

AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI -600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Shri B. Senthilvelavan, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 003.

ORDER No. 02/ARA/2021 Dated: 25.02.2021

GSTIN Number, if any / User id		332000000383ARC/ Unregistered Person
Legal Name of Applicant		Tamil Nadu Skill development Corporation
Trade Name of the Applicant		M/s. Tamil Nadu Skill development Corporation
Registered Address / Address provided while obtaining user id		Alandur Road, Thiru Vi Ka Industrial Estate, Guindy, chennai 600 032.
Details of Application		Form GST ARA - 001 Application Sl.No.05/2020 dated 06.02.2020
Concerned Officer		State: The Assistant Commissioner(ST) Guindy Assessment Circle Center: Commissioner of GST & Central Excise, Chennai South Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision
B	Description (in brief)	Tamil Nadu Skill Development corporation was incorporated on 05/07/2013 under section 25 of erstwhile companies Act 1956 (Sec. 8 of Companies Act 2013) and its revenue are being derived from State/Central grants. Such grants are being utilized to train unemployed youth in several recognized sectors indirectly. The said Company is acting

	as a Nodal agency/Apex institution for imparting skill training in the state of Tamil Nadu for which the grants are released to the recognized training bodies/companies.
Issue/s on which advance ruling required	
Question(s) on which advance ruling is required	Whether the applicant is required to be registered under this Act?

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

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax 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 Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

M/s. Tamil Nadu Skill development Corporation, Alandur Road, Thiru Vi. Ka Industrial Estate, Guindy, Chennai 600 032. (hereinafter called the 'Applicant' or 'TNSDC') is an unregistered applicant. They have sought Advance Ruling on the following question:

Whether the applicant is required to be registered under this Act?

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that, Tamil Nadu Skill Development Corporation was registered as a non-profit under Section 8 Company under Companies act in the year 2013 by the Government of Tamil Nadu with an objective to provide Skill Training Programme for meeting the growing industrial demand for skilled workers. They receive funds from the Government as grants for conducting various skill Training programme implemented through registered Training Providers

empanelled with Tamil Nadu Skill Development Corporation. The Grants received has been disbursed for training providers and transportation cost to the Trainees attending the training. Hence, the Tamil Nadu Skill Development Corporation is a non-Profit Section 8 company and not doing any profit mobilizing activities. They submitted that the TNSDC may be exempted from paying the GST.

2.2 The applicant has stated that National Skill Development Corporation has been registered under the Act similarly State Government has formed this corporation for giving training to unemployed youth. Hence have stated that they be exempted vide Sl. No. 69(SAC 9992 or 9983) and Sl.No. 70 (SAC 9985). They had furnished the Certificate of Incorporation, G.O.(Ms.) No. 150 dated 11.06.2013 and copy of the Memorandum of Association and Articles of Association approved by the Government of Tamilnadu.

3.1 The applicant was given an opportunity to be virtually heard on 13.08.2020. The authorized representative appeared for virtual hearing. They stated that they undertake NSDC aligned courses, funded by State Government. The applicant was asked to give a write up on the courses, balance sheet and trail of accounts in respect of the courses conducted. They were asked to elaborate as to how their activities fall under Sl. No. 69 & 70 of the notification under which the exemption is claimed. Another hearing was agreed to be extended after they make their submissions.

3.2 The applicant vide their reference RC.No. 543/SDC-A/2020 dated 17.08.2020 furnished the details of the programmes they are involved with, Balance Sheet for the year 2018-2019, Activity process & Trail of Accounts and Justification for exempting from GST under Sl.No. 69 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017. The same are as under:

➤ STATE SKILL DEVELOPMENT Programme:

- Short Term Training Scheme: This scheme was formed with an objective to provide demand based and industry relevant skills to the unemployed youth to enhance their employability and transform the State into skill hub of the country.; The Government of Tamilnadu has decided to integrate various skill building programmes implemented by different departments to ensure the effectiveness of skill training activities. The vision of the Government of Tamilnadu was to bring in a

centralised system of selecting and monitoring skill training courses and institutions besides tracking the trainees till they get employed. Hence the Government has declared the applicant as a Nodal Agency for entire state in the year 2013. This ensured adopting common standard framework of programmes and fee structures, by which overlaps or duplication of efforts and wastage of resources will be avoided. ; The list of Sectors and courses/job roles conducted in TNSDC was furnished

