

# TAX INFO

Dated: 29.09.2020

Latest update on GST Law: Information regarding **there cannot be two GTAs in the single transportation of the goods** based on the **Judgement issued by Maharashtra Appellate Authority for Advance Ruling.**

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication

## There cannot be two GTAs in the single transportation of the goods

<b>Name of Appellant</b>	M/s Liberty Translines
<b>Name of Court</b>	AAAR-Maharashtra
<b>Appeal Number</b>	MAH/AAAR/RS-SK/25/2020-21
<b>Date of Judgement</b>	17.09.2020

### **Facts of the Case:**

The appellant is the owner of various goods transport vehicles. The appellant has registered himself as GTA and opted for payment of 5% GST, payable by recipient of GTA services under RCM in terms of the Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 read with Notification No. 13/2017- C.T.(Rate) dated 28.06.2017. The appellant now wants to migrate to the option of payment of GST at the rate of 12% on forward charge basis as permitted by Notification No. 20/2017-C.T. (Rate) dated 22.08.2017. They would now be entitled to avail ITC in respect of the goods and services. The Appellant intend to enter into a contract with a company named M/s Posco ISDC Pvt. Ltd. Which also provides GTA services but does not have enough fleet of its own. Appellant would provide the GTA service to the company in their capacity as a sub-contractor

### **Question on which Ruling is sought**

Whether the Appellant could also act as GTA and could issue consignment notes and charge GST @12% when M/s Posco ISDC Pvt. Ltd. Would already be acting as GTA.

### **Ruling given by AAR:**

Services rendered by Applicant cannot be classified as GTA service when the service rendered by M/s Posco ISDC Pvt Ltd as a main contractor was already classified as GTA service. AAR reasoned that applicant was not having any transportation contract with the actual consignor or consignee and it was M/s Posco ISDC Pvt Ltd who rightly issued consignment notes to their clients, The Maharashtra AAR also stressed on E-Way Bill which was issued by M/s Posco ISDC Pvt Ltd which clearly reveals that the actual transportation is being carried out by M/s Posco Pvt Ltd. The services rendered by the applicant would be classified as hiring out of transportation vehicles.

### **Contention of Applicant:**

The AAR failed to appreciate that when the whole work is sub-contracted, and if any other service can be sub-contracted without changing the classification, there is no reason why GTA service cannot be sub-contracted in the same manner. They also failed to appreciate that a GTA has been defined with reference to 'the entity' and not with reference to 'a transaction'. As such person who has issued a consignment note even for one transaction, must be treated as a GTA for all other transactions.

### **Observations:**

The appellant is not directly receiving goods from the consignor/ consignee but from M/s Posco ISDC Pvt Ltd who themselves are acting as GTA and issuing consignment notes in respect thereof. The appellant is merely a goods transport operator and not a GTA. Appellant is simply hiring out their transport vehicles to M/s Posco ISDC Pvt Ltd, hence, their services would be classified under the Heading 9966 of Notification No. 11/2017- C.T. (Rate) dated 28.06.2017, bearing the description "rental services of transport vehicles"

Wherein it is argued that when the whole work is sub-contracted, the classification of the service cannot change, it is opined that the appellant's contention is fallacious as it has been established that the actual transporter is M/s Posco ISDC Pvt Ltd.

### **Ruling:**

The AAAR uphold the ruling given by AAR

**Suresh Aggarwal, Advocate**  
**Compliance & Litigation under GST**  
**Address:** House No. 54, Pocket A-3, Sector-5, Rohini- 110085  
**Phone:** 91-9810032846; 011 - 45131427  
**Email:** sureshagg@gmail.com  
**Website:** <http://www.sureshtaxation.com>