

**THE AUTHORITY ON ADVANCE RULINGS  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No. KAR ADRG 95/2019**

**Dated: 27<sup>th</sup> September, 2019**

Present:

1. Sri. Harish Dharnia,  
Addl. Commissioner of Central Tax . . . . Member (Central Tax)
2. Dr. Ravi Prasad M.P.  
Joint Commissioner of Commercial Taxes . . . . Member (State Tax)

1.	Name and address of the applicant	M/s VE COMMERCIAL VEHICLES LIMITED, No.66/2, 502, Embassy Prime, Southern Wing (B-Wing),5 <sup>th</sup> Floor, Bagmane Tech Park, C.V.Raman Nagar, Bengaluru 560093
2.	GSTIN or User ID	29AABCE9378F1Z8
3.	Date of filing of Form GST ARA-01	19.06.2019
4.	Represented by	Sri Sivarajan, Chartered Accountant
5.	Jurisdictional Authority - Centre	Pr. Commissioner of Central Tax, Bangalore-East
6.	Jurisdictional Authority - State	LGSTO-035, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of 1. Rs.5,000-00 under CGST Act vide CIN ICIC19062900161031 dated 18.06.2019 2. Rs.5,000-00 under KGST Act vide CIN ICIC19062900167186 dated 18.06.2019

**ORDER UNDER SECTION 98(4) OF THE CENTRAL GOODS AND SERVICE TAX ACT, 2017 AND UNDER SECTION 98(4) OF THE KARNATAKA GOODS AND SERVICES TAX ACT, 2017**

1. M/s V.E. Commercial Vehicles Limited, (called as the 'Applicant' hereinafter), having GSTIN number 29AABCE9378F1Z8, has filed an application for Advance Ruling under Section 97 of the CGST Act, 2017 and Section 97 of the KGST Act, 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000-00 each under the CGST Act and the KGST Act.





2. The Applicant is a Limited Company and is registered under the Goods and Services Act, 2017. The applicant has sought advance ruling in respect of the following question:

*Whether Notification No.45/2017 – Central Tax (Rate) dated November 14<sup>th</sup>, 2017 is applicable on supply of trucks and its spare parts to Public Funded Research Institutions?*

3. The applicant furnishes some facts relevant to the stated activity:
- The applicant states that they are a joint venture between the Volvo Group and Eicher Motors Limited. The applicant is engaged in the business of manufacturing and selling of commercial vehicles, providing after sales service support through its own dealers and authorised dealers located across India.
  - The applicant states that they have received orders from various Public Funded Research Institutions for supply of trucks and their spare parts at concessional rate of 5% GST (under Notification No.45/2017 – Central Tax (Rate) dated November 14, 2017). The summary of the orders are as under:

Sl.No	Goods	Public Funded Research Institution from which order is received
1	Trucks	Satish Dhawan Space Centre (SHAR), (SDSC SHAR) (under the administrative control of Department of Space, Govt. of India)
2	Spare parts of trucks	Electronics & Radar Development Establishment (LRDE) (under the administrative control of the Department of Defence Research & Development of the Govt. of India)

- In addition to the above, the applicant is also contemplating the supply of goods mentioned in the table above to the following Public Funded Research Institutions.
  - Vehicle Research and Development Establishment (VRDE)
  - Bharat Electronics Limited (BEL)
  - Defence Research and Development Organisation (DRDO)
  - BrahMos Aerospace Private Limited
  - Bharat Heavy Electricals Limited (BHEL)
  - Hindustan Aeronautics Limited (HAL)
- The applicant states that as per Notification No.45/2017 – Central Tax (Rate) dated 14<sup>th</sup> November, 2017, Government has provided for a





concessional rate of tax (i.e. 5%) on certain specified goods when supplied to Public Funded Research Institution subject to the conditions mentioned in the said notification.

- e. One of the conditions for seeking benefit of concessional rate as per the above notification is that such Public Funded Research Institution are required to produce a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory in the concerned department to the supplier at the time of supply of the goods specified in the notification.
- f. Pursuant to the above order received from the Public Funded Research Institution, the applicant has been issued with a certificate by such Public Funded Research Institutions (SDSC SHAR and LRDE) for charging concessional rate of tax as per the above mentioned notification in respect of goods to be supplied to them.

4. The applicant states that Notification No.45 /2017 – Central Tax (Rate) dated 14.11.2017 provides for concessional rate of tax (at the rate of 5%) on certain specified goods when supplied to Public Funded Research Institution subject to the conditions mentioned in the said notification.

