

**AUTHORITY FOR ADVANCE RULING, TAMILNADU
INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX, DOOR NO.32,
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI - 600 003.
PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Shri T.G.Venkatesh, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34

2. Tmt K.Latha., M.Sc., (Agri), Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-3.

ORDER No. 24/AAR/2022 DATED: 30.06.2022

GSTIN Number, if any / User id		33AACCN0628C2Z3
Legal Name of Applicant		NTL INDIA PRIVATE LIMITED
Registered Address/Address provided while obtaining user id	11/2, Muthaiyal Reddy Street, Alandur, Chennai-600016	
Details of Application		GST ARA- 01 Application Sl.No. 12/2022/ARA dated: 25.03.2022
Concerned Officer		Centre: Chennai South Commissionerate State: Nungambakkam Assessment Circle. ✓
Nature of activity(s) (proposed / present) in respect of which advance ruling sought		
A	Category	Service Provision ✓
B	Description (in Brief)	The applicant is providing support services viz. rental services of road vehicles including buses, coaches, cars and other motor vehicles with or without operator.
Issue/s on which advance ruling required		1.Applicability of Notification issued under the provisions of the act 2. Determination of time and value of supply of goods or services or both 3. Determination of liability to pay tax on any goods or services or both.

	4. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to results in a supply of goods or services or both, within the meaning of that term. ✓
Question(s) on which advance ruling is required	<p>1. Whether the exemption of GST on the intra-state supply of services of description as specified against Sl.No.23 in Col(3) of the Table to Notification No.12/2017-CT(rate) dated 28.06.2017, viz., services by way of access to a road or a bridge on payment of toll charges falling under the heading 9967, from so much of the central tax leviable thereon under sub-section(1) of Section 9 of the said act, as amended is applicable to the applicant as well.</p> <p>2. Whether the value of toll charges (which attracts NIL rate as pointed out in (i) above) is liable to be included in the value of outward supply of service? ✓</p> <p>3. Whether the applicant is liable to pay tax on the toll charges also by adding to outward value of supply of service. ✓</p>

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

NTL INDIA PRIVATE LIMITED, 11/2, Muthaiyal Reddy Street, Alandur, Chennai-600016 (hereinafter called the Applicant) are registered under GST with GSTIN 33AACCN0628C2Z3. The applicant has sought Advance Ruling on the following questions:

1. Whether the exemption of GST on the intra-state supply of services of description as specified against Sl.No.23 in Col(3) of the Table to Notification No.12/2017-CT(rate) dated 28.06.2017, Viz services by way of access to a road or a bridge on payment of toll charges falling under the heading 9967, from so much of the central tax leviable thereon under sub-section(1) of Section 9 of the said act, as amended is applicable to the applicant as well. ✓
2. Whether the value of toll charges (which attracts NIL rate as pointed out in (i) above is liable to be included in the value of outward supply of service? ✓
3. Whether the applicant is liable to pay tax on the toll charges also by adding to outward value of supply of service ✓

The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017. ✓

2.1 The applicant has stated that Sl.No.23 of Notification No. 12/2017 Central Tax (Rate) dated 28/06/2017 as amended exempts the intra-State supply of services of description as specified in column (3) of the Table from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, viz. Service by way of access to a road or a bridge on payment of toll charges falling under Heading 9967. They have stated that being engaged in the support services of transport of employees to various companies, during the course of provision of such service they incur toll charges on a regular basis which the clients are reimbursing, i.e., actual amount of toll charges paid. GST applicable to rental services road vehicles including buses (996501) and other transport services (996799) are discharged regularly. However, the applicant seeks clarification on whether the said exempted service availed by them during the course of providing transport service on payment of toll charges, (which is an exempted service as mentioned above) and reimbursed by the clients are to be included in the outward supply of service provided by the applicant and whether such exempted service value is also includible in the value of outward supply of transport charges, thus liable to tax. The applicant has stated that they actually pay the toll charges and ✓

collect the same amount from their clients, which is nothing, but a disbursement and not the value of service provided for and paid. ✓

