

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**  
**GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.**  
**(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)**

**BEFORE THE BENCH OF**

- (1) **Shri. Rajiv Magoo, Joint Commissioner of Central Tax, (Member)**  
(2) **Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

GSTIN Number, if any/ User-id		<b>27AAACY6741P1ZN</b>
Legal Name of Applicant		<b>M/s. YASHASWI ACADEMY FOR SKILLS</b>
Registered Address/Address provided while obtaining user id	<b>Plot No. 1051a, Yashaswi House, Prabhat Road Lane 15, Pune 411004</b>	
Details of application		GST-ARA, Application No. 84 Dated 26.12.2019
Concerned officer		<b>DIV-III Deccan, Commissionerate Pune-II</b>
<b>Nature of activity(s) (proposed/present) in respect of which advance ruling sought</b>		
A	Category	<b>Service Provision</b>
B	Description (in brief)	<p>1) Yashaswi Academy for Skills (herein after for the sake of brevity referred as 'YAS') is registered as not for Profit Company under sec. 25 of companies Act 1956. Company activities are Charitable having registration under Sec 12AA of Income Tax Act 1961. Company is also certified as eligible for donation under Sec.80G of Income tax Act.</p> <p>2) Activities NEEM agent /facilitator Applicant Company is registered as Agent under National Employability Enhancement Mission (herein after for the sake of brevity referred as 'NEEM'). Neem agent is facilitator for extending support for mobilizing the trainees under NEEM Scheme of Government of India as per regulations under notification issued by All India Council for Technical Education Copy of the certificate is enclosed for ready reference. (AICTE) for providing trainees on-the-job practical training in industries to enhance their future employability. For that purpose, Neem agent enters into agreements with various companies/ organizations (called as industry partner) who impart actual practical training to the students.</p>
Issue/s on which advance ruling required		(i) Classification of any goods or services or both
Question(s) on which advance ruling is required		As reproduced in para 01 of the Proceedings below.



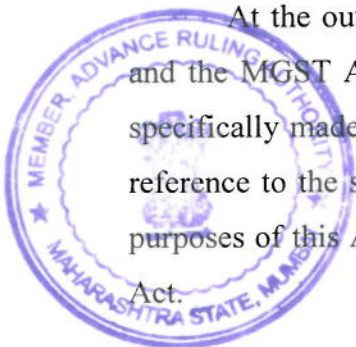
## PROCEEDINGS

**(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively ] by M/s. YASHASWI ACADEMY FOR SKILLS., the applicant, seeking an advance ruling in respect of the following questions.

1. *Whether the reimbursement by Industry Partner to YAS of the stipend paid to students attracts GST?*
2. *Whether the reimbursement by Industry Partner to YAS of the insurance premium attracts GST?*
3. *Whether the reimbursement by Industry Partner to YAS of the expenses for uniform and safety shoes attracts GST?*

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression ‘GST Act’ would mean CGST Act and MGST Act.



### 2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions made by the applicant are as under:-

- 2.1 Yashaswi Academy for Skills, the applicant/‘YAS’ is a not for Profit Company under sec. 25 of Companies Act 1956. Company activities are Charitable having registration under Sec 12AA of Income Tax Act 1961.
- 2.2 Applicant Company is registered as Agent under National Employability Enhancement Mission (herein after for the sake of brevity referred as ‘NEEM’). NEEM agent is facilitator for extending support for mobilizing the trainees under NEEM Scheme of Government of India as per regulations under notification issued by All India Council for



Technical Education (AICTE) for providing trainees on-the-job practical training in industries to enhance their future employability. For that purpose, NEEM agent enters into agreements with various companies/ organizations (called as industry partner) who impart actual practical training to the students.

2.3 During the duration of the training, the trainees are paid monthly stipend. The trainees are not treated as employees of the company.

**2.4 Role of the applicant i.e. YAS:**

a) Preparation of monthly attendance record of the trainees and getting it certified from the Company.

b) Processing Stipend of the trainees.

c) Payment of stipend to the trainees in their individual bank accounts.

d) Providing uniform and safety shoes (as per requirement of industry partner) to the trainees

e) Take Insurance policies towards Employee Compensation and Personal Accident Policy for trainees

**Consideration or monetary aspect and invoicing:**

2.5 For carrying out these functions, YAS gets fixed administrative fees per candidate from the Industry partner. YAS issues invoices specifying separately the administrative charges and amount for reimbursements of Actual expenses incurred on behalf of industry partner towards:

1. Stipend paid to the trainees

2. Actual cost of uniform and safety shoes provided by YAS to the trainees

3. Actual cost of Insurance Premium towards Employee Compensation and Personal Accident Policy.

2.6 Minimum stipend payable by industry to trainee is fixed by the Government considering nature of work to work as trainee and educational qualification of trainee. The uniform, safety shoes are as per requirements of the Industry partner and are purchased in the name of YAS. Insurance policy is in the name of YAS specifying the names of students/apprentice trainee and industry partner.

