

17 FEB 2025

AUTHORITY FOR ADVANCE RULING, TAMIL NADU चेन्नई अंचल / CHENNAI ZONE
NO.207, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD, CHENNAI - 600 034 / CHENNAI - 600 034
CHENNAI - 600 006.

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

Members present:

Shri. Balakrishna S, I.R.S., Additional Commissioner/ Member (CGST), Office of the Principal Chief Commissioner of GST & Central Excise, Chennai - 600 034.	Shri. B. Suseel Kumar, B.E., M.B.A., Joint Commissioner/Member (SGST), Authority for Advance Ruling, Tamil Nadu, Chennai - 600 006.
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Advance Ruling No.02/ARA/2025, Dated: 06.02.2025

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on which the ruling sought to be appealed, is communicated.

2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.

5. The provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act (hereinafter referred to as the 'Act') are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act.

GSTIN Number, if any / User id		33AADCL6619E1ZQ
Legal Name of Applicant		M/s.Logskim Solutions Private Limited.
Trade Name of Applicant (Optional)		M/s.Logskim Solutions Private Limited.
Registered Address/ Address provided while obtaining user id		II Floor, Old No 28/New No 45, Roop Emerald, North Usman Road, T Nagar, Chennai - 600017
Details of Application		Application Form GST ARA – 01 received from the applicant on 14.02.2024.
Concerned Officer		State : Chennai Central Division, Pondy Bazaar Circle. Center : Chennai South Commissionerate, Guindy Division, Range II.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	1. Management Consulting Services 2. Contract Staffing Services 3. Temporary Staffing Services 4. Long-term staffing (pay rolling) Services
B	Description (in brief)	The applicant is a Third-party Aggregator for mobilizing, engaging and manning the trainees by entering into agreement with various industry partners that may or may not be registered with National Apprenticeship Promotion Scheme (NAPS) and National Apprenticeship Training Scheme (NATS). Industry partner imparts practical training or provide on-job training at their establishment. The application seeks a ruling on the taxability on the stipend received from the industry partner and paid to trainees, the sale of uniform and shoes, and the insurance policy for the trainees.
Issue/s on which advance ruling Required		Determination of the liability to pay tax on any goods or services or both.
Question(s) on which the advance ruling is required		1. In the below mentioned situation whether the amount of stipend so received from the industry partner by Logskim and paid to trainees without making any deduction, is chargeable to tax under the CGST Act? 2. Whether the sale of Uniforms and shoes and the amount of Insurance Premium sold to the industry partner at cost without any margin/markup is chargeable to tax under the CGST Act? 3. Whether the interpretation of law as made by us in point 16 to this form is correct?

M/s.Logskim Solutions Private Limited, located at II Floor, Old No 28/New No 45, Roop Emerald, North Usman Road, T Nagar, Chennai - 600017 (hereinafter called as 'the Applicant') are registered under the GST Acts with GSTIN 33AADCL6619E1ZQ. The applicant is a Third-party Aggregator for mobilizing, engaging and manning the trainees by entering into agreement with various industry partners that may or may not be registered with National Apprenticeship Promotion Scheme (NAPS) and National Apprenticeship Training Scheme (NATS). Industry partner imparts practical training or provide on-job training at their establishment. While the applicant is paid with the service charges from the industrial partners, they also incur expenses such as provision of uniforms and shoes, insurance, processing of payment of stipend to apprentices through Apprenticeship portal gateway etc. The amount of stipend being paid to the apprentices/trainees are fixed by the industry partner, and the amount of minimum stipend to be paid is fixed by the Central Apprenticeship Committee as per the Apprentice Rules.

2. The Applicant has made a payment of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules, 2017 and TNGST Rules, 2017, vide CIN ICIC23113300418814 dated 20.11.2023, towards the application fees payable.

3.1 The applicant is under the administrative control of State Tax Authority. The concerned Authorities of the State and Centre were addressed to report the detailed remarks and no pendency report on the questions raised by the applicant in their ARA application.

3.2 The Central Authority, i.e., Chennai South Commissionerate through their letter dated 16.04.2024, have stated that the stipend received by the taxpayer appears to be taxable due to the following reasons, viz., (i) No agreement exists to the effect that the taxpayer has acted as a pure agent of service recipient, i.e., industry partners, (ii) No proof as to whether the taxpayer has collected only the actuals, (iii) Nothing on record to show that the taxpayer has rendered pure agent services in addition to the services rendered on his own, (iv) No service is procured from any third party, (v) the taxpayer holds title to the manpower supplied to the industry partners, (vi) Similar manpower agents are paying tax on the entire consideration from their clients including wages, stipend, etc. They further stated that if shoes, uniforms, etc., are supplied on the basis of reimbursement, the same need not be taxed, but that the status of the taxpayer as a pure agent is not clear.

