

AUTHORITY FOR ADVANCE RULING – MADHYA PRADESHGoods and Service TaxO/o THE COMMISSIONER, COMMERCIAL TAX,MOTI BUNGALOW,MAHATMA GANDHI MARG, INDORE (M.P.) - 452007e-mail : aar@mptax.mp.gov.in Phone : 0731- 2437315 fax. no. : 0731-2536229PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING
U/S,98 OF THE GOODS AND SERVICES TAX ACT ,2017Members Present

1. Manoj Kumar Choubey
Joint Commissioner,
Office of the Joint Commissioner of Commercial Tax, Indore Division-1
2. Virendra Kumar Jain
Joint Commissioner,
Office of the Commissioner,CGST and Central Excise, Indore

GSTIN Number. If any/User-id	23AABCE9378F1ZK
Name and address of the applicant	M/s V E COMMERCIAL VEHICLES LIMITED 22/2, 3 rd Floor, Y. N . Road, Opp. Ranisati Gate, Indore, Madhya Pradesh(452001)
Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	a) Classification of any goods or services or both;
Present on behalf of applicant	CA. P D Nagar, Authorised Representative
Case Number	25/2019
Order dated	02/06/2020
Order Number	09/2020

PROCEEDINGS

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the Madhya Pradesh Goods & Service Tax Act, 2017)

1. The present application has been filed u/s 97 of the Central Goods & Services Tax Act, 2017 and MP Goods & Services Tax Act, 2017 (hereinafter also referred to CGST Act and SGST Act respectively) by M/s. V E Commercial Vehicles Limited (hereinafter referred to as the Applicant) , registered under the Goods & Services Tax.
2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.
3. BRIEF FACTS OF THE CASE:



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- 3.1 The applicant is engaged in the various business including manufacturing of Chassis Trucks & Buses, Engines, Bus body and automotive components. The applicant has different manufacturing units/manufacturing verticals in the State of Madhya Pradesh registered separately under the GST Act. Relevant details are as under:-

Particulars	GST Registration No.	Location of the unit
Manufacturing Chassis for Buses along with other products,	23AABCE9378F3ZI	Sector – I, Pithampur
Engaged in fabrication of body on chassis	23AABCE9378F1ZK	Village Baggad (Dist-Dhar) distance from Pithampur unit 10 K.m.

- 3.2 When the body Fabrication is completed at the applicant's fabrication unit (GST no 23AABCE9378F1ZK) and the built up vehicle is sold, GST is collected and deposited @ 28% as a composite sale of bus under HSN 87021022 by claiming input tax credit of GST paid on various raw material.
- 3.3 Some customers after having purchased the vehicle from our manufacturing unit in chassis form, approach the applicant to carry out body fabrication work on the chassis owned by them by another unit. Similarly, the owners of vehicle in chassis form from other manufacturers have also approached the applicant to carry out body fabrication work on the chassis so purchased and owned by them.
- 3.4 The body fabrication unit of the applicant will fabricate the body on chassis supplied by customer and charge GST @ 18% on such supply being job work on chassis carried out by fabrication unit of the company.
- 3.5 On the aforesaid facts, the issue raised before the Authority for Advance Ruling, if the Authority relates to incidence of tax in the circumstances when Customer approaches our body fabrication unit after purchasing the chassis from our another manufacturing unit of the chassis located at Pithampur.
4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

The following questions have been posted before the Authority in the application:-
Whether the supply towards provision of services in respect of activity of mounting/fabrication of bodies on chassis provided by Customer should be treated as supply of bus or provision of services in respect of activity of mounting/fabrication of bus body on the chassis wherein the said activity of mounting/fabrication is outsourced to the Applicant by owner/provider of chassis in following two scenarios:-

- 4.1 The chassis is originally manufactured by one of the unit of the applicant registered separately as distinct person under GST Act and sold to provider of chassis receiving the chassis for fabrication of body.
- 4.2 The chassis is originally manufactured by some other OEM and sold to provider of chassis before receiving the chassis for fabrication of body.



