

GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX A/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2022/ 23
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/14)

Date: 12.04.2022

Name and address of the applicant	:	M/s. Vasant Fabricators Pvt. Ltd, Building No. 1, Survey No. 8, Panchal Estate, Narasan Road, Chhapi, Dist.Banaskantha Gujarat- 385210
GSTIN/ User Id of the applicant	:	24AACCV4512D1ZU
Date of application	:	07/03/22
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(a) and (e)
Date of Personal Hearing	:	22/03/22
Present for the applicant	:	Shri Hemchand Chhajed, CA

Brief facts:

M/s. Vasant Fabricators Pvt. Ltd. (referred to as ‘VFPL’ for the sake of brevity) submits that it is engaged in building bodies of various vehicles falling under Chapter 87 of the First Schedule to the Custom Tariff Act such as mounting of tankers, tippers etc. on chassis provided by the owner of such chassis, either registered or unregistered.

2. On receipt of such chassis, VFPL undertakes the following activities on such chassis:

- (i) First the chassis of the Principal, either registered or unregistered, is received at VFPL registered premises. Thereafter, they make the drawing for type of the job to be undertaken and ascertain the type and quantity of materials required for the job. Depending on the work to be carried out i.e. Mounting of Tanker or Tipper, they place the order for purchase of the required materials such as steel sheets, nuts and bolts, etc. The steel sheets are then cut and bent as per the required dimensions and the bended edges are joined through the process of welding. In this manner, all the required parts are independently fabricated and then assembled to obtain the Tanker, Tipper, etc. Such tankers, tippers, etc. are then mounted on the chassis owned by the Principal.

3. VFPL has submitted that the activity undertaken by them is in the nature of working upon the goods i.e. chassis supplied by the Principal and converting the same into a Mounted Tanker, Tipper, etc. Therefore, the activity, as per their understanding, would be in the nature of supply of services. As per the Scheme of Classification of services in the Annexure to Notification No. 11/2017 Central Tax (Rate) and corresponding SGST/IGST Notifications, their services would be covered under the main head of 9988 which reads as under:

“Manufacturing services on physical inputs (goods) owned by others”

The sub-group would be 99888 i.e. Transport equipment manufacturing services further classifiable under Service Code 998882 i.e. Other transport equipment manufacturing services.

3.1 VFPL has submitted that the applicable rate of GST, would be 18% in terms of Entry No. 26(ic) & (iv) of Notification No. 11/2017 CT(Rate) and submitted as under :

a) In cases where the chassis is provided by a Registered Person – Rate of tax 18%
Entry number 26 in Notification No. 11/2017 Central Tax (Rate) as amended vide Notification No. 20/2019 Central Tax (Rate) dated 30.9.2019 specifies the rate of 18% in case the services are in the nature of job-work. The relevant entries are reproduced below:

3	4	5
(ic) Services by way of job work in relation to bus body building;	9	
(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id),(H), (iia) and(Hi) above.	9	

(i) The term ‘bus body building’ has been defined as building of body on chassis of any vehicle falling under chapter 87 by virtue of Explanation which was inserted vide Notification No. 26/2019 CT(Rate) and the same reads as under:

Explanation - For the purposes of this entry, the term “bus body building” shall include building of body on chassis of any vehicle falling under chapter 87 in the First Schedule to the Customs Tariff Act, 1975.”

(ii) Job work has been defined at Section 2(68) of the CGST Act as under:

"Job work means any treatment or processing undertaken by a person on goods belonging to another registered person and the expression ‘job worker’ shall be construed accordingly.”

