


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/30/2020
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2019/AR/11)

Date: 02.07.2020

Name and address of the applicant	:	M/s. AB N Dhruv Autocraft (India) Pvt. Ltd., C-13, GIDC Electronics Estate, Sector-25, Gandhinagar, Gujarat
GSTIN/ User Id of the applicant	:	24AAGCA0966N1ZG
Date of application	:	09.02.2019
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	a) Classification of goods and/or services or both. e) Determination of the liability to pay tax on any goods or services or both.
	:	11.06.2020 (through Video Conferencing)
Present for the applicant	:	Shri Nilesh V Shuchak

M/s. Ab N Dhruv Autocraft (India) Pvt. Ltd., C-13, GIDC Electronics Estate, Sector-25, Gandhinagar having a GSTIN: 24AAGCA0966N1ZG, is a company filed an application for Advance Ruling under Section 97 of CGST Act, 2017 and Section 97 of the GGST Act, 2017 in FORM GST ARA-01 discharging the fee of Rs. 5,000/- each under the CGST Act and the SGST Act.

2. M/s. AB N DHRUV AUTOCRAFT (INDIA) Pvt. Ltd. an applicant is providing service of body building on motor vehicles by fabrication and charged fabrication charges on lump sum basis. They are providing manufacturing service or body building services on physical inputs (goods) or chassis owned by others and provided by owner for body building and applicant charges lump-sum fabrication charges (including certain material that would be consumed during the process of body building). The applicant is carrying out this activity for manufacturing of tipper, tanker, trailer etc. on chassis provided by the owners of such vehicles. The process of said manufacturing activity is as under:

- i. Received chasis at workshop
- ii. Purchase raw steel and receive it at workshop
- iii. Prepare cutting plan and drawing
- iv. Cutting and bending of raw material
- v. Welding of all cutting and bending part
- vi. Assembly of all fabricated parts
- vii. Final product on chasis.

3. The applicant further submitted that sometimes they charge separately for parts and for repairing job charges and are paying due GST as applicable on goods or repairing service separately.

4. The applicant submitted that in addition to the said activity they carry out accident repairing job on vehicle supplied by its owner for repairing job for a lump sum price that includes cost of material and labour.

5. Accordingly, the applicant sought Advance Ruling on the following question:

A. Whether the treatment or process of body building by fabrication and other processes carried out on chasis of motor vehicle owned by others is supply of services ?

B. If the above stated activity of body building is considered as supply of service in terms of description given at paragraph 3 of Schedule II of the CGST Act, 2017 what will be the rate of GST applicable on such service?

C. What will be the service Code (tariff) for above stated activity of body building carried out on another person's chasis of motor vehicle?

D. What would be the classification and applicable rate of tax for the activity of accident repairing job on the vehicle supplied by the owner for such job if a lump sum price is charged that includes cost of material and labour?

E. If the above stated activity of body building is not considered as supply of

services, what will be the nature of this supply, tariff code and rate of GST for such supply?

Applicant's Interpretation of Law/Taxation under GST Regime

6. The applicant submitted that activity of providing service of body building on motor vehicles/ chassis owned by others by fabrication and collecting lump sum fabrication charges should be treated as supply of service in terms of Paragraph 3 of Schedule II of the CGST Act, 2017. As per clause 3 of Schedule-II, *"any treatment or process which is applied to another person's goods is supply of services"*. Further submitted that they merely provide services of fabricating and body building on motor vehicles chassis belonging to another person as per the requirements of their customers on goods (inputs) provide by them. There is no transfer of ownership for providing such services and thus it appears supply of service.

The relevant extract of clause 3 of Schedule-II of the CGST Act, 2017 is as under :

Schedule II

ACTIVITIES OR TRANSACTION TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

3. Treatment of Process

Any treatment or process which is applied to another person's goods is a supply of services.

7. The applicant further submitted that activity of body building on chassis provided by the owner is in nature of service and in this regard CBIC has issued clarification vide Circular No. 52/26/2018-GST dated 09.08.2018. In the circular it is categorically clarified that fabrication of body on chassis provided by the principal (not on account of body builder), supply would merit classification as service and 18% GST as applicable will be charged accordingly.

