



**RAJASTHAN AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX**

**KAR BHAWAN, AMBEDKAR CIRCLE, NEAR
RAJASTHAN HIGH COURT
JAIPUR – 302005 (RAJASTHAN)**



ADVANCE RULING No. RAJ/AAR/2020-21/08

J.P.Meena Additional Commissioner	:	Member (Central Tax)
Hemant Jain Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s Jeet & Jeet Glass and Chemicals Pvt. Ltd, F-75 A, Road No.1 C(5), VKI Area, Jaipur, Rajasthan 302013.
GSTIN of the applicant	:	08AAACJ4816C1ZX
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	a. Classification of goods and /or services or both
Date of Personal Hearing through video conference	:	17.08.2020
Present for the applicant	:	Shri R Krishnan, Advocate (Authorised Representative)
Date of Ruling	:	24 .08.2020

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.



At the outset, we would like to make it clear that the provisions of both the CGST Act and the RGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the RGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / RGST Act would be mentioned as being under the "GST Act".

- The issue raised by *M/s Jeet&Jeet Glass and Chem. P. Ltd., F-75 A, Road No.1 C (5), VKI Area, Jaipur*-(hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2) (a) given as under: -

a. Classification of goods and /or services or both

- Further, the applicant being a registered person (GSTIN is 08AAACJ4816C1ZX as per the declaration given by him in Form ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. Based on the above observations, the applicant is admitted to pronounce advance ruling.

A. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

1. The applicant is engaged in the manufacture of Bullet proof glass, bullet proof Vehicles, Lectern etc in their factory. Besides, applicant is also undertaking armouring by body building on the chassis of vehicles supplied by the customers mainly the army/police etc. using bullet proof steel and glass. Vehicles of 2.5Ton or higher capacity owned by the customer (army/police) are supplied to the applicant and these vehicles have either metal (partial or full) or partially metal and partially Tarpaulin covered cargo compartments. Photograph of the vehicles supplied by the customer have been submitted;
2. that for the purpose of bullet proofing of these vehicles, applicant first of all removes the existing metal/ tarpaulin cover on the rear cargo



compartment making the cargo compartment completely naked so to say except the flooring part. At this stage the vehicle resembles a chassis virtually and for all practical purposes so that the body can be built on the cargo portion as per the specific requirement of the customer with bullet proof steel, glass, and other fixtures to stack the weapons, seating for the personnel to be carried, providing firing ports, turrets etc. On the driver cabin, bullet proof windshield with bullet proof steel frame is fixed, driver cabin doors are fixed with bullet proof glass and bullet proof steel sheets on existing front body. In addition, bullet proofing of the engine compartment and fuel tank also are to be done;

3. that the activity encompasses:

a) fitting of bullet proof frame / glass in the driver cabin; bullet proofing with steel and glass of driver doors, bullet proofing of engine bonnet cover;

b) armouring of rear portion of the driver

c) bullet proofing of the cargo compartment (substantial part of the work in terms of quantity of goods and value involved in the body to be built on the cargo portion only);

4. that the applicant started executing the work by charging 28% (14% plus 14%) IGST by classifying the work under the "goods" category namely under the goods tariff heading no. 87079000;

5. that however, Director of Audit Defence Services, Northern Command Jammu, raised an audit objection at the customer end, that the work done on the chassis supplied by HQ Northern Command C/o 56 APO, attracts GST of only 18% (9 % + 9%) in as much as the job work on the chassis owned/ supplied by the HQ Northern Command for body building would attract only tax of 18% and not 28% and hence in respect of the work done for which payment was made, excess tax of Rs. 81,24,442 (in respect of the applicant's work being done on the 2.5 Ton vehicles) has been charged by the applicant and this excess



