

Body

Advance Ruling No. KAR ADRG 25/2022, Dated 12th August, 2022

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Present:

1. Dr. M.P.Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri. T. Kiran Reddy,
Additional Commissioner of Customs & Indirect Taxes Member(Central)

1.	Name and address of the applicant	M/s. BHAGYAM BINDING WORKS, No.25/1, 1st Main Road, New Timber Yard Layout, Mysore Road, Bangalore-560 026.
2.	GSTIN or User ID	29AAIFB0307K1ZK
3.	Date of filing of Form GST ARA-01	22-03-2022
4.	Represented by	Sankari V. Krishnan, Advocate
5.	Jurisdictional Authority - Centre	The Commissioner of Central Taxes, Bangalore West GST Commissionerate, West Division-4, RANGE-AWD4, Bangalore.
6.	Jurisdictional Authority -State	ACCT, LGSTO-063 Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide debit of Electronic Cash Ledger vide reference NO.DC2903220135321 dated 18-03-2022

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Bhagyam Binding Works, (hereinafter referred to as the applicant), No.25/1, 1st Main Road, New Timber Yard Layout, Mysore Road, Bangalore-560 026 having GSTIN 29AAIFB0307K1ZK have filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Partnership concern registered under the provisions of the Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively). The Applicant is proposing to submit a bid in response to the tender floated by the Karnataka Textbook Society (hereinafter referred to as "KTBS") for the printing of school textbooks as prescribed by the Karnataka State Board.

3. The applicant has sought advance ruling in respect of the following questions:-

- i. Whether KTBS can be classified as "educational institution" for the purposes of applicability of GST on printing services provided to it by the Applicant?
- ii. Alternatively, whether KTBS can be classified as "State Government" for the purposes of applicability of GST on printing services provided to it by the Applicant?
- iii. Whether the rate of tax being charged at present by the printers on the printing of textbooks supplied to KTBS i.e., @ 12%, is correct or whether any exemptions or lower rate of tax would be applicable on the said contracts for printing and supply of school textbooks.

4. Admissibility of the application:

The question is about the "Applicability of a notification issued under the provisions of this Act", "determination of the liability to pay tax on any goods or services or both" and hence is admissible under Section 97(2)(b)& (g) of the CGST Act 2017.

5. BRIEF FACTS OF THE CASE:

The applicant furnishes some facts relevant to the issue:

- 5.1 The Applicant states that they are proposing to submit a bid in response to the tender floated by the Karnataka Textbook Society (hereinafter referred to as KTBS) for the printing of school textbooks as prescribed by the Karnataka State Board.
- 5.2 The Applicant states that the Karnataka Text Book Society is a Society registered under the Karnataka Societies Act, 1960. It was established vide Government Order ED 95 DGO 2005, Bangalore, dated 04-01-2006, promulgated to form an umbrella body in the context of preparation, printing and distribution activities of all Government approved school textbooks.
- 5.3 KTBS receives grants from the Government of Karnataka for the supply of textbooks freely to students enrolled in government and aided schools and by sales to private schools affiliated to the Karnataka State Board. KTBS calls for tenders for the printing and supply of textbooks on contract basis, wherein the Contractor supplies the service of printing. The materials (physical inputs) are supplied by the Contractor and all the content is provided by and belongs to KTBS. KTBS is also registered under GST and at present GST is charged by Contractors for printing of textbooks @ 12%.
- 5.4 This office had addressed a letter to the Assistant Commissioner of Commercial Taxes, LGSTO-63, Bengaluru on 28-03-2022 to file comments on the application filed. In response to this, the officer has furnished comments as below:-

KTBS (Karnataka Text Book Society) is a Society registered under Karnataka Societies Act 1960. KTBS receives grants from the Government of Karnataka for Supply of text books freely to the students enrolled in government & aided schools and by sales to private schools affiliated to the Karnataka State Board.

Since there is element of sale also there is involvement of a Consideration on supply of text books while selling to private schools affiliated to Karnataka State Board.

KTBS does not have any specific notification for its exemption under GST Act. KTBS does not prints the text books required by it for supply duty for organizational Commitment purpose. KTBS sells for tenders for printing & supply of text books on contract basis, where in contractor Supplies the Service of printing along with the supply of Materials such as paper, ink ex & transportation. There is consideration of value of goods & services Supplied by Contractor to KTBS. Hence the Event is taxable under GST Act.

In the absence of any specific notifications granting exemption of GST on supply of goods and service of printing & supply of text books printed on contract basis by any contractor to KTBS, The contractor giving the service of printing to KTBS is a taxable event & is required to be taxed under GST Act at the applicable rate at the time of supply.

