

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU – 560 009**

**Advance Ruling No. KAR ADRG 36/2022
Date : 27-10-2022**

Present:

1. Dr. M.P. Ravi Prasad

Additional Commissioner of Commercial Taxes Member (State)

2. Sri. T. Kiran Reddy

Additional Commissioner of Customs & Indirect TaxesMember (Central)

1.	Name and address of the applicant	M/s. MULTI-VERSE TECHNOLOGIES PRIVATE LIMITED, # 41/1, II Floor, Trisha Mansion, Nanjappa Road, Shanthinagar, Bengaluru – 560 027.
2.	GSTIN or User ID	29AANCM4327Q1ZM
3.	Date of filing of Form GST ARA-01	06-08-2022
4.	Represented by	Sri. Chetan Kumar, C A & Authorised Representative
5.	Jurisdictional Authority – Centre	The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru. (Range-BSD1)
6.	Jurisdictional Authority – State	ACCT, LGSTO-40, 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 through debit from Electronic Cash Ledger vide reference No. DC2906220298293 dated 30.06.2022.

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

M/s. Multi-Verse Technologies Pvt. Ltd.,(herein after referred to as 'Applicant'), # 41/1, II Floor, Trisha Mansion, Nanjappa Road, Shanthinagar, Bengaluru – 560 027, having GSTIN 29AANCM4327Q1ZM, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and KGST Act.



2. The applicant stated that they are registered under the GST Act and are engaged in the business of providing computer software application services designed to run on digital devices such as mobile phones, tablets, personal computers in the state of Karnataka and the said services are meant for facilitating business transactions of supply of goods or services or both connecting through the platform of suppliers/sellers and recipients/buyers.

3. In view of the above, the applicant has sought advance ruling in respect of the following questions:

- a. Whether the Applicant satisfies the definition of an e-commerce operator and the nature of supply as conceptualized in Section 9(5) of CGST Act 2017 r/w notification No.17/2017 dated 28.06.2017?
- b. Whether the supply by the service provider (person who has subscribed to Applicant's app) to his customers (who also have subscribed to Applicant's app) on the Applicant's computer application amounts to supply by the Applicant?
- c. Whether the Applicant is liable to collect and pay GST on the supply of goods or services supplied by the service provider (person who has subscribed to Applicant's app) to his customers (who also have subscribed to Applicant's app) on the Applicant's computer application?

4. **Admissibility of the application :**

The advance rulings are sought by the applicant on the questions, at para 3 supra, in respect of the issues of (i) applicability of a notification issued under the provisions of this Act, (ii) determination of the liability to pay tax on any goods or services or both and (iii) 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, which are covered under Section 97(2)(b), 97(2)(e) & 97(2)(g) respectively and hence the application is admissible under Section 97(2)(b), 97(2)(e) & 97(2)(g) of the CGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnished the following facts relevant to the issue/s:

5.1 The applicant provides computer application services (herein after referred to as "APP") for facilitating business transactions of goods or services or both connecting through the platform of suppliers/sellers and recipients/buyers. They charge membership & subscription fee to the person who enrolls by furnishing the application in the pre-subscribed form. Applicant discharges output tax on the membership/subscription fee received from the members registered on the Super App (known as **MY^a**) for availing the benefits.



5.2 Every person desirous of availing of the Applicant's App services, shall make an application online in the presubscribed form duly filled and confirmed along with the specified soft copies of documents and shall enter into "END USER LICENSE AGREEMENT" (herein after referred to as "EULA") online. Granting of licence to use the "APP" is subject to the terms and conditions contained in the EULA.

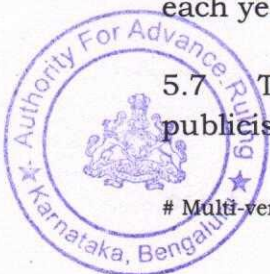
5.3 It is settled proposition of law that where there is an agreement / contract, the nature of the contract shall be determined on the basis of the terms and conditions contained therein and by reading the contract as a whole. Clauses 3, 5, 6.1, 7, 13 and 17 of EULA reveal that the EULA is designed to establish the nature of the said agreement/contract that is limited to providing of licence or permission to use "APP" by the subscribers.