- amount has to be recovered from the applicant. The audit observation in substance was that the activity of body building on the chassis owned and supplied by the Northern Command 56 APO would be classifiable as supply of "service" under service category 9988;
6. that as a consequence, the customer has written to the applicant that the applicant has wrongly charged GST at 28% whereas GST @ of only 18% should have been charged and thus are seeking from the applicant refund of excess GST charged from them as pointed out by their audit department. Since the order is to be completed in phases, the applicant, though charged 28% (for 79 vehicles completed till date), the customer released the payment @18% (for 25 vehicles from the supplied 79 vehicles), and remaining 54 vehicles were paid @28%;
 7. that when the applicant approached their Range/divisional office on the matter, applicant was advised to seek a ruling from the Authority for Advance Ruling as that is the proper way out provided by the Act;
 8. that the vehicles are owned and supplied free of cost to the applicant for the purpose of body building with bullet proof steel sheets / glass in addition to providing bullet proof wind shield glass in the driver cabin, bullet proof steel cover for the engine and fuel tank. The photograph of the bullet proof body built vehicle clearly shows that a substantial part of the work is nothing but body building on the chassis of the vehicles. By pulling down the tarpaulin and partial metal portion of the cargo compartment, the motor vehicle supplied is first stripped to the level of the chassis. The service heading No. 9988 covers manufacturing services on physical inputs (goods) owned by others) as services by way of job work in relation to body building on chassis of any vehicle falling under chapter 87 of the First Schedule to the Customs Tariff Act, 1975;
 9. that the principal/essential supply is thus body building on the chassis supplied by the customer even if the whole work is treated as a composite supply as substantial work in terms of the value and quantity of the bullet proof steel and glass used is on the body built on the chassis and without the body being built there cannot come



into existence a bullet proofed vehicle complete in all respects with the body being a component part of the vehicle;

that the statutory provisions in this regard are: -

- (i) Under Section 2(68) of the CGST and SGST Act, the term job work means “any treatment or process undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”
- (ii) Para 3 of the Schedule II of the CGST Act, specifies certain activities to be treated as supply of goods or supply of services - ‘Any treatment or process which is applied to another person’s goods is treated as a supply of service.
- (iii) Explanation to Section 143 of the CGST/SGST Act, 2017 also provides that “For the purpose of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.”

Admittedly, the chassis belongs to the customer and what is being done by the applicant is building of body with bullet proof steel and glass, ownership of the chassis always remaining with the customer;

11. that the CBIC in its Circular bearing No. 52/26/2018-GST, dated 9-8-2018, has clarified what would be the applicable GST rate for bus body building activity under the following two situations.

“12.2(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.

12.2(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).”

The first situation being the supply of goods attracts GST @ 28% and the second situation being the supply of service attracts GST @ 18%. But,



pending the decision by the AAR, applicant continues to discharge @28% tax under the "Goods" classification under chapter heading 87; that the following rulings are relied upon in this regard:-

- a) *In re Tata Marcopolo Motors Ltd 2019 27 GSTL AAR GST 283 (Karnataka)*
- b) *In re Sanghi Bus (Indore) pvt. Ltd. 2019 27 GSTL 136 GST AAR M. P*
- c) *In re Rohan Coach Builders 2019 26 GSTL 525 (AAR GST M.P.)*
- d) *Automobile Corpn. Of Goa Ltd. 2018 18 GSTL 359 (AAR GST), Goa*
- e) *In re Kondoly Auto craft India Pvt. Ltd. 2019 26 GSTL 525 AAR GST (MP)*

Thus, the advance ruling above cited fully support the stand of the applicant that the activity of building body with bullet proof steel, glass etc. amounts to supply of service under the head job work under service head 9988 and therefore the prayer of the applicant is that the AAR be pleased to confirm in its Ruling that the activity of body building with bullet proof steel glass and other fitments on chassis of vehicles supplied by the customer(who are the owners of the chassis) would merit classification under service head SAC 9988 (ic) and accordingly would attract tax of 18 (9%+9%).

In respect of supplies already made charging 28% GST (14% +14%) under goods classification 8707, only the customer is entitled to file a refund application as the tax has been borne by the customer as per law well settled in this regard and more importantly, because as far as the applicant is concerned they have already collected the tax at 28% per cent and remitted the same to the department also and hence they cannot file the refund claim, having passed on the tax burden already to the customer.

B. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT

1. Whether the activity of bullet proof body building (in addition to fixing bullet proof windshield glass, bullet proofing of engine and fuel tank) on the motor vehicles (2.5 Ton capacity) of Chapter heading 87 of the Customs Tariff Act, 1975, supplied by the customer (i.e. free supply) having Tarpaulin cover in the cargo compartment, is classifiable as supply of service under service classification head 9988 (ic) or 9988 (id) of the GST tariff attracting CGST and SGST of 9% + 9% / IGST of 18% under the provisions of the CST Act/ IGST Act 2017?
2. Since the applicant has already charged IGST @ 28% by classifying the supply as supply of goods under GST tariff for goods heading 8707, whether the customer should claim the refund from the department or the applicant should lodge the claim the refund, in the event of the above classification being upheld by the AAR?

C. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 14.08.2020 through video conference but due to heavy rainfall in Jaipur the same was conducted on 17.08.2020. Shri R. Krishnan Advocate (Authorised Representative) of applicant appeared for personal hearing. During the personal hearing, he reiterated the submissions already made in the application. He further requested that the case may be decided at the earliest.

