

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

Advance Ruling No. KAR ADRG 22 / 2021

Dated : 07-04-2021

Present:

1. Dr.M.P.Ravi Prasad
Additional Commissioner of Commercial Taxes Member (State)
2. Sri.Mashhood Ur Rehman Farooqui,
Joint Commissioner of Customs & Indirect Taxes, Member (Central)

1.	Name and address of the applicant	M/s Kou-Chan Technologies Pvt Ltd., # 205, Brigade Gardens, 19, Church Street, Bengaluru-560 001
2.	GSTIN or User ID	29AAACE7439E1ZL
3.	Date of filing of Form GST ARA-01	11/08/2020
4.	Represented by	Ashok A Deshpande, Advocate & Authorised Representative
5.	Jurisdictional Authority - Centre	The Commissioner of Indirect Taxes, Bangalore North Commissionerate (Range-DND1)
6.	Jurisdictional Authority - State	ACCT, LGSTO - 20, 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 vide CIN SBIN19112900456744 dated 29.07.2020 and Rs.5,000/- under KGST Act vide CIN SBIN19112900361851 dated 29.07.2020

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

1. M/s Kou-Chan Technologies Pvt. Ltd., # 205, Brigade Gardens, 19, Church Street, Bengaluru-560 001 (hereinafter referred as 'applicant'), having GSTIN: 29AAACE7439E1ZL, filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of the CGST Rules, 2017 and under Section 97 of the KGST Act, 2017 read with Rule 104 of the KGST Rules 2017, in FORM GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

M/s. Kou-Chan Technologies Pvt. Ltd., is a Private Limited Company registered under the Goods and Services Tax Act, 2017 and proposes to operate a mobile based taxi aggregation service, on a pan-India basis under the trade name

Kou-Chan Technologies

"DYUT RIDES". Thus the applicant sought advance ruling in respect of the following questions:

- a. Do the various supplies (of the Applicant, the Vehicle Owner, the Driver and the Associate partner together) mentioned supra qualify as 'Composite Supply'?
- b. Do the pick-up charges paid to the Owner/ Driver fall under GST rate of 5%?
- c. Do the service charges collected from the passengers fall under GST rate of 5%? In this connection a reference may be made to Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017 - Sl.No.8.
- d. The Associate Partner renders services to the Passengers and to the Drivers/ Vehicle Owners directly, and in that case does any supply of service exist between the Applicant/Aggregator and the Associate Partner, and if yes, what is the rate at which GST has to be collected and remitted? It may be noted that the Associate Partner is paid up to 10ps per transaction as explained in the above said example.
- e. Does the amount received from the Owners / Drivers towards bidding get covered in the 5% GST or should it be separately charged at 18%? It may be noted that to participate in the bid, the drivers have to pay to the Applicant @ 30ps per bid and GST.
- f. Does the Goodwill Bonus being paid by Passenger to the Driver for good service and on which the Applicant collects the service charges, attract GST and if so at what rate?
- g. Do the charges for cancelling the trip for any reason attract GST liability?
- h. Do the charges for insurance come under composite supply?
- i. If the Principal supplier/Applicant collects GST, say at 5% along with fare from Passengers (please see table above) and remits that amount, does it amount to compliance of the GST rules?

3. RELEVANT FACTS OF THE CASE

- a. 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. Both are independent and are free to switch on or switch off from the App. The driver is however registered with the Taxi Aggregator.



- The responsibility of the Associate Partner is on-boarding and scaling up of business by registering the passengers, taxis and drivers. As a District in-charge, the Associate Partner is responsible to take care of the wellbeing of the passengers and of the drivers, viz., during accident, emergency, dealing with police or legal cases, resolving issues at local level since the services are pan-India and the applicant cannot be physically omnipresent. The associate partner gets certain % of the fare amount paid by the passengers for his services. However this is not an exclusive arrangement with one associate partner and could be more than one in a district but the passengers are tagged to one particular associate partner based on the partner who promoted them for registration.
- The duty of the driver is to complete the ride accepted and agreed upon.

