NATION TAX MARKET	**KERALA AUTHORITY FOR ADVANCE RULING** **GOODS AND SERVICES TAX DEPARTMENT** **TAX TOWER, THIRUVANANTHAPURAM**	KERALA GST State Goods & Services Tax

BEFORE THE AUTHORITY OF : Shri Jomy Jacob IRS &

: Shri Mansur M.I.

Legal Name of the applicant	EVM PASSENGER CARS INDIA PRIVATE LIMITED
GSTIN	32AACCE1683Q1ZD
ARN	AD320125012382T
Address	TC 79/1783-1, VOLKSWAGEN THIRUVANTHAPURAM, NH BYEPASS, VENPALAVATTOM, ANAYARA PO, Thiruvananthapuram, Kerala- 695029
Advance Ruling sought for	**A. Questions on Classification** 1) Whether the services rendered by the applicant fall under the chapter 99, heading 9973 and service code 997311? **B. Question on applicable GST rate** 1) Whether the rate provided in Notification No.11/2017- Central Tax (Rate) dated 28.6.2017 as amended vide Notification No.20/2019 CT (R) under the Sl. no. 17 (viii) is applicable for the services rendered by the Applicant and the applicable GST rate of tax is 18%.
Date of Personal Hearing	19-05-2025
Authorized Representative	Stanly James, Chartered Accountant

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ADVANCE RULING No. KER/27/2025 Dated 27.08.2025

1. The applicant, M/s EVM PASSENGER CARS INDIA PRIVATE LIMITED is a Private Limited Company having GSTIN 32AACCE1683Q1ZD.

2. In this Ruling, a reference hereinafter to the provisions of the CGST Act, Rules or the Notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules or the Notifications issued thereunder.

3. The questions on which advance ruling is sought are given in page 1 and are not being reproduced.

4. Contentions of the applicant:

4.1. **The facts of the issue**: The brief facts of the matter, as submitted by the applicant, are as follows.

4.1.1. EVM Passenger Cars India Pvt. Ltd., through its division EVM Wheels, operates a self-drive "Rent a Cab" service across Kerala. They provide hatchbacks, sedans, MUVs, SUVs, and premium vehicles for solo travellers, couples, families, and groups, available on daily, weekly, or monthly rentals for leisure use. Vehicles are supplied without drivers and strictly for personal use; they cannot be used for transporting passengers or goods for hire, taxi operations, or other commercial purposes. Customers arrange their own fuel and must return the vehicle with the same fuel level as at delivery. Rental packages vary by mileage, vehicle type, and downtime charges. All vehicles are GPS-enabled, allowing real-time monitoring of location, speed, fuel level, tyre pressure, and driver behaviour. The system detects unauthorized use, tampering, and entry or exit from designated areas, and enables remote immobilization if needed. This ensures the company retains full control over its vehicles and can enforce compliance with the rental agreement.

4.2. **Applicant's Interpretation of Law and Position on Taxability** are as follows.

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4.2.1. The Government has notified the GST rates for supply of services under Notification No. 11/2017-Central Tax (Rate) dated 28 June 2017 and prescribed service codes in the Scheme of Classification of Services, which serve as a guiding tool for classification by both the assessee and the tax administration. Explanatory notes have been issued indicating the scope and coverage of each heading, group, and service code, and where a service is capable of differential treatment based on its description, the most specific description prevails. The applicant provides the service of renting motor vehicles, which, prior to the amendment of Notification No. 11/2017 by Notification No. 20/2019-Central Tax (Rate), was billed under SAC 996601. An extract of Notification No. 11/2017 for Heading 9966, as it stood before and after amendment, shows that the GST rate for renting of motor cabs with or without operators was 18%, but from 1 October 2019, Heading 9966 applies only to transport vehicles provided with operators, with further distinctions based on whether fuel cost is included. Since the applicant provides vehicles without operators, this heading is no longer applicable.

