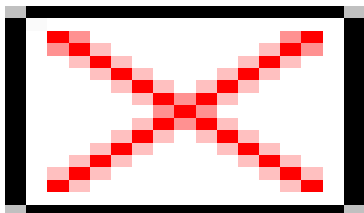


Building and Mounting of Body on Chassis: Taxable @ 18% or 28%?

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Abstract

THE UP-AAR in *In re; Adithya Automotive Applications Pvt. Ltd., Advance Ruling No. UP ADRG 82/2021 - 2022-TIOL-04-AAR-GST* has taken the industry by surprise by ruling that the activity of building and mounting of bodies on chassis of motor vehicle are subject to GST at the rate of 28% as the body becomes the predominant element of supply.

The classification and applicable rate of GST in the activity of building and mounting of the body has been in dispute from the very advent of GST regime. This activity has been under scrutiny by the departmental authorities leading to uncertainty in the minds of taxpayers. This article will take you through the chronology of the said issue, which needs an urgent attention of the Board.

Introduction

The fabrication and mounting of body on chassis by independent body builders has been the industry practice for ages as it provides the customer with a flexibility to get the vehicle customized according to their wishes, appropriate for their usage and within their budget etc. As far as commercial vehicles are concerned, the customers insist on purchasing bare chassis from the OEM chassis manufacturers and engage independent body builders for building and mounting the body on the chassis as per their design, specifications and requirement.

The activity of body building is a complex task involving a wide array of inputs such as metal sheets, air conditioner, seats, cushions, door, glasses, windows, etc. which requires substantial investment. Therefore, the bodies are usually built on prior orders by the customers, wherein the customer makes the choice of raw materials and inputs to be used, following which the body is built and mounted on the chassis owned by the customer.

Pre-GST Era

In pre-GST regime, as per Note 5 to Chapter 87 of Central Excise Tariff Act, 1985

the process of building a body on chassis amounted to manufacture.

However, the Central Excise Duty leviable on the building and mounting of body on the chassis was exempted vide S. No. 334 of Notification No. 12/2012- Central Excise. As per the said entry,

all goods manufactured in a factory and used within the same factory for building a body or fabrication or mounting or fitting of structure or equipment on a chassis falling under heading 8706 of a motor vehicle of Chapter 87

were subject to nil rate of duty provided ***the duty of excise on the chassis as leviable has been paid*** (Condition 40).

At the same time, by virtue of Note 5 to Chapter 87 deeming the aforesaid activity as 'manufacturing activity' even Service Tax was not levied on the said activity as ***the manufacturing services were included in the negative list of service*** under Section 66D(f) of the Finance Act, 1994.

However, the aforesaid exemption was applicable only for the goods manufactured and used within the same factory. As the clearance of chassis mounted with body mounted on it by OEM amounting to 'deemed manufacture', was subject to central excise duty as leviable on motor vehicles.

GST Era

In terms of S. No. 169 to Schedule IV of Notification No. [01/2017-Integrated Tax \(Rate\)](#)

, supply of bodies for the motor vehicles of headings 8701 to 8705 are subject to 28% GST. Whereas, the activity of fabrication or mounting of the body built undertaken by the body-builders on the chassis owned by the customer is taxed at the rate of 18% in terms of S. No. 26(ic) of Notification No. [11/2017-Central Tax \(Rate\)](#)

. This entry is prescribed under Service Accounting Code 9988, which covers manufacturing services including job work.

Hence, under GST regime, supply of body is chargeable to tax @ 28% if supplied as goods and @ 18% if supplied as services. Multiple GST rates for the same product led to a lot of confusion among the industry considering the fact that the activity of body building involved supply of goods as well as services. Thus, the assesses being mindful of the fact that the person building the body as well as the person undertaking the activity of fabricating or mounting of the body on chassis are one and the same, approached the Board to clarify on the GST implications on the activity undertaken by body builders for them.