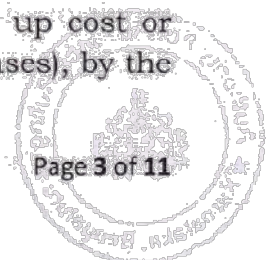
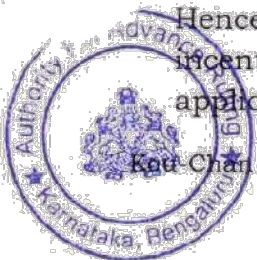
A. The applicant provides herein below the revenue breakup in the instant case;

	Particulars	Amount (Rs.)
1	Basic Fare Paid to Vehicle Owner	100.00
2	Add: Pick up cost or incentive to Owner	12.00
3		112.00
4	Add: Share of participating service providers:	
4.1	a) Applicant's Service charges.	7.90
4.2	b) Associate Partner's charges.	0.10
4.3	c) Payment gateway charges (approx.) for loading money to the DYUT Wallet by Passengers, borne by the Applicant.	2.00
5		122.00
6	Add: GST @ 5% on Basic Fare	5.00
7	Gross Fare collected from the Passenger	127.00
Note 1:	The sharing from Rs.10 service charge collected will be: Rs.9.90 is retained by the Applicant and 0.10ps is paid to the Associate Partner as his service charges.	
Note 2:	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.	

B. The applicant submits that as per the Karnataka On-demand Transportation Technology Aggregators Rules, 2016 –

Rule 9 (3) – No passenger shall be charged for dead mileage and the fare shall be charged only from the point of boarding to the point of alighting.

Hence the pick-up charges are paid to the driver (either as pick up cost or incentive to cover up where pick up costs are high in some other cases), by the applicant.



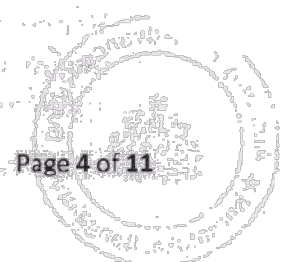
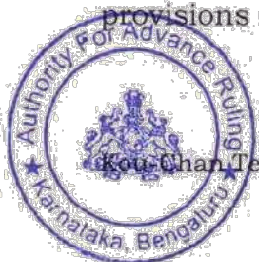
- C. The applicant submits that the drivers are covered by an insurance program and the premium amount is collected from the passenger.
- D. The applicant submits that there is also a provision for the passengers to rate the driver's services after the ride and also to tip him. This is called "**Goodwill bonus**" which is paid to the driver (not the Owner of the Vehicle). This is purely a voluntary amount payable by the Passengers (at the time of rating the service) to the driver, which is credited to the DYUT wallet of the drivers and on which Applicant collects the service charges (Ref S. No. 4.1 above charges) and also GST on gross value.
- E. The applicant further submits that when a passenger intends to travel and uses the applicant's app, a ride request (with desired indicative fare) is sent to the drivers. Upon receipt of the request from the prospective passenger, the drivers may accept the offer of the passenger as it is or may quote their offer and counter offer which may consist of 'Fixed amount', 'meter rate', 'mark up on meter rate', 'discount on meter rate'. This is because the Karnataka Government has allowed variable rates range and also type of vehicles and that the drivers can quote any rate, for example, for a Indica type vehicle, between Rs.11 to Rs.22 per km. When different drivers offer their quotes to the passengers, because of the competitive rates, the prospective passenger can accordingly choose that fare/offer which is best suited for him. So once a rate/driver is selected by the prospective passenger, the other offers will automatically disappear. The applicant submits that this is a sort of bidding done by the drivers and for this bidding they are required to pay a sum of 0.30ps per bid, which is a 'participation fee' collected by the Applicant irrespective of whether the bid is successful or not.

PERSONAL HEARING

4. The Applicant authorized Sri. Ashok Deshapande, Authorized Representative and the said authorized representative along with applicant appeared for personal hearing proceedings on 08-10-2020 before this authority.

FINDINGS & DISCUSSION:

5.1 At the outset we would like to make it clear that the provisions of CGST Act, 2017 and KGST Act, 2017 are in *parimateria* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.