5. CONCERNED OFFICER'S VIEW POINT:

The concerned officer is of the view that in both the cases for which the applicant has asked for advance ruling will be taxed by 18% (9% CGST and 9% SGST) under services falling under SAC 998881 – "Motor vehicle and trailer manufacturing services" and under entry no. 26(ii) as "Manufacturing services on physical inputs (goods) owned by other".

6. RECORD OF PERSONAL HEARING:

6.1 CA. P D Nagar, Authorised Representative of the applicant for personal hearing the submissions already made in the application. The Applicant states that –

6.1.1 The Bus chassis manufactured by the Vehicle Assembly Plant are either:

- (a) Sold in chassis form to the dealer at 28% GST upon which the dealer further sales to end customer charging GST @ 28%. End customer takes the vehicle to a body builder of his choice. The body builder fabricates the body on chassis so provided and supplies the body charging 18% GST as job work, in terms of Circular No. 52/26/2018-GST dated 9th August, 2018 or
- (b) Stock transferred to a depot and then sold in chassis form to the dealer at 28% GST upon which the dealer appoints an independent bus body builder to fabricate the body; the body builder supplies the body to Dealer and dealer sales the complete Bus its customer. or
- (c) Sent to the Bus Body Plant after paying GST @ 28% for fabrication of the bus body, The Bus plants avails input credit of GST paid on Chassis, fabricates the body on chassis and after that the complete bus is sold/supplied to the dealer/customer /Depot at 28% GST.

6.1.1 Currently the Bus Body plant is manufacturing Bus Bodies owned by VECV only. Now some of our customers / dealers have approached the applicant to fabricate bodies on chassis being purchased by them from dealers of VECV and also on chassis purchased by them by other chassis manufacturers.

6.1.2 There could be following scenarios for customer after purchasing chassis, as owner of chassis approaching our Bus Manufacturing Plant for fabrication of Body.

- (i) The potential customer has purchased the chassis from another chassis manufacturer and is approaching applicant for fabrication of body. While sending the chassis to applicant, the customer owns the chassis and asks applicant to fabricate the Bus body on chassis owned by him. The chassis and body will continue to be owned by customer who has provided the chassis for body fabrication after body fabrication.
- (ii) The chassis manufactured by Vehicle assembly plant is sold to its dealer. The dealer has further sold it to customer and the customer is approaching applicant for fabrication of body. While sending the chassis to applicant, the customer owns the chassis and asks applicant to fabricate the Bus body on chassis owned by him. The chassis and body will continue to be owned by customer who has provided the chassis for body fabrication after body fabrication.
- (iii) The chassis manufactured by Vehicle assembly plant is sold to its dealer. The dealer is approaching applicant for fabrication of body. While sending



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the chassis to applicant, the customer owns the chassis and asks applicant to fabricate the Bus body on chassis owned by him. The chassis and body will continue to be owned by dealer who has provided the chassis for body fabrication after body fabrication. Apart from this the applicant will continue to receive the chassis from Vehicle manufacturing plant as being done currently and supply the complete Bus charging 28% GST.

- 6.1.3 Applicant understands that in the situations described in above Para, the chassis is owned by person desirous to get the body fabricated and applicant is not owner of chassis. The chassis owner has full liberty to go to any body builder for getting the body fabrication work carried out. The applicant is one of the choices for owner of chassis to get the body fabrication.
- 6.1.4 Applicant understands that such situations are covered under the Circular No. 52/26/2018-GST dated 9th August, 2018. The relevant para of circular is reproduced below.
- “12.1 Applicable GST rate for bus body building activity: Representations have been received seeking clarifications on GST rates on the activity of bus body building. The doubt have arisen on account of the fact that while GST applicable on job work services is 18%, the supply of motor vehicles attracts GST @ 28%.
- 12.2 Buses [motor vehicles for the transport of ten or more persons, including the driver] fall under headings 8702 and attract 28% GST. Further, chassis fitted with engines [8705] and whole bodies (including cabs) for buses [8707] also attract 28% GST. In this context, it is mentioned that the services of bus body fabrication on job work basis attracts 18% GST on such service. Thus, fabrication of buses may involve the following two situations:
- a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus.
- b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).
- 12.3 In the above context, it is hereby clarified that in case as mentioned at Para 12.2(a) above, the supply made is that of bus, and accordingly supply would attract GST @28%. In the case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.”
- 6.1.5 The Applicant understands that the situations described in Para 6.1.3 are squarely in Para 12.2(b) of the aforesaid Circular and hence in terms of Para 12.3 of the circular the fabrication of body in such situations would merit classification as service and GST applicable in terms of Notification No. 20/2019-Central tax (Rate) dated 30th September, 2019 would be applicable, which is currently 18%.
- 6.1.6 In view of aforesaid submissions and recent notification being no. 20/2019 dated 30.09.2019, there should not be any discrimination for levy and collection of tax on bus body fabrication unit being carried on by the applicant at Village Baggad vis-à-vis bus body manufacturing activity carried on by another fabricator who will collect and deposit GST @ 18% only as per said circular dated 9th Aug 2018 read with Notification dated 30.09.2019.
- 6.2 In the matter produced before us for advance ruling, the ruling has been sought on the question that Whether the supply towards provision of services in respect of activity of



