M/s. Emrald Heights International School, Opposite Akashwani, A.B. Road Indore 453331

Authority for Advance Ruling — Madhya Pradesh

Order Number 13/2019 dated 20/08/2019 (Case Number 11/2019; file refer… Dated **20.08.2019**

Q Questions Before the Authority

- Will the consideration received by the school from participant schools for participation of their students and staff in the conference be exempted under entry No. 66, entry No. 1 or entry No. 80, or any other entry of Notification No. 12/2017-Central Tax (Rate), or will it be chargeable to GST under the CGST Act, MP GST Act or IGST Act?
- If not exempted, what would be the appropriate category of the service and the appropriate tax rate?
- What would be the place of supply for such services?
- Whether the exemption provided to service providers of catering, security, cleaning, housekeeping, transportation etc. to an educational institution up to higher secondary would be available to the service providers of the applicant for services related to such conference?
- Whether ITC would be eligible on all the input services availed for the purpose of the above conference?

F Facts

Emerald Heights School Samiti, a registered society that runs the applicant school (affiliated to CBSE, teaching up to higher secondary), is a member of Round Square, an international association of schools. The applicant proposes to host a six to seven day educational conference in Indore from 16 September 2019 to 13 October 2019, attended by students and staff of member schools, many based outside India. Under a proposed agreement the school acts as host in its own right and not as agent, is responsible for planning and logistics, and receives a fee from member schools, with any surplus passed back to the association.

H Ruling

Whether consideration from participant schools is exempt under entry 66, entry 1, entry 80 or any other entry of Notification 12/2017-CT(Rate), or chargeable to GST	****Not exempt; chargeable to GST** under the CGST Act, MP GST Act or IGST Act**	The order also refers to concurrent notifications issued by the State tax authorities.

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

Appropriate category of service and tax rate if not exempt	**Taxable at the rate applicable to each respective service; catering **5% (2.5% + 2.5%)** without ITC; security, cleaning or housekeeping services **18%****	The order gives these two rates as examples only. It does not classify the conference service itself or state a rate for it.
Place of supply for such services	**Not decided; **outside the jurisdiction of the AAR****	The order makes no finding on whether the place of supply is the place of the event.
Whether the educational-institution exemption for catering, security, cleaning, housekeeping and transportation services extends to services for this conference	****No**, the exemption is not available for services provided for the impugned conference**	The exemption applies only where the service is for the educational institution's own premises or its own students, faculty and staff.
Whether ITC is eligible on all input services for the conference	****No ITC on food and catering**; ITC on other services as per the GST Act and Rules**	The order does not identify the specific section or rule that governs ITC eligibility.

The consideration received from participant schools is not exempt under entry 66, entry 1 or entry 80, or any other entry of Notification No. 12/2017-Central Tax (Rate), and is chargeable to GST. The various services procured for organising the conference are taxable at the rates applicable to those services, and the exemption for catering, security, cleaning, housekeeping and transportation services given to educational institutions is not available for this conference. The authority declined to decide the place of supply, holding it outside AAR jurisdiction, and held that no input tax credit is available on food and catering.

R Reasoning

The authority held that supply of services to an educational institution is exempt only where a specified entry covers it, and that the conference is not an educational service to the school's own students, faculty or staff, so entry 66 clauses (a), (aa), (b)(i) and (b)(ii) do not apply. Entry 1 was rejected on the ground that the school is not a section 12AA entity for charitable activities, even though the facts describe the society's registration under section 12A. Entry 80 was rejected because a conference is not training or coaching in arts, culture or sports. The place-of-supply question was left undecided as outside AAR jurisdiction, and ITC on food and catering was denied under the 5% without-ITC rate.

P Provisions Relied On

- Notification No. 12/2017-Central Tax (Rate), entry 1 (charitable activities by a section 12AA entity)
- Notification No. 12/2017-Central Tax (Rate), entry 66 clauses (a), (aa), (b)(i), (b)(ii), (b)(iii) and (b)(iv) (educational institution s…
- Notification No. 12/2017-Central Tax (Rate), entry 80 (training in arts, culture or sports by section 12AA entities)
- Notification No. 12/2017-Central Tax (Rate), clause 2(y) (definition of educational institution)

Section 13(5) of the IGST Act, 2017 (place of supply, cross-border events)

Section 12(6) of the IGST Act, 2017 (place of supply, domestic events)

Section 97(2)(a) of the CGST/SGST Act, 2017 (admissibility)

Section 98(4) of the CGST Act, 2017 and the MP GST Act, 2017 (ruling procedure)

Section 103(2) and Section 104(1) of the CGST Act, 2017 (binding effect and voidness)

Section 12AA of the Income Tax Act, 1961 (referred to in the notification entries)

! For the Practitioner

A school hosting an inter-school conference for fee-paying member schools should treat the fee as taxable, and should not assume that the entry 66 exemption for educational institutions reaches the conference or its ancillary services. The order settles the exemption and ITC points for this type of arrangement, and indicates 5% for catering and 18% for security, cleaning and housekeeping. It does not decide the place of supply, which remains open. Because it is an AAR ruling, it binds only the applicant and the jurisdictional officer, and a practitioner should check the full order for the reasoning on section 12AA status.

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 -> mp_aar_13_2019_20.08.19_ehis.pdf

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