

**THE AUTHORITY FOR ADVANCE RULINGS
IN KARNATAKA
GOODS AND SERVICES TAX
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD
GANDHINAGAR, BENGALURU - 560 009**

Advance Ruling No. KAR ADRG 02 / 2020

Date : 07-01-2020

Present:

1. **Dr. Ravi Prasad M.P.**
Additional Commissioner of Commercial Taxes Member (State Tax)
2. **Sri. Mashhood ur Rehman Farooqui,**
Joint Commissioner of Central Tax Member (Central Tax)

1.	Name and address of the applicant	M/s SLN Tech-Fabs(Bengaluru) Pvt. Ltd., # 46/6, Chikkagollarahatti, Magadi Main Road Lakshmipura Post, Bengaluru - 562 123, Karnataka.
2.	GSTIN or User ID	29AAPCS5566H1ZM
3.	Date of filing of Form GST ARA-01	02.08.2019
4.	Represented by	Sri. Muralidhara, Consultant & Authorised Representative.
5.	Jurisdictional Authority - Centre	The Commissioner of Central Tax, Bangalore North West Commissionerate.
6.	Jurisdictional Authority - State	LGSTO- 65A, Bengaluru.
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000/- under CGST Act and Rs.5,000/- under KGST Act vide CIN SBIN19072900140091 dated 16.07.2019

**ORDER UNDER SECTION 98(4) OF THE CGST TAX ACT, 2017
& UNDER 98(4) OF THE KGST ACT, 2017**

1. M/s SLN Tech-Fabs(Bengaluru) Pvt. Ltd., (called as the 'Applicant' hereinafter), # 46/6, Chikkagollarahatti, Magadi Main Road Lakshmipura Post, Bengaluru - 562 123, Karnataka, having GSTIN number 29AAPCS5566H1ZM, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 & KGST Act, 2017 read with Rule 104 of CGST Rules 2017 & KGST Rules 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. The Applicant is a Private Limited Company and is registered under the Goods and Services Tax Act, 2017. The applicant is engaged in providing services in the area of Transport Solutions, in the field of fabrication and truck body building area, with the trademark "**SLN DIAMOND**", for transport equipments such SLN Tech Fabs

as Tippers (200 to 500 cft capacity on 6 to 10 wheeler vehicles), Trailers (single axle to multi axle trailers of 20 ft to 40 ft Low Bed, Fat Bed & skeleton type trailers), Containers (both insulated and non-insulated type containers on various chassis from 8 ft to 40 ft containers) and Tankers (6000 ltrs. To 16000 ltrs. Capacity).

3. The applicant, at present, is charging GST @ 28% (CGST @14% + KGST @ 14%) as per serial No.169 of Schedule IV to the Notification No.01/2017-Central Tax(Rate) dated 28.06.2017, on treating their supply as that of goods. The CBIC vide Para 12.3 of Circular No. 52/26/2018-GST dated 09.08.2018 clarified that, in the case as mentioned at para 12.2(b) of the said Circular, if the body is fabricated on chassis provided by the principal (not on account of body builder), then the supply would merit classification as service and attracts 18% GST.

4. In view of the above, the applicant desires to know whether the GST @ 28% is correct or not; whether they can charge GST @ 18% in terms of circular No. 52/26/2018-GST dated 09.08.2018 Para No.12.1,12.2(b) and 12.3; whether they can use the SAC 998881 in terms of Sl.No.535 of Annexure to the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017. Hence the applicant has sought advance ruling in respect of the following questions:

1. *Presently we are charging GST 28% (CGST @ 14% + SGST @ 14%) as per Sl.No. 169 of Schedule-IV to the Notification No.1/2017-CT (R) dated 28.06.2017. Is it correct?*
2. *Can we use SAC 998881 (Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, Sl.No.535 of Annexure? Please confirm.*
3. *Can we start charging GST 12% (CGST @ 6% + SGST @ 6%) as per Sl.No.(i)(a)(vi)(n)(id) of Notification No.20/2019-Central Tax (Rate) dated 30.09.2019.*

PERSONAL HEARING / PROCEEDINGS HELD ON 21.11.2019.

4. Sri. Muralidhara, Consultant and duly authorised representative of the applicant appeared for personal hearing proceedings held on 21.11.2019 & reiterated the facts narrated in their application.

5. FINDINGS & DISCUSSION:

5.1 We have considered the submissions made by the Applicant in their application for advance ruling as well as the submissions made by Sri. Muralidhara, Consultant & duly authorised representative of the applicant during the personal hearing. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts.

5.2 At the outset, we would like to state that the provisions of both the CGST Act and the KGST 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 KGST Act.