4.3. Reference to the explanatory notes to the Scheme of Classification of Services indicates that the applicant's service could fall under Heading 9973, which, before amendment, read "Leasing or rental services with or without operator" and now reads "Leasing or rental services without operator." Under Heading 9973, sub-clause (iii) covers transfer of the right to use goods without transfer of title, taxed at the same rate as the sale of such goods (5% for electric vehicles and 28% for fuel-operated vehicles), while sub-clause (viii) covers leasing or rental services without operator not specified elsewhere, taxed at 18%. Before 1 October 2019, the applicant's service was taxed under "Rental service of transport vehicles" at 5%, 12%, or 18%, but after the amendment, the transaction falls to be considered under Heading 9973. Sub-clauses (ii), (iv), and (viia) pertain to intellectual property rights or transfer of right in goods without transfer of title and are not applicable.

4.4. In the present case, there is no transfer of possession or effective control of the vehicles: prior permission from the applicant is required for the location of

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use, vehicles are GPS-tracked, repairs are carried out by the applicant, and compliance with motor vehicle laws, insurance, and third-party damages remain the applicant's responsibility, though reimbursement may be sought from the customer. As there is no transfer of the right to use goods, the service qualifies as "leasing or rental services without operator" under Heading 9973(viii) with an applicable GST rate of 18%.

5. Comments of the Jurisdictional Officer

The application was forwarded to the jurisdictional officer as per provisions of section 98 (1) of the CGST Act. The jurisdictional officer reported that the questions raised in the Advance Ruling application are not pending or decided in any proceedings under any of the provisions of the Act, under the jurisdiction of that office.

6. Personal Hearing:

The applicant was granted an opportunity for a personal hearing on 19-05-2025 Shri. Stanly James, Chartered Accountant represented for the applicant in personal hearing. In the hearing, he explained the nature of activity undertaken by the applicant and reiterated the contentions submitted in the written application.

7. Discussion and Findings:

7.1. On review of the application, facts, and hearing submissions, it is found that the questions fall under Section 97(2) (b) and (e) of the CGST Act, relating to notification applicability and tax liability determination. The application is therefore admitted for consideration on merits.

7.2. The first issue for consideration is the classification of the service rendered by the applicant. (They want to know the services rendered by the applicant fall under the chapter 99, heading 9973 and service code 997311). The applicant's interpretation of the law has been set out above.

7.3. <u>(Classification and change in SAC post 2019:)</u>

Under the original GST rate structure introduced by Notification No. 11/2017–Central Tax (Rate) dated 28.06.2017, "Rental services of transport vehicles, with

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or without operator" were covered under Heading 9966. This heading was interpreted to include both self-drive rentals and rentals with a driver. Notification No. 20/2019–Central Tax (Rate) dated 30.09.2019 introduced a significant change. W.e.f. 01.10.2019, the description in Heading 9966 was amended to cover only "rental services of transport vehicles with operator." By expressly adding "with operator," the legislature, applying the maxim expressio unius est exclusio alterius, excluded "without operator" services from that heading. This amendment meant that self-drive or driver-less rentals no longer fell within SAC 9966. The same Notification also amended Heading 9973 ("Leasing or rental services without operator") to make it the proper category for rentals where no operator is provided. The revised description of 9973, read with the Explanatory Notes to the Scheme of Classification of Services, confirms this division: Heading 9966 covers only rental of transport vehicles with operator. Heading 9973 covers leasing or rental services without operator, subdivided according to the type of goods. Within Heading 9973, Group 99731 covers "Leasing or rental services concerning machinery and equipment," whereas Group 99732 covers "Leasing or rental services concerning other goods." Passenger cars do not fit the machinery/equipment grouping and instead fall under the "other goods" group. The residual Service Code 997329 ("Leasing or rental services concerning other goods, n.e.c.") is thus the closest match for self-drive passenger car rentals. The Explanatory Notes make this distinction clear. In *Indus Motor Company Pvt. Ltd.* (Kerala AAR, 2024), it was held that post-Notification No. 20/2019–CT (Rate) dated 30.09.2019, self-drive rentals without operator no longer fall under SAC 9966 and must be classified under SAC 9973. Similarly, in the *Yulu Bikes Pvt. Ltd.* case (Karnataka AAAR), the Appellate Authority confirmed that rentals without operator are classifiable under SAC 9973, while rentals with operator remain within SAC 9966.

