
 सत्यमेव जयते	<b>RAJASTHAN APPELLATE AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX</b>  <b>NCR BUILDING, STATUE CIRCLE, C-SCHEME JAIPUR – 302005 (RAJASTHAN)</b> Email : aaarjpr@gmail.com	
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Proceedings under Section 101 of the Central GST Act, 2017 read with Rajasthan GST Act, 2017

Before the Bench of

1. Sh. Rakesh Kumar Sharma, Member (Central Tax)
2. Dr. Preetam B. Yashvant, Member (State Tax)

**ORDER NO. RAJ/AAAR/5/2019-20 DATED 20.11.2019**

Name and address of the Appellant	:	M/s K M Trans Logistics Private Limited; D-80, Chandpole, Anaj Mandi, Jaipur, Rajasthan, 302001
GSTIN of the appellant	:	08AACCK0420F1Z4
Issues under Appeal	:	Does transportation by own vehicles on the basis of Invoice(s) and E-way bill without issuing the consignment note by the applicant transporter will be covered under exempted supply/ non GST supply ? (applicability of a notification issued under the provisions of the Act);
Date of Personal Hearing	:	04.11.2019
Present for the appellant	:	Shri Alok Kumar Kothari, Advocate
Details of Appeal	:	Appeal No. RAJ/AAAR/APP/03/2019-20 against Advance Ruling No. RAJ/AAR/2019-20/19 dated 29.08.2019



**(Proceedings under section 101 of the Central GST Act, 2017 read with section 101 of the Rajasthan GST Act, 2017)**

At the outset, we would like to make it clear that the provisions of both the Central GST Act, 2017 and the Rajasthan GST Act, 2017 are same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central GST Act, 2017 would also mean a reference to the same provisions under Rajasthan GST Act, 2017.

2. The present appeal has been filed under Section 100 of the Central GST Act, 2017 (**hereinafter also referred to as 'the CGST Act'**) read with Section 100 of the Rajasthan GST Act, 2017 (**hereinafter also referred to as 'the RGST Act'**) by M/s. K M Trans Logistics Private Limited, Jaipur, Rajasthan (**hereinafter also referred to as 'the Appellant'**) against the Advance Ruling No. RAJ/AAR/2019-20/19, dated 29.08.2019.

**BRIEF FACTS OF THE CASE**

- 3.1 The appellant M/s. K M Trans Logistics Private Limited, Jaipur, Rajasthan are registered under GST Law with GSTIN 08AACCK0420F1Z4 and engaged in providing transport services to various manufacturers of motor vehicles for carrying their vehicles from the factory to the various cities in India where the authorised dealers are located. The appellant is having registered office at Jaipur. The appellant stated that the goods will be transported using its own vehicles/lorries under E-way Bill Rules but there will be no generation of consignment note and therefore, is claiming that the services are out of the purview of GST and will categorise as non-taxable service.
- 3.2 The appellant filed an application dated 12.06.2019 before the Rajasthan Authority for Advance Ruling and sought Advance Ruling on the following questions:-
  - (i) Does Transportation by own vehicles on the basis of Invoice(s) and E-way Bill without issuing the consignment note by the Appellant Transporter will covered under exempted supply/non GST supply.
  - (ii) Does Rule 42 of the CGST Rules 2017 will also apply in case where there is GST and Non GST Supplies and there is a common consumption of input and input services?
- 3.3 The Rajasthan Authority for Advance Ruling, vide Advance Ruling No. RAJ/AAR/2019-20/19 dated 29.08.2019, have decided the aforesaid application, wherein it has been held that-
  - (i) The appellant is a registered GTA Service provider under GST and is not exempted from paying GST.
  - (ii) Where the goods or services or both used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated



supplies as per provisions and procedure prescribed under Section 17(2) of GST Act read with Rule 42 of GST Rules, 2017.

