

Principal Commissioner of Central Tax, Bangalore West Commissionerate

Appellate Authority for Advance Ruling — Karnataka

ORDER NO. KAR/AAAR/ 07 /2020-21, DATE: 13-11-2020

Q Questions Before the Authority

- Whether the service provided for type 2 test (the specified service) classifies as 'Online Information and Database Retrieval Services'?
- If the type 2 test provided by the applicant does not qualify as 'Online Information and Database Retrieval Services', whether the applicant is liable to pay integrated tax on the supply of said services to non-taxable online recipients in India?
- Whether the service provided for type 3 test (the specified service) classifies as 'Online Information and Database Retrieval Services'?
- If the type 3 test provided by the applicant does not qualify as 'Online Information and Database Retrieval Services', whether the applicant is liable to pay integrated tax on the supply of said services to non-taxable online recipients in India?

F Facts

The Respondent Company provides computer-based test administration solutions to clients, including candidates in India. These tests are categorized into three types, with Type 3 involving a mix of multiple-choice questions and essay-based questions. The core dispute concerns whether the Type 3 test, which involves human evaluation of essays, qualifies as OIDAR services under the GST law.

H Ruling

Classification of Type 2 test as OIDAR	Not explicitly ruled upon in the final order, as the appeal focused on Type 3.	The lower authority had previously held it as OIDAR.
Taxability of Type 2 test	Not explicitly ruled upon in the final order.	The lower authority had previously held it as OIDAR.
Classification of Type 3 test as OIDAR	Yes, it is classifiable as an OIDAR service.	The Appellate Authority reversed the lower authority's decision.
Taxability of Type 3 test	Not explicitly ruled upon in the final order.	The ruling focused on the classification as OIDAR.

The Appellate Authority set aside the lower Authority's ruling regarding the Type 3 test. It held that the Type 3 test is classifiable as an OIDAR service. The involvement of human scorers for essay evaluation is considered to be within the realm of minimal human intervention.

R Reasoning

The Authority examined the definition of OIDAR services under Section 2(17) of the IGST Act, 2017, which requires the service to be essentially automated and involve minimal human intervention. It concluded that the human involvement in scoring essays is a quality control measure to validate the automated system, rather than a core service delivery component. Therefore, the service remains **essentially automated** and satisfies the **minimal human intervention** requirement. The Authority relied on the principles of the European Commission VAT Committee Working Paper No 896 to interpret the concept of minimal human intervention.

P Provisions Relied On

Section 99 of the Karnataka Goods and Services Tax Act, 2017

Section 101 of the CGST Act, 2017

Section 100 of the Central Goods and Service Tax Act, 2017

Section 2(17) of the IGST Act, 2017

Section 13(2) of the IGST Act, 2017

Section 2(11) and 7(4) of the IGST Act, 2017

Notification No. 10/2017-IGST (Rate) dated 28-06-2017

Notification No. 9/2017-Integrated Tax (Rate) dated 28-06-2017

! For the Practitioner

This ruling clarifies that the presence of human intervention for quality assurance or validation in an otherwise automated digital process does not necessarily disqualify a service from being classified as OIDAR. It provides a favorable precedent for service providers using hybrid automated-human systems to argue for OIDAR classification. Practitioners should note that the decision hinges on the **minimal nature of human intervention** relative to the overall automated process.

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 -> kar_aaar_07_2020-21_13.11.2020_pcctb.pdf

Prepared 13-10-2026

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Pune (HQ)

RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Delhi

3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Ahmedabad

Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp...

Mumbai

104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Gurugram

Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram...

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com