5.4 The licensee creates "Business User Account" ("BSA"), in terms of clauses 5 and 6 of the EULA, the subscriber of the "APP" enters into business deals/transactions on their own with their clients and business associates for supply of goods or services or both; the terms and conditions governing such contracts of supply such as class, quality, quantity, price, value of goods, schedule of delivery goods etc., are as mutually agreed upon by them and the applicant neither has a say / role in that regard nor the applicant is involved directly or indirectly in such supply and delivery of goods or providing services or both as the case may be; the applicant is not in any way concerned with collection of the consideration for supply from the clients/business associates of the subscribed suppliers; all such matters are only within the knowledge and domain of the subscribers of the "APP" of the applicant and their business clients and associates.

5.5 The subscribers of the "APP" are not under any obligation to furnish the details of business transactions entered into by using the APP of the applicant such as nature and volume of supply at any time during the period covered by the licence or at any time thereafter; the taxable supplies effected by the applicant is limited to providing of "APP" and collection of registration & monthly subscription fee from their subscribers of "APP" and charging, collecting and remitting tax in terms of the charging provisions of Section 9(1) of the CGST Act and Section 5(1) of the IGST Act and Notification No.11/2017-Central Tax (Rate) dated 28.06.2017.

5.6 Applicant is focused on creating a system that helps link consumers to service providers whilst maintaining a safe digital ecosystem for both parties. The App, with a commission free monetization model, is a service provider's hub wherein they have absolute ownership of their supply and the applicant has no rights over the supply. Any individual, manufacturer, wholesaler, retailer, buyer etc., can register on the APP by making payment of membership fee fixed from time to time on annual basis and this membership fee is payable as renewal fee during each year from the date of their registration on the App.

5.7 The registered member, after making payment of membership fee, can publicise their products or publish the nature of services provided, nature of



facilities provided for or any other activity undertaken benefitting the users. The relationship between the members registered on the App and the customers would be of supplier and recipient and any monetary consideration involved between them is purely privy to their contract and the applicant in no way connected with such contract. If there is any dispute between the members registered on the App and the recipients of either goods or services it is purely between them and the applicant is not responsible for any dispute between them.

5.8 In this case, the transaction between the supplier and buyer takes place with the use of App and there is no involvement of the applicant in either arranging for supply of goods or services from the members registered on the App or arranging for collection of any consideration or any **other form of agreed means of payment from the buyers to the registered members.** Therefore, the business model of the applicant is neither in the nature of “market place electronic commerce” or “fulfillment electronic commerce” nor “hybrid electronic commerce” models.

6. **Applicant’s Interpretation of Law:** The applicant furnished their understanding / interpretation of law inter alia stating as under:

6.1 Applicant’s liability to pay tax is limited to payment of tax at the rate of 18%, in the light of terms and conditions of EULA, under Section 9(1) of the CGST/KGST Act 2017 and Section 5(1) of the ICST Act 2017 read with Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, on the consideration received / receivable of “registration fee and monthly subscription”. Further the applicant is **not** liable to pay tax under Section 9(5) of the CGST/KGST Act 2017 and Section 5(5) of the IGST Act 2017 read with Notification No.17/2017-Central Tax (Rate) dated 28.06.2017.

6.2 The principal charging provisions are section 9(1) of the CGST/KGST Act 2017 & Section 5(1) of the IGST Act 2017 and in terms of said sections the liability to pay tax on “outward” taxable supplies of goods or services or both, as the case may be, is on the “supplier”. Section 2(105) defines the expression “supplier”, in relation to any goods or services or both which *shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.*

6.3 The taxable supplies effected by the subscribers of the “APP” of the applicant to their clients/business associates by using the applicant’s APP, the suppliers for the purpose of CGST/KGST/IGST Acts are the subscribers of the APP and not the applicant and therefore, the liability to pay tax on the value of all such supplies is on the respective suppliers and certainly not on the applicant. Further the provisions of Section 9(1) of the CGST /KGST Act and Section 5(1) of the IGST Act are not subject to Section 9(5) and Section 5(5) of the said Acts respectively.



6.4 The definitions of the expression “electronic commerce” under Section 2(44) and the expression “electronic commerce operator” under Section 2(45) of the CGST Act 2017, the provisions of Section 9(5) of the CGST Act 2017 and Section 5(5) of the IGST Act 2017 and the notifications issued there under shall have the applicability only to “electronic commerce operators” i.e. the taxable persons who supply goods or services or both on their own account or on account of others with the aid and application of the “APP platform” and they (such taxable persons) either undertake to supply goods or services or both on their account or on account of other taxable persons and directly or indirectly connected with entering into contract for supply, storing/ warehousing, packing, delivery of goods, collection of consideration etc.

