SECURITY AND INTELLIGENCE SERVICES (INDIA) LTD

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-125/2018-19/B-58, Mumbai, dt. 24/05/2019 (the order numb… Dated **24.05.2019**

Q Questions Before the Authority

- Whether the services provided to Visvesvaraya National Institute of Technology, Nagpur (VNIT) will qualify for exemption under Serial No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017, considering VNIT to be an educational institution.
- Whether the rate of tax on services provided to VNIT is nil under Serial No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28 June 2017.

F Facts

The applicant supplies security services to VNIT Nagpur, a deemed university later declared an Institute of National Importance by Act of Parliament. VNIT declined to pay GST on the invoices, relying on a Chartered Accountant's opinion that it is a governmental authority and that the services are pure services exempt under Serial No. 3, and asked the applicant to rely on Serial No. 66 instead. The applicant contended that neither entry applies and that GST is payable.

H Ruling

Exemption under Serial No. 66 (security services to an educational institution) for services to VNIT	****Negative: no exemption under Serial No. 66****	VNIT is an educational institution under clause (y)(ii), but the proviso to entry (b) confines the exemption to institutions providing pre-school to higher secondary education, which VNIT does not.
Nil rate under Serial No. 3 (pure services to a governmental authority) for services to VNIT	****Negative: rate is not nil under Serial No. 3****	VNIT was held not to be a governmental authority under clause (zf) read with section 2(16) IGST Act. The order does not state the rate that does apply.

The Authority held that VNIT is an educational institution but that the Serial No. 66 exemption is unavailable, because the proviso limits clause (b) to institutions providing pre-school education up to higher secondary level, which VNIT does not. It further held that VNIT is not a governmental authority, so Serial No. 3 cannot apply to the security services supplied to it.

R Reasoning

The Authority first examined Serial No. 66 and found that VNIT is an educational institution, since it teaches degree courses recognised by law. The proviso to entry (b), however, excludes institutions other than those providing pre-school to higher secondary education, so the security-services exemption fails. On Serial No. 3, the Authority relied on clause (zf) of Part 2 and the Explanation to section 2(16) of the IGST Act, which define a governmental authority as a body set up by an Act of Parliament or State Legislature, or established by a

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

Government with 90 per cent or more participation to carry out Article 243W or 243G functions. It found that VNIT is not such a body, so the pure-services exemption is unavailable.

P Provisions Relied On

Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Serial No. 3 of the table (Chapter 99)

Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, Serial No. 66 (Heading 9992) and its proviso

Notification No. 12/2017-Central Tax (Rate), clause (y) of Part 2 (educational institution) and clause (zf) of Part 2 (government…

Section 2(16) of the Integrated Goods and Services Tax Act, 2017, Explanation (governmental authority)

Article 243G and Article 243W of the Constitution

! For the Practitioner

A practitioner advising a private security contractor to a state or central institution should note that the **proviso to Serial No. 66 confines the educational-institution exemption to pre-school to higher secondary institutions** , so the entry will not cover degree-granting institutions. The order also treats a deemed university or Institute of National Importance as **not a governmental authority** under the clause (zf) definition. The order does not state the rate applicable to these services, and it does not decide the position of other bodies whose constitution differs from VNIT's, so the full order should be read before relying on it for those cases.

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 -> maharashtra aar 125 2018-19 s isil 24.05.19.pdf

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