

**THE AUTHORITY FOR ADVANCE RULING
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560009**

Advance Ruling No. KAR ADRG 49/2020

Date : 30-09-2020

Present:

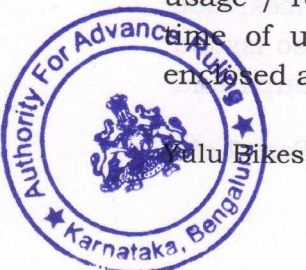
1. Dr. Ravi Prasad M.P.
Additional Commissioner of Commercial Taxes Member (State Tax)
2. Sri. Mashhood Ur Rehman Farooqui,
Joint Commissioner of Central Tax, Member (Central Tax)

| | | |
|----|---|---|
| 1. | Name and address of the applicant | M/s Yulu Bikes Pvt. Ltd., # 119, Adarsh Palm Retreat, Outer Ring Road, Bengaluru-560103. |
| 2. | GSTIN or User ID | 29AAACY9154A1Z9 |
| 3. | Date of filing of Form GST ARA-01 | 14.07.2020 |
| 4. | Represented by | Nagarjuna, C A Authorised Representative |
| 5. | Jurisdictional Authority - Centre | The Commissioner of Central Tax, Bangalore East Commissionerate. |
| 6. | Jurisdictional Authority - State | LGSTO-15, Bengaluru. |
| 7. | Whether the payment of fees discharged and if yes, the amount and CIN | Yes, discharged fee of Rs.5,000/- under CGST Act & Rs.5,000/- under KGST Act vide CIN SBIN 20092900140508 dated 15.09.2020. |

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

1. M/s Yulu Bikes Pvt. Ltd., (called as the 'Applicant' hereinafter), # 119, Adarsh Palm Retreat, Outer Ring Road, Bengaluru-560103, having User-ID 29AAACY9154A1Z9 have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01, discharging the fee of Rs.5,000/- each under the CGST Act 2017 and the KGST Act 2017.

2. The Applicant is engaged in **renting of vehicles like e-bikes (Miracle), bicycles (Move)** in Bengaluru, Karnataka through a technology driven mobility platform. They enter into contract/agreement with the customers with regard to usage / renting of the e-bikes (Miracle), bicycles (Move) and charge based on the time of usage of such vehicles. Representative sample agreements/terms are enclosed along with the application for perusal and records.



3. The applicant currently is charging GST @ 18% in respect of the following services.

| Sl. No. | Name of Scheme | Description of the Service | Rate of GST discharged |
|---------|----------------|--|------------------------|
| 1 | Miracle | In this scheme the mobility is provided through a smart dockless <u>electrical vehicle</u> powered by state-of-the-art IoT technology. The vehicle is Light Weight, lighter than a scooter, faster than a bicycle. | 18% under HSN 9966 |
| 2 | Move | In this scheme the mobility is provided through a smart lock enabled bicycle Powered by GPS, GPRS and Bluetooth technologies. | 18% under HSN 9966 |

4. In view of the above, the applicant have sought advance ruling in respect of the following question so as to confirm their understanding of law.

Whether renting of e-bikes(Miracle), bicycles(Move) without operator can be classified under the SAC 9973 – Leasing or rental services without operator - Sl.No.17 (viii) of Notification No.11/2017 Central Tax (Rate) dated 28th June 2017 as amended?

5. **Admissibility of the application** : The applicant filed the instant application, in relation to the classification of their services being provided and have sought advance ruling in respect of the question on the issues covered under Section 97(2)(a) of the CGST Act 2017 and hence the application is admitted.

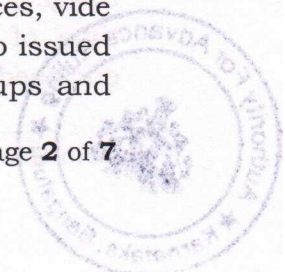
6. **Applicant's interpretation of law** : The applicant furnishes their understanding of law, in annexure-II to the application, which is as under:

6.1 The Applicant is engaged in **renting of e-bikes (Miracle), bicycles (Move)** in Bengaluru, Karnataka through a technology driven mobility platform. The Applicant enters into contract/agreement with the customers with regard to usage / renting of the e-bikes (Miracle), bicycles (Move) provided by the applicant and charges based on the of time of usage of such vehicles.

