

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESH

Goods and Service Tax

O/o THE COMMISSIONER, COMMERCIAL TAX,

MOTI BUNGALOW,

MAHATMA GANDHI MARG, INDORE (M.P.) - 452007

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

Members Present

1. Rajiv Agrawal
Additional Commissioner,
Office of the Commissioner,CGST and Central Excise, Indore

2. Manoj Kumar Choubey
Joint Commissioner,
Office of the Joint Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AABFR5884Q1ZJ
Name and address of the applicant	M/s. Rohan Coach Builders 29,Park Road Indore, Madhya Pradesh(452001)
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	a) Classification of any goods or services or both;
Present on behalf of applicant	C.A. P.D. Nagar, Authorised Representative
Case Number	02/2019
Order dated	10.04.19
Order Number	03/2019

PROCEEDINGS

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and MP Goods & Services Tax Act, 2017 (hereinafter also referred to CGST Act and SGST Act respectively) by M/s. Rohan Coach Builders (hereinafter referred to as the Applicant) , registered under the Goods & Services Tax.



2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE:

- 3.1 The Applicant is registered with the Department having GSTIN 23AABFR5884Q1ZJ for Office/Sale Office, Factory/Manufacturing.
- 3.2 M/s Rohan Coach Builders, intends to execute a contract of fabrication of bus body to be mounted on the chassis of the contractee. As per the term of the contract chassis of a bus will be delivered by the OEMs (Principal) for the purpose of carrying out the body building on the chassis on delivery challan. The Applicant shall procure various goods such as metal sheets, plywood, seats, glasses, alluminium sections etc. as inputs for fabricating the bus body besides fabrication services. Once the Bus body is built and mounted on the chassis by the Applicant, the vehicle will be sent back to the OEMs/customers after raising tax invoice towards body building charges on which GST will be charged separately.
- 3.3 The applicant will claim the credit of GST paid on the material used as input against output liability of GST on body building activity carried out by it. The consideration received by the applicant will be towards the manufacturing of the bus body on the chassis supplied by the Principal.
- 3.4 In view of the above activity done by the applicant, the applicant has approached the Authority seeking ruling on the question given below:

4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

The following questions have been posted before the Authority:-

In the Application the question raised by the Applicant as whether the activity of building and mounting of the body by the applicant on the chassis provided by the Principle will result in supply of goods under HSN 8707 or supply of services under HSN 9988 taxable @ 18% irrespective of end use by the principle who shall effect the sale of Bus.

However at the time of hearing the Applicant made it clear that Advance Ruling is sought only in relation to **fabrication of bus body** on the chassis to be supplied by the OEMs(Principal) on delivery challan or any other owner of the chassis on which bus body will be fabricated by collecting job work charges including inputs required for such fabrication work.



5. CONCERNED OFFICER'S VIEW POINT:

The Concerned Officer Submitted that the rate of tax on the nature of work undertaken by the applicant will attract 18% GST as per circular no. 52/26/2018-GST issued by CGST.

6. RECORD OF PERSONAL HEARING:

6.1 C.A. P.D. Nagar, Authorised Representative of the applicant for personal hearing the submissions already made in the application. The Applicant states that –

6.2 The ownership of the chassis will not be transferred at any stage by the OEMs, body built thereon will be in the nature of “job work” because the services of job worker includes using own inputs in the process in addition to the goods received from the principal hence it is taxable under SAC 998881 – “**Motor vehicle and trailer manufacturing services**” and under entry no. 26(ii) as “**Manufacturing services on physical inputs (goods) owned by other**” it is taxable @18% as the pre dominant supply is “**Bus Body Building**”. Such manufacturing of body by carrying out fabrication work not taxable under HSN 8707 – “**Bodies (including cabs), for the motor vehicles of headings 8701 to 8705**”.

6.3 Mr. Nagar further stated that the petitioner shall fabricate bus body only on the chassis to be supplied by the owner, specimen copies of purchase order dt. 24.01.19 & 18.02.19 issued to another vendor by PSN Automotive Marketing Pvt. Ltd., Bangalore, an authorized dealer of “Eicher”, the manufacturer of chassis are annexed for kind perusal. The applicant has requested for advance ruling only in relation to **fabrication of bus body** on the chassis to be supplied by the OEMs(Principal) on delivery challan or any other owner of the chassis on which bus body will be fabricated by collecting job work charges including inputs required for such fabrication work.

