

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

1. Rajiv Agrawal

Additional Commissioner,

Office of the Commissioner,CGST and Central Excise, Indore

2. Manoj Kumar Choubey

Joint Commissioner,

Office of the Joint Commissioner of Commercial Tax, Indore Division-1

GSTIN Number. If any/User-id	23AJUPB8817B1ZC
Name and address of the applicant	M/s BHAVIKA BHATIA 137, JAORA COMPOUND, OPP. M.Y. HOSPITAL 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 b)Applicability of a notification issued under the provisions of this Act; e)Determination of the liability to pay tax on any goods or services or both;
Present on behalf of applicant	Shree Sunil H Jain, C.A.
Case Number	13/2019
Order dated	25/09/2019
Order Number	18/2019

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 and Services Act,2017 and MP Goods and services Act, 2017 (hereinafter also referred to CGST Act



and SGST Act respectively) by M/s BHAVIKA BHATIA (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:

3.1. The applicant, Mrs. Bhavika Bhatia, Proprietor of Bhavika Travels, Jaora Compound, Indore is registered under GST having GSTIN23AJUPB8817B1ZC. The applicant is in the business of providing services of hiring of vehicles under Contract Carriage.

3.2. The applicant has entered into an agreement with Chameli Devi Institute of Technology and Management, Khandwa Road, Indore for transportation of their students and staff under contract carriage by Non-A/c buses.

4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

The following questions have been posted before the Authority in the application:-

4.1. Applicability of serial no. 15(b)(HSN/SAC Code 9964) of exemption Notification No. 12/2017 (Rate) dated 28-06-2017 as amended, for said activity?

4.2. If taxable, its rate of GST?

5. CONCERNED OFFICER'S VIEW POINT:

The concerned officer is his view point submitted that the services provided by the applicant for transportation of students and staff of the contractee's Institute under contract carriage by non-air conditioned buses is exempt from GST as per clause (b) of Sl. No. 15 of Notification No. 12/2017-Central Tax (Rate), dated 28.6.2017.

6. RECORD OF PERSONAL HEARING:

6.1. Shree Sunil M Jain, CA appeared for personal hearing and reiterated the submissions already made in the application. They reiterated the facts submitted along with the application. The Applicant states that –

6.2. We are into business of providing services of Contract Carriage(Non-A/c) for transportation of students, staff for college (Not limited to hiring of vehicle, as driving/conducting/maintenance staff pertains to us).

6.3. It is pertinent to mention that neither our agreement permits nor we have collected GST separately.

6.4. Applicant believes that the services of transportation of students and staff of college to and from college on contractual basis will be covered under "transportation of passengers by non-air conditioned contact carriages" which is exempted from payment of tax by virtue of exemption Not. 12/2017 Central Tax(Rate) dated 28-06-2017. At the time of hearing the applicant gave list of 17 vehicles their registration certificate, agreement between the applicant and the principal Chameli Devi institute of management, village Umarikheda khandwa road indore, the contract permit by RTO and the buses in contract are non AC buses certified by RTO.

6.5. Relevant extract of serial no. 15(b)(HSN/SAC Code 9964) Not. 12/2017 Central Tax (Rate) dated 28-06-2017 as amended and a copy of contract is enclosed.

7. DISCUSSIONS AND FINDINGS:

7.1. The applicant believes that the services of transportation of students and staff of college to and from college by non-air conditioned buses under contract carriage will be covered under "transportation of passengers by non-air conditioned contact



carriages" which is exempted from payment of tax as per Sl. No. 15(b) of Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017.

7.2 The Applicant has submitted a copy of Agreement with Chameli Devi Institute of Technology and Management, Khandwa Road, Indore. As per said agreement, the vehicles to be provided by the applicant under contract carriage to the said Institute are non-air conditioned and are for transportation of students and staff of the said Institute.

7.3 The Sl. No. 15 of Notification No. 12/2017-Central Tax (Rate) dated 28.6.2017 reads as under :

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-airconditioned 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
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7.4 As per clause (b) of above Sl. No. 15 of Notification No. 12/2017-Central Tax (Rate), dated 28.6.2017, the services of transportation of passengers, with or without accompanied belongings, by non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire is exempt from GST.

7.5 In Para 2(t) of Notification No. 12/2017-Central Tax (Rate), dated 28.6.2017, the term Contract Carriage has been defined as under :

(t) "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);

In clause (7) of Section 2 of the Motor Vehicles Act, 1988, the contract carriage has been defined as under :

"(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 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 motor-cab notwithstanding that separate fares are charged for its passengers;"

7.6 Considering the various clauses of the Agreement entered into by the applicant with Chameli Devi Institute of Technology and Management, Indore, it is clear that the applicant is providing the services of transportation of students and staff of the contracee's Institute under contract carriage, and the said transportation of students and staff is by non-air conditioned buses. Therefore, it will be exempt from GST as per clause (b) of Sl. No. 15 of Notification No. 12/2017-Central Tax (Rate), dated 28.6.2017.

7.7 As the answer to Question No. 1 is in affirmative, therefore, the applicant's Question No. 2 is not being considered.

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 Services provided by the applicant for transportation of students and staff of the contracee's Institute under contract carriage by non-air conditioned buses is exempt from GST as per clause (b) of Sl. No. 15 of Notification No. 12/2017-Central Tax (Rate), dated 28.6.2017. However the exemption will be valid only till the time the contract carriage fulfils the conditions laid down in the said notification.
- 8.2 As the answer to Question No. 1 is in the affirmative, therefore, the Question No. 2 is not being replied.
- 8.3 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.

sf
RAJIV AGRAWAL
(MEMBER)

sf
MANOJ KUMAR CHOUBEY
(MEMBER)

Copy to:- No. 13/2019/A.A.R/R-28/35

INDORE dt. 25/09/2019
सत्यप्रतिलिपि

1. Applicant
2. The 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

Manoj

