

WEST BENGAL AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
14 Beliaghata Road, Kolkata – 700015
(Constituted under section 96 of the West Bengal Goods and Services Act, 2017)

BENCH

Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX
Mr Parthasarathi Dey, Additional Commissioner, SGST

Preamble

A person within the ambit of Section 100 (1) of the Central Goods and Services Act, 2017 or West Bengal Goods and Services Act, 2017 (hereinafter collectively called 'the GST Act'), if aggrieved by this Ruling, may appeal against it before the West Bengal Appellate Authority for Advance Ruling, constituted under Section 99 of the West Bengal Goods and Services Act, 2017, within a period of thirty days from the date of communication of this Ruling, or within such further time as mentioned in the proviso to Section 100 (2) of the GST Act.

Every such Appeal shall be filed in accordance with Section 100 (3) of the GST Act and the Rules prescribed there under, and the Regulations prescribed by the West Bengal Authority for Advance Ruling Regulations, 2018.

Name of the applicant	M/s Swayam
Address	9/2 B, Deodar Street, Kolkata-700019
GSTIN	Unregistered
Case Number	04 of 2020
Date of application	26/02/2020
Order number and date	03/WBAAR/2020-21 dated 29/06/2020
Applicant's representative heard	Sri Manas Agarwal, Advocate

This order is passed in terms of Notification No. 35/2020 – Central Tax dated 03/04/2020, extending up to 30/06/2020 the time limit for completion or compliance of any action by any authority or by any person under the GST Act where the due date for such completion or compliance otherwise falls during the period from 20/03/2020 to 29/06/2020.

1. Admissibility of the Application

1.1 The applicant is a charitable trust registered under section 12A of the Income Tax Act, 1961. It extends legal, medical, psychological and financial support to the women and their children surviving violence and abuse. The applicant also facilitates training programmes and workshops for the survivors. It wants to know whether it is liable to pay tax on its activities.

1.2 The question is admissible under section 97(2) (e) & (g) of the GST Act. The applicant states that the question raised in the application has neither been decided nor is pending before any authority under any provision of the GST Act. The application is, therefore, admitted.

1.3 The applicant being unregistered, neither the central nor the state administration has ascertained administrative jurisdiction on the applicant. Requirement under section 98(1) of the GST Act is, therefore, dispensed with.

2. Submissions of the Applicant

2.1 The applicant submits it facilitates access of the women survivors to legal aids. For example, it accompanies the survivor to the police and the courts and liaise with the lawyers when required. Depending upon the financial circumstances of the survivor, it often provides support in the form of reimbursement of the court fee, lawyers' fee or medical expenses, including hospitalization or psychiatric counselling. Such financial support is also extended to paying the remuneration of the trainers and charges of the facilitators for trainings and workshops.

2.2 The applicant further submits that it does not charge anything on the survivors for the services it extends. The payments discussed above are meted out from donations received and interest on deposits.

3. Observations and findings of the Bench

3.1 The applicant is apparently assisting the women survivors in various ways to get back on their feet. Such survivors of sexual and other violence need services like legal aid, medical assistance, and vocational training. The recipient of such services is, therefore, not the applicant but the survivor woman. The applicant makes payments not to the supplier of the services, but as financial support in the form of reimbursement to the recipient survivor. It is, therefore, not liable to pay GST based on reverse charge mechanism on such payments.

3.2 The applicant does not charge any consideration for facilitating the legal aid and other assistance. Such activities of the applicant, therefore, does not result in 'supply' of service as defined under section 7 (1) of the GST Act. The applicant is not, therefore, liable to pay tax thereon.

Based on the above discussion, we rule as under,

RULING

The applicant's activities do not amount to 'supply' of service, neither is it a recipient of the services for which it often provides financial assistance to the women survivors of sexual and other violence. The applicant is, therefore, not liable to pay GST on the activities described in the application.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

(SUSMITA BHATTACHARYA)

Member

West Bengal Authority for Advance Ruling

(PARTHASARATHI DEY)

Member

West Bengal Authority for Advance Ruling