- 2.7 At present YAS is charging and paying GST at 18% on gross amount collected.
- 2.8 YAS enters into contract with Industry partner for giving Industrial training to students. As per rules of NEEM scheme Applicant Company chooses suitable industry partner (having infrastructure facilities) for actual job training to selected trainees. Applicant Company enters into contract with such industry partners. As per agreement industry partner is under obligation to pay stipend to trainees and also to provide uniform and safety shoes and insure the trainee students. YAS is acting as agent on behalf of industry partner as far as providing stipend, insurance premium, uniform and safety shoes.

2.9 Rule 33 of CGST Act is as follows: Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely, -

(i) The supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;

(ii) The payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and

(iii) The supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

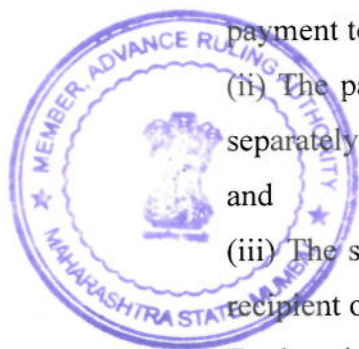
Explanation. - For the purposes of this rule, the expression “pure agent” means a person who-

(a) Enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;

(b) Neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;

(c) Does not use for his own interest such goods or services so procured; and

(d) Receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.





2.10 Trainee students are paid remuneration in the form of stipend for their work as trainees. Thus, industry is recipient of supply of services by trainees. Payment of stipend by YAS is an expenditure on behalf of industry Partner and hence qualify as pure agent. YAS does not procure goods and services for its own interest. Shoes, uniform are as per requirement of Industry Partner and insurance premium is not for use of YAS but for the benefit of trainee students. YAS gets reimbursement of actual amount incurred for procurement of goods and/or services on behalf of principal (industry Partner). YAS gets separate charges for providing the services of selecting trainees, preparing stipend statement and disbursing stipend, taking out insurance policies, procuring uniform and safety shoes.

2.11 As per clause 3 of the sample agreement referred above Industry Partner i.e. Future Retail Ltd. Is responsible to reimburse actual cost of Uniform, safety shoes and cost of Insurance premium. As per clause 4 YAS is responsible to collect stipend from Future Retail and pay to trainee students.

2.12 The Authority for Advance Ruling – Karnataka under GST Act in similar case of CADMAXX SOLUTION EDUCATION TRUST has held that reimbursements for stipend and insurance premium are not taxable under GST (ref: KAR ADRG 85/2019 DATED 25/09/2019).

2.13 Considering all the above facts and legal provisions the Applicant contents that the receipts on account of reimbursements for stipend, uniform, shoes, insurance premium, are not taxable in the hands of Applicant under CGST/SGST Acts.

#### **APPLICANT SUBMISSIONS DATED 27.07.2021:-**

2.14 *Article 41 of the Constitution provides Directive principles which state that “the State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment.”*

*It is the duty of the State to apply these principles by making laws to attain the objectives. Governments, established employment exchanges all over the country. The number of*

educated unemployed were exploding. Industries were coming up all over India. Technical education was all theory and without practical experience it was of no use. The Apprentice Act provided obligations on industries to impart practical training to qualified unemployed. The employment exchanges were not able to cope up with the work load and hence it became necessary to outsource the work. However, there was apprehension of exploitation in the hands of private sector operators. Hence regulations were made to formulate the boundaries within in which such agents have to work. Now let us consider the issue under consideration.

### Agreements under NEEM scheme

2.15 **National employment enhancement mission (NEEM)** is a Central Government initiative for enhancing the employability of the graduate/diploma holder in any technical/non-technical stream. To organize the activity methodically the Central Government has formulated regulation. Organization having expertise in this field is required to get itself registered as NEEM agent (facilitator) with All India Council for Technical Education. Agent's job is to select trainees and also suitable industry partners. The Applicant is registered as NEEM agent called as facilitator.

