

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

GSTIN Number, if any/ User-id		<b>27ALNPP2224M2ZO</b>
Legal Name of Applicant		<b>M/s. SHAILESH RAMSUNDER PANDE (POOJA VAISHNAVI SCHOOL BUS SERVICE)</b>
Registered Address/Address provided while obtaining user id	PLOT NO. 67 NEW GANDHI LAY OUT JAFAR NAGAR Maharashtra NAGPUR 440013	
Details of application		GST-ARA, Application No. 66 Dated 26.11.2019
Concerned officer		<b>NAG-VAT-C-020, Nagpur Division</b>
<b>Nature of activity(s) (proposed/present) in respect of which advance ruling sought</b>		
A	Category	<b>Service Provision</b>
B	Description (in brief)	Registered assessee M/s Pooja Vaishnavi School Bus Services (Prop.: Shailesh Ramsunder Pande) entered in contract with Ratan India Power Limited for supply of NON AC Busses for transportation of their staff under contract carriage.
Issue/s on which advance ruling required		(ii) Applicability of a notification issued under the provisions of this Act  (v) Determination of the liability to pay tax on any goods or services or both
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. SHAILESH RAMSUNDER PANDE (POOJA VAISHNAVI SCHOOL BUS SERVICE)** the applicant, seeking an advance ruling in respect of the following questions.

***1. Applicability of a notification issued under the provisions of this Act***

## ***2. Determination of the liability to pay tax on any goods or services or both***

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 Pooja Vaishnavi School Bus Services (Prop.: Shailesh Ramsunder Pande), the applicant is as under:-

2.1 *M/s Pooja Vaishnavi School Bus Services (Prop.: Shailesh Ramsunder Pande) entered in contract with M/s Ratan India Power Limited for supply of NON AC Buses for transportation of their staff under contract carriage. As I am supplying NON AC Buses, whether GST is applicable for the same contract and applicability of "SI No. 15 Heading 9964 of Notification No. 12/2017, dated: 28/06/2017*

2.2 *We are providing transportation of passengers excluding tourism, conducted tour, charter or hire of NON Air Conditioned Buses under a contract carriage with our customer. Whether GST is applicable on this service?*

#### **B. Statement containing the Applicant's interpretation of law and /or facts**

2.3 *S. No. 15 (b) of Notification No. 12/2017 – Central Tax (Rate) dated 28-06-2017 is reproduced as under:*

<b><i>S. No.</i></b>	<b><i>Chapter Heading</i></b>	<b><i>Description of Services</i></b>	<b><i>Rate %</i></b>	<b><i>Condition</i></b>
<b><i>(1)</i></b>	<b><i>(2)</i></b>	<b><i>(3)</i></b>	<b><i>(4)</i></b>	<b><i>(5)</i></b>
15	9964	Transport of passengers, with or without accompanied belongings, by – (b) Non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire,; or	Nil	Nil

2.4 *S. No. 15 (b) of the above-mentioned notification exempts transport of passengers if following conditions satisfies: -*



*It must be **Contract Carriage***

*The contract carriage shall be non-air conditioned*

*It must not be Radio Taxi*

*It must be for transportation of passengers*

*It excludes*

*Tourism*

*Tour*

*Chartered*

***Hire***

2.5 *Let's understand Contract Carriage and Hire first.*

2.5.1 **Contract Carriage: Section 2(7) of The Motor Vehicles Act, 1988:** (7) "**contract carriage**" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorized by him in this behalf on a fixed or an agreed rate or sum—

(a) on a time basis, whether or not with reference to any route or distance; or

(b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes—

(i) a maxicab; and

(ii) a motorcab notwithstanding the separate fares are charged for its passengers;

*Our case is squarely covered in Contract Carriage.*

2.5.2 **Hire:**

*Hire must not be understood in normal meaning. In fact it has to be understood under the provisions of the Motor Vehicle Act. Let's understand hire under the act.*

