

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

GST Bhavan, 1st floor, B-Wing, Mazgaon, Mumbai – 400010.

(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)

BEFORE THE BENCH OF

(1) Ms. P. Vinitha Sekhar, Additional Commissioner of Central Tax, (Member)

(2) Mr. A. A. Chahure, Joint Commissioner of State Tax, (Member)

GSTIN Number, if any/ User-id	27AAFCP1113 R1Z7
Legal Name of Applicant	POSCO INDIA STEEL DISTRIBUTION CENTRE PVT LTD
Registered Address/Address provided while obtaining user id	PLOT NO. A-9, FLORICLUTURAL PARK, NAVLAKH UMBRE, TALEGAON, MIDC, TAL- MAVAL, DIST-PUNE – 410507.
Correspondence address	302, WORLD TRADE CENTRE, TOWER-1, OPP. EON IT PARK, KHARADI, PUNE – 411014.
Details of application	GST-ARA, Application No. 134 Dated 13.03.2019
Concerned officer	State Tax Officer (C-002), Raigad Division, Navi Mumbai.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought	
A Category	Service Provision
B Description (in brief)	GTA services provided in relation to transportation of goods by road in carriage
Issue/s on which advance ruling required	(ii) Applicability of a notification issued under the provisions of this Act
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below.

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively] by **M/s. POSCO INDIA STEEL**

DISTRIBUTION CENTRE PVT LTD, the applicant, seeking an advance ruling in respect of the following questions.

1. What will be the classification of the services (whether under service codes 996511 or 996791 or 996799 or any other) of the Applicant in case the Applicant issues the consignment note however, the actual transportation is done through the third-party transporter (who also issues the consignment note)?

2. What will be the applicable GST rate on the above services of the Applicant among the following?

- 12% (entry 9(iii) of the Notification 11/2017(CT)Rate dated 28 June 2017];
- 12% (entry 11(1) of the Notification 11/2017(CT)Rate dated 28 June 2017];
- 18% (entry 11(ii) of the Notification 11/2017(CT)Rate dated 28 June 2017);
- Or any other

3. Whether the Applicant would be eligible to avail the input tax credit of the 12% GST charged by the third-party transporters?

4. Whether the transporter would be right in charging GST @12% under forward charge mechanism to Applicant in terms of Notification No 20/2017-Central Tax (Rate) dated 22 August 2017 when Applicant as the main contractor, is already charging GST @ 12% under the same Notification, which is going to remain unchanged?

5. Procedurally, is it correct to have two GTA Service Providers and two consignment notes for the same movement of goods, one issued by the Applicant as main contractor and the other by transporters sub-contractor?

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to "GST Act" would mean CGST Act / MGST Act.

2. FACTS AND CONTENTION – AS PER THE APPLICANT

The submissions of the applicant made vide letter dated 30.05.2019 is as under:-

2.1 Applicant, engaged in providing logistic consultancy services and logistics management services have entered into a rate contract agreement with POSCO MAH Pvt. Ltd., Mangaon MIDC, Dist. Raigad and its entity group companies, to provide supply of services in relation to transportation of goods by road i.e. steel coils in bulk by road.

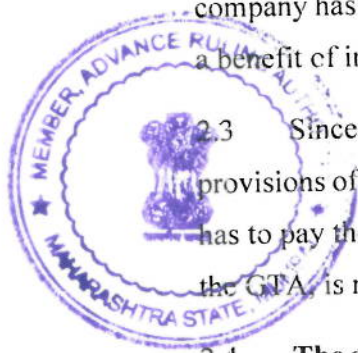
2.2 In term of the services classified under Heading no 9965 and explanation to entry No 9(iii) of Notification No 20/2017 –CT (R) dated 22.08. 2017, applicant has submitted that they qualify as Goods Transport Agency (GTA) & accordingly are discharging the GST at the rate of 12 % (6% CGST + 6% SGST) under forward charge basis and are also availing ITC. The applicant also uses vehicles of third party fleet operators, who are not charging GST in their Tax Invoices raised to applicant in the said supply of fleet / vehicles, as per the provisions of Entry No 18 of the Notification No 12/2017 CT (R) dated 28.06,2017 read with section 11(1) of CGST Act 2017.. The third party fleet operators want to issue consignment notes for the goods for which applicant company has already issued Consignment Note, in order to qualify as GTA, so that they can avail a benefit of input credit of GST paid by them.

