



सत्यमेव जयते

**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/2019-20/19

J.P.Meena Additional Commissioner	:	Member (Central Tax)
Hemant Jain Joint Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s K M Trans Logistics Private Limited; D-80, Chandpole, Anaj Mandi, Jaipur, Rajasthan, 302001
GSTIN of the applicant	:	08AACCK0420F1Z4
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	b. applicability of a notification issued under the provisions of the Act; d. admissibility of input tax credit of tax paid or deemed to have been paid;
Date of Personal Hearing	:	23.08.2019
Present for the applicant	:	Shri Alok Kumar Kothari, Advocate (Authorised Representative)
Date of Ruling	:	29.08.2019

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 K M Trans Logistics Private Limited; D-80, Chandpole, Anaj Mandi, Jaipur, Rajasthan, 302001* (hereinafter the applicant) is fit to pronounce advance ruling as it falls under the ambit of the Section 97(2)(b) & (d) given as under:
 - b. applicability of a notification issued under the provisions of the Act;
 - d. admissibility of input tax credit of tax paid or deemed to have been paid;

Further, the applicant being a registered person (GSTIN is 08AACCK0420F1Z4 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.

1. SUBMISSION AND INTERPRETATION OF THE APPLICANT:

- The applicant who is the service provider is having the registered office at Jaipur Rajasthan and providing transport services to various manufacturers of motor vehicles for carrying their vehicles from the factory to the various cities in India where the authorised dealers are located.
- The applicant has entered into an agreement with various parties and will be providing transportation services with own vehicles but without having LR/GR. And therefore the service



will be non GST Supply. Hence no levy of GST from the service user and there is no question of payment of GST over the Services.

- Since there will be no GST over services in particular cases where there issuance of LR/GR the question will arise about mode of availment of common Input Credit as explained below:-

That the vehicles used by the applicant will be commonly used for GST and Non GST supply. In addition to it there will be common use of Input services by the applicant.

- The Rule 42 of the CGST Rules 2017 defines the mechanism of manner of availing Input Tax Credit in cases where input or input services are being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies.
- The term 'exempt supply' is defined at Section 2(47) of the CGST Act 2017 "exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes nontaxable supply"
- In the light of the definition of the exempt supply which also includes non-taxable supply Rule 42 provisions will also apply in the applicant case where there is consumption of common input and input services and there is a supply of GST and Non GST supplies. Hence credit will be availed proportionately as per the provisions of Rule 42 ibid.

2. QUESTIONS ON WHICH THE ADVANCE RULING IS SOUGHT:



- Does Transportation by own vehicles on the basis of Invoice(s) and E-way Bill without issuing the LR/GR by the Applicant Transporter will covered under exempted supply/non GST supply.
- Does Rule 42 of the CGST Rules 2017 will also apply in case where there is GST and Non GST Supplies and there is a common consumption of input and input services?

3. PERSONAL HEARING

In the matter personal hearing was granted to the applicant on 23.08.2019 at Room no. 2.29 NCRB, Statue Circle, Jaipur. On behalf of the applicant Shri Alok Kumar Kothari, Advocate (Authorized Representative) appeared for PH. During the PH he reiterated the submissions already made in the application for advance ruling and requested that the case may be decided at the earliest.

4. COMMENTS OF THE JURISDICTIONAL OFFICER

The comments by jurisdiction officer (Assistant Commissioner, Circle-G, Ward-2, Commercial Taxes Department, Kar-Bhawan, Jhalana Institutional Area, Jaipur, Rajasthan 302004) vide letter dated 21.08.2019 are summarized as under:

1(a) No, GST on freight charges in India is applicable only for the following cases:-

- *Transport of agricultural produce.*
- *Transport of milk, salt, food grains including rice, flour, pulses.*
- *Transport of organic manure.*



- *Transport of newspapers or magazines register with the Register of Newspaper.*
- *Transport of relief materials for victims of natural or man-made disasters calamities accident of mishaps.*
- *Transport of Transport of defence or military equipment*
- *Transport of any goods, where the gross amount charged for Transportation for consignment transported in a single carriage is less than Rs. 1500*

1(b). *Transport of goods by road other than by a GTA or a courier agency are exempt from tax under entry no. 18 of Notification No. 12/2017 of GST(Rate) dated 28.06.2017.*

2. *The input tax credit of goods or services or both attributable only to taxable supplies can be taken by registered person in the manner calculation of eligible credit as providing in Rule 42 of the GST Rules, 2017.*

5. FINDINGS, ANALYSIS & CONCLUSION:

A. We find that the applicant having its registered office at Jaipur, Rajasthan providing transport services to various manufacturers of motor vehicles for carrying their vehicles from the factory to the various cities in India where the authorised dealers are located. The applicant has entered into an agreement with various parties and will be providing transportation services with own vehicles but without having LR/GR and therefore is claiming that the service provided by the applicant will be non GST Supply.

