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**AUTHORITY FOR ADVANCE RULING, TAMILNADU
ROOM NO.206, 2ND FLOOR, PAPJM BUILDING
NO.1, GREAMS ROAD, CHENNAI-600006**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER
SECTION 98(4) OF THE TNGST ACT, 2017.**

Members present:

Smt. D.Jayapriya, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034.	Smt.N.Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 006.
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Advance Ruling No. 27/AAR/2023 Dated: 25.08.2023

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Rulings, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.
2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.
5. The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

GSTIN Number, if any / User id		332300001335AR6
Legal Name of Applicant		Muniyasamy Abinaya
Registered Address / Address provided while obtaining user id		No.16-2, Nehru Street, Thalambur, Kancheepuram District, Pincode – 603 103.
Details of Application		GST ARA – 01 Application Sl.No.04/2023 dated 20.03.2023
Jurisdictional Officer		Centre : Chennai Outer Commissionerate; MM Nagar Division.
Concerned Officer		State : Thirukkazhukundram Assessment Circle UNREGISTERED
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service provider
B	Description (in brief)	Applicant is proposed to provide pick up and drop (transport) service only to the students studying in respect of schools and not for general public.
Issue/s on which advance ruling required		Determination of the liability to pay tax on any goods or services or both.
Question(s) on which advance ruling is required		1. Does GST is applicable for the activity proposed to be undertaken by the applicant by way of transport of staff and students of school as school bus operator, by school bus / van? 2. If GST is applicable, what is the percentage of GST to be charged to parents and school for arranging their staff to pick up and drop?

Smt. Muniyasamy Abhinaya, No.16-2, Nehru Street, Thalambur, Kancheepuram District, Pincode – 603 103, (hereinafter referred to as the Applicant) is an individual (Proprietorship) and an unregistered person with GST. The Applicant has a proposal to provide pick up and drop (transport) service only to the students and staff of certain schools and not for general public.

2.1. The Applicant has submitted a copy of challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

2.2 The applicant has registered as an unregistered applicant in GST portal on 09.02.2023 for filing advance ruling application under the category of service provider. The Applicant had enclosed a letter dated 03.02.2023, addressed to the Commissioner, wherein she had stated that she was approached by few schools in Chennai to provide transport service i.e. pick up and drop of their school children; This transport service will be operated by providing school bus/van service only to the students studying in respective schools and not for general public. She also stated that payment of fees will be collected directly from the parents of the students as per advice and agreement with school. She further stated that the teachers and staff will also be picked and dropped en-route for which the school will pay. Further the bus/van permits will be in the name of the respective school only.

2.3. The Applicant has sought Advance ruling on the following questions:

- a. Whether GST applicable on the above said service?
- b. Whether the collection of transportation charges from parents will be taxed or exempted under GST, since only school students are only picked up and dropped, and school staff which will be covered in the agreement with school?
- c. If GST applicable, then what is the percentage of GST to be charged from parents and school?

2.4. The applicant has not submitted any statement containing interpretation of law and / or facts in respect of the questions raised. However, the applicant has submitted a letter containing relevant facts having a bearing on the questions raised.

3.1 The applicant, after consent, was given an opportunity to be heard in person on 09.08.2023. The applicant, Ms. Abinaya, appeared before the authority and reiterated the submissions made in the application. The applicant, further, stated that –

- Agreement with schools are yet to be drawn, which could be done only after getting clarification about the GST portion;
- Fees to be collected from the parents of the students;

- Proposed to run buses, a few of which will be own and rest will be on rental basis.
- The schools with which tie up are proposed are higher secondary schools

4.1 The concerned State authority vide letter RC No.194/2023/A4 dated 04.05.2023, *inter alia*, stated that the applicant is proposed to do business of transport services for school children and faculty staff and the place of business is her residence. Further, it was stated that the applicant is not having any own vehicle for transportation of the school services and has proposed to operate the vehicles from other vehicle owners, and has not having any agreement with the schools for transportation services. With regard to the question as to whether the said activity of the Applicant attracts levy of GST, they opined that as per Sl.No.66 (HSN 9992) of Notification No.12/2017 Central Tax (Rate) dated 28.06.2017, the transportation service to an educational institution for students and faculty and staff is exempted from GST. They also stated that the said exemption is available to the Applicant on provision of the agreements executed with the concerned schools and vehicle owners for transportation of services provided to the educational institutions for students and faculty and staff.