6.5 The applicant, in view of the above interpretation of law, contends that the output tax is payable by them only on the membership fee collected from individuals, manufacturers, wholesalers, retailers etc., who are availing the services of their Super App to promote their products or services and the applicant in no way is liable to pay tax on the transactions that take place subsequently between the registered members, (supplier of goods or services or both) on their App, and their customers.

6.6 The applicant submits that Section 7(1)(aa) of the CGST Act 2017, has been retrospectively inserted from 01.07.2017, which states that any activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration shall be considered as a supply. Explanation : For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgement, decree or order of any court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another.

6.7 Section 9(5) of the CGST Act 2017 r/w notification No.17/2017 dated 28.06.2017, notification No.23/2017 dated 22.08.2017 and notification No.17/2021 dated 18.11.2021 doesn't contemplate or envisaged non interfering and commission free business adopted by the applicant. It is applicable to business model which collects payment on behalf of the supplier. As the applicant has not collected any payment on behalf of the supplier the question of collecting tax on behalf of the supplier can't arise. Hence, the applicant would not be liable for the GST on the transaction carried on by the supplier with his customer. Moreover, the supplier raises invoice to his customer & the customer pays directly to the supplier which rules out any attempt on the part of the applicant to pay taxes of the supplier.



PERSONAL HEARING PROCEEDINGS HELD ON 18.08.2022

7. Sri Chetan Kumar, Chartered Accountant & Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

8. The applicant vide their letter dated 29.08.2022, received in this office on 01.09.2022, submitted additional write up on their application, along with a copy of *The Karnataka On demand Transportation Technology Agreement Rules 2016*, as Annexure I to their letter supra, vide their letter dated 03.09.2022, inter alia stating as under:

8.1 The applicant quoting the definitions of 'electronic commerce' and 'electronic commerce operator' in terms of Sections 2(44) and 2(45) respectively, Section 9(5) of the CGST Act 2017 and Notification No.17/2017-Central Tax (Rate) dated 28.06.2017 wherein it is notified that the tax on intra-state supplies of services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle shall be paid by the electronic commerce operator submits that the applicant is a technology provider to cab service provider and would like to distinguish from rent-a-cab aggregator; they are not registered with the regional transport office (RTO) as a rent-a-cab aggregator and thus they are not an e-commerce operator.

8.2 The tax on intra state supplies of notified services shall be paid by the e-commerce operator, in terms of Section 9(5) of the CGST Act 2017, only if such services are supplied through it (e-commerce operator platform). The crucial and relevant aspect of the section and its applicability are as follows:

- a) The services by the supplier to the consumer are supplied through the electronic commerce operator
- b) The service should be an intra-state supply
- c) The tax on services supplied shall be paid by the electronic commerce operator

Applying the principle enumerated above in the instant case, we don't fulfil the conditions of being an electronic commerce operator and the supply of services **through** us. The crucial phrase for the applicability of the section is "supply of services through e-commerce operator".

8.3 The Act or Notification doesn't define or clarify the situations of "supply of services through an e-commerce operator" and thus the rules of jurisprudence and interpretation are required to understand the phrase and the word as used in common parlance. The word through as defined in the oxford's advanced learner's dictionary is submitted below:

- a) From one end or side of something / somebody to the other



- b) See, hear, etc. through something to see, hear, etc something from the other side of an object or a substance
- c) **From the beginning to the end of an activity, a situation or a period of time**
- d) Past a barrier, stage or test
- e) Until, and including

The word **through** is a preposition which means “a word or group of words, such as in, from, to, out of and on behalf of, used before a noun or pronoun to show place, position, time or **method**”. The word **through** in Section 9(5) is used to indicate the method under which the supply of services was initiated, carried on and concluded. The dictionary meaning clearly specifies that the word **through** implies that the supply should be initiated, carried on and concluded by the specified method.

8.4 In the instant case the supply is not carried on and concluded by using our app. We invite attention to the facts furnished in the application as well as our submissions during the personal hearing, which are reiterated as under:

- a) We provide technology to cab operators (through the APP). This allows the passenger to identify the nearby cab **through** which he can take the ride and no further
- b) The ride is not monitored by the applicant
- c) The completion of the ride is not known to the applicant
- d) The fare details are not known to the applicant
- e) The fare and method of its collection is not known to the applicant
- f) The fare is not collected **through** the applicant
- g) The applicant is not responsible to the supplier for non-receipt of the consideration for the supply
- h) The applicant is not responsible to the consumer for deficiency on the part of the supplier in rendering of the services.