7.4. <u>(Applicable GST Rate and Notification Provisions:)</u>

At this juncture, having identified Heading 9973 as the relevant classification for the service in question, it becomes necessary to examine the evolution of rate provisions under Serial No. 17 of Notification No. 11/2017–Central Tax (Rate) dated 28.06.2017 and its subsequent amendments. The GST rate applicable to

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leasing/rental of goods under Heading 9973 has undergone multiple changes through Notification No. 01/2018–CT (Rate), Notification No. 27/2018–CT (Rate), and Notification No. 20/2019–CT (Rate). These amendments have introduced new sub-entries, clarified the scope between "with operator" and "without operator" rentals, and changed the linkage between service rates and goods-equivalent rates.

Three primary entries in Notification No. 11/2017 are relevant for leasing/rental of goods without operator:

(i) Entry 17(iii) – Transfer of the right to use goods (TOTRU)

- Covers situations where there is a transfer of the right to use goods for consideration, falling within the ambit of a deemed sale under Article 366(29A)(d) of the Constitution.
- Rate: Same as the GST rate on supply of the goods themselves (goods-equivalent rate).

(ii) Entry 17(viia) – Leasing or renting of goods

- Inserted by Notification No. 27/2018–CT (Rate) w.e.f. 01.01.2019.
- Covers leasing/rental of goods that do not qualify as deemed sales under 17 (iii).
- Rate: Same as the GST rate on supply of like goods.

(iii) Entry 17(viii) – Residual leasing or rental services without operator

- Originally worded as "with or without operator" (post-Notification No. 01/2018), this residual entry covered leasing/rental services not falling under other specific sub-entries.
- Notification No. 27/2018 (w.e.f. 01.01.2019) amended the rate to a flat 9% CGST + 9% SGST (18% total), replacing the earlier goods-equivalent rate.
- Notification No. 20/2019 (w.e.f. 01.10.2019) restricted the scope to "without operator" and excluded (viia), while continuing the flat 18% rate.

7.5. Having determined that the activity is classifiable under Heading 9973 and that the possible rate entries are 17(iii), 17(viia) and 17(viii) of Notification No.

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11/2017–Central Tax (Rate), it is first necessary to examine whether Entry 17(iii) is applicable. This entry covers "transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration," which is a deemed sale under Article 366(29A)(d) of the Constitution. The Supreme Court in *Bharat Sanchar Nigam Ltd. v. Union of India* (2006) laid down five cumulative conditions for a transaction to qualify as such a transfer, the most critical being that the transferee obtains exclusive possession and effective control of the goods for the period of hire, to the exclusion of the owner. In the present case, the arrangement for self-drive vehicle rentals does not satisfy this test. The owner retains significant control over the vehicle at all times- tracking its location via GPS, imposing contractual restrictions on its use, retaining the right to intervene or immobilise the vehicle in cases of breach, and ensuring compliance with stipulated terms. This continuous oversight and the ability to reclaim or restrict use at will are inconsistent with the transfer of exclusive possession contemplated under the *BSNL* test. The hirer's use of the vehicle is permissive and subject to ongoing control, rather than an unfettered right to use. The Kerala AAR in *Indus Motor Company* applied the *BSNL* test and held that vehicle rental contracts without operator did not constitute transfer of the right to use because effective control was not transferred. Similarly, the Karnataka AAAR in *Yulu Bikes* ruled that providing cycles for self-use did not transfer possession in the legal sense; mere access without legal possession does not amount to transfer of the right to use goods.

7.6. Once it is established that Entry 17(iii) for "transfer of the right to use goods" does not apply, the classification under Serial No. 17 of Notification No. 11/2017–CT (Rate) narrows down to two possibilities-Entry 17(viia) and Entry 17(viii). In Indus Motor Company Pvt. Ltd. (Kerala AAR, July 15, 2024), the AAR held that self-drive rentals fall under Entry 17(viii)- the residual "leasing or rental services, without operator" and accordingly applied the flat 18% rate under that entry. Conversely, in *Yulu Bikes Pvt. Ltd.* (Karnataka AAAR, February 2, 2021), the Appellate Authority set aside an earlier AAR and ruled that renting of e-bikes and bicycles without operator falls under Entry 17(viia)- "leasing or renting of goods" and the applicable rate is the same as that on the supply of like goods.