3.3 The State Authority i.e., the Joint Commissioner (Intelligence), Chennai vide their letter dated 06.05.2024 has stated that as per the records no inspection has been conducted, and that no issue is pending in respect of the applicant.

PERSONAL HEARING

4.1 The applicant was provided with an opportunity for personal hearing and Shri. Srivathson, Designated Partner, M/s. RCAS and Associates LLP Chartered Accountants, and Authorised Representative (AR) of the Applicant appeared for the personal hearing on 03.01.2025. The AR explained in brief about the activity being

done by the applicant with regard to provision of supply of services and reiterated the submissions made by them while filing the application for Advance Ruling. The AR stated that the applicant is a third-party aggregator with National Skill Development Corporation (NSDC) and registered as a third-party aggregator with Board Apprenticeship Training (BOAT) and Ministry of Education to implement National Apprenticeship Training Scheme (NATS). AR explained that the applicant is mobilizing, engaging and manning the trainees, entering into agreement with various industry partners who provide practical training or provided on-job training at their establishment.

4.2 The AR further explained that while the applicant is paid with the service charges from the industrial partners, they also incur expenses such as provision of uniforms and shoes, insurance, processing of payment of stipend to apprentices through Apprenticeship portal gateway etc. AR informed that the amount of stipend to the apprentices/trainees are fixed by the industry partner, and the amount of minimum stipend to be paid is fixed by the Central Apprenticeship Committee as per the Apprentice Rules.

4.3 The AR stated that there are mark-up in all expenditures incurred by them except for the stipend paid to the apprentices. AR stated that the applicant is acting as a 'pure agent' of the industry partners in respect of 'Stipend' alone which they are eligible for exclusion from taxable value as a 'pure agent'.

4.4 The members requested the AR to furnish copies of agreements with NATS, Industrial Partners and copy of empanelment letter from Government. AR agreed to furnish the documents at the earliest. AR submitted copies of Advance Rulings issued in their favour, copy of related acts and rules, Copy of Notification issued by the Ministry of Skill Development and Entrepreneurship, Sample employee screenshot, sample invoice copies and BDT (Direct Beneficiaries Transfer) policy received from NSDC.

DISCUSSION AND FINDINGS

5.1 We have carefully considered the submissions made by the Applicant in their application, submissions made and documents furnished during the personal hearing, and the comments furnished by the jurisdictional tax officers.

5.2 From the submissions made at the time of filing the application, it is seen that the applicant had sought an advance ruling, on the following questions, viz.,

1. In the below mentioned situation whether the amount of stipend so received from the industry partner by Logskim and paid to trainees without making any deduction, is chargeable to tax under the CGST Act?
2. Whether the sale of Uniforms and shoes and the amount of Insurance Premium sold to the industry partner at cost without any margin/markup is chargeable to tax under the CGST Act?
3. Whether the interpretation of law as made by us in point 16 to this form is correct?

5.3 In this regard, Section 97 which specifies the questions on which advance ruling can be sought is reproduced below for reference, i.e.,

"97. Application for advance ruling.— (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

*(2) **The question** on which the advance ruling is sought under this Act, shall be in respect of,—*

- (a) classification of any goods or services or both;*
- (b) applicability of a notification issued under the provisions of this Act;*
- (c) determination of time and value of supply of goods or services or both;*
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;*
- (e) determination of the liability to pay tax on any goods or services or both;*
- (f) whether applicant is required to be registered;*
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term."*

From the above, it could be seen that advance ruling could be sought by applicant on a specific question, and that the same should be in respect of the situations as referred in clauses (a) to (g) of Section 97(2) of the CGST Act, 2017.

