CA (Inter and Final) and ICAI/ CMA (Inter and Final) are not the services provided in relation to the education and it is not a part of curriculum for obtaining a qualification recognized by any law for the time being in force and therefore, the services falls outside the purview of services provided in Negative list under Section 66D(1)(ii) of the Act.



- (b) The applicant cannot be said to be an educational institution within the meaning of Section 2(oa) of Notification No.25/2012-ST dt.26.10.2012 as amended in so far as it relates to coaching or training for CA (Inter and Final) and ICWAI/ CMA (Inter and final) and the services provided by them cannot be considered as exempted services under Sl. No. 9 of ibid.
- (c) Commercial Training or Coaching provided by the applicant to the aspirants of CA and ICWAI courses for imparting scheme or knowledge or lessons on any subject or field are taxable services within the meaning of Section 65B of the Act.
- (d) The applicant is not affiliated or recognized or authorized by ICAI or ICWAI or it had any partnership or MOU with these bodies for imparting coaching or training related to courses recognized by these bodies.
- (e) The portion of education / course of IT and soft skills did not form part of the course structure or syllabus of the courses.
- (f) The applicant suppressed the information from the department and therefore invokes extended period of limitation.

8.6. The Commissioner of Central Tax and GST, Guntur vide the above order dropped the entire demand both on the grounds of merits and limitation. Gist of his findings is as follows:

- (a) There is no change on the taxable nature of services covered under Section 66D(l) even after deletion from negative list as they are covered under exemption Notification No.25/2012-ST dt.26.10.2012.
- (b) As the applicant is providing coaching and training as per the syllabus prescribed by ICAI and ICWAI, they squarely fall under Section 66D(l)(ii) of the Finance Act up to 13.05.2016 and covered under exemption Notification No.25/2012-ST dt.26.10.2012 thereafter.
- (c) The allegation that the applicant is providing only part of curriculum/ syllabus but not providing training or coaching for all the syllabus prescribed by the statutory bodies is not acceptable as providing part of syllabus prescribed will not alter or influence the status of the services provided as long as they are provided in relation to education for obtaining qualification.



- (d) There are no legal requirements for the institute as per the entries in the negative list and the exemption notification for the institute to be recognized or authorized but only a condition that the education imparted should be part of curriculum for obtaining a qualification recognized by any law.

8.7. We have examined the issues raised in the application. The taxability and the applicable rate of tax for the goods and services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined. In view of the submission made by the applicant we find that the basic issue before us is whether

the services of supply of service of education as per the curriculum prescribed by the statutory authorities/ government to the students of the applicant for obtaining qualifications/ certificates of CA-Foundation, CA-Inter, CA-Final, CMA (ICWA)-Foundation, CMA-Inter, CMA-Final and Intermediate duly recognized by the respective statutory authorities/ government are exempted under Notification No.12/2017-CT (Rate) dt.28.06.2017 (entry no.66(a)), as amended or not.

I. After the introduction of the negative list in the Finance Act, 1994 with effect from 1.7.2012, Section 66 D (1) (ii) of the Act dealing with the exclusions of certain services from the levy of service tax reads as follows:

“Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force”

II. This entry had been subsequently deleted vide Notification No.9/2016-ST dt.1.3.2016 and the service of training or coaching in educational activities provided by an educational institution is granted exemption from service tax by way of amendment to Notification No.25/2012-ST vide entry no.9. The relevant entry is as follows:

(9) Services provided, -

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

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

(i) transportation of students, faculty and staff;

(ii) catering, including and mid-day meals schemes sponsored by the Government;



- (iii) *security or clearing or house-keeping services performed in such educational institution;*
- (iv) *services relating to admission to, or conduct of examination by, such institutions;*

III. The said Notification No.25/2012-ST defined an 'educational institution' as follows:

Till March 2016:

(oa) *"educational institution' means an institution providing services specified in clause (l) of section 66D of the Finance Act, 1994'*

From March 2016:

"2(oa): Educational institution means an institution providing service by way of:

- (iii) *Pre-school education and education up to higher secondary school or equivalent.*
- (ii) *Education as a part of curriculum for obtaining qualification of any law time being in force.*
- (iii) *Education as a part of an approved occasional educational course."*

IV. Similar exemption granted under negative tax regime of service tax is extended to the educational services in GST regime also. Entry no.66 of Notification No.12/2017-Central Tax (Rate) dt.28.06.2017 as amended by Notification No.2/2018-Central Tax

(Rate) dated 25.01.2018, extracted below specifies the following education services as exempted from GST.