8. The applicant has relied upon the Order dated 21.08.2018 of Advance Ruling Authority of Goa in the case of Automobile Corporation of Goa Limited wherein it is ruled that, "the activity of building and mounting of the body on the chassis provided by the principal under FOC challan will result in supply of services under HSN 9988 and hence, should be taxed at 18% GST".

9. The applicant submitted that Service Accounting Code 9988 covers "Manufacturing Service on Physical Inputs (Goods) owned by others". Thus it

appears that the nature of activity of body building and mounting of the body on the chassis provided by the principal will result in supply of service under HSN Code 9988 and hence should be taxed at 18% of GST even in terms of clear description of services provided at Annexure relating to scheme of classification of services as given along with Notification No. 11/2017-CT (Rate) dated 28.06.2017 and the relevant extract there from is given below for ready reference:

Sl. No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
498	Heading 9988		Manufacturing services on physical inputs (goods) owned by others
534	Group 99888		Transport Equipment Manufacturing Service
		998881	Motor vehicle and trailer manufacturing services
		998882	Other transport equipment manufacturing services

10. The applicant further submitted that activity of body building shall not be treated as supply of goods or motor vehicle as the activity carried out by them is not the supply of motor vehicle as they are not owning the chassis in the instant case.

11. The applicant further submitted that with regard to the classification of the activity of accident repairing job on the vehicles supplied by the owner for such job for a lump sum price is concerned, they are of the bonafide belief that this activity should be treated as service even though it includes cost of material and labour in view of the clear provisions of clause 3 of Schedule-II of the CGST Act, 2017, that categorically states that any treatment or process which is applied to another person’s goods is supply of services. Further it is submitted that the classification of this activity should be under Service Code (tariff) 998729 that includes, “Maintenance and repair services of other goods nowhere else classified” and should attract total rate of 18% GST on value of supply of such service.

12. The applicant has submitted the additional submission vide letter dated 10.06.2020 wherein they re-iterated the submission already made in their

application. Further submitted that they confirm that for carrying out the activity of building and mounting of the body, their customer (the principal) provides or delivers the chassis under delivery challan and ownership of such chassis is not transferred to them in any case; they never purchase such chassis on their own account; they procure various inputs and services directly which are used for carrying out body building on the chassis received; once the body is built and mounted on the chassis, the fully built vehicle is sent back to principal and raise the bill to their customer only for job charges including material used by them; the consideration received by them is towards the building of body by using their own procured material and mounting of the body on the chassis supplied under challan by the principal; the body requirement differ from party to party and the body is fabricated on chassis itself; they carry out the activity of step by step as enumerated for building of the body on the chassis supplied by the owner using their own inputs and capital goods ; they do not supply any ready buit body to any party but provide only service of fabrication.

13. The applicant further submitted that issue involved in their application for advance ruling is no more re integra and the same is already clarified by the CBIC Circular No. 52/26/2018-GST dated 09.08.2018.

14. The applicant has relied upon the Advance Ruling given by the various State authorities. All the such Ruling are summarized as below for ready reference:

(i) *Advance Ruling No. GOA/GAAR/1 of 2017-18/2018-19/1929, dated 21-8-2018 in RE : AUTOMOBILE CORPORATION OF GOA LIMITED, wherein it is held that, "Activity of building and mounting of the body on chassis provided by the principal under FOC challan results in supply of services under HSN 9988 and hence, taxable @ 18% GST".*

(ii) *Advance Ruling No. KER/39/2019, dated 2-3-2019 in RE : KONDODY AUTOCRAFT (INDIA) PVT. LTD, wherein it is held that, "Activity of Bus Body Building on job work basis, on the chassis supplied by the customer, is supply of service covered under SAC Code 9988 and thereby attract 18% GST".*

(iii) *Order No. 03/2019, dated 10-4-2019 in Case No. 02/2019 IN RE : ROHAN COACH BUILDERS wherein it is held that, "Fabrication of bus body on chassis supplied by OEMs/principal on delivery challan or any other owner of chassis by collecting job work charges including inputs required for such fabrication work with no transfer of ownership of chassis by principal to job worker - Applicant, a job worker - Supply classifiable under SAC 998881 as "Motor vehicle and trailer manufacturing services" and taxable under Serial No. 26(ii) as "Manufacturing services on physical inputs (goods) owned by other" @ 18% (9% under CGST and 9% under SGST)".*