- Recognition of Prior Learning(RPL): RPL refers to an assessment process used to evaluate and certify a person's existing skill sets, knowledge and experience gained either by formal, non-formal or informal learning. They have given training under RPL in the following sectors: 1. Construction, 2.Apparel, 3.Paints & Coating, 4. Leather, 5.Logistics, 6.Automobile, 7.Tourism & Hospitability, 8.Domestic Workers; The State Government has also given directions to engage skill certified workers in all the contract works undertaken by departments like PWD, CMWSSB, local bodies, etc for ensuring quality of work and to also minimise accidents at work spot.
- Amma Skill Training Program: In order to ensure supply of quality workforce to the MSME Sector, candidates were given intensive training under Amma Skill Training and Employment Scheme in the MSME units for which a monthly stipend of Rs. 2000/-per candidate is being paid from TNSDC
- Central Skill Development Programme:
 - Pradhan Mantri Kaushal Vikas Yojana 2.0 CSSM (2016-20): This is the flagship scheme of the Ministry of Skill Development & Entrepreneurship(MSDE) implemented by NSDC. The objective of this skill certification scheme is to enable a large number of Indian youth to take up industry-relevant skill training that will help them in securing a better livelihood. This program is being delivered as two components, Centrally Sponsored Centrally Managed(CSCM) and Centrally Sponsored State Managed(CSSM). Under the CSSM, they have trained 47,570 candidates till date and the scheme has been extended up to 2020-21
- On the Justification for exempting from GST under S.No.69 of the Notification, they have stated that:

- NSDC is a not-for-profit public limited company incorporated on July 31 2008 under Section 25 of the Companies Act, 1956. NSDC was set up by Ministry of Finance as Public Private Partnership (PPP) model. The Government of India through MSDE holds 49% of the share capital of NSDC, while the private sector has the balance 51% of the share capital; Similarly, TNSDC is also a not-for-profit public limited company set up by Government of Tamilnadu with 100% equity through TNSDC
- TNSDC acts as a catalyst and provides fund to training providers, industries which runs training programme and also to trainees in the form of transportation, boarding and loading cost. They focus on 33 sectors providing NSQF aligned skill training programmes, conducts assessment and certification through Sector Skill Council(SSC) an agency which is considered as one of the pillar of NSDC
- Assessing bodies empaneled by NSDC/SSC receives assessment charges from TNSDC for sustainment but they provide assessment and certification at free of cost to trainees by paying the assessment cost to the trained candidate to assessing agencies empanelled by NSDC or SSC
- Based on the above, it is clearly envisaged that the structure, roles and activities of the Tamilnadu Skill Development Corporation is in line with NSDC and utilises the supports and guidance of SSC which are provided with GST Exemption

In light of the above, they requested that they be exempted for GST under S.No. 69 of the said Notification.

4.1 The applicant was extended an opportunity to be heard again and was heard on 19.11.2020. The Authorized Representatives appeared for the hearing virtually. They stated that their structure, roles and activities are in line with the National Skill development Corporation (NSDC) and they utilize the supports and guidance of Sector Skill Council (SSC) and claimed exemption as per sl. No. 69 & 70 which is extended to NSDC, SSC. When specifically asked whether they fall under any of the categories of the Sl. No. 69 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017, they stated that they will furnish a further write-up on their claim within 10 days.

4.2 TNSDC vide their letter Rc.No. 543/SDC-A/2020 dated 15.12.2020 submitted the following:

- The objectives of the State Skill Development Mission (SSDM) framed through G.O (MS) No. 144 Labour and Employment (S1) Department Dated. 25.09.2009 is as follows.
 - a) Create opportunities for all to acquire skills throughout life, and especially for youth, women and disadvantaged groups.
 - b) Promote commitment by all stakeholders to own skill development initiatives.
 - c) Develop a high-quality skilled workforce/ entrepreneur relevant to current and emerging employment market needs.
 - d) Enable the establishment of flexible delivery mechanisms that respond to the characteristics of a wide range of needs of stakeholders.
 - e) Enable effective co-ordination between different ministries, the Centre and the States and public and Private providers.
- While National Skill Development Corporation conducts Short Term Training as per National Skills Qualification Framework (NSQF) Standards for various Skill Training Programmes initiated by Ministry of Skill Development Entrepreneurship (ie.,) Pradhan Mantri Kaushal Vikas Yojana (PMKVY), Skill Acquisition and Knowledge Awareness for Livelihood Promotion (SANKALP) etc., State Skill Development Mission (ie.) Tamil Nadu Skill Development Corporation also conducts Short Term Skill Training by getting funds from Government of Tamil Nadu to provide free Training to unemployed youth of our State.
- National Skill Development Corporation conduct Short Term Skill Training through its Empanelled Training Provider and conduct Assessment and Certification through concerned Sector Skill Council. Similarly Tamil Nadu Skill Development Corporation also conducts Short Term Training through Empanelled Training Provider and conduct assessment and certification through concerned Sector Skill Council whose activities are also exempted from GST as per serial No. 70.
- The Government has approved the name of Skill Development Mission as Tamil Nadu Skill Development Corporation vide G.O (Ms) No. 127 Labour and Employment (S1) Department Dated 16.04.2013. Tamil Nadu Skill

Development Corporation is a Section 8 Non Profit Company and gets 100 % funds from Tamil Nadu to provide free Training to the Un-Employed Youth.

