

**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 B. Timothy, Addl. Commissioner of Central Tax, (Member)**

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

GSTIN Number, if any/ User-id		27ACMPS4462Q1ZM
Legal Name of Applicant		Vijay Baburao Shirke
Registered Address/Address provided while obtaining user id		1205, Apte Road, Pune 411004
Details of application		GST-ARA, Application No. 12 Dated 23.04.2019
Concerned officer		State Tax Officer (PUN-VAT-C-118) Nodal - 2, Pune
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A	Category	Service Provision
B	Description (in brief)	Prize money won in horse racing
Issue/s on which advance ruling required		(v) determination of the liability to pay tax on any goods or services or both. (vii) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods and/or services or both, within the meaning of that term.
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.Vijay Baburao Shirke**, the applicant, seeking an advance ruling in respect of the following question.

**Whether receipt of prize money from horse race conducting entities, in the event horse owned by the applicant wins the race, would amount to 'supply under section 7 of the Central Goods and Service Tax Act, 2017 or not and consequently, liable to GST or not?**

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 reference 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, as reproduced verbatim, could be seen thus-

**A. Statement of the relevant facts having a bearing on the question(s) on which the advance Ruling is required.**

1. Shri Vijay B. Shirke (hereinafter referred to as the 'applicant') is duly registered with the Goods and Service Tax Department vide registration number 27ACMPS4462Q1ZM.
2. The applicant owns horses. The horses owned by the applicant participate in races organized at different clubs. The horse races take place at Royal Western India Turf Club (RWITC) located in Mumbai and Pune. The applicant also participates in horse races held in Mysore Race Club, Bangalore Turf Club, Hyderabad Race Club, Royal Calcutta Turf Club and Madras Race Club. Upon winning such horse races, the applicant is awarded with prize money in respect of horses, which win the race.
3. In the year 2012, when the Service Tax was introduced, Royal Western Turf Club Ltd. (RWITC) Mumbai issued a letter bearing No. PA/4860 dated 28/07/2012 to Western India Race Horse Owners Association Ltd., in which RWITC informed to the horse owners that the amount of stake / prize money received by the owners is covered under Service Tax. Accordingly, the applicant paid the service tax at the applicable rate till June, 2017. As the definition of service under the Service Tax Act is identical in the GST, the applicant continued to pay the GST under the GST Act.
4. During the period from 01.07.2017 to 28/02/2019, the applicant has been a winner in several horse races and has been awarded with prize money, totally, amounting to Rs. 3,03,41,881/-





5. On receipt of the above amount (prize money won in race competitions), the applicant has paid GST with effect from 01.07.2017 under bonafide belief that the above transaction qualifies as a supply of service, under the provisions of the CGST Act, 2017. For discharge of GST on the above transaction / supply, the applicant has utilized input tax credit.
6. Now, the applicant has been advised that, the above transaction may not fall within the ambit of / scope of supply as defined under Section 7 of the CGST Act, 2017. The applicant has, thus, sought the present ruling seeking clarity on the applicability of GST or otherwise on the above transaction.

**B. Statement containing the applicant's interpretation of law and/or facts, as the case may be, in respect of the questions(s) on which advance ruling is required:**

1. At the outset, the applicant submits that prize money won at horse races, according to the applicant, is a taxable supply. Accordingly, GST has been paid on the same supply under GST.

**Supply under GST**

- 2.1 As is being promoted, Goods and Services Tax (GST) is touted to be the single biggest tax reform to take place post-independence. GST is applicable on supply of all goods and services in India.

- 2.2 Chapter III of the Central Goods and Service Tax Act, 2017 ("CGST Act") provides for levy and collection of GST. Section 7 of the CGST Act provides for the scope of supply. It is, inter alia, provided that "supply" includes:

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(b) import of services for a consideration, whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration, and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II".

- 2.3 Section 9, is the charging section. It provides for levy of tax called the GST on all intra-state supplies of goods or services or both and at such rates, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person

- 2.4 Section 2(102) of CGST Act, 2017 defines "Service" as:

*"anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged"*

- 2.5 On perusal of the above provisions, it can be well understood that an activity/transaction can be classified as supply only if it is made: (i) by one person to another; (ii) for a consideration and (iii) in the course of or furtherance of business.
- 2.6 In the instant case, according to the applicant, all the ingredients are satisfied. The applicant is the service provider. The race club/organizer is the recipient. The applicant owns the horse. The horse takes part at the race organized by the club/organizer. The horse participates in the said race. If the horse wins, a consideration is paid to the applicant for participating and winning the race.
- 2.7 In the present case, the applicant's horses participated in different competitions organized by race clubs / organizers, and the owner received prize money in respect of the horses which won the race/s as per the Rules laid down by the respective race club by making payment of entry fee before the date of race
- 2.8 As it happens in most races, the race organizer might award a number of prizes to the horses, producing the best performance. Under such circumstances, it is to be seen whether such a situation gives rise to a taxable transaction and whether the prize received by the horse owner constitutes consideration for the outstanding performance of the horse in the race, which has enriched the event by making it more interesting and valuable. The horse owner, by supplying his horses for participation in the race, enables the organizer to arrange an event which the public may attend, which media undertakings may broadcast and which may be of interest to advertisers and sponsors. The race organizer would not be able to organize and market this event without a certain number of horses participating and clearly, the greater the skills of the horses, the greater the commercial value of the event. Therefore, it cannot be disputed that both the race organizer and the horse owner receive a direct and individual benefit from the transaction. Thus, the applicant would be covered under section 7 of the CGST Act, 2017. Accordingly, the applicant would be liable to pay GST on the said transaction.

