


| | |
|--|---|
| <p>GUJARAT AUTHORITY FOR ADVANCE RULING, GOODS AND SERVICES TAX, A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.</p> |  |
|--|---|

ADVANCE RULING NO. GUJ/GAAR/R/48/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2018/AR/73)

Date: 30.07.2020

| | | |
|--|---|---|
| Name and address of the applicant | : | Vikram A Sarabhai Community Science Centre, Opp. Gujarat University, Navrangpura, Ahmedabad, Gujarat- 380009 |
| GSTIN of the applicant | : | 24AAATV7437J1Z6 |
| Date of application | : | 31.12.2018 |
| Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised. | : | (f) Whether applicant is required to be registered under this Act. |
| Date of Personal Hearing | : | 09.07.2020 (through Video Conferencing) |
| Present for the applicant | : | Shri Harish V Panchal |

BRIEF FACTS:

Vikram A Sarabhai Community Science Centre was established by India's renowned Scientist, Dr. Vikram Sarabhai in 1966 to take students, from both school and college, out of the rigid framework of textbook and encourage them to think, explore and create. It is a pioneering community science centre, conducting innovative programmes for improving quality of science education, its popularization and building scientific temper.

2. The applicant further submitted that there is a great need to inculcate scientific temper among the students at young age for technological progress of this country. Scientific temper is an intrinsic quality which has to be imbibed and not merely imparted. It has to be an inherent quality in our young minds and it should be cultivated in them as a fun filled, enjoyable and lasting experience rather than just as a curriculum-based approach.

3. Towards the above mentioned, the applicant is dedicated to promote among students, teachers and lay public:

- An understanding of the fundamental concepts involved in the Physical and Biological Sciences and mathematics.

- The acquisition of scientific knowledge and insights as far as possible by the process of inquiry through experiment, audio-visual media and other means,
- To stimulate interest, encourage and expose the principles of science and the scientific method to elementary, secondary and college students, teachers and the general lay public.
- To be concerned with the role of education and ways of improving education in relation to the individual and the community as a whole;
- To make clear the social implication of science and technology.

4. They further stated that the Article 51A of the Constitution of India states that ***“it shall be duty of every citizen of India to develop the scientific temper, humanism and the spirit of inquiry and reform”***. The applicant truly understands this duty and responsibility undertakes activities to develop Scientific temper, innovation and spirit of inquiry. The Applicant aims to nurture young minds towards scientific thinking with methods and techniques that make the process of learning, an enjoyable and lasting experience. It connects scientific concepts with everyday experiences of students. Over the past fifty years, the applicant has combined several formal and non-formal techniques and come up with many innovative methods to give students a better understanding of Science and Mathematics.

Description of activities in respect of which advance ruling is sought:

5. The applicant further submitted they aims to achieve its objectives by carrying out various activities, such as-

- Conducting programmes for children to nurture their curiosity through hands-on experiences;
- Developing and conducting mobile science exhibitions;
- Facilitating schools in developing science activity centre and science playground;
- Conducting science based events, workshops, programs either funded or non-funded;
- Enriching sessions for groups visiting the Centre;
- Facilitating school children for performing experiments;
- Providing necessary guidance for school projects;
- Training workshops in Science and Mathematics for teachers;
- Developing, Trading & Selling teaching and learning material, kits and publications.

Questions on which advance ruling is sought:

6. In view of the above backdrops, the applicant has sought for advance ruling in respect of following questions:

Question 1: Whether GST is applicable on any of the activities carried on by the applicant?

Question 2: Whether GST registration is required or not?

Statement of relevant facts having bearing on the question(s) raised:

7. The activities of the Centre do not resemble to any type of tuitions or coaching, but they act as catalyst to facilitate development of scientific temper among students. These serve to complete the gaps in education system and enhance skills such as critical thinking, logical reasoning, curiosity, creativity and innovation among the young minds. They are receiving reasonable amount from their students to cover their cost of developing and providing state-of-art material and experiences. However, the tax on such services is an undue burden and acts as a deterrent to its beneficiaries, who are mostly students.

Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of aforesaid question(s):

(A) Notification No. 25/2012-Service Tax:

8. Referring the definition of "education institute" stated in the Notification No. 25/2012-Service Tax, the applicant submitted that though they do not provide formal education, their activities complement the formal education and strive to improve its quality. They are fulfilling the government's mandate of improving quality of science education. Along with the applicant, there are several similar education institutes imparting science education such as the District Community Centres, Regional Community Science Centres and Science cities. The Government may or may not be able to fund all the community science centres for the remarkable work they are doing to develop scientific temper.