D. COMMENTS OF THE JURISDICTIONAL OFFICER:

The jurisdictional officer i.e. the Deputy Commissioner, CGST Division A, CP 21,22,23 Road No. 1D, VKI Industrial Area, Jaipur, Rajasthan has submitted his comments vide letter dated 26.05.2020 which are reproduced as under:-

Point :- 1

On examination of the application and relevant documents, it is observed that the applicant is engaged in manufacturing of Bullet proof



glass, bullet proof vehicles, Lectern etc in their factory. Besides, applicant is also undertaking armouring by body building on the chassis of vehicles supplied by the customers mainly Army and Police. The vehicles are owned and supplied free of cost to the applicant for the purpose of body building with bullet proof steel sheets/ glass in addition to providing bullet proof with shield glass in driver cabin, bullet proof steel cover for engine and fuel tank.

After acceptance of tender, supply order has been issued to the applicant by the Army Hqrs. and applicant started executing the work as per the supply order/ specification given to them by charging 28% (CGST+SGST or IGST) by classifying the work under the 'goods' namely under the goods tariff heading no. 87079000. This tariff heading 8707 reads as follows:

- 8707 : Bodies including cabins for motor vehicles of heading 8701 to 8705
- 87071000 : For vehicles of heading 8703
- 87079000 : For others

Statutory provisions in this regard are:

- (i) Section 2(68) of CGST Act, 2017, the term job work means "any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be constituted accordingly".
- (ii) Para 3 of the Schedule II of the CGST Act, 2017, specifies certain activities to be treated as supply of goods or supply of services - "Any treatment or process which is applied to another person's goods is treated as supply of service".
- (iii) Explanation to Section 143 of CGST Act, 2017 also provides that "For the purpose of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker"
- (iv) CBIC vide Circular No.52/26/2018-GST dated 09.08.2018 issued under F.No.354/255/2018-TRU (Part-2) has also clarified what

would be the applicable GST rate for bus body building activity under the following two situations:

"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).

In the above context, it is hereby clarified that in case as mentioned at Para (a) above, the supply made is that of bus, and accordingly supply would attract GST @ 28%. In the case as mentioned at Para (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."

In view of the above provisions of law and clarification by the CBIC, the activity of building body with bullet proof steel, glass etc. on the chassis supplied by the OEMs(principal) on delivery challan or any other owner of the chassis on which bullet proofing will be fabricated by collecting job work charges including inputs required for such fabrication work and in no case the ownership of the





chassis will be transferred by principal to the applicant, amounts to supply of service under the head job work service under chapter 9988(ic) vide Notification 20/2019-Central Tax (Rate) dated 30.09.2019 vide which the principal notification 11/2017- Central Tax (Rate) dated 28.06.2017 was amended which is as under
'(ic) Service by way of job work in relation to bus body building is 9% CGST "

POINT:- 2

It is submitted that as per Section 97 of CGST/SGST Act, 2017, Advance Ruling can be obtained regarding taxability, classification, rate of tax, exemption notification, determination of time and value of supply, ITC and Registration etc. under GST for supply of goods and Service. Since the issue related to refund is not covered under the provisions/ ambit of AAR, no comment is being offered for the point.

E. FINDINGS, ANALYSIS & CONCLUSION:

1. We have considered the submissions in their application and during the personal hearing made by the applicant, we observe that, the applicant is engaged in the manufacture of Bullet proof glass, bullet proof Vehicles, Lectern etc. in their factory. Besides, applicant is also undertaking armouring by body building on the chassis of vehicles supplied by the customers mainly the army/police etc. using bullet proof steel and glass. Vehicles of 2.5 Ton or higher capacity owned by the customer (army/police) are supplied to the applicant and these vehicles have either metal (partial or full) or partially metal and partially Tarpaulin covered cargo compartments.
2. The applicant for the purpose of bullet proofing of these vehicles, first of all removes the existing metal/ tarpaulin cover on the rear cargo compartment making the cargo compartment completely naked so to say except the flooring part. At this stage the vehicle resembles a chassis virtually and for all practical purposes so that the body can be built on the cargo portion as per the specific requirement of the



customer with bullet proof steel, glass, and other fixtures to stack the weapons, seating for the personnel to be carried, providing firing ports, turrets etc. On the driver cabin, bullet proof windshield with bullet proof steel frame is fixed, driver cabin doors are fixed with bullet proof glass and bullet proof steel sheets on existing front body. In addition, bullet proofing of the engine compartment and fuel tank are also to be done.

