M/s. Liberty Translines

Authority for Advance Ruling — Maharashtra

NO.GST-ARA-39/2019-20/B-24, Mumbai Dated **05.03.2020**

Q Questions Before the Authority

- Where the applicant will issue its own consignment note alongside the consignment note issued by POSCO ISDC Pvt. Ltd. (main contractor, a GTA), is the applicant's service to POSCO as sub-contractor classifiable as GTA service (SAC 996791)?
- Is the applicant right in charging GST at 12% under forward charge to POSCO under Notification No. 20/2017-C.T. (Rate) dated 22.08.2017, when POSCO is already charging 12% under the same notification?
- Would POSCO be eligible to claim input tax credit of the 12% GST charged by the applicant under forward charge?
- Procedurally, is it correct to have two GTA service providers and two consignment notes for the same movement of goods, one issued by the applicant as sub-contractor and one by POSCO as main contractor?

F Facts

The applicant is a registered Goods Transport Agency that currently opts for 5% GST payable by the recipient under reverse charge, without charging GST or claiming ITC. It sometimes supplies vehicles to POSCO ISDC Pvt. Ltd., a GTA that has opted for 12% forward charge, which sub-contracts transport work to it. The applicant proposes to issue its own consignment note to POSCO and charge 12% forward charge, while POSCO issues a second consignment note to the end client for the same movement in the same vehicle.

H Ruling

Q1: Applicant's sub-contract service to POSCO classifiable as GTA (SAC 996791)	**No (answered in the negative)**	Decided on the facts: POSCO holds the transport contract with the consignor or consignee, and the applicant only supplies vehicles. Issuing a consignment note is an essential qualification for GTA status, and only one consignment note exists per movement.
Q2: 12% forward charge to POSCO under Notification 20/2017-C.T. (Rate)	**Applicant cannot charge 12% forward charge to POSCO under Notification 20/2017-C.T. (Rate)**	Follows from the answer to Q1, since the applicant is not treated as a GTA for this transaction.
Q3: POSCO's eligibility to claim ITC of the 12% GST charged by the applicant	**Not answered**	The authority held that POSCO, not the applicant, is the proper person to raise this question.
Q4: Procedural correctness of two GTAs and two consignment notes for one movement	**Not answered**	The authority held that this is a procedural matter outside the questions listed in Section 97(2), so it lacks jurisdiction to rule on it.

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

The authority answered Question 1 in the negative, holding that the applicant's service to POSCO is not GTA service because the arrangement is in substance a hiring of vehicles and the applicant cannot issue a second consignment note for the same transport. Because of that answer, the applicant cannot charge 12% under forward charge to POSCO under Notification 20/2017-C.T. (Rate). Questions 3 and 4 were not answered, the former because POSCO is the proper person to raise it and the latter because procedural questions fall outside Section 97(2).

R Reasoning

The authority found that POSCO holds the transport contract with the consignor or consignee and that the applicant merely provides vehicles when called upon, so the transaction is hiring of vehicles and not GTA service. It relied on the explanation in Notification 11/2017-C.T. (Rate), which treats a GTA as a person who provides transport services and issues a consignment note, and on the Service Tax Rule 4B definition quoted in CBEC Circulars 95/6/2007-ST and 97/8/2007-ST. It concluded that a single movement of goods cannot carry multiple consignment notes, so the applicant cannot be treated as a GTA for the transaction and cannot charge 12% under Notification 20/2017-C.T. (Rate). It declined to answer Questions 3 and 4 because they fall outside Section 97(2) of the CGST Act.

P Provisions Relied On

- Section 95 CGST Act, 2017 (definition of advance ruling)
- Section 97(2) CGST Act, 2017 (matters on which advance ruling may be sought)
- Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 (GTA definition and explanation)
- Notification No. 20/2017-C.T. (Rate) dated 22.08.2017 (GTA forward charge option at 12%)
- Notification No. 12/2017 (exemption entry for giving vehicles on hire, cited by the applicant)
- Rule 4B, Service Tax Rules (consignment note definition, quoted by both parties)
- CBEC Circulars No. 95/6/2007-S.T. dated 11.06.2007 and No. 97/8/2007-S.T. dated 23.08.2007

! For the Practitioner

Practitioners dealing with sub-contracted GTA work, especially truck owners who want to opt for forward charge, will find this order useful. It indicates that a party who only supplies vehicles and does not hold the transport contract is unlikely to be treated as a GTA, and that only one consignment note should exist per movement. The order does not decide whether two GTAs can ever coexist in a sub-contracting chain, the ITC question, or any case where the sub-contractor holds the consignor's contract directly. Its findings rest on the absence of an agreement with POSCO and on the factual characterisation of the arrangement, and an appeal lies to the Maharashtra Appellate Authority for Advance Ruling.

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 -> mah_aar_39_2019-20_b-24_05.03.2020_lt.pdf

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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