2.16 The applicant on the basis of its registration as NEEM Agent enters into agreement with industry partners for imparting actual training to the trainees. The agreements are in conformity with the scheme and regulation of National employment enhancement mission. The agreements are required to be in conformity with the scheme and regulation under NEEM notification. Therefore, in sum and substance all agreements are identical.

2.17 The applicant has attached one agreement with Future Retail Limited as specimen. In the said agreement the applicant as agent/facilitator under NEEM scheme entered into agreement with Future Retail Limited called as industry partner. In the agreement the role and responsibilities of industry partner are stipulated in clause no. 3 which is on page no.9. Sr. No. 6 & 10 of point no.3 are about stipend payment to trainees.

2.18 Copy of invoice raised by Applicant on Industry partner for reimbursement of stipend is on page no.14 and stipend paid to students is on page no.15 & 16. From its perusal it is





*crystal clear that the applicant has paid stipend equal to the amount receivable as reimbursement from industry partner as stipend.*

2.19 *Role and responsibilities of Neem Agent (applicant herein) are stipulated in clause No.4 which is on page no.9 and 10. Duties in relation to payment of stipend are mentioned at point no.3 to 6.*

2.20 *From combined reading of all the above referred clauses it is amply clear that the applicant is required to collect attendance record from Future Retail, prepare and submit monthly invoice and after receiving payment pay the stipend to the students.*

**The character of amount received for disbursement of stipend on behalf of industry partner/establishment:**

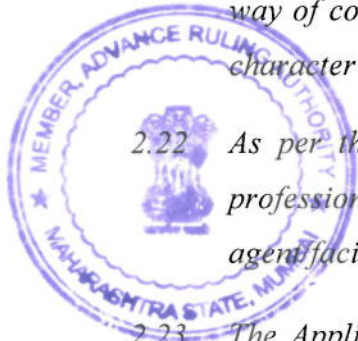
2.21 *In the subject matter the consideration by way of stipend is legally and contractually payable by industry or establishment imparting actual training to the trainees. Whatever amounts are received by the applicant in respect of stipend payable to trainees are not by way of consideration of service by the applicant to industry. These receipts do not have character of consideration within the meaning of CGST/SGST Act.*

2.22 *As per the terms of agreements the applicant is entitled for and also has charged professional service charges/administrative fees for services rendered as agent/facilitator/Third Party aggregator on which applicant has charged GST.*

2.23 *The Applicant therefore contends that it acts as pure agent for transfer of funds from industrial establishment to the trainees, by way of reimbursement. In these transactions the Applicant does not get any consideration from the trainees, and hence the amount received as reimbursement of stipend is not taxable under CGST/SGST Act.*

2.24 *The applicant does not wish to press other two points on which advance ruling is sought, namely:*

- 1) *amount received towards insurance premium.*
- 2) *Amount received for uniform and safety shoes.*



**03. CONTENTION – AS PER THE CONCERNED OFFICER:**

**OFFICER's SUBMISSION DATED 28.01.2020:-**

**The application has been examined and the clarification / comments on the queries raised by M/s Yashaswi Academy for Skills are as under:**

3.1 As per the nature of work / activities described and submission made by M/s Yashaswi Academy for Skills, it appears that the assessee is acting as a pure agent on behalf of industry partner for the provision of services of selecting trainees, preparing stipend statement and disbursing stipend, taking out insurance policies, procuring uniform and safety shoes. In the said Advance Ruling application, the assessee has declared / submitted that they are acting as a pure agent of the recipient of supply and fulfils all the conditions required as per Rule 33 of the CGST Act, 2017.

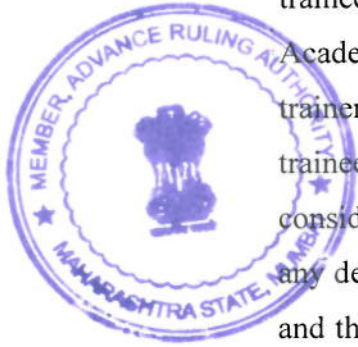
In view of the above facts, following observations have been chalked out.

