

GOA AUTHORITY FOR ADVANCE RULING.

(Constituted under section 96 of the Goa Goods and Services Tax Act, 2017 (Goa Act 4 of 2017) read with Rule 103 of the Goa Goods and Services Tax Rules, 2017)

BEFORE THE BENCH OF

(1) Shri. Ashok V. Rane, Addl Commissioner of State Tax

(2) Shri. S. K. Sinha, Addl Commissioner of Central Tax

Advance Ruling No. GOA/GAAR/1 of 2017-18/2018-19/ 1929

Name of the Applicant	Automobile Corporation of Goa Limited
Address	Honda, Sattari — Goa 403530
GSTIN	30AABCA6564F1Z3
Date of Application	06/02/2018
Under Section 97(2) of the CGST/GGST Act, 2017 under which question raised	1. <u>Classification of Goods or Services</u>
Date of Hearing	<u>17/05/2018</u>
Persons Present for Hearing	<u>Shri Ragavendra Singh Butola,</u> <u>Chief Financial Officer</u> <u>alongwith Shri Rajesh Sukla,</u> <u>Head of Indirect Tax of Tata</u> <u>Motors</u>



PROCEEDING

(Under Section 98 of the Goa Goods and Services Tax, Act 2017)

The present application has been filed under section 97 of the Goa Good and Services Tax Act, 2017 and the Central Goods and Services Tax, Act 2017 (hereinafter referred to as the SGST Act and CGST Act) by Automobile Corporation of Goa Limited, seeking an Advance Ruling in respect of the following question: "Whether the activity of building and mounting of the body on the chassis by the Applicant will result in supply of goods under HSN 8707 or supply of services under HSN 9988."

THE FACT OF CASE: - The Applicant M/s ACGL is receiving chassis of the bus from OEMs on FOC Basis under the cover of delivery challan. They procure various inputs and services directly which are used for carrying out the body building on the chassis received. Once the Bus body is built and mounted on the chassis by the Applicant, the fully built vehicles is sent back to the OEMs/customers on payment of GST as per law which they consider @ 28%. The GST is paid on the material and activity carried out by the applicant (cost of the chassis is not included). The consideration received by the Applicant is towards the manufacturing of the bus bodies using its own procured material and mounting of the body on the chassis supplied under FOC challan by the customers.

The question that arise for consideration in the present application is whether the activity of building and mounting of the body on the chassis by the applicant will result in supply of goods under HSN 8707 or supply of services under HSN 9988? To examine the issue, the applicant had referred provision of section 2(68) and Schedule II of the of the CGST and SGST Act.

As per section 2(68) of the CGST and SGST Act, the term 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.”

As per para 3 of the Schedule II 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 service.

Hence as per the application the chassis is sent to the applicant for building body. The question arises for consideration is

1. Is the chassis complete without a body? – If the answer is affirmative then anything added more by anyone is the sale of goods.
2. If answer is negative, – It is a semi-finished goods then any treatment done by any other party on the chassis is the activity of the job work. Hence, it should be classified as “supply of service under HSN 9988 which attracts 18% GST However, if we take the contention of the applicant to classify such treatments as supply of goods.” It is relevant to consider the procedure followed by the applicant to receive the chassis which is owned by the other party to be worked upon since the cost of chassis is not considered in challan as per the contention of the applicant.

As per the application it is mentioned that, the chassis ownership is not transferred and hence it should be classified under job work. As per the provision job work the job worker can use his own goods for providing the services of job worker in addition to the goods received from the principal and hence, the contention of the applicant that, they are using their own inputs it should be considered as process of manufacturing and is not tenable as per the provision of the Act.

In this connection, it is relevant to refer explanation provided under section 143 of the CGST/SGST Act, 2017 which is read as under

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

As per the ratio of the judgement held in case of Prestige Engineering (India) Ltd Vs CCE on Merut [1994 (73) ELT 497 (SC)], addition or application of items by job worker would not detract from the nature and character of his work.

GST law does not distinguish between raw material, finished goods and semi-finished goods. It talks about input and Capital goods. Even, semi-finished goods or intermediates are goods and in turn ‘Input’ by the principal or the job worker.

So, the argument of the applicant that they use their own material, hence, they should not be treated as job worker is not tenable under the provision of law.

Moreover, it is clarified that, the 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).



It is clarified that in case as mentioned at Para (a) above, the supply made is that of bus, and accordingly supply would attract GST @ 28%. In the case as mentioned at Para (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.

ADVANCE RULING UNDER SECTION 98 OF THE CGST/GGST ACT, 2017

The Activity of building and mounting of the body on the chassis provided by the principal under FOC challan will result in supply of services under HSN 9988 and hence, should be taxed @ 18% GST.

(Ashok V. Rane)

Member

(S. K. Sinha)

Member

Dated: -21/08/2018

Place: - Panaji – Goa

To,

Automobile Corporation of Goa Limited,

Honda, Sattari — Goa 403530.

Copy to

1. The Commercial Tax Officer, Bicholim Ward, Bicholim – Goa;
2. The Dy. Commissioner of State Tax, Mapusa Ward, Mapusa;
3. The Commissioner of State GST, Panaji – Goa;
- ✓ 4. The Commissioner of Central GST, Panaji – Goa.



o/c