3. The activity carried out by the applicant thus encompasses:
 - a) fitting of bullet proof frame / glass in the driver cabin; bullet proofing with steel and glass of driver doors, bullet proofing of engine bonnet cover;
 - b) armouring of rear portion of the driver
 - c) bullet proofing of the cargo compartment (substantial part of the work in terms of quantity of goods and value involved in the body to be built on the cargo portion only).
4. The applicant classifies the work done by it under the “goods” category bearing HSN 87079000 with GST @ 28%.
5. Further, it is submitted by the applicant that, Director of Audit Defence Services, Northern Command Jammu, has raised an audit objection, that the work done on the chassis supplied by HQ Northern Command C/o 56 APO, attracts GST of only 18% in as much as the job work on the chassis owned/ supplied by the HQ Northern Command for body building would attract only tax of 18% and not 28% and hence in respect of the work done for which payment was made, excess tax of Rs. 81,24,442 (in respect of the applicant’s work being done on the 2.5 Ton vehicles) has been charged by the applicant. The audit observation in substance was that the activity of body building on the chassis owned and supplied by the Northern Command 56 APO would be classifiable as supply of “service” under service category 9988.



6. As a consequence, the customer has written to the applicant that the applicant has wrongly charged GST at 28% whereas GST @ of only 18% should have been charged and thus are seeking from the applicant refund of excess GST charged from them as pointed out by their audit department. Since the order is to be completed in phases, the applicant, though charged 28% (for 79 vehicles completed till date), the customer released the payment @ 18% (for 25 vehicles from the supplied 79 vehicles), and remaining 54 vehicles were paid @ 28%.

7. We find that, the Job Work as defined under Section 2(68) has been considered a Supply of Service. That, the Schedule-II of CGST Act, 2017 and Explanation to Section 143 of the Act *ibid* also supports the same. The relevant portion of the said sections and schedule is as under—

Section 2(68), the term job work means “any treatment or process undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”

Para 3 of the Schedule II of the CGST Act, specifies certain activities to be treated as supply of goods or supply of services - ‘Any treatment or process which is applied to another person’s goods is treated as a supply of service.

Explanation to Section 143 of the CGST/SGST Act, 2017 also provides that “For the purpose of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.”

8. We further observe that, the CBIC in its Circular bearing No. 52/26/2018-GST, dated 09.08.2018, has clarified that 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. The relevant portion of the Circular is as 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 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%.

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 instant 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.”


In view of the Para 7 and above excerpts of Circular, it is concluded and clear that the activity of job work consisting of fabrication including of bullet proof work done on chassis provided by the Principal (ownership of which always remains with Principal) is a supply of Service attracting GST @ 18%.

9. Further it is observed that as per Section 97(2) of CGST Act, 2017, Advance Ruling can be obtained only regarding taxability, classification, rate of tax, exemption notification, determination of time and value of supply, ITC and Registration etc. under GST for supply of goods and Services. Since, the applicant has sought ruling on issue of refund of tax which is outside the purview/scope of this Authority as defined under Section 97(2) of the act *ibid*.


F. In view of the foregoing, we rule as follows: -

RULING

1. The activity carried out by the applicant by making bullet proof body building (in addition to fixing bullet proof windshield glass, bullet proofing of engine and fuel tank) on the motor vehicles (2.5 Ton capacity) of Chapter heading 87 of the Customs Tariff Act, 1975, supplied by the customer (i.e. free supply) having Tarpaulin cover in the cargo compartment, is a supply of Service attracting GST 18% (SGST 9% + CGST 9%).
2. The question related to refund of tax is outside the purview/scope of this Authority under Section 97(2) of CGST Act, 2017 hence, no ruling is given.


J.P. MEENA
Member
(Central Tax)
24/8/2020




HEMANT JAIN
Member
(State Tax)
24/8/2020

SPEED POST

M/s Jeet & Jeet Glass and Chemicals Pvt. Ltd,
F-75 A, Road No.1 C (5),
VKI Area, Jaipur, Rajasthan 302013.

Copy to:-

- ✓ 1. The Chief Commissioner, CGST and Central Excise, Jaipur Zone, NCRB, Statue Circle, Jaipur-302005 (Raj.)
2. The Commissioner, State Tax, KarBhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme, Jaipur-302005 (Raj.)
3. The Commissioner, Central Tax, CGST & Central Excise Commissionerate, Jaipur, NCRB, Statue Circle, Jaipur-302005 (Raj.)
4. The Deputy Commissioner, CGST Division-A, CP 21,22,23, Road No. 1D, VKI Industrial Area, Jaipur, Rajasthan.