Hence the Event of supply of service of printing & the physical Materials required for printing etc., at the hands of contractor / applicant M/s Bhagyam Binding Works is taxable event only.

- 5.5 Also this office had addressed a letter to the Commissioner of Central Tax, Bengaluru West GST Commissionerate on 28-03-2022 to file comments on the application filed. In response to this, the Assistant Commissioner of Central Tax, West Commissionerate, Bengaluru has furnished comments as below:

Query No. 1: Whether KTBS can be classified as "educational institution" for the purpose of applicability of GST on printing services provided to it by the applicant?

Comments: From the submissions made by the applicant it appears that the Karnataka Text Book Society is a society registered under the Karnataka Societies Act, 1960 and is engaged in preparation printing and distribution activities relating to government approved school text books.

The said society neither is managing or running a school / educational institution nor is imparting any education directly to students. It is only facilitating the educational services provided by various government approved schools by providing text books required for the said educational services. Accordingly, this office is of the considered opinion that the Karnataka Text Book Society cannot be considered as an 'educational institution' in terms of the definition provided at SL No. 2(y) of notification No.12/2017 - Central Tax (Rate) dated: 28.06.2017 as amended.

Query No. 2: Alternatively, whether Karnataka Text Book Society can be classified as "State Government" for the purpose of applicability of GST on printing services provided to it by the applicant?

Comments: As discussed above, the Karnataka Text Book Society being a society registered under the Karnataka Societies Act, 1960 cannot be considered as 'State Government'. However, as held by the Kerala Authority for Advance Ruling in the case of M/s Kerala Books and Publications Society, dated 05.01.2021, the Karnataka Tex Book Society can be considered as "Governmental Authority" as defined in Para 2 (zf) of the Notification No. 12/2017 Central Tax (Rate) dated 28.06.2017, as amended, subject to fulfillment of the conditions prescribed for the 'Government Authority'.

Query No. 3: Whether the rate of tax being charged at present by printers on the printing of text books supplied to the Karnataka Text Book Society i.e. @ 12% is correct, or whether any exemptions or lower rate of tax would be applicable on the said contracts for printing and supply of

school text books.

Comments: The question of determination of rate of GST on printing of text books has already been decided by the Authority for Advance Rulings in Karnataka vide Advance Ruling No. KAR ADRG 11/2020 dated 18.03.2020 in the case of M/s. Department of Printing, Stationery and Publications, Bengaluru. The same may be considered for the instant case.

Kerala AAR has clearly held that the printing of text books / work books come within the meaning and scope of supply and is a supply of services. Regarding the issue whether the services supplied by the applicant is exempted as per entries at SL No. 3, 4 or 5 of the Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017 as amended. The entries at SL Nos. 3, 4 and 5 of the said notification reads as follows:-

"3 - Chapter 99 - Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution -Nil

4 - Chapter - 99 - Services by governmental authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution -Nil

5-Chapter-99 - Services by governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution -Nil

8.8 The exemption provided under the entry at SL No. 3 is in respect of pure services not involving supply of any goods provided to the Central Government, State Government, Union Territory or local authority or a Governmental authority or a Government entity by way of any activity in relation to any function entrusted to a Panchayat under Article 243G or a Municipality under Article 243W of the Constitution. The exemption under the entry at SI No. 4 is in respect of services by a governmental authority by way of any activity in relation to any function entrusted to a municipality under Article 243W and the exemption under the entry at SI No. 5 is in respect of services by a governmental authority by way of any activity in relation to any function entrusted to a panchayat under Article 243G. The exemption under SI No 3 of the said notification is in respect of specified services provided to the State Government or local authority or a Governmental authority or a Government entity and the exemptions at SI. Nos. 4 and 5 are in respect of specified services provided by a Governmental Authority.

The TP here is providing services to KTBS. TP himself is not Govt. Authority. He does not fit into Sr No. 3 of the Notification as he supplies paper books along with printing services and this entry excludes composite supply involving supply of goods.

Sr no. 4 and 5 applies to services by specified services provided by a Governmental Authority. Further KTBS cannot be treated as an Educational Institution. Also there is no specific exemption available on the activity. There can be no intendment to the wording of the notification.

6. Applicant's Interpretation of Law:

6.1 The Applicant states that KTBS is established to supply textbooks to students under the Sarva Shiksha Abhiyana. In the achievement of the goal of the Sarva Shiksha Abhiyan Scheme, KTBS ought to be classified as an educational institution within the meaning of the phrase as per Clause 2(y) of the Notification No. 12/2017-Central Tax (Rate).

