

PUNJAB AUTHORITY FOR ADVANCE RULING

GOODS AND SERVICE TAX, BHUPINDRA ROAD PATIALA 147001, PUNJAB

(Constituted under Section 96 of the Punjab Goods and Service Tax Rules, 2017)

ORDER NO. AAR/GST/PB/32

DATED: 03.02.2023

BEFORE THE BENCH OF

- 1. Ms. Varinder Kaur, Additional Commissioner of Central Tax (Central Tax)**
- 2. Mr. Viraj ShyamkarnTidke, Additional Commissioner of State Tax-1 (State Tax).**

GSTIN	03AFIPS6804F1ZJ	
Legal Name	PUSHKAR RJ SINGH	
Trade Name	M/s RAJ AGRO AIDS	
Registered Address	Lalheri Road, Khanna-141401	
Correspondence Address	M/s Raj Agro Aids Lalheri Road, Khanna-141401	
Details of Application	GST ARA-01 dated 15.06.2021	
Nature of activity (present/proposed) in respect of which advance ruling sought.		
A	Category	Factory/Manufacturing Service Provision
B	Description in brief	The applicant is engaged in the building and fabricating of Tipper body and mounting the same on the chassis owned and supplied by the customers.
Issue(s) on which advance ruling is sought.		1) Classification of any goods or services or both
Questions(s) on which advance ruling is sought.		As reproduced in Para 01 of the Proceedings below

(An Appeal against this order lies with the Appellate Authority in terms of Section 99 and Section 100 of the CGST Act, 2017 and Section 99 and Section 100 of the PGST Act, 2017 within a period of thirty days from the date of communication of this order.)

PROCEEDINGS

The present application has been filed under Section 97 of the Central Goods and Service Tax, 2017 and the Punjab Goods and Service Tax Act, 2017 [hereinafter referred to as "the CGST Act and PGST Act"] by M/s Raj Agro Aids, GSTIN: 03AFIPS6804F1ZJ, Lalheri Road, Khanna-141401, the applicant, seeking Advance an advance Ruling in respect of the following questions.

- a) Whether the activity of building and fabricating of Tipper Body and mounting the same by the applicant on the chassis owned and supplied by the customer will result in supply of goods or supply of services?
- b) If it is supply of goods, what is applicable rate of GST?
- c) If it is supply of services, what is the applicable rate of GST?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the PGST 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 PGST Act.

2. STATEMENT OF RELEVANT FACTS – AS PER THE APPLICANT

The submissions, as reproduced verbatim, could be seen thus-

The applicant is engaged in Tipper Body Building and Fabrication and mounting the same on the Chassis supplied by the customers. The customers purchase chassis and handover to the applicant's factory shed for fabricating the Tipper Body and mounting the same on the said chassis. On receipt of chassis, a work order with the specifications of the Tipper Body is raised and on acceptance of the customer, all kind of input materials used for structural fabrication e.g., Tipping Kit, Iron & Steel Angle, Channel, Plate, Sheets Aluminium Sheets, Ply Wood, Wood, Glass Nut Bolts, Paints and Misc. Other spares & stores and hardware goods etc. are purchased by the applicant at its own cost and using the same the applicant builds and fabricates the Tipper Body and mounts the same on the Chassis supplied by the customer. At no stage of time the ownership of the chassis is transferred by the customer to the applicant rather the ownership of chassis always remains with the customer. So, the applicant requested for the Advance Ruling as per questions stated above on the said activity of building and fabricating of Tipper body and mounting the same on the chassis owned and supplied by the customer.

2A. STATEMENT CONTAINING APPLICANT'S INTERPRETATION

The applicant is engaged in Tipper Body Building and Fabrication and mounting the same on the Chassis supplied by the customers with installation services as supply of goods classifying the supply of Tipper body under Tariff item No. 8707 and charging GST @ 28%. However, Circular No. 52/26/18-GST dated 9th August, 2018 provides a contrary view. The Circular clarifies that in a case where the Bus Body Builder, builds body on the chassis provided by the Principal for body building and charges fabrication charges (including certain material that was consumed during the process of job work), the supply would merit classification as service and 18% GST as applicable will be charged accordingly. The relevant portion of the Circular was given as under: -

"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.**

So the Applicant sought clarification by way of AAR as to whether he should consider the work of Building and Fabrication of Tipper Body and mounting the same on the chassis owned and supplied by the customer, as supply of goods covered under Tariff Item No. 8707 or consider it as Supply of Services covered under Tariff Item 9988?."