4.1 The applicant states that scientific and technical instruments, apparatus, equipment (including computers) and accessories, parts, consumables and live animals (experimental purpose) are liable to tax at 2.5% CGST subject to the condition that the goods are supplied to or for a Public Funded Research Institution under the administrative control of the Department of Space or Department of Atomic Energy or the Defence Research Development Organisation of the Government of India and such institution produces a certificate to that effect from an office not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory in the concerned department to the supplier at the time of supply of the specified goods.

4.2 The applicant states that on perusal of the above notification, it is reasonable to interpret that in order to avail the benefit of concessional rate of tax, fulfillment of the below mentioned conditions are a prerequisite;

- Specified goods are supplied to a Public Funded Research Institution (other than a hospital, or a University or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute of Technology / Regional Engineering College)





- The following categories of goods are supplied to above Public Funded Research Institution
  - Scientific and Technical instruments, apparatus, equipment (including computers)
  - Accessories, parts, consumables and live animals (experimental purposes)
  - Computer software, Compact Disc Read Only Memory (CD-ROM) recorded magnetic tapes, micro films, microfiches
  - Prototypes, the aggregate value of prototypes received by an institution does not exceed INR 50,000 in a financial year.
- The Public Funded Research Institution produces a certificate from an office not below the rank of Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory in the concerned Department to the supplier at the time of supply of the above specified goods.

4.3 The applicant states that in the present case, the Public Funded Research Institutions have issued certificates to the applicant in light of Notification No.45/2017 (supra) for charging concessional rate of tax i.e. 5% in respect of goods to be supplied to them.

4.4 Regarding the supply of trucks to SDSC SHAR, the applicant states that they are given to understand that the trucks to be supplied to them will be used for transporting research and development's equipment across test sites. Hence the goods (i.e trucks) to be supplied will qualify as goods specified in column 3 of Notification No.45/2017 (supra). Hence the applicant submits that they can charge tax at concessional rate of 5% in line with the above notification.

4.5 In case of supply of spare parts of trucks to LRDE, the applicant has been issued certificate in terms of Notification No.45/2017 to the applicant stating that the spare parts to be supplied are in respect of the trucks which are not being used for any commercial purpose. Instead such trucks are being used for transporting research and development's equipment across test sites. The goods (i.e. spare parts of trucks) to be supplied will qualify as goods specified in column 3 of Notification No.45/2017 (supra).

## 5. FINDINGS & DISCUSSION:

We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri. Sivarajan K., CA, during the personal hearing. We also considered the issues involved on which advance ruling is sought by the applicant and



relevant facts. At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 KGST Act.

5.1 The transaction of the applicant is examined and found that the applicant intends to supply trucks and spare parts of automobiles to various research institutions.

5.2 Notification No. 45/2017 - Central Tax (Rate) dated 14.11.2017 exempts specified goods from so much of the central tax leviable thereon under section 9 of the said Act, as is in excess of the amount calculated at the rate of 2.5% when supplied to the institutions specified, subject to the conditions specified in the corresponding entry.

5.3 The issue now boils down to the following:

- a. Whether the recipient of the supply is a Public Finance Research Institution?
- b. Whether the goods i.e. Trucks and spare parts are
  - (i) Scientific and technical instruments, apparatus, equipment (including computers)
  - (ii) accessories, parts, consumables and live animals (experimental purpose)
- c. Whether the conditions mentioned in column 4 of the table in the Notification are satisfied?

5.4 In the present application it's stated that the applicant has received orders from Satish Dhawan Space Centre SHAR (SDSC SHAR) for supply of trucks and order from Electronics & Radar Development Establishment (LRDE) for supply of spare parts for trucks. The applicant has also submitted a copy of Exemption Certificate issued by the SDSC SHAR wherein the competent officer has certified that SDSC SHAR is a public funded research institution. Similarly the Electronics & Radar Development Establishment (LRDE) has also provided the necessary exemption certificate from the competent authority. These facts indicate that the first condition, as at para 5.3(a) above, is satisfied in the instant case.