Circular No. 34/08/2018-GST

The Board vide Circular No. [34/08/2018-GST](#)

dated 01.03.2018 had duly clarified that bus body building involves supply of goods as well as services. Thus, classification of this composite supply would depend on predominant element of supply (principal supply) in facts and circumstances of each case. The said circular required assesses to analyze their transactions on case-to-case basis and discharge the tax accordingly as per the identified principal supply. However, considering the fact that body accounts for a substantial cost in the transaction and without body, the ancillary activity of fabrication or mounting of the same holds no relevance, the Hon'ble Haryana AAR in the very first ruling on the issue in *In re; Paras Motor Industries, - 2018-TIOL-101-AAR-GST*

has ruled that the supply of body (HSN 8707) forms the predominant element in the activity of building and mounting of body on chassis and thus the said activity should be subject to 28% of GST [rate of tax applicable for 'body' as per S. No. 169 of Notification No. [01/2017-CT \(R\)](#)]. The industry was not following this approach uniformly and thus they once again knocked the doors of Board for further clarity over taxability of their transactions.

Circular No. 52/26/2018-GST

The Board vide Circular No. [52/26/2018-GST](#) dated 09.08.2018 had clarified that when

bus body builder builds body on chassis provided by the principal for body building, and charges fabrication charges (including certain material that was consumed during the process of job-work),

the supply would merit classification as service, and 18% GST as applicable will be charged accordingly.

The assesses across the country interpreted the open-ended terms of abovesaid circular to even cover the supply of body under the scope of job-work activity. The assesses sought rulings from respective AARs across the country, in order to get conformity over the clarification provided vide the circular dated 09.08.2018.

In response to the said applications the advance authorities of all the states took an uniform stand in the rulings issued to applicants *Anamallais Engineering Pvt. Ltd., - 2021-TIOL-198-AAR-GST [Tamil Nadu], M/s CC Fabs, - 2021-TIOL-162-AAR-GST [Kerala], Jeet & Jeet Glass and Chemicals Pvt. Ltd., - 2021-TIOL-59-AAR-GST [Rajasthan], AB N Dhruv Autocraft India Pvt. Ltd., - 2020-TIOL-246-AAR-GST [Gujarat], V E Commercial Vehicles Limited,- 2020-TIOL-199-AAR-GST [Madhya Pradesh], Tata Marcopolo Motors Ltd., - 2019-TIOL-202-AAR-GST [Karnataka], Automobile Corporation of Goa Limited, - 2018-TIOL-209-AAR-GST [Goa]*

stating that the activity of building and mounting of body undertaken on the chassis of the customer qualifies as a 'job-work' activity and the consideration paid for the entire activity shall be taxed at the rate of 18 % as 'job-work charges' in terms of S. No. 26(ic) of Notification No. 11/2017-Central Tax (Rate).

However, in a recent ruling issued in *In re; Adithya Automotive Applications Pvt Ltd (supra)*,

the Uttar Pradesh AAR by placing reliance upon the **Circular No. 34/8/2018-GST**

has taken a divergent stand and ruled that the activity of building and mounting of body undertaken by the independent body builder on chassis owned by customers as a composite supply, with principal supply being supply of body of the vehicle (HSN). Thus, the said activity

should be subject to 28% GST in terms of S. No. 169 of Schedule IV of Notification No. 01/2017-CT (R). The views taken by UP-AAR in the instant ruling are not new to the industry as the said view had historically been taken by HR-AAR in

In re; Paras Motor Industries (supra) & In re; Sincere Marketing Services Pvt. Ltd., Advance Ruling No. HAR/HAAR/R/2019-20/07 and MP-AAR in ***Arpijay Fabricators Pvt. Ltd., - [2018-TIOL-134-AAR-GST](#)***.

Conclusion

Due to the divergent views of Advance Ruling Authorities in different States issued to different assesses even after three years of issuance of Board circular dated 09.08.2018, the players in the industry seem to be still battling with uncertainty in their minds as regards taxability of the activities undertaken by them. It is high time for the Board to intervene and issue a clear set of guidelines on taxability of supply of body and fabrication or mounting of same on chassis owned by the customer. At the same time, the Board also needs to relook into the divergent views given by AARs across the country and devise a system so that coordinated views are taken to save the essence of one of founding principles of GST - 'One-nation, One tax'.

[The views expressed are strictly personal.]

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