

**AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICE TAX
UTTAR PRADESH**

4, Vibhuti Khand, Gomti Nagar, Lucknow-

**ADVANCE RULING NO. UP ADRG 82/2021
PRESENT:**

DATED 30-06-2021

1. Shri Abhishek Chauhan

Additional Commissioner, Central Goods and Service Tax

Audit Commissionerate, Lucknow

.... Member (Central Tax)

2. Shri Vivek Arya

Joint Commissioner, State Goods and Service Tax

.....Member (State Tax)

1.	Name of the Applicant	M/s ADITHYA AUTOMOTIVE APPLICATIONS Pvt. Ltd. Vendors Industrial Park, Plot No. T2, Tata Motors Eastern Complex, Chinchhat Industrial Area, Deva Road, Lucknow-226019
2.	GSTIN or User ID	09AAFCA8545E1ZL
3.	Date of filing of Form GST ARA-01	18-03-2021
4.	Represented by	Shri Dushyant Kumar & Shri Vishal Srivastava (Both Authorized representative)
5.	Jurisdictional Authority-Centre	Range-I, Division-Lucknow -III
6.	Jurisdictional Authority-State	Lucknow, Sector-22
7.	Whether the payment of fees discharged and if yes, the amount CIN	Yes HDFC21020900465723

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 & UNDER SECTION 98
(4) OF THE UPGST ACT, 2017**

1. M/s ADITHYA AUTOMOTIVE APPLICATIONS Pvt. Ltd., Vendors Industrial Park, Plot No. T2, Tata Motors Eastern Complex, Chinchhat Industrial Area, Deva Road, Lucknow-226019 (here in after referred to as the applicant) is a registered assessee under GST having GSTN: 09AAFCA8545E1ZL.

2. The applicant is engaged in the body building and mounting of body on the chasis of different models of Tippers, Tankers, Trucks and Trailers. The applicant receives chasis of these items from TATA Motors and other customers on the basis of returnable challan. The applicant has described manufacturing process as under:-

- (a) Fabrication of steel sheets, hallow steel pipes, Round Steel pipes, angles and Channels of steel according to desired / required size.

- (b) Assembly/ joining of the above-mentioned fabricated pieces of iron and steel by way of welding with help of welding electrodes (copper coated wire) to give a shape of Tipper body.
- (c) Mounting/fixing of the assembled structure of the Tipper body on the chassis by welding with the help of welding electrodes and also in certain places with nuts and bolts.
- (d) Fixing of hydraulic kit by welding with help of welding electrodes (copper coated wire) for lifting the tipper body as and when required and finally finishing.

3. The applicant has further submitted that-

(a) The process for body building and mounting of the body involves procurement of miscellaneous inputs such as steel sheets, square tubes, windows, glasses, wiring harness, fittings inside body, paints, automobile parts from TATA Steels and other authorised steel/automobile dealers. These items are procured on payment of appropriate amount of GST which is claimed as ITC (input tax credit).

(b) The chassis of the Tippers, Tankers, and Trucks etc are received on free of cost basis, under the delivery challan. Hence the ownership of chassis always remains with the principal.

(c) The applicant is engaged in job work in terms of Section 2(68) of GST Act 2017 in relation to building and mounting of body on chassis

(d) accordingly it is charging GST @ 28% (CGST @14% + UPGST @14%) as per the Serial No.169 of schedule IV to the notification No.01/2017- Central Tax (Rate) dated 28.06.2017, on treating their supply as that of goods

(e) The CBIC vide Para 12.3 of circular no 52/26/2018-GST dated 09.08.2018 clarified that in the case as mentioned at para 12.2(b) of the said circular, if the body is fabricated on the chassis provided by the principal (not on account of body builder), then the supply would merit classification as service and attract 18% GST.

(f) The activity of applicant of mounting of body on chassis of trucks is entirely identical to that which is mounted on chassis of buses. The applicant is engaged in building and mounting of body on the chassis of Tippers, Trailers, Tankers provided by the Principal which requires fabrication, welding, painting etc and therefore the same amount to manufacturing service under service code no 998881 and therefore merits classification of service attracting 18% of GST.

4. The applicant has sought advance ruling on following questions-

- I. Whether the body building activity on the chassis provided by the principal would amount to manufacturing services attracting 18% of GST.
- II. Whether clarification of CBIC vide para no. 12.3 of Circular No. 52/26/2018-GST dated 09.08.2018 clarifying 18% rate of GST in respect of building of body of buses would also apply in the case of applicant.