2.5.3 *In exercise of the powers conferred in 75(1) of the Motor Vehicle Act, 1988, the central government makes Rent-a-Cab Scheme 1981 to regulate the business of renting of motor cabs for their own use.*

2.5.4 *Section 10 of the Scheme prescribes duties and responsibilities of hirer of motor cab. The same is reproduced as under: -*

**10. Duties and responsibilities of hirers of motor cabs.—**

(1) *It shall be the duty of every hirer, to keep the holder of the license, informed of his movements from time to time.*

(2) If an individual or company has hired the vehicles as a leader of the tourist party, it shall be the duty of such leader of the party to keep the holder of the license informed of the movement of each vehicle, from time to time.

(3) If a hirer so desires, he may engage a person possessing a valid driving license to drive the vehicle so hired during the period of the hire agreement.

2.5.5 A license holder may hire his vehicle for any person for his own use and the same will be regulated as per The Rent A Cab Scheme, 1989. The scheme gives the sense of hiring of a motor cab to a person for own use. Hire can be explained in the terms of the scheme that hiring of a motor cab by a license holder to any person for own use. In other words, the person can use the motor cab for own use only. Here, hire means to get the vehicle to own use therefore the person getting the vehicle will have effective control over the motor cab. Effectively, it is not simple hiring. In fact it is a right to use over the motor cab with effective control. Such hiring was neither taxable as services under the Finance Act, 1994 nor it is taxable as service under the CGST Act. In fact it was taxable as goods under the state VAT and similarly, it is taxable in the same category of the goods under GST. Means such hiring will be taxable with the GST rates of the motor under the GST Act.

**Conclusion:** Transportation of the staff by non-air conditioned motor under contract carriage is exempted under the above-mentioned notification.



03.

**CONTENTION – AS PER THE CONCERNED OFFICER:**

The submissions, as reproduced verbatim, could be seen thus-

**Officer's Submission dated 05.01.2020**

3.1 It is admitted fact that applicant is Registered dealer and entered in contract for supply of NON AC buses for transportation of staff of M/s. Ratan India Power Ltd under contract carriage, and as per section 97(2)(b) is requested for advance ruling on applicability of "Sl No 15 Heading 9964 of Notification No.12/2017,dated 28/06/2017" which is reproduced as under.



SI No	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
15	Heading 9964	Transport of passengers, with or without accompanied belongings, by - (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air conditioned stage carriage.	Nil	Nil

For the purposes of this notification,

"Contract carriage" has the same meaning as assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

Whereas contract carriage is defined as per Section 2(7) of the Motor Vehicles Act, 1988 as

"contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum

- (a) on a time basis, whether or not with reference to any route or distance; or
- (b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes
  - (i) a maxicab; and
  - (ii) a motorcab notwithstanding the separate fares are charged for its passengers;"

From the plain reading of SL no 15 heading 9964 of above Notification, exemption of taxes is available only on transportation of passengers by air in sub entry (a) and on Stage

carriage as per sub entry (c). (Where as stage carriage is defined as per Section 2(40) of the Motor Vehicles Act, 1988 as :


"Stage carriage" means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey :)

Therefore these two subentries does not apply in this supply.

And Subentry (b) is about non-air-conditioned contract carriage other than radio taxi for transportation of passengers but excluded Tourism, Conducted tour, charter or or hire.

**In the present case,**

As per copy of Service Order dated 01.07.2019 acquired from supplier M/s.Pooja Vaishnavi School Bus Services, the said contract has a subject heading "Deployment of Staff buses for transport of staff under contract carriage at 5x270 MW TPP Nandgaon Peth, Amravati." it is crystal clear that said contract carriage is hire contract for staff. Also supplier has raised Tax invoice with description of service as "HIRING OF VEHICLE"



On the same issue advance ruling already passed by Rajasthan Authority for Advance Ruling in case of Pawanputra Travels (GST AAR Rajasthan) vide Advance rulings No. RAJ/AAR/2018-19/24 dated 02/11/2018. (copy enclosed) where advance ruling was sought on **"the applicability of GST rate on supply of non-air conditioned vehicles on hire to Indian Army"** and in that case 'contract carriage is discussed in detail as above and concluded with the essential ingredient of a contract carriage is that it plies under a contract for a fixed set of passengers, and does not allow any other passenger to board or alight from the carriage at will.