B. Service by an entity registered under Section 12AA of the Income Tax Act, 1961 (43 of 1961) by way of charitable activities:

9. They are registered as Trust-Education Trust, vide registration No. 12AA HQ-III-32(V-9)/91-92/AR-8, since 22.08.1991 and services by an entity registered under Section 12AA of the Income Tax Act, 1961 (43 of 1961) by way

of charitable activities are exempted.[Charitable activities may be defined as present in Notification No.25/2012-ST].

9.1 However, they requested to consider science education imparted by Community Science Centres as an integral and important support to formal education system in raising the quality of science education and include it in the definition of 'education institute'. This will exempt the services provided by Community Science Centres to young students from the levy of GST. Considering the nature of activities and number of Community Science Centres in our country, such a move will not have any major impact on the revenue of the Government. However, it will definitely build a strong foundation for modern India thriving on innovation, creativity and curiosity. They feel that with such efforts, India will inch closer to becoming a scientifically and technologically advanced superpower.

9.2 The applicant further submitted that they hope the Government will recognize the role of such institutions to be as important as formal education systems in developing young students of today into scientists of tomorrow and innovators for life by exempting services by such Centres from GST.

10. At the time of personal hearing held through Video Conferencing on 09.07.2020, the Authorised Representative of the applicant, Shri Harish V Panchal reiterated the facts as stated in the Application.

11. The applicant has also submitted an additional submission dated 09.07.2019, wherein they stated that:

- (i) Vikram A. Sarabhai Community Science Centre is a pioneer Community Science Centre, founded by India's renowned scientist, Dr. Vikram Sarabhai with noble and main charitable objects to educate, enhance knowledge and to promote education of science among students, teachers and the public, as elaborated here under:
- An understanding of fundamental concepts involved in Science and Science Education;
 - The acquisition of scientific knowledge, insight as far as possible by the process of inquiry -through experiment, audio-visual media and other means;
 - The ability to solve problems;
 - To stimulate interest in the principles of Science and Scientific Method among students of elementary and secondary schools

as well as colleges by giving them the necessary encouragement and exposure;

- To be concerned with the role of education and ways of improving science education, in relation to the individual and community as a whole;
- To help make clear the social implication of science and technology.

(ii) The Applicant further submitted that in order to achieve the above objects the Applicant is carrying on main functions as mentioned in the Memorandum of Association is enclosed herewith for your kind consideration.

(iii) The Applicant further submitted that for carrying out such educational activities on charitable basis, they have obtained registration under the provisions of the Society Act and also obtained certificate u/s 12AA of the Income Tax Act are attached herewith for your kind consideration.

(iv) Such charitable activities carried out by the Applicant are categorically covered under the Notification No.12/2017-State Tax dated 30th June, 2017 Serial No. 1 and Serial No. 66 of the said notification and accordingly specifically exempt from tax under the provisions of the Goods and Service Tax Act.

(v) VASCSC started as a facility where people concerned about quality of science education could come together to try out new ideas and methods for teaching Science. With its origin as 'Group for Improvement of Science Education (GISE)' in 1963 from Physical Research Laboratory (PRL), Ahmedabad; the Centre initially named as 'Community Science Centre', has evolved a long way to the present times. The Centre was renamed as 'Vikram A. Sarabhai Community Science Centre', to associate its name with that of its founder in 1971, after his demise.

(vi) The Centre is working towards promoting among students, teachers and lay public with a view to understanding of fundamental concepts in Sciences and Mathematics, helping them acquire scientific knowledge by the process of inquiry, stimulating their interest, encouraging and exposing them to the principles of science and scientific method, concerning itself with the role of education and ways of improving education in relation to the individual and the community as a whole and to make clear the social implication of science and technology.

(vii) The core of the Centre's philosophy is to take school and college students out of the rigid framework of textbooks and encourage them to think, explore and create. Over the years, the Centre has combined formal and non-formal techniques of education to formulate many innovative methods to give students a better understanding of Science and Mathematics, which not only makes the process of learning enjoyable but also sustainable and long-lasting.

(viii) The Centre's mandate of spreading the joy of science by reaching out to different segments of the community is best illustrated by its logo. The five arrowheads in the logo represent groups comprising teachers, students, research workers, administrators and the community, while VASCSC is represented by Delta, which is the mathematical symbol for change. VASCSC aims to bring about change by providing a common platform to all these groups.