**1. Whether the reimbursement by Industry Partner to M/s Yashaswi Academy for Skills of the stipend paid to students attracts GST?**

**Ans:** The Company (industry partner) which is providing on the job training to the trainees is required to pay the stipend to the trainees and the applicant M/s Yashaswi Academy for Skills is only acting as an intermediary in collecting the same from the trainer companies to the students. The service is provided by the trainers to the trainees as the trainer is liable to make payment of the consideration. This consideration is paid through the applicant and the applicant is not allowed to make any deductions in that amount. Hence, the applicant is only a conduit for the payment and the actual service is by the trainers to the trainees. Therefore, the reimbursement by the industry partner to the applicant of the stipend paid to students is not taxable in the hands of the applicant.

**2. Whether the reimbursement by Industry Partner to M/s Yashaswi Academy for Skills of the insurance premium attracts GST?**

**Ans:** The payment of insurance premium towards Employee Compensation and Personal Accident is made by M/s Yashaswi Academy for Skills with the trainee being beneficiary. If any tax is liable on this transaction, it shall be collected by the insurance company, and the insurance company would be the service provider and the





applicant will be the service recipient. If the same is reimbursed to the applicant by the trainer company industry partner), as per the terms of the agreement, this amounts to reimbursement of the premium paid and hence, this amount reimbursed would not be taxable in the hands of the applicant.

**3. Whether the reimbursement by Industry Partner to M's Yashaswi Academy for Skills of the expenses for uniform and safety shoes attracts GST?**

**Ans:** The expenses incurred towards uniform and safety shoes for the trainees are made by M/s.Yashaswi Academy for Skills. As per the agreement with the industry partner, the uniform and safety shoes provided to the trainees are as per the requirement of the industry partner and are purchased in the name of the applicant. If any tax is liable on this transaction. It shall be collected by the actual supplier of the uniform and safety shoes and the applicant will be the recipient of supply of goods. Hence, the applicant is just a channel for the payment of the goods procured. Therefore, the reimbursement of actual amount incurred for procurement of uniform and safety shoes, by the industry partner to the applicant is not taxable in the hands of the applicant.



**04. HEARING**

4.1 Preliminary hearing in the matter was held on 28.01.2020. Shri G. Y. Patwardhan, Advocate and Authorized Representative, appeared, and requested for admission of the application. Jurisdictional Officer was absent.

4.2 The application was admitted. Final hearing in the matter was fixed on 27.07.2021. Shri G. Y. Patwardhan, Advocate, and Authorized Representative, appeared and made oral and written submissions. Jurisdictional Officer was absent.

4.3 Heard the matter.

**05. DISCUSSIONS AND FINDINGS:**

5.1 We have gone through the facts of the case, documents on record, oral and written submissions made by the applicant as well as the written submissions made by the jurisdictional officer.

- 5.2 The applicant withdrew Question nos. 2 and 3 during their oral submissions made on 27.07.2021 and have further confirmed the same vide their correspondence dated 28.07.2021. Hence our discussions will only be in respect of Question No. 1 namely; ***“Whether the reimbursement by Industry Partner to the applicant, of the stipend paid to students attracts GST”.***
- 5.3 We find that, the Applicant is registered as an Agent under National Employability Enhancement Mission (herein after referred to as ‘NEEM’) for facilitating and extending support for mobilizing trainees under NEEM Scheme of Government of India as per regulations under notification issued by All India Council for Technical Education (AICTE), for providing trainees on-the-job practical training in industries to enhance their future employability. For that purpose, as a NEEM agent, the noticee enters into agreements with various companies/ organizations (called as industry partner) who impart actual practical training to the students. During the duration of the training, the trainees are paid monthly stipend.
- 5.4 The Applicant has submitted that, as per rules of NEEM scheme Applicant chooses suitable industry partner (having infrastructure facilities) for actual job training to selected trainees for which they enter into contract with such industry partners. As per agreement industry partner is under obligation to pay stipend to trainees and also to provide uniform and safety shoes and insure the trainee students. YAS is acting as agent on behalf of industry partner as far as providing stipend, insurance premium, uniform and safety shoes.
- 5.5 As per the agreements entered into with industry partners as a NEEM agent they: prepare monthly attendance record of the trainees, getting it certified from the Company; process stipends of the trainees; make payment of stipend to the trainees in their individual bank accounts; provide uniform and safety shoes (as per requirement of industry partner) to the trainees; take Insurance policies towards Employee Compensation and Personal Accident Policy for trainees.
- 5.6 For the said services, the applicant receives from the industry partner: fixed professional service charges fees per candidate, per month; reimbursement of Stipend paid to the trainees; reimbursement of actual cost of uniform and safety shoes provided by the





applicant to the trainees and reimbursement of the actual cost of Insurance Premium towards Insurance policy received in the name of YAS specifying the names of students/apprentice trainee and industry partner.