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mounting/ fabrication of bodies on chassis by the customer should be treated as supply of bus or provision of services in respect of activity of mounting/ fabrication of bus body on the chassis, wherein said activity of mounting / fabricating is outsourced to the applicant by the owner / provider of chassis –

- 6.2.1 The chassis is originally manufactured by one of the unit of the applicant registered separately as distinct person under GST Act and sold to provider of chassis before receiving the chassis for fabrication of body.
- 6.2.2 As mention in the question that the chassis is manufactured by one of the unit of the applicant registered separately as distinct person and as mandate by the Motor Vehicles Act, the Chassis is delivered to the customer by raising a separate invoice, paying road tax and after issuing the insurance policy in the name of customer. By this act, it may be concluded that the supply of chassis, by one of the unit of applicant, is complete once the chassis is handed over to the customer and on such hand over, the customer becomes absolute owner of such chassis.
- 6.2.3 After purchasing the chassis, customer is free to get the mounting / fabrication of bus body from anywhere. Such fabrication / mounting work is separate supply than supply of chassis manufactured by one of the unit of applicant.
- 6.2.4 As per the term defined u/s 2(68) of the CGST Act and as per para 3 of the schedule II of the CGST Act “any treatment or process which is applied to goods of another persons is a supply of service.
- 6.2.5 As per Sec. 2(68) of the CGST Act/ SGST Act. The term job worker means” “any treatment or process under taken by a persons on goods belonging to another registered persons and the expression job worker shall be construed accordingly”.
- 6.2.6 The Motor Vehicle is not complete without a body. A chassis is semi finished goods and any treatment done by any other party on the chassis is the activity of job work. Therefore it is supply of service and covered under HSN-9988 which attracts tax 18 %GST.
- 6.2.7 The ownership of chassis always remains with the customer who has given chassis to applicant for building and mounting of body on job work. Because it fulfils the main important condition of the definition of job work i.e. process undertaken on goods belonging to another registered persons. The whole process of body building and mounting is performed on the goods (Chassis) belonging to the customer therefore it is purely job work.
- 6.2.8 Once it is established that it is a job work then it is supply of service. In this case the principal supply is supply of service. Thus, it should be classified as services and tax is @ 18% under CGST Act.
- 6.2.9 Here it is also important to note that principal is charging @ 28%GST under HSN Code 8707 on supply of a complete vehicle but body building for him is a receipt of service and duly covered under HSN Code 9988 where the rate of tax is applicable @ 18% under GST Law.
- 6.2.10 Reliance is placed on the following judgements:-
 - (a) The Hon’ble Goa Authority for Advance Ruling in the case of Automobile Corporation of Goa Ltd Sattari (2018) 33 GSTJ 581 has held that the activity of building and mounting of the body on the chassis provided by the principal under FOC chalan will result in supply of services under HSN 9988 and hence, should be taxed @ 18% GST.
 - (b) There is a judgement of Authority for Advance Ruling- Madhya Pradesh in the case of Arpijay Fabricators pvt. Ltd 2018 33 GSTJ 211 where it was held that



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if the predominant element to be the service part, then the principal supply would be classified under heading No 9988.

