

**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 36/2024

Date : 24-07-2024

Present:

1. Dr. M.P. Ravi Prasad

Additional Commissioner of Commercial Taxes . . . Member (State)

2. Sri. Kiran Reddy T

Additional Commissioner of Customs & Indirect Taxes . . . Member (Central)

1.	Name and address of the applicant	M/s. ROPPEN TRANSPORTATION SERVICES PVT. LTD., #80/1,81/1,81/2, Salarpuria Softzone, Green Glen Layout, Bellandur Village, Varthur Hobli, Bengaluru - 560 103, Karnataka.
2.	GSTIN or User ID	29AAHCR1710J1ZC
3.	Date of filing of Form GST ARA-01	30-08-2023
4.	Represented by	Sri. N V Raman, Advocate & Authorised Representative
5.	Jurisdictional Authority - Centre	The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.
6.	Jurisdictional Authority - State	ACCT, LGSTO-15, 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 & Rs.5,000/- under KGST Act through debit from Electronic Cash Ledger vide reference No. DC2907230066038 dated 14.07.2023.

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

M/s. Roppen Transportation Services Pvt. Ltd., (herein after referred to as 'Applicant'), #80/1,81/1,81/2, Salarpuria Softzone, Green Glen Layout, Bellandur Village, Varthur Hobli, Bengaluru - 560 103, Karnataka, having GSTIN 29AAHCR1710J1ZC, have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and KGST Act.



2. The applicant stated that they are a registered private limited company, also registered under the GST Act and are engaged in the business of providing technology based services to their end users for booking two-wheelers and three-wheeler passenger transport services offered by third party drivers by means of the company website and its mobile app platform "Rapido".

The applicant proposes to introduce computer/mobile application services to independent four-wheeler cab service providers on subscription basis, as a discovery platform to enable them to connect with potential end-users (also referred to as 'passengers'), who require the services of such third-party drivers on its platform. The third party drivers (subscribers) shall enter into a standard agreement to create a business user account, on furnishing certain documents, which shall be limited to providing of license or permission to use the said app. The applicant also proposes to introduce pay per use ride monitoring fee, which is an optional service provided to the passengers, to ensure the passenger's safety during the ride that the passenger avails from the four-wheeler cab service providers.

3. In view of the above, the applicant has sought advance ruling in respect of the following questions:

- a. Whether the Applicant satisfies the definition of an e-commerce operator and the nature of supply as conceptualized in Section 9(5) of CGST Act, 2017 r/w notification No 17/2017 dated 28.06.2017?
- b. Whether the supply by the independent four-wheeler cab service provider (person who has subscribed to 'Rapido' app) to his passengers (who do not pay any subscription fee) on the app platform amounts to supply by the Applicant?
- c. Whether the Applicant is liable to pay GST on the supply of services provided by the independent four-wheeler cab service provider (person who has subscribed to applicant's 'Rapido' app) to his passengers on the Applicant's app platform?
- d. What is the rate at which GST shall be collected on the ride monitoring fee and the SAC code that shall be applicable?
- e. Whether the Applicant is liable to pay GST on the supply of services provided by the independent three/two-wheeler cab service provider (person who has subscribed to applicant's 'Rapido' app) to his passengers on the Applicant's app platform?

4. Admissibility of the application :

The advance rulings are sought by the applicant on the questions, at para 3 supra, in respect of the issues of (i) applicability of a notification issued under the



provisions of the CGST/KGST Act 2017, (ii) determination of the liability to pay tax on any goods or services or both and (iii) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term, which are covered under Section 97(2)(b), 97(2)(e) & 97(2)(g) respectively and hence the application is admissible under Section 97(2)(b), 97(2)(e) & 97(2)(g) of the CGST/KGST Act 2017.

5. **BRIEF FACTS OF THE CASE:** The applicant furnished the following facts relevant to the issue/s:

5.1 The applicant stated that they are engaged in the business of providing technology based services to their end users for booking two-wheelers and three-wheeler passenger transport services offered by third party drivers (also referred to as "Captains") by means of the company website and its mobile app platform "Rapido". They proposed to introduce computer/mobile application services to independent four-wheeler cab service providers on a subscription basis, as a discovery platform, to enable them to connect with potential end-users ("passengers") who require the services of such third party drivers ("subscribers") on their platform. The drivers shall register with the app, enter into a standard agreement and have a business user account that provides license or permission to use the said app.