(ix) The Centre has several facilities for participants to explore the various dimensions of Science and Mathematics. The Centre houses well-equipped laboratories of Biology, Chemistry, Physics, Electronics, Model Rocketry, Mathematics and Computer; Innovation Hub; Science Playground; Library; Science Hobby Workshop and Science Shop.

(x) VASCSC has pioneered several aspects including interactive exhibition space, open laboratories, Mathematics Laboratory, Science Playground, active use of computers in science education and developing interactive educational programmes - most of which have found place in mainstream today.

(xi) The Centre's efforts for providing the equality of science education and popularization have received recognition from several agencies. Some of the awards received include:

(i) National Award for 'Outstanding Efforts in Science & Technology Communication' given by Dept. of Science & technology, Govt. of India in 2008.

(ii) The 'Times of India Social Impact Award' for Education in 2011.

(xii) In view of the above, the Applicant prayed that;

(a) referring to the above charitable activities carried out under the eligibility certificate of charitable activities granted u/s 12AA of the Income Tax Act, which are categorically covered under entry 1 and 66 of the Notification No.12/2017-State Tax dated the 30th June, 2017 may please be determined as activities under the said entries of the

said notification and may please be determined as exempt from the Goods and Service Tax Act, 2017.

- (b) Charitable activities carried out as being exempt under serial no. 1 and 66 of the Notification No.12/2017-State Tax dated the 30th June, 2017, such activities may please be granted exemption from obtaining Registration Certificate u/s 23(2) of the Goods and Service Tax Act.

DISCUSSION & FINDINGS:

12. We have considered the submissions made by the applicant in their application for advance ruling as well as at the time of personal hearing. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law.

12.1 At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

13. The applicant sought for advance rulings in respect of following questions?

Question 1: Whether GST is applicable on any of the activities carried on by the applicant?

Question 2: Whether GST registration is required or not?

14. From the submission made by the applicant, we observe that Vikram A Sarabhai Community Science Centre was established by India's renowned Scientist, Dr. Vikram Sarabhai in 1966 to take students, from both school and college, out of the rigid framework of textbook and encourage them to think, explore and create. It is a pioneering community science centre, conducting innovative programmes for improving quality of science education, its popularization and building scientific temper. The applicant further submitted that they aim to achieve its objectives by carrying out various activities, such as-

- Conducting programmes for children to nurture their curiosity through hands-on experiences;
- Developing and conducting mobile science exhibitions;

- Facilitating schools in developing science activity centre and science playground;
- Conducting science based events, workshops, programs either funded or non-funded;
- Enriching sessions for groups visiting the Centre;
- Facilitating school children for performing experiments;
- Providing necessary guidance for school projects;
- Training workshops in Science and Mathematics for teachers;
- Developing, Trading & Selling teaching and learning material, kits and publications.

15. We further observe that referring to the definition of “education institute” stated in the Notification No. 25/2012-Service Tax, the applicant submitted that though they do not provide formal education, their activities complement the formal education and strive to improve its quality. They are fulfilling the government’s mandate of improving quality of science education. The applicant, therefore, requested to consider science education imparted by Community Science Centres as an integral and important support to formal education system in raising the quality of science education and include it in the definition of ‘education institute’.

16. As they are undertaking various innovative programmes for improving quality of science education, its popularization and building scientific temper, as mentioned herein above, it is relevant to examine entry at Sr. No. 66 of the exemption Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, which exempts:

“Services provided-

(a) by an educational institution to its students, faculty and staff;-----”

16.1 Thus, the services provided by an educational institution to students, faculty and staff are exempt. The term “*Educational Institution*” is defined in para 2(y) of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, which reads as under:

(y) an “educational institution” means an institute providing services by way of;

- (i) *Pre-school education and education up to higher secondary school or equivalent;*
- (ii) *Education as a part of a Curriculum for obtaining a qualification recognised by any law for the time being in force.*

(iii) *Education as a part of an approved vocational education course;*

16.2 From the above, it is clear that above entry exempts only following services imparted by any School, Colleges, Universities or Institutions by way of;

(i) Pre-school education and education up to higher secondary school or equivalent;

(ii) Education as a part of a Curriculum for obtaining a qualification recognised by any law for the time being in force.

(iii) Education as a part of an approved vocational education course.