(iv) *Order No. 06/2019, dated 3-5-2019 in Case No. 3/2019 IN RE : SANGHI BROTHERS (INDORE) PRIVATE LIMITED wherein it is held that, "Mounting or fabrication of bus/truck/ ambulance body on chassis supplied by OEMs/Principal on delivery challan or any other owner of chassis by collecting job work charges including inputs required for such fabrication work without transfer ownership of chassis to job worker - Activity amounted to job work - Service*

classifiable under SAC 9988 81 "motor vehicle and trailer manufacturing services" and taxable under Serial No. 26(ii) as "Manufacturing services on physical inputs (goods) owned by other" @ 18% (9% under CGST and 9% under SGST)"

(v) *Advance Ruling No. KAR ADRG 12/2019, dated 25-6-2019 IN RE : TATA MARCOPOLO MOTORS LTD wherein it is held that, "The activity of step by step building of the body on the chassis supplied by the owner using their own inputs and capital goods amounts to supply of service, in terms of Circular dated 9-8-2018 and merits classification under SAC 9988, attracting 18% of GST".*

15. The applicant submitted that considering the ratio of CBIC clarification, ruling in five cases referred above and the submission made by them clearly shows that their activities clearly fall under Para 12.2(b) of the above mentioned CBIC circular clarifying that fabrication of body on chasis provided by the principal (not on account of the body builder), the supply would merit classification as service and 18% GST as applicable will be charged accordingly.

16. The applicant further submitted that in view of the facts it appears clear that the process of body building by fabrication and other process carried out on chasis of motor vehicles owned by other is supply of service considering the following facts :

(i) Activity carried out by them should be treated as supply of service because in terms of Paragraph 3 of Schedule-II of the CGST Act, 2017, any treatment or process which is applied to another person's goods is a supply of service. As they provide service of fabricating and body building on motor vehicles chasis belonging to another person as per the requirements of their customers on goods (input)/ chasis provided by them. There is no transfer of ownership for providing such services and thus it appears clear that it is supply of service.

(ii) The activity of body building shall not be treated as supply of goods or motor vehicle as the activity carried out by them is not the supply of motor vehicle as they do not own the chasis.

(iv) Chasis is a semi finished goods and any treatment done by any other party on the chasis of principal is the activity of the Job work as held in above referred rulings. The ownership of the chasis is not transferred to the Job worker. It was also referred to in some of the above referred ruling that as it fulfills the important condition of the definition of Job work given in Section 2(68) of the CGST Act, 2017 i.e. any treatment or process undertaken by a person on goods belonging to another registered person, the whole process of body building and mounting is performed on the goods (Chasis) belonging to the applicant therefore, it is a purely job work and once it is established that is a job work then it is a supply of service. Above referred advance ruling also refer to provision of Section 143 of GST Act, 2017 according to which "For

purpose of Job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker". In their case, we procure various goods such as metal sheets, plywood, Seats, glasses, aluminium sections etc. as input for fabricating the body of vehicle besides fabrication service. It has been held in the case of *Prestige Engineering (India) Ltd. v. CCE, Merut* [1994 (73) ELT 497 (SC)] that addition or application of items by job worker would not detract from the nature and character of his work. In some of the rulings referred above, it is also observed that the Motor Vehicle is not complete without a body. A chassis is semi-finished goods and any treatment done by any other party on the chassis is the activity of Job work.

17. The applicant further submitted that in view of the above facts, Service Code (Tariff) for the above stated activity of body building carried out on another person's chassis of motor vehicle should be 9988 that covers "Manufacturing services on physical inputs (goods) owned by others" that attracts total 18% GST. Considering this, the nature of activity of building and mounting of the body on the chassis provided by the principal will result in supply of services under HSN code 9988 and hence should be taxed at total rate of 18% GST even in terms of clear description of services provided at Annexure relating to scheme of classification of services as given along with Notification No. 11/2017-CT (rate) dated 28.06.2017, the relevant extract therefrom is given in their application for advance ruling.

