
AUTHORITY ON ADVANCE RULING HOLDS THAT CONDUCTING ONLINE EXAMS/TESTS WITH MINIMAL HUMAN INTERVENTION CONSTITUTE 'OIDAR SERVICE'

The Authority on Advance Rulings in Karnataka in the case of NCS Pearson Inc. (the '**Applicant**') has held that provision of online exams/tests via electronic software to the non-taxable online recipients in India at a designated test center is Online Information and Database Retrieval Services ('**OIDAR**').

Facts

The Applicant, a Minnesota Corporation, USA has a business division 'Pearson VUE' engaged in the provision of computer based test administration solutions to its clients ('**Test Sponsors**') like educational institutions, professional licensing organizations etc. The Applicant on behalf of the Test Sponsors provides three types of test administrative solutions to candidates ('**Test Takers**') who are typically not registered under the Central Goods and Services Tax Act, 2017 (the '**CGST Act**'). The three tests offered are as under:

➤ **Test 1:**

Such tests are self-administered and wholly digital in nature. The test is not required to be taken from any test center and can be taken from any location as desired by the Test Taker. Additionally, the results are immediately given in electronic format. Thereby, the entire Type 1 test is electronic with no human intervention.

➤ **Test 2:**

This test format is very similar to Test 1, except that the Test Taker taking the Test 2 is required to schedule an appointment for the test and take the test at a test center, where an administrator verifies the identity of the Test Taker, validates test registration and the appointment. Additionally, the administrator assigns a computer to the Test Taker to take the test and continuously monitors the Test Taker during the test. The results are given in electronic format by the test center. Further, the entire process is recorded for validating any testing issues/issues, if any. Thereby, there is human intervention in Type 2 tests.

➤ **Test 3:**

This type of test consists of multiple questions and analytical writing assessment section i.e. essay-based questions. In India, the Test Takers give the test in the same manner as Test-2. However, the difference lies in the fact that, pursuant to completion of the tests, the Test Taker can see the final score for multiple choice questions and indicative score for the essay based question as essay based questions are sent to a human evaluator in the USA for assessment and final scoring. The final score is then sent to the Test Taker through a URL vide e-mail.

In the present case, the applicant has entered into contractual arrangements with a subsidiary company of the Applicant to act as Pearson VUE Authorized Test Centres ('**Test Centres**') and independent third party service providers. The Contract is such that, the third party service providers, provide the Applicant with secure Test Center services for delivery of tests, including verification of candidates identity, invigilation etc.

Further, the tests are owned and are the intellectual property of the Test Sponsors. The questions and format of the test is provided by the Test Sponsors.

Judgment

The Authority on Advance Ruling in Karnataka in the present case has observed that the provision of taking tests online at designated test center i.e. Test 2 are naturally bundled activities and are supplied in conjunction with each other in the ordinary course of business and therefore would amount as composite supply under the CGST Act with principal supply being OIDAR service provided by the Applicant to non-taxable online recipients.

However, Test -3 are scored after human intervention, the same are outside the scope of OIDAR services.

VA Comments

- The present ruling is based upon the level of human intervention in providing online services. The ruling states that any human intervention ancillary to providing online services shall be treated as OIDAR services however, when human intervention is a separate principal activity in addition to providing the online services, the same will not form part of OIDAR services.
- Though the ruling deals with different kinds of tests in details, it is important to note that deciphering the level of human intervention as being principal or ancillary is not a pragmatic approach.

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For any further information/ clarification, please feel free to write to:

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