5.7 Further, the applicant has also submitted that, Trainee students are paid remuneration in the form of stipend for their work and the industry is recipient of supply of services by trainees. Payment of stipend by the applicant is expenditure on behalf of industry Partner and hence the applicant qualifies as pure agent under the provisions of Rule 33 of CGST Act.

5.8 The jurisdictional officer with respect to Question No. 1 has submitted that, “the industry partner which is providing on the job training to the trainees is required to pay the stipend to the trainees and the applicant is only acting as an intermediary in collecting the same from the industry partners to the students. The service is provided by the trainers to the trainees as the trainer is liable to make payment of the consideration. This consideration is paid through the applicant and the applicant is not allowed to make any deductions in that amount. Hence, the applicant is only a conduit for the payment and the actual service is by the trainers to the trainees. Therefore, the reimbursement by the industry partner to the applicant of the stipend paid to students is not taxable in the hands of the applicant.

5.9 The response of the jurisdictional officer to Question Nos. 2 and 3 are not being considered since both the questions are withdrawn by the applicant vide their submissions dated 27/28.07.2021.

5.10 We find that, the applicant, is registered as Agent under National Employability Enhancement Mission (‘NEEM’) for facilitating and extending support for mobilizing trainees under NEEM Scheme of Government of India as per regulations under notification issued by All India Council for Technical Education (AICTE), for providing trainees on-the-job practical training in industries to enhance their future employability, For that purpose, for which they enter into agreements with various companies/ organizations (called as industry partner) who impart actual practical training to the students. The applicant, in lieu of agreements with the industry partners, is engaged in preparing monthly attendance record of the trainees, getting it certified from the

Company ; processing stipends of the trainees ; making payment of stipend to the trainees ; providing uniform and safety shoes to the trainees ; taking Insurance policies for trainees towards Employee Compensation and Personal Accident Policy. For all such services rendered the applicant is paid service charge per month per trainee on which GST is being discharged (as per their submissions). During the duration of the training, the trainees are paid monthly stipend.

5.10 Regarding the issue before us in respect of stipend paid to the trainees by the applicant, by the industry partner which provides training to the trainees and is required to pay stipend to the trainees. This stipend is not directly paid to the trainees by the companies, rather the same are routed through the applicant. The applicant has submitted that the entire amounts received as stipend from the companies are paid to the trainees without any amount being retained. Thus, it is seen that the applicant is only acting as an intermediary in collecting the stipend from the companies and then disbursing the same to the trainees in full since the applicant is not allowed to make any deductions from the stipend before disbursing the same to the trainees. The applicant is only a conduit for the payment of stipend and the actual service is supplied by the trainees to the trainer companies (industry partners) against which stipend is payable. Hence the amount of stipend received by the applicant from the industry partners and paid in full to the trainees is not taxable at the hands of the applicant. Hence, in view of the submissions made by the applicant and also in agreement with the observations made by the jurisdictional officer, it is held that the reimbursement by Industry Partner to the applicant of the stipend paid to students does not attract GST.

06. In view of the extensive deliberations as held hereinabove, we pass an order as follows:

**ORDER**

**(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

NO.GST-ARA- 84/2019-20/B- 48

Mumbai, dt. 20.08.2021

For reasons as discussed in the body of the order, the questions are answered thus –

**Question 1. Whether the reimbursement by Industry Partner to YAS of the stipend paid to students attracts GST?**



**Answer:-** *The reimbursement by Industry Partner to the applicant(YAS), of the stipend paid to the trainees, does not attract tax under the GST Acts.*

**Question 2.** *Whether the reimbursement by Industry Partner to YAS of the insurance premium attracts GST?*

**Answer:-** *Not answered since question is withdrawn by the applicant.*

**Question 3.** *Whether the reimbursement by Industry Partner to YAS of the expenses for uniform and safety shoes attracts GST?*

**Answer:-** *Not answered since question is withdrawn by the applicant.*



**RAJIV MAGOO  
(MEMBER)**

**T.R. RAMNANI  
(MEMBER)**

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website.

**Note:-**An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on [gst.gov.in](http://gst.gov.in) for online appeal application against order passed by Advance Ruling Authority.