# M/s Ascendas Services (India) Pvt. Ltd. (appellant; advance ruling appealed was KAR/ADRG 114/2019 dated 30 Sept 2019)

Appellate Authority for Advance Ruling — Karnataka

**KAR/AAAR-14-E/2019-20** Dated **14.02.2020**

## Q Questions Before the Authority

- Whether the value of bus passes distributed by the applicant to the commuters is to be included in the value of facilitation charges under section 15(2) of the CGST Act, 2017 and KGST Act, 2017.
- Whether the supply of service in the hands of the applicant could be classified as merely a supply of facilitation services between BMTC and the commuters.
- Before the Appellate Authority, the two issues framed were: (i) whether the appellant's supply to the commuters is a facilitation of transport service by BMTC to the commuters; and (ii) whether the value of the bus passes distributed to the commuters is to be included in the value of the facilitation charges.

## F Facts

The appellant operates and maintains International Tech Park, Bangalore, and also arranges transport for staff of corporate tenants. It contracts with BMTC, which allots one bus for every 50 passes purchased, and it distributes non-AC and combo bus passes to commuters. The appellant charges Rs 300 per commuter as a facilitation fee, collects the cost of passes from commuters, and discharges GST at 18% on the fee as support services in transport.

## H Ruling

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| **Whether the appellant's supply to commuters is merely facilitation of BMTC's transport service (intermediary)** | **No. Appellant supplies the transport arrangement service on its own account, principal to principal.** | The order notes the appellant is the recipient of BMTC's service under the BMTC agreement. The order does not decide any rate, though the appellant had charged 18%. |
| **Whether the value of bus passes distributed to commuters is included in the value of facilitation charges under section 15** | **Yes. Value of bus passes is included along with the facilitation charges in the value of the appellant's supply.** | Based on section 15 of the CGST Act. Bus passes held not to be actionable claims; the order does not separately rule on the proposed section 15(2) exclusion. |

The Appellate Authority held that the appellant is not an intermediary or facilitator but supplies transport arrangement services to the commuters' employers on its own account, on a principal-to-principal basis. It held that the appellant, not the commuters, is the recipient of BMTC's transport service. It further held that the value of the bus passes is includible in the value of the appellant's supply under section 15 of the CGST Act, along with


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the facilitation charges, and that the bus passes are not an actionable claim. The appeal was dismissed and the advance ruling upheld.

## R Reasoning

The Authority read the BMTC agreement and found two transactions: BMTC supplies buses and passes to the appellant, and the appellant issues monthly passes to commuters and schedules routes. Relying on the contractual test for recipient of service, it held that the appellant is the recipient of BMTC's service because it pays BMTC, and that commuters are only beneficiaries, distinguishing Verizon. It rejected the intermediary plea under the definition of intermediary, applying the CBEC Education Guide principle that a service provided on a provider's own account is excluded. On actionable claims, it reasoned under section 2(1), section 2(52), Schedule III para 6 and the Transfer of Property Act definition that a bus pass is a contract of carriage and voucher-like instrument, not an actionable claim. It distinguished the Jotun AAR as addressing whether any supply exists, which was not in dispute here.

## P Provisions Relied On

- Section 100 and section 101 of the CGST Act, 2017 and KGST Act, 2017 (appeal and disposal)
- Section 15 of the CGST Act, 2017 (value of supply), including section 15(2)
- Section 2(93) of the CGST Act, 2017 (recipient of supply)
- Section 2(13) of the IGST Act, as printed in the order (definition of intermediary)
- Section 2(1) of the CGST Act, 2017 (actionable claim, by reference to section 3 of the Transfer of Property Act, 1882)
- Section 2(52) of the CGST Act, 2017 (goods)
- Schedule III, clause 6 of the CGST Act, 2017
- Section 2(118) of the CGST Act, 2017 (voucher)
- CBEC Education Guide on taxation of services (intermediary services, para 5.9.6), as cited

## ! For the Practitioner

The order is useful for operators who arrange employee transport and collect the pass cost from employees, because it confirms that the full pass cost is includible in the taxable value along with the fee. It also confirms that the intermediary exclusion does not apply where the provider contracts with the transport operator on its own account. It does not decide the applicable GST rate, and it does not address whether a different arrangement with direct employee contracts with BMTC would be treated differently.


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## Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> kar_aaaa_14e_2019-20_ascendasservicesaaarorder.pdf

Prepared 18-11-2026.

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