5.3 The Applicant seeks advance ruling on the questions mentioned at para 2 supra. Though the applicant sought advance ruling in respect of three question the core issue is whether the classification of bus body building activity on the chassis provided by the principal as service be extended to their activity of body building of tippers, trailers etc., as per Para No.12.1, 12.2(b) and 12.3 of Circular No. 52/26/2018-GST dated 09.08.2018, as their activity also is akin to the one referred to in the said Circular.

5.4 We proceed to examine the issue whether the activity of the applicant is akin to that of the one mentioned in the circular and the benefit of classification of the activity as service be extended to them. The Circular referred to above stipulates the following conditions so as to classify the activity of bus body building as "Service".

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

5.5 The applicant, in the instant case, is also involved in the same activity of body building but not on the chassis of bus. They fabricate the body on the chassis provided by the principal for Tippers, Trailers etc.,. It is an admitted fact that the applicant, at present, is charging GST @ 28%, on treating their supply as that of goods, though the invoice is raised for "fabrication of body building on (the vehicle)" and the actual activity of supply is fabrication of body. Therefore the activity of the applicant is akin to that of the one mentioned in the Circular.

5.6 Further, the Govt. of India, vide Notification No.26/2019-Central Tax (Rate) dated 22.11.2019, under Section 11(3) of the CGST Act 2017, inserted the following explanation against serial number 26, in column (3), in item (ic).

"Explanation - For the purpose 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"

Therefore in terms of the explanation mentioned supra, the activity of the applicant qualifies to be classified as "Service", subject to fulfillment of conditions enumerated at para 5.4 and also the vehicle on whose chassis the body is built must fall under Chapter 87.

5.7 The second question is with regard to classification of the services being provided by the applicant. The applicant contends that their services are covered under Service Code 998881 titled as "Motor vehicle and trailer manufacturing services".

In this regard we draw attention to the Explanatory notes to the Scheme of Classification of Services which is based on the explanatory notes to the UNPCPC. As per the said explanatory notes the service code 998881 includes motor vehicle manufacturing services, trailers and semitrailer manufacturing services and motor vehicle parts and accessories manufacturing services. The applicant is involved in manufacturing / fabrication of trailers etc. and hence their activity merits classification under Service Code 998881.

5.8 The third question is with regard to the rate of tax on the services of the applicant. The impugned services of the applicant are covered under heading **9988** as **manufacturing services on physical inputs (goods) owned by others** in terms of Sl.No.26(ii) of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 initially and subsequently under Sl.No.26(iii) / (iv) respectively, consequent to amendment of the said entry No.26 of the aforesaid Notification. However, **the services by way of job work in relation to bus body building** have been carved out of the earlier entry i.e. Sl.No.26(iv) of Notification supra and a separate entry under Sl.No.26 (i) (ic) has been incorporated consequent to amendment of the said notification vide Notification No.20/2019-Central Tax (Rate) dated 30.09.2019. The impugned services had been taxed at 18% GST (9% CGST & 9% SGST) right from the appointed date i.e. 01.07.2017. The only difference is in the entry numbers of the Notification that cover the said services.

5.9 It is clearly evident from the above that the applicant inadvertently claimed that their services are covered under entry Sl.No.26(i)(id) of the Notification No.11/2017-CT (R) which attract 12% GST (6% CGST & 6% SGST), whereas actually they are covered under Sl.No.26(i)(ic) of the said Notification and attract 18% GST (9% CGST & 9% SGST).

6. In view of the foregoing, we pass the following

R U L I N G

1. *Charging of GST 28% (CGST @ 14% + SGST @ 14%) as per Sl.No. 169 of Schedule-IV to the Notification No.1/2017-CT (R) dated 28.06.2017 is correct, if the activity of the applicant is treated as supply of goods, falling under Chapter heading 8707.*
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 28.06.2017.*

3. The applicant can start charging GST 18% (CGST @ 9% + SGST @ 9%) as per SLNo.(i)(ic) of Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, as amended by Notification No.20/2019-Central Tax (Rate) dated 30.09.2019 read with explanation provided under Notification No.26/2019-CT(R) dated 21.11.2019.


(Dr. Ravi Prasad.M.P.)
Member


(Mashhood ur Rehman Farooqui)
Member

Place : Bengaluru,

Date : 07-01-2020

To,

The Applicant

Copy to :

The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.

The Commissioner of Commercial Taxes, Karnataka, Bengaluru.

The Commissioner of Central Tax, Bangalore North West Commissionerate, Bengaluru.

The Asst. Commissioner, LGSTO-65-A, Bengaluru

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