A contract carriage carries passengers as a group and cannot pick up passengers en-route It is hence concluded that the service provided by the applicant falls under "rent a cab" service which attracts:

IGST (2) 5% (SGST (a) 2.5% and SGST (a), 2.5%) provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken

**Or**

IGST @ 12% (SGST @ 6% and SGST @ 6%) if input tax credit is to be availed



Therefore it is ruled as

"The Service provided by the applicant is not exempted under Notification No. 12/2017 dated 28.06.2017 as this Service does not fall under 'non-air-conditioned contract carriage' category. The service provided is 'rent a cab' Service, which attracts IGST @ 5% (CGST @ 2.5% and SGST @ 2.5%) provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken Or IGST @ 12% (CGST @ 6% and SGST @ 6%) if input tax credit is availed"

**As in the present case ruling is sought only on applicability of notification No 12/2017 dated 28.06.2017, the same shall not apply to the supply in question.**

The point which merits examination here is that whether the impugned services are covered by the definition of "rent-a-cab". In this regard, it is observed that the phrase "rent a-cab" has not been defined in the CGST/SGST Act, 2017. In situations where statutory meaning of any term/phrase has not been provided words, entries and items in taxing statutes must be construed in terms of their commercial or trade understanding, or according to their popular meaning. Resort to rigid interpretation in terms of scientific and technical meanings should be avoided in such circumstances, as has been held by the Hon'ble High Court of Allahabad in the case of Godrej Consumer Products Limited Vs. Commissioner of Commercial Tax [2018 (13) G.S.T.L. 135 (All.)]. Hence, we first proceed to examine as to what is rent-a-cab.

11. As per information available on website <https://en.wikipedia.org/wiki/Cab>, Cab means

**Cab or CAB may refer to:**

Transport [edit]

- Cab (locomotive), the driving compartment of a locomotive
- Cab car
- Cabin (truck), an enclosed space in a truck where the driver is seated
- Cabriolet (carriage) (obsolete), a type of horse-drawn carriage
- Causeway Bay Station, Hong Kong; MTR station code CAB
- Civil Aeronautics Board
- Constructions Aeronautiques du Bearn, former French aircraft manufacturer
- Controller anti-lock brake, see Anti-lock braking system
- NATO reporting name for the Lisunov Li-2 aircraft
- Taxicab, a type of vehicle for hire with a driver
- Tractor unit of an articulated lorry, known in Britain as an artic cab

As per Oxford dictionary, "Cab" means:

1. A taxi.
2. The driver's compartment in a lorry, bus, or train.

As per Merriam-Webster dictionary, "cab" means:

- 1: a light closed carriage pulled by a horse
- 2: a vehicle that carries paying passengers: taxicab
- 3: the covered compartment for the engineer and the controls of a locomotive or for the operator of a truck, tractor, or crane

As per Cambridge dictionary, <https://dictionary.cambridge.org/dictionary/english/cab>, a taxi (= car with a driver whom you pay to take you where you want to go) the separate part at the front of some vehicles in which the driver sits

From all the above definitions, it emerges that in common parlance, cab refers to a vehicle which has been taken on hire/rent, along with driver, for going from one place to another.

12. When it comes to Goods and Services Tax, tax on services finds its genesis from Chapter V of the Finance Act, 1994, i.e., the Service Tax statute. Therefore, the definitions relating to "rent-a-cab" as occurring in the Finance Act, 1994, shall also have bearing on what is meant by "rent-a-cab" in common commercial parlance when it comes to understanding the same for the purpose of taxing statutes.

