

**THE AUTHORITY ON ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 98/ 2019

Date : 27-09-2019

Present:

1. Sri. Harish Dharnia,
Addl. Commissioner of Central Tax, Member (Central Tax)
2. Dr. Ravi Prasad M.P.
Joint Commissioner of Commercial Taxes Member (State Tax)

1.	Name and address of the applicant	M/s Saravana Perumal No.372, 5 th Main, 5 th Cross, Kamakshipalya, Bengaluru
2.	GSTIN or User ID	291900000127ARM (Unregistered person)
3.	Date of filing of Form GST ARA-01	28.06.2019
4.	Represented by	Sri Saravana Perumal, Applicant
5.	Jurisdictional Authority - Centre	N A
6.	Jurisdictional Authority - State	N A
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act 2017 & Rs.5,000/- under KGST Act 2017 vide CIN VIJB19062900400182 dated 27.06.2019.

ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017

1. Sri Saravana Perumal, (called as the 'Applicant' hereinafter), No.372, 5th Main, 5th Cross, Kamakshipalya, Bengaluru, an unregistered person, has filed an application for Advance Ruling under Section 97 of the CGST/KGST Act, 2017, in FORM GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is an individual and is not registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

I want to be a registered GTA, as per the Notification No.12/2017 - Central Tax (Rate) dated 28.06.2017. Can I hire vehicles to another GTA?

Saravana Perumal

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3. The applicant furnishes some facts relevant to the stated activity:
- a. The applicant states that he wants to be a registered Goods Transport Agency as per Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 and he wants to give vehicles on hire basis to another Goods Transport Agency.
 - b. The applicant states that a communication/flier has been issued by the Central Board of Indirect Taxes and Customs (CBIC) on Goods Transport Agency (GTA) and the said flier states that the following services are exempt from GST, in terms of entry number 18 of Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017.

Services by way of transportation of goods (Heading 9965):

- (a) By road except the services of:
 - (i) A goods transportation agency;
 - (ii) a courier agency;
- (b) By inland waterways

Thus, transportation of goods by a GTA is not exempt from tax

- c. The applicant further states that the clause 2(ze) of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 defines Goods Transport Agency as under:

“goods transport agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;”

And in the flier referred to above, it has been stated that issue of a consignment note is the sine qua non for a supplier of service to be considered as a Goods Transport Agency.

- d. The applicant states that he is desirous to be a Goods Transport Agency and also wants to give his vehicles on hire basis and is questioning whether this is allowed.

PERSONAL HEARING: / PROCEEDINGS HELD ON 12.07.2019.

4. Sri. Saravana Perumal, applicant appeared for personal hearing proceedings held on 12.07.2019 & reiterated the facts narrated in their application.

5. FINDINGS & DISCUSSION:

5.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made during the personal

hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

5.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the KGST Act.

5.3 The question of the applicant is examined and it is observed that the applicant is desirous of providing the following two services:

- (a) Goods transportation services as a Goods Transport Agency
- (b) Providing services by giving the vehicles on hire basis

5.4 The **Goods Transportation Agency** is defined under clause 2(ze) of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017, for the purpose of the said Notification, and is as under:

"(ze) "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;"

Hence when the applicant issues a consignment note for the transportation of goods belonging to others and undertakes to transport the same for a consideration, he would become a Goods Transport Agency within the meaning of clause (ze) of Notification No.12/2017 – Central Tax (Rate) dated 28.06.2017.

Further, the Goods Transport Agency is defined in the explanation to clause (iii) of entry 9 of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017, for the purposes of the said entry, as under:

"goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;"

It could be seen from above that the definition of "goods transport agency" is one and the same for the purposes of both the aforesaid two notifications.

5.5 The tax treatment for the services provided by a person as a GTA is as under:

1. Entry no. 9 of Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017 in clause (iii) states that Services of Goods Transport Agency (GTA) in relation to transportation of goods (including used household goods for personal use) are

- a. liable to CGST at 2.5%, provided that the credit of input tax charged on goods and services used in supplying the service has not been taken or



- b. liable to CGST at 6%, provided that the goods transport agency opting to pay central tax at 6% under this entry shall, thenceforth be liable to pay central tax @ 6% on all services of GTA supplied by it.

In other cases i.e. *Services provided by a person other than goods transport agency (GTA) in relation to transportation of goods*, Goods Transport Services are liable to tax at 9% under the CGST Act by clause (vi) of entry no. 9 of Notification No.11/2017 – Central Tax (Rate) dated 28.06.2017 as amended.

5.6 Further, the following recipients of services, supplied by a goods transport agency (GTA), are required to pay GST under reverse charge at the rate of 6% (CGST) in respect of said services of transportation of goods by road.

- (a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948)
- (b) Any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law for the time being in force in any part of India; or
- (c) Any co-operative society established by or under any law; or
- (d) Any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or
- (e) Any body corporate established by or under any law; or
- (f) Any partnership firm whether registered or not under any law including association of persons; or
- (g) Any casual taxable person

The tax on these transactions shall be payable on reverse charge basis by the recipient of such services as per Notification No.13/2017 – Central Tax (Rate) dated 28.06.2017. Further this provision is not attracted by virtue of the proviso inserted in entry 1 of the above notification by Notification No.29/2018-Central Tax (Rate) dated 31.12.2018 which reads as under:

“Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

- (a) a Department or establishment of the Central Government or State Government or Union territory; or
- (b) local authority; or
- (c) Governmental agencies

which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.”

In view of the above, the services provided by a GTA are liable to tax as above.

5.7 The services of providing vehicles on hire basis to another GTA is covered under entry no. 22 of Notification No.12/2017 - Central Tax (Rate) dated 28.06.2017 and this entry exempts the services by way of giving on hire a means of transportation of goods to a goods transport agency.

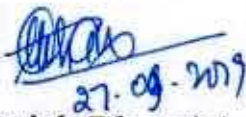
Therefore the services provided as a GTA are different from the services provided by way of giving vehicles on hire basis to another GTA & hence are independent of each other so far as tax treatment is concerned. Further there is no provision in the law barring person being a GTA from renting the vehicle to another GTA. However, the tax treatment of these transactions would be as explained earlier.

6. In view of the foregoing, we pass the following

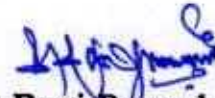
RULING

The registered person can be a Goods Transport Agency and also a supplier of goods vehicles to another GTA on hire basis at the same time subject to the appropriate tax treatments as notified in Notification No.11/2017- Central Tax (Rate) dated 28.06.2017, Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 and Notification No.13/2017- Central Tax (Rate) dated 28.06.2017, as amended from time to time.




27.09.2019

(Harish Dharnia)
Member



(Dr. Ravi Prasad M.P.)
Member

Place: Bengaluru,

Date: 27-09-2019

To,

The Applicant

Copy to :

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Office Folder