

AUTHORITY FOR ADVANCE RULING – CHHATTISGARH
3rd & 4th Floor, Vanijyikar GST Bhawan, North Block Sector-19,
Atal Nagar, District-Raipur (C.G.) 492002
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PROCEEDING OF THE AUTHORITY FOR ADVANCE RULING
U/s. 98 OF THE CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

Members Present are

Smt. Sonal K. Mishra
Joint Commissioner
O/o Commissioner, State Tax
(CGGST), Raipur, Chhattisgarh.

Shri Rajesh Kumar Singh,
Additional Commissioner,
O/o Principal Commissioner,
CGST & Central Excise, Raipur (C.G)

Subject :-Chhattisgarh GST Act, 2017 – Advance Ruling U/s 98 Chhattisgarh GST Act, 2017 –

Advance Ruling U/s 98 sought by M/s Prahallad Ray Rekhraj Agrawal, Bazar Para, Neora, Raipur Chhattisgarh (GSTIN-22ACIPA5817H3ZY) : services taken by the applicant from the owner of the Goods transportation vehicle are exempt or taxable.

Read: Application dated 13/07/2020 from M/s Prahallad Ray Rekhraj Agrawal, Bazar Para, Neora, Raipur Chhattisgarh (GSTIN-22ACIPA5817H3ZY)

PROCEEDINGS

[U/s 98 of the Chhattisgarh Goods & Services Tax Act, 2017 (herein- after referred to as CGGST Act, 2017)]

No.STC/AAR/04/2020/39

Raipur Dated 08/10/2020

M/s Prahallad Ray Rekhraj Agrawal, Bazar Para, Neora, Raipur Chhattisgarh [hereinafter also referred to as the applicant] has filed an application U/s 97 of the Chhattisgarh Goods & Services Tax Act, 2017 seeking advance ruling on :-

- (i) Whether the services taken by the applicant from the owner of the Goods transportation vehicle, are exempt or taxable?
- (ii) If such services are taxable, what will be the classification of such services?
- (iii) If such services are taxable, whether the applicant is liable to pay the tax thereon under reverse charge mechanism as per Sec 9(3) of Central Goods and Services Tax, 2017?
- (iv) If the applicant is liable to pay the tax on reverse charge basis, then what is the rate at which tax would be applicable?
- (v) If the supply is taxable, whether the applicant will be able claim ITC for the GST paid on this supply.

2. Facts of the case:-

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1. The applicant is a Proprietorship firm based in Chhattisgarh and is already registered under Central Goods and Services Tax Act, 2017 and Chhattisgarh Goods and Services Tax Act, 2017 with GSTIN GSTIN-22ACIPA5817H3ZY.

2.2 The applicant is planning to venture into the Business of Transportation of Goods by Road.

2.3 Under the proposed model, the applicant will provide the services of Transportation of goods and will issue Consignment Note containing all the required details.

2.4 The applicant however does not own any Goods Transportation Vehicle and will hence receive services from the persons who own Goods Transportation Vehicle.

2.5 The Vehicle Owner (from whom the applicant shall receive service) will have complete control over the vehicle including the driver, and all incidental expenses will be borne by the Service Provider.

2.6 The Vehicle Owner will raise invoice in the name of the applicant on the basis of weight, distance, etc and the Applicant will further raise invoice to the entities (Customers) whose goods were transported by the applicant, on similar basis.

3. Contentions of the Applicant:- The applicant's contention is as under :-

3.1. The applicant is of the opinion that the services of providing Goods Transportation Vehicle on Hire is exempt as per Entry No. 22 (b) of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 which states that Services by way of giving on hire to a goods transport agency, a means of transportation of goods are exempt.

3.2. The applicant has classified the services received by them as Hiring of Goods Transportation Vehicle.

3.3. Since, as per applicant the discussed supply is exempt, no liability under Reverse Charge Mechanism shall arise to the Applicant vide Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017.

3.4. Since, the Supply is exempt in view of the applicant, no tax rate shall be applicable on the same.

3.5. Since, the supply is exempt in view of the applicant, no ITC can be claimed by the applicant.

4. Personal Hearing:-

Keeping with the established principles of natural justice, personal hearing in the matter was extended to the applicant and accordingly their authorized representative Shri Prakhar Jain, C.A. and Shri Ashish Agrawal (son of the applicant) appeared before the authority for hearing on 17/07/2020 and reiterated their contention. They also furnished a written submission dated 17/07/2020 which has been taken on record.