2.3 Since applicant is paying tax @ 6% CCET AND 6% SGST under the forward charge, provisions of Notification No 13 / 2017 CT(R) dated 28.06.2017, which prescribes that a recipient has to pay the taxes in the case of supply of services in relation to the transportation of goods by the GTA, is not applicable in the instant case.

2.4 **The applicant made additional submission on 18.06.2019, wherein they raised certain questions.**

2.5 The applicant again requested that they be allowed to submit some additional details in the application, even after the above submission was made. They made a final submission on 14.11.2019 and requested this authority orally, during the course of the Final Hearing held on 14.11.2019, only to consider this final submission for the purpose of advance ruling. Vide this application they have redrafted their questions which are mentioned above.

2.6 The transport services provided by applicant includes undertaking dispatch of consignments for POSCO group companies viz. Between Customs Port and the place of business of POSCO group companies for import and export consignments; and From POSCO group companies to its customer in India.



2.7 In the instant case, Applicant has entered into a back-to back arrangement with the logistics provider, Royal Translines Pvt. Ltd. (Transport Vendor/Transport Agency), under which the steel coils are transported by the Transport Vendor/Transport Agency from Port of Import to POSCO-MAH's factory in Mangaon, Raigad or from POSCO-MAH'S factory in Mangaon, Raigad to its customers in India. Consignment notes are always issued by the applicant in respect of such transportation. POSCO-MAH and POSCO-MAH customers, acknowledge the completion of the transportation services by stamping and signing the consignment note issued by the applicant on delivery of the goods in the designated premises. The Transport Vendors/Transport Agencies are of the view that, if they also issue a consignment note for the same consignment for which applicant is also issuing a consignment note, they will qualify as GTA in terms of Notification No. 20/2017 C.T. (Rate) dated 22 August 2017 and is accordingly, charging GST at 12% from the Applicant under forward charge at the time of raising the invoice. Thus the applicant desires to understand whether Applicant & the transport vendor/transport agency, can simultaneously act as GTA by issuing two separate consignment notes respectively, for the same transportation of goods & both are then eligible to discharge GST at the rate of 12% under forward charge to their respective customer in terms of Notification No. 20/2017-C.T. (Rate) dated 22 August 2017.

2.8 If the answer to the above query is in the negative, whether the Transport Vendor/Transport Agency will qualify as GTA by issuing consignment note whereas the applicant will qualify as:

A. Supporting services of goods transport agency (GTA) in relation to transportation of goods under Heading 9967 attracting GST at 12% Entry 11(i) of the amended Notification No. 11/2017-Central Tax (Rate) dated 28 June 2017; OR

B. Supporting services in transport under Heading 9967 Entry 11(ii) of the amended Notification No. 11/2017-Central Tax (Rate) dated 28 June 2017 attracting GST at 18%

c. Intermediary thereby inter alia arranging or facilitating the supply of transportation of goods on its own account and GST at the rate of 18% is to be discharged under entry 35 of the amended Notification No. 11/2017-Central Tax (Rate) dated 28 June 2017.

2.9 Applicant has stated that their services are covered in Service code 995511, Entry 11(ii) of the Notification No. 11/2017-CT(Rate) dated 28 Jun 2017. Relevant extract of the classification scheme is reproduced below for ready reference.

Code	Description
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Heading No. 9965 Group 99651 996511	Goods Transport Services and transport services of Goods Road transport services of Goods including letters, parcels, live animals, household & office furniture, containers etc. by refrigerator vehicles, trucks, trailers, man or animal drawn vehicles or any other vehicles.
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2.10 The GST rate on various services has been prescribed under Notification. No. 11/2017 – C.T. (Rate) dated 28.06.2017, as amended. Entry no. 9 of the said notification prescribes the rate for 'Goods Transport Services'. Sub-entry (iii) therein was substituted vide Notification No. 20/2017 – C.T. (Rate) dated 22.08.2017 with effect from 22.08.2017 and reads as under:

Sr. No.	Chapter, section or heading	Description of service	Rate (per cent)	Condition
9	Heading 9965 (Goods Transport Services)	(iii) Services of goods transport agency ("GTA") in relation to transportation of goods (including used household goods for personal use). Expln: goods transport agency means any person who provides services in relation to transportation of goods by road and issues consignment note, by whatever name called.	2.5	Provided that credit of input tax credit charged on goods and services used in supplying the services has not been taken (Please refer explanation no. (iv)]
			6	Or Provided that the goods transport agency opting to pay central tax @6% under this entry shall thenceforth, be liable to pay central tax @6% on all the services of GTA supplied by it

4. Explanation:

(iv) Whatever rate has been prescribed in this notification subject to the condition that credit of input tax credit charged on goods or services used in supplying the service has not been taken, it shall mean that:

(a) credit of input tax credit charged on goods or services used exclusively in supplying such services has not been taken; and



(b) credit of input tax charged on goods or services used partly for supplying such services and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is exempt supply & attracts provisions of sub section 2 of Section 17 of the CGST Act, 2017 & the rules made thereunder.

2.11 The term 'GTA' has been given a meaning under explanation to entry no. 9(iii) of Notification No. 20/2017-C.T.(Rate). As per the explanation, where following conditions are satisfied, the person would be qualified as a GTA. The conditions are as follows:

- a) The person should provide services in relation to transportation of goods;
- b) The goods should be transported through road;
- c) Consignment note is to be issued.

The Notification offers two options for discharging GST to a person qualifying as a GTA under the explanation laid out under entry no. 9(iii):

- i. Pay tax at 5% which shall be paid under reverse charge mechanism by the recipient (ITC of the tax charged on inputs used by the GTA shall not be available to the GTA);
- ii. Pay tax at 12% under forward charge mechanism (GTA is eligible to avail ITC on the inputs used in the course/furtherance of business).

2.12 Applicant has opted for the second option (ii above) and has submitted that it has contract with the end customer and hence its services would be classified under service code 996511. On delivery of goods POSCO-MAH acknowledges completion of the transportation services by stamping the consignment note issued by the Applicant.

2.13 Even in cases, where the third-party transporter has charged the GST @12% after issuing consignment note (wherein Applicant is named as the consignor and the consignee is the customer to whose factory the goods are delivered), the Applicant would be eligible to avail the input tax credit as it is charging GST @ 12% on its outward supply of GTA services.

2.14 Alternatively, the Applicant is of the view that in case, the consignment note is issued by the Applicant, however, actual transportation is carried out by the third party transporter appointed by the Applicant, then its services would be classified under service code 995791. The relevant codes are reproduced below for ready reference.

Heading No: 9967		Supporting services in transport
Group 99679		Other supporting transport services
	996791	Goods transport agency services for road transport

	996792	Goods transport agency services for other modes of transport
	996793	Other goods transport services
	996799	Other supporting transport services n.e.c

2.15 In such a case, supply of services by the Applicant would be covered under Entry 11 of Notification No. 11/2017-CT(Rate) dated 28 Jun 2017. to be chargeable to GST @12% on forward charge basis but will still be required to issue a consignment note in order to qualify as GTA and provide such services.

2.16 Alternatively, the services of the Applicant would be classified under service code 996799 and would be covered under entry 11(ii) of the Notification No. 11/2017 CT(Rate) dated 28 Jun 2017.

2.17 Applicant has also submitted that in such cases, if there cannot be two GTA's for single transportation activity & there cannot be two consignment notes for the same goods, then the services of the Applicant would be covered by other supporting services in transport not elsewhere specified and covered under entry 11(ii) of the Notification No. 11/2017 CT(Rate) dated 28 Jun 2017 & would be chargeable to GST at 18% wherein, the Applicant would be considered as providing support services to its customers by way of : a) Arranging the truck/lorry for transportation of goods; b) Coordinating with the logistics team of POSCO-MAH for picking up consignment either from the port, warehouse or from the factory location; c) Managing the transport vendors and ensuring timely delivery of the consignment; to the consignee (be it POSCO-MAH or its customer); d) Warehousing the goods post their import; e) Arranging further transportation in case of break-down of the vehicle (trans-shipment); f) Assuming end to end responsibility of transporting the goods to the desired location. .

