

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING**

**GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.**

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

**BEFORE THE BENCH OF**

**(1) Shri. Rajiv Magoo, Additional Commissioner of Central Tax, (Member)**

**(2) Shri. T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

ARN No.	AD271020005327Q
GSTIN Number, if any/ User-id	27AADCG0366M2ZE
Legal Name of Applicant	M/s. Geetee Tours Private Limited
Registered Address/Address provided while obtaining user id	1, Sattelite, Opp. Mistry Complex, Om Nagar, Andheri (East). Mumbai -400099. Maharashtra
Details of application	GST-ARA, Application No. 55 Dated 10.12.2020
Concerned officer	MUM-BCP-C-036, Nodal Division -07, Mumbai
<b>Nature of activity(s) (proposed/present) in respect of which advance ruling sought</b>	
A Category	Service Provision
B Description (in brief)	TOURS AND TRAVELS.
Issue/s on which advance ruling required	i) Classification of goods and/or services or both
Question(s) on which advance ruling is required	As reproduced in para 01 of the Proceedings below

NO.GST-ARA- 55/2020-21/B- 82

Mumbai, dt. 25.10.2021

**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. Geetee Tours Private Limited** the applicant, seeking an advance ruling in respect of the following question.

**Whether Toyota Innova Or Equivalent Vehicles (6 Seater) registered in Tourist Category with All India Tourist Permit provided for Carrying Covid 19 Patients for Medical Treatment would be considered as Taxable Services Or Exempted Services?"**

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, the expression 'GST Act' would mean CGST Act and MGST Act.

## **2. FACTS AND CONTENTION – AS PER THE APPLICANT**

The submissions made by M/s Geetee Travels Private Limited, the applicant are as under:

- 2.1 The applicant is engaged in the business of tours and travels and carries on the business as package tour operators, daily passenger service operators, travel agents, etc and is also engaged in running of buses, conveyances of all kinds and to transport passengers.
- 2.2 Since their vehicles are supplied for transportation of passengers and other allied activities, the applicant feels that, the rate of tax applicable on supplies of vehicles for transportation of passengers and other allied activities is 12% as per Notification No. 11/2017-C.T(Rate) dated 28.06.2017, as amended vide Notification No. 20/2017-C.T(Rate) dated 22.08.2017.
- 2.3 The applicant has entered into the contract with "MUNICIPAL CORPORATION OF GREATER MUMBAI (MCGM), Worli, Mumbai - 400018 to provide AC SUV and Innova equivalent car services for carrying COVID 19 patients for medical treatment.
- 2.4.1 The MCGM is of the opinion that, services provided by way of supplies of vehicles for carrying COVID patients for medical treatment is exempted services and covered under Sr. No. 3 of Notification No.12/2017 which provides exemption to, **"Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government State Government or Union Territory or Local Authority or a Governmental Authority by way of any activity in relation to any function entrusted to a panchayat under article 243G of the constitution or in relation to any function entrusted to a Municipality under article 243W of the constitution"**.
- 2.4.2 Further, supplies of vehicles for carrying COVID patients for medical treatments would fall under entry no. 6 of twelfth schedule, Article 243W of the constitution which is reproduced as "Public health, sanitation conservancy and solid waste management". Thus since this is pure service which is in relation to public health, it would be exempted under GST law.
- 2.5 The applicant is treating supply of vehicles for carrying COVID patients for medical treatment as taxable service, and charged tax on commercial invoices as per Notification No. 11/2017-Central Tax (Rate) dated 28th June, 2017 as amended, if any.

## **03. CONTENTION – AS PER THE CONCERNED OFFICER:**

### **Officer Submission dated 01.10.2021:-**

- 3.1 Applicant has produced : Letter of Intent (LOI) of MCGM, Mumbai-400018 and Tax Invoice No: GT/ 577/20-21 Dated 01/08/2020 issued to MCGM, for supply of Vehicle AC SUV, in





which it has levied CGST and SGST @ 6%, as per Notification No.11/2017-C.T. (Rate) dated 28.06.2017, as amended vide Notification No 20/2017-C.T.(Rate) dated 22-08-2017. Vide the subject application, the applicant has submitted that, Services provided by way of supplies of vehicles for carrying COVID patients for Medical treatment is exempted services and covered under Sr. No 3 of Exemption Notification No 12/2017. The applicant has also submitted that, the subject services are in the nature of pure services which is in relation to public health and would be exempted under GST law.