- As per Section 65(105) (0) – 'taxable service means any service provided or to be provided to any person, by a 'rent-a-cab scheme operator' in relation to the renting of a cab."

- Section 65(91) - "rent-a-cab" operator means any person engaged in the business of renting of cabs."

- Section 65(20) – "Cab means –

(i) a motor cab, or

(ii) a maxicab, or

(iii) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward:

13. From the above, it emerges that where any commercial vehicle is hired for transportation of passengers, it would be squarely covered by the phrase "rent-a-cab". In other words, any person who provides motor vehicle designed to carry 'passengers', on rent, would be included. This also implies that it includes renting of motor cars, motor cabs, maxi cabs, mini buses, buses and



all other motor vehicles which are designed to carry passengers, irrespective of their capacity to carry passengers. The activity of the contractor in the instant case, providing buses on hire to the M/s Ratan India Power Ttd, is specifically covered under the meaning of "rent-a-cab",

15. In view of above, it clearly stands established that the services of the applicant for hiring of buses for transportation of employees qualify as "rent-a-cab" services.

Therefore in view of above rulings and facts the Service provided by the applicant is not exempted under Notification No. 12/2017 dated 28.06.2017 as this Service does not fall under 'non-air-conditioned contract carriage category. The service provided is hire service or rent a cab' Service,

Therefore serial no. 15 of the exemption notification no. 12/2017 Central Tax (Rate) dated 28.06.2017 does not exempt it from GST, as the "hired" non-air-conditioned contract carriage are excluded' from exemption as specifically mentioned in the said notification.

Hence above notification is not applicable in the above contract.

#### **04. HEARING**

4.1 Preliminary hearing in the matter was held on 28.01.2020 Shri Sachin Bhoyar, CA of applicant and Shri Shailesh Pande, Proprietor appeared, and requested for admission of the application. Jurisdictional Officer Shri M. L. Joshi, STO, NAG-VAT-C-020 also appeared.

4.2 Final online hearing was held on 03.08.2021. The Authorized representatives of the applicant, Shri. Sachin Bhoyar, CA was present. The Concerned Nodal officer Ashish Shirke, Asst. Commnr. Of State Tax and Shri. Pojge, STO, NAG-VAT-C-020, Nagpur were present. The Authorized representatives made oral and written submissions in this matter. Jurisdictional officer also made written submission. Heard the matter.

#### **05. OBSERVATIONS AND FINDINGS:**

5.1 We have gone through the facts of the case, written and oral contentions made by both, the applicant and jurisdictional officer at the time of hearings.

5.2 M/s Pooja Vaishnavi School Bus Services, the applicant, a proprietorship company has entered into a contract with M/s Ratan India Power Limited for supply of NON AC Buses for transportation of their staff under contract carriage. The questions raised by the

applicant are whether GST is applicable on the said contract and whether Sr. No. 15 Heading 9964 of Notification No. 12/2017, dated 28/06/2017 is applicable in their case.

5.3 The applicant has submitted a copy of 'Service Order' No. 3382017288 dated 01.07.2019, entered into with M/s Rattan India Power Limited (RIPL) certain details of which are as under:-

(1) From a reading of page 1/8 of the said Service Order, it is seen that the said order is for hire of 27 seater and 32 seater Bus (Non-AC) for transportation of staff.

(2) Clause 2 of the said Order deals with the Contract Price which as per clauses 2.1 to 2.4 shows that the payment will be made per Bus.

(3) Clause 4.1 of the said Order states that the Scope of work includes deployment of staff buses (total 4 nos buses) to transport staff under contract carriage on monthly hire basis.