5.2 The Applicant submitted that in their proposed model, the independent four-wheeler cab service provider shall become a subscriber to the app and the relationship between the members and the passenger would be of supplier and recipient and any monetary consideration involved between them is purely privy to their contract and the applicant in no way connected with such contract; If there is any dispute between the members registered on the App and the passengers, it is purely between them, and the applicant would not be responsible; the App, with a commission free monetization model, is a service provider's hub wherein they have absolute ownership of their supply, and the applicant has no rights or say or control over the supply and there is no involvement of the applicant in the supply of services from the members registered on the App as well as arranging for collection of any consideration or any other form of agreed means of payment from the passengers to the registered members.

The applicant also propose to introduce pay per use ride monitoring fee, which is an optional service provided to the passengers, to ensure the passenger's safety during the ride that the passenger avails from the four-wheeler cab service providers.

5.3 The Applicant submitted the following additional facts that may have bearing to the instant application:

Revenue from passenger

There is no proposed revenue from passenger or consideration towards the ride.



The company does not propose to collect any money at all from passenger which is to accrue or payable to the driver.

Revenue from Driver

There would be a subscription charges from the driver for usage of app per se. The Subscription charges is towards usage of the platform or the app in order to provide leads to the driver about the needs of a passenger who is looking for a ride. The company raises an invoice to the driver for the payment of the subscription charges. GST is applied on the entire subscription charges.

Revenue from platform usage

Other than subscription fee, there would no charges on the drivers. The Subscription charges towards usage of the app is the only charges that would be collected from the driver.

Collection of money on behalf of driver from passenger

The settlement of consideration is between the driver and the user, and the company is not involved in the same. The company does not act "on behalf of the driver" in collecting any fare from the passenger at all. Nor does it act as an intermediary for the driver on any behalf. This by itself is very pertinent to submit that the Company does not act as an e-com supplier through whom any services are rendered. The services are rendered by the drivers to the passenger over which the company's involvement is not there or at the best negligible and only to the extent of providing the app usage to provide leads to the driver.

Intent of the App

Lead Generation for Driver and discovery of drivers for Customers. The app is not in the space of providing any mobility or commuting to the passengers or do not act on behalf of the driver or to the passenger in the transaction at all. Any passenger who looks for a ride will use the app to look for drivers to provide them services. The company does not provide drivers to the passengers or act on behalf of the driver to get into any transaction with the passenger. The app acts as a discovery platform to enable its app for passengers to look for drivers and drivers to offer their services to passengers without getting into acting as an intermediary for, or and on behalf of either of the sides to the transaction.

There is no Settlement to driver by the company at all.

There is no collection of money from any passenger on behalf of the driver. Therefore, there is no concept of settlement to the driver at all. The driver pays the subscription charges on which the GST is paid. The consideration payable by the user to the driver is paid directly and not through the company at all. The company does not collect any money from a passenger which is owed to the driver at all. It therefore is pertinent to say that the company is not in the space of collecting any money on behalf of the driver.



Treatment of supply through e-com

The App is meant as a pure discovery platform to enable driver to provide services to the users and the company doesn't provide the mobility services. It is the driver who provides the supply by himself and not through the app. It is therefore submitted that the company does not provide the e-com related services and does not act as an intermediary in providing the service as well. It is purely a discovery platform wherein the driver and the passenger get to opt each other and the related service. The fact that the consideration payable by the passenger to the driver is also not collected at all by the company through the app or through any portal or even a nodal account demonstrates that the app or the company is not into providing a commuting service and is only a pure discovery platform of an app.

Who arrives at the fare details?

The fare is driver driven in terms of the proposed system. Rapido shows a standard fare as a measure to educate the passenger to empower them with the knowledge. The Company is not involved in setting up the fare and how much is to be paid or to be collected. The company is not involved in collection of the fare details as well. The driver through an interactive process has an ability to either quote a higher fare or a lower fare. The passenger waits to understand what is the best fare that is given by various drivers and opts for the driver which the passenger feels is best suited in his interests.

The company other than showing the initial standard fare is neither involve nor interfere in the process of fare setting at all. It is humbly submitted that this also demonstrates that the company through the app is not an e-com provider of any commuting service at all to the passenger. The service provided by the app is pureplay discovery platform. It is the driver who provides the commuting service to the passenger and collects the consideration for the same directly from the passenger.

6. **Applicant's understanding of Law:** The applicant furnished their understanding / interpretation of law inter alia stating as under:

6.1 The applicant submitted that their liability to pay tax is limited to payment of tax at the rate of 18%, under Section 9(1) of the CGST/KGST Act 2017 and Section 5(1) of the IGST Act 2017 read with Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, on the consideration received / receivable of subscription fee. Further the applicant is not liable to pay tax under Section 9(5) of the CGST/KGST Act 2017 and Section 5(5) of the IGST Act 2017 read with Notification No. 17/2017-Central Tax (Rate) dated 28.06.2017 Notification No. 17/2017-Central Tax (Rate) updated till 14th Nov 2017.