6.2 It is imperative that the classification of the services has to be looked into and appropriate rate of tax has to be discharged as notified under section 9 of CGST / Karnataka GST (herein referred as KGST) Act, 2017. Further, for determining the rate of tax, determination of appropriate classification becomes critical. Accordingly, reference has to be made to the provisions of Section 9 of CGST / KGST Act, 2017.

6.3 The Government has notified the rate of GST for supply of services, vide Notification No.11/2017 C.T(R) dated 28th June 2017 as amended, and also issued explanatory notes indicating the scope and coverage of the heading, groups and

Yulu Bikes



service codes of the Scheme of Classification of Services which may be used by the assessee and the tax administration as a guiding tool for classification of services. Further, such explanatory notes, which is a guidance tool for classification, also provide that where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

6.4 There were two category of headings, in the provided scheme of classification, relevant to the supply of the applicant i.e. **SAC 9966 - Rental services of transport vehicles with or without operators** & **SAC 9973 - Leasing or rental services with or without operator**. The applicant, adhering to the principle of specific description, had classified their supply under the **“HSN -9966- Rental of transport vehicles with or without operator”** and discharged GST @ 18% as per the notification supra. The applicant enclosed representative sample invoice copies for record purpose.

6.5 Subsequently, an amendment was made by the Government with regard to the classification of services to give a clarity on the difference between the headings HSN 9966 and 9973 w.e.f. 01st October 2019 vide notification no.20/2019 C.T(R) dated 30th September 2019 upon the recommendations given by 37th GST Council Meeting wherein it has been clarified that *the Heading 9966 covers “Rental services of transport vehicles **with operators**” and heading 9973 covers “Leasing or rental services **without operator**”*.

6.6 The applicant, by virtue of such amendment, is eligible to shift his classification of supply of services from HSN 9966 to HSN 9973 due to following reasons –

- a. The applicant rents out its’ vehicles without operator.
- b. The heading 9973 includes rental or operational leasing of machinery and equipment and personal and household goods, without operator.
- c. Leasing of vehicles can also be covered under this heading by virtue of entry 997319 Leasing or rental services concerning other machinery and equipment without operator which includes
 - i. *“leasing, renting or hiring services concerning all kinds of machinery, whether or not electrical, except personal or household goods, generally used as capital goods by industry, such as engines and turbines, machine tools, mining and oil field equipment, lifting and handling equipment, coin/card operated gambling machines, exhibition material, professional, scientific measuring and control apparatus, accommodation and office containers, other commercial and industrial machinery etc.”*



d. Further, sl.no 17(vi) of notification no.11/2017 C.T(R) dated 28th June 2017 as amended also evidence that the heading 9973 includes the leasing or renting of vehicles which reads as follows –

i. “Leasing of motor vehicles purchased and leased prior to 1st July 2017”

The Applicant being renting the vehicles (e-bikes, bicycles) without operator to their customers would also get covered within the classification under the HSN 9973 – Leasing or rental services without operator w.e.f. 01st October 2019.

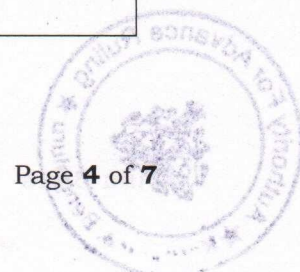
6.7 Further, sl.no.17(viia) of notification 11/2017 C.T(R) dated 28th June 2017 as amended is extracted below for your ready reference –

| Sl.No | Chapter, Section, Heading | Description of Service | Rate (per cent) | Condition |
|-------|--|-------------------------------------|--|-----------|
| 17 | Heading 9973 (Leasing or rental services [* * *]86 without operator) | (viiia) Leasing or renting of goods | Same rate of central tax as applicable on supply of like goods involving transfer of title in goods. | - |

6.8 With regard to the rate of tax of goods, the same has been notified by the Government vide Notification No.01/2017 C.T(R) dated 28th June 2017 as amended. The relevant classification details of our products which are being rented are provided below for your ready reference –

**For Scheme - Miracle
Schedule I – 2.5%**

| Sl.no | Chapter/ Heading/Sub-heading/Tariff Item | Description of Goods | Amended Notification |
|-------|--|--|---|
| 242A | 87 | Electrically operated vehicles, including two and three wheeled electric vehicles. Explanation. - For the purposes of this entry, “Electrically operated vehicles” means vehicles which are run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include E- bicycles.”; | Notification no.12/2019 C.T(R) dated 31 st July 2019 |



For Scheme - Move

Schedule II – 6%

| Sl.No | Chapter/ Heading/Sub- heading/Tariff Item | Description of Goods | Amended Notification |
|-------|--|---|--|
| 208 | 8712 | Bicycles and other cycles (including delivery tricycles), not motorized | Notification No.01/2017C.T(R) dated 28 th June 2017. |

6.9 In view of the above, the applicant understands that, the rate of tax for renting of vehicles would be applied as the same rate applicable to the respective vehicles as mentioned above and concludes as under:

The rate of tax for renting of vehicles without operator under HSN 9973 would be as follows

- ii. Electric vehicles (i.e. Scheme “Miracle”) would be @ 5% and
- iii. Bicycles (i.e. Scheme “Move”) would be @ 12%.

