

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

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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	23AAECS9992C1Z5
Name and address of the applicant	ARPIJAY FABRICATORS PVT. LTD. 6, MANORAMA GANJ, INDORE (M.P.)
Date of Application	19.04.2018
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; e) determination of the liability to pay tax on any goods or services or both;
Date of Personal hearing	22.06.2018
Present on behalf of applicant	Shri Krishan Garg, CA; Shri Praveen Gupta, Accounts Manager & Shri K. Soni, Assistant Manager
Case Number	07/2018
Order dated	30.06.2018
Order No.	04/2018

PROCEEDINGS

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



1. At the outset we would like to make it clear the provisions of both the CGST Act, 2017 and the MPGST Act, 2017 are the same except for certain provisions. Therefore, unless a mention is specifically made to such similar provisions, a reference to the CGST Act, 2017 would also mean a reference to the same provisions under the MPGST Act, 2017.

2. BRIEF FACTS OF THE CASE:

- 2.1. M/s. Arpijay Fabricators Private Limited (hereinafter referred to as 'the Applicant'), having their registered office at 6, Manoramaganj, Indore and works at Plot No.506, 507, 508-A, 509 Sector III, Industrial Area, Pithampur District-Dhar (M.P.) are registered with the GSTN holding GSTIN 23AAECS9992C1Z5.
- 2.2. The Applicant is engaged in building bodies of various vehicles over the chasis provided by their principal on job work basis. During the course of carrying out the process of body building, the Applicant are consuming their own material. The Applicant have contended that as per their understanding they are working as a job worker and accordingly the ensuing transaction is covered under Service category.
- 2.3. Thus the Applicant have approached the Authority for limited and specific ruling about classification of their activity of Body Building on the chasis supplied by the Principal, which is undertaken as a job work, though utilising and consuming tangible material from their (Applicant's) end for fulfilling the job work.

3. QUESTIONS RAISED BEFORE THE AUTHORITY:

The following questions have been posed before the Authority, with reference to the activity undertaken by the Applicant:

- 3.1. *Whether the supply made by us is to classified as supply of goods or supply of services?;*
- 3.2. *What would be the appropriate classification and applicable rate of tax for the above transaction?*

4. DEAPRTMENT'S VIEW POINT:

Central/MPGST Act, 2017 section 2 read with section 8-in the case of bus body building there is supply of goods and services. Thus, classification of the composite supply as goods or service would depend on which supply is the principle supply which may be determined on the basis of facts and circumstances of each case.

5. RECORD OF PERSONAL HEARING:

- 5.1. Shri Krishan Garg, CA; Shri Praveen Gupta, Accounts Manager of the Applicant and Shri S. Soni, Assistant Accounts Manager of the Applicant appeared on behalf of the applicants for personal hearing on 22.06.2018 and reiterated the submissions already made in the application. They also sought a day's time to submit additional submission in respect of the questions posed before the Authority.
- 5.2. Shri Praveen Gupta, Accounts Manager of the Applicant submitted a letter dtd.23.06,2018 mentioning additional submissions for consideration. It was submitted that '*... for fabricating the bus body, we first make the pipe structure and mount the same on the chasis. Outer panelling is done with GP Sheet and interior panelling with colour coated GP sheets. Flooring with chequered plywood. After primer painting, the final coat of paint is applied. In this case body is not made separately but is fabricated on chasis itself. Body requirement (mainly interior) differ from party to party.*
- 5.3. It was further submitted that



'thus it can be seen from above that fabrication and other work is done on chasis itself. It is not the case that any readymade body is fitted on chasis given by the owner.'

'It is important to note during this whole process, ownership of chasis always remains with the person who has given us job work for making body on chasis. Thus it is not the case of only supply of goods.'

We, therefore of the view that supply made by us is a composite supply of goods and services, however, since the predominant intention of the buyer here is to get services, hence it should be classified as services and should be charged GST @18%'

6. DISCUSSIONS AND FINDINGS:

6.1. We have carefully considered the submissions made by the applicant in the application. We find that the activity and the question raised before us has been suitably clarified and dealt with in Circular No.34/08/2018-GST dtd.01.03.2018, where in the Fitment Committee to GST Council in its meeting held on 9th, 10th & 13th January has clarified this particular issue. The same is reproduced hereunder-

ISSUE – Whether activity of Bus Body Building, is a supply of goods or services?

CLARIFICATION - 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.

6.2. Having regard to the Circular referred above, there is hardly anything left for the Authority to decide. The issue has been set to rest by the clarification. Accordingly, the activity undertaken by the Applicant has to be treated as 'Composite Supply' as defined under Section 2(30) of the CGST Act 2017 and corresponding entry in MPGST Act, 2017, which is reproduced as under-

"Composite Supply" means a 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."

6.3. Further, as regards tax liability on composite supply, Section 8(a) of the CGST Act 2017 provides that "a composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;" The term 'Principal Supply' has been categorically defined under Section 2(90) of the CGST Act 2017 and corresponding entry in MPGST Act, 2017; "*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.'*

6.4. Though the Applicant, in their additional submission dtd.23.06.2018 have briefly described the process being undertaken by them during the course of body building of buses, they have not come forward with the details of component of 'Goods' and 'Services' involved in the supply under question. However, they have pleaded that though the supply in this case would be a 'Composite Supply' but depending upon the predominant intention of the buyer, it should be classified as 'Service'. On a careful consideration of submissions made by the Applicant we do not find any force in the argument regarding deciding the classification on the basis of 'predominant intention' of the buyer. The contention of the



applicant is misplaced and arbitrary. The statute nowhere provides for 'predominant intention'. The classification in case of a composite supply has to be arrived at on the basis of 'predominant element' of a composite supply, which in turn would be the 'Principal Supply'. Needless to say that as per the definitions envisaged under the statute the predominant component of the composite supply involved in the activity of Body Building would determine the rate of tax applicable on such composite supply. In case the 'Goods' part is predominant, then the Composite Supply in this case would be governed by Chapter 87 depending upon the nature of body being built by the Applicant on the chasis supplied by the principal. In case, the 'Service' part is predominant in the composite supply, then the rate of tax would be applicable as per Heading No.9988. However, due to incomplete information provided by the Applicant, the Authority finds itself constrained to provide any definitive ruling on this aspect.

RULING

7. The Advance Ruling on questions posed before the authority are answered as under:

- 7.1. In respect of Question 1, we hold that the activity of Body Building undertaken by the Applicant, carried out on the chasis supplied by the principal in the capacity of a job worker, would amount to 'Composite Supply' as define under CGST Act 2017/MPGST Act 2017;
- 7.2. In respect of Question No.2, we hold that the rate of tax on such Composite Supply would be determined by the predominant component involved in such Composite Supply in terms of Section 8(a) of the CGST Act 2017, depending upon the character of the body being built on the chasis, which would eventually be classifiable under Chapter 87 of the Tariff. On the other hand, if the predominant element happens to be the Service part, then the Principal supply would be classified under Heading no.9988.

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RAJIV AGRAWAL
(MEMBER)

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MANOJ KUMAR CHOUBEY
(MEMBER)

No. 07/2018/A.A.R/R-28/24

Copy to:-

INDORE DL. 30-06-2018

1. Applicant
2. The Principal Chief Commissioner, CGST & Central Excise, Bhopal Zone, 35C, GST Bhavan, Arera Hills, Bhopal.
3. The Commissioner(SGST), Indore
4. The Commissioner, CGST & Central Excise, Manikbagh palace, P.O. No.10Indore
5. The Concerned Officer
The Jurisdictional Officer – State/Central

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