



**AUTHORITY FOR ADVANCE RULING - ANDHRA PRADESH
GOODS AND SERVICE TAX**

D NO 5-56, Block-B, R.K. Spring Valley Apartments,
Edupugallu, Vijayawada-521151

Present:

Sri.D. Ramesh, Additional Commissioner of State Tax.....Member
Sri.S. Narasimha Reddy, Additional Commissioner of Central Tax.....Member

AAR No.23/AP/GST/2019 Dated: 08.07.2019

1	Name and address of the Applicant	Balasubramanyam Saravana Perumal, Prop: M/s Chitra Transport, NH-5, Old Toll Gate Centre, Tadepalli - 522501, Guntur District, Andhra Pradesh.
2	GSTIN	37CRRPS2877K1ZO
3	Date of filing of Form GST ARA-01	27-02-2019
4	Date of Personal Hearing	03-04-2019
5	Represented by	Shri. B. SARAVANA PERUMAL
6	Jurisdictional Authority Central	Amaravathi Capital City Range, Amaravathi Division, Guntur
7	Clause(s) of section 97(2) of CGST/SGST Act, 2017 under which the question(s) raised	(e) Determination of the liability to pay tax on any goods or services or both

ORDER

(under sub-section (4) of section 98 of Central Goods And Service Tax Act, 2017 and under sub- section (4) of Section 98 of Andhra Pradesh Goods and Services Tax Act, 2017)

1. The present application has been filed under Section 97 of the Central Goods & Services Tax Act, 2017 and Andhra Pradesh Goods & Services Tax Act, 2017 (hereinafter referred to as CGST Act and APGST Act respectively) by Shri. Balasubramanyam Saravana Perumal, Prop: M/s Chitra Transport, NH-5, Old Toll Gate Centre, Tadepalli - 522501, Guntur District, Andhra Pradesh (hereinafter referred to as applicant), registered under the Goods & Services Tax.



2. The provisions of the CGST Act and APGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the APGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or AP GST Act would be mentioned as being under the GST Act.

3. Brief Facts Of Case:

The applicant informed that he was registered as a GST regular dealer in the name and style of Chitra Transport at Vijayawada and their activity is to engage lorries from lorry owners to provide transport facilities to their customers, while acting as agent between their customers, who require transport facility and lorry owners. The applicant states that after collecting the transport charges from his customers, he pays the requisite amount payable to the lorry owners, keeping some commission with him, for having arranged the transport facility to the customers.

The applicant had filed an application in form GST ARA-01, dt:27.02.2019, paying the prescribed amount of fee for seeking Advance Ruling.

On Verification of basic information of the applicant, it is observed that the applicant falls under Central jurisdiction, i.e. Amaravathi Capital City range, Amaravathi CGST Division, Guntur. Accordingly, the application has been forwarded to the Assistant Commissioner Magalagiri, Guntur-I Division and a copy marked to the central tax authorities to offer their remarks as per the Section 98(1) of CGST /APGST Act 2017. In response the jurisdictional officer concerned stated that there are no pending proceedings relating to the applicant and no proceedings were passed on the issue, for which the advance ruling sought by the applicant.



4. Questions Raised Before the Authority

The applicant raised the following questions and requested to pass ruling on the following issues.

- 1) Does he bound to pay GST on the actual amount of commission retained by him for arranging transport facility to their customers or he has to pay GST on the entire amount received from his customers without deducting the commission; &
- 2) What is the rate of tax payable?

5. Record of Personal Hearing:

The applicant, Balasubramanyam Saravana Perumal, Prop: M/s CHITRA TRANSPORT appeared in person for Personal Hearing held on 03.04.2019 and he reiterated the submissions already made in the application and requested to pass necessary orders. On being advised he provided sample copies of lorry receipts issued by them and also a list containing names of their customers vide their letter dated 13.06.2019.

6. Discussion and Findings

6.1 We have gone through the case records of the application written and oral submissions at the time of Personal Hearing carefully. The applicant informed that they are engaged in providing arrangement of lorries for transport of goods to their customers on commission basis. The matter represented before us i.e. the activity of providing transport of goods by road service attract GST or otherwise and also rate of tax, is examined.

6.2 In terms of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017 (sr.no.18), the following services are exempt from GST Services by way of transportation of goods (Heading 9965):

- (a) by road except the services of:
 - (i) a goods transportation agency;
 - (ii) a courier agency;
- (b) by inland waterways.