4. Aggrieved by the aforesaid Ruling (i) above, the appellant has preferred the present appeal before this forum.

#### **GROUND OF APPEAL**

5. The appellant in its Appeal has, inter alia, mentioned the following grounds of Appeal:

- 5.1 That the Appellants are placing reliance upon the Notification No. 12/2018-Central Tax, dated 07/03/2018. Through this Notification, the E-Way Bill rules were amended and format of Form GST EWB -01 along with notes appended to it was part of the Notification. The format of E-Way Bill was reproduced along with notes appended to the format of E-way Bill in the impugned order of the Rajasthan Authority for Advance Ruling which is not correct. Note No. 2 of E-Way Bill had wrongly been quoted leading to mis-interpretation of the requirement of details at column referring "Transport Document Number".
- 5.2 The Transport Document No. as required at point B.2 of Part B of the E-Way Bill is described at Note 3 of the notes appended to the format says: "Transport Document number indicates Goods Receipt Number or Railway Receipt Number or Forwarding Note number or Parcel way bill number issued by railways or Airway Bill Number or Bill of Lading Number".
- 5.3 From Note 3, it is amply clear that transport document number refers to the following:-
  - (a) GRN issued by Railways
  - (b) Air way bill no. issued by airways
  - (c) Bill of lading issued by shipping lines
- 5.4 Nowhere in the E-Way Bill format is a requirement of mentioning the Consignment Note No./LR/GR issued by Goods Transport Agency or transporter. Thus there is no requirement of mandatory issuing consignment note or LR/GR by the transporter.
- 5.5 E-Way Bill can be generated without generating Consignment note/LR/GR. Presently the E-Way Bills are generated on the GST portal without mentioning of Consignment note /LR/GR.
- 5.6 The finding of the Advance Ruling that without issuing Consignment note/LR/GR goods cannot be transported or E-Way Bill cannot be issued is wrong as practically on GST portal the E-Way Bills are being generated without having consignment note / LR/GR.
- 5.7 Since there is no consignment note issued, thus, the services are out of the purview of GST and will categorize as non-taxable service/ non-GST supply.





### **PERSONAL HEARING**

6. A personal hearing in the matter was held on 04.11.2019. Sh. Alok Kumar Kothari, Advocate, authorized representative of the appellant, appeared for personal hearing on 04.11.2019. He reiterated the submissions already made in their appeal memorandum. He had nothing further to add.

### **DISCUSSION AND FINDINGS**

7. We have carefully gone through the appeal papers filed by the appellant, the Advance Ruling pronounced by the Rajasthan Authority for Advance Ruling and written as well as oral submissions made by the authorized representative of the appellant at the time of personal hearing held on 04.11.2019. We find that the appellant vide its application dated 12.06.2019 filed before the Rajasthan Authority for Advance Ruling, had requested for Advance Ruling on the following two points:-

- (1). Does Transportation by own vehicles on the basis of Invoice(s) and E-way Bill without issuing the LR/GR by the Applicant Transporter will be covered under exempted supply/non GST supply ?
- (2). Does Rule 42 of the CGST Rules 2017 will also apply in case where there is GST and Non GST Supplies and there is a common consumption of input and input services ?

8. In pursuance of the aforesaid application dated 12.06.2019, the Rajasthan Authority for Advance Ruling in its Ruling No. RAJ/AAR/2019-20/19, dated 29.08.2019, has pronounced its Ruling as under:

- (a) The applicant is a registered GTA Service provider under GST and is not exempted from paying GST.
- (b) Where the goods or services or both used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies as per provisions and procedure prescribed under Section 17(2) of GST Act read with Rule 42 of GST Rules, 2017.

9. The appellant is not satisfied with the above Ruling (i) and has therefore, filed the present Appeal before this forum.