- (c) As per the process of body building, some goods are used by job worker Therefore it is composite supply consisting of small part of supply of goods and major part of supply of services. As per the provision of Sec. 8(a) of CGST Act the same should be classified as supply of services under HSN-9988 which attracts Tax @ 18% GST.

7. DISCUSSIONS AND FINDINGS:

- 7.1 We have carefully considered the submissions made by the applicant in the application and during time of personal hearing.
- 7.2 Now we come to the question raised by the Applicant as Whether mounting of Bus/ Truck Body by the job worker on the chassis supplied by the principle for which the applicant charged fabrication charges including cost of certain material that was consumed during the process of job work would be classified as supply of service under HSN 9988”.
- 7.3 We Find that the activity and question raised before us has been suitably clarified and dealt with Circular no. 52/26/2018-GST issued by Government of India, Ministry of Finance, Department of Revenue dated 9th August, 2018.
- 7.4 The following Para's of the above mentioned circular the issue has been dealt with which are as follow –
1. Applicable GST rate for bus body building activity: Representations have been received seeking clarifications on GST rates on the activity of bus body building. The doubts have arisen on account of the fact that while GST applicable on job work services is 18%, the supply of motor vehicles attracts GST @ 28%.
 2. Fabrication of body may involve the following two situations:
 - a) A vehicle body builder builds a vehicle, working on the chassis owned by him and supplies the built-up vehicle to the customer, and charges the customer for the value of the bus. In this scenario the chassis is being manufactured by the one of the unit of applicant registered separately as distinct person under GST Act and Sold to provider of chassis before receiving the chassis for fabrication of body. In this situation, as per facts and information produced, the ownership of chassis is transferred by one unit of applicant to the customer and then customer provides such chassis to the applicant for mounting/ fabrication of bodies on it. As the customer is taking supplies from both unit of same company separately, which do not have bearing on each other's supply Hence no transaction is taking place between the two distinct persons. Taxability of the supply between customer and the applicant is completely different from the supply taking place between customer and the other unit of applicant.
 - b) The chassis is originally manufactured by some other OEM and sold to provider of chassis before receiving the chassis for fabrication of body. The Applicant builds body on chassis provided by the principal, the owner of chassis for body building, and charges fabrication charges (including certain material that was consumed during the



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process of job-work). Nowhere the ownership of chassis is transferred to the Applicant i.e. the body builder.

3. In the above context, it is hereby clarified that in case as mentioned at Para 12.2(a) above, the supply made is that of vehicle, and accordingly supply would attract the GST applicable to the vehicle @28%. In the case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.


7.5 The submission by the applicant with the application and during time of argument clearly shows that the nature of the work for which ruling on the rate of Tax has been sought in the question clearly falls under Para 12.2(b) of the above mentioned circular fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.


8. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

8.1 In respect of the question raised by the applicant we hold that the supply towards provision of services in respect of activity of mounting/ fabrication of bodies on chassis provided by Customer should be treated as supply of bus or provision of services in respect of activity of mounting/fabrication of bus body on the chassis wherein the said activity of mounting/fabrication is outsourced to the Applicant by owner/provider of chassis, in no case the ownership of the chassis belongs to the applicant, hence in both the scenarios mentioned in the question will be taxable under SAC 998881 – “Motor vehicle and trailer manufacturing services” and under entry no. 26(ii) as “Manufacturing services on physical inputs (goods) owned by other” it is taxable @18% (9% under CGST and 9% under SGST Act).

8.2 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

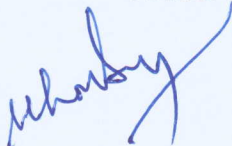

Manoj Kumar Choubey
(MEMBER)


Virendra Kumar Jain
(MEMBER)

Copy to:- No. 25/2019/AAR/R-281

INDORE, dt. 02/06/2020

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, Bhopal
3. The Commissioner(SGST) Indore
4. The Commissioner, CGST & Central Excise, Indore
5. The Concerned Officer
6. The Jurisdictional Officer – State/Central



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