3. **Submission of the Department-**

The Assistant Commissioner of State Taxes, Ludhiana-1 has furnished his written comments on behalf of the department vide letter no. 566 dated 2-2-2022 as below:

3.1 M/s Raj Agro Aids, is a proprietor firm, having registered address at Lalheri road, Khanna having GSTIN: 03AFIPS6804F1ZJ.

3.2 As per Applicant, he is engaged in the body building and mounting of body on the chassis of different models of Tippers, Trucks and Trailers. They receive chassis of these items from customers/Individual/Companies on the basis of returnable challan. They undertake body building.

3.3 In the process of body building, chassis is received at workshop. Then, plan and drawing is made for cutting and bending of raw material as per the requirement of the customers. Afterwards, welding of all cutting and bending part is made into an assembled and final product which is mounted on the chassis along with fixing of hydraulic kit by welding. During the fabrication process, all raw material like Iron & steel, Hydraulic kit etc. is procured by the taxable person on its own. Also, in some situations, raw material may be provided to him by the customer himself.

3.4 In case of fabrication of Tippers, M/s Raj Agro, Khanna applies HSN 8707 which is taxed @ 28% as it takes it as a classification of "Bodies" as per the HSN 8707 as he asserts that he is manufacturing goods by fabricating the bodies on the Tipper and Trailers. His principal supply is goods and not job work. HSN 8707 says that

"HSN Code 8707: Bodies (Including Cabs), For the Motor Vehicles of Headings 8701 To 8705"

3.5 In his AAR application, the applicant has raised a query that 'Whether his fabrication process is a Supply of Good or Service and rate of tax to be charged accordingly.

3.6 Before providing comments on the above application, definitions as per act(s), circulars issued by CBIC, as referred by applicant needs to be discussed. Details as follows

3.6.1 Manufacture has been defined under Section 2(72) of the CGST/PGST Act 2017, as under: -

"2(72) "Manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly."

3.6.2 Whereas, Section 2(68) of the CGST/PGST Act, 2017 defines the job work as: -

2(68) 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 constructed accordingly".

3.6.3 As per Sec. 2(30), "composite supply" means

"supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply".

3.6.4 As per Sec. 2(90), principal supply means,

"the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

3.6.5 Sec. 8(a) determines tax liability on composite supply, which reads as under: -

"The Tax liability on a composite or a mixed supply shall be determined in the following manner, namely: - A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;"

3.6.6 The circular No 34/8/2018/GST dated 3rd March 2018 issued by the CBIC clarified the matter as under: -

Issue	Clarification
Whether activity of Bus Body building is a supply of goods or Services	In the case of bus body building there is a supply of goods & Service Thus classification of this composite Supply as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case

3.6.7 The Circular No. 38/12/2018 Dated 26.03.2018, as amended.

“Scope/ ambit of job work: Doubts have been raised on the scope of job work and whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job work. It may be noted that the definition of job work, as contained in Clause (68) of Section 2 of the CGST Act, entails that the job work is treatment or process undertaken by a person on goods belonging to another registered person. Thus, the job worker is expected to work on the goods sent by the principal and whether the activity is covered within the scope of job work or not would have to be determined on the basis of facts and circumstances of each case. Further, it is clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.” In view of above deliberation, we are of the opinion that the job worker can use certain inputs required for fabrication work and the same will not amount to manufacture”.

3.6.8 In the para 12 of the circular No 52/26/2018/GST dated 9th August 2018 issued by the Government of India Ministry of Finance has clarified the matter as under:

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.*

3.7 After going through all the above said facts, it can be stated that in case of M/s Raj Agro Khanna in particular, the body building and mounting of body on the chassis of different models of Tippers, Tankers, Trucks and Trailers may be viewed as supply of goods and to be taxed @ 28% under the classification of "Bodies" as per HSN 8707. Yet as Circular No. 34/8/2018/GST dated 3rd March, 2018 states that "*in the case of body building there is a supply of goods & Service. Thus classification of this composite supply as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case*" may be followed in general.

4. HEARING

Personal hearing in the matter was held on 03.02.2022. Sh. Pushkar Raj Singh, Proprietor Applicant along with Sh. Harjinder Singh appeared and argued as per his written submissions. Copies of purchase orders were asked to be produced on next date of hearing. On next date of hearing on 11.02.2022, Sh. Pushkar Raj Singh again appeared and produced copies of purchase orders which were taken on record. On 05.08.2022, Sh. Pushkar Raj Singh, Proprietor appeared and submitted that all the documents sought by the authority and written submissions have already been submitted on the matter.