(iii) A conjoint reading of the entry in the Notification and Section 2(68) of the CGST Act, 2017 indicates that any treatment or processing undertaken on the goods belonging to another person who is Registered would be covered under the definition of job-work and accordingly, the applicable rate would be the entry at (id) above. In short, in cases where

we receive the chassis from a GST registered person, the activity would be in the nature of services covered under Sr. No. 26(ic) of Notification No. 11/2017 Central Tax (Rate) as amended vide Notification No. 20/2019 Central Tax (Rate) and the applicable rate would be 18%

b) In cases where the chassis is provided by an unregistered person – Rate of Tax 18%

In cases where the chassis is provided by an unregistered person, the activity would be covered under the description “*Manufacturing services on physical inputs (goods) owned by others*” as appearing at Sr. No. 26(iv) of Notification No. 11/2017 Central Tax (Rate) as amended vide Notification No. 20/2019 Central Tax (Rate) and the applicable rate would be 18%.

3.2 VFPL submitted that the above position has also been clarified under Circular No. 126/45/2019-GST dated 22.11.2019 and the relevant text of the clarification is as follows:

*In view of the above, it may be seen that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017. Entry at item (id) covers only job work services as defined in section 2 (68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another **registered** person. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.*

(i) It is submitted by VFPL that the above clarification expressly indicates that the activity of manufacturing services on physical inputs owned by others would be classifiable under ‘Job-work’ services in case the goods are received from Registered person and ‘Other Manufacturing Services’ in case the goods are received from Unregistered person.

4. VFPL has submitted that they are physically receiving the goods i.e. Chassis owned by the Principal which are registered in some cases and not registered in some cases. Thereafter, they are undertaking the activity of fabricating the tanker, tipper, etc. and mounting the same on such chassis. With regard to the activity undertaken by them, they are charging the job-charges which include the charges of fabrication of Tanker, Tipper, etc. and mounting of the same on the chassis owned by the Principal. The cost of raw materials used for fabrication of Tanker, Tipper, etc. is included in the said job charges raised under tax invoice.

4.1 VFPL submitted that the activity undertaken by it is supply of services.

5. submits that the activity undertaken by them is purely supply of services based on the following clarifications issued by the Board and the various Advance Rulings pronounced by the Authority of Advance Ruling pertaining to various states across India:

a) Circular No. 52/26/2018-GST dated 09.08.2018

VFPL has submitted that in Para 12 of the said circular clarifies the activity of bus-body building which is identical to their activity in terms of Explanation to Sr. No. 26(ic) of Notification No. 11/2017 CT(Rate) which was inserted vide Notification No. 26/2019 CT(Rate). The text of the said circular reads as under:

12.1 Applicable GST rate for bus body building activity : Representations have been received seeking clarifications on GST rates on the activity of bus body building. The doubts have arisen on account of the fact that while GST applicable on job work services is 18%, the supply of motor vehicles attracts GST @ 28%.

12.2 Buses [motor vehicles for the transport of ten or more persons, including the driver] fall under headings 8702 and attract 28% GST. Further, chassis fitted with engines [8705] and whole bodies (including cabs) for buses [8707] also attract 28% GST. In this context, it is mentioned that the services of bus body fabrication on job work basis attracts 18% GST on such service. Thus, fabrication of buses may involve the following two situations :

(a) Bus body builder builds a bus, working on the chassis owned by him and supplies the built-up bus to the customer, and charges the customer for the value of the bus.

(b) Bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work).

12.3 In the above context, it is hereby clarified that in case as mentioned at Para 12.2(a) above, the supply made is that of bus, and accordingly supply would attract GST @ 28%. In the case as mentioned at Para 12.2(b) above, fabrication of body on chassis provided by the principal (not on account of body builder), the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

b) Answer to Question No. 27 in the sectoral FAQs published by the CBIC <https://www.cbic.gov.in/resources/htdocs-cbec/gst/Final-GST-FAQ-31218> is read as under:

Q27. Whether activity of bus body building, is a supply of goods or services?

Ans. The classification would depend on which supply is the principal supply. In case, a bus body building company builds on the chassis owned by it and sells the completely built buses, it would be supply of goods. On the other hand, if the company builds the body on the chassis belonging to some else, it would be supply of services.

