

GIB/KN/INFORMATICS/24.09.2019/AAR-221

Advance Ruling Category : Exemption

State : Karnataka

Order No.: GIB/KN/INFORMATICS/24.09.2019/AAR-221

Name of Entry :
Informatics Publishing Ltd

Date : 24-09-2019

Breif Issue :

Issue & Fact of the Case:

Whether the input tax credit is available when the online educational journals and periodicals are supplied to the educational institutions other than to pre-school and higher secondary school or equivalent, which is exempt as per notification no 2/2018 central tax rate-Central Tax (Rate) dated 25.01.2018?

Company is engaged in the supply of online journals. They import various online journals from the foreign suppliers and supplies them mainly to the educational institutions.

Applicant states that as per the provisions of **Section 5(4) of the IGST Act, read with section 13(12) of the IGST Act**, the applicant is liable to pay IGST on the import value of online journals. As per Section 13(12), in case of online database retrieval and access services, the location of the recipient is the place of supply of service and hence based on **section 5(4) of IGST Act**, the applicant is liable to pay IGST on the import of services.

The applicant is only providing access to the articles published in various journals and papers to its subscribers, It itself is not publishing any online journal.

The applicant is liable to pay IGST on the import value of online journals, in case of OIDAR (online information database access and retrieval services) services the location of the recipient is the place of supply of service.

As per section 17(1) and 17(2) with rule 42, the amount of input tax credit directly attributable to the supply of exempt supply is not an eligible input tax credit but if the exemption is conditional than there was no requirement to reverse the credit.

Section 2(47) “exempt supply” means supply of any goods or services or both which attracts

nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the IGST Act, and includes non-taxable supply.

Notification no 2/2018 central tax rate-Central Tax (Rate) dated 25.01.2018 has been issued under **Section 11** of the Act and as per the notification, the exemption is subject to the condition that the supply of online journal and periodicals to an educational institution other than pre-school and higher secondary educational institution is exempt from GST. It means the exemption is not “wholly” exempt under Section 11. It is a conditional exemption. The conditions attached to the notification are as under:

- a. The supply should be to an educational institution
- b. Supply should be only online educational journal or periodicals
- c. Educational Institution excludes primary and higher secondary educational institutions

Decision of Advance Ruling Authority :

Decision:

Providing of access to the online content by the applicant is liable to tax 9% CGST and 9% KGST as per notification no 11/2017 central tax rate hence the transaction is not exempt, there is no restriction on input tax credit claims.