6.4 It was further submitted that the ownership of the chasis will not be transferred at any stage by the owner of the chassis and body built thereon will be in the nature of “**job work**” covered by entry no. 26(ii) of SAC 99881 taxable @18% on the invoice raised by the job worker using own inputs in the fabrication process on the chassis received from the principal.



6.5 The Applicant reproduced the relevant provision of the Act in support of his submission which are as follow:-

- i) As per section 2(68) of the CGST and SGST Act, the term job work means “any treatment or process undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”
- ii) Para 3 of the Schedule II of the CGST Act, specifies certain activities to be treated as supply of goods or supply of services — ‘Any treatment or process which is applied to another person’s goods is a supply of service.
- iii) Explanation to section 143 of the CGST/SGST Act, 2017 also provides that “For the purpose of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.”

6.6 On this issue, the applicant invited attention to the ruling pronounced by the Authority of Advance Ruling – Madhya Pradesh (GST) in the case of M/s. Arpijay Fabricators Pvt. Ltd. vide order no. 04/2018 dated 30.06.2018 wherein it was Ruled as under:-

“We hold that the rate of tax on such composite supply would be determined by the predominant component involved in such composite supply in terms of section 8(a) of the CGST Act 2017, depending upon the character of the body being build on the chassis, which would eventually be classifiable under Chapter 87 of the Tariff. On the other hand, if the predominant element happens to be the service part, then the Principal Supply would be classified under Heading No. 9988.”

6.7 Thus, Body Building activity is a “Composite Supply” and the taxability would depend upon the “predominated element”. The issue for consideration in the instant case is “what is predominated element”.

6.8 It was further stated in the argument that the **Hon’ble CBIC has clarified** the issue vide **circular no. 52/26/2018-GST dated 09.08.2018** where vide para 12.2 it has considered that the fabrication of buses may involve the following two situations :-

- a. Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the



value of the bus. (*Predominated element is Supply of Bus on which body was also built by him*).

- b. Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work). (*Predominated element is Supply of Services only with inputs*)

6.9 Taking further the argument given above the applicant stated that it is further clarified vide Para 12.3 of the circular that in case as mentioned at Para 12.2 (a) above, the supply made is that of bus, and accordingly supply would attract GST @ 28%. **In a case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.**

6.10 In support of the argument the applicant stated that aforesaid circular was followed by the GOA Authority of Advance Ruling in the case of M/s. Automobile Corporation of Goa Limited vide its order no. GOA/GAAR/1 dated 21.08.2018 wherein it was Ruled as under :-

“The Activity of building and mounting of the body on the chassis provided by the principal under FOC challan will result in supply of services under HSN 9988 and hence, should be taxed @18 in GST.”

Thus in view of aforesaid clarification issued by CBIC vide circular no. 52/26/2018-GST dated 09.08.2018, the advance ruling is sought by the applicant regarding taxability of Body Building activity to be carried on by the applicant.

7. DISCUSSIONS AND FINDINGS:

7.1 We have carefully considered the submissions made by the applicant in the application and during time of personal hearing.

7.2 First of all we have to look upon the nature of work to be done by the applicant as per the submission the applicant intends to execute a contract of fabrication of bus body to be mounted on the chassis of the contractee. As per the term of the contract chassis of a bus will be delivered by the OEMs (Principal) for the purpose of carrying out the body building on the chassis on delivery challan. The Applicant shall procure various goods such as metal sheets, plywood, seats, glasses, aluminium sections etc. as inputs for fabricating the bus body besides fabrication services. Once the Bus body is built and



mounted on the chassis by the Applicant, the vehicle will be sent back to the OEMs/customers after raising tax invoice towards body building charges on which GST will be charged separately. At no stage the ownership of the chassis will be transferred by the OEMs to the Applicant and body built thereon will be nature of job work.

7.3 The applicant will claim the credit of GST paid on the material used as input against output liability of GST on body building activity carried out by it. The consideration received by the applicant will be towards the manufacturing of the bus body on the chassis supplied by the Principal.