8.5 It can be clearly concluded, from the above, that the applicant is only involved in meeting the supplier of services and consumer of the services and no further, which is similar to Just dial or business linking services. The supply happens independent of the applicant and the applicant is involved in identification of the supplier of services and doesn't take responsibility for the operational and completion of the ride. The applicant doesn't fulfil the conditions stipulated in Section 9(5) of the CGST Act 2017, which is “supply of services **through**”, as no portion of supply of services is under the control of the applicant. The applicant



can't control the fare of the ride and the collection associated with completion of the ride and thus the applicant can't be held liable to collect and pay the tax as specified in Section 9(5) of the CGST Act 2017 read with Notification No.17/2017-Central Tax (Rate) supra. The applicant's nature of business doesn't allow collection of the fare on behalf of the supplier. Thus the services can't be deemed to have been supplied through it (APP) just because the service is initiated through it.

8.6 An e-commerce operator, as specified, should supply the services through it. The services are only initiated by the applicant's app and supplied through the applicant's app and hence the applicant can't be held to be an e-commerce operator. Moreover, the Act read with the Notification supra transfers the burden of tax from the supplier of services to the e-commerce operator as the e-commerce operator has control over the fare paid to the supplier and hence can charge and collect the tax on supply of services. In the instant case this condition can't be honoured as the applicant has no control over the fare paid to the supplier. Thus the applicant pleads helplessness to collect and pay tax on behalf of the supplier. Therefore the applicant can't be concluded as a supplier for services rendered by cab operator.

FINDINGS & DISCUSSION

9. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matters and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

10. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts along with the arguments made by the applicant & the submissions made by their learned representative during the time of hearing.

11. The applicant provides computer application services through the APP known as **MY^a** for facilitating business transactions of goods or services or both connecting through the said APP/platform to the suppliers/sellers and recipients/buyers, registered under the said APP on payment of membership charges & subscription fee and also on furnishing required documents as well as on entering into EULA (End User Licence Agreement). In view of this, the applicant sought advance ruling in respect of the questions mentioned at para 3 supra.

12. The applicant submits that their APP allows to create two types of accounts i.e. Business User Account and Individual User Account; the Business User can supply goods or services or both to the individual users; the terms & conditions



governing business contracts of supply such as class, quality, quantity, price, value of goods, schedule of delivery etc. are mutually agreed upon by the Business user and their clients and applicant does not have any say/role; that the applicant are not involved either directly or indirectly in supply of goods or services or both; they are not concerned with the collection of the consideration for such supplies; they are limited to providing the APP services and collection of registration & subscription fees from their subscribers of their APP; they charge, collect and remit the tax, on the fees so collected, in terms of Section 9(1) of the CGST Act 2017 and Notification No.11/2017-Central Tax (Rate) dated 28.06.2017.

13. The applicant further submits that they also provide technology to the cab operators; the APP allows the passenger to identify the nearby cab through which he can take the ride and no further; the ride is not monitored by the applicant; the completion of the ride is not known to the applicant; the fare details are not known to the applicant; the fare and method of its collection is not known to the applicant; the fare is not collected through the applicant; the applicant is not responsible to the supplier for non-receipt of the consideration for the supply and the applicant is not responsible to the consumer for deficiency on the part of the supplier in rendering of the services.

14. The applicant, quoting the definitions of 'electronic commerce' and 'electronic commerce operator' in terms of Sections 2(44) and 2(45) respectively, Section 9(5) of the CGST Act 2017 and Notification No.17/2017-Central Tax (Rate) dated 28.06.2017 contends that the applicant is a technology provider to cab service provider and would like to distinguish from rent-a-cab aggregator; they do not maintain control room and call centre due to their unique business model and hence they do not fulfill the conditions that are required to obtain rent-a-cab aggregator licence from the RTO and therefore they are not registered with the regional transport office (RTO) as a rent-a-cab aggregator and thus they are not an e-commerce operator.