5.2 We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made by Sri. Ashok Deshapande, authorized representative during the personal hearing. We also considered the issues involved, on which advance rulings are sought by the applicant, relevant facts and the applicant's interpretation of law.

5.3 The applicant, a private limited company, submitted that they propose to operate a mobile based taxi aggregation service on a pan-India basis; they are responsible for linking the driver to the passenger; they neither own any vehicle nor employ the driver; the drivers are registered with them; they utilise the services of 'Associate Partner', one or more in a district, who is responsible for the well being of the passengers and of the drivers viz., accidents etc. In the revenue breakup provided by the applicant, it is seen that they are charging GST from passengers on the basic fare paid to the driver, collecting pick up cost from the passenger, service charge, associate partner's charge and payment gateway charge. Besides, the applicant also collects toll charges, luggage charges, waiting charges, cancellation, insurance etc which may be shared with drivers. Further there is 'Goodwill Bonus' which is purely a voluntary amount paid by passengers to drivers at the time of rating the services which is credited to the driver's account by the applicant. The applicant collects service charge on this amount. Lastly, there is a Participation Fee which is a payment made by drivers to the applicant when they bid for passengers offering different fares. In view of this, the applicant sought advance rulings in respect of the questions mentioned at para 2 supra.

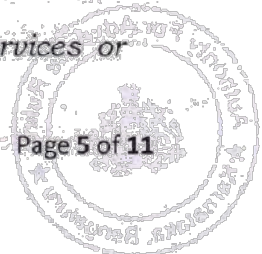
5.4 Now we proceed to examine and consider each question one at a time. The first question is *whether the various supplies (of the applicant, the vehicle owner, the driver and the associate partner together) qualify as Composite supply?* In this regard we invite reference to Section 2(30) of the CGST Act, 2017, which defines "Composite Supply" as under:

composite supply means a 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;

Illustration — Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Further recipient of supply of goods or services or both, in terms of Section 2(93) of CGST Act, 2017 means—

a. where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;



b. where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

c. where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

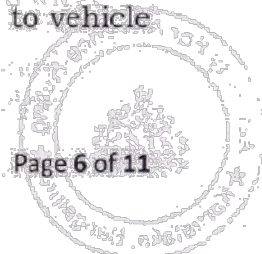
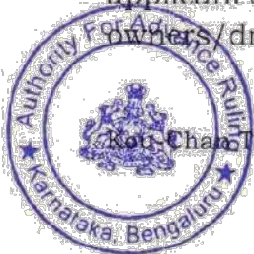
Also supplier in relation to any goods or services or both, in terms of Section 2(105) of CGST Act 2017 shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

It is observed from para 5.3 supra and the relevant definitions quoted above that there are various suppliers for different services and the applicant apart from being a supplier is also an intermediary as a taxi aggregator. Since, the instant application is filed by the applicant, we will only discuss the question of composite supply in relation to activities performed by the applicant. We observe that the applicant is offering a platform to the passengers as well as to the drivers and is collecting service charges.

The conditions for a supply to be considered as a Composite Supply are (i) the supplier (taxable person) should supply two or more taxable supplies to a recipient, (ii) the said supplies should be naturally bundled and (iii) the supplies should be supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply. In the instant case, we observe 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 these two supplies are not naturally bundled. Further the said supplies are not in conjunction with each other, in the ordinary course of business. Therefore, we conclude that the activities performed by the applicant do not amount to a composite supply.

5.5 The second question is whether the pick-up charges paid to the owner / driver fall under GST rate of 5%?

The applicant proposes, in their business model, to collect "Passenger Convenience Charges", from the passenger, in addition to the basic fare, in terms of Para 8 of the Terms and Conditions for registration of passengers with the applicant's platform, which include various kinds of incentives payable to vehicle owners/drivers.



Section 9(5) of the CGST Act, 2017 stipulates that the tax (GST) on intra-state supplies of specified categories of services shall be paid by the electronic commerce operator, if such services are supplied through e-commerce operator and all the provisions of the said Act shall apply to such e-commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such service.