5. As per declaration given by the applicant in Form ARA-01, the issue raised by the applicant is neither pending nor decided in any proceedings under any of the provisions of the Act, against the applicant.

6. The application for advance ruling was forwarded to the Jurisdictional GST Officer to offer their comments/views/verification report on the matter. The Deputy Commissioner, CGST & Central Excise Division III, Lucknow vide letter under F.No. GEXCOM/TECH/MISC/1757/2021-TECH-CGST-DIV-III-LKO-COMMRTE-LUCKNOW dated 28.06.2021 forwarded the comments/view submitted by the Superintendent Range-II, CGST, Division-Lucknow III wherein it was informed that activity of fabrication/mounting of body on chassis provided by customers attract GST @ 18% relying on order no. 09/2020 dated 02.06.2020 of AAR Madhya Pradesh. It is also informed that no proceedings on the question raised by the applicant are pending.

7. The applicant was granted a personal hearing on 15.06.2021 which was attended by Shri Dushyant Kumar & Shri Vishal Srivastava (authorized representative) through video conferencing during which they reiterated the submissions made in the application of advance ruling.

DISCUSSION AND FINDING

8. At the outset, we would like to make it clear that the provisions of both the CGST Act and the UPGST 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 UPGST Act. Further for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / UPGST Act would be mentioned as being under the 'CGST Act'.

9. We have gone through the Form GST ARA-01 filed by the applicant and observed that the applicant has ticked following issues on which advance ruling required-

- (1) classification of any goods or services or both;*
- (2) applicability of a notification issued under the provisions of this Act;*
- (7) 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 or services or both, within the meaning of that term.*

We find that the issue raised in the application is squarely covered under Section 97(2) of the CGST Act 2017. We therefore, admit the application for consideration on merits.

10. We have gone through the submissions made by the applicant and have examined the same. We observe that the applicant has sought advance ruling on the following questions-

- I. Whether the body building activity on the chassis provided by the principal would amount to manufacturing services attracting 18% of GST.
- II. Whether clarification of CBIC vide para no. 12.3 of Circular No. 52/26/2018-GST dated 09.08.2018 clarifying 18% rate of GST in respect of building of body of buses would also apply in the case of applicant.

11. The applicant is engaged in building and mounting of body on the chassis of Tipper, Trailers, Tankers provided by the Principal which requires:-

- (a) Fabrication of steel sheets, hollow steel pipes, Round Steel pipes, angles and Channels of steel according to desired / required size.
- (b) Assembly/ joining of the fabricated pieces of iron and steel by way of welding to give a shape of Tipper body.
- (c) Mounting/fixing of the Tipper body on the chassis by welding and with nuts and bolts.
- (d) Fixing of hydraulic kit by welding for lifting the tipper body and finally finishing.

12. We proceed to examine the applicability of **Circular No. 52/26/2018 – GST dated 09-08-2018**, on which the applicant has placed reliance for applicable rate of GST on body building of vehicle. The relevant portion of the Circular is as under:

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 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.

13. The said circular clarify that GST applicable on the activity of bus body building on job work basis is 18%. As such, the body building on job work basis is pre-requisite for applicability of GST rate of 18%. As per "Section 2 (68) of the CGST Act, 2017, "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". The definition of Job Work has three major limbs which is the basis for classifying any supply under the scope of Job Work i.e.

- i. Treatment or Process
- ii. By any Person on Goods
- iii. Belonging to another Registered Person.

14. We find that the applicant has submitted in Form ARA-01 that the process for body building and mounting of the body involves procurement of miscellaneous inputs such as steel sheets, square tubes, windows, glasses, wiring harness, fittings inside body, paints, automobile parts from the principal. Thus, it is amply clear that the applicant builds the body on chassis by purchasing all materials required for body building of the vehicle. The applicant is receiving only chassis and all inputs/materials required for fabrication of the body has to be used by the applicant from its own account. It is observed from the sample tax invoice of the principal issued to the applicant that there is mention of value of chassis, GST amount and total amount. It indicates that the ownership of chassis has been transferred to the applicant by the principal. Moreover, Tax Invoice issued by the applicant to the principal has mention of description of goods along with Body Serial No. as well as charging GST rate of 28%. As such, it is clear that there is supply of the body of the vehicle in the said transaction. Further, the intention of circular dated 09.08.2018 is to cover the situation in Para 12.2(b) wherein body is being built on the chassis provided by the principal and significant part of the work relates to supply of service rather than supply of material. The fact gets pretty clear when circular in situation 12.2(b) refers that body builder recover fabrication charges including certain material that was consumed during the process of job work. However, in the instant case, the dominant character of work relates to supply of goods rather than supply of service. As such, this case is not covered under circular No. 52/26/2018 - GST dated 09-08-2018.