18. The applicant further submitted that as regards the classification of the activity of accident repairing job on the vehicles supplied by the owner for such job for a lump sum price is concerned, they are of the bonafide belief that this activity should be treated as service even though it includes cost of material and labour in view of the provision of Paragraph 3 of the Schedule-II of the CGST Act, 2017 that categorically states that "any treatment or process which is applied to another person's goods is supply of services". Further stated that it appears that the classification of this activity should be under Service Code (Tariff) 998729 that includes " Maintenance and repair service of other goods nowhere else classified" and should attract total rate of 18% GST on value of supply of such service.

19. The applicant submitted that since the activity of body building is considered as supply of services and not that of goods, the fifth issue raised by us should become irrelevant. Further, stated that Hon'ble Supreme Court has in case of *Kailash Engineering Co. V. State of Gujarat* (1964) 15 STC 574, held that the contract for building, erecting and furnishing of coach bodies on under frames supplied by the railway was not contract for sale of goods.

Personal Hearing

20. Shri Nilesh V Suchak, C.A duly authorised representative of the company appeared and made submissions reiterating the issue involved and contended that the activity of bus body building, on the chassis provided by the sender by using their own inputs and capital goods, merits classification as Supply of Services under SAC 998882 and also under the job work provisions read with Para 3 of Schedule II of CGST Act, which attracts GST @ 18%. We requested the applicant to produce the documents vide which it can be established that the Chasis is received from the customer on Job work basis also requested to submit the documents on which the body built vehicle is cleared after mounting body on the chasis to the customer. Further, requested to submit the document by which consideration is fixed for the work of body building done on chasis like quotation or work order or invoice.

Findings and Discussion

21. We have considered the submissions made by the Applicant in their application for advance ruling as well as the additional submissions made by authorised signatory, during the personal hearing proceedings on 11-06-2020 before this authority and we have also considered the additional submissions made on 15.06.2020. We also considered the issue involved, on which advance ruling is sought by the applicant, relevant facts & the applicant's interpretation of law. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

22. The applicant is engaged in providing service of body building on chasis owned by others and provided by owner for body building. The applicant is carrying out body building activity for manufacturing of tipper, tanker, trailer etc. on chasis provided by the owners of such vehicles. The applicant charges lump-sum fabrication charges (including certain material that would be consumed during the process of body building). The applicant has submitted the process of said manufacturing activity and same is reproduced as under:

- i. Received chasis at workshop
- ii. Purchase raw steel and receive it at workshop
- iii. Prepare cutting plan and drawing
- iv. Cutting and bending of raw material

v Welding of all cutting and bending part

vi. Assembly of all fabricated parts

vii Final product on chasis

23. The applicant has contended that the activity of body building and fabrication on the chassis provided by the principal (not on account of body builder), supply would merit classification as service and 18% GST as applicable will be charged. The activity of body building shall not be treated as supply of goods or motor vehicle as the activity carried out by them is not the supply of motor vehicle as they do not own the chassis. The applicant submitted that there is no transfer of ownership for providing such services and thus it appears supply of service.

24. In view of the above, the question before us to decide is whether the applicant's activity amounts to supply of goods (motor vehicle) that merits classification under HSN 87 (depends upon the type of vehicle supplied) or amounts to Supply of Services classifiable under SAC 9988. Therefore, in order to answer the instant question, it is essential to examine the process/activity of building the body and mounting the same on the chassis of the bus, owned by the supplier (Principal/sender).

25. The applicant in his additional submission has stated that they confirm that for carrying out the activity of building and mounting of the body, their customer (the principal) provides or delivers the chassis under delivery challan and ownership of such chassis is not transferred to them in any case; they never purchase such chassis on their own account; they procure various inputs and services directly which are used for carrying out body building on the chassis received; once the body is built and mounted on the chassis, the fully built vehicle is sent back to principal and raise the bill to their customer only for job charges including material used by them; the consideration received by them is towards the building of body by using their own procured material and mounting of the body on the chassis supplied under challan by the principal; the body requirement differ from party to party and the body is fabricated on chassis itself; they carry out the activity of step by step as enumerated for building of the body on the chassis supplied by the owner using their own inputs and capital goods ; they do not supply any ready built body to any party but provide only service of fabrication.

