IMS PROSCHOOL PVT. LTD. (Appellant)

Appellate Authority for Advance Ruling — Maharashtra

ORDER NO. MAH/AAAR/SS-RJ/19/2018-19, dated 04.02.2019 (Maharashtr… Dated **04.02.2019**

Q Questions Before the Authority

- Whether educational courses offered by the applicant that are approved by NSDC are to be construed as being in relation to the National Skill Development Programme implemented by NSDC?
- Whether courses for which NSDC has not yet defined QP/NOS, but has given exceptional approval in the interim, will be treated as in relation to the National Skill Development Programme until QP/NOS are defined and approved?
- Whether NSDC-approved courses that the applicant has upgraded by adding topics, content or modules within the existing QP/NOS framework (without fresh NSDC approval) will be treated as in relation to the National Skill Development Programme?
- If the answers to Q1 to Q3 are yes, whether the exemption under entry 69 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is available to the applicant?
- If the answer to Q4 is yes, whether the exemption remains available where such courses are offered to corporate and business institutions?
- Whether NSDC-approved courses actually imparted by the applicant's business partners, as sub-contractors, at centres across the country will be considered as offered by the applicant?
- If the answer to Q6 is yes, whether the exemption under entry 69 of Notification No. 12/2017-Central Tax (Rate) is available to the applicant?

F Facts

The appellant, IMS Proschool Pvt. Ltd., runs classroom and virtual training courses in areas such as data science, accounting certifications, fitter and electrical trades, and sales, charging fees to individual students and corporates. It is an NSDC-approved training partner, and some of its courses are NSDC-approved, some carry NSDC's exceptional interim approval pending QP/NOS definition, and some have been upgraded with added modules without fresh NSDC approval. Some courses are delivered at centres run by business partners who act as sub-contractors and bill students on the appellant's letterhead.

H Ruling

Q1: NSDC-approved courses treated as in relation to the National Skill Development Programme implemented by NSDC	**No (AAR answer upheld)**	The Appellate Authority did not separately answer this question. It upheld the AAR's negative answer, holding that the programme covers only government-linked schemes actually implemented by NSDC.
Q2: Courses with exceptional interim NSDC approval, before QP/NOS are defined, treated as in relation to the programme	**No (AAR answer upheld)**	Upheld by reference to the AAR ruling. The order does not separately discuss the interim approval.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

Q3: Upgraded NSDC-approved courses (added modules, not yet approved by NSDC) treated as in relation to the programme	**No (AAR answer upheld)**	Upheld by reference to the AAR ruling. The order notes that NSDC's general mandate does not cover the appellant's courses.
Q4: Entry 69 exemption under Notification 12/2017-CT(Rate) available if Q1 to Q3 are yes	**No (AAR answer upheld)**	Conditional on Q1 to Q3, which were answered in the negative. The exemption was therefore not available.
Q5: Exemption still available where courses are offered to corporates and business institutions	**No (AAR answer upheld)**	Conditional on Q4. The Appellate Authority also noted that the fees charged distinguish these courses from schemes provided free of cost.
Q6: NSDC-approved courses imparted by business partners as sub-contractors treated as offered by the applicant	**No (AAR answer upheld)**	Upheld by reference to the AAR ruling. The order does not separately discuss the sub-contracting arrangement.
Q7: Exemption available if Q6 is yes	**No (AAR answer upheld)**	Conditional on Q6, which was answered in the negative.

The Appellate Authority upheld the AAR's ruling that all the questions be answered in the negative. It held that entry 69 covers only services in relation to NSDC-implemented schemes or government skill schemes such as PMKVY, Sankalp, Udaan, STAR and polytechnic schemes, and does not extend to every course approved or funded by NSDC. It accepted that the appellant was an NSDC training partner for FY 2018-19, but held that this did not bring the fee-charging courses within the exemption.

R Reasoning

The Appellate Authority read entry 69 of Notification 12/2017-Central Tax (Rate) as covering only sub-clauses (i) and (iii) (NSDC's National Skill Development Programme and 'any other Scheme implemented by NSDC') and (ii) (vocational courses under the National Skill Certification and Monetary Reward Scheme). It found that the appellant had not shown that its courses fell under any of these, and that the appellant's courses were a separate, fee-charging activity under NSDC's general mandate to fund and support private initiatives. It relied on NSDC's annual reports and the government schemes it implements (PMKVY, Sankalp, Udaan, STAR, polytechnic schemes), and on the agreement that makes the appellant's fees a matter of its own contract rather than an NSDC programme. It rejected the broad reading of 'in relation to' and held that a wide meaning cannot enlarge a head that is itself limited to specified schemes.

P Provisions Relied On

- Section 95(a) of the CGST Act, 2017 (definition of 'advance ruling')
- Section 97(2) and Section 100 of the CGST Act, 2017 (scope of advance ruling and appeal)
- Section 101 of the CGST Act, 2017 and the corresponding MGST Act provisions (Appellate Authority)
- Section 105 of the CGST Act, 2017 (AAR treated as a court)
- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Entry No. 69

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Notification No. 25/2012-ST dated 20.06.2012, Entry 9A (erstwhile law, quoted by the appellant)

Section 66D(l)(iii) and Section 65B(11) of the erstwhile Finance Act, 1994 (quoted by the appellant)

! For the Practitioner

This order is useful for NSDC-approved training partners who charge fees, as it shows the Appellate Authority will confine entry 69 to government-linked schemes actually implemented by NSDC or named in the entry, and not extend it to every course NSDC approves or funds. It shows that NSDC training-partner status and approval of individual courses do not by themselves attract the exemption, and that the 'in relation to' wording was not read broadly enough to help. It does not decide whether any particular scheme run through NSDC qualifies, and it does not settle the position of sub-contracted delivery, which the order addresses only by reference to the AAR. The appellant's proof of training-partner status for FY 2018-19 was accepted as now clear.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> ims-proschool-pvt-ltd.pdf

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