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

The jurisdictional office has not made any submissions.

**04. HEARING**

Preliminary hearing in the matter was held on 19.09.2019, Shri. Bharat Raichandani, Advocate represented the Applicant appeared and requested for admission of application as



per details in their application. The request for admission of application is accepted and application is admitted and taken up for final hearing.

Shri. Bharat Raichandani, Advocate pressed the question that whether the prize money won by the horse owner in the horse race is liable to GST or not. The applicant opinion that it is supply and is taxable. However, he requested for a ruling as since other competitors are not paying GST. We heard from both the sides. The Jurisdictional Officer, Smt. Swati Shinde, State Tax Officer(C-118), Nodal 2, Pune appeared in the hearing.

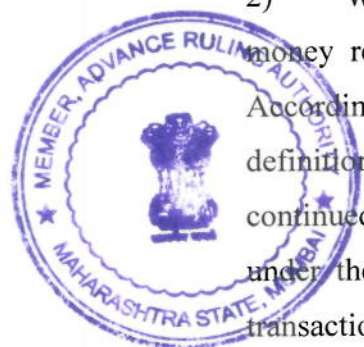
**05. OBSERVATIONS AND FINDINGS:**

We have gone through the facts of the case and written contention of parties produced on record. The issue put before us is in respect of whether an activity undertaken by the applicant is supply or not, which would be on the lines thus –

1) Shri Vijay B. Shirke ('applicant') is duly registered person under the GST Act. He owns horses and these horses participate in races organized at different clubs. The horse races take place at various locations i.e. at Mumbai, Pune, Bangalore, Hyderabad, Calcutta, and Chennai. Upon winning such horse races, the applicant is awarded with prize money in respect of horses which win the race.

2) We find that as per applicant's submission that the amount of stake / prize money received by the horse owners was covered under Service Tax Act w.e.f. 2012. Accordingly, the applicant paid the service tax at the applicable rate till June, 2017 and as the definition of 'services' under the Service Tax Act is identical in the GST, the applicant continued to pay the GST on receipt of the amount of prize money won in race competitions, under the GST Act, with effect from 01.07.2017, under bonafide belief that the above transaction qualifies as a "supply of services" under the provisions of the GST Act, 2017. For discharge of GST on the above transaction / supply, the applicant has utilized input tax credit. Now, the applicant being little bit in confusion that the above transaction may not fall within the ambit of / scope of supply as defined under Section 7 of the GST Act, 2017, he has sought the ruling on the following question, posed before us, -

"Whether receipt of prize money from horse race conducting entities, in the event, horse owned by the applicant wins the race, would amount to 'supply under Section 7 of the Central Goods and Service Tax Act, 2017 or not and consequently, liable to GST or not'?"

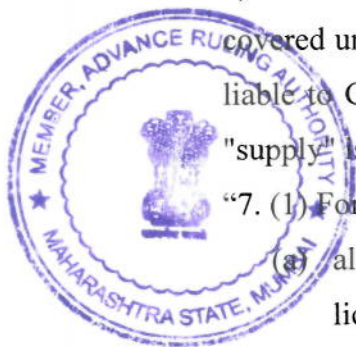


3) We have perused the activity of the applicant in detail. The applicant owns the horses. These horses participate at the race organized by various club/organizer. The race club/organizer is the recipient of these horses for participating in the race. If the horse wins, a consideration in the form of money is paid to the applicant for participating and winning the race. Thus, activity of applicant enables the organizer to arrange an event which the public may attend, which media undertakings may broadcast and which may be of interest to advertisers and sponsors. The horses supplied for these races are specialized one. They are born and reared through a defined procedure. The pedigree each horse is extremely important and each horse is percentage validated in a laboratory designated by the appropriate authorities. They are registered into Stud Book of appropriate authority, only after confirming their eligibility and criteria, and such confirmed registered horses are then allowed to participate in the race. The owner of horses has to maintain the record in detail, in respect of movement, casualties, pregnancy, medical treatment, discarding and death of each bred and inform the respective authority in defined formats. These horses are trained and maintained in a specific manner. Thus the activity of applicant is providing the services of specialized and trained horses for race. Both the race organizer and the horse owner receive a direct and individual benefit from this activity.