Thus, it is to be seen that mere transportation of goods by road, unless it is a service rendered by a goods transportation agency, is exempt from GST. The definition of Goods Transport Agency is provided in clause (ze) of notification no.12/2017-Central Tax (Rate) dated 28.06.2017 is as follows:

(ze) **"goods transport agency"** means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called;

Thus, it can be seen that issuance of a consignment note is the sine-qua-non for a supplier of service to be considered as a Goods Transport Agency. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of goods transport agency. If a consignment note is issued, it indicates that the lien on the goods has been transferred (to the transporter) and the transporter becomes responsible for the goods till it's safe delivery to the consignee. It is only the services of such GTA, who assumes agency functions, that is being brought into the GST net. Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA. As a corollary, the services provided by such individual transporters who do not issue a consignment note will be covered by the entry at s.no.18 of notification no.12/2017-Central Tax (Rate), which is exempt from GST.

6.3 Definition of Consignment note

Consignment Note is neither defined in the Act nor in the notification no.12/2017-Central Tax (Rate). However, as per Explanation to Rule 4B of Service Tax Rules, 1994, 'consignment note' means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.



6.4 Charge of GST on services provided by GTA

In terms of notification no. 11/2017-Central Tax (Rate) dated 28.06.2017 as amended by notification no. 20/2017- Central tax (Rate) dated 22.08.2017 , sr.no. 9 and sr. no. 11, (i) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use) (Heading 9965 & 9967 respectively) attracts GST @2.5% or 6% CGST. Identical rate would be applicable for SGST also, taking the effective rate to 5% or 12%. However, the rate of 5% is subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken. The explanation to the notification further clarifies that it shall mean that,-

- (a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and
- (b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made there under.

GST @ 6% CGST (12% cumulative) is subject to the condition that the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @ 6% on all the services of GTA supplied by it. Further, there is no restriction on the GTA from taking ITC if this option is availed. Thus, where the GTA is not eligible to take ITC for the supplies effected by it and the liability under GST is discharged under reverse charge basis, the recipient of GTA service discharging the tax liability is entitled to take Input Tax Credit (ITC) of the amount of tax paid under reverse charge, provided



it is used in the course or furtherance of business at his end. Further the recipient would be eligible for ITC of the GST paid by GTA on forward charge basis. Notification no. 11/2017-Central Tax (Rate), sr.no.11, (ii) also provides that supporting services in transport other than those mentioned in (i) (Heading 9967) would attract GST @9% CGST. Identical rate would be applicable for SGST also, taking the effective rate to 18%. Similar rate has been prescribed for services falling under heading 9965 in terms of notification no. 11/2017-Central Tax (Rate), sr.no. 9 (v).

6.5 Person Liable to Pay GST on GTA services

The liability to pay GST devolves on the recipients for supply of services by a goods transport agency (GTA) who has not paid central tax at the rate of 6%, in respect of transportation of goods by road (in terms of notification no. 13/2017-Central Tax (Rate) dated 28.06.2017 (sr.no.1) as

amended by notification no. 22/2017-Central Tax (Rate) dated 22.08.2017, if the recipients (located in the taxable territory) belong to the following category:

- (a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or
- (c) any co-operative society established by or under any law; or
- (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or
- (e) any "body corporate" established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons; or
- (g) any casual taxable person.

Thus in cases where services of GTA are availed by the above categories of persons in the taxable territory the GTA supplier has the option to pay tax (and avail ITC) @12% (6% CGST + 6%SGST); and if



the GTA does not avail this option, the liability to pay GST will fall on the recipients. In all other cases where the recipients do not fall in the categories mentioned above, the liability will be on the supplier of GTA services.

6.6 Details of GTA services specifically exempt:

In terms of notification no.12/2017-Central Tax (Rate) dated 28.06.2017 (sr.no.21), the following services provided by a GTA (Heading 9965 or 9967) is exempt from payment of tax:

Services provided by a goods transport agency, by way of transport in a goods carriage of:

- (a) agricultural produce;
- (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;
- (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;
- (d) milk, salt and food grain including flour, pulses and rice;
- (e) organic manure;
- (f) newspaper or magazines registered with the Registrar of Newspapers;
- (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- (h) defence or military equipments.