The relevant entry has been reproduced below for ready reference.

<i>Sr. No.</i>	<i>Chapter, section or heading</i>	<i>Description of service</i>	<i>Rate (per cent)</i>	<i>Condition</i>
11	Heading 9967 (Supporting services in transport)	(ii) Supporting services in transport other than (i) above.	9	--

2.18 In view of the above submissions, Applicant has requested that an advance ruling be pronounced on the issue of classification of the services of the Applicant under probable services

codes of 996511/ 996791/ 996799 and applicable GST rate thereon, in respect of supplies made of undertaking transport of goods for its customers and availability of the input tax credit on the input services of the third-party transporters who would be charging GST @ 12%.”

03. CONTENTION – AS PER THE JURISDICTIONAL OFFICER

The jurisdictional office has made submissions as under:-

- 3.1 If applicant is not qualified as GTA or courier agency, then he can qualify as transport operator and the exemption is available U/S 11 of GST 2017.
- 3.2 The definition of GTA IS "GTA means any person who provides service in relation to transport of goods by road and issues consignment note by whatever name called." (Notification no. 11/2017 -CT(R) entry no.9 explanation). In this case the applicant issues consignment notes hence qualify as GTA.
- 3.3 As the Transport Vendor/Agency provides services by way of giving on hire to a goods transport agency (GTA), i.e., in this case the applicant; a means of transportation of goods, he is regarded as exempt within the meaning of provisions entry no.22 of Notification No.12/2017 CT (R) dt. 28/06/2017 (Heading 9966).
- 3.4 The services of the second applicant is regarded under Entry No. 22 of Notification No. 12/2017 CT(R) dt.28/06/2017 (Heading 9966) and therefore will not be covered under Entry no.11 of Notification No. 11/2017 -CT(R) dt 28/06/2017 (support services).
- 3.5 Services by way of giving on hire to a GTA, a means of transportation of goods are exempt from GST under Notification No. 12/2017-C.T. (Rate) dated 28th June 2017. When the tax is not payable, the question of taking any tax credit does not arise.
- 3.6 When Applicant is acting as a GTA for providing services in relation to transportation of goods by road and is issuing a consignment Note, classification of services for the Transport Vendor/Agency will be SAC: 996601-Rental services of road vehicles including buses, coaches, cars, trucks and other motor vehicles, with or without operators. (Notification No. 12/2017 entry no. 22).
- 3.7 The applicable GST rate on the above services of the Transport Vendor/Agency. Services by way of giving on hire to a GTA, a means of transportation of goods are exempt from GST under Notification number 12/2017-Central Tax (Rate) dated 28th June 2017. Hence there is no tax on such services.



3.8 "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."(11/2017 CT(R) dt28/06/2017 entry no.9, explanation). In this case, the Transport Vendor/agency does not qualify as GTA as he is providing the rental services of road transportation & not issuing a consignment note to recipient of services.

3.9 According to Notification No. 13/2017 dt. 28/06/2017, Entry no. 1, "Supply of Services by a GTA, [who has not paid central tax at the rate of 6%,] in respect of transportation of goods by road " the whole of central tax leviable under Section 9 of the said CGST Act, shall be paid on reverse charge basis by the recipient of the such services. It means the GTA can either opt to pay taxes in the capacity of GTA under the heading 9995 as per the rate prescribed in entry no. 9(iii) of the notification no. 11/2017 CT(R) dt. 28/06/2017 or the recipient will pay the tax on reverse charge basis."



04. HEARING

Preliminary Hearing in the matter was held on 09.04.2019. Sh. Hong Ik Cko, Managing Director and Machindra R. Mulik, Service Tax Practitioner, appeared & requested for admission of their application. But, it was brought to their notice that, applicant is not a service provider in respect of question posed by them and hence not competent to apply for Advance Ruling u/s. 95 of MGST Act. They were provided 8 days' time to submit their written contention. Jurisdictional Officer Ms. Sangita P. Satpute State Tax Officer (C-123) Pune, appeared.