5. DISCUSSION AND FINDINGS

We have carefully gone through to the facts of the case, submissions made by the applicant in his application as well as at the time of personal hearing. We have also gone through the questions raised by the applicant on which advance ruling is sought, the applicant's interpretation of law and the detailed comments submitted by the Assistant Commissioner State Tax, Ludhiana-1. At the outset, we would like to state that the provisions of both the CGST Act and the PGST 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 PGST Act.

5.2 Briefly the applicant is engaged in tipper body building and fabrication and mounting the same on the Chassis supplied by the customers. Firstly, the customer purchases chassis and then handovers the same to the applicant in its factory shed for fabricating the tipper body and mounting the same on the said chassis. On receipt of chassis, a work order with the specifications of the tipper body is raised and on acceptance of the customer, all kind of input materials used for structural fabrication e.g. Tipping Kit, Iron & Steel Angle, Channel, Plate, Sheets Aluminium Sheets, Ply Wood, Wood, Glass Nut Bolts, Paints and Misc. Other spares & stores and hardware goods etc. are purchased by the applicant at their own cost and using the same the applicant builds and fabricates the Tipper Body and mounts the same on the Chassis supplied by the customer. At no stage of time, the ownership of the chassis is transferred by the customer to the applicant rather the ownership of chassis always remains with the customer.

5.3 The applicant has stated that they were treating the activity of building and fabrication of Tipper Body and mounting the same on chassis owned and supplied by the customers with installation services as Supply of Goods and thereby classifying the same under Tariff Item No. 8707 and charging GST @ 28%.

5.4 In this regard, we find that Circular no. 52/26/18-GST dated 9th August, 2018 provides a clarification regarding applicability of GST on various goods and services which includes Bus Body Building as the supply of motor vehicle or job work. The said circular is reproduced below which is reproduced as under:-

"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%.

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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."

We find that the contents of the circular issued by the Board are self-explanatory in nature. The advance ruling sought by the party gets squarely covered under Para 12.2 and 12.3 of the said circular.

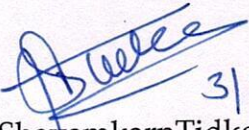
5.5 In other words, if the activity of fabrication and mounting of body is done on the chassis owned by applicant and using his own inputs & capital goods, the same shall amount to supply of goods and shall merit classification under HSN 8707, attracting 28% of GST.

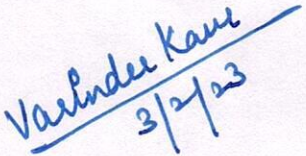
5.6 On the contrary if the activity of fabrication and mounting of body is done on the chassis supplied by the customer using their own inputs & capital goods amounts to supply of service, in terms of CBIC Circular dated 09.08.2018 and merits classification under SAC 9988, attracting 18% of GST.

6. In view of the observations stated above, the following rulings are issued:

RULING

- a) The activity of building and fabricating of Tipper Body and mounting the same by the applicant and collecting fabrication charges including inputs required for such fabrication work, if the chassis is owned and supplied by the customer, will result in supply of services under SAC 9988 and shall be attracting a GST @18%
- b) The activity of building and fabricating of Tipper Body and mounting the same by the applicant on the chassis owned by the applicant and using it own inputs & capital goods shall amount to supply of goods and shall be classified under HSN 8707, attracting GST @28%.


Viraj Shayamkarn Tidke
SIGNATURE (MEMBER)


Varinder Kaur
SIGNATURE (MEMBER)

Through Regd. Post

M/s. Raj Agro Aids
Lalheri Road,
Khanna-141401

No. PB/AAR/2022/24-27
Copy to:

Dated: 06/02/2023

1. The Special Secretary, Goods and Service Tax Council, 5th floor, Tower-II, Jeevan Bharti Bldg., Connaught Place, New Delhi w.r.t. F. No. 193/Advance Ruling/ GSTC/2017 dated 01.05.2018.
2. The Commissioner of State Taxes, Punjab.
3. The Principal Commissioner, CGST Commissionerate, GST Bhawan, Rishi Nagar, Ludhiana.
4. The Assistant Commissioner of State Taxes, Ludhiana-1.