4.2. The concerned Centre authority vide letter dated 11.07.2023 has stated that as the applicant is unregistered there is no question of pending or decided proceedings in respect of the Applicant on the questions raised by them in the ARA application. It is further stated that the services provided by them by way of transport of staff and students of school as school bus operator, by providing school Bus / Van service is exempted from payment of GST, as per Serial No. 66(b) of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, if the term "School" referred to by the Applicant is up to Higher Secondary level and consequently the percentage of GST chargeable on such service does not arise.

5.1 We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearing and the comments furnished by the Centre and State Tax Authorities. The applicant filed advance ruling application under Section 97(2) of GST Act, 2017.

5.2 The questions which need to be answered is whether the activity proposed to be undertaken by the applicant by way of transport of staff and students of school as school bus operator, by school bus / van service is applicable to GST or is

exempted from GST; and if GST is applicable, then the percentage of GST to be charged to parents and to school for arranging pick up and drop of their staff.

5.3. It is seen from the submissions made by the Applicant that they propose to provide the service of picking up and dropping of school children and staff of higher secondary school in bus and/or by van and not of the general public; that the service will be provided under agreement with schools; that the bus and van permits will be in the name of respective schools; that the applicant will be receiving the payments for the services directly from the parents, as per advice and agreement with school; and that for picking up and dropping of the teachers and staff, the respective school will pay. The Applicant did not submit any copy of the agreement entered with the schools as the whole activity is only proposed to be undertaken.

5.4. It is pertinent to see the relevant statutory provisions, which are given vide Sl.No.66 of Notification No.12/2017-Central Tax (rate) dated 28.06.2017, as reproduced below:

Sl. No.	Chapter, section, Heading, Group or Service Code (Tariff)	Description of services	Rate (percent)	Condition
66.	Heading 9992	<p>Services provided -</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(b) to an educational institution, by way</p> <p>of,-</p> <p>(i) transportation of students, faculty and staff;</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p>	NIL	NIL

5.5. The term, "**Educational Institution**", has been defined under para 2(y) of the aforesaid Notification, which is reproduced below for ease of reference:

2. Definitions. - For the purposes of this notification, unless the context otherwise requires, -

.....

.....

(y) "**educational institution**" means an institution providing services by way of,-

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;


(iii) education as a part of an approved vocational education course;

5.6. The Applicant propose to provide the service of picking up and dropping of school children and staff of higher secondary school in bus and/or by van by entering into an agreement with the schools. Further the bus and van permits will be in the name of respective schools. Thus, the Applicant's proposed activity of providing transport services to the education institutions by way of transportation of students and staff, will become eligible for exemption vide sl.no.66(b) of the Notification No.12/2017-Central Tax (rate) dated 28.06.2017, if the services provided by the Applicant is to an educational institution as defined in Para No. 2(y) of the said notification and necessary permit has been obtained as mandated under the Tamilnadu Motor Vehicles (Regulation and Control of School Buses) Special Rules 2012.

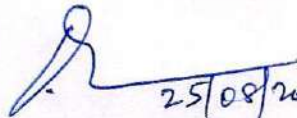
6. In view of the above, we rule as under;

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The activity proposed to be undertaken by the Applicant as specified in their application relating to the educational institution as defined in the Act amounts to supply of service and is exempted from GST under Sl.No.66(b) of Notification No.12/2017-Central Tax (rate) dated 28.06.2017 read with para 2(y) (Definition) of Notification No.12/2017-Central Tax (rate) dated 28.06.2017.


(N. USHA) 25.8.2023
Member (SGST)




(D. JAYAPRIYA) 25/08/2023
Member (CGST)

To

Ms Muniyasamy Abinaya,
No.16-2, Nehru Street,
Thalambur,
Kancheepuram District,
Pincode - 603 103.

//By RPAD//

Copy submitted to:

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Mahatma Gandhi Road, Nungambakkam,
Chennai - 600 034.
2. The Principal Secretary/ Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai - 600 005.

Copy to:

1. The Principal Commissioner of GST & C.Ex.,
Chennai Outer Commissionerate
2. Master File / spare - 1.

