



## AAR Update

## GST @5% applicable on pick up charges paid to the owner/driver

This post provides an update about the recent decision of Karnataka Authority for Advance Ruling ('AAR') in the case of **M/S KOU-CHAN TECHNOLOGIES PVT LTD** (AAR No. KAR ADRG 22/2021) ("The Applicant"). *The AAR was dealing with the transactions involved in a business model where **Taxi aggregator** is involved for transportation of passengers.*

### Facts of the case

- ❖ The applicant has a unique business model comprising of three entities, first, the applicant as the 'Taxi Aggregator', second, an In-charge for each District known as 'Associate Partner' (usually a proprietor or single individual) and third, the 'Taxi Driver'/'Owner'.
- ❖ The applicant/aggregator is responsible for linking the Driver to the Passenger. The applicant does not own any vehicle nor does he employ the driver. The Applicant may also collect toll charges, luggage charges, waiting charges, cancellation charges, insurance etc., which are not shared with Associate Partner but some may be shared with Owners or Drivers
- ❖ The applicant does not own any vehicle nor does he employ the driver. The associate partner gets certain % of the fare amount paid by the passengers for his services.
- ❖ The duty of the driver is to complete the ride accepted and agreed upon.
- ❖ The drivers are covered by an insurance program and the premium amount is collected from the passenger.

### Findings and Decision

- ❖ **Whether the various supplies (of the applicant, the vehicle owner, the driver and the associate partner together) qualify as Composite supply?**- AAR observed that the applicant is providing two taxable services, i.e. providing an online platform and insurance coverage to the passenger. It is an admitted fact that the insurance coverage to the passenger is optional and also online platform service is neither related to nor ancillary to insurance service. Thus the two supplies are not naturally bundled and are not in conjunction with each other, in the ordinary course of business. Hence, The activities performed by the applicant do not amount to a composite supply.
- ❖ **Whether the pick-up charges paid to the Owner/ Driver fall under GST rate of 5%?**- AAR observed that the applicant has been made liable for paying the tax in respect of the said service through the e-commerce platform, as if the applicant is the supplier of such service. *Further, Notification No. 17/2017-Central Tax (Rate) stipulates that an electronic commerce operator is supposed to pay GST for services by way of transportation of passengers by a radio taxi - **the pick-up charges and basic fare are part of the service of transportation of passengers by a radio taxi and hence the applicant is liable to pay GST @5%, on the pick-up charges also.***





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CHARTERED ACCOUNTANTS

- ❖ **Whether any supply of service exists between the applicant /aggregator and the Associate partner, & if yes, what is the rate at which GST has to be collected and remitted?** : AAR observed that GST shall be paid by associate partners for the services provided, in case the associate partner is registered under GST. The amount remitted to the associate partner shall attract GST @18%.
- ❖ **Whether the amount received from drivers/owners towards bidding gets covered in the 5 % GST or should it be separately charged at 18%?** - AAR observed, the amount received as a bidding charge is outside the fold of basic fare, the relevant service is not related to the service provided by the owner/driver to the passenger/customer through the e-commerce operator. Hence, such amount received from drivers/ owners should be separately charged at 18%.
- ❖ **Goodwill bonus being paid by passenger to the driver and on which the applicant collects the service charges - Whether the service charges so collected attract GST and if so at what rate?** - AAR observed that Goodwill bonus is outside the fold of basic fare charged from the passengers for the trip. Further, the service charge collected for facilitating the payment of goodwill amount to drivers is consideration. Hence, The goodwill bonus being paid by passenger to the driver and on which the applicant collects the service charges, shall attract 18% GST.
- ❖ **Whether the charges for cancelling the trip for any reason attract GST liability?** – AAR observed that the cancellation charges collected from the passengers is the activity of tolerating, the act of tolerating the cancellation by the applicant for a consideration is supply of service and attracts GST at 18 %.
- ❖ **Whether the charges for insurance come under composite supply?** – AAR observed that passengers are covered under appropriate insurance against accidents, and it is optional for passenger to opt for the insurance coverage - thus, its optional on the part of passenger to avail insurance on the trip and the same will not fall under composite supply.
- ❖ **If the principal supplier / applicant collects GST, say at 5% along with fare from passengers (as mentioned in the Table submitted by the applicant), does it amount compliance of the GST Rules?** – AAR stated that 5% GST is only applicable on basic fare The applicant has to pay GST @18% on any other incomes earned.

## Our Comments

- ❖ *In our view, the decision of AAR is correct in law. If any facility is directly related to transportation of passengers and is incidental to such transportation service, then such service shall form part of composite supply and shall be charged as per GST rate applicable to the principle supply.*
- ❖ *Further, as per Notification No 11/2017 Central Rate (Tax)- in case of transportation of passengers by radio taxi, GST is levied @5%. It shall be noted that Input Tax Credit (ITC) of goods and services used in supplying such service shall not be available.*
- ❖ *The above ruling shall be insightful for business model involving a ‘taxi aggregator’ such as Ola, Uber, Goa miles etc.*

### *Disclaimer:*

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