M/s Ascendas Services (India) Private Limited (table: M/s Ascendas Services (India) Pvt. Ltd.)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 114/2019, Dated: 30.09.2019 Dated **30.09.2019**

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 as per 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?

F Facts

The applicant operates and maintains the International Tech Park Bangalore (ITPB) and, for tenants' employees (called commuters), arranges transport by contracting with BMTC. BMTC requires the applicant to collect at least 50 bus passes for every chartered bus it allots, and the applicant distributes the passes (non-AC and combo passes) to commuters, charging a facilitation fee of Rs.300 per pass plus GST at 18%, with bills raised to the companies at ITPB. The applicant contends it is a mere intermediary that only facilitates BMTC's transport service and recovers the pass cost at cost.

H Ruling

Whether value of bus passes distributed to commuters is included in value of facilitation charges under s.15(2)	****Included**: the value of the bus passes and the facilitation charges is to be included in the value of services provided by the applicant.**	The authority rejected the applicant's contrary understanding; the value is determined under section 15 with the monthly pass value plus facilitation charges and other amounts forming part of supply value (para 6).
Whether supply in the applicant's hands could be classified merely as facilitation service between BMTC and commuters	****No** (answered in the negative).**	The applicant receives BMTC's chartered bus service (SAC 996413) and supplies transport to commuters on its own account, so it is not an intermediary under section 2(13) IGST Act.

The authority held that the value of the bus passes distributed to commuters, together with the facilitation charges, forms part of the value of services provided by the applicant. It further held that the supply in the applicant's hands cannot be classified as merely a facilitation service between BMTC and the commuters. The applicant was found to be the recipient of BMTC's chartered bus service and a principal supplying transport to the commuters, not an intermediary.

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

R Reasoning

The authority treated the arrangement as BMTC providing a chartered bus service (SAC 996413) against consideration in the form of bus passes, payable by the applicant, which made the applicant the recipient of that service under section 2(93) of the CGST Act. Because the applicant then supplies transport to the commuters, the monthly pass value and facilitation fee together form the consideration for its own supply under section 15. The authority found the applicant does not arrange or facilitate a supply between two other persons within the section 2(13) IGST Act definition of intermediary, since the commuters and BMTC are not in a principal-to-agent relationship with it and the applicant does not act for BMTC or the commuters. The applicant's reliance on the CBEC education guide and its notifications was not accepted on the intermediary question.

P Provisions Relied On

- Section 15(1) and 15(2) of the CGST Act, 2017 (and KGST Act equivalent), valuation and inclusions
- Section 2(13) of the IGST Act, 2017, definition of intermediary
- Section 2(93) of the CGST Act, 2017, definition of recipient of supply
- Section 97 and Section 98(4) of the CGST Act, 2017 and KGST Act, 2017, advance ruling procedure
- SAC 996413, Non Scheduled Local Bus and Coach Charter Services (as classified by the authority)
- Notification No. 12/2017 Entry 15, Notification No. 8/2017 Entry 8(ii) and Notification No. 11/2017 Entry 11(ii) were quoted in t…

! For the Practitioner

This ruling is useful for companies or business parks that buy bus passes or chartered bus capacity and resell them to employees, as it signals that the pass value, not just the fee, may fall within the taxable value of the reseller's supply. It also indicates that a reseller who takes the transport service as its own recipient is unlikely to escape the supplier characterisation by calling itself a facilitator. The order does not decide the applicable rate for such supplies, whether the 5% or 18% rate applies to the various pass types, or the correct HSN classification as between passenger transport and supporting services, and it binds only the applicant.

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_aar_114_2019_asipl_30.09.19.pdf

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