M/s. B. G. Shirke Construction Technology Pvt. Ltd. (listed as B. G. Shirke Construction Technology Pvt. Limited)

Authority for Advance Ruling — Maharashtra

NO.GST-ARA- 01/2019-20/B- 96, Mumbai, dt. 23/08/2019 Dated **23.08.2019**

Q Questions Before the Authority

- What is the applicable rate of GST on sale of aircraft by an NSOP holder to a private company who have applied for NSOP license, to be used for purposes such as corporate leisure, pilgrimage, cargo chartered flights?

F Facts

The applicant runs an aviation chartering division under a non-scheduled operator permit (NSOP) and proposes to sell one pre-owned Hawker 800XP aircraft to M/s K-Air (Travian Flight Services Pvt. Ltd.). K-Air holds only an initial No Objection Certificate, dated 23.04.2019 and valid for three years, and has yet to obtain an NSOP. The applicant says the aircraft will be used for non-personal, commercial purposes and so attracts 5% GST, whereas the department contends that 28% applies until the end use is known.

H Ruling

GST rate on sale of aircraft by NSOP holder to a private company applying for NSOP	**Not answered**	Authority declined because the purchaser's intended use cannot be determined at this stage. Serial 244 (other than personal use) would apply to non-personal use and Serial 176 (personal use) to personal use.

The Authority did not answer the question. It held that the purchaser's intended use of the aircraft is not yet known and can at this stage only be speculated. It found that the evidence did not conclusively establish that the aircraft would not be used for personal purposes.

R Reasoning

The Authority noted that the initial NOC only allows K-Air to apply for an NSOP and does not itself establish how the aircraft will be used. It compared the two entries of Notification No. 1/2017-CT(Rate) dated 28.06.2017 under Chapter 8802: Serial 244 at 5% for aircraft other than those for personal use, and Serial 176 at 28% for aircraft for personal use. Because the end use was unknown, the Authority concluded that it could not say which entry applies and so could not answer the question on the record before it.

P Provisions Relied On

Notification No. 1/2017-CT(Rate) dated 28.06.2017, Schedule I Serial No. 244

Notification No. 1/2017-CT(Rate) dated 28.06.2017, Schedule IV Serial No. 176

GST Tariff Chapter 8802

Section 97 of the CGST Act, 2017 and the MGST Act, 2017 (application for advance ruling)

Section 98 of the CGST Act, 2017 and the MGST Act, 2017 (procedure for advance ruling)

Civil Aviation Requirements on NSOP and NOC (section 5.1.1 cited by the applicant)

! For the Practitioner

This order does not settle the 5% versus 28% question for sales of aircraft to a prospective NSOP holder. A practitioner would cite it only to show that the Authority will not rule on speculative end use and that the two Serial entries turn on whether the aircraft is for personal use. Anyone advising on such a sale should document the purchaser's intended commercial use and the NSOP status at the time of supply.

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 -> mh_aar_01_2019-20_bgsctpl_b-96_23.08.19_0.pdf

Prepared 07-11-2026.

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: +91 94594 56700 | sales@patronaccounting.com | patronaccounting.com