THE 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 Tax Act, 2017)

Members present:

Yogesh Sugdeo Chitte
Joint Commissioner, CGST & CX

Jaydip Kumar Chakrabarti
Additional Commissioner, SGST

Preamble

a) A person within the ambit of Section 100 (1) of the Central Goods and Services Tax Act, 2017 or West Bengal Goods and Services Tax 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 Tax 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.

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

Name of the applicant	**Indian Institute of Engineering Science and Technology Shibpur**
Address	IIEST Campus, Shibpur, PO: Botanical Garden, Howrah, West Bengal, 711103
GSTIN	19AAAAB4686Q1Z1
Case Number	WBAAR 13 of 2026-27
Date of application	August 27, 2026
Jurisdictional authority (State)	Shibpur Charge
Jurisdictional authority (Centre)	Shibpur Division, Howrah Commissionerate
Order number and date	15/WBAAR/2026-27 Dated 11.09.2026
Applicant's representative heard	Sri Alok Kumar Maity, Joint Registrar (Internal Audit) CMA Lakhi Kanto Gorai, Dy. Registrar (Finance) Sri Arun Kumar Gorai, Internal Audit Advisor (Retd.) CA Maninder Singh Dinga, Tax Consultant

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1.1 At the outset, we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 (the CGST Act, for short) and the West Bengal Goods and Services Tax Act, 2017 (the WBGST Act, for short) have the same provisions in like manner except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the WBGST Act. Further to the above, henceforth, for the purposes of these proceedings, the expression "GST Act" would mean both the CGST Act and the WBGST Act.

1.2 The applicant, Indian Institute of Engineering Science and Technology (IIEST), Shibpur, is an Institution of National Importance established under the NITSER Act, 2014 and undertakes consultancy projects for governmental bodies, public sector undertakings, private organisations and other clients through its Research and Consultancy Division. The consultancy engagements are entered into solely between the client and IIEST, Shibpur, with the Institute raising invoices and receiving the consultancy consideration. Such assignments are executed under the supervision of a designated Consultancy In-charge, who is required to be a regular, full-time employee of the Institute. Upon receipt of consultancy fees, the Institute retains its institutional share and distributes the pre-agreed remaining portion among the concerned faculty members as an internal allocation approved by the competent authority. The applicant has accordingly sought an advance ruling on whether the amount so distributed to its full-time faculty member constitutes consideration for an independent supply of services by the faculty member to the Institute under the CGST Act, 2017, or whether the activity is covered by Entry 1 of Schedule III as services by an employee to the employer in the course of or in relation to employment.

1.3 The applicant has made this application under sub-section (1) of section 97 of the GST Act and the rules made thereunder, seeking an advance ruling in respect of the following question:

1. Whether the amount disbursed by the Applicant Institute to its full-time faculty member, being a share of consultancy receipts distributed under the Institute's Consultancy Rules, constitutes consideration for an independent supply of services by the faculty member to the Institute under the provisions of the CGST Act, 2017?

2. If the response to Question 1 is answered in the affirmative, whether such distributed amount is liable to GST, and whether the individual faculty member is legally mandated to obtain registration under Section 22 of the CGST Act, 2017, subject to the applicable statutory threshold limits?

3. If statutory registration is determined to be required, whether the faculty member is required to issue a formal tax invoice to the Applicant Institute under Section 31 of the CGST Act for receiving such payment, or can it be lawfully disbursed without an invoice?

2. Submission of the Applicant

2.1 The applicant, Indian Institute of Engineering Science and Technology, Shibpur (hereinafter referred to as "IIEST, Shibpur" or "the Applicant Institute"), submits that it is a premier national educational institution established by an Act of Parliament under the NITSER Act (Amendment) 2014 and is designated as an Institute of National Importance. The Applicant Institute undertakes, inter alia, research, consultancy, scientific testing and executive development activities through its institutional Research and Consultancy (R&C) Division. The R&C Division functions under separate institutional Consultancy, EDP and Testing Rules framed by the Institute.

2.2 The Applicant submits that, for effective translation of engineering and scientific knowledge into societal benefit, it operates an institutional Research and Consultancy Wing. External engineering, corporate and public sector clients approach the Applicant Institute for specialised technical consultancy, scientific testing and executive development services. The contractual relationship for such assignments is exclusively between the client and IIEST, Shibpur on a principal-to-principal basis. Individual faculty members do not enter into independent contracts with external clients.

