

Notifications

The government of Maharashtra has issued Notification dated 2/9/2020 under Profession Tax Act by which date of

waiver scheme for delayed returns is extended to 30/9/2020.

Circulars

The Commissioner of Sales Tax has issued circular 12T of 2020 dated 14/9/2020 to explain E- assessment scheme under present position of COVID pandemic.

Case: M/s ASCENDAS SERVICES (INDIA) PVT LTD [2020-8-TMI -525] (KARNATAKA AAAR)

The Appellant is engaged in the business of operation and maintenance of International Tech Park, Bangalore as well as they also arrange for the transport of its staff and employees of the corporate clients in the Tech Park who are the tenants of the business park. For the purpose of arranging the transport facility, the Appellant has entered into a contract with Bangalore Metropolitan Transport Corporation (BMTC) to provide the buses along with the crew. BMTC issues bus passes which are then issued by appellants to customers. Appellant have sought ruling as to whether there is requirement for inclusion of value of bus passes (which is collected from its clients) distributed by them in the taxable value of supply, as per section 15(2) of the CGST Act, 2017.

The AAAR concurred with AAR and held that that the recipient of the service is the Appellant and it is the Appellant that is obliged to pay for the services provided by BMTC. The position does not change merely because the actual users of the transportation service are the commuters. In the present case there is no privity of contract between BMTC and the commuters. The Appellant is receiving the services from BMTC on principal to principal basis and is also supplying a service to their clients on a principal to principal basis. Further, bus passes only give the commuter the right to travel. If the commuter does not use the bus pass within the duration for which it is valid or loses the bus pass, it becomes invalid and cannot be used to procure the service of transportation. The bus pass is only a contract of carriage and not actionable claim as claimed by appellants. The value of the service supplied by the Appellants will include the value of the bus passes as well as the facilitation charges.

Case: M/s LOGIC MANAGEMENT TRAINING INSTITUTES PVT LTD [2020-TIOL-235] (KERALA AAR)

The Applicant is an institute imparting education to students to facilitate them in obtaining qualifications like Chartered Accountancy, Cost Accountancy, Company Secretary, Certified Management Accountant, Certified Public Accountant, etc

AAR held that Applicant is not approved/recognised by the ICAI or ICWAI or Institute of Company Secretaries of India or universities to conduct coaching/training of students as per the syllabus/curriculum prescribed by them to obtain the qualifications/certificates granted by the institutes/universities - Therefore, applicant is not covered under the definition of 'educational institution' in para 2(y) of the exemption notification 12/2017-CTR, hence services provided by them are not exempted from GST. Their services are liable to GST under SAC 9992 - 999293 - Commercial training and coaching services.

In respect of the amount collected as examination fees/other fees, if the conditions prescribed in rule 33 of the Rules, 2017 are satisfied, then such amount can be excluded from the value of the taxable supply as being an expenditure incurred as a pure agent.'

Provision of coaching/training provided by applicant to their students along with hostel facility qualifies as a composite supply as defined in section 2(30) of the Act and the tax liability on the composite supply has to be determined as per provisions of section 8(a) of the Act

Hostel fees collected from outside students staying at the hostel @Rs.250/- per day, which is below Rs.1000/- per day, applicant is held eligible for exemption in terms of Sl. no. 14 of Notification no.12/2017

Sale of text books to students will attract GST as per the Schedule of rates notified under notification 1/2017-CTR

Case: M/s HABITAT TECHNOLOGY GROUP [2020-TIOL-223] (KERALA AAR)

The applicant has been awarded a rehabilitation project by M/s Sri Sathya Sai Trust for providing affordable shelter to the 2018 flood victims. They sought advance ruling to know whether reduced rate of GST for construction of affordable low cost houses under entry 3(i) of Notification 11/2017-CTR is eligible.

AAR held that this Activity undertaken by the applicant cannot by any stretch of imagination be construed as construction of affordable residential apartments by a promoter in a residential real estate project intended for sale to a buyer and hence the rate of GST prescribed under SI No. 3 (i) is not applicable in respect of the activity. It falls within the scope of works contract as defined in Section 2 (119) & GST @ 12% shall be leviable for construction of low cost housing units as it falls within the ambit of Sl. No. 3 (v) of Notification No. 11/2017- CTR.