Further hearing fixed on 06.05.2019 was adjourned to 22.05.2019. Sh. Hong Ik Cko, Managing Director & Sh. Machindra R. Mulik, Service Tax Practitioner appeared and as per request of applicant, were allowed 15 days' time to reframe the questions and facts in clear terms. The hearing was rescheduled on 19.09.2019 but applicant requested for another adjournment. Jurisdictional Officer Ms. Sangita P. Satpute State Tax Officer (C-123) Pune along with Assistant Commissioner of State Tax (D-501) Pune, appeared & made written submissions. The applicant further amended its submission and the application for advance ruling was finally accepted.

The case was finally heard on 14.11.2019. Sh. Machindra R. Mulik, Service Tax Practitioner appeared and made oral submissions. The applicant also requested this Authority to only consider their submissions dated 14.11.2019. Jurisdictional officer was also present. Heard both the sides.

05. DISCUSSIONS AND FINDINGS

5.1 We have gone through the facts of the case, documents on record and submissions made by both, the applicant as well as the jurisdictional officer.

5.2 Briefly stated, the Applicant provides logistics solutions to POSCO Group companies in India. The subject application has been filed by the applicant with respect to transportation services wherein they undertake dispatch of consignments for POSCO group companies:

- (a) between Customs Port and the place of business of POSCO group companies for import/export consignments; and
- (b) From POSCO group companies to their customer in India.

5.3 It has been submitted that Applicant, either provides transportation services on its own account, or engages a third-party transporter. In the former case, applicant engages its own fleet of vehicles and in the latter situation, the Applicant enters into a back to back arrangement for transportation of goods with Transport Vendors/ Transport Agencies (third party). In both the situations, it is the applicant who are issuing the Consignment Notes, which are stamped by the receiver of the transported goods. The applicant has also submitted that the third party transporters also issue Consignment Notes which are filed in their respective offices and which are not stamped by the Consignee of the said goods. It has also been submitted that the Applicant has been acting as a Goods Transport Agency (GTA) issuing valid consignment notes in respect of the goods transported and delivered and charging GST @ 12% on such transportation under forward charge mechanism.

5.4 In view of the above said facts we shall take up the questions raised by the applicant vide their submissions dated 14.11.2019 as under: -

Q. No. 1 :- What will be the classification of the services (whether under service codes 996511 or 996791 or 996799 or any other) of the Applicant in case the Applicant issues the consignment note however, the actual transportation is done through the third-party transporter (who also issues the consignment note)?

In terms of Sr. No. 18 of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended, the following services are exempt from GST.

Services by way of transportation of goods (Heading 9965):-

(a) by road except the services of:

(i) a goods transportation agency;

(ii)

(b)

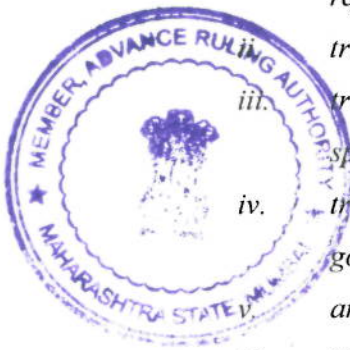
Thus, it is seen from the above notification that, mere transportation of goods by road is exempt from GST unless it is a service rendered by a GTA. Even though 'GTA' is not defined under the GST Act, mention of GTA is made in Notification No. 12/2017. As per 2 (ze) of the

said Notification, "Goods transport agency" means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever named called".

In the subject case, since the applicant is providing, to POSCO group of companies, services in relation to transport of goods by road, and are also issuing consignment notes for such transactions, thus, in our opinion applicant can be considered as Goods Transport Agency (GTA).

Service Code 9965 pertains to 'Goods Transport Service'. Service Code 99651 pertains to 'Land transport services of Goods'. Service Code Heading 996511 pertains to "Road transport services of Goods including letters, parcels, live animals, household & office furniture, containers etc. by refrigerator vehicles, trucks, trailers, man or animal drawn vehicles or any other vehicles'

As per the Explanatory Notes to the scheme of Classification of Services, the service code Heading 996511 includes: -

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- i. transportation by road of frozen or refrigerated goods in specially refrigerated trucks and cars; transportation by road of petroleum products (crude oil, natural gas and refined petroleum products) in special tank trucks;
 - ii. transportation by road of other bulk liquids or gases in special tank trucks;
 - iii. transportation by road of individual articles and packages assembled and shipped in specially constructed shipping containers designed for ease of handling in transport;
 - iv. transportation by road of goods in man- or animal-drawn vehicles; household/office goods and furniture removal services;
 - v. ancillary services, such as packing and carrying and in-house moving;
 - vi. transportation of letters and parcels by any mode of land transport, other than railway, on behalf of postal and courier services;
 - vii. transportation by road of dry bulk goods such as cereals, flours, cement, sand, coal, etc; transportation by road of live animals;
 - viii. transportation by road of other freight in other specialized/non-specialized vehicles not elsewhere classified, such as transport of concrete, transport of cars.