5.5 Now we proceed to examine whether the second condition is satisfied or not. The applicant supplies certain trucks and their spare parts. In this regard we refer to column (3) in the table given in Notification No.45/2017, which deals with the description of the goods that are permissible for supply at concessional rate. The same are indicated in para 5.3(b)(i) and (ii) above. The question before us is to examine whether trucks can be considered as scientific and technical instruments,

VE Commercial Vehicles





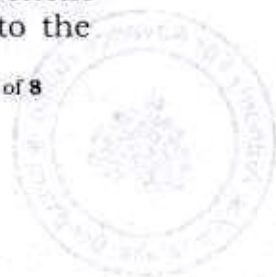
apparatus or equipments. While we may not call the trucks scientific and technical instruments, it would be worthwhile to see if the trucks can be considered as apparatus or equipments. In this regard the applicant has submitted the definitions of these terms in the general parlance. We take note of these definitions. The trucks do qualify the definition of apparatus/equipments.

5.6 The conditions prescribed in column 4 of Notification No.45/2017 are (a) the supply is made to a public funded research institution under the administrative control of the Department of Space or Department of Atomic Energy or the Defence Research Development Organisation of the Government of India and such institution produces a certificate to that effect from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory in the concerned department to the supplier at the time of supply of the specified goods; (b) The institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying that the said goods are required for research purposes only;

5.7 In the instant case the applicant has fulfilled both the conditions. The applicants apprehension emanates from the condition at (b) in para 5.6 above and the same is whether the trucks and the spares could be considered as supplies required for research purpose only. We recall the applicant's submission that the trucks to be supplied by them would be used by the institutions to ferry equipments to various locations in the process of research by the recipient institution. The trucks would only be used for transportation purposes and not in the actual process of research.

5.8 The condition at 5.6(b) above reading '.....certifying that the said goods are required for research purposes only' is an expansive condition. It does not lay down that the supply received would be a subject matter of research or would have to be equipment capable of use in processes integral to research. As long as the equipment serves any purpose forming a part of the total research activity and is not used for any other activity, it qualifies the term 'required for research purposes'. In the recipients case research activities require moving heavy instruments etc from one place to the other without which research activity cannot be undertaken. And this requires the trucks. Therefore the trucks acquire the nature of 'goods required for research purposes'.

5.9 We also have on record a large number of judgements by various Tribunals benches which have consistently examined the same question in relation to the erstwhile Central Excise Notification No. 10/97, dated 1.03.1997. This Notification is completely analogous to Notification No.45/2017. It has been consistently held by the various benches of the Tribunal that so long as there is a clear certificate issued by the designated officer to the effect that item is being used for research purposes, the benefit of the Notification cannot be denied. One of the judgements relates to the





supply of trailer trucks only and it was held that the same are eligible in terms of the notification (PL Haulwel Trailers Vs Commissioner of Central excise Chennai, 2002(142) ELT 204(Tri.- Chennai) dated 28.01.2002).

5.10 we are thus of the considered opinion that Notification No. 45/2017-Central Tax(Rate) dated November 14, 2017 is applicable on supply of trucks and its spare parts to Public funded research institutions.

5.11 The submissions of the applicant regarding the nature of the other recipients needs to be verified with reference to the research activity done and also whether they are recognised as a Public Funded Research Organisation and some of the companies to which the applicant intends to supply may not be covered under the term Research Organisation like Bharat Electronics Ltd,. Bharat Heavy Electricals Ltd., Hindustan Aeronautics Ltd.


5.12 The Office of the Pr. Commissioner of Central Tax, Bangalore East, has forwarded their view in the matter stating that the intended goods do not qualify as per the said Notification. However, as discussed above, we are not inclined to accept the view of revenue for reasons already discussed.

6. In view of the foregoing, we rule as follows

### **RULING**

The supply of trucks and spare parts by the applicant to Satish Dhawan Space Centre (SHAR), (SDSC SHAR) and Electronics & Radar Development Establishment (LRDE) respectively, as specified in the application, are covered under the description of goods specified in Notification No. 45/2017 – Central Tax (Rate) dated 14.11.2017 and hence are eligible for a reduced rate of tax under the CGST Act and similarly under KGST Act and IGST Acts.



  
27.09.2019  
**(Harish Dharnia)**  
**Member**

  
**(Dr. Ravi Prasad M.P.)**  
**Member**

Place: Bengaluru,  
Date: 27.09.2019

To,

The Applicant

Copy to:

VE Commercial Vehicles

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. Pr Commissioner of Central Tax, Bangalore-East
4. The Asst. Commissioner, LGSTO-035, Bengaluru
5. Office Folder