6.2 The principal charging provisions are section 9(1) of the CGST/KGST Act 2017 & Section 5(1) of the IGST Act 2017 and in terms of said sections the liability to pay tax on "outward" taxable supplies of goods or services or both, as the case may be, is on the "supplier". Section 2(105) defines the expression "supplier", in



relation to any goods or services or both which 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.

6.3 The taxable supplies effected by the subscribers of the app platform of the applicant to their passengers by using the applicant's app platform, the suppliers for the purpose of CGST/KGST/IGST Acts are the subscribers of the app platform and not the applicant and therefore, the liability to pay tax on the value of all such supplies is on the respective suppliers and certainly not on the applicant. Further the provisions of Section 9(1) of the CGST /KGST Act and Section 5(1) of the IGST Act are not subject to Section 9(5) and Section 5(5) of the said acts respectively.

6.4 The definitions of the expression "electronic commerce" under Section 2(44) and the expression "electronic commerce operator" under Section 2(45) of the CGST Act 2017, the provisions of Section 9(5) of the CGST Act 2017 and Section 5(5) of the IGST Act 2017 and the notifications issued there under shall have the applicability only to "electronic commerce operators" i.e. the taxable persons who supply goods or services or both on their own account or on account of others with the aid and application of the "APP platform" and they (such taxable persons) either undertake to supply goods or services or both on their account or on account of other taxable persons and directly or indirectly connected with entering into contract for supply, storing/ warehousing, packing, delivery of goods, collection of consideration etc.

6.5 The applicant, in view of the above interpretation of law, contends that the output tax is payable by them only on the subscription fee collected from the cab service providers who are availing the services of their App platform as a discovery tool to connect to passengers that require their services and the applicant in no way is liable to pay tax on the transactions that take place subsequently between the registered members, (supplier of cab services) on their App, and their passengers.

6.6 The applicant submits that Section 7(1)(aa) of the CGST Act 2017 is in relation to scope of supply. The said addition was brought into effect retrospectively which states that any activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration shall be considered as a supply. Explanation : For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgement, decree or order of any court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another. From this perspective also it is submitted that there is no specific supply of services in the form of commuting services that are provided on behalf of the drivers or the end users. The app is intended to be a lead generation discovery platform per se.



6.7 Section 9(5) of the CGST Act 2017 r/w notification No. 17/2017 dated 28.06.2017, notification No. 23/2017 dated 22.08.2017 and notification No. 17/2021 dated 18.11.2021 does not contemplate or envisaged noninterfering and commission free business adopted by the applicant. It is applicable to business model which collects payment on behalf of the supplier. As the applicant does not propose to collect any payment on behalf of the supplier the question of collecting tax on behalf of the supplier cannot arise. Hence, the applicant would not be liable for the GST on the transaction carried on by the cab provider with his passenger. Moreover, the supplier raises invoice to his passenger & the passenger pays directly to the cab service provider which rules out any attempt on the part of the applicant to pay taxes of the supplier.

6.8 On a joint reading of the definitions of 'electronic commerce' and 'electronic commerce operator' in terms of Sections 2(44) and 2(45) respectively, Section 9(5) of the CGST Act 2017 and Notification No. 17/2017-Central Tax (Rate) dated 28.06.2017 wherein it is notified that the tax on intra-state supplies of services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle shall be paid by the electronic commerce operator, the applicant submits that it is a technology provider to cab service provider and would like to distinguish from rent-a-cab aggregator; they are not required to be registered with the regional transport office (RTO) as a rent-a-cab aggregator and thus they are not an e-commerce operator as they do not maintain control room.

6.9 The tax on intra state supplies of notified services shall be paid by the e-commerce operator, in terms of Section 9(5) of the CGST Act 2017, only if such services are supplied through it (e-commerce operator platform). The crucial and relevant aspect of the section and its applicability are as follows: -

- a) The services by the supplier to the consumer are supplied through the electronic commerce operator.
- b) The service should be an intra-state supply.
- c) The tax on services supplied shall be paid by the electronic commerce operator.

Applying the principle enumerated above in the instant case, the applicant submits that it does not fulfil the conditions of being an electronic commerce operator and the supply of services "through us." The crucial phrase for the applicability of the section is "supply of services through e-commerce operator."