Service Code 9967 pertains to 'Supporting Services in Transport'. Service Code 99679 pertains to 'Other Supporting Transport Services'. Service Code 996791 pertains to 'Goods Transport Agency Services for road transport'. Service Code 996799 pertains to 'Other Supporting Transport Services nowhere else classified'.

Heading No: 9967		Supporting services in transport
Group 99679		Other supporting transport services
	996791	Goods transport agency services for road transport

	996792	Goods transport agency services for other modes of transport
	996793	Other goods transport services
	996799	Other supporting transport services not elsewhere specified

As per the Explanatory Notes to the scheme of Classification of Services, the service code Heading 996791 includes; *freight brokerage services; freight forwarding services (primarily transport organization or arrangement services on behalf of the consignor or consignee); freight consolidation and break-bulk services.*

Service code Heading 996799 includes; type rating services (aircraft-specific permits for flying a particular type of plane); liquefaction and regasification of natural gas for transportation; radio navigational aid locating services, such as GPS (global positioning system) provision.

From the submissions made by the applicant we find that applicant is a 'GTA' providing 'Goods Transport Agency Services' and the services provided by them are transport of goods by road. In the subject case, they have a contract/agreement with POSCO group companies to provide transportation services wherein they undertake dispatch of consignments by road for POSCO group companies. We find that they are rendering Goods Transport Services to POSCO group of companies directly.

In view of the discussions made above, in our opinion the services supplied by them would be covered under Heading 9965 which covers 'Goods Transport Services', Sub Heading 99651 which covers 'Land Transport services of Goods' and further under SAC 996511.

Question No. 2. What will be the applicable GST rate on the above services of the Applicant among the following?

- 12% (entry 9(iii) of the Notification 11/2017(CT)Rate dated 28 June 2017];
- 12% (entry 11(1) of the Notification 11/2017(CT)Rate dated 28 June 2017];
- 18% (entry 11(ii) of the Notification 11/2017(CT)Rate dated 28 June 2017);

• Or any other

Having held that the services supplied by the applicant to POSCO group of companies are covered under Heading 996511, we have no hesitation in holding that GST applicable in this case will be covered under Entry 9(iii) of the Notification 11/2017(CT)Rate dated 28 June 2017 subject to conditions mentioned therein i.e. a GST Rate of 5% will be applicable provided that credit of input tax credit charged on goods and services used in supplying the services has not been taken and a GST Rate of 12% will be applicable provided that the goods transport agency opting to pay central tax @6% under this entry on all the services of GTA supplied by it.

Q. No. 3. Whether the Applicant would be eligible to avail the input tax credit of the 12% GST charged by the third-party transporters?

We have already held that GST applicable in this case will be covered under Entry 9(iii) of the Notification 11/2017(CT)Rate dated 28 June 2017 subject to conditions mentioned therein i.e. a GST Rate of 5% will be applicable provided that credit of input tax credit charged on goods and services used in supplying the services has not been taken. However, if applicant opt to pay GST at the rate of 12%, in such a case, they can avail ITC subject to satisfying the provisions of Chapter V of the CGST Act, 2017. As far as the services provided by third party transporter to applicant are concerned, prima facie it appears that the third party transporters are classifying their services under Entry 22 (b) of Notification 12/2017 dt. 28.06.2017 and are not levying any tax on the services supplied by them to applicant. As no GST is paid by third party transporter, the applicant will not be entitled for any input tax credit on services provided by third party transporter.