2.2 On interpretation of law, the applicant has stated that the Service by way of access to a road or a bridge on payment of toll charges collected by the NHAI or State Authorities falling under Heading 9967 is unconditionally exempted from GST by Sl.No.23 of the Notification No.12/2017 CT (Rate) dated 28.06.2017 as amended. No specific conditions are attached against the said service in the Notification for availing such exemption. Thus, it is viewed that in line with the exemption provided, the applicant need not pay GST on the said toll charges by including the toll charges in the taxable value of outward supply, viz., to rental services road vehicles including buses (996601) and other transport services (996799). All the vehicles owned by them are already lifetime tax paid and other statutory taxes are also paid periodically. Thus, the very intention of the government in exempting unconditionally GST on the said service, i.e. Service by way of access to a road or a bridge on payment of toll charges collected by the NHAI or State Authorities falling under Heading 9967 would be defeated if a narrow interpretation is assigned to exempt certain category and tax the others in indirect way. Therefore, it is just and proper to rule that such unconditional exemption is applicable to all including the supplier of services availing the said exempted service during the course of providing outward supply of service.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media. The applicant consented and the hearing was held on 19.04.2022. The Authorised Representative Shri A.T Sridharan and Shri Ganesan (for NTL India Private Limited) appeared for the hearing and reiterated their submissions. The Member sought clarification as to whether they supply services of providing access to road for a toll charge as they have sought the applicability of the exemption provided to such suppliers, for which the AR replied that they are providing only passenger transport services and incurring toll charges which is shown separately in the invoices. When questioned about how the toll charges are remitted the AR replied that presently it is done through fast tag, previously by cash. They were asked to submit the Write up on details of services provided by applicant; invoice

raised for the services provided and contract copies with clients for provision of service of transport.

3.2 The applicant vide their letter dated 22.04.2022 submitted the following documents:

➤ Write up about the company in operation:

They are providing support services, viz. Rental services of road vehicles including buses, coaches, cars, and other motor vehicles, with operator classified under HSN Code 996601 and other transport services classified under HSN Code 996799 and are discharging GST at appropriate rates. The applicant Company enters into contract with their clients for such services, viz., pick up of employees of generally Information Technology companies, like Cognizant Technologies, from specific pick up points and drop them in the company and on return transport them back to the dropping points. They are also engaged in transporting computers, laptops and accessories by their vans to various inter and intra state locations. For such services, they raise invoices on monthly basis and discharge tax accordingly. During the course of providing such service, the applicant pay toll charges collected by NHAI or State High Ways at different locations and get the actuals reimbursed from the clients by indicating the Toll charges separately in the Invoices raised. Vide SI.No.23 of Notification No.12/2017 CT (Rate) dated 28.6.2017, the service by way of access to a road or bridge on payment of toll charges is exempted from GST. Prior to GST era as well, the legal position was that the said service was included in the "Negative List". Hence the Toll charges are collected exclusive of taxes only. Therefore, the clients are also reimbursing the toll charges actuals. The application was seeking Authority's Ruling as to whether such charges collected by toll operators for the unconditional exempted service availed by NTL are to be included in the value of transport service provided by NTL and tax discharged. The applicant furnished the following:

- Agreement for employee transportation entered with India Yamaha Motor Private Limited
- Master Service agreement entered with Cognizant Technology Solutions India Pvt Ltd.
- Invoices raised on India Yamaha Motor Pvt Ltd
- Invoices raised on Cognizant Technology Solution India Pvt Ltd

3.3 On perusal of documents submitted by the applicant as listed above, it was observed that they had submitted details pertaining to the activity of renting services (996601). However they have not submitted details pertaining to activities falling under SAC 996799 which have been said to be undertaken by them. Further the copy of agreement entered into with M/s. Cognizant Technologies was found to be unsigned and lacking specifications on deliverables/scope of work. Hence they were asked to furnish these details vide notice dt.04.05.2022. Reminder dt.19.05.2022 was also issued. In response the applicant has vide their letter dt.24.05.2022 submitted that they are registered for providing Rental services of road vehicles including buses, coaches , cars, trucks and other motor vehicles with operator classified under HSN code 996601; that the other part of the support service viz., Other transport services classified under HSN Code 996799 is also registered for providing the said service occasionally and not on regular basis; that the ARA is filed seeking the ruling in respect of applicability of exemption of GST on toll charges in respect of Rental services of road vehicles and that the documents called for have been already submitted both online and manually. Further the copy of signed agreement entered into with M/s Cognizant Technologies highlighting the Scope of work has been submitted.

