M/s Saravana Perumal

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 98/2019, Date: 27-09-2019 Dated **27.09.2019**

Q Questions Before the Authority

- The applicant wants to be a registered Goods Transport Agency (GTA) under Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017. Can he hire out vehicles to another GTA?

F Facts

The applicant is an individual who is not registered under the GST law. He wants to register as a GTA and to give his own vehicles on hire to another GTA. He is unsure whether one person can act as a GTA and also supply vehicles on hire to another GTA.

H Ruling

Can a registered GTA also hire out its vehicles to another GTA?	**Yes**	Subject to the tax treatment under Notification No. 11/2017, 12/2017 and 13/2017 (Central Tax (Rate)), each dated 28.06.2017, as amended. The ruling speaks of a registered person, although the applicant was unregistered when he filed the application.

A registered person can be a Goods Transport Agency and also a supplier of goods vehicles to another GTA on hire basis at the same time. Each activity remains subject to the tax treatment prescribed in Notifications No. 11/2017, 12/2017 and 13/2017, all dated 28.06.2017 (Central Tax (Rate)), as amended from time to time. The Authority found no provision in the law that bars a GTA from renting its vehicles to another GTA.

R Reasoning

The Authority applied the definition of 'goods transport agency' in clause 2(ze) of Notification No. 12/2017 and in the explanation to entry 9 of Notification No. 11/2017. Both define a GTA as a person who provides road transport services and issues a consignment note, so the applicant would become a GTA by issuing consignment notes for goods belonging to others. It then set out the GTA tax treatment under entry 9(iii) of Notification No. 11/2017 (2.5% without input tax credit, or 6% under the option), and the 9% rate for other transport services under clause (vi). It treated the hire of vehicles to a GTA as a separate activity, exempt under entry 22 of Notification No. 12/2017, so the two activities are independent for tax purposes. The Authority also noted the reverse charge under Notification No. 13/2017 and the proviso added by Notification No. 29/2018, which excludes certain government recipients registered only for deduction of tax under section 51.

P Provisions Relied On

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

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

Section 98(4) of the CGST Act, 2017 and the KGST Act, 2017 (order)

Section 51 of the CGST Act, 2017 (as referred to in the proviso to Notification No. 13/2017)

Clause 2(ze) of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 (definition of goods transport agency)

Entry 18 of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 (as cited in the applicant's CBIC flier)

Entry 22 of Notification No. 12/2017 - Central Tax (Rate) dated 28.06.2017 (hire of goods vehicles to a GTA)

Entry 9(iii) and (vi) of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017, including its explanation (GTA services…

Notification No. 13/2017 - Central Tax (Rate) dated 28.06.2017 (reverse charge), entry 1

Notification No. 29/2018 - Central Tax (Rate) dated 31.12.2018 (proviso to entry 1 of Notification No. 13/2017)

! For the Practitioner

This ruling is useful for small transporters who own vehicles and want both to run a GTA business and to hire out their vehicles to another GTA, because it confirms that the two activities can coexist. The Authority treats each activity separately for tax purposes and does not treat the hire as a GTA service. The order does not set out a specific rate or input tax credit position for the applicant's own activities, and it does not decide the choice between the 2.5% and 6% options. Its binding effect is limited to the applicant under section 103.

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_98_2019_27.09.2019_sp.pdf

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