10. The appellant in the Appeal Memo has submitted that vide Notification No. 12/2018-Central Tax, dated 07.03.2018, the E-Way Bill rules were amended and the format of Form GST EWB-01 along with notes appended to it was part of the Notification; the format of E-Way Bill reproduced in impugned order of the Rajasthan Authority for Advance Ruling (RAAR), is not correct. Note No. 2 of E-Way Bill has wrongly been quoted by the RAAR leading to mis-interpretation of the requirement of details at column referring "Transport Document Number". The Bill, is described as "Goods Receipt Number or Railway Receipt Number or Forwarding Note number or Parcel way bill number issued by railways or Airway Bill Number or Bill of Lading Number", at Note 3 of the notes



appended to the format. From Note 3, it is amply clear that transport document number refers to GRN issued by Railways/Air way bill no. issued by airways/Bill of lading issued by shipping lines. Nowhere in the E-Way Bill format is a requirement of mentioning the Consignment Note No./LR/GR issued by Goods Transport Agency or transporter. E-Way Bill can be generated without generating Consignment note/LR/GR; presently the E-Way Bills are generated on the GST portal without mentioning of Consignment note /LR/GR. The finding of the Advance Ruling that without issuing Consignment note/LR/GR goods cannot be transported or E-Way Bill cannot be issued is wrong as practically on GST portal the E-Way Bills are being generated without having consignment note / LR/GR. Since there is no consignment note issued, thus, the services are out of the purview of GST and will categorize as non-taxable service/ non-GST supply..

11. The appellant/applicant, vide its application dated 12.06.2019 filed before the Rajasthan Authority for Advance Ruling, had stated that the appellant is a service provider having its registered office at Jaipur, Rajasthan, and providing transport services to various manufacturers of motor vehicles for carrying their vehicles from the factory to the various cities in India where the authorised dealers are located. The Appellant further stated that he has entered into agreement with various parties and will be providing transportation services with own vehicles but without having LR/GR. The appellant sought Advance Ruling as to whether transportation by own vehicles on the basis of Invoice(s) and E-way Bill without issuing the LR/GR by the Appellant Transporter will covered under exempted supply/non GST supply. The appellant, in the appeal memorandum described the activity to be undertaken as under:

- (i) That the appellant is providing a service of transport of certain raw materials to some exporting units using their own motor vehicles/lorries.
- (ii) That the goods will be transported under E-way Bill rules but there will be no generation of consignment note.

The appellant has simply stated that they will be transporting raw material to some exporting units. Except for this bare information, nothing has been mentioned by the appellant in the appeal to describe the exact nature of the activity proposed to be undertaken and the parties involved in the proposed activity. The proposed agreement containing the details of the responsibilities and rights of the parties to the agreement have not been submitted by the appellant. They have also not explained as to why they will not be issuing the consignment notes especially when they are already in the similar business of transportation, through transportation of motor vehicles. The peculiar fact mentioned by them is that they will not be issuing consignment note but they have not explained as to why they will not be issuing the consignment notes and what will be the document which will govern the terms of the transaction between the service provider and the service recipient. In any case, the information provided by the appellant is sufficient to indicate that they will be transporting goods for the client(s) for whom they will provide the services of transportation of goods by road. In order to ascertain the exact nature of services to be provided by the appellant, examination of the contracts/agreements between the appellant and service recipients is





necessary. However, we find that since no copy of agreement/contract has been produced before us by the appellant or his authorized representative for examination, the case is being decided on the basis of whatever information has been provided and the nature of services i.e. Goods transport services, Rental services of transport vehicles, Supporting services in transport etc. will be decided based on the information submitted.

12. The appellant is claiming that since they are not issuing consignment note, the service to be provided by them will be non-GST Supply. What comes out from the submissions made is that the appellant will be providing services by way of transport of goods by road for the clients. The goods will be carried by them in vehicles/lorries from the place of the raw material to the place of the exporting units. In such a situation, we find that Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time), at S. No. 9, 10 & 11, specifies rate of the Central Tax, on the intra-State supply of services related to Goods Transport as under:

Sl. No.	Chapter Section or Heading	Description of Service	Rate (per cent.)	Condition
9	Heading 9965 (Goods transport services)	(i) Transport of goods by rail (other than services specified at item no. (iv)).	2.5	Provided that credit of input tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
		(ii) Transport of goods in a vessel.	2.5	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
		(iii) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). Explanation.- "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.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
		(iv) Transport of goods in containers by rail by any person other than Indian Railways.	6	-
		(v) Goods transport services other than (i), (ii), (iii) and (iv) above.	9	-
10	Heading 9966 (Rental services of transport vehicles)	(i) Renting of motorcab where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
		(ii) Rental services of transport vehicles with or without operators, other than (i) above.	9	-



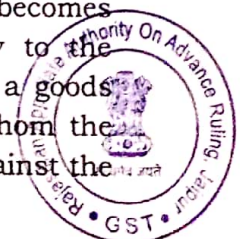
11	Heading 9967 (Supporting services in transport)	(i) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). Explanation.- "goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
		(ii) Supporting services in transport other than (i) above.	9	-

As mentioned under Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time) "goods transport agency" (GTA) means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. We find that, a consignment note is a document issued by a GTA against the receipt of goods for the purpose of transporting the goods by road in a goods carriage. Where a consignment note is issued, it implies that the lien on the goods has been transferred and the transporter of the goods becomes responsible for transportation of the goods till its safe delivery to the consignee. In such a situation, consignment note or any other document, by whatever name called, is simply a document showing the responsibility of the transporter and the rights of the persons for whom the goods are transported. By implication, it means that the transporter undertakes the responsibility to transport the goods and promises safe delivery of the goods at the destination. A consignment note is only a document by which the responsibilities and rights are reduced in writing and, therefore, existence or for that matter, absence of the said document cannot have any adverse effect on the responsibilities or rights as agreed between the parties.

13. We find that the appellant simply described the activity to be undertaken as under:

- (i) That the appellant is providing a service of transport of certain raw materials to some exporting units using their own motor vehicles/lorries.
- (ii) That the goods will be transported under E-way Bill rules but there will be no generation of consignment note.

The above information does not include information as to the consignor or consignee of the goods, whether they are different or the same persons and which of them will be entering into agreement with the appellant. In any case, "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. We find that when a person who provides service in relation to transport of goods by road and the lien on the goods has been transferred and the transporter of the goods becomes responsible for the transportation of the goods till safe delivery to the consignee, he essentially undertakes the responsibility cast upon a goods transport agency and the consignee or consignor of the goods, whom the services are provided, gets certain rights which can be exercised against the





transporter in respect of transportation of the goods. In such a situation, ideally the transporter issues a document called consignment note or LR/GR etc. The document may be called anything but the rights and responsibilities of the parties are governed by such document in the common trade practice. The activities as described by the appellant are those undertaken by a goods transport agencies as can be seen from the brief description provided by them. However, the appellant has emphasized upon the fact that they will not be issuing consignment notes. Further, they have not mentioned the details of consignor and consignee of goods; rather they have simply stated that the activity will involve transportation of raw material for the exporting units. In such a situation, it can also be inferred that the appellant will be providing their own vehicles either to the raw material supplier or to the exporting units for use in the transportation of the goods which is raw material for the exporting units. In that case, the appellant will be carrying out an activity which is in the nature of 'rental services of transport vehicles with or without operators', as can be inferred from the submissions made by the appellant. This conclusion also finds support from the vehement argument of the appellant that they will not be issuing consignment notes. The main activity involving vehicles of the appellant which will be used for transport of goods by road has been mentioned by the appellant in the appeal but they have mentioned nothing about any other activities which may be required in connection with the main activity of the appellant. In that case, such other activities will be covered under 'Supporting services in transport' mentioned at Sl. No. 11 of Notification No. 11/2017-Central Tax (Rate) Date 28.06.2017 (as amended from time to time), as the case may be, as per the exact nature of activities undertaken or services provided by them.