Similarly, the following services received by the GTA (Heading 9966 or 9973) is also exempt in terms of notification no.12/2017- Central Tax (Rate) dated 28.06.2017 (sr.no.22) Services by way of giving on hire :

- (b) to a goods transport agency, a means of transportation of goods.

Thus, if the GTA hires a means of transportation of goods, no GST is payable on such transactions.



6.7 The use of the phrase 'in relation to' has extended the scope of the definition of GTA. It includes not only the actual transportation of goods, but any intermediate/ancillary service provided in relation to such transportation, like loading/unloading, packing/ unpacking, trans-shipment, temporary warehousing, etc. If these services are not provided as independent activities but are the means for successful provision of GTA Service, then they are also covered under GTA. In respect of those who provide agency services in transport, the liability is cast on the recipients in most of the cases or unless option to pay under forward charge has been exercised by the GTA.

6.8 In view of the legal provisions governing the taxability of GTA services, the documents furnished by the applicant are examined and found that;

- The applicant is registered with GST as a service provider;
- The applicant is issuing lorry receipts (LR in brief) under the name & style M/s Chitra Transport, containing details of GST registration, truck number, date of issue of LR, consigner name and consignee name with address, nature of the goods for transport, invoice issued by the consigner, weight, freight charges and also mentions who has to discharge service tax. Therefore, it is clear that the applicant is issuing consignment note and is providing transport service and is the "Goods Transport Agency" within the definition of clause (ze) of notification no.12/2017-Central Tax (Rate) dated 28.06.2017;
- Tax on the Transport of Goods by Road services (GTA service) rendered by the applicant to any customers registered under GST and located in the taxable territory, unless exempted under the notification no. 12/2017 CT (Rate) dated 28.06.2017, is payable by the recipient/s of the service under reverse charge mechanism (RCM) prescribed under notification no. 13/2017-CT (Rate) dated 28.06.2017 as amended by notification no. 22/2017 -CT (Rate) dated 22.08.2017;



- The rate of tax on the GTA services is 5% (2.5% CGST + 2.5% SGST) subject to satisfying the conditions as prescribed under notification no. 11/2017 – CT (Rate) dated 28.06.2017 as amended by notification no. 20/2017-CT (Rate) dated 22.08.2017, as detailed in para 6.4 above;
- In case, the said conditions are not satisfied, the rate of GST is 12% (6% CGST +6% SGST) and the applicant being the provider of Goods Transport Agency service has to pay the said tax;
- In the case of supporting services in transport other than those mentioned in sl.no. 11 (i) (Heading 9967) & in sl.no. 9 (i) to 9 (vi) of notification no.11/2017 CT (Rate) dated 28.06.2017 would attract GST @ 18% (9% CGST + 9% SGST) and GST rate is 18% (9% CGST + 9% SGST).
- Where GST is payable under reverse charge or payable under forward charge, the profit i.e. commission earned by procuring/ obtaining trucks from the owners is not taxable in the hands of GTA (Goods Transport Agency).

Accordingly we pass the following order.

RULING

Query: Does the applicant bound to pay GST on the actual amount of commission retained by him for arranging transport facility to their customers or he has to pay GST on the entire amount received from his customers without deducting the commission; What is the rate of tax payable?

Answer: As per the lorry receipts issued by the applicant, he is rendering Goods Transport Agency services and his tax liability under GST law is as detailed in the para 6.8 above.

Sd/- D.Ramesh
Member (State Tax)

Sd/- S.Narasimha Reddy
Member(Central tax)



//t.c.f.b.o//

S. Narasimha Reddy

Assistant Commissioner(ST)
Assistant Commissioner (State Tax)
O/o. Chief Commissioner of State Tax,
Andhra Pradesh, Vijayawada.

To

Sri. Balasubramanyam Saravana Perumal, Prop: M/s Chitra Transport, NH-5, Old Toll Gate Centre, Tadepalli - 522501, Guntur District, Andhra Pradesh(**Registered Copy**)

Copy to

1. The Assistant Commissioner of State Tax, Mangalagiri Circle, Guntur-I Division (**Registered Copy**)
2. The Superintendent, Central Tax, Amaravathi Capital City Range, Amaravathi Central GST Division, Guntur. (**Registered Copy**)

Copy Submitted to

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax, Government of A.P., Eedupugallu, Vijayawada
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax & Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam -530035.

Note: Under Section 100 of the APGST Act 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under Section 99 of APGST Act 2017, with in a period of 30 days from the date of service of this order.