2.3 The Applicant submits that all consultancy assignments are undertaken by the Institute and not by individual faculty members in their personal capacity. The Consultancy, EDP and Testing Rules specifically provide that all consultancy, EDP and testing activities, whether carried out by an individual faculty consultant or a group of faculty consultants and irrespective of the extent of Institute facilities utilised, shall be considered as Institute Consultancy/Testing. Each such project remains the responsibility of the Institute and no consultancy, EDP or testing project can be undertaken by academic staff or any other member in his or her individual capacity.

2.4 The Applicant further submits that the external client directly approaches the Institute for the required consultancy or testing assignment. The Office of the Dean (Research & Consultancy) administers the consultancy activity and identifies the appropriate Department and faculty members having the requisite competence to execute the assignment. A Consultancy In-charge (CI) is appointed for the project. Under the institutional rules, only a regular faculty member of the Institute can act as Consultancy In-charge, while other eligible persons may participate as Co-Consultancy In-charge in

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accordance with the prescribed rules.

2.5 The Applicant submits that the Consultancy In-charge is a full-time, permanent and regular faculty member of IIEST, Shibpur. Thus, the faculty member who performs or supervises the consultancy work is already an employee of the Applicant Institute and receives regular salary from the Institute. The consultancy assignment is therefore undertaken within the institutional framework and under the administrative control and supervision of the Institute.

2.6 The Applicant submits that the Institute itself raises the formal commercial invoice or bill upon the external client for the consultancy or testing services. The invoice is not raised by the individual faculty member. The Institute receives the consideration from the client and accounts for the transaction in its own books. The Institute also charges and reports GST on the taxable consultancy services supplied to the external client. The faculty members are expressly prohibited from executing private contracts or issuing separate individual commercial bills to institutional clients.

2.7 The Applicant submits that after receipt of the consultancy consideration from the client, the Institute retains the applicable institutional overhead and other amounts in accordance with its Consultancy Rules and distributes the prescribed portion of the consultancy remuneration amongst the faculty members, technical assistants and office staff, as applicable. Such disbursement is an internal allocation made pursuant to the institutional rules and after completion of the prescribed administrative procedures.

2.8 The Applicant further submits that the consultancy remuneration payable to faculty members is not a payment received directly from the external client. The client has no contractual relationship with the individual faculty member and the individual faculty member does not issue an invoice or bill to the client. The external client deals exclusively with IIEST, Shibpur. Consequently, the subsequent distribution of a portion of the consultancy receipts to the faculty member is an internal institutional disbursement and not a separate commercial transaction between the faculty member and the client.

2.9 The Applicant submits that the Consultancy Rules establish a comprehensive institutional framework for undertaking consultancy projects. The organisational structure consists of the Dean (R&C), Advisory Committee, Associate Deans (R&C), administrative officers and the R&C Cell support staff. The Research and Consultancy Advisory Committee is responsible for providing the institutional framework for sponsored research and consultancy activities.

2.10 The Applicant relies upon the following provisions of its Consultancy, EDP and Testing Rules to demonstrate that the consultancy activities are institutional activities and cannot be regarded as independent consultancy undertaken by the individual faculty members:

1. Only regular faculty members can act as Consultancy In-charge.
2. All consultancy, EDP and testing projects are considered Institute Consultancy/Testing.
3. Each consultancy project is the responsibility of the Institute and not of an individual.
4. No consultancy, EDP or testing project can be undertaken by academic staff in their individual capacity.
5. The Consultant In-charge/Dean (R&C) deals directly with the client in all matters concerning the institutional consultancy job.
6. The work can be undertaken only after administrative approval of the Dean (R&C).
7. Disbursement is processed after submission of the final report and completion of the prescribed consultancy/testing completion and apportionment proforma.

2.11 The Applicant submits that the Consultancy Rules also prescribe the manner in which the total consultancy charges are to be estimated and distributed. The Institute overhead charge, actual expenses and remuneration payable to faculty, technical assistants and office staff form part of the total agreed charges of a consultancy project. Thus, the remuneration distributed to the faculty is an integral part of the institutional consultancy framework and does not constitute consideration independently received by the faculty member from the external client.

2.12 The Applicant places reliance on the following formula prescribed under the Consultancy Rules for estimation of testing service charges:

Sl. No.	Cost of the Equipment	Xi (Rs.)
A.	Life of the Equipment (5 Years for Computer & 10 years for others). The maximum value of Li to be considered will be 5 years for Computer & 10 years for other respectively.	Li years
B.	Hourly Cost of Equipment	Yi = Xi / 2000Li (Rs.)
C.	Testing Time	Ti hours
D.	Cost of Facilities (To be credited to DDF/CDF as Equipment Charges)	F = Σ YiTi, where i is the number of equipments

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E.	Cost of Contingency/Consumables, Lodging, boarding, field expenses, travel etc.	C
F.	Honorarium to Technical/Supporting Staff	D
G.	Honorarium to CI and Co-CIs	E
H.	Cost of Testing Service	P = 2 × (F+C+D+E)
I.	Institute Overhead Charge (IOC)	0.5P

The Rules further provide that the equipment used in consultancy should also be calculated using the prescribed methodology.