5.4 We observe that query Nos. 1 and 2 are specific in nature as they refer to a situation and that the questions are squarely covered under Section 97(2)(e) of the CGST Act, 2017. Whereas the query at No.3, viz., "Whether the interpretation of law as made by us in point 16 to this form is correct?", does not get covered under any of the clauses from (a) to (g) of Section 97(2) of the CGST Act, 2017, as it seeks clarity on the interpretation put forth by the applicant which is generic in nature. In this regard, we derive strength from (i) Order No.6/2018 dated 19.07.2018 passed in respect of M/s.Spentex Industries Ltd., by the Authority for Advance Ruling, Madhya Pradesh, which states in para 5.3 that "the Authority is **neither obliged nor mandated** by the CGST Act, 2017 to clarify or specify any procedure", and (ii) Order No.KAR/AAAR/03/2022 dated 06.07.2022 passed in respect of M/s. Bharatiya Reserve Bank Note Mudran Pvt. Ltd., by the Appellate Authority for Advance Ruling, Karnataka, wherein it has been observed in para 15 that "**The correctness of otherwise of the method followed by the Appellant in claiming the input credit is not a subject covered under Section 97(2) of the CGST Act.**". Accordingly, we are of the opinion that while query No.1 and 2 are liable for admission and further discussion, the Authority for Advance Ruling, Tamilnadu is not required to pass a ruling in respect of query No.3 which seeks a clarification on the procedure to be followed, and on the interpretation.

5.5 Coming back to the issue in hand, we observe that query No.1 on the taxability relating to 'stipend' paid to trainees, forms the crux of the issue. Further we note that the contention of the applicant is that they act as a 'Pure Agent', in the case of disbursement of 'stipend' in actuals to the trainees, as they reportedly fulfil all the conditions enumerated under Rule 33 of the CGST Rules, 2017, and

accordingly, they contend that the stipend amount need not be included in the taxable amount for the purpose of GST.

5.6 Under these circumstances, it becomes imperative to analyze and discuss the provisions of rule 33 of the CGST Rules, 2017, as reproduced below, before proceeding further :-

*"RULE 33. Value of supply of services in case of pure agent. — 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 authorisation 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."*

From the above, it could be seen that under the 'Explanation' to Rule 33, the expression 'Pure Agent' has been defined as a person who, (i) enters into a contractual agreement with the recipient of supply, (ii) neither intends to hold nor holds any title to the goods or services or both so procured or supplied, (iii) does not use the same for his own interest, and, (iv) receives only the actual amount incurred to procure such goods or services. Further, for the purpose of exclusion from the taxable value, certain conditions are required to be fulfilled, viz., payment should be made to the third party by the supplier on authorisation from the recipient of supply; the payment made has been separately indicated in the invoice issued to the recipient of supply; the supplies procured are in addition to the supplies on his own account.

5.7 As far as stipend is concerned, we come to understand from the facts of the case furnished by the applicant and from the documents furnished, that the amount of stipend to be paid to trainees are fixed by the industry partner and the amount of minimum stipend to be paid is fixed by the Central Apprenticeship Committee or by the competent authority appointed by the Government of India. A stipend is nothing but an incentive provided to the trainees during the course of their training, which an industry partner is liable to pay as mandated. In this

regard, we note that in paras 1.8 and 1.9 of the Statement of Facts furnished as Schedule to Form GST ARA-01, it is reported by the applicant as follows :-

“1.8. ----- As per the agreement, the industry partner is liable to pay a stipend to the trainees and provide uniform and safety shoes and provide insurance to the trainee students.

1.9. Logskim acts as a pure agent of the industry partner for provision of services of selecting the trainees, preparing stipend statements and disbursing the same, providing them with shoes and uniforms as per the requirement of the industry partner and taking out insurance policies.”

5.8 It is important to note here that no supplies are procured by the supplier (applicant) in the instant case, as the supplier just acts as a conduit in receiving the stipend amount from the industry partner, and disbursing the same to the trainees. Further, no payment is made to any third party, as no supply is procured by the applicant and only disbursement of funds (stipend) takes place. Accordingly, we find that the conditions as in clauses (i) and (iii) to Rule 33 of the CGST Act, 2017, do not get fulfilled in the instant case. Apart from the above, the amount or value that is eligible for exclusion from the taxable value under the ‘pure agent’ concept, prima facie, has to be an ‘expenditure’ or ‘cost’, which was incurred by the supplier as a pure agent of the recipient of supply. This is not so in the instant case of the applicant, because they have neither incurred any expenditure / cost on their own account, nor they have made payment to any third party, in this regard.