4. The legal position, Analysis and Discussion:-

5.1 At the very outset, we would like to make it clear that the provisions for implementing the CGST Act and the Chhattisgarh GST Act, 2017 [hereinafter referred to as "the CGST Act and the CGGST Act"] are similar and thus, 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 CGGST Act, 2017. Now we sequentially proceed to discuss the issues involved in the ruling so sought by the applicant and the law as applicable in the present case.

In response to the पत्र क्रमांक/राकआ/अविप्रा/04/2020/35 नवा रायपुर अटल नगर, दिनांक 21.09.2020 issued to the Assistant Commissioner, State Tax, Raipur Circle-9, Chhattisgarh, the jurisdictional officer vide क्रमांक/रा.आ.रा.क./रा-नौ/अविप्रा/2020/937 रायपुर दिनांक 06.10.2020 opined that as per Notification No-12/2017 Central Tax (Rate) dated-28.06.2017, vide Sr. No.22(b) the services by way of giving on hire to a goods transport agency, a means of transportation of goods is exempt under HSN Code 9966. As the above service is exempt under GST therefore the provisions of Reverse Charge Mechanism and the availment of ITC does not arise.

5.2 The legal position prevailing under Service Tax is being continued under the GST regime. The services of transportation of goods by road (except services of GTA) continue to be exempt even under the GST regime. In so far as the services of GTA are concerned, if the services (of Goods Transportation) are provided (by the GTA) to specified classes of persons, the tax liability falls upon such recipients under the reverse charge mechanism as discussed hereunder.

5.3 In terms of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017 (sr.no.18), the following services are exempt from GST

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, mere transportation of goods by road, unless it is a service rendered by a goods transportation agency, is exempt from GST.

5.4 As per Section 65B (26) of the Finance Act, 1994; "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". Therefore, in the Service Tax regime, issuance of Consignment Note (C/N) was integral and mandatory requirement before any road transporter could be brought within the ambit of GTA.

Under GST laws, the definition of Goods Transport Agency is provided in clause 2 (ze) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.



(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;

Thus, it can be seen that issuance of a consignment note is an indispensable condition and is a must for a supplier of service to be considered as a Goods Transport Agency. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of goods transport agency.

5.5 The applicant has in their application submitted that they would be issuing consignment notes while providing the services of Transportation of goods. Thus the applicant is a Goods Transport Agency GTA and it is in this context, they have sought advance ruling as regards taxability, its classification, rate of tax and eligibility to Input tax credit, on the services of receipt of transportation vehicles on hire from the persons who own such Goods Transportation Vehicle to be used for providing the said services of Transportation of goods.

5.6 As per Notification no.12/2017-Central Tax (Rate) dated 28.06.2017 (sr.no.22), the following services received by the GTA (Heading 9966 or 9973) is exempt from payment of tax.

Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
22	Heading 9966 or Heading 9973	Services by way of giving on hire – (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (b) to a goods transport agency, a means of transportation of goods.	Nil	Nil

Thus, if the GTA hires a means of transportation of goods, GST payable would be Nil on such transaction. We thus come to the considered conclusion that the service by way of giving on hire a means of transportation of goods to the applicant GTA, is exigible to Nil rate of GST as stipulated under Notification number 12/2017-Central Tax (Rate) dated 28th June 2017. Further when no tax is payable, the question of taking any input tax credit does not arise.

6. Having regard to the facts and circumstances of the case and discussions as above, we pass the following order:-



ORDER
(Under section 98 of the Chhattisgarh Goods and Services Tax Act, 2017)

No.STC/AAR/04/2020/110

Raipur Dated .../10/2020

The ruling so sought by the Applicant is accordingly answered as under:

RULING

- i. The services by way of giving on hire to the Applicant (goods transport agency) a means of transportation of goods, is taxable at Nil rate as per entry No. 22 (b) of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.
- ii. The above service is classifiable under Heading No. 9966; Rental services of transport vehicles with or without operators.
- iii & iv. Since, such supply is taxable at Nil rate as above, no liability under Reverse Charge Mechanism shall arise upon the Applicant under Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017.
- v. As the instant supply is taxable at Nil rate, there is no question of taking any Input tax credit.

-sd-

Sonal K. Mishra
(Member)

-sd-

Rajesh Kumar Singh
(Member)

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Sonal K. Mishra
8/10/20

MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

TRUE COPY

Rajesh Kumar Singh
8/10/2020

MEMBER
ADVANCE RULING AUTHORITY
CHHATTISGARH, RAIPUR

Place: - Raipur

Date:-

Seal