- In West Bengal notification have been issued for having exemption from GST to Paschim Banga Society for Skill Development Government of West Bengal. Which is a similar Organization like Tamil Nadu Skill Development Corporation (Notification Attached).

On the basis of the above facts, the applicant requested the Authority of GST Advance Ruling to consider the points mentioned and exempt Tamil Nadu Skill Development Corporation from GST (Advance Ruling) under serial no 69 & 70 of Ministry of Finance Government of India vide No. 12/2017 Central Tax (Rate.) dated 20th June 2017 and Commercial Taxes and Registration (B1) Department, Government of Tamil Nadu vide G.O (Ms) No. 73 Dated 29th June 2019.

5.1 The Central Tax jurisdictional authority was addressed to report if there are any pending proceedings in the applicant's case on the issues raised by them in the ARA application and for comments on the issues raised. The authority furnished the following comments :

1. Section 2(17) of the CGST Act, 2017 states that: "business" includes-
 - (a) Any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - (b) Any activity or transaction in connection with or incidental or ancillary to sub/clause (a);
2. Section 7(1) of the Act defines the scope of the expression "supply". Section 7(2) states that "Notwithstanding anything contained in sub-section (1), -- (a) activities or transactions specified in Schedule III; or (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of Goods nor a supply of services."
3. However, in the instant case the activities of TNSDC are neither specified in Schedule III nor notified by the Government.

4. In view of the above, M/s Tamil Nadu Skill Development Corporation appear liable to pay GST.

They had reported that there are no proceedings pending in respect of the applicant.

6.1 The State Jurisdictional Officer has not furnished any comments on the issues raised by the applicant and it is construed that there is no proceedings initiated by the said office on the question raised by the applicant.

7.1 We have carefully examined all the documents produced by the applicant along with application and further write up submitted by them in pursuance of personal hearing held on 13.08.2020 and 19.11.2020 and their arguments put forth at the time of hearing. They have sought ruling on the following question:

Whether the applicant is required to be registered under this Act?

7.2 The facts of the case as available before us is that Tamil Nadu Skill Development Corporation is registered as a non-profit organization under Section 8 of the Companies act in the year 2013 by the Government of Tamil Nadu with an objective to provide Skill Training Programme for meeting the growing industrial demand for skilled workers. It receives funds from the Government as grants for conducting various skill Training programmes implemented through registered Training Providers empanelled with Tamil Nadu Skill Development Corporation. The Grants received has been disbursed for training providers and transportation cost to the Trainees attending the training. The applicant has stated that they are similar to NSDC in their constitution, objectives, etc and have claimed that the exemption under Sl. No. 69 &70 of Notification No.12/2017-C.T.(Rate) dated 28.06.2017 is to be extended to them and thereby they be exempted from GST.

7.3 The entries at Sl. No. 69 & 70 of the Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 are examined as under:

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (Per cent)	Condition
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69	Heading 9992 Or Heading 9983 or Heding 9991	<p>Any services provided by</p> <p>(a) The National Skill Development Corporation set up by the Government of India;</p> <p>(b) A sector Skill Council approved by the National Skill Development Corporation;</p> <p>(c) An assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;</p> <p>(d) A training partner approved by the National Skill Development Corporation or the Sector Skill Council,</p> <p>in relation to</p> <p>(i) The National skill Development Programme implemented by the National Skill Development Corporation; or</p> <p>(ii) A vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</p> <p>(iii) any other Scheme implemented by the National Skill Development Corporation</p>	Nil	Nil
70	Heading 9983 or Heading 9985 or Heading 9992	<p>Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.</p>	Nil	Nil

The above exemption at Sl.No. 69 is applicable only when the following three criteria are fulfilled

1. the service provided is to be classifiable under Heading 9992 or Heading 9983 or Heading 9991;
2. that service is to be provided by any of the following class of persons:
 - o National Skill Development Corporation(NSDC) set up by the GOT;
 - o a Sector Skill Council(SSC) approved by the NSDC;
 - o an assessment agency approved by SSC or NSDC;
 - o a training partner approved by the NSDC or the SSC
3. in relation to any one of the following programme
 - o the National Skill Development Programme implemented by NSDC;
 - o a vocational skill development course under the National Skill Certification and Monetary Reward Scheme;
 - o any other Scheme implemented by the NSDC

The exemption at Sl.No. 70 is applicable only to the services classifiable under Heading 9983 or 9985 or 9992 when provided by assessing bodies empanelled centrally by MSDE by way of assessments under the Skill Development Initiative Scheme