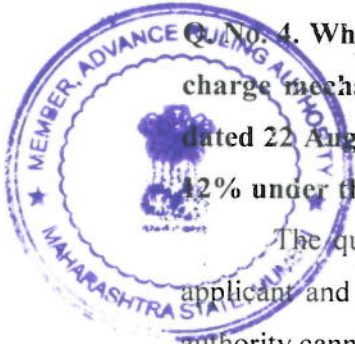
Q. No. 4. Whether the transporter would be right in charging GST @12% under forward charge mechanism to Applicant in terms of Notification No 20/2017-Central Tax (Rate) dated 22 August 2017 when Applicant as the main contractor, is already charging GST @ 12% under the same Notification, which is going to remain unchanged?

The question raised does not pertain to supply undertaken or to be undertaken by the applicant and therefore in view of the provisions of Section 95 of the CGST Act, 2019, this authority cannot answer the question.

5. Procedurally, is it correct to have two GTA Service Providers and two consignment notes for the same movement of goods, one issued by the Applicant as main contractor and the other by transporters sub-contractor?

The question raised here pertains to procedure to be followed. The question does not fall under Section 97 (a) to (g) of Section 95 of the CGST Act, 2019, and therefore this authority refrains from answering the said question.

06. In view of the above discussions, we pass an order as follows:



ORDER

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA- 134/2018-19/B-

Mumbai, dt.

28 05/03/2020

For reasons as discussed in the body of the order, the questions are answered thus –

Q. No. 1: - *What will be the classification of the services (whether under service codes 996511 or 996791 or 996799 or any other) of the Applicant in case the Applicant issues the consignment note however, the actual transportation is done through the third-party transporter (who also issues the consignment note)?*

Answer : *In view of the discussions made above, the services supplied by applicant would be covered under Heading 996511.*

Q. No. 2. *What will be the applicable GST rate on the above services of the Applicant among the following?*

- 12% (entry 9(iii) of the Notification: 11/2017(CT)Rate dated 28 June 2017];
- 12% (entry 11(i) of the Notification: 11/2017(CT)Rate dated 28 June 2017];
- 18% (entry 11(ii) of the Notification: 11/2017(CT)Rate dated 28 June 2017);
- Or any other

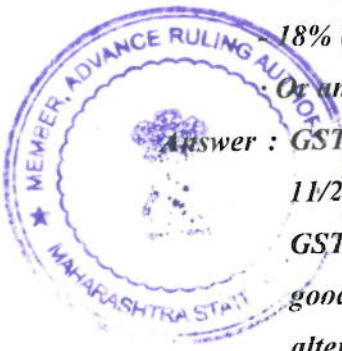
Answer : *GST applicable in this case will be covered under Entry 9(iii) of the Notification 11/2017(CT)Rate dated 28 June 2017 subject to conditions mentioned therein i.e. a GST Rate of 5% will be applicable provided that credit of input tax credit charged on goods and services used in supplying the services has not been taken and in the alternative a GST Rate of 12% will be applicable, provided that the applicant, goods transport agency, opting to pay central tax @6% under this entry on all the services of GTA supplied by it.*

Q.No. 3. *Whether the Applicant would be eligible to avail the input tax credit of the 12% GST charged by the third-party transporters?*

Answer : *The third party transporter are not charging any GST on services supplied by them to applicant and hence, the applicant cannot avail input tax credit in this respect.*

Q. No. 4. *Whether the transporter would be right in charging GST @12% under forward charge mechanism to Applicant in terms of Notification No 20/2017-Central Tax (Rate) dated 22 August 2017 when Applicant as the main contractor, is already charging GST @ 12% under the same Notification which is going to remain unchanged?*

Answer : *In view of the discussions made above, this question is not answered.*



Q. No 5. Procedurally, is it correct to have two GTA Service Providers and two consignment notes for the same movement of goods, one issued by the Applicant as main contractor and the other by transporters sub-contractor?

Answer : In view of the discussions made above this question is not answered.



A. A. CHAHURE
(MEMBER)

P. VINITHA SEKHAR
(MEMBER)

Copy to:-

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint Commissioner of State Tax, Mahavikas for Website.

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MEMBER
ADVANCE RULING AUTHORITY
MAHARASHTRA STATE, MUMBAI

Note :- An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15th floor, Air India Building, Nariman Point, Mumbai – 400 021.