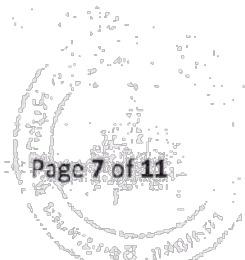
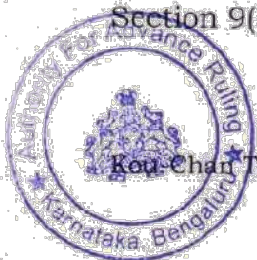
In view of the above the question before us to decide is whether the amount collected towards particular head is the consideration for the services provided through e-commerce operator or not.

In the instant issue, the driver provides the pick-up service to the passenger and the consideration for the said service is collected from the passenger by the applicant through their e-commerce platform. The driver need to pick up the passenger before starting of the radio taxi service and hence the pick-up service is incidental to the main service of transportation of passengers by the drivers. 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, in terms of Section 9(5) of the CGST Act, 2017. Further, Notification No. 17/2017-Central Tax (Rate) dated 28.06.2017 stipulates that an electronic commerce operator is supposed to pay GST for services by way of transportation of passengers by a radio taxi.

In view of the foregoing, we find that 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.

5.6 The third question is related to the Associate Partner, who renders services to the passengers and to the drivers/ vehicle owners directly and the question is 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?

In this regard, we observe that that the responsibility of the associate partner includes on boarding and scaling up of business by registering the passengers and owners/ drivers along with taking care of their well being during accidents etc. We find that the associate partner is providing support services to the applicant in terms of increasing the magnitude of the business by providing assistance to the applicant's customers/ users and taking care of them in time of need. Further the said services are not part of the services of transportation of passengers through the e-commerce operator and hence are not covered under Section 9(5) of the CGST Act 2017.



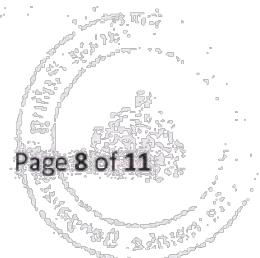
We observe from the revenue breakup provided by the applicant that the applicant's service charges, associate partner's charges and payment gateway charges are collected together from the passenger by the applicant. The passenger does not know the heads under which these amounts are collected but pays the total amount. Thus it is nothing but classification of income to different heads. The instant question is relevant to only associate partner's charges.

We find that in the instant case the associate partner is providing services to the applicant. The impugned services of associate partner are covered by clause (ii) of Sr. No. 23 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 and hence GST @ 18 % has to be paid by associate partners in case the associate partner is registered under GST. In the case where the associate partners are not registered under GST due to threshold limit, no GST is leviable on the amount remitted to the associate partner.

5.7 The 4th question is related to bidding charges, i.e. whether the amount received from drivers/owners towards bidding gets covered in the 5 % GST or should it be separately charged at 18%?

We find that the amount received as a bidding charge is outside the fold of basic fare i.e. the relevant service is not related to the service provided by the owner/driver to the passenger/customer through the e-commerce operator. We therefore find that 5% GST rate is not applicable. Explanatory Notes to the scheme of classification of services under heading 998599 describes "other support services" as:

this service code includes business brokerage and appraisal services other than for real estate; business services of intermediaries and brokers; specialist advice other than for real estate, insurance and engineering (specialist services in art, specialist services for courts of law, etc.); services by agencies and agents on behalf of individuals seeking engagements in motion pictures, theatrical productions, modelling or other entertainment or sports attractions; placement of books, plays, artwork, photographs, etc., with publishers, producers, etc.; issue of reduced-price coupons and gift stamps; management services for copyrights and their revenues (except from films); management services for rights to industrial property (patents, Page 83 of 129 licences, trademarks, franchises, etc.); auctioning services other than in connection with legal procedures; reading of electric, gas and water meters; data preparation services; specialized stenotype services such as court reporting; public stenography services; other business support services not elsewhere classified.