26. In the instant case, the applicant procures various goods such as raw steel etc. as inputs for fabricating the bus body on the chassis supplied by the

principal on delivery challan. The applicant uses the said material for mounting/fabricating the body and once the body is built and mounted on the chassis, the vehicle is sent back to principal. At no stage, the ownership of the chassis is transferred by the principal to the applicant. The applicant charged the lump sum charges of fabrication including cost of certain material that was consumed during the process of mounting of Bus Body on the chassis. The applicant supply of complete built vehicle to the principal i.e. owner of chassis would amount to composite supply and the taxability would depend upon the “predominated element”. The issue for consideration in the instant case is “what is predominated element.

As per Sec. 2(30) “composite supply” means “supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply”.

As per Section 2(68) of the CGST Act, 2017 and as per para 3 of the Schedule II of the CGST Act “any treatment or process which is applied to goods of another person’s is a supply of service.”

27. Accordingly, the activity of mounting/fabrication of body on the chassis supplied by the principal would be supply of service as principal supply and Section 8(a) of CGST Act, 2017 determines tax liability on composite supply, which reads as under :-

“The Tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and”

28. Now, We find that the activity and question raised before us has been suitably clarified and dealt with Circular No. 52/26/2018-GST issued by Government of India, Ministry of Finance, Department of Revenue dated 9th August, 2018. The relevant Para 12 of the said circular is read 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.

28.1 It is evident from Para 12.2(b) of the said circular that if the body is built on the chassis provided by the principal/customer and the fabrication charges, has been charged then the activity amounts to Supply of Service and attracts 18% GST. In the instant case, in terms of the process explained by the applicant, the fabrication of body is built on the chassis provided by the owner and as stated fabrication charges are charged from the owner of the chasis. Therefore, the instant question is answered by the provisions of Para 12.2(b) of the said circular and the activity merits classification as supply of service attracting GST @ 18%.

29. The applicant vide letter dated 15.06.2020 submitted on sample basis (i) vehicle delivery report (ii) quotation (iii) work order (iv) temporary certificate of registration and (iv) Job work Challan but applicant have not submitted the copy of Invoice, which was raised to the customer for collecting Job work/ fabrication charges. In cases, where the applicant receives the chasis on his own and manufactures the body building on the chasis and thereafter supplies the complete body built vehicle to the customer charging the value of motor vehicle, he is supplying goods and service both. Accordingly, supply would amount to composite supply. In this regard, CBIC vide Circular No. 34/8/2018-GST, dated 1-3-2018 has issued the clarification. The clarification is read as under :

S. No.	Issue	Clarification
1.	Whether activity of bus body building, is a supply of goods or services?	In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.

30. The Sectoral FAQ published by the C.B.E. & C. <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Final-GST-FAQ-31218> in reply of Q. No. 27 it is categorically state that, “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”. The extract of the same is 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.

In case, the applicant builds a body on the chasis owned by themselves and supply completely body built vehicle, such supply would be treated as supply of vehicle i.e. goods as principal supply.

Further, CBIC vide Circular No. 52/26/2018-GST, dated 9-8-2018 has issued the following clarification,

- 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.**

30.1 It is evident from Para 12.2(a) of the said circular that if the the applicant builds body on the chassis owned by him and supplies the complete built-up vehicle, and charges the customer for the value of motor vehicle, then the activity amounts to Supply of vehicle and attracts 28% GST. Hence, applicant is liable to pay GST @ 28% on the supply of complete body built motor vehicle after building a body and merit classification under HSN 87 (depends upon the type of motor vehicle supplied) .