"Services provided –

- (c) *By an educational institution to its students, faculty and staff;*
- (d) *To an educational institution, by way of, -*
 - (v) *Transportation of students, faculty and staff;*
 - (vi) *Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;*
 - (vii) *Security or cleaning or house-keeping services performed in such educational institution;*



(viii) *Services relating to admission to, or conduct of examination by, such institution; up to higher secondary:*

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."

V. The term 'educational institution' is also defined under the GST Act in Notification No. 12/2017- Central Tax (Rate), dated 28.06.2017 as follows:

"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;*

VI. In the instant case, the coaching or training service provided in respect of the courses pertaining to CA (Inter & Final) and ICWA (Inter & Final) does not fall under clause (i) of the above said definition, as the same is not related to pre-school education and education up to higher secondary school or equivalent. Similarly, the service provided by the applicant also does not fall under clause (iii), as the same is not related to imparting of education as a part of an approved vocational education course (which is generally a non-academic course and a specific trade / vocationoriented course). While examining whether the service falls under clause (ii) or not, it is noticed that:

(a) In the instant case, the applicant is not accredited or affiliated or recognized or authorized by ICAI or ICWAI or it had any Partnership or MOU with statutory bodies viz., ICAI & ICWAI for imparting coaching or training relating to the courses recognized by these bodies. These statutory bodies are themselves offering 'coaching and training classes' to the aspirants through their Regional Councils or Branches or certain accredited private colleges / institutions. They impart training in tune with the curriculum prescribed by the above said statutory bodies. They, accordingly, issue course completion certificates to their students.



(b) On the other hand, the applicant is offering variety of coaching and training courses (regular, crash courses, revision exam courses etc.) with different structures of fee, curriculum and options to the aspirants of CA and ICWA. This gives an option to the aspirants to choose a particular coaching and training of a particular course or group or subject and join in such a particular course. Further, the applicant is not issuing any 'coaching completion certificate' or 'any study certificate' in respect of CA & ICWA Courses. Moreover, coaching or training in applicant's coaching Centre is not a mandatory compliance for an aspirant in pursuing their study and obtaining certificates from ICAI & ICWAI. It is also not mandatory on the part of the student to furnish any certification or nomination or forwarding of their applications or registrations through the applicant to the concerned statutory body in the chain of awarding of certification. The student is at liberty to discontinue coaching from the applicant's coaching centre (at the cost of financial loss, but not at the cost of academic loss) and continue his study on his own or from such other coaching centre in the course of pursuance of being conferred with Inter or Final Certificate by the above said statutory bodies.

Therefore, the service provided by the applicant to the aspirants of CA (Inter & Final) and ICWA (Inter & Final) does not ensure that the student obtains a qualification recognized by any law and hence the **same does not fall under clause (ii) of the definition given to 'Educational Institution'**.

VII. The above definition and the entries in the Notification thus, brought educational services out of the purview of service tax/GST, if provided by an educational institution and if,

- (a) The service provided is related to education.
- (b) The education is provided as a part of a curriculum and
- (c) The education is provided for obtaining a qualification recognized by any law for the time being in force.

VIII. In the instant case, the coaching or training provided by the applicant is for preparing the students for writing/appearing CA(Inter & Final) and ICWA (Inter & Final) Exams conducted by ICAI/ ICWAI. The said coaching or training *per se* does



not lead to grant of a certificate or diploma or degree or qualification which is recognized by any law. It only aims at giving a better preparation to the students and improves their chances in the examination. It is similar to any other coaching or training given in respect of competitive / entrance examinations such as IIT, EAMCET etc.

IX. Further, it is pertinent to mention that the coaching or training as imparted by the applicant is neither mandatory nor *sine qua non* to the students appearing for CA / ICWA examination. Students, who prepare on their own, can also appear for these examinations and qualify basing on their performance. Hence, as stated supra, the coaching or training imparted by the applicant is only a facilitation / improvisation of the preparation for the said exams and cannot be considered as a coaching/training leading to grant of certificate, qualification etc. recognized by law.

X. More importantly, with regard to Chartered Accountancy course, for obtaining the recognized qualification as Chartered Accountant, apart from qualifying in the examinations (CPT, Inter, Final), there are various prescribed and mandatory conditions and requirements to be fulfilled by the students/candidates. The governing bodies (i.e., Board of Studies) of ICAI and ICWAI formulated eligibility requirements for issuance of certificates by them. The Skill courses viz., Integrated Course on Information Technology and Soft Skills (at CA intermediate level) and Advanced Integrated Course on Information Technology and Soft Skills (at CA Final level) will be conducted / offered by the statutory bodies of ICAI and ICWAI through their Regional Councils / Branches only and accordingly issue certificates.

