M/s. SHALINI MANISH MITTAL

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-64/2019-20/B-21, Mumbai, dated 25/02/2020 (the date is ha… Dated **25.02.2020**

Q Questions Before the Authority

- Whether online or telephonic educational coaching from India for corporate, individuals or any other entities residing outside India is subject to GST?
- If so, under which category is it taxed and which section or notification covers it?

F Facts

The applicant, a registered proprietor, provides online or telephonic IT coaching services to corporates, individuals and other entities located outside India. The consideration is received in foreign exchange, and the applicant contends that the services are an export and therefore zero-rated under GST. The jurisdictional officer's view was that the services fall under SAC 998313 (IT consulting and support services), and that the place of supply and export treatment under IGST provisions must be considered.

H Ruling

The Authority rejected the application as non-maintainable and did not answer the questions on merits. It held that the question involves determining the place of supply, which is not among the matters listed in Section 97(2) of the CGST Act on which an advance ruling may be sought. The applicant's authorised representative also accepted at the final hearing that the place of supply would have to be discussed.

R Reasoning

The Authority read Section 97(2) of the CGST Act as limiting advance rulings to classification, notification applicability, time and value of supply, input tax credit, liability to pay tax, registration, and whether a particular activity is a supply. Since answering the question would require deciding the place of supply under Section 13 of the IGST Act and Section 2(6) of the IGST Act on export of services, it fell outside that jurisdiction. The Authority relied on several orders of the Appellate Authority for Advance Ruling, Maharashtra, including NES Global Specialist Engineering Services Pvt. Ltd., Micro Instrument, Sabre Travel Network, Asahi Kasei and Segoma Imaging, which took the same view. It therefore held the application not maintainable.

P Provisions Relied On

Section 95 of the CGST Act, 2017

Section 97(2) of the CGST Act, 2017 (and MGST Act equivalent)

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

Section 13 of the IGST Act, 2017 (place of supply)	Section 2(6) of the IGST Act, 2017 (export of services)
Section 16 of the IGST Act, 2017	Section 98 of the CGST Act, 2017 (form of order)
Rule 96 of the CGST Rules, 2017 (as cited by the officer)	Notification No. 11/2017-C.T.(Rate) (as cited by the officer)
AAAR orders: NES Global Specialist Engineering Services Pvt. Ltd. (MAH/AAAR/55-R/03/2019-20, 02.08.2019) and similar…	

! For the Practitioner

This order is useful if you need authority that the Maharashtra AAR will not decide place of supply or export status for foreign-client services, and will reject such applications as non-maintainable. It does not decide whether online coaching to overseas recipients is taxable, what rate applies, or whether it qualifies as a zero-rated export. Those questions must be argued elsewhere, such as through a regular assessment, an appeal, or a fresh application framed around a Section 97(2) matter.

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 -> mah_aar_64_2019-20_b-21_25.02.2020_smm.pdf

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