5.9 We take note of the fact that the applicant has relied on the following Advance Rulings in support of their stand, viz.,

- a. CADMAXX Solutions Education Trust (AAR – Karnataka) - 85/2019
- b. Patle Eduskills Foundation (AAR – Maharashtra) – 53/2020-21
- c. 2COMS Foundation (AAR – Maharashtra) – 78/2020-21
- d. Yashawi Academy for Skills (AAR – Maharashtra) – 84/2019

At this juncture, we would like to make it clear that Advance Rulings apply only to the applicant concerned as per Section 95(a) of the CGST Act, 2017, under the facts and circumstances of the respective cases, and are not to be applied in general. However, the persuasive effect that it brings to the case is not to be undermined. Accordingly, the cases referred by the applicant are considered and perused and we find that in none of the cases, the aspect as to whether the stipend amount is an ‘expenditure or cost incurred by the supplier’ has been taken up and discussed. On the other hand, we find that the Authority for Advance Ruling, Karnataka in its Advance Ruling No.KAR/ADRG/07/2022 dated 08.03.2022 has considered the said aspect and a decision to the effect that the applicant does not qualify to be a pure agent of the industry partner, has been arrived at, in that case. We further note that on being appealed further, the Appellate Authority for Advance Ruling, Karnataka had upheld the ruling of the said Advance Ruling Authority, in its Order No.KAR/AAAR/04/2022 dated 06.07.2022. We are therefore of the opinion that even if the stipend amount is disbursed in actuals to the trainees, the applicant in the instant case do not qualify as a ‘Pure Agent’ of the recipient of

service, i.e., industry partner, and accordingly in view of the detailed discussions supra, the same is not excludible from the taxable value.

5.10 As far as the second query relating to 'Sale of Uniforms and shoes and the amount of Insurance Premium to industry partner' is concerned, the actual question raised in application for advance ruling reads as "Whether the sale of Uniforms and shoes and the amount of Insurance Premium to industry partner at cost without any margin/markup is chargeable to tax under the CGST Act?". It is seen that though the query throws up a situation about the taxability of a supply at cost without any margin/mark-up, the AR (authorised representative) in his submission made during the personal hearing on 03.01.2025 had categorically stated as follows :- "AR stated that **there are mark-up in all expenditures incurred by them except for the stipend paid to the apprentices.** AR stated that the applicant is acting as a 'pure agent' of the industry partners in respect of 'Stipend' alone which they are eligible for exclusion from taxable value as a 'pure agent'.".

5.11 From the above, it is clear that the reimbursement in actuals happen only in the case of disbursement of stipend to trainees. Accordingly, once it is held that the appellant does not act as a 'Pure Agent', even in the case of stipends, the question of applying 'Pure Agent' test to the case of 'sale of Uniforms and shoes and the amount of Insurance Premium to industry partner', does not arise at all, as the expenses in this case are admittedly not reimbursed in actuals. It becomes imperative to reiterate here that reimbursement in actuals, i.e., without any margin or mark-up is not the only criteria to determine the concept of 'Pure Agent', and that it involves fulfillment of many other conditions as well, as laid down under rule 33 of the CGST Rules, 2017. Under the facts and circumstances of the case, the appellant does not act as a 'Pure Agent' as far as it relates to the supply involving the sale of Uniforms and shoes and the amount of Insurance Premium to industry partner, and accordingly, the same becomes taxable under the CGST Act, 2017.

6. In view of the detailed discussions supra, we rule as under :-

RULING

- (i) The amount of stipend received from the industry partner by Logskim and paid to trainees without making any deduction, is chargeable to tax under the CGST/TNGST Acts, 2017.
- (ii) The sale of Uniforms and shoes and the amount of Insurance Premium sold to the industry partner is chargeable to tax under the CGST/TNGST Acts, 2017.
- (iii) We refrain from answering query No.3, in view of the reasons discussed in para 5.4 above.


(B. SUSEEL KUMAR)
Member (SGST)




(BALAKRISHNA S.)
Member (CGST)

To

M/s. Logskim Solutions Private Limited,
II Floor, Old No 28/New No 45, Roop Emerald,
North Usman Road, T Nagar, Chennai - 600017

(By RPAD)

Copy submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600 034.
2. The Commissioner of Commercial Taxes,
2ndFloor, Ezhilagam, Chepauk, Chennai - 600 005.
3. The Principal Commissioner of GST & Central Excise,
Chennai South Commissionerate,
692, MHU Complex,
Nandanam, Chennai 600 035.

Copy to :

1. The Assistant Commissioner (ST),
Pondy Bazaar Assessment Circle,
Greenways Road,
Chennai - 28.
2. Master File / spare - 1.