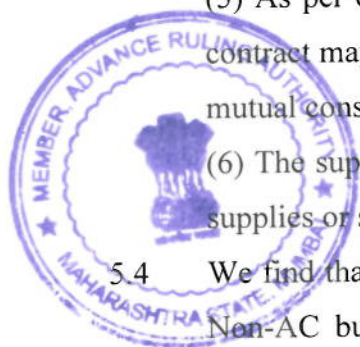
(4) The buses shall operate strictly as per instructions of RIPL's Admn-in-Charge.

(5) As per clause 5.2, the contract period shall be 10 months and as per clause 5.3, the contract may be extended subject to performance of the contractor i.e. the applicant under mutual consent of both the parties.

(6) The supplier, i.e. the applicant shall ensure all the compliance related to GST for the supplies or services rendered including Tax Amount.

5.4 We find that in the instant case, the applicant has an agreement with RIPL for supplying Non-AC buses to transport staff of RIPL and the buses are owned by the applicant. Further, the applicant also incurs expenses on fuel and maintenance of the buses and for all these services provided by the applicant, they are paid fixed hire cost plus fixed fuel cost at predetermined rates of fuel plus mileage.

5.5 We also find that it is RIPL which controls the deployment of the buses. A perusal of the agreement reveals that the applicant shall deploy the buses (already inspected by RIPL) or as per instructions of the Admn. Dept. of RIPL. Thus the applicant cannot run the buses on their own because the overall control of the buses is with RIPL. Further, as per the agreement, Insurance Charges, etc., will be paid by the applicant whereas toll tax, etc will be paid by RIPL. Thus while the ownership of the buses lies with the applicant, the buses shall be operated strictly as per the instructions of RIPL. Therefore in the subject





case, there is a clear transfer of right to use the buses by way of effective control as is seen from the fact that the buses are plying strictly as per RIPL's instructions.

5.6.1 Serial no. 15 of the exemption notification no. 12/2017 Central Tax (Rate) dated 28.06.2017 reads as under:-

S. No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of Services	Rate (%)	Condition
15	Heading 9964	Transport of passengers, with or without accompanied belongings, by-  (b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, <b>excluding tourism, conducted tour, charter or hire; or</b>	Nil	Nil

5.6.2 From the submissions made by the applicant it is clear that they are considering their services as transportation of passengers.

5.6.3 We may mention here that, in the case of transportation of passengers, the recipient of service would be the passenger whereas in the case of renting of any motor vehicle, like buses in the subject case, the recipient would not be the passenger. In the subject case, the consideration for supply of service is charged from RIPL and not the passenger. Therefore in the subject case it is clear that the recipient is RIPL. Hence, we have no hesitation in holding that the subject activity, amounts to 'renting of motor vehicle' and shall qualify as a taxable activity under the provisions of the GST Laws. Since the subject activity is not 'transportation of passengers' as discussed, the provisions of Notification No. 12/2017-CT (R) dated 28.06.2017 are not applicable in the subject case.

5.7.1 Further, it is pertinent to mention that it is provided that the meaning of 'contract carriage' will have the same meaning as assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 which states that-

*"contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the*

*use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum,-*

*(a) on a time basis, whether or not with reference to any route or distance; or*

*(b) from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes,-*

*(i) a maxicab; and*

*(ii) a motorcab notwithstanding the separate fares are charged for its passengers;*

5.7.2 Thus, the essential ingredient of a contract carriage is that it plies under a contract for a fixed set of passengers, and does not allow any other passenger to board or alight from the carriage at will. A 'contract carriage' carries passengers as a group and cannot pick up passengers en-route.

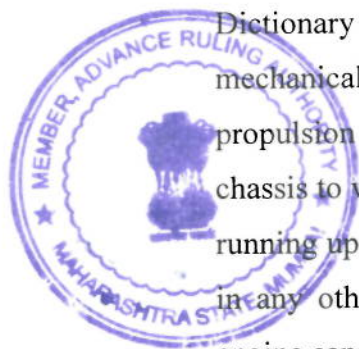
5.7.3 Since the rent-a-cab has not been defined under GST Act, we need to analyse the same word taking the help of Motor Vehicle Act, 1988.