7.4 In this connection first of all we have to see whether the nature of the work falls under the purview of "Job work" or not . In this connection, it is relevant to refer explanation provided under section 143 of GST Act, 2017 which reads as under "For Purpose of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker ".

7.5 In the instant case the Applicant shall procure various goods such as metal sheets, plywood, seats, glasses, aluminium sections etc. as inputs for fabricating the bus body besides fabrication services. Once the Bus body is built and mounted on the chassis by the Applicant, the vehicle will be sent back to the OEMs/customers after raising tax invoice towards body building charges on which GST will be charged separately. At no stage the ownership of the chassis will be transferred by the OEMs to the Applicant. The applicant will claim the credit of GST paid on the material used as input against output liability of GST on body building activity carried out by it. The consideration received by the applicant will be towards the manufacturing of the bus body on the chassis supplied by the Principal.

7.6 It has been held in the case of Prestige Engineering(India) Ltd. Vs. CCE on Merut[1994 (73) ELT 497(SC)], addition or application of items by job worker would not detract from the nature and character of his work.

7.7 GST Law does not distinguish between raw material, finished goods and semi-finished goods. It talks about input and Capital goods. Even Semi-finished goods or intermediate are goods and in turn 'Input' by the Principal or by the worker.

7.8 So the argument of the applicant that the nature of the work stated in the application should be falls under "job work" is tenable under the provision of the Law.

7.9 Now we come to the question raised by the Applicant as whether the activity of building, **fabricating and mounting of the bus body** by the applicant on the chassis provided by the Principle will result in supply of goods under HSN 8707 or supply of services under HSN 9988 taxable @ 18% irrespective of end use by the principle who shall effect the sale of Bus.



7.10 We Find that the activity and question raised before us has been suitably clarified and dealt with Circular no. 52/26/2018-GST issued by Government of India, Ministry of Finance, Department of Revenue dated 9th August,2018.

7.11 The following Paras of the above mentioned circular the issue has been dealt with which are as follow –

12.1 Applicable GST rate for bus body building activity: Representations have been received seeking clarifications on GST rates on the activity of bus body building. The doubts have arisen on account of the fact that while GST applicable on job work services is 18%, the supply of motor vehicles attracts GST @ 28%.

12.2 Buses [motor vehicles for the transport of ten or more persons, including the driver] fall under headings 8702 and attract 28% GST. Further, chassis fitted with engines [8705] and whole bodies (including cabs) for buses [8707] also attract 28% GST. In this context, it is mentioned that the services of bus body fabrication on job work basis attracts 18% GST on such service. Thus, fabrication of buses may involve the following two situations: a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus. b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).

12.3 In the above context, it is hereby clarified that in case as mentioned at Para 12.2(a) above, the supply made is that of bus, and accordingly supply would attract GST @28%. In the case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

7.12 The submission by the applicant with the application and during time of argument clearly shows that the nature of the work for which ruling on the rate of Tax has been sought in the question clearly falls under Para 12.2(b) of the above mentioned circular fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

7.13 It is pertinent here to mention that the ruling quoted above pronounced by this Authority in the case of M/s. Arpijay Fabricators Pvt. Ltd. vide order no. 04/2018 dated 30.06.2018 based on the then existing provisions and issued at that time, the circulars issued and the arguments and materials supplied by the applicant in that case.



8. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

8.1 In respect of the question raised by the applicant we hold that on **fabrication of bus body** on the chassis to be supplied by the OEMs(Principal) on delivery challan or any other owner of the chassis on which bus body will be fabricated by collecting job work charges including inputs required for such fabrication work and in no case the ownership of the chassis will be transferred by Principal to the applicant will be taxable under SAC 998881 – “**Motor vehicle and trailer manufacturing services**” and under entry no. 26(ii) as “**Manufacturing services on physical inputs (goods) owned by other**” it is taxable @18%(9% under CGST and 9% under SGST Act).

8.2. This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

SA
RAJIV AGRAWAL
(MEMBER)

No. 02/2019/A.A.R./R-28/08
Copy to:-

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central

SK
MANOJ KUMAR CHOUBEY
(MEMBER)

INDORE dt. 10/04/2019

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