7.4 From the above, it is clear that the entry at Sl.No.69 exempt services covered under specific Headings when provided by a specific class of persons in relation to specific programme/course/scheme and Sl.No.70 exempts specific services provided by MSDE empanelled assessing bodies. In the case at hand the applicant is State Skill Development Corporation set up by the Government of Tamilnadu. The applicant is not an SSC approved by the NSDC; they are not assessment agency approved by SSC or NSDC; they are not a training partner approved by the NSDC or the SSC; they are not assessing body centrally empanelled by MSDE. Thus, in the instant case, the activities of the applicant are not satisfying the conditions provided in the Sl.No. 69 & Sl.No.70 of the Notification No. 12/2017 (CT) R dated 28.06.2017. Therefore, they are not eligible to available exemption as per Sl. No. 69 of Notification 12/2017 (CT) R dated 28.06.2017.

7.5 We find that the applicant has stated that they are similar to the National Skill Development Corporation in as much as they are a not-for-profit corporation set up by the Government of Tamilnadu as a Nodal agency to provide demand

based and Industry relevant skills to the unemployed youth to enhance their employability under State Skill Development Programme and Centre Skill Development Programme (in respect of Centrally Sponsored State Managed). It is their claim that they being similar in structure, role and activities to NSDC set up by GOI, the exemption available to GOI is to be extended to them. The words of the entry of the exemption Notification is very clear and unambiguous. The class of person and the activity sought to be exempted is spelt without any need for interpretation in the said entry. As handed down by the Hon'ble Supreme Court in many cases, when the words of the exemption Notifications are clear, then the exemption is to be read within the framework of the words of such Notification. In the case at hand, the applicant does not fall under the class of persons who are exempted vide Sl.No. 69 & 70 above and therefore their activities are not exempted.

7.6 Further, the applicant has referred the notification issued in west Bengal in support of their claim. This has been examined and found that the one notification issued by the west Bengal is pari-materia to the Notification 12/2017 C.T.- Rate dated 28.06.2017 and Notification No. PBSSD/GST-REG/2017/009/273 dated 18th September 2017 issued by Paschim Banga Society for Skill Development is specific for PBSSD, West Bengal. No such specific Notification is issued for the State of Tamilnadu. Therefore, the same do not have reference value in the case at hand.

8.1 It is seen that the applicant requests exemption from levy of tax under GST for their supply as they are not doing any profit mobilizing activities. Section 2(17) of the CGST/TNGST Act 2017 defines 'business' as follows:

"business" includes-

(a) Any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) Any activity or transaction in connection with or incidental or ancillary to sub/ clause (a);

and 'Consideration' defined under Section 2(31), excludes only 'subsidy' from the Government. The definition is under:

(31) "consideration" in relation to the supply of goods or services or both includes—

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.

Further, Section 7 of the act defines 'Supply' as:

7. (1) for the purposes of this Act, the expression "supply" includes—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

and Section 7(2) states that:

7(2) "Notwithstanding anything contained in sub-section (1), --

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of Goods nor a supply of services."

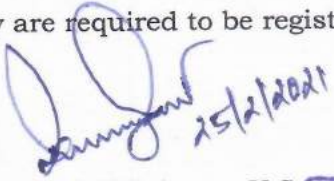
8.2 In the instant case the activities of TNSDC are 'Supply' as per Section 7(1) and are not excluded under Section 7(2). Further by the definition of business, the intent of 'profit' is not necessary for the activity. Also, only the 'subsidy' granted by the Government, stands excluded from 'Consideration'. Therefore, the supply undertaken by the applicant is liable to GST and subject to the monetary Turnover of the applicant, the applicant is liable to obtain GST Registration.


9.1 To sum up, the activities of the applicant are 'Supply' under Section 7(1) of the GST Act and are not exempted under Sl.No. 69 & 70 of the Notification No.12/2017-C.T.(Rate) dated 28.06.2017 and therefore, the applicant is required to be registered under the Act.

10. In view of the above we rule as under:

Ruling

Tamilnadu Skill Development Corporation is not exempted vide entry Sl.No. 69 and Sl.No.70 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 and therefore, they are required to be registered under the CGST/TNGST Act 2017.


Shri Kurinji Selvaan. V.S.,
(Member SGST)


Shri B. Senthilvelavan
(Member CGST)



To

The Tamil Nadu Skill Development Corporation, // By RPAD//
Integrated Employment Exchange Complex,
TVK Industrial Estate, Guindy, Chennai 600 032

Copy Submitted to:

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2. The Princial Secretary/Commissioner of Commercial Taxes/Member,
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Copy to:

3. The Principal Commissioner of GST & Central Excise,
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4. The Assistant Commissioner (ST),
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5. Authority for Advance Ruling, Tamil Nadu.
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6. Master File/ Spare-2