VFPL submitted that their activity is falling under the category of supply of services in view of the above clarification in as much as they are undertaking the activity of bus body building on the chassis owned by the Principal.

c) VFPL cited following Advance Rulings:

(i) M/s AB N Dhruv Autocraft (India) Pvt. Ltd. reported at 2020 (41) GSTL 383 (AAR-Gujarat)

(ii) Advance Ruling in the case of M/s SLN Tech-Fabs (Bengaluru) Pvt. Ltd. reported at 2020 (34) GSTL 290 (AAR-GST-Kar)

(2) The activity of fabrication of body building on Tippers, Trailers etc., merits classification under SAC 998881, under “Motor vehicle and trailer manufacturing services”, in terms of Sl. No. 535 of Annexure to Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017.

(iii) Advance ruling in the case of M/s Commercial Vehicles Ltd. reported at 2020 (39) GSTL 378 (AAR-GST-MP)

(iv) Advance ruling in the case of M/s Tube Investments of India Ltd. reported at 2020 (42) GSTL 256 (AAR-GST-TN)

(v) Advance Ruling in the case of M/s Jeet & Jeet Glass And Chemicals Pvt. Ltd. reported at 2021 (48) GSTL 85 (AAR-GST-Raj)

(vi) Advance Ruling in the case of M/s Kondody Autocraft (India) Pvt. Ltd. reported at 2019 (23) GSTL 488 (AAR-GST)

(vii) Advance Ruling in the case of M/s Rohan Coach Builders reported at 2019 (26) GSTL 525 (AAR-GST)

(viii) Advance Ruling in the case of M/s Sanghi Brothers (Indore) Pvt. Ltd. reported at 2019 (27) GSTL 136 (AAR-GST)

6. Question on which Advance Ruling sought:

(1) Whether the activity of fabricating and mounting Tankers, Tippers, etc. on the chassis provided by the owner of such chassis i.e. bus body building would be covered under the category of Supply of Services?

(2) If yes, the applicable accounting code of such services as per the Scheme of Classification of Services and the applicable rate of GST thereon.

Personal Hearing:

7. Personal hearing (virtual) granted on 22-3-22 was attended by Shri Hemchand Chhajed and he reiterated the submission.

Revenue's Submission:

8. Revenue has neither submitted its comments nor appeared for hearing.

FINDINGS:

9. We find that for the Question presented by VFPL, its answer had been laid threadbare in the GST Scheme of law, as follows:

i. Schedule II(3) CGST Act reads as, any treatment or process which is applied to another person's goods is a supply of service.

Therefore bus body building on customer owned chassis is supply of service.

ii. Section 2(68) CGST Act defines Job work as any treatment or process undertaken by a person on goods belonging to another **registered** person.

Therefore bus body building on chassis owned by GST **registered** customer is Job work and finds entry at Sr no 26(ic) to Notification 11/2017-CT(R).

iii. And bus body building on chassis owned by **un-registered customer** is 'Manufacturing services on physical inputs (goods) owned by others, other than those registered under CGST Act' which finds entry at Sr no. 26(iv) to Notification 11/2017-CT(R).

10. As per the Scheme of Classification of services, We find subject supply merits to be classified at Heading 9988 'Manufacturing services on physical inputs (goods) owned by others' and precisely at Service code (Tariff) 998882 'other transport equipment manufacturing services'.

11. We, hereby pass the Ruling:

RULING

1. Supply of Bus body building on the chassis owned by customer is supply of Service.

2. GST rate:

S.No	Service Description	Notification 11/2017-CT(R) dated 28-6-17.	Service Code	GST rate
i.	Bus body building on chassis owned by GST registered customer.	Sr. no. 26(ic)	998882	18%
ii.	Bus body building on chassis owned by unregistered customer	Sr. no. 26(iv)	998882	18%

(ATUL MEHTA)
MEMBER (S)

(ARUN RICHARD)
MEMBER (C)

Place: Ahmedabad

Date:12.04.2022