3.2 Applicant has supplied services to M/s BRIHANMUMBAI MAHANAGARPALIKA ("BMC"). The Letter of Intent (LOI) dated 20-06-2020 is issued by Executive Engineer (Tr.) City, BMC, in the name of M/s Federation of Tourist Taxi Operators, C/o M/s GEETE Tours Pvt. Ltd., the applicant.

3.3 A perusal of the impugned LOI reveals that, the same is in the name of Federation of Tourist Taxi operators (FTTO) and BMC's offer is accepted by the FTTO. The payments will be made in the name of the members of the federation after submission of bills along with records such as log sheets duly signed and completed and utilization certificate from user department. Hence, it is construed that FTTO is a different entity and that has supplied services of Innova vehicles to BMC. Thus BMC has required the services from the FTTO and not from the applicant who is one of the members of the said federation.

3.4 In the Letter of Intent it is also mentioned that, payments will be made in the name of members of the federation.

3.5 From a reading of the LOI, it is seen that, it is liability of the BMC to give the payment to The FTTO, but by inserting specific condition, the payment has been given to members of FTTO. It is therefore crystal clear that, the applicant has supplied services to the FTTO, which in turn has supplied the services to BMC.

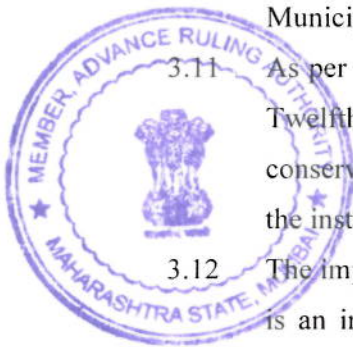
3.6 For the sake of arguments, even if it is assumed that, the aforesaid services are covered 'Pure services', then the said pure services are supplied by FTTO, not by the applicant. The said Federation is a different entity, it is an association of members, and is required to take GST Registration as per the GST enactment.

**Alternative Submission:-**

3.7 If the ARA authority considers that the supply is from the applicant to BMC, instead of the Federation of Tourist Taxi operators to BMC then the alternative submissions are as under:-

3.8 Supply of Vehicles are taxable activities under GST Act 2017, vide Notification No 11/2017-C.T.(R) dt 28.06.2017, as amended vide Notification No 20/2017-C.T.(R) dt 22-08-2017.

- 3.9 As per the Ingredient of Agreement/Letter of Intent, the supply of Innova vehicles to BMC is not covered under “Pure Services” as is seen from the ingredients of the impugned LOI. The LOI envisages supply of Vehicle - Innova or equivalent, to be provided in two shifts with drivers who will be provided expenses and insurance, for a rent of Rs. 1,20,000/- Plus GST as applicable. Supply to include Fuel expenses also. Further, Toll charges, Parking charges, Driver allowance and Night allowance also to be provided.
- 3.10.1 Thus as per the LOI, it seems that, the applicant has provided mix supply of Services to BMC. The entry, based on which the exemption is claimed, i.e. entry no.3 of Notification 12/2017 CT(R) dated 28.06.2017 is applicable to.- All Pure Services; Provided to the Central/State Government or Union territory or Local authority or a Governmental Authority; By way of any activity; In relation to any function entrusted to; A Panchayat under Article 243G of the Constitution or; A Municipality under Article 243 W of the Constitution.
- 3.10.2 Thus, the entry applies to Pure services provided to the defined clause of service recipients and the services are to be of any activity in relation to any function entrusted to a Panchayat/ Municipality under Article 243 G/243W of the Constitution.
- 3.11 As per Articles 243W (Twelfth Schedule), the functions entrusted to a Municipality under the Twelfth Schedule to Article 243W of the Constitution includes Public health, sanitation conservancy and solid waste management at Sr. No. 6. All other entries are not applicable in the instant case.
- 3.12 The impugned services rendered by the applicant, namely, supply of innova vehicles to BMC is an independent activity and not in relation to any of the activities listed in the Twelfth Schedule of the Constitution including entry no 6, which is applicable to Public health, sanitation conservancy and solid waste management.
- 3.13.1 ‘Public health’ is a word, used for the cleaning, keeping safe area, due to which illness related issue does not arise. It would also be relevant to note that to further understand the meaning of the word ‘Public health’, one should apply the legal maxim of noscitur a sociis i.e. the meaning of a word may be construed in conjunction with the other words and phrases used in the text.
- 3.13.2 In this regard, reliance is placed on the judgment of CTO, Anti-Evasion, Circle-II, Jaipur vs. MRF Ltd. [2009 (235) ELT 802 (Rai.)] wherein the Hon’ble Rajasthan High Court has held that words of general and wider import used in an entry surrounded by other relevant terms has to draw its colour and meaning from such surrounding words and that cannot be lost sight of. The relevant text of the judgment is reproduced here-in-below for ease of reference:





“The principles of ejusdem generis or noscitur a sociis are well settled principles of interpretation and the words of general and wider import used in an entry surrounded by other relevant terms has to draw its colour and meaning from such surrounding words and that cannot be lost sight of.”