2.13 The Applicant submits that the institutional overhead and distribution mechanism further establishes that the faculty remuneration is merely an internal distribution of the consultancy receipts. The distribution prescribed under the Consultancy Rules is as follows:

Type of Project	**R&C Support charge**	**DDF**	**PDF**	**Research and Consultancy (R & C) Promotional Activity Fund**
Consultancy Project	65%	15%	15%	5%
Testing Project	65%	15%	15%	5%
EDP/Short term Course/Training Programme	65%	15%	15%	5%

2.14 The Applicant further submits that where there are Co-Consultancy In-charges, the Professional Development Fund is distributed in the prescribed proportion, namely 60% to the CI and the remaining 40% equally amongst the Co-CIs. Where there is only one Co-CI, 75% is distributed to the CI and the balance is distributed to the Co-CI. The Rules also permit a CI or Co-CI to divert part or the whole of his or her own remuneration to the Professional Development Fund. This mechanism demonstrates that the payment is governed by an internal institutional allocation system and is not consideration separately negotiated between the faculty member and the external client.

2.15 The Applicant submits that the Consultancy In-charge/Dean (R&C) deals directly with the client in all matters concerning a particular institutional consultancy job. The minimum total charges for a consultancy job are prescribed as Rs. 50,000/- excluding taxes. The proposal is examined by the Office of the Dean (R&C), administrative approval is obtained, standard terms and conditions are communicated to the client and the

consultancy work is undertaken only after such approval. Disbursement is processed only after submission of the Final Report and the prescribed consultancy/testing completion and apportionment proforma.

2.16 The Applicant further submits that the Consultancy Rules prescribe the remuneration and expenditure structure of consultancy projects. The total agreed charges consist of Institute Overhead Charges, actual expenses and remuneration to be distributed to faculty, technical assistants and office staff. The Rules also provide for expenditure towards equipment, facilities, contingency and consumables, lodging and boarding, field expenses, travel, technical staff, student assistants, insurance and other approved expenses. The contingency/consumables expenses are subject to the prescribed ceiling.

2.17 The Applicant submits that the faculty members are also subject to restrictions concerning the time devoted to consultancy activities. The Consultancy Rules provide that consultancy work should not adversely affect the academic and administrative duties of the faculty members and prescribe a maximum period of 82 working days in a year, excluding vacations and holidays. The consultancy services may include feasibility studies, technology assessment, field surveys, assessment of designs or manufacturing processes, material, energy, environmental and manpower audits, product design, process development, software development, troubleshooting, retrofitting and transfer of specialised skills and expertise.

2.18 The Applicant submits that the Rules expressly contemplate payment of honorarium to staff members involved in Consultancy, Testing and EDP work. A staff member involved in such work may receive an honorarium up to the prescribed maximum, subject to the condition that the consultancy assignment does not interfere with the regular duties of the individual consultant. The Rules also prescribe indicative rates where a faculty member acts as a consultant for discussions, suggestions or advice to external clients, while requiring administrative approval from the Dean (R&C).

2.19 The Applicant submits that the payment made to the faculty member is therefore in the nature of remuneration or performance-linked institutional allocation arising from the faculty member's participation in an Institute consultancy project. The fact that the amount varies depending upon the consultancy work undertaken or the amount received by the Institute does not alter the underlying relationship of employer and employee. The faculty member remains a permanent, regular and full-time employee of IIEST, Shibpur and performs the consultancy-related functions within the institutional framework and under the control and supervision of the Institute.

2.20 The Applicant submits that Entry 1 of Schedule III to the CGST Act, 2017 provides that services by an employee to the employer in the course of or in relation to his employment shall not be treated as a supply of goods or services. Section 7(2)(a) of the CGST Act provides that notwithstanding anything contained in section 7(1), such activities or transactions as may be specified in Schedule III shall be treated neither as a supply of goods nor as a supply of services. Accordingly, services rendered by an employee to the employer in the course of or in relation to employment fall outside the scope of supply under GST.

2.21 The Applicant submits that the activities performed by the faculty members in connection with the institutional R&C projects are intrinsically connected with their employment. The Consultancy In-charge is required to be a permanent, regular, full-time faculty employee of the Institute. The research, technical testing, consultancy and knowledge dissemination activities are performed within the institutional R&C framework and pursuant to the duties and responsibilities assigned under the Institute's rules. Therefore, such activities are undertaken in the course of or in relation to employment and fall within the exclusion provided by Schedule III to the CGST Act.