XI. Therefore, the coaching or training service provided by the applicant to the aspirants of CA-Foundation, CA-Inter, CA-Final, CMA (ICWA)-Foundation, CMA-Inter, CMA-Final and Intermediate is not the service provided by means of 'education as a part of curriculum that has been prescribed for obtaining a qualification prescribed by law'. Hence it cannot be said that the coaching / training given by the applicant to CA aspiring students (for appearing and qualifying in the examinations) would lead to grant of certificate/qualification recognized by law. Therefore, **the service rendered by the applicant is not a service by way of 'education as a part of curriculum for obtaining a qualification recognized by any law for the time being in force'.**



XII. With regards to the supply of food and accommodation to the students of the applicant, Entry no.66 of Notification No.12/2017-Central Tax (Rate) dt.28.06.2017 as amended by Notification No.2/2018-Central Tax (Rate) dated 25.01.2018, extracted below specifies the following education services as exempted from GST.

“Services provided –

- (e) By an educational institution to its students, faculty and staff;*
- (f) To an educational institution, by way of, -*
 - (ix) Transportation of students, faculty and staff;*
 - (x) Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;*
 - (xi) Security or cleaning or house-keeping services performed in such educational institution;*
 - (xii) Services relating to admission to, or conduct of examination by, such institution; up to higher secondary;*

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.”

XIII. The services of provision of food and accommodation to the students perusing the said courses are liable to GST under the same notification and also as clarified vide CBIC Circular No.85/04/2019-GST, dt.01.01.2019 that supply of food, beverages by an educational institution to its students, faculty and staff, where such supply is made by the educational institution itself, is exempt under Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, vide Sl. No. 66 w.e.f. 01-07-2017 itself. As applicant not qualified as an educational institute, the above exemptions won't be applicable.

8.15. In view of the observations stated above, the following ruling is issued.



RULING

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

Question (a): Whether the services of supply of service of education as per the curriculum prescribed by the statutory authorities/ government to the students of the applicant for obtaining qualifications/ certificates of CA-Foundation, CA-Inter, CA-Final, CMA (ICWA)-Foundation, CMA-Inter, CMA-Final and Intermediate duly recognized by the respective statutory authorities/ government are exempted under Notification No.12/2017-CT (Rate) dt.28.06.2017 (entry no.66(a)), as amended?

Answer (a): The applicant is not eligible for the exemption under Entry No.66(a) of Notification No.12/2017-CT(Rate) dated 28.06.2017, as amended.

Question (b): Whether the charges collected for providing accommodation to the students undergoing the above courses are exempted from GST as provided under Notification No.12/2017-CT (Rate) dt.28.06.2017 (entry no.14), as amended read with Circular No.32/06/2018-GST dt.12.2.2018 since the amount charged from the students by the hostel run by the applicant is less than Rs.1000/- per day?

Answer (b): The applicant is not eligible for the exemption under Entry No.14 of Notification No.12/2017-CT(Rate) dated 28.06.2017.

Question (c): Whether the charges collected by the applicant for catering service by supplying food to the students undergoing the above courses are exempted from GST as provided under Notification No.12/2017-CT (Rate) dt.28.06.2017 (entry no.66(a)), as amended?



Answer (c): The applicant is not eligible for the exemption under Entry No.66(a) of Notification No.12/2017-CT(Rate) dated 28.06.2017.

Sd/-D RAMESH
(MEMBER)

Sd/-M SREEKANTH
(MEMBER)

//t.c.f.b.o//



Assistant Commissioner (ST)

Assistant Commissioner (State Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.

To

M/s Master Minds,

D.No.5-25-72, 3/11, Brodipet Circle, Guntur-520002(**By Registered Post**)

Copy to:

- 1) The Joint Commissioner (ST), Narasaraopet Division, Guntur. (**By Registered Post**)
- 2) The Deputy Commissioner (Central Tax), O/o the Assistant Commissioner of Central Tax, Guntur Division, 2/17, Brodipet, Guntur – 522 002(**By Registered Post**)
- 3-) The Assistant Commissioner (ST) Brodipet Circle, Narasaraopet Division, Guntur. (**By Registered Post**)

Copy Submitted to:

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada.
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035(**By Registered Post**)

Note: under section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2107 with in a period of 30 days from the date of service of this order.

