M/s. Sharma Transports, No.328, Sangeetha Bhavan, Tipu Sultan Palace Road, Kalasipalyam, Bengaluru - 560 002 (GSTIN 29ADPFS9020E1ZR)

Authority for Advance Ruling — Karnataka

Advance Ruling No. KAR ADRG 79/2019, Date: 24-09-2019 Dated **24.09.2019**

Q Questions Before the Authority

- Whether the revenue earned through the 'operation and maintenance of employee commutation vehicles and transportation services agreement' is to be classified under heading passenger transport services with SAC 9964(vi), liable to tax at 5% (CGST + SGST) without input tax credit or 12% (CGST + SGST) with input tax credit, or under rental services of transport vehicles with SAC 9966(i), liable to tax at 5% (CGST + SGST) without input tax credit or 12% (CGST + SGST) with input tax credit, or at any other rate.

F Facts

The applicant is a partnership firm that owns buses and holds 'Private Service Vehicle' permits in the name of M/s. Volvo Group India Pvt. Ltd. Under a composite operation and maintenance agreement, it provides, runs and maintains the buses to carry Volvo's employees between pick-up points and the client's factory or office. It is paid a fixed monthly cost plus a variable cost per kilometre, with the order recording a rental of Rs.1,40,315 per vehicle per month for 2,640 km and 22 working days.

H Ruling

Classification of revenue from the operation and maintenance of employee commutation vehicles and transportation services agreement (SAC 9964(vi) or SAC 9966(i) or other)	**Passenger transport services under Heading 9964, covered by entry 8(vii) of Notification 11/2017-Central Tax (Rate) dated 28.06.2017 as amended; taxable at 9% CGST and 9% KGST**	The order does not use the 5% or 12% rates posed in the question. It rejects SAC 9966 rental classification because the renter does not decide how, when, where or on what schedule the vehicles operate. The ruling binds only the applicant and the jurisdictional officers.

The authority held that the services are **passenger transport services** under Heading 9964, covered by **entry 8(vii)** of Notification No. 11/2017-Central Tax (Rate) as amended, and are **taxable at 9% under the CGST Act and 9% under the KGST Act** . It held that the services fall neither under entry 8(ii) (contract carriage, stage carriage or radio taxi) nor under entry 8(vi) (motorcab), and that they are not rental services under SAC 9966.

R Reasoning

The authority read the question against Notification 11/2017-Central Tax (Rate) and its explanatory notes. It held that entry 8(ii) does not apply because the buses are not contract carriages, stage carriages or radio taxis, and

that entry 8(vi) does not apply because 'motorcab' under Section 2(24) of the Motor Vehicles Act, 1988 covers vehicles carrying no more than six passengers, whereas these buses seat more. It relied on the explanatory note to SAC 996411, which covers passenger transport over pre-determined routes and schedules for a specific segment of users such as enterprises, to place the activity under the residual entry 8(vii). It rejected SAC 9966 because the explanatory notes to 996611 require the renter to define how and when the vehicles are operated, and here the client decides those matters.

P Provisions Relied On

- Section 97 of the CGST Act, 2017 and the KGST Act, 2017 (advance ruling application)
- Section 98(4) of the CGST Act, 2017 and the KGST Act, 2017 (order of the Authority)
- Rule 104 of the CGST Rules, 2017 and the KGST Rules, 2017 (Form GST ARA-01 and fee)
- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 as amended, entries 8(ii), 8(vi) and 8(vii)
- Explanatory notes to SAC 9964 (996411) and SAC 9966 (996611)
- Clause (7) of Section 2 of the Motor Vehicles Act, 1988 (contract carriage, stage carriage, radio taxi)
- Section 2(24) of the Motor Vehicles Act, 1988 (motorcab)

! For the Practitioner

A practitioner advising a bus operator who runs employee shuttles under permits in a client's name can use this ruling to support 9% CGST and 9% KGST on that model. It also shows why the SAC 9966 rental route and the motorcab and contract carriage entries were rejected. The ruling does not decide input tax credit eligibility or the position for operators whose permits, routes or scheduling differ, and it binds only the applicant. The full order should be read for the reasoning on how the renter's control over operations was assessed.

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_79_2019_st_24.09.19.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

Patron Accounting LLP