We find that the same is covered by clause (ii) of Sr. No. 23 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017, at the rate of 18 %.

5.8 The fifth question is related to the goodwill bonus being paid by passenger to the driver and on which the applicant collects the service charges, i.e whether the service charges so collected attract GST and if so at what rate?

We find that goodwill bonus is a voluntary payment made by passengers when they are happy with the service provided by the drivers. It is outside the fold of basic fare charged from the passengers for the trip. The applicant collects service charge on the goodwill amount. We find that the service charge collected for facilitating the payment of goodwill amount to drivers is consideration in terms of Section 2(31) of CGST Act, 2017 and hence is liable for GST at 18% under heading 9985 vide clause (ii) of Sr. No. 23 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017.

5.9 The sixth question is whether the charges for cancelling the trip for any reason attract GST liability?

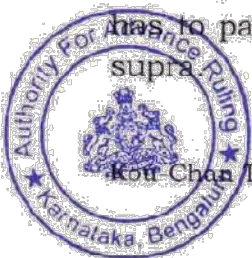
In this regard, we find that the applicant has submitted that cancellation charges collected from the passengers may be shared with the owners or drivers. We find that the activity of tolerating the cancellation by the applicant for a consideration is supply of service by virtue of clause (e) of para 5 of Schedule II of CGST Act, 2017 and attracts GST at 18 %.

5.10 The seventh question is whether the charges for insurance come under composite supply?

In this regard, we observe, from the terms and conditions that passengers are covered under appropriate insurance against accidents, that the passenger has to opt and give his/her specific consent for the insurance coverage, at the time of booking the ride/trip. This issue has already been discussed at, para 5.4 supra, and observed that its optional on the part of passenger to avail insurance on the trip and the same will not fall under composite supply.

5.11 The last question is 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?

As discussed above, 5% GST is only applicable on basic fare. The applicant has to pay GST at 18% on other incomes as discussed in the proceeding paras supra



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

RULING

1. Do the various supplies (of the applicant, the vehicle owner, the driver and the associate partner together) qualify as Composite supply?

No, it's not a composite supply.

2. Do the pick-up charges paid to the owner / driver fall under GST rate of 5%?

Yes, the pick-up service is incidental to the main service of transportation of passengers by radio taxi and hence the pick-up charges form part of the service of transportation of passengers by a radio taxi and hence the applicant is liable to pay GST @ 5%, on such pick-up charges.

3. The Associate Partner renders services to the passengers and to the drivers/ vehicle owners directly, and in that case does any supply of service exist between the applicant /aggregator and the Associate partner, and if yes, what is the rate at which GST has to be collected and remitted?

18 % by associate partners in case the associate partner is registered under GST. Where the associate partners are not registered under GST, no GST is leviable on the amount remitted to the associate partner.

4. Does the amount received from drivers/ owners towards bidding get covered in the 5 % GST or should it be separately charged at 18%?

It should be paid at 18%.

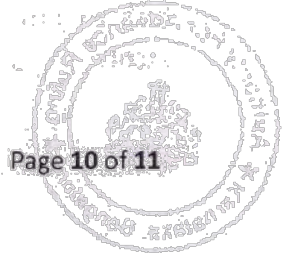
5. Does the goodwill bonus being paid by passenger to the driver and on which the applicant collects the service charges, attract GST and if so at what rate?

Yes at 18 %.

6. Do the charges for cancelling the trip for any reason attract GST liability?

Yes at 18 %.

7. Do the charges for insurance come under composite supply?



8. 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?

No. the applicant needs to discharge 18% on its other income as discussed above.



(Dr. M. P. Ravi Prasad)

MEMBER

Karnataka Advance Ruling Authority

Place : Bengaluru-560 009



(Mashhood Ur Rehman Farooqui)

Member

MEMBER

Karnataka Advance Ruling Authority

Bengaluru-560 009

Date : 07-04-2021.

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Indirect Taxes, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Commissioner of Indirect Taxes, Bangalore North Commissionerate, Bengaluru.
4. The Asst. Commissioner, LGSTO-20, Bengaluru.
5. Office Folder.