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These divergent views illustrate that while Kerala AAR opted for the residual provision at a flat 18%, the Karnataka AAAR preferred the more specific provision 17(viia) where the transaction squarely involves leasing or renting of goods without transfer of title.

7.7. The present point of discussion, therefore, is to determine which is more apt for the applicant's activity – Entry 17(viia) or Entry 17(viii). Entry 17(viia), inserted by Notification No. 27/2018–CT (Rate) w.e.f. 01.01.2019, specifically covers "Leasing or renting of goods" and prescribes the same GST rate as applicable to the supply of like goods. This entry was created to address arrangements that are not deemed sales under 17(iii) but nonetheless involve the grant of a right to use goods for consideration. Entry 17(viii), on the other hand, is worded as a residual category covering "Leasing or rental services, without operator, other than (i) to (vii) and (viia) above." By its own terms, 17(viii) applies only where the activity does not fit within any of the preceding sub-entries, including 17(viia). The legislative scheme thus clearly intends that if a transaction falls within the scope of 17(viia), that entry should prevail over the catch-all provision in 17(viii).

7.8. The present arrangement is factually and legally one of leasing or renting of tangible goods (motor vehicles) without provision of any operator. The customer is granted temporary use of the goods, without transfer of title, and subject to contractual terms. This is precisely the situation envisaged under 17(viia), which covers leasing/renting of goods that do not amount to a transfer of the right to use. Applying the well-established interpretative rule *generalia specialibus non derogant* (the specific prevails over the general), a specifically enacted provision such as 17(viia) must be preferred over a general residual entry like 17(viii). The insertion of 17(viia) in 2018, ahead of the 2019 amendments shifting "without operator" rentals from Heading 9966 to 9973, shows legislative intent to ensure a clear and dedicated rate provision for such leasing/rental of goods services.

7.9. It is also pertinent to note that while the subject matter of the lease is a tangible good, the nature of supply under GST law is a service. Section 2(102) of the CGST Act defines "services" to include "anything other than goods, money and securities," and Schedule II, para 5(f) expressly treats "transfer of the right to use any goods for any purpose for consideration without transfer of title" as a supply of service. The present arrangement falls squarely within this description. Therefore, given that the nature of supply is a service of leasing/renting goods, the transaction aligns fully with 17(viia) and does not require recourse to the fallback 17(viii). The residual entry should be applied only when the activity cannot be brought within any of the earlier, more specific sub-entries, which is not the case here.

7.10. Now coming to the questions raised by the applicant, the first question is: *"Whether the services rendered by the applicant fall under the chapter 99, heading 9973 and service code 997311?"* The classification analysis set out in para 7.3 above is relevant here. Notification No. 20/2019–Central Tax (Rate) dated 30.09.2019 made substantive changes not only to Heading 9966 but also to Heading 9973. In 9966, the scope was narrowed to "rental services of transport vehicles with operator," thereby expressly excluding "without operator" arrangements. Simultaneously, the description in 9973 ("Leasing or rental services, with or without operator") was amended to specifically cover only "without operator." This legislative restructuring clearly moved self-drive or driver-less rental services out of 9966 and into 9973.

7.10.1. Since the applicant's service—providing self-drive passenger cars—does not involve an operator, it cannot be classified under 9966 after 01.10.2019. The only appropriate heading is 9973, which, as per the Scheme of Classification of Services, covers "leasing or rental services without operator," sub-divided according to the nature of goods. Within 9973:

- **Group 99731** covers "leasing or rental services concerning machinery and equipment," which includes transport equipment such as containers, but this group is not apt for passenger cars since they are not considered machinery/equipment in the general sense. SAC 997311 ("Leasing or rental services concerning transport equipment including containers, with or without operator") therefore does not squarely fit.

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- **Group 99732** covers "leasing or rental services concerning other goods." Passenger cars fall within this group. The most specific residual code here is SAC 997329 ("Leasing or rental services concerning other goods, n.e.c."), which applies where no specific sub-classification exists for the goods in question.