31. Now, we came to other question regarding classification of the said Service provided by the applicant. The classification of Service is provided in Annexure attached to the Not. No. 11/2017-CT (Rate) dated 28.06.2017. As stated above, the applicant is engaged in the manufacturing of body building on the chasis supplied by the owner of the chasis. Therefore, the said service would be classified under Service Accounting Code 9988 “Manufacturing Service on Physical Inputs (Goods) owned by others”. The relevant entry Sr. No. 498 of the classification of the Service is as reproduced as under:

Sl. No.	Chapter, Section, Heading or Group	Service Code (Tariff)	Service Description
498	Heading 9988		Manufacturing services on physical inputs (goods) owned by others
534	Group 99888		Transport Equipment Manufacturing Service

		998881	Motor vehicle and trailer manufacturing services
		998882	Other transport equipment manufacturing services

32. In respect of the question raised by the applicant, we hold that on fabrication of bus body on the chassis supplied by the owner of chasis i.e. Principal on delivery challan, on which body is fabricated on chasis by collecting job work charges including inputs required for such fabrication work and in no case the ownership of the chassis is transferred by principal to the applicant merits classification under SAC 998881 - “Motor vehicle and trailer manufacturing services” and under Entry No. 26(ii) of Notification No. 11/2017-CT (Rate) dated 28.06.2017 as “Manufacturing services on physical inputs (goods) owned by other” and it is taxable @ 18% [9% under CGST and 9% under SGST Act]. Whereas, in other situation as discussed above, supply of complete body built motor vehicle merits classification HSN 8707 and it is taxable @28%.

33. The applicant has referred to numbers of Advance Ruling which are summarized in Para 14 above in favour of their case. As per Section 103 of the CGST Act, 2017 any Advance Ruling is binding on the Applicant who has sought it and on the concerned officer or the jurisdictional officer in respect of the Applicant. Accordingly, AARs Ruling as cited above can’t be relied upon in the present case of the Appellant.

34. The applicant also submitted that in addition to the said activity of “manufacturing of body building on the chasis owned by the others”, they carry out accident repairing work on vehicle supplied by its owner for repairing job for a lump sum price that includes cost of material and labour. Accordingly, the applicant sought the classification and applicable rate of GST of the said repairing service carried out on the damaged vehicle supplied by their owner.

35. The applicant in his submission has stated that they are receiving the vehicles, which were damaged in the accident for repairing work. These vehicles are supplied by their owner and applicant carries out repairing work on such damaged vehicle. The applicant in such repairing work uses their labour and material (goods), which are required for repairing and charges lump sum price, which includes cost of material and labour.

35.1 As per para 3 of the Schedule II of the CGST Act “*any treatment or process which is applied to goods of another persons is a supply of service.*”

Accordingly, the repairing work carried out by the applicant on damaged vehicles supplied by the owner will be classify as service and will be composite supply as such applicant is doing repairing work and also using material for repairing as required.

As per Sec. 2(30) “composite supply” means *“supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply”*.

As per Sec. 2(90) principal supply means, *“the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary”*.

Sec. 8(a) determines tax liability on composite supply, which reads as under :-

“The Tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-

A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;”

35.2 In view of the above legal provisions, the applicant’s activity of repairing work carry out on the damaged vehicle is a principle supply. In order to determine the Service Accounting Code (SAC), we refer to the Annexure to the Notification No. 11/2017-CT (Rate) dated 28.06.2017, which prescribes the Service Accounting Code for each type of services. We also refer to the explanatory Notes on Classification of Service and details of the following services, which are relevant to the transaction of the applicant, as under:

9987 Maintenance, repair and installation (except construction) services

998714 Maintenance and repair of transport machinery and equipment

This service code includes

- i maintenance and repair services of motor vehicles like cars, trucks, vans and buses, involving engine overhaul, motor tune-up, fuel system repair and adjustment, steering gear repair and adjustment, suspension repair, brake repair and adjustment, transmission repair and adjustment, exhaust system repair, cooling system repair including water hose replacement and other maintenance and repair;
- ii. scheduled factory-recommended and preventative maintenance inspection services;
- iii. electrical system repair and battery charging services for motor cars;
- iv. puncture repair services, wheel adjustment and balancing for motor cars;

