



M/s.NCS Pearson (India) Private Ltd, Bangalore | AR.CLR.CR.14/12-13

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULINGS UNDER SECTION 60 OF THE KARNATAKA VALUE ADDED TAX ACT, 2003 READ WITH RULES 163 TO 165 OF THE KARNATAKA VALUE ADDED TAX RULES, 2005

PRESENT : (1) M.D.Jain
Additional Commissioner of Commercial Taxes (Head Quarters-I), Bangalore and Chairman.
(2) H.D.Arunkumar,
Additional Commissioner of Commercial Taxes (Policy & Law), Bangalore and Member.
(3) R.Jagadeesh Prasad,
Additional Commissioner of Commercial Taxes (Goods and Service Tax), Bangalore and Member

NAME AND ADDRESS OF THE APPLICANT : M/s.NCS PEARSON (INDIA) PRIVATE LTD.,
Unit B, 3rd Floor, Alfa Centre, No.20,
Koramangala Inner Ring Road,
Bangalore-560-047

TIN : 29360840125

JURISDICTIONAL ASSESSING AUTHORITY : ACCT, LVO-15, Bangalore

REPRESENTED BY : Sri Srinivasa, Chartered Accountant.

ORDER NO.AR.CLR.CR.14/2012-13, DATED 22.04.2013

1. M/s. NCS Pearson (India) Private Limited; Unit 'B', 3rd Floor, Alfa Centre, No.20, Koramangala, Inner Ring Road, Bangalore borne on the files of LVO-015 Bangalore with TIN 29360840125 ("the applicant" for short) has filed an application in Form VAT-540 dated 25-05-2012 under section 60 of the KVAT Act 2003 (Act for short). The applicant company engaged in providing service of educational and corporate training and testing services is seeking clarification as to 1) Whether the provision of online training/testing service is liable for value added tax; and

2) Whether the Service tax collected in the invoice forms part of the turnover for the purpose of charging value added tax.

2. The applicant's authorised representative Sri Srinivasa, Chartered Accountant of the applicant appeared before the Authority on 20.10.2012 and reiterated the written submission made which are as under:-

a) The applicant is engaged in providing training/testing service to the needed customers. These are basically online training/testing service provided by the applicant to its clients. The clients who subscribe to this service are provided with a License key in the form of an alpha-numeric code. These license keys have a specific validity period. Thereafter the client logs on to the server of the applicant and using the license key, he accesses the software which contains various online tools and modules that provide the particular training or testing service subscribed to by him. Once the training or testing is completed the client gets the report of his performance from the service provider (i.e. applicant). The entire revenue from the service is subject to service tax under the category of 'Commercial coaching or training services'. In the process, no transfer of property in goods is involved. Hence this service will not come under the definition 'works contract' and will not attract VAT.

b) The Service Tax collected in the service tax invoice issued towards the sale of any goods will not form part of turnover relating to sale of such goods and therefore no Value Added Tax is leviable on any amount collected as Service Tax.

c) The applicant's authorized representative has further submitted that the applicant is engaged in sale of software licence.

3. Matter is examined.

(i) While in his written submission, the applicant has claimed to be providing service which does not involve any transfer of property in goods, his authorized representative has stated that the applicant effects sale of software licence. Thus, the nature of transaction carried out by the applicant has not been correctly explained.