6.1.1 "Educational Institution" is defined at 2(y) of the Notification No. 12/2017-Central Tax (Rate) as follows:-

"(y) educational institution" means an institution providing services by way of-

- (i) pre-school education and education upto higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- (iii) education as a part of approved vocational education course;"

6.1.2 As per the definition, an "educational institution" is not restricted to schools, which would be covered under (i), but also an institution which provides education as a part of curriculum for obtaining a qualification recognized by any law for the time being in force. As such, KTBS is engaged in preparing and supplying textbooks to students, whether they are enrolled in a school or not, who are working towards obtaining the Secondary School Leaving Certificate (SSLC) upon completing the 10th Standard.

6.1.3 The applicant stated that the objective of KTBS is to provide free textbooks or paid textbooks to government and/or aided schools in accordance with the State Policy for Sarva Shikhsa Abhiyana. The textbooks are a key part, if not the most important aspect of obtaining the education which would make the students eligible for writing the exams for each class and the SSLC exam at the end of 10th standard, and thus obtaining a qualification recognized by the law in force.

6.1.4 The applicant stated that while a school, which is a traditional "educational institution", is important for this education, it is not necessary. This is evidenced by the fact that a student can independently appear for the Certificate examination (a recognized qualification by the law currently in force) without being enrolled in a school and pass so long as the student has studied the correct syllabus which is prescribed by the textbooks.

6.1.5 The applicant stated that it would be pertinent to point out here that without the textbooks supplied by KTBS, the students (regardless of whether they are enrolled in a school or not) would be unable to write the examinations to obtain the SSLC qualification. The applicant has relied on the rulings of the Gujarat High Court as affirmed by the Supreme Court in the case of Sahitya Mudranalaya Private Limited v. Additional

Director General. They have also relied on the order of the Supreme Court in the case of Assam State Textbook Production and Publication Corporation Limited v. CIT.

6.1.6 The applicant states that Education would necessarily have to mean the entire process of learning and not simply limited to the actual imparting of knowledge in schools, colleges or institutions. The process of learning in as much as it concerns the school level classes from 1 to 10 is incomplete without the relevant prescribed textbooks and without the textbooks supplied by KTBS, there could be no examinations nor did qualifications base thereon hand out to any student.

6.1.7 The printing and supply of textbooks would therefore have to be included within the ambit of "education" and the supplier, i.e., Karnataka Textbook Society an "educational institution". If this explanation is accepted, then the Applicant's services of printing of textbooks for KTBS would also be covered within the ambit of "services relating to admission to, or conduct of examination by, such institution" and subject to Nil rate of GST as per Sl.No.66, Heading 9992 of Notification 12/2017 Central Tax (Rate) as amended.

6.1.8 The applicant states that in Notification No.12/2017 Central Tax (Rate), Sl.No.66, Heading 9992 provides for Nil GST on the following:-

Services provided -

(a) By an educational institution to its students, faculty and staff;

(b) To an educational institution, by way of-

(i) transportation of students, faculty and staff;

(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;

(iii) security or cleaning or house-keeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by such institution:

6.1.9 The applicant is of the view that the service provided by way of printing of textbooks, which in turn are essential for the conduct of standardized examinations, for KTBS would therefore be covered under this definition.

6.2 The applicant submits that KTBS would fall within the ambit of "State Government" for the purposes of treatment under GST law:

6.2.1 KTBS was established by a Government Order promulgated to form an umbrella body in the context of preparation, printing and distribution activities of all Government-approved school textbooks. It is functioning under the Education Department, Government of Karnataka and is wholly financed by the Government of Karnataka.

6.2.2 The main objective of KTBS is to provide quality Textbooks to Primary and Secondary School students of the schools across the State of Karnataka in accordance with the rules. Free textbooks are provided to 1st to 10th Standard students of all government schools and 9th and 10th class students of all Aided Schools as per the Government policy and to 1st to 8th Standard students of all aided schools as sponsored under the project of Sarva Shikshana Abhiyana (SSA), Karnataka.

6.2.3 The applicant states that KTBS is governed by its Bye-Laws and Rules & Regulations, which state that the control of the Society, its functions and utilization of all funds is done with government approvals and exercised by government officials or ex-officio government officers, who form the Governing Council.

6.2.4 KTBS plays an important role in the achievement of free and compulsory education for all children between the ages of 6 and 14, and as such aims at effectively involving the Panchayati Raj Institutions, School Management Committees, Village and Urban Slum Level Education Committees, Parents' Teachers' Associations, Mother Teacher Associations, Tribal Autonomous Councils and other grass root level structures in the management of elementary schools.

6.2.5 The applicant submits that KTBS would be classifiable as "State Government" by virtue of its composition and control as well as the activity undertaken by it.

