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, which runs an aviation chartering division under a non-scheduled operator permit (NSOP), proposes to sell one pre-owned Hawker 800XP aircraft to K-Air (Travian Flight Services Pvt. Ltd.). K-Air has received an initial No Objection Certificate from the Ministry of Civil Aviation but does not yet hold an NSOP. The applicant says K-Air will use the aircraft for non-personal charter operations, while the department argues the use is not yet known and the aircraft could be used for personal purposes.

H Ruling

The Authority did not answer the question. It held that, at this stage, the intended use of the aircraft is not known and is only speculated, and that the evidence submitted does not conclusively establish that the aircraft will not be used for personal purposes. The Authority therefore said it could not determine whether Serial No. 244 or Serial No. 176 of the rate notification applies.

R Reasoning

The Authority compared the two entries of Notification No. 1/2017-CT (Rate) dated 28.06.2017: Serial No. 244 of Schedule I, covering other aircraft not for personal use, and Serial No. 176 of Schedule IV, covering aircraft for personal use. It noted that the NOC is only an enabling step for applying for an NSOP and that the purchaser has not yet taken possession of an aircraft. Because the actual use is a future matter that cannot yet be determined, the Authority declined to choose between the two entries. The order does not decide the tax rate or classification.

P Provisions Relied On

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

Notification No. 1/2017-CT (Rate) dated 28.06.2017, Schedule I, Serial No. 244 (other aircraft, other than for personal use)

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

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

! For the Practitioner

This order is of little precedential value on the rate question because it contains no ruling. It shows that the Authority will not rule on a hypothetical or future end use of an aircraft where the purchaser has no NSOP or aircraft yet. A practitioner dealing with a similar sale should expect the same refusal unless the purchaser's permit and actual use are established. The order does not settle whether a non-personal use plea defeats the 28 per cent entry, nor does it address the applicant's Titan Medical and harmonious-construction arguments.

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.pdf

Prepared 07-11-2026.

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