4) In view of above, it is to be seen, whether the activity effected by the applicant is covered under the scope of supply under section 7 or not under CGST Act and consequently, liable to GST or not. So the relevant provisions under CGST Act are examined. The term "supply" is described under Section 7 of the CGST Act, 2017 which is reproduced below:

"7. (1) For the purposes of this Act, the expression "supply" includes —

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,
  - (b) import of services for a consideration whether or not in the course or furtherance of business, and
  - (c) the activities specified in Schedule I, made or agreed to be made without a consideration.
- (1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.





(2) Notwithstanding anything contained in sub-section (1),

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as

(a) a supply of goods and not as a supply of services, or

(b) a supply of services and not as a supply of goods”.

Thus, in order to constitute a 'supply', the following elements are required to be satisfied:

(i) there should be supply of “goods” and / or services”;

(ii) supply is for a “consideration”;

(iii) supply is made "in the course or furtherance of business”:

(I) The activity undertaken by the applicant is analysed in view of above provisions. It is seen that the applicant is undertaking the services of providing specialized and trained horses for participation in the horse race. The applicant has already submitted that he is receiving the prize money from the horse race conducting entities, in the event, horse owned by the applicant wins the race. Thus, the prize money is nothing but the consideration received by the applicant.

(II) However, such an activity must be in the course of business or for the furtherance of business. The term "in the course of business" or "furtherance of business" is not defined under CGST Act, but, the term ‘business’ has been defined in Section 2(17) of the CGST Act, 2017 which is reproduced below:

"business" includes

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to sub clause (a);



- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business,
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club, and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities,

From the above definition, the term "business" broadly means any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity whether or not it is for pecuniary benefits. Any activity ancillary or incidental to these activities are also covered as business. It has also been provided that any activity or transaction falling in above categories would be business whether or not there is volume, frequency, continuity or regularity in transactions. Now, we look into the nature of activity undertaken by the applicant. Whether, it can be treated as 'business' or not. The activity undertaken by the applicant is already detailed into earlier paras. The applicant is undertaking the activity of rearing, training, maintaining and providing the horses, that are specialized one and according to the requirement of appropriate race authorities, for participating in horse races. We find this activity, as an activity covered by clause (a) of the definition of business under Section 2(17) of CGST Act, 2017. We have arrived at this findings only on the basis of facts submitted by the applicant.



- (III) The term "services" is defined under Section 2(102) of the CGST Act, 2017 which is reproduced below:

"Services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode,



from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged”.

The activity of the applicant is already detailed in the paras earlier. The applicant never passes the ownership of horses to the race organizer. Therefore, participation of horses for the purpose of events organized by the clubs is a supply of services to the event organizer.

In view of above, we find from the submission of the applicant that; all the ingredients of supply of services are satisfied in the activity undertaken by the applicant in respect of providing horse to the race club/ event organiser and receiving consideration thereof on winning of race. Therefore, this transaction is clearly covered under supply of services under section 7 of CGST ACT

4) Now, the second question asked by the applicant is as below:

“If the transaction is supply of services, then would it be liable to GST or Not?”

We find that the provisions under Chapter III of the CGST Act 2017 provides for levy and collection of tax. Section 9 is the charging section. This charging section provides for levy of taxes on all intra-state supplies of services at such rates, as notified by the Government and collected in such manner as may be prescribed in the notification schedules. Under the GST Act, the Exemption Notification No. 12/2017 CT (Rate) dt. 28.6.2017 is issued by the Government, by which specific supply of services are exempted from taxes. The services other than those notified services, would naturally be covered under “Taxable supply of services”. The taxable supply of services are notified and classified under Notification No. 11/2017 CT (Rate) dt.28.6.2017 and rate of taxes are prescribed therein. We find that, the applicant’s services are not covered under exemption notification No.12/2017 of CGST ACT and therefore, this transaction is not covered under exemption category of services. Hence, we have perused the Notification No.11/2017, which covers taxable supply of services and rate of tax thereon. We find that the applicant’s activity and services rendered are not specifically described in the said notification 11/2017 and hence, it is covered by the entry at Sr. no. 35 i.e. “Other services and other miscellaneous services including services nowhere else classified” and are held taxable services @ 18 % (9% each of CGST and SGST). According to us, as discussed above, applicant’s transaction is a supply of services, under entry at Sr. no. 35 of notification no. 11/2017 i.e. “taxable services” and liable to tax @ 18% under GST Act.



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- 12/2019-20/B- 106 Mumbai, dt. 4.10.2019**

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

**Question: -** Whether receipt of prize money from horse race conducting entities, in the event horse owned by the applicant wins the race, would amount to 'supply under section 7 of the Central Goods and Service Tax Act, 2017 or not and consequently, liable to GST or not?

**Answer: -** Answered is in affirmative. The amount of prize money received from the events conducting entities would be covered under 'supply under section 7 of the CGST Act, 2017 and consequently, it is held as taxable supply of services and liable to GST @ 18% (9% each of CGST and SGST).



—sd—  
**B. TIMOTHY**  
(MEMBER)

—sd—  
**A. A. CHAHURE**  
(MEMBER)  
**CERTIFIED TRUE COPY**

**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.

  
**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, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai – 400021.