

AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
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:

Shri. R.Gopalsamy, I.R.S., Additional Commissioner /Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai 600034	Tmt. N.Usha, Joint Commissioner (Commercial Taxes)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu. Chennai 600003
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ORDER No. 35 /AAR/2022 Dated: 30.11.2022

1. Any appeal against this Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, under Sub-section (1) of Section 100 of Central Goods and Service Tax Act / Tamil Nadu Goods and Service Tax Act, 2017("the Act" in short) within 30 days from the date on which the ruling sought to be appealed against is communicated.
2. In terms of Section 103(1) of the Act, this Advance ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void *ab-initio* in accordance with Section 104 of the Act.
5. 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.

GSTIN Number, if any / User id		33AAEPV2861Q1Z3
Legal Name of Applicant		Royal Coach Builders
Registered Address / Address provided while obtaining user id		No.136, Dindigul Road, Thanthonimalai, Karur – 639005.
Details of Application		Form GST ARA – 001 Application SI.No.27/2022/ARA dated 11.05.2022.
Concerned Officer		Centre: Trichy Commissionerate State: Karur-1 Assessment circle
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provider
B	Description (in brief)	Building of bus body on the Chassis supplied by the customer on job work basis
Issue/s on which advance ruling required		(i) Classification of any goods or services or both. (ii) 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.
Question(s) on which advance ruling is required		1. Whether the activity of Bus Body Building on the chassis supplied by the customer on job work basis is a supply of service or supply of goods? 2. If it is supply of Service, what is the applicable rate of GST and its SAC code? 3. If it is supply of goods, what is the applicable rate of GST and its HSN?

M/s Royal Coach Builders, No.136, Dindigul Road, Thanthonimalai, Karur – 639005. (hereinafter called as the ‘Applicant’) is registered under the GST Acts with GSTIN 33AAEPV2861Q1Z3. The Applicant has sought Advance Ruling on the following questions:

1. *Whether the activity of Bus Body Building on the chassis supplied by the customer on job work basis is a supply of service or supply of goods?*
2. *If it is supply of Service, what is the applicable rate of GST and its SAC code?*
3. *If it is supply of goods, what is the applicable rate of GST and its HSN?*

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.

2.0 The Applicant is a Proprietrix Concern engaged in bus body building activity. The Applicant has submitted, *inter alia*, the process involved as under:

- Applicant get enquires from the customers for building a bus body on the chassis belonging to the customers on job work basis.
- On receipt of enquiry from customers, Applicant will provide the quotation according to the specification given by the customer.
- The customers will hand over the chassis purchased by them at the Applicant's yard for fabricating the bus body.
- As per the Customer's choice, Applicant fabricates and fixes the bus body on the customers supplied/ owned chassis.
- Then, the Bus body fixed on Customer supplied chassis is offered for inspection. If any deviations are found, they are rectified immediately.
- Thus, the fully built bus body mounted on customer chassis is delivered to customer.

2.1 Further, the Applicant submitted, *inter alia*, that as per Sl.No.3 of Schedule II to the CGST Act, 2017, any treatment or process which is applied to another person's goods is a supply of service; that the Board vide Circular No.52/26/2018-GST, dated 09.08.2018 had clarified that the principal activity i.e. the activity of bus body building on the chassis by the customer is a service and will attract GST @ 18%. The SAC Code is 998881 - "Motor vehicle and trailer manufacturing services" and it is taxable @18% (9% under CGST and 9% under SGST Act).

