



Gujarat AAAR: Each & every educational service not exempt; modifies AAR ruling on 'assessment programme' taxability

Gujarat AAAR modifies AAR, rules that appellant's engaged in supply of ASSET (Assessment of Scholastic Skills Through Educational Testing) multiple question to the Schools for the students of 3rd to 10th Standard is not covered within Entry at Sr. No. 66(b)(iv) of Notification No. 12/2017-Central Tax (Rate), hence, not exempted from GST; Notes that ASSET is a benchmarking test for school and not examination conducted by the school and perusing the 'package' details, infers that the package rates per student being charged by the applicant are fixed for the group of subjects (English, Mathematics and Science) and other optional subjects (Social Studies and Hindi); Thereby, finds it "evident that the schools are not conducting the ASSET, rather the schools are facilitating the applicant to conduct ASSET for which the schools get some amount towards administration cost"; Allowing Revenue's appeal, holds that "each and every educational service has not been exempted", hence, terms the AAR reliance on CBIC 'Flyer'(which says that "Auxiliary services received by such educational institutions for the purpose of education up to Higher Secondary level is also exempt from GST") as misplaced; Notes that Appellant enters into contract with schools for supply of ASSET(which is an examination tool for educational assessment of student in class 3rd -10th), under which they provide a set of questions on various subjects based on the class level, board (like state or CBSE or ICSE etc) and the methodology adapted by the school for teaching; Finds that as per the said Entry at Sl. No. 66(b)(iv), 'services provided to an educational institution, by way of, services relating to admission to, or conduct of examination by, such institution' is exempted from GST but in the instant case, the services provided by appellant are admittedly not relating to admission to educational institution; Thereby examining whether appellant is supplying services to an educational institution, by way of services relating to conduct of examination by such institution', finds its pertinent to determine whether ASSET is conducted by the schools or otherwise; Observes that in ASSET, appellant does the following things like, fixing the subjects for ASSET, setting and printing the question papers, fixing the timing of ASSET, assessing student's answer, providing result and detailed analysis; Further observes that ASSET is designed to provide opportunity to academically gifted students wherein the top-performing students get an opportunity to participate in various gifted programmes offered by ASSET & their partner universities & research institutes, and schools do not appear to have any role in it; Also derives that schools role in conducting ASSET is only confined to (i) collecting fees, as determined by appellant, for ASSET from students and remitting the same to appellant, and (ii) getting 10% discount towards Administration cost; Thus, comes to conclusion that ASSET is an examination not conducted by the schools i.e. educational institutions; Clarifies that providing physical infrastructure by schools to conduct various examinations cannot be the basis to determine who conducts examination while elucidating that even the Central and State Educational Boards which conduct Standard X and XII examinations (prepares and get printed question papers, gets the answer sheet evaluated and declares the results) use the infrastructure of various schools, hence discards appellant's contention that by providing schools infrastructure where appellant merely provides the question papers and test materials, ASSET is conducted by the schools; As regards the contention that as per the terms and conditions of agreement with schools, it is mandatory for schools to take ASSET for all the students in a class, discerns



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that “such condition in an agreement cannot change the nature of ASSET and it will not make ASSET an examination conducted by the schools”.