7.10.2 Accordingly, the applicant's services are correctly classifiable under **SAC 997329**, not SAC 997311. This conclusion follows directly from the 2019 amendments, the explicit removal of "without operator" rentals from 9966, and the placement of such services under 9973.

7.11. The second question raised by the applicant concerns the applicable GST rate specifically, whether Serial No. 17(viii) of Notification No. 11/2017–Central Tax (Rate) dated 28.06.2017, as amended by Notification No. 20/2019–CT (Rate), is applicable to the services rendered, and whether the GST rate would be 18%. As discussed in detail in paragraphs 7.4 to 7.9 above, once the classification of the activity is determined under Heading 9973, the possible sub-entries in Serial No. 17 of Notification No. 11/2017 that merit examination are 17(iii), 17(viia) and 17(viii). Entry 17(iii) (transfer of the right to use goods) was found inapplicable in para 7.5 due to lack of exclusive possession and effective control being transferred to the hirer. This leaves only Entry 17(viia) and Entry 17(viii) for consideration.

Based on the detailed discussions in paragraphs 7.6, 7.7, 7.8, and 7.9, it is evident that the applicant's service falls squarely under *"leasing or renting of goods"* as contemplated in Serial No. 17(viia). Entry 17(viia) is a specific provision intended for such arrangements and takes precedence over the residual entry 17(viii), which applies only when no other sub-entry, including 17(viia), is attracted. Accordingly, Serial No. 17(viii) is not applicable to the applicant's services, and the correct classification for rate purposes is under Serial No. 17(viia) of Notification No. 11/2017–CT (Rate), as amended. In terms of rate, Entry 17(viia) prescribes the same GST rate as applicable to the supply of like goods.

8. In the light of the facts and legal position as stated above, the following rulings are issued:

RULINGS

Questions on Classification

Question 1- Whether the services rendered by the applicant fall under the chapter 99, heading 9973 and service code 997311?

Ruling- It is ruled that the services rendered by the applicant are classifiable under Chapter 99, Heading 9973, Service Code 997329 ("Leasing or rental services concerning other goods"), and not under SAC 997311.

Question on applicable GST rate

Question 2- Whether the rate provided in Notification No.11/2017 Central Tax (Rate) dated 28.6.2017 as amended vide Notification No.20/2019 CT (R) under the Sl. no. 17 (viii) is applicable for the services rendered by the Applicant and the applicable GST rate of tax is 18%.

Ruling- In response to Question 2, it is ruled that Serial No. 17(viia) of Notification No. 11/2017–Central Tax (Rate) dated 28.06.2017, as amended, is applicable to the applicant's services, and the applicable GST rate is the same as the rate applicable to the supply of like goods. Serial No. 17(viii) is not applicable.

Jomy Jacob, IRS
Addl. Commissioner of Central Tax
Member

Mansur M.I.
Joint Commissioner of State Tax
Member

To

M/s EVM PASSENGER CARS INDIA PRIVATE LIMITED
Tc 79/1783-1, Volkswagen Thiruvanthapuram, NH byepass,
Venpalavattom, Anayara P.O., Thiruvananthapuram, Kerala, 695029

OFFICE OF THE COMMISSIONER STATE G.S.T.D. THIRUVANANTHAPURAM

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Copy submitted to:-

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2. The Commissioner of State Goods and Services Tax Department,Tax Towers, Karamana, Thiruvananthapuram – 695002. (email: cst.sgst@kerala.gov.in)
3. The Commissioner of Central Tax and Central Excise, Thiruvananthapuram Commissionerate, GST Bhavan, Statue, Thiruvananthapuram. (E-mail id: commr-tvmhqrs@gov.in)

Copy to:-

1. Additional Commissioner, TPS (HQ), Thiruvananthapuram .
2. The Deputy Commissioner, ITMD, Thiruvananthapuram
3. The Assistant Commissioner/The State Tax Officer, Tax Payer services Circle, Pattom.
4. The Superintendent, Central Tax, CBIC, North Division, Veli Range.

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