2.2 The Applicant had furnished the following AAR rulings in their support:

- In the case of M/s. Anamallais Engineering (P) Ltd, AAR Tamil Nadu, vide Order No.27/ARA/2021 Dated 30.07.2021, had held that the activity of Bus body building undertaken on the chassis supplied by the customers amounts to supply of service as per Schedule II clause 3 of CGST Act 2017. The service rendered is classified under SAC 998881 and the applicable rate will be CGST @ 9% and SGST @ 9% as per entry no.26 of notification no.11/2017-Central Tax (Rate) dt.28.06.2017(as amended) and Sl.No.26 of Notification No.II(2)/ CTR/532(d-14)/2017 vide G.O.(Ms)No.72 dated 29.06.2017 (as amended) respectively.
- In the case of Automobile Corporation of Goa Limited, Goa Authority for Advance Ruling vide order no GOA/GAAR/10f 2017-18/2018-19/1929 dated 21.08.2018, it was held that it is supply of service under SAC 9988 and will attract 18% GST.
- In the case of M/s Kondody Autocraft (India) Pvt. Ltd. AAR, vide Order No.KER/39/2019 dated 02.03.2019 held that fabrication of body on the chassis supplied by the customer is a service covered under SAC Code 9988- Manufacturing services on physical inputs (goods) owned by others and thereby attract 18% GST.

3.0 Personal hearing was held in digital platform on 17.08.2022 wherein Shri..M.Saravanan, (Authorised Representative –AR) appeared for the Applicant and reiterated the submissions made in the application. On being queried about the reason for filling an application despite the CBIC Circular issued in 2018, clarifying that bus body built on the chassis supplied by customer, is a service attracting 18% GST, the Authorised representative stated that there is doubt in the market. To the query whether the customer who supplied chassis are registered under GST or unregistered for which the Authorised representative stated that the customers are individuals / passenger bus operators both registered and unregistered. AR was asked to furnish document accompanying Chassis, copy of invoice issued by Chassis manufacturer and copy of invoice issued by Applicant to the Customer.

3.1 Subsequently, the Applicant submitted the following documents which were received on 09.09.2022.

- i. Copy of Tax invoice of Chassis purchased by M/s Venkateswara Travels (Customer) –document no. MV 15524220000137 dated 05.05.2022
- ii. Copy of quotation dated 07.04.2022 by Applicant to M/s Venkateswara Travels
- iii. Copy of Tax invoice –document no. RCB-23 dated 28.05.2022

3.2 Another Personal Hearing was held on 18.11.2022, as there was a change in constitution of Members. In this Personal Hearing which was conducted virtually, the AR reiterated the submissions already made and explained the process briefly. On being queried whether any SCN has been issued and the documents accompanying Chassis transferred from principal to the Applicant, AR said that he will check and reply shortly. Later, vide mail dated 22.11.2022, AR submitted that that they have not received any Show Cause Notice till date and that purchase invoice is the document which is received along with chassis.

4.0 The State jurisdictional authority, the Assistant Commissioner (ST), Karur-1 Assessment Circle vide their Ref.No.Rc.515/2022/A1, dated 24.05.2022 has submitted that there are no proceedings pending against the applicant. They had further submitted their comments on the subject which can be summarized as under:

- The activity of bus body building on the chassis supplied by the customer on job work basis is supply of service falling under SAC code 9988 and the GST rate for the same is 18%.
- The Applicant should return the goods after completing work to customer.

4.1 The Central Jurisdictional Authority, namely, the Trichy Commissionerate, had submitted that there were no pending proceedings against the Applicant.

5.0 We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, submissions/Additional submissions made and thereafter the comments of the Central/State Jurisdictional Authority. The Applicant is engaged in rendering services of constructing bus body over the chassis supplied by the customers according to their requirements. The Applicant is before us seeking ruling on the following questions:

1. *Whether the activity of Bus Body Building on the chassis supplied by the customer on job work basis is a supply of service or supply of goods?*
2. *If it is supply of Service, what is the applicable rate of GST and its SAC code?*
3. *If it is supply of goods, what is the applicable rate of GST and its HSN?*

As the question is to determine the nature of supply, which is within the ambit of the authority under section 97 (2) (g) of the CGST Act, the same is taken up for decision.

6.0 The Applicant has stated that they undertake fabrication of bus body over the chassis owned and supplied by the customer. This is evident on perusal of the copy of purchase invoice of chassis in the name of their customer (M/s Venkateswara Travels document no. MV 15524220000137 dated 05.05.2022) which was submitted by the Applicant. As per the process detailed by the Applicant, once Applicant receives enquiry from the customer, they offer the quotation containing specifications, payment terms, Time Schedule and Validity. If agreed upon, the Applicant undertakes fabrication of bus body over the chassis owned and supplied by the customer.