16.3 We find that the none of the activities carried out by the applicant as mentioned earlier, is covered under the scope of above services, and, hence, the admittedly, the applicant does not fall under the definition of “*educational institution*”. It is further worthwhile to mention here that the advance ruling authority is not the Legislature to amend the GST law, but it concise with law. Hence, we are not the authority to consider science education imparted by Community Science Centres as an integral and important support to formal education system in raising the quality of science education and include it in the definition of ‘educational institution’.

16.4 In view of the above, we have no hesitation to conclude that the applicant is not at all entitled for exemption in respect of any activity undertaken by them under Entry at Sr. No. 66 of the exemption Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended.

17. The applicant has further contended that they are registered as “Charitable Education Trust” under Section 12AA of the Income Tax Act, 1961 and their charitable activities are categorically covered under entry Nos.1 and 66 of the exemption Notification No.12/2017-State Tax dated the 30th June, 2017. Hence, said activities may be determined as exempt from the Goods and Service Tax Act, 2017 and granted exemption from obtaining Registration Certificate u/s 23(2) of the Goods and Service Tax Act.

17.1 Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017 exempts services provided by entity registered under Section 12AA of the Income-tax Act, 1961 by way of charitable activities from whole of GST vide

Entry No.1 of said Notification, which specifies that **“services by an entity registered under Section 12AA of Income-tax Act, 1961 by way of charitable activities” are exempt** from whole of the GST. Thus, as per this notification, exemption is given to the charitable trusts, only if the following conditions are satisfied:

- a) Entities must be registered under Section 12AA of the Income-tax Act, and
- b) Such services or activities by the entity are by way of charitable activities.

Thus, it is essential that the activities must conform to the term “charitable activities’, which has been defined in above notification as under:

“charitable activities” means activities relating to -

(i) *public health by way of, -*

(A) care or counselling of (I) terminally ill persons or persons with severe physical or mental disability; (II) persons addicted with HIV or AIDS; (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) *advancement of religion, spirituality or yoga;*

(iii) *advancement of educational programmes or skill development relating to, -*

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) *preservation of environment including watershed, forests and wildlife.”*

17.2 This notification makes the exemption to charitable trusts available only in respect of charitable activities. While the income from only those activities listed above is exempt from GST, income from the activities other than those mentioned above is taxable. Thus, there could be many services provided by charitable and religious trust, which are not considered as charitable activities and hence, such services come under the purview of GST.

17.3 We further note from above entry that if trusts are running schools, colleges or any other educational institutions specifically for abandoned, orphans, homeless children, physically or mentally abused persons, prisoners or persons over age of 65 years or above residing in a rural area, such activities will only be considered as charitable activities and income from such supplies will be wholly exempted from GST.

17.4 We further note that another Entry No.13 of the Notification No.12/2017-Central Tax (Rate) dated 28th June, 2017, provides the following exemption to entities registered under Section 12AA of the Income Tax Act:

“Services by a person by way of-

(a) conduct of any religious ceremony;

(b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:

Provided that nothing contained in entry (b) of this exemption shall apply to,-

(i) renting of rooms where charges are one thousand rupees or more per day;

(ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day;

(iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.”

17.5 Similarly, Entry No.80 of the Notification No.12/2017-Central Tax (Rate), provides the following exemption to an entity registered under Section 12AA of the Income Tax Act, 1961:

“Services by way of training or coaching in recreational activities relating to-

(a) arts or culture, or

(b) sports by charitable entities registered under section 12AA of the Income-tax Act.”

Thus, services provided by way of training or coaching in recreational activities relating to arts or culture or sports by a charitable entity will be exempt from GST.

17.6 Accordingly, we come to the conclusion that the applicant is not entitled for exemption in respect of any activity undertaken by them, under the said Entry Nos. 1, 13 & 80 of the of the exemption Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended, granting exemption to an entity registered under Section 12AA of the Income Tax Act, 1961.

18. In view of the above, we hold that the applicant is liable to pay GST on all the activities carried out by the applicant as mentioned in foregoing para and,

consequently, required to obtain GST registration for said taxable services provided by them.

19. In light of the foregoing, we rule as under –

R U L I N G

Question1: Whether GST is applicable on any of the activities carried on by the applicant?

Answer: Answered in affirmative.

Question 2: Whether GST registration is required or not?

Answer: Answered in affirmative.

(SANJAY SAXENA)
MEMBER

(MOHIT AGRAWAL)
MEMBER

Place: Ahmedabad

Date: 30.07.2020.