4. The Centre Jurisdictional authority, Chennai South Commissionerate, who has administrative control over the applicant was addressed vide this office letter dt.29.03.2022 requiring to furnish the comments on the issue raised by the applicant and to report whether any proceedings are pending in respect of the applicant. The said authority has not furnished the report on pending proceedings and the comments on the issues raised. Hence it is construed that no proceedings are pending in respect of the applicant.

5. The State Jurisdictional authority has submitted that there are no pending proceedings in the applicant's case in their jurisdiction.

6.1 We have considered the application filed by the applicant and various submissions made by them. Applicant is engaged in providing services namely rental services of road vehicles including buses, coaches, cars and other motor vehicles, with operator classified under HSN Code 996601 and other transport services classified under HSN Code 996799 and are discharging GST at appropriate

rates. They have stated that they are entering into contract with their clients to pick up employees of their clients from specific pick up points and dropping them in their office premises and on return transport them back to the dropping points; transport computers, laptops and accessories by vans to various inter and intra state locations for which they raise invoices on monthly basis and discharge tax accordingly; while performing such services, they pay toll charges collected by NHAI or State High ways at different locations and get the actuals reimbursed from their clients by indicating toll charges separately in the invoices raised. They have filed an application for ruling on the following questions:-

1. Whether the exemption of GST on the intra-state supply of services of description as specified against Sl.No.23 in Col(3) of the Table to Notification No.12/2017-CT(rate) dated 28.06.2017, viz., services by way of access to a road or a bridge on payment of toll charges falling under the heading 9967, from so much of the central tax leviable thereon under sub-section(1) of Section 9 of the said act, as amended is applicable to the applicant as well.
2. Whether the value of toll charges (which attracts NIL rate as pointed out in (i) above is liable to be included in the value of outward supply of service?
3. Whether the applicant is liable to pay tax on the toll charges also by adding to outward value of supply of service.

From the submissions, it is seen that the applicant is utilizing the services of toll i.e., services by way of access to a road on payment of toll charges and are thus recipients of such service.

6.2 To examine the admissibility of above questions, the relevant legal provisions are analysed as under:

Section 95 (a) of CGST and TNGST Act defines 'advance ruling' as

Section 95: In this Chapter, unless the context otherwise requires,-
(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of Section 97 or sub-section (1) of Section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

From the above, it is evident that an applicant can seek an Advance Ruling only in relation to supply of goods or services or both undertaken or proposed to be undertaken by them. The exemption available vide Sl.No.23 in Col(3) of the Table to Notification No.12/2017-CT(rate) dated 28.06.2017, is available to the service

provider only and not to the service receivers. Further when questioned during Personal hearing about whether they are providing service of providing access to a road, the Applicant answered that they are only utilizing the services on payment of toll charges. Hence question no.1 is not admissible in as much as the applicant is only a recipient of such toll services. Questions 2 and 3 being on valuation to be adopted for the supply being made by the applicant are admitted for ruling as they fall under the purview of Section 97(2) of the CGST Act, 2017.

7. Applicant has further clarified that they have filed this application for applicability of exemption of GST on toll charges in respect of Rental services of road vehicles falling under HSN code 996601 only and not in respect of other services under HSN code 996799. Hence their question as to whether the value of toll charges (which attracts NIL rate at the hands of service provider of access to road) is liable to be included in the value of outward supply of rental services of road vehicles for transporting employees of the Service recipient, provided by the applicant and whether the applicant is liable to pay tax on the toll charges also by adding to outward value of supply of service, is taken up for consideration. It has been stated by them that they pay toll charges collected by NHAI or State Highways and get the actuals reimbursed from their clients by indicating toll charges separately in the invoices raised. The relevant legal provisions are discussed as under:-

*** Section 7. Scope of supply.-**

(1) For the purposes of this Act, the expression - "supply" includes-

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

*** Section 15. Value of Taxable Supply.-**

(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include-

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

Applying the above provisions, it is seen that the supply of renting of road vehicles is carried out by the applicant to their clients and the toll charges incurred is an incidental expense incurred during the supply of such service. This incidental expense incurred by the applicant is being reimbursed separately by the recipient of service.

