M/s Sincere Marketing Services Pvt. Ltd., 39 KM Stone, N.H.-8, Narsinghpur Village, Gurgaon, Haryana (GSTIN 06AAACS1430P1ZD)

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2019-20/07 (In Application No. 07/2019… Dated **13.09.2019**

Q Questions Before the Authority

- Whether supply of chassis mounted with bus body shall be treated as a supply of bus, or as separate supplies of (i) chassis at 28% under the prescribed HSN and (ii) services of mounting/fabricating the bus body outsourced to the body builder.
- Whether the supply of chassis and the provision of mounting/fabrication services under two separate contracts to the same customer should be treated as supply of bus, or as separate supplies of (i) chassis at 28% and (ii) mounting/fabrication services.
- Whether the recovery of bus body building charges incurred by the applicant on behalf of the customer, as agent, is covered by Schedule I of the CGST Act, 2017 and leviable to GST; and, if not, whether it is leviable at 18% as a supply of services.

F Facts

The applicant trades in buses and bus chassis and, in some cases, arranges for bus bodies to be mounted on chassis through an outside bus body builder. The arrangements described include (Type 1) a sale of the built-up bus after the chassis is sent to the builder under challan; (Type 2, Models A and B) separate contracts for sale of the chassis and for mounting services, with the chassis sent to the builder directly or shipped on a 'bill to ship to' basis; and (Type 3) a sale of chassis followed by an agency arrangement under which the applicant mounts the body on the customer's behalf.

H Ruling

Chassis mounted with bus body (Type 1 and single-contract arrangements): supply of bus or separate supplies	**Supply of a bus, classifiable under heading 8702, taxable at 28%**	Authority rejected the separate-supply view. Reasoning rests on the bus body being the principal supply in a composite supply, not job work.
Chassis and mounting/fabrication services under two separate contracts to the same customer	**Supply of chassis plus composite supply of bus bodies (HSN 8707), taxable at 28%**	Ruling text states heading 8707 for both the composite supply and the classification. Scan legibility of the HSN is good, but the Type 1 answer in para 3.9 refers to HSN 8702 and para 3.12 to 8706, so the HSN references are not fully consistent within the order.
Recovery of bus body building charges incurred as agent on behalf of customer	**Covered by Schedule I of the CGST Act, 2017 and leviable to GST at 28%**	The question's alternative (18% as services) is not answered separately, since the authority found the activity leviable at 28%.

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

The authority held that the mounted chassis is a composite supply whose principal supply is the bus body, so the supply is a supply of a bus under heading 8702 at 28%. Where chassis and mounting services are provided under two separate contracts to the same customer, it held that the supply is treated as chassis plus a composite supply of bus bodies (HSN 8707) at 28%. It held that recovery of body building charges incurred as agent is leviable to GST at 28%.

R Reasoning

The authority applied the CBIC clarification in Circular No. 34/8/2018-GST dated 1.3.2018 that bus body building is a composite supply of goods and services, and then the definitions of composite and principal supply in section 2(30) and section 2(90), together with the tax-liability rule in section 8 of the CGST/SGST Act, 2017. It relied on Circular No. 52/26/2018-GST dated 9.8.2018 to distinguish job work (18%) from supply of a bus (28%). It found that the builder here supplied the bus body with its own materials, so the activity was not mere job work, and that the bus body was the principal supply. The order's reasoning on the Circular 52/26 point is internally inconsistent: para 3.9 treats the builder's work as job work at 18%, but the ruling then holds the bus body to be the principal supply at 28%.

P Provisions Relied On

- Section 97(2)(g) of the CGST/HGST Act, 2017 (clause under which the question was raised)
- Section 2(30) CGST/SGST Act, 2017 (definition of composite supply)
- Section 2(90) CGST/SGST Act, 2017 (definition of principal supply)
- Section 8 CGST/SGST Act, 2017 (tax liability on composite and mixed supplies)
- Schedule I, Central Goods and Services Tax Act, 2017
- CBIC Circular No. 34/8/2018-GST dated 1.3.2018
- CBIC Circular No. 52/26/2018-GST dated 9.8.2018 (paras 12.1 to 12.3)
- HSN headings 8702, 8705, 8706 (as printed), 8707 and 9988 as referred to in the order

! For the Practitioner

The order helps a practitioner whose client sells mounted buses or chassis with outsourced body building, because it holds the mounted bus to be a single supply of a bus at 28%, even where chassis and mounting are separately invoiced to the same customer. It also settles that agency recovery of body building charges is taxed at 28%. It does not decide the 18% job-work position for a builder working on a chassis owned by the principal, which is discussed only in passing, and the internal inconsistencies in HSN references and the job-work analysis mean the full order should be read before relying on it.

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 -> har_aar_07_2019-20_13.09.2019_smspl.pdf

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