- v. repair of inner tubes for car, truck and bus tyres; body repair and similar services for motor vehicles, involving door and lock repair, bumper straightening and repair, repainting, collision repair, window screen and window replacement and other automobile body repair;
- vi. cleaning and routine maintenance services, such as vehicle laundry and car-wash services, undersealing, polishing and waxing services, etc.; automobile emergency road services; motorcycle maintenance and repair and motorcycle body repair services including specialized breakdown services for motorcycle; maintenance and repair services for trailers, semi-trailers and other motor vehicles n.e.c. including motor homes, travel trailers and campers including repairs to defective parts; body repairs, etc;
- vii. scheduled, factory-recommended and preventative maintenance services and maintenance and repair of the living accommodation of motor homes, travel trailers and campers; maintenance and repair services of ships and floating platforms and structures, pleasure and sporting boats, railway and tramway locomotives and rolling stock and aircraft and aircraft engines

This service code does not include:

- rebuilt and retreaded tyres
- retail sales services of tyres, cf. 996211
- technical automobile inspection services, cf. 998346
- airport services, including minor maintenance and repair, cf. 996761

Note: The repair and maintenance services may be paid by the owner of the good being repaired or by a warranty and may include labour, parts and supplies used in providing repair or maintenance services.

35.3 From the above, it is seen that the nature of service received by the application is covered under the Service Accounting Code 998714. Accordingly, Sr. No. 25 of Notification No. 11/2017-CT (Rate) dated 28.06.2017 prescribing tax rate of 18% on Maintenance, repair and installation (except construction) services. The relevant entry Sr. No. 25 of Notification No. 11/2017-CT (Rate) dated 28.06.2017 is as under:

25	Heading 9987	Maintenance, repair and installation (except construction) services.	9	-
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35.4 The contention of the applicant that the said service would be covered under Service Code (Tariff) 998729 that includes “ Maintenance and repair service of other goods nowhere else classified” is not tenable as such Service Accounting Code 998714 defines the maintenance and repairing service of motor vehicles like cars, trucks, vans and buses. Therefore, we hold that

repairing service carried out by the applicant on damaged vehicle supplied by the owner is classifiable under SAC 9987 and GST is leviable @ 18 % { 9% CGST +9% SGST} in terms of Sr. No. 25 of Not. No. 11/2017-CT (Rate) dated 28.06.2017

36. In view of the foregoing, we rule as follows:

RULING

A. Whether the treatment or process of body building by fabrication and other processes carried out on chasis of motor vehicle owned by others is supply of services?

Ans. In case the applicant received the chasis from the principal on Job work challan/ delivery challan and build body on it and thereafter clear to the principal by raising the Invoice of Job work charges, it would amount to supply of service. In cases applicant owned the chasis and built the body and thereafter supply as complete body built motor vehicle to the customer by raising invoice of value of motor vehicle, it would amount to supply of goods.

B. If the above stated activity of body building is considered as supply of service in terms of description given at paragraph 3 of Schedule II of the CGST Act, 2017 what will be the rate of GST applicable on such service?

Ans A : We hold that in case of supply of service, rate of GST will be 18% { CGST 9% + SGST 9%}. In case supply of goods i.e. motor vehicle GST rate will be 28% {CGST -14% + SGST-14%}

C What will be the service Code (tariff) for above stated activity of body building carried out on another person's chasis of motor vehicle?

Ans: The activity of body building carried out on another person's chasis of motor vehicle is classifiable under SAC 9988. In case of supply of complete built-up motor vehicle on owns chasis is classifiable under CTH 87 (depends upon type of vehicle supplied).

D. What would be the classification and applicable rate of tax for the activity of accident repairing job on the vehicle supplied by the owner for such job if a lump sum price is charged that includes cost of material and labour?

Ans : The classification and applicable rate of tax for the activity of accident repairing job on the vehicle supplied by the owner for such job if a lump sum price is charged that includes cost of material and labour is classifiable under SAC 9987 and GST is leviable @ 18 % [9% CGST + 9% SGST}.

E If the above stated activity of body building is not considered as supply of services, what will be the nature of this supply, tariff code and rate of GST for such supply?

Ans: The nature of supply would be goods i.e. motor vehicle, classification HSN would be 87 (depends upon type of vehicle supplied) and GST rate would be 28 % {CGST -14% + SGST-14%} .

(SANJAY SAXENA)

MEMBER

(MOHIT AGRAWAL)

MEMBER

Place: Ahmedabad

Date: 02.07.2020.