3.14 The word used along with ‘public health’ is, Sanitation, Conservancy and Solid Waste Management. The word “Public Health world would therefore take colour from these words. As sanitation, Conservancy and Sold Waste Management are related to waste and it’s disposal, the word ‘public Health’ would also take colour from these words and would be limited to Public Health related to waste and disposal only.

3.15 In view of the above fact, the impugned supply is not covered under the notification for pure services, it is liable to tax under GST @ 18% + compensation cess.

3.16 The BMC has also issued a circular regarding the rendering of services of vehicles, which specifically states that the hiring of vehicles is not covered under the pure services, it is not used for the services rendered the activities entrusted to a Municipality under Article 243W of the constitution.

3.17 Further, the supply of aforesaid vehicles are not covered under the definition of ambulance. It is only car, not a single change has been done in the Innova, which can say that, it is ambulance. It is also pointed out that vehicles are not registered with RTO for use as AMBULANCE; hence the same are not liable for grant of exemption as AMBULANCE.

3.18 Hence, It is abundantly clear that, aforesaid supply is not covered under the Pure services. The services is liable to tax under@ 18% along with compension cess as would be applicable as per provision of GST (Compensation to State) Act 2017.

#### **04. HEARING**

4.1 Preliminary e-hearing in the matter was held on 07.09.2021. The Authorized representative of the Applicant, Shri Kiran Purohit, Advocate was present and made submissions with respect to submission of their application. The Concerned officer, Shri Londhe, STO, MUM-BCP-C-036, Nodal Division -07 was also present.

4.2 The application was admitted and called for Final hearings on 5/10/2021 and 12/10/2021. Authorized representative of the Applicant, Shri Kiran Purohit, Advocate was present alongwith Shri Sujit Yadav, CA. The Concerned officer Shri Mahesh Garwad, STO, MUM-BCP-C-036, Nodal Division -07 and Deputy Commissioner, Shri, Rajesh Advani, CST-LGL-E-001 were also present. Both the parties made submissions.

4.3 We heard both the parties.

**05. OBSERVATIONS AND FINDINGS:**

- 5.1 We have gone through the submissions made by the applicant as well as the department, perused the documents on record and facts of the matter. The applicant has submitted that they are providing Toyota Innova Or Equivalent Vehicles (6 Seater) Registered In Tourist Category with All India Tourist Permit provided to the Municipal Corporation of Greater Mumbai (MCGM), to carry Covid 19 Patients for Medical Treatment. Their query is whether such supply would be considered as taxable supplies or exempted supplies.
- 5.2 During the course of the hearings, the applicant was specifically asked to produce relevant documents i.e. contract, Tax invoices, copy of tender and any other relevant available record.
- 5.3 The applicant has only produced one Letter of Intent (LOI) issued by MCGM which is seen to be addressed to the Federation of Taxi Operators (FTTO) and not to the applicant. The said LOI is addressed to the FTTO, c/o M/s. Geete Tours Private Limited (applicant). This would mean that, the offer was made by MCGM to the FTTO, which is a different entity as compared to the applicant. The LOI also mentions that payments would be made by MCGM, in the name of the member of federation after receiving relevant bills along with record such as log sheets duly signed and completed and utilization certificate from user department. Those sheets and utilization certificate from the user department are not produced before us by the applicant and therefore, the view taken by the jurisdictional officer that, the applicant supplied services to the federation and the federation in turn supplied to the Municipal Corporation gains strength.
- 5.4 The applicant has also submitted a copy of a 'SERVICE PURCHASE ORDER' No.4800539721 dated 25.06.2020, issued by the MCGM to the applicant, wherein under the head Material/Description, "Adv for ambulance like Innova covid 19" is mentioned.
- 5.5 The jurisdictional officer, in his submissions has referred to a sample Tax invoice bearing No. 577 dated 01.08.2020 wherein it is mentioned that charges are levied for carrying Covid -19 suspected patients and details as per duty slip and annexure are attached and from the same it is seen that the applicant has also charged GST @12%. However, said attachment and annexure have not been produced before us.
- 5.6.1 The subsequent issue raised by the jurisdictional officer is that, in the subject case, there is a mixed supply of services to MCGM by the applicant. It appears that the officer has relied on the contents of one invoice to arrive at this conclusion. According to the jurisdictional officer, the said invoice also carries the sub head charges like : Fixed charges ; Toll parking ; Driver allowance; Night allowance.





