



## BEFORE THE AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH

### Goods and Service Tax

D. No. 5-56, Block-B, R.K. Spring Valley Apartments, Eedupugallu, Vijayawada-521151

### Present

1. Sri. D. Ramesh, Additional Commissioner of State Tax (Member)
2. Sri. A. Syam Sundar, Additional Commissioner of Central Tax (Member)

**AAR No.08/AP/GST/2021      dated: 18.01.2021**

1	Name and address of the applicant	M/s. Deeraj Goyal, D.No.26-24-11/4, Chaitanyanagar, Gajuwaka, Visakhapatnam, Andhra Pradesh-530026.
2	GSTIN	Unregistered
3	Date of filing of Form GST ARA-01	26.05.2020.
4	Date of Hearing (virtual)	22.10.2020
5	Represented by	CA. Deeraj Goyal
6	Jurisdictional Authority	Not applicable
7	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;

### ORDER

**(Under sub-section (4) of Section 98 of Central Goods and Services Tax Act, 2017 and sub- section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)**

1. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and SGST Act, 2017 are in pari materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the APGST Act.



2. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and AP Goods & Services Tax Act, 2017 (hereinafter referred to as CGST Act and APGST Act respectively) by an unregistered applicant, M/s. Deeraj Goyal (hereinafter referred to as applicant).

**3. Brief Facts of the case:**

The applicant acts as intermediary between truck owners and goods transport agencies for which he earns commission from truck owners which is deducted from the amount received by them from goods transport agency and paid to truck owners. In some cases, the amount is directly paid to truck owners by the GTA where the commission amount is obtained by the applicant from truck owners.

**4. Questions raised before the authority:**

The applicant filed the present application seeking a ruling from this Authority on the following issue:

1. The applicant acts as an intermediary between the truck owners and goods transportation agencies for transportation of goods by road. The applicant seeks clarification whether he will be classified under transportation of goods by road, which is exempt, or commission agents or goods transport agencies and under what HSN, his services will be classified and what will be the turnover?

**5. Applicant's Interpretation of Law and Facts:**

- 5.1 In the present case, the Applicant intends to start a business of transportation of goods by road, where the applicant plays a role of intermediary between the Goods Transport Agency and the truck owners wherein the applicant receives commission from truck owners by deducting the same out of the amount received from the GTA. If the amount is directly paid to the truck owners, the truck owners pay the commission to him.
- 5.2 The applicant's view is that he will be classified as "commission agent" as the amount received by him is not his amount and the same has to be paid to the truck owners.
  - The applicant states that he cannot be exempted under transportation of goods by road as he does not own any trucks.





- The applicant cannot be a GTA as they are not issuing consignment note and the goods transportation tender is received by the GTA from the companies. Hence the applicant claims that the amount retained by him forms his income and turnover which is very low and obtained as a result of bargain from the truck owners.

## 6. Virtual Hearing:

The proceedings of Hearing were conducted through video conference on 22<sup>nd</sup> October 2020, for which the applicant, CA. Deeraj Goyal attended and reiterated the submissions already made.

## 7. Discussion and Findings:

**7.1** We have examined the issues raised in the application. The taxability and the applicable rate of tax for the goods and services supplied or to be supplied, as governed under the provisions of respective GST Acts are examined.

The applicant is engaged in the business of transportation of goods by road wherein he acts as an intermediary between truck owners and goods transportation agencies. The issue at hand is the classification of the service provided by the applicant by way of arranging trucks to the GTA and the rate of tax applicable for the said service.

### Intermediary under Goods and Services Tax:

In terms of provisions of Section 2(13) of the IGST Act, 2017, an "Intermediary" means *"a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account."*

In terms of provisions of Section 2(5) of the CGST Act, 2017;

*"'Agent' means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another."*



The applicant arranges trucks to the goods transport agency and charges the commission or brokerage for the said service and falls within the ambit of 'Agent' under the CGST/SGST Act.

The service provided by the applicant in relation to transportation of goods fall under the serial No.11 under the Heading 9967(ii) supporting services in transport other than services of Goods Transport Agency and liable to be taxed @18% ( 9% CGST+ 9% SGST) as per the Notification No.11/2017 Central Tax (Rate) dated 28.06.2017.

In view of the foregoing we rule as under.

### **RULING**

**(Under Section 98 of Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017)**


**Question:** Whether the applicant will be classified under transportation of goods by road, which is exempt or commission agents or goods transport agencies and under what HSN code his services are classified and what will be the turnover?

**Answer:** The applicant will be classified as 'Agent' providing supporting service for transportation of goods under heading 9967(ii) as per the Notification No.11/2017 Central Tax (Rate) and the amount received by him will form part of his turnover.

**Sd/- D. Ramesh**  
**Member**

**Sd/- A. Syam Sundar**  
**Member**

**//t.c.f.b.o//**

  
**Deputy Commissioner (ST)**  
**DEPUTY COMMISSIONER (ST)**  
O/o. Chief Commissioner of State Tax,  
Government of A.P., Vijayawada

TO

1. M/s. Deeraj Goyal, D.No. 26-24-11/4, Chaitanyanagar, Gajuwaka, Visakhapatnam, Andhra Pradesh-530026 **(By Registered Post)**



**Copy submitted to**

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Eedupugallu, Vijayawada, (A.P)
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central Tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-530035. A.P. **(By Registered Post)**

**Note:** Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act, 2017, with in a period of 30 days from the date of service of this order.