8. To ascertain if the toll charges are to be treated as reimbursement or disbursement as claimed by the applicant, the meaning of the word 'reimbursement' is analysed. In general parlance, the term "reimbursement" refers to the recovery of an expense that a person (the service provider) incurs as a principal from another party. On the other hand, the recovery of a payment made on behalf of the recipient of service by the provider of such service as an agent is termed as a "disbursement". A disbursement does not constitute a supply and hence, is not subject to GST. A reimbursement, on the other hand, is subject to GST if it is consideration for a supply of goods or services. Here the toll charges are consideration paid for access to a road which is incurred while performing the renting of road vehicles service undertaken by the applicant. Here the principal supply is renting of vehicles and the incurrance of toll charges is incidental to that supply. Thus the toll charges are incurred by the applicant while performing the agreed supply and is a cost for the applicant. Further for a reimbursement, the relationship between the service provider and recipient needs to be that of mere provider and receiver and not that of an agent.

9. The applicant has contracted as a service provider principally performing the service of renting road vehicles in their individual capacity and not as agents of their clients. Hence the toll charges paid back are in the nature of reimbursement only and not disbursement. The relationship between the applicant and their clients is well established in the contracts entered into by them which are as follows:-

(i) In the Master services Agreement entered by the applicant and their client namely, M/s. Cognizant Technology Solutions India Pvt Ltd. The excerpts are as under:-

"1.1 Relationship. Service provider provides transportation services. Cognizant desires to engage Service provider to perform the services....."

Thus it is evident that the applicant has been engaged as a service provider only and not as an agent.

(ii) In the case of the other client of the Applicant viz., M/s. India Yamaha Motor Private Ltd., the excerpts of the agreement (page 1) are as below:

1. The company requires "Services" as defined /described in the Schedule for the transportation of their employees.....

2.....

3. The company, based upon the contractual obligations with NTL has decided to engage NTL to perform the service under the terms and conditions mentioned below.

4 The company has authorized TPMS India to organize and monitor the operations of NTL Travels and to submit the reports to the Company in their respective formats.


From the above excerpts, it is established that the applicant has been engaged by their clients only as a service provider of transportation services and not as an Agent. The Applicant, being the service provider of transportation service, is the recipient of the service provisioned on payment of toll. Such charges are costs incurred, so that his vehicles can access roads/bridges to provide transportation services to the recipient. Hence they are the beneficiary and liable to pay the toll, which is compulsorily levied on the vehicles. The expenses so incurred are, therefore, cost of the service provided to their service recipients. Reimbursement of such cost is no disbursement, but merely the recovery of a portion of the value of supply made to the recipients. Toll charges paid are therefore, to be included in the value of supply as incidental expenses arising while provision of service. Thus the cost of toll charges which are paid by the applicant and later reimbursed by their clients should be included in the value of supply and tax shall, therefore, be payable at the applicable rate on the entire value of the supply, including toll charges paid.

10. To sum up, the Applicant is a service provider of transportation services to their clients and the toll charges incurred by them and later reimbursed from the service recipients should be included in the value of supply and tax be paid at the appropriate rates on the entire value of supply.

11. Based on the above, we rule as under:-

RULING

1. Question no.1 is not admitted on the reasons discussed in para 6.2
2. The value of toll charges, being incidental expenses incurred while providing outward supply, is liable to be included in the value of outward supply of service provided by the applicant as per Section 15(3) of the CGST/TNGST Act, 2017.
3. Applicant is liable to pay tax on the toll charges also by adding to outward value of supply of service.


Smt. K.LATHA
Member (SGST)


Shri T. G. VENKATESH
Member (CGST)

AUTHORITY FOR
ADVANCE RULING

30 JUN 2022

GOODS AND SERVICE TAX
Chennai-6, Tamilnadu

NTL INDIA PRIVATE LIMITED,
F-3 Harmony Enclave,
11/2, Muthaiyal Reddy Street,
Alandur, Chennai-600016

// BY SPEED POST WITH ACK.DUE //

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Principal Secretary/Commissioner of Commercial Taxes/Member,
II Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

3. The Commissioner of GST & Central Excise,
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