15. Now, the core issue before us to decide is whether the applicant qualifies to be an e-commerce operator or not and whether they are liable to discharge tax liability in terms of Section 9(5) of the CGST Act 2017. We proceed to examine the said issue and in this regard we invite reference to the Section 2(44), 2(45) and 9(5) of the CGST Act 2017, which are as under:

2(44) —*electronic commerce means the supply of goods or services or both, including digital products over digital or electronic network;*

2(45) —*electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;*

9. Levy and collection.

(5) *The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are*



supplied **through** it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

16. It could be inferred from the definitions supra that Electronic Commerce Operator (ECO) means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce i.e. for the supply of goods or services or both, including digital products over digital or electronic network. In the instant case the applicant owns digital platform (APP **MYⁿ**), for the supply of goods or services or both. Thus the applicant squarely fits into the definition and qualifies to be an Electronic Commerce Operator.

17. Now we proceed to examine the charging section i.e. Section 9(5) of the CGST Act 2017, mentioned at para 15 supra, which stipulates that all the provisions of the CGST Act 2017 shall apply to electronic commerce operator, as if he is the supplier liable for paying the tax in relation to the supply of certain services subject to the following conditions namely:

- a) The categories of the services shall be specified by notification, on the recommendation of the Council, by the Government.
- b) The supply of such specified services shall be intra-state supplies.
- c) The supply of such service is through the electronic commerce operator.

Vide Notification 17/2017-Central Tax(Rate) dated 28.06.2017, issued under Section 9(5) of the CGST Act, 2017, Government has notified that tax on intra-state supplies for '(i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;' shall be paid by the electronic commerce operator. Thus the first two conditions viz., (a) and (b) are satisfied in the instant case, in as much as the category of services of Intra-state supplies are notified by the Government covering services by way of transportation of passengers by radio-taxi, motor cab and maxi cab. However, the crucial and most important issue is whether the impugned services (cab operator services) are supplied through the electronic commerce operator or not. The word "**through**" in Section 9(5) is not defined in the relevant context and hence we proceed to discuss the meaning of the said word/phrase.



18. In this regard, we invite reference to Merriam Webster dictionary, in accordance to which the word 'through' is used as a function word to indicate means, agency, intermediacy such as *by means of*, *by the agency of* etc. The word 'through' is also used as a function word to indicate extent, period of time such as *during entire period*, *from the beginning to the end*, *to and including* etc. Thus the word *through* in the phrase **services supplied through electronic commerce operator**, in Section 9(5) *ibid*, gives the meaning that the services are to be supplied by means of / by the agency of / from beginning to the end /during entire period by e-commerce operator. In the instant case, it is observed that the applicant, because of their unique business model, merely connects the driver and passenger and their role ends on such connection; they do not collect the consideration; they have no control over actual provision of service by service provider; they do not have the details of the ride; they do not have control room/call centre etc. The supply happens independent of the applicant and the applicant is involved only in the identification of the supplier of services and doesn't take responsibility for the operational and completion of the ride. Thus it is observed that supply of services are not through the electronic commerce operator, but are independent. Therefore, the applicant does not satisfy the conditions of Section 9(5) for the discharge of tax liability by electronic commerce operator. Thus the applicant, though qualifies the definition of being an e-commerce operator, is not the person liable for discharge of tax liability under Section 9(5) of the CGST Act, 2017.

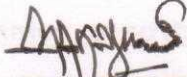
19. In view of the foregoing, we pass the following

R U L I N G

- a. The Applicant satisfies the definition of an e-commerce operator but does not satisfy the conditions of Section 9(5) of CGST Act 2017 r/w Notification No.17/2017 dated 28.06.2017, for the discharge of tax liability by electronic commerce operator.
- b. The supply by the service provider (person who has subscribed to Applicant's app) to his customers (who also have subscribed to Applicant's app) on the Applicant's computer application does not amounts to supply by the Applicant



c. The Applicant is not liable to collect and pay GST on the supply of goods or services supplied by the service provider (person who has subscribed to Applicant's app) to his customers (who also have subscribed to Applicant's app) on the Applicant's computer application.



(Dr. M.P. Ravi Prasad)

Member
MEMBER

Karnataka Advance Ruling Authority
Place: Bengaluru,
Bengaluru - 560 009



(T. Kiran Reddy)

Member
MEMBER

Karnataka Advance Ruling Authority
Bengaluru - 560 009

Date : 27-10-2022

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-40, Bengaluru.
5. Office Folder.

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