Dictionary meaning of Rent a cab is "Taxi" "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding thirty-five cubic centimeters;

**"Radio taxi"** means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).

**'Stage Carriage'** means a motor vehicle constructed or adopted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey [section 2(40) of the Motor Vehicles Act, 1988].

**Motor Cab:** Section 2(25) of Motor Vehicles Act, 1988 defines 'motor cab' as any motor vehicle constructed or adapted to carry not more than 6 passengers excluding driver, for hire or reward.






As per section 2(22) of Motor Vehicles Act, 1988 '**maxi cab**' means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, excluding the driver, for hire or reward. These vehicles are more popularly known as vans, Innova, sumo etc.

5.7.4 The applicant does not satisfy the condition prescribed in clause (a) nor specified in clause (b) of clause (7) of section 2 of the Motor Vehicles Act, 1988 and accordingly, they cannot be considered as 'non air-conditioned contract carriage' and are hence not eligible for exemption under the serial no. 15 of the exemption notification no. 12/2017 Central Tax (Rate) dated 28.06.2017.

5.7.5 Even if the contract is assumed as 'non-airconditioned contract carriage', Serial no. 15 of the exemption notification no. 12/2017 Central Tax (Rate) dated 28.06.2017 does not exempt it from GST, as the "hired" non-airconditioned contract carriage are 'excluded' from exemption as specifically mentioned in the said notification. Hence the service provided by the applicant falls under 'rent a cab' service.

5.8.1 Sr. No. 10 of Notification No. 11/2017 – CT (Rate) dated 28.06.2017 amended by Notification No. 31/2017 – CT (Rate) dated 13.10.2017 is as under:-



Sl No	Chapter, Section or Heading	Description of Service	Rate (percent)	Condition
10.	Heading 9966 (Rental services of transport vehicles	("(i) Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken. [Please refer to Explanation no. (iv)]
			OR	
			6	-

5.8.2 The subject case is clearly covered by Entry Sr. No. 10 of Notification No. 11/2017 – CT (Rate) dated 28.06.2017 in as much as there is a Rental services of transport vehicles with or without operators. All activities of Renting of any motor vehicle/transport vehicle which is designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient are chargeable to either 2.5% GST or 12% GST depending on availment of Cenvat Credit. Therefore in the subject case since there is a Renting of any motor vehicle/transport vehicle which is designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient i.e. RIPL, the applicant will have to pay GST @ 12% , if credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken.

06. In view of the extensive deliberations as held hereinabove, 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- 66/2019-20/B- 49

Mumbai, dt. 20.08.2021

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

**Question 1.** Applicability of a notification issued under the provisions of this Act

**Answer:-** The provisions of Notification No. 12/2017 dated 28.06.2017 are not applicable in the subject case and the service provided by the applicant is not exempted under the said notification as discussed above i.e. since the subject Service does not fall under ‘non-airconditioned contract carriage’ category but is covered under ‘rent a cab’ Service

**Question 2.** Determination of the liability to pay tax on any goods or services or both

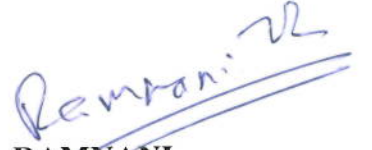
**Answer:-** The impugned service provided is ‘rent a cab’ Service, for which, for the period post 01.07.2019 i.e date of the impugned service order, attracts IGST @ 5% (CGST @ 2.5% and SGST @ 2.5%) provided that credit of input tax charged on goods and services used in supplying the service, other than the **input tax**



**credit** of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken; OR IGST @ 12% (CGST @ 6% and SGST @ 6%) if input tax credit is availed.



  
**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](http://gst.gov.in) for online appeal application against order passed by Advance Ruling Authority.