- 5.6.2 We do not agree with the submissions made by the jurisdictional officer on this count. The Toll charges, driver allowance, etc are in the form of additional charge where the main and only supply is renting of Innova Vehicles by the applicant to MCGM.
- 5.7.1 The applicant has submitted that in the subject case, the exemption would be available to them as per the provisions of Entry No. 3 of Notification No. 12/2017-CTR which provides an exemption from GST in respect of pure services supplied to Governmental Authority, by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W.
- 5.7.2 We have no doubt that the applicant's case is that of renting/leasing of vehicles along with drivers and would be covered under pure services. From the facts of the matter it is also seen that the said pure services are supplied to the MCGM, Mumbai which can be considered as a local authority in view of the definition of the term "Local authority" as defined in clause (69) of section 2 of the CGST Act, 2017. We now need to address the question whether the pure services supplied by the applicant to the local authority can be considered as an activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Indian Constitution.
- 5.7.3 The applicant has submitted that the subject supplies of vehicles for carrying COVID patients for medical treatments would fall under entry no. 6 of twelfth schedule article 243W of the constitution i.e. "Public health, sanitation conservancy and solid waste management".
- 5.7.4 We find that even though the applicant has submitted that the subject supplies would fall under entry no. 6 of twelfth schedule article 243W of the constitution i.e. "Public health, no evidence or documents have been submitted to substantiate their claims for exemption. Further, the only 'SERVICE PURCHASE ORDER', mentioned at 5.4 above, submitted by the applicant mentions the description of service as "Adv for ambulance like Innova covid 19". The applicant has not submitted that they have provided ambulance service for the covid patients. Neither have they submitted anything on record to show that the Innova vehicles supplied by them have been converted into ambulances or registered as such, nor have they submitted proof of having transported only covid 19 patients for medical treatment. Further, the vehicles are not registered with RTO for the use as the Ambulance and they are registered as tourist vehicles.
- 5.8 Finally, we also observe that, in its Circular No. 51/25/2018-GST dated 31/07/2018 the Central Government clarified that the service tax exemption at Sr. No. 25(a) of Notification No. 25/2012 dated 20/06/2012 (hereinafter referred to as the 'ST Notification') has been substantially, continued under GST vide Sr No. 3 and 3A of the Exemption Notification. Sr.



No. 25(a) of the ST notification under the erstwhile service tax laws, exempted “services provided to the Government, a local authority or a governmental authority by way of water supply, public health, sanitation, conservancy, solid waste management or slum improvement and up-gradation.” The Circular further explains that in relation to the specific issue of ambulance service to the government by a private service provider such service is a function of ‘public health’ entrusted to Municipalities under Art 243W of the Constitution, and, therefore, eligible for exemption under SI No. 3 or 3A of the Exemption Notification. However, it is once again reiterated that the applicant has not produced any documents or evidence to show that ambulance services are supplied by them to MCGM.

5.9 In view of the above, we find that the said supply does not satisfy the provisions of Entry No 3 of Notification no. 12/2017-C.T. (Rate) dated 28th June, 2017 as amended and therefore cannot be treated as exempted. Therefore the same is liable to tax under the Notification No. 11/2017-C.T. (Rate) dated 28th June 2017, as amended.

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)**


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

**Question:-** Whether Toyota Innova Or Equivalent Vehicles (6 Seater) registered in Tourist category with All India Tourist Permit provided for carrying Covid 19 patients for Medical Treatment would be considered as Taxable Services Or Exempted Services?"

**Answer: -** In view of the above discussions, the impugned services would be considered as taxable services and not exempted services.



  
**RAJIV MAGOO**  
(MEMBER)

  
**T. R. RAMNANI**  
(MEMBER)

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai



4. The Pr. Chief Commissioner of Central Tax, Churchgate, Mumbai.
5. Joint Commissioner of State Tax, Mahavikas for Website.

**Note:-**An Appeal against this advance ruling order shall be made before, The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India Building, Nariman Point, Mumbai – 400021. Online facility is available on **gst.gov.in** for online appeal application against order passed by Advance Ruling Authority.