B. We find that the “transport services to various manufacturers of motor vehicles for carrying their vehicles from the factory to the various cities in India where the

authorised dealers are located” is a Goods Transport Agency (GTA) Service under GST Act, 2017.



The definition of Goods Transport Agency (GTA) under Notification No. 11/2017-Central Tax (Rate) Date 28.06.2017 (as amended from time to time) is as below:-

*“goods transport agency” means any person who provides service in relation to transport of goods by road and **issues consignment note**, by whatever name called.*

- ❖ A consignment note is a document issued by a GTA against the receipt of goods for the purpose of transporting the goods by road in a goods carriage. Where a consignment note is issued, it implies that the lien on the goods has been transferred and the transporter of the goods becomes responsible for the goods till it's safe delivery to the consignee.

A consignment note is serially numbered and contains –

- i. Name of consignor
- ii. Name of consignee
- iii. Registration number of the goods carriage in which the goods are transported
- iv. Details of the goods
- v. Place of origin
- vi. Place of destination.
- vii. Person liable to pay GST – consignor, consignee, or the GTA.

- ❖ Further, the applicant is carrying supplier's invoice and e-way bill while providing transport service. E-way bill is applicable as per provisions mentioned in Notification No. 12/2018-Central Tax dated 07.03.2018. The details in the format of e-way bill is as under:-



FORM GST EWB-01

(See Rule 138)

E-Way Bill

PART-A		
A.1	GSTIN of Recipient	
A.2	Place of Delivery	
A.3	Invoice or Challan Number	
A.4	Invoice or Challan Date	
A.5	Value of Goods	
A.6	HSN Code	
A.7	Reason for Transportation	
A.8	Transport Document Number	
PART-B		
B.	Vehicle Number	

Notes:

1. HSN Code in column A.6 shall be indicated at minimum two digit level for taxpayers having annual turnover upto five crore rupees in the preceding financial year and at four digit level for taxpayers having annual turnover above five crore rupees in the preceding financial year.
2. Transport Document number indicates **Goods Receipt Number** or Railway Receipt Number or Airway Bill Number or Bill of Lading Number.
3. Place of Delivery shall indicate the PIN Code of place of delivery.
4. Reason for Transportation shall be chosen from one of the following:
Code Description
1 Supply



- 2 *Export or Import*
- 3 *Job Work*
- 4 *SKD or CKD*
- 5 *Recipient not known*
- 6 *Line Sales*
- 7 *Sales Return*
- 8 *Exhibition or fairs*
- 9 *For own use*
- 0 *Others*

While going through the above contents of an e-way bill, we find that, the Transport Document Number as mentioned in note above is nothing but goods receipt number. To issue an E-way bill, it is mandatory to mention the transport document number in Part A8, without mentioning the same, e-way bill cannot be issued therefore it is mandatory for GTA to issue the transport document and without issuing LR/GR/consignment note, goods cannot be transported. Therefore the contention of the applicant of providing service without issuing LR/GR/consignment note is not correct and is not acceptable.

In view of the facts examined above, we find that the applicant is a GTA service provider under GST Act and is not exempted from paying GST and thus liable to pay GST as provided under Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 (as amended) read with Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017 (as amended).

- C. The applicant has submitted in his submission that he is engaged in providing GTA service for both i.e. supply of taxable goods as well as non-taxable or exempted goods (as defined under Section 2(47) of the GST Act 2017).

Section 17(2) of the GST Act, 2017 provides for Apportionment of Credit and Blocked Credits. The relevant provisions are as under:



17(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

Further, the Rule 42 of the GST Rules, 2017 defines the mechanism of manner of availing Input Tax Credit in cases where input or input services are partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies.

In view of facts stated above, where the goods or services or both used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies as per provisions and procedure prescribed under Section 17(2) of GST Act read with Rule 42 of GST Rules, 2017.

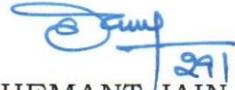
6. In view of the foregoing, we rule as follows:-

RULING

- The applicant is a registered GTA Service provider under GST and is not exempted from paying GST.
- Where the goods or services or both used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies as per provisions and procedure prescribed under Section 17(2) of GST Act read with Rule 42 of GST Rules, 2017.


J.P. MEENA 29/8/19
Member
(Central Tax)




HEMANT JAIN 29/8/19
Member
(State Tax)

SPEED POST

M/s K M Trans Logistics Private Limited;
D-80, Chandpole, Anaj Mandi,
Jaipur, Rajasthan, 302001

F. No. AAR/KMT/2019-20/140-143 Dated: 30-08-2019

Copy to:-

1. Commissioner, State Tax, Kar Bhawan, Bhawani Singh Road, Ambedkar Circle, C-Scheme-, Jaipur 302005.
2. Commissioner, Central Tax, Jaipur Commissionerate, NCRB, Statue Circle, Jaipur, Rajasthan 302005.
3. Deputy/Assistant Commissioner, Circle-G, Ward-2, Commercial Taxes Dept., Kar- Bhawan, Jhalana Institutional Area, Jaipur, Rajasthan 302004.