15. We also find that 'job work' and 'manufacture' have been separately defined under Section 2(68) and Section 2(72) respectively of the CGST Act, 2017. As per Section 2(72) of the CGST Act, 2017 "*manufacture*" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "*manufacturer*" shall be construed accordingly. As per Chapter note 6 of the Chapter 87 of the First schedule to the Central Excise Tariff Act, 1985, building a body or fabrication or mounting or fitting of structures or equipment on the chassis falling under heading 8706 shall amount to 'manufacture' of a motor vehicle. As such, body building activity by the applicant on the chassis of the principal is neither job work nor manufacturing service.

16. We are of the view that the CBIC Circular No. 34/8/2018-GST, dated 1-3-2018 is relevant to the instant case, which has clarified as under :

S. No.	Issue	Clarification
1.	Whether activity of bus body building, is a supply of goods or services?	In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.

17. The relevant provisions of the CGST Act, 2017 are as under-

(i) As per Sec. 2(30), "composite supply" means "supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply".

(ii) As per Sec. 2(90), principal supply means, "the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary".

(iii) Sec. 8(a) determines tax liability on composite supply, which reads as under :-

"The Tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;"

18. We find that all inputs required for fabrication of vehicle-body (Tippers, Trailers, Truck, Tankers) on chassis are procured by the applicant and fabricated vehicle-body mounted on the chassis is supplied by the applicant. Therefore, in the instant case, it is a supply of body of the vehicle and the activity of fitting/mounting of vehicle-body on chassis is an ancillary activity to the principal activity of supply of vehicle-body. Hence, in terms of the clarification issued by the CBEC vide circular No. 34/8/2018-GST, dated 1-3-2018, the impugned activity is a composite supply, with principal supply being supply of body of the vehicle.

19. In view of the above discussions, we, both the members unanimously rule as under;

RULING

20.

Que 1. Whether the body building activity on the chasis provided by the principal would amount to manufacturing services attracting 18% of GST.

Answer- No.

Que.2 Whether clarification of CBIC vide para no. 12.3 of Circular No. 52/26/2018-GST dated 09.08.2018 clarifying 18% rate of GST in respect of building of body of buses would also apply in the case of applicant.

Answer- No.

21. This ruling is valid only within the jurisdiction of Authority for Advance Ruling Uttar Pradesh and subject to the provisions under Section 103(2) of the CGST Act, 2017 until and unless declared void under Section 104(1) of the Act.


(Vivek Arya)

Member of Authority for Advance
Ruling


(Abhishek Chauhan)

Member of Authority for Advance
Ruling

To,

M/s Adithya Automotive Application Pvt Ltd,
Vendors Industrial Park, Plot No. T2
Tata Motors Eastern Complex
Deva Road, Lucknow
UP- 226019

AUTHORITY FOR ADVANCE RULING –UTTAR PRADESH

Copy to –

1. The Chief Commissioner, CGST & Central Excise, Lucknow, Member, Appellate Authority of Advance Ruling.
2. The Commissioner, Commercial Tax, Uttar Pradesh, Member, Appellate Authority of Advance Ruling.
3. The Commissioner, CGST & C. Ex, 7-A, Ashok Marg, Lucknow, 226001
4. The Deputy/Assistant Commissioner, CGST & Central Excise, Division-Lucknow III, 12th Floor, Kendriya Bhawan, Aliganj, Lucknow 226024
5. Through the Additional Commissioner, Gr-I, Commercial Tax, Lucknow II, Uttar Pradesh to jurisdictional tax assessing officers.

Note: An Appeal against this advance ruling order lies before the Uttar Pradesh Appellate Authority for Advance Ruling for Goods and Service Tax, 4, Vibhuti Khand, Gomti Nagar, Lucknow – 226010, within 30 days from the date of service of this order.