2.22 The Applicant further submits that there is complete absence of independent contractual privity between the individual faculty member and the external client. The external client enters into an agreement with IIEST, Shibpur, pays the consideration to the Institute and receives the invoice from the Institute. The faculty member neither contracts with the client nor issues any invoice to the client. There is also no independent vendor-buyer agreement between the individual faculty member and the Institute in relation to the consultancy assignment. The subsequent distribution of consultancy receipts is therefore an internal administrative allocation and not consideration for a separate supply.

2.23 The Applicant submits that the payment should be examined on the basis of its true nature and substance and not merely on the basis of the accounting or direct tax mechanism adopted for making the payment. The Institute deducts tax at source under section 192 of the Income-tax Act on the regular monthly salary of the faculty member. For the secondary consultancy fee share, the Institute presently applies TDS under section 194J. The Applicant submits that the application of a particular TDS provision under the Income-tax Act cannot, by itself, determine the nature of a transaction under the GST law. The GST classification has to be determined independently on the basis of the statutory provisions governing supply and the employer-employee relationship.

2.24 The Applicant submits that the use of section 194J for the consultancy-related disbursement is an administrative/direct tax compliance mechanism and does not convert

the permanent employee into an independent consultant. The faculty member continues to be appointed, controlled, supervised and remunerated as an employee of IIEST, Shibpur. The consultancy work is undertaken through the Institute, under the Institute's rules and administrative approvals and not through any separate business or professional establishment of the faculty member.

2.25 The Applicant places reliance on the settled principle of determining whether a relationship is one of contract of service or contract for service by considering the nature of control and supervision. The Applicant submits that the relevant facts in the present case establish a contract of service. The faculty members are permanent employees of the Institute, remain subject to the Institute's academic and administrative requirements, undertake consultancy assignments only within the institutional R&C framework and cannot independently undertake consultancy projects in their individual capacity.

2.26 The Applicant further submits that the Consultancy Rules themselves establish substantial institutional control over the consultancy activity. The project is approved by the competent authority, the Consultant In-charge is appointed under the institutional framework, the client dealings are undertaken through the Institute, the project accounts are maintained institutionally, the Institute receives the project consideration, the Institute retains overheads and expenses and the final remuneration is distributed in accordance with prescribed institutional rules. The consultancy project is accordingly an activity of IIEST, Shibpur and not an independent activity of the faculty member.

2.27 The Applicant submits that the standard terms and conditions governing consultancy projects further confirm that the Institute is the contracting entity. The client is required to make payment to the Institute, including Institute Overhead Charges and applicable taxes. The Institute is responsible for the project, its deliverables and completion, while provisions are also made regarding confidentiality, intellectual property, termination, dispute resolution, work performance and completion reports. The contractual obligations therefore remain between the Institute and the external client and do not create an independent contractual relationship between the faculty member and the client.

2.28 The Applicant submits that the consultancy project and its deliverables are also institutionally controlled. The Rules provide that deliverables are generated using the academic methodology of the Institute and that intellectual property generated under the project is governed by the terms agreed between the Institute and the client. The Institute retains rights for internal teaching, research, educational and publication purposes, subject to the applicable contractual terms. These provisions further demonstrate that the

project belongs to the Institute and not to the individual faculty member.

2.29 The Applicant therefore submits that the amount distributed to a faculty member out of consultancy receipts is not consideration for an independent supply of services by such faculty member to IIEST, Shibpur. It is an internal distribution of consultancy remuneration under the institutional Consultancy Rules to an employee who has participated in an Institute consultancy project. The external supply, if any, is made by IIEST, Shibpur to the external client, for which the Institute itself raises the invoice and discharges the applicable GST.

2.30 In view of the foregoing facts and submissions, the Applicant submits that the amount disbursed to the full-time faculty member as a share of consultancy receipts under the Consultancy Rules does not constitute consideration for an independent supply of services by the faculty member to the Applicant Institute. The faculty member is an employee of IIEST, Shibpur and the relevant activities are performed in the course of or in relation to employment and are consequently covered by Entry 1 of Schedule III to the CGST Act, 2017.

2.31 Consequently, the Applicant submits that the amount so distributed is not liable to GST in the hands of the individual faculty member. Since there is no taxable supply by the faculty member, the question of obtaining GST registration under section 22 of the CGST Act, 2017 in respect of such disbursement does not arise.

