M/s Humble Mobile Solutions Pvt. Ltd.

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 58/2019, Dated: 19th September, 2019 Dated **19.09.2019**

Q Questions Before the Authority

- Whether the applicant is liable to pay tax for supply of services by another person through the e-commerce platform operated by the applicant?

F Facts

The applicant operates 'DriveU', a technology platform that connects customers who want a driver on demand with independent drivers who have enlisted on the platform, and the applicant states that DriveU itself provides no transportation service. Customers pay either in cash directly to the driver or online to the applicant, which then remits the proceeds to the drivers after deducting TDS under section 194C of the Income-tax Act, 1961. The applicant charges the drivers a convenience fee for use of the platform, including GST.

H Ruling

Liability to pay tax on supply of services by drivers through the applicant's e-commerce platform	**Not liable to pay tax on the drivers' services**	The drivers' services are 'driving a motor vehicle' manpower services, not transportation of passengers under item (i) of Notification 17/2017-Central Tax (Rate), so section 9(5) does not apply.
Applicant's liability on services it provides to the drivers, and tax collection under section 52	**Liable to pay tax on its services to the drivers; liable to collect tax under section 52 on net value of taxable supplies made by drivers where the applicant collects the consideration**	Applies only where the consideration is collected by the applicant. Amounts paid directly by customers to drivers do not attract section 52. The order records that the section 52 provisions came into force on 1 October 2018 by Notification No. 51/2018-Central Tax; the notification date is partly obscured by a stamp and is not clearly legible.

The applicant is **not liable to pay tax on the supply of services by the drivers** through its platform, because those services are not among the categories notified under section 9(5) of the CGST Act. However, the applicant **is liable to pay tax on the services it provides to the drivers** and must **collect tax under section 52 on the net value of taxable supplies** made by the drivers where the consideration is collected by the applicant. The authority also held that a person supplying goods or services through an e-commerce operator required to collect tax under section 52 is liable to compulsory registration under section 24.

R Reasoning

The authority treated the arrangement as three supplies, of which the drivers' services to customers were the key question. It read section 9(5) of the CGST Act and Notification 17/2017-Central Tax (Rate), and held that the

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

drivers were not providing passenger transportation in their own vehicles but manpower driving services, which fall outside item (i) of the notification. Items (ii) and (iii) were held not to apply at all. The authority then turned to section 52, observing that the applicant collects consideration on behalf of drivers in some cases, so it must collect tax at source on that net value. It also held that section 24 compulsory registration follows where section 52 applies. The applicant's argument that no TCS was yet effective was not accepted.

P Provisions Relied On

- Section 97 of the CGST Act, 2017 and the KGST Act, 2017 (advance ruling)
- Rule 104 of the CGST Rules, 2017 and the KGST Rules, 2017
- Section 9(5) of the CGST Act, 2017
- Notification No. 17/2017-Central Tax (Rate) dated 28.06.2017, items (i) to (iii)
- Section 52 of the CGST Act, 2017 (collection of tax at source)
- Section 24 of the CGST Act, 2017 (compulsory registration)
- Section 22(1) of the CGST Act, 2017 (referred to in the notification)
- Notification No. 51/2018-Central Tax (date of commencement of section 52)

! For the Practitioner

This ruling is useful for marketplace operators that connect customers with independent drivers or manpower providers. It confirms that driver services of this kind are not notified under section 9(5), so the operator is not the deemed supplier, but it also confirms that the operator must collect tax at source under section 52 where it collects the driver's consideration. It does not decide the GST treatment of the drivers' own supplies, which the authority expressly left outside the ruling. The ruling binds only the applicant, and a practitioner should check whether the platform's payment flows match the facts in the order.

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_58_2019_hmspl_19.09.19.pdf

Prepared 09-11-2026.

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