PERSONAL HEARING / PROCEEDINGS HELD ON 30.07.2020

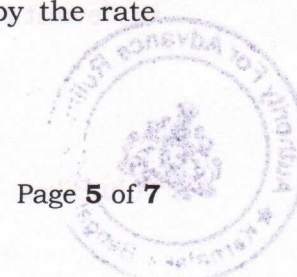
7. Sri. Nagarjun, C A & duly authorised representative of the applicant appeared for personal hearing proceedings held on 30.07.2020 & reiterated the facts narrated in their application.

8. FINDINGS & DISCUSSION

8.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by them during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

8.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 provisions under the KGST Act.

8.3 The applicant sought advance ruling in respect of the question mentioned at para 4 supra, related to the classification of their services. It is observed, from the applicant’s interpretation of law, that the applicant construed the amendment to the rate notification under Notification No. 20/2019-CT(R) dated 30.09.2019 as that of the amendment to the classification, which is incorrect. The classification of the services does not change but the rate of tax can be changed by the rate notification.



8.4 Now we proceed to decide the classification of the impugned service of the applicant. i.e. renting of vehicles. It is an admitted fact that the applicant is involved in renting of e-bikes (Miracle) & bicycles (Move), which are meant for transportation and hence are covered under transport vehicles.

8.5 The preface of the explanatory notes to the classification of services under GST is produced below:

- i. *The Scheme of classification of services adopted for the purposes of GST is a modified version of the United Nations Central Product Classification.*
- ii. *The Explanatory Notes for the said Scheme of Classification of Services is based on the explanatory notes to UNCP*
- iii. *The explanatory notes indicate the scope and coverage of the Heading, groups and service codes of the scheme of Classification of Services. These may be used by the assessee and the tax administration as a guiding tool for classification of services. However, it may be noted that where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.*

8.6 The Heading 9966 reads as Rental Services of transport vehicles **with or without** operators. Heading 9973 reads as Leasing or rental services **with or without operator** and includes rental or operational leasing of machinery and equipment, personal and household goods, but does not include leasing services of machinery and equipment of personal and household goods on a purely financial service basis. Further sub headings of 9973 pertain to other goods, IPR, etc with no mention of transport goods/vehicle. Thus the applicant's services are squarely covered under SAC 9966. The specific description is preferred to general one as per the Explanatory Notes and hence we conclude that applicant's activity is classifiable under Heading 9966.

8.7 Applicant's interpretation that post 30th Sept 2019, renting/leasing of all goods without operator should be falling under Heading 9973 is not correct and hence is not tenable under the law, for the reason that the so called amendment, under Notification No. 20/2019-C.T.(R) dated 30.09.2019, is to the rate of GST for the services covered under SAC 9973, but not to the classification of the services. Further the amendment under Notification No. 20/2019-CT (R) dated 30.09.2019 amends entry bearing Sl.No.17, covering the services classified under SAC 9973, to substitute "Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (vi) and (vii) above" for item viii in column 3. Therefore the said amendment is irrelevant to the instant case.



9. In view of the foregoing, we pass the following

RULING

Renting of e-bikes/bicycles without operator cannot be classified under SAC 9973 – Leasing or rental services without operator and Sl.no.17(viia) of Notification no.11/2017 CT(R) dated 28th June 2017 as amended is not applicable to the instant case.


(Dr.M.P. RaviPrasad)

Member MEMBER

Karnataka Advance Ruling Authority

Place : Bengaluru, Bengaluru - 560 009

Date : 30-09-2020

To,

The Applicant

Copy to :


The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Commissioner of Central Tax, Bangalore East Commissionerate, Bengaluru.

The Asst. Commissioner, LGSTO-15, Bengaluru.

Office Folder.


30.09.2020
(Mashhood Ur Rehman Farooqui)
Member

MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