6.2.6 Notification 12/2017 Central Tax (Rate) as amended provides for certain services to be subject to Nil GST, the relevant extracts of which are reproduced below:

Sl.No.	Heading	Description
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3	Chapter 99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government, Union territory, local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243 G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
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6.2.7 The services of printing and supply of textbooks is integral to the function of education, which is a function entrusted to the Panchayat under Article 243G as per SI.No. 17 of the 11th Schedule to the Constitution. The applicant is of the view that this would put their case squarely within its ambit, and as such, they would be subject to Nil GST as falling within the ambit of SI.No.3 of Notification 12/2017.

6.2.8 The applicant has relied on the ruling of the Kerala Authority for Advance Ruling in the case of M/s. Kerala Books and Publications Society dated 05-01-2021 on a similar matrix of facts.

6.3 The applicant is of the view that KTBS ought to be treated as an "educational institution" or "State Government" and fall within the ambit of the definition of one of the said terms as defined for the purposes of treatment under GST law, then as per the Notifications quoted hereinabove, the services proposed to be provided by them to KTBS would be subject to Nil rate of GST and not 12% as is currently charged.

PERSONAL HEARING / PROCEEDINGS HELD ON 26-04-2022

7. Sankari V. Krishnan, Advocate and Duly Authorised Representative appeared for personal hearing proceedings held on 26-04-2022 and reiterated the facts narrated in their application.

FINDINGS & DISCUSSION

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KG ST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the applicant.

10. The Applicant states that they are proposing to submit a bid in response to the tender floated by the Karnataka Textbook Society (hereinafter referred to as KTBS) for the printing of school textbooks as prescribed by the Karnataka State Board and would like to know whether KTBS can be classified as "educational institution" or "State Government" for the purposes of applicability of GST on printing services provided to it by the Applicant.

11. Now we discuss to know whether KTBS can be classified as "educational institution". "Educational Institution" is defined at clause 2(y) of the Notification No. 12/2017-Central Tax (Rate) dated: 28.06.2017 as below:-

"(y) educational institution" means an institution providing services by way of-

- (i) pre-school education and education upto higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- (iii) education as a part of approved vocational education course;"

KTBS is a Society registered under the Karnataka Societies Act, 1960 and receives grants from the Government of Karnataka for the supply of textbooks freely to students enrolled in government and aided schools and by sales to private schools affiliated to the Karnataka State Board.

12. From the above we can deduce that KTBS is not an institution providing services by way of pre-school or higher secondary education or education as a part of curriculum or as a part of approved vocational education course, but it is society which is only into supply of textbooks to students. Hence we can say that KTBS cannot be classified as "educational institution" for the reasons mentioned above. As already said above,

KTBS is a Society registered under the Karnataka Societies Act, 1960, the same cannot be considered as "State Government".

13. The Applicant states that he is charging 12% on the printing of textbooks supplied to KTBS and wants to know whether it is correct or not. The Applicant also states that the materials (physical inputs) are supplied by the applicant and all the content is provided by and belongs to KTBS.

Circular No. 11/11/2017, dated: 20.10.2017 clarifies taxability of printing contracts as below:-

2.....

3.....

4. In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing of the content supplied by the recipient of supply is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

5. In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

14. Since the applicant has stated that he provides the materials (physical Inputs) and the content is owned by the KTBS, the applicant is into printing of the content supplied by the recipient of supply and the same is the principal supply. Therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services as clarified in the circular stated supra. This service is taxable vide Entry No. 27 of Notification No. 11/2017-Central Tax (Rate) dated: 28.06.2017 further amended vide Notification No. 6/2021-Central Tax (Rate) dated: 30.09.2021 as below:

SI No.	Chapter, section or Heading	Description of Service	Rate (per cent.)	Condition
27	9989	"Other manufacturing services; publishing, printing and reproduction services; material recovery services	9	-

15. In view of the foregoing, we pass the following

RULING

- i. KTBS cannot be classified as "educational institution" for the purposes of applicability of GST on printing services provided to it by the Applicant.
- ii. KTBS cannot be classified as "State Government" for the purposes of applicability of GST on printing services provided to it by the Applicant.
- iii. Rate of tax being charged at present by the printers on the printing of textbooks supplied to KTBS i.e., @12% is incorrect and the same is taxable @18% as per entry No.27 of Notification 11/2017 Central Tax (Rate) dated: 28.06.2017 further amended vide Notification No. 6/2021 - Central Tax (Rate) dated: 30.09.2021.

(Dr.M.P.Ravi Prasad)

(T. Kiran Reddy)

Member

Member

Place: Bengaluru-560 009

Date: 12-08-2022

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