6.1 The Applicant contends that the activity qualifies as job work and therefore it is a supply of services under Goods and Service Tax Act. The relevant portions of CGST Act, 2017 related to Job work are extracted for reference:

Section 2(68) "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.

6.2 As per Schedule II, Clause (3) of the CGST Act which specifies certain activities to be treated as supply of goods or supply of services, *"any treatment or process which is applied to another person's goods is a supply of services"*.

6.3 Explanation to Section 143 of CGST Act, 2017 provides that;

"For the purpose of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker".

6.4 In the instant case, it is observed that the bus body is fabricated and mounted by the Applicant on the chassis owned and supplied by the customer. After completing the work, it is delivered back to the customer, charging a lump sum amount as Job Work Charges. The ownership of the chassis remains with their customers and will not be transferred to the Applicant at any point of time. The consideration is received only towards fabrication services besides some materials involved in the course of fabrication.

6.5 We find that in the case of M/s. Anamallais Engineering (P) Ltd, decided by AAR Tamil Nadu, vide Order No.27/ARA/2021 Dated 30.07.2021, it was held that the activity of Bus body building undertaken on the chassis supplied by the customers amounts to supply of service as per Schedule II clause 3 of CGST Act 2017. The service rendered was classified under SAC 998881 and the applicable rate will be CGST @ 9% and SGST @ 9% as per entry no.26 of Notification

No.11/2017-Central Tax (Rate) dt.28.06.2017(as amended) and Sl.No.26 of Notification No.II(2)/ CTR/532(d-14)/2017 vide G.O.(Ms)No.72 dated 29.06.2017 (as amended) respectively. The facts and circumstances of the instant case are similar and we find no reason to deviate from the decision taken in the order cited *supra*.

6.6 Further, Ministry of Finance has issued clarification in Circular No.52/26/2018, dated 09.08.2018, regarding applicability of GST on various goods and services. The relevant portion of the Circular stated *supra*, 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."

6.7 Hence, the instant case falls in the situation spelt in Para 12.2 (b) of the Circular cited *supra*, and therefore Bus body building on the chassis supplied by the customer is a service under SAC 998881 – Motor Vehicle and trailer manufacturing services and 18% GST as applicable will be charged accordingly.

6.8 In view of the above discussions, it is evident that the activity undertaken by the Applicant for bus body building on the chassis supplied by the customer is to be classified as job work. As per Schedule II (3) of the CGST Act 2017, the said activity bus body building on the chassis belonging to the customer by the applicant is supply of services.

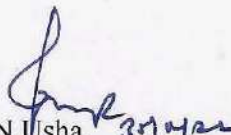
6.9. Having decided the type of supply and the relevant SAC, the rate of supply is to be determined. The rate as per Entry No. 26 of Notification No. 11 / 2017 – Central Tax (Rate) dated 28.06.2017 (as amended) is

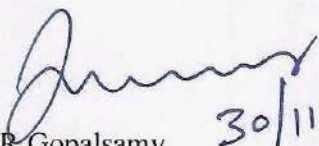
S.No.	Chapter, Section or Heading	Description of Service	Rate (Percent)	Condition
26	9988 (Manufacturing services on physical inputs (goods) owned by others)	(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ii), (iia) and (iii) above	9	

7.0. In view of the above, we rule as under:

RULING

The activity of bus body building undertaken on the chassis supplied by the customers to the Applicant amounts to supply of service as per Schedule II clause 3 of CGST Act 2017. The service rendered is classified under SAC 998881 and the applicable rate will be 18% (CGST @ 9 % and SGST @ 9 %).


N. Usha
(Member SGST)


R. Gopalsamy
(Member CGST) 30/11/2022



To
M/s. Royal Coach Builders,
No.136, Dindigul Road, Thanthionmalai,
Karur – 639005.
Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.

2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Principal Commissioner/ Commissioner of GST & Central Excise,
Trichy Commissionerate,
No.1, Williams Road, Cantonment,
Trichy – 620001.

4. The Assistant Commissioner (ST),
Karur - I Assessment circle,
Ist Floor, Commercial Taxes Building,
North Pradhakshnam Road,
RDO Campus, Karur – 639001.

5. Master File/ Spare-2

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