2.32 The Applicant further submits that since the disbursement does not represent consideration for a taxable supply made by the faculty member to the Institute, the faculty member is not required to issue a tax invoice under section 31 of the CGST Act, 2017 for receiving such amount. The disbursement may therefore be made by the Institute in accordance with its Consultancy Rules and internal financial procedures without requiring an invoice from the faculty member.

2.33 In view of the facts, statutory provisions, institutional Consultancy Rules and submissions made hereinabove, the Applicant respectfully prays that this Hon'ble Authority may be pleased to rule that:

a) The amount disbursed by IIEST, Shibpur to its full-time faculty member as a share of consultancy receipts under the Institute's Consultancy Rules does not constitute consideration for an independent supply of services by the faculty member to the Institute;

b) The said amount is not liable to GST in the hands of the faculty member and the

faculty member is not required to obtain GST registration under section 22 of the CGST Act, 2017 on account of such disbursement; and

c) The faculty member is not required to issue a tax invoice to IIEST, Shibpur under section 31 of the CGST Act, 2017 for receiving such internal consultancy remuneration/disbursement.

3. 4. Observations & Findings of the Authority

3.1 The applicant's representative was heard for admission of the questions raised in the application for advance ruling. According to the submissions made by the applicant's representative, the applicant undertakes consultancy projects for its clients, both governmental and non-governmental bodies, through its Research and Consultancy Division. The consultancy agreements are signed between the applicant and its client. The applicant raises invoices in respect of consultancy projects, receives consideration for consultancy and discharges GST liability. A designated faculty member, who is a regular full-time employee of the applicant institute, acts as the Consultancy In-charge for a particular consultancy project. The applicant distributes a specified portion of the consultancy receipt to the Consultancy In-charge as per the Consultancy Rules framed by the applicant. The Consultancy In-charge raises an invoice to the applicant for the specific portion of the consultancy amount received by him. In the context of the above facts, the applicant has placed the following three questions before this authority:

1. Whether the amount disbursed by the applicant institute to its full time faculty member, being a share of consultancy receipts constitutes consideration for an independent supply of services by the faculty member to the institute under the provisions of the CGST Act, 2017?
2. If the response to Question 1 is in the affirmative, whether such distributed amount is liable to GST and whether the individual faculty member is legally mandated to obtain registration under Section 22 of the CGST Act, 2017 subject to the applicable statutory threshold limits?
3. If statutory registration is determined to be required, whether the faculty member is required to issue a formal tax invoice to the applicant under Section 31 of the CGST Act, 2017 for receiving such payment or can it be disbursed lawfully without an invoice?

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3.2 Chapter XVII of the CGST Act, 2017 provides the statutory basis for institution of Advance Ruling. As per the provisions of Section 95(a) of the Act, *"advance ruling" means a decision provided by the Authority or the Appellate Authority or the National Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 or of section 101C of the Central Goods and Services Tax Act, in relation to the supply of goods or services or both* ***being undertaken or proposed to be undertaken by the applicant.*** (emphasis added)

The statute's language is clear and unambiguous. The questions should be in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant himself. In other words, the question must relate to the applicant being the supplier of goods or services, or both. Sections 97, 100 or 101 of the Act merely specify the subjects on which a question can be asked in an application for an advance ruling.

3.3 As per our understanding, the issues involved in the present application are all related to the supply of service made by the Consultancy in-Charge to the applicant. All the questions raised in the application relate to the supply of service made by the Consultancy in-Charge, his liability to get registered, and his liability to issue a tax invoice. The applicant does not appear to be a supplier of service in any capacity whatsoever.

3.4 In view of the above-noted facts and the provisions of the Act, the application for advance ruling is not admitted. The applicant's representative is informed.

11.09.2026

(YOGESH SUGDEO CHITTE)
Member
West Bengal Authority for
Advance Ruling

11/09/26

(JAYDIP KUMAR CHAKRABARTI)
Member
West Bengal Authority for
Advance Ruling

Place: Kolkata
Date: 11th September, 2026

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To,
Indian Institute of Engineering Science and Technology Shibpur,
IIEST Campus, Shibpur, PO: Botanical Garden,
Howrah, West Bengal, 711103

Copy to:

(1) The Principal Chief Commissioner, CGST & CX, 180, Shantipally, R.B.Connector, Kolkata - 700107

(2) The Commissioner of State Tax, West Bengal, 14, Beliaghata Road, Kolkata - 700015

(3) The Commissioner, CGST & CX, Howrah Commissionerate, M.S. Building, Custom House, 15/1, Strand Road, Kolkata – 700001

(4) The Charge Officer, Commercial Taxes, Shibpur Charge, 7/1, Mackenzie Lane, Howrah:- 711101

(5) Office Copy