14. We find that the appellant is claiming on its official website ([www.kmtrans.in](http://www.kmtrans.in)) that they are serving about 90% of car makers viz. Maruti Suzuki, Toyota, Tata, Hyundai, Mahindra etc., are having Fleet Size of 1250, 35 branch offices, 32 loading stations, 80 service support. From this, it is clear that the appellant transporter is not from unorganized sector of transporters and has a vast network all over India for transportation of goods. They are providing services to various manufacturers of motor vehicles involving transportation of motor vehicles which are carried from the factory to the various cities in India where the authorised dealers are located. In this process of transportation, two types of services either by way of activity described as goods transport agency services or by way of rental services of transport vehicles can be provided. In the instant case of the appellant, if the lien of the goods is transferred and the appellant becomes responsible for the goods till its safe delivery to the consignee, the services will be classifiable as goods transport agency services and issuance of consignment note or its non-issuance does not make any difference so far as the nature of the activity carried out by them is concerned. Mere non-issuance of the consignment note in such cases does not make them entitled for exemption from payment of GST. However, if the vehicles are provided to the client on rental for use as per their requirement, the services will be classifiable as 'rental services of transport vehicles'.

15 Further, the appellant is carrying E-way bill while providing transport service. E-way bill is applicable as per the provisions mentioned in Notification No. 12/2018-Central Tax, dated 07.03.2018. In the present appeal, the





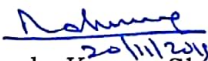
appellant has taken a plea that the format of E-way Bill reproduced and discussed in the impugned order along with notes appended to the format of E-way Bill, has been wrongly quoted leading to mis-interpretation of the requirement of details at column referring "Transport Document Number". The appellant has further contended that nowhere in the E-Way Bill format is a requirement of mentioning the Consignment Note No./LR/GR issued by Goods Transport Agency or transporter and E-Way Bill can be generated without generating Consignment note/LR/GR and since there is no consignment note issued, thus, the services are out of the purview of GST and will categorize as non-taxable service. We find that the format of e-way bill, in whatever manner designed or amended, is not relevant for deciding the classification of the activity carried out by them. The nature of activity carried out by them is independent of the format of e-way bill rather e-way bill format has no connection whatsoever, with the nature of activities undertaken. In any case, mere non-requirement of mentioning of any detail in E-way Bill does not affect liability of payment of GST on any service unless the service has been exempted through an exemption Notification issued by the Government. Hence, we find that the contentions of the appellant concerning format of e-way bill are not relevant to the instant issue.

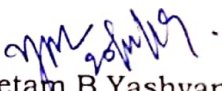
16. In view of the above discussion, we find that the services to be provided by the appellant will be liable to payment of GST as specified under Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 (as amended) read with exemption Notifications, under the services relating to transportation of goods or rental services of transport vehicle including supporting service, depending upon the exact nature of activity to be carried out by them.

In view of the foregoing, we pass the following order:

### ORDER

17. We reject the appeal filed by the appellant and hold that the services to be provided by the appellant are leviable to GST, as specified under Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 (as amended) read with exemption Notifications, if applicable, as per the exact nature of services to be provided by them.

  
(Rakesh Kumar Sharma)  
Member (Central Tax)

  
(Dr. Preetam B Yashvant)  
Member (State Tax)




To

M/s K M Trans Logistics Private Limited  
D-80, Chandpole, Anaj Mandi,  
Jaipur, Rajasthan, 302001

F. No. IV(16)AAAR/RAJ/03/2019-20/12665 to 12670 Dated. 22-11-2019

Copy to :-

1. The Chief Commissioner of CGST & Central Excise (Jaipur Zone), NCR Building, Statue Circle, Jaipur-302005.
2. The Commissioner of RGST & Commercial Taxes, Rajasthan, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.
3. The Principal Commissioner, Central GST Commissionerate, NCR Building, Statue Circle, Jaipur-302005.
4. The Deputy/Assistant Commissioner, Circle-G, Ward-2, Commercial Taxes Department, Kar Bhawan, Jhalana Institutional Area, Jaipur, Rajasthan-302004.
5. The Member, Rajasthan Authority for Advance Ruling, Goods & Service Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, Jaipur-302005.
6. Guard File.

o/c   
22/11/2019  
(Umesh Kumar Agrawal)

Superintendent