6.10 The Act or Notification does not define or clarify the situations of "supply of services through an e-commerce operator" and thus the rules of jurisprudence and interpretation are required to understand the phrase and the word as used in common parlance. The word "through" as defined in the oxford's advanced learner's dictionary is submitted below:

- a) From one end or side of something / somebody to the other.



- b) See, hear, etc. through something to see, hear, etc. something from the other side of an object or a substance.
- c) From the beginning to the end of an activity, a situation, or a period of time
- d) Past a barrier, stage, or test.
- e) Until, and including.

The word through is a preposition which means "a word or group of words, such as in, from, to, out of and on behalf of, used before a noun or pronoun to show place, position, time or method." The word through in Section 9(5) is used to indicate the method under which the supply of services was initiated, carried on and concluded. The dictionary meaning clearly specifies that the word through implies that the supply should be initiated, carried on and concluded by the specified method.

6.11 In the instant case the supply is not carried on and concluded by using the applicant's app. The applicant invites attention to the below mentioned submissions:-

- a) The applicant provides technology to cab operators (through the APP). This allows the passenger to identify the nearby cab through which he can take the ride and no further.
- b) The ride is not monitored by the applicant unless it is paid for by the recipient as per the proposed pay-per use model discussed supra, which is a separate service altogether that is provided on their own account to the passenger. It is pertinent to point out that the monitoring of ride is not automatic and will have to be opted by the passenger for every ride they choose.
- c) It is not necessary for the applicant to be aware of the completion of the ride unless the passenger end user has opted for the pay per use model discussed supra.
- d) It is not necessary for the applicant to know the fare details at all.
- e) The fare and method of its collection is not known to the applicant.
- f) The fare is not collected through the applicant.
- g) The applicant is not responsible to the supplier for non-receipt of the consideration for the supply.
- h) The applicant is not responsible to the consumer for deficiency on the part of the supplier in rendering of the services.

6.12 From the above, it is submitted that the applicant is only involved in providing a platform through its app/computer application to enable meeting the supplier of services and consumer of the services and no further. The supply



happens independent of the applicant and the applicant is involved in identification of the supplier of services and does not take responsibility for the operation and completion of the ride. The applicant does not fulfil the conditions stipulated in Section 9(5) of the CGST Act 2017, which is "supply of services through", as no portion of supply of services is under the control of the applicant. The applicant cannot control the fare of the ride and the collection associated with completion of the ride and thus the applicant cannot be held liable to collect and pay the tax as specified in Section 9(5) of the CGST Act 2017 read with Notification No. 17/2017-Central Tax (Rate) supra. The applicant's nature of business does not allow collection of the fare on behalf of the supplier. Thus, the services cannot be deemed to have been supplied through it (app) just because the service is initiated through it.

6.13 An e-commerce operator, as specified, should supply the services through it. The services are only initiated by the applicant and hence the applicant cannot be held to be an e-commerce operator. Moreover, the Act read with the Notification supra transfers the burden of tax from the supplier of services to the e-commerce operator as the e-commerce operator has control over the fare paid to the supplier and hence can charge and collect the tax on supply of services. In the instant case this condition cannot be honoured as the applicant has no control over the fare paid to the supplier. Thus, the applicant pleads helplessness to collect and pay tax on behalf of the supplier. Therefore, the applicant cannot be concluded as a supplier for services rendered by cab operator.

The applicant submits that the facts of this case are similar to Multi-Verse Technologies Pvt. Ltd (GST AAR Karnataka-Advance Ruling No. KAR ADRG 36/2022 dated 27.10.2022) (please refer Annexure-II) with respect to the proposed subscription based offering to the cab drivers, wherein the Karnataka AAR held that the supply by the service provider (person who has subscribed to Applicant's app) to his customers (who also have subscribed to Applicant's app) on the Applicant's computer application does not amount to supply by the Applicant. The AAR in that ruling also held that the Applicant is not liable to collect and pay GST on the supply of goods or services supplied by the service provider (person who has subscribed to Applicant's app) to his customers (who also have subscribed to Applicant's app) on the Applicant's computer application. Further the AAR observed that with reference to Merriam Webster's Dictionary, the word 'through' is used as a function word to indicate means, agency, intermediary such as by means of, by the agency of etc. The word 'through' is also used as a function word to indicate extent, period of time such as during entire period, from the beginning to the end, to and including etc. Thus, the word through in the phrase services supplied through electronic commerce operator, in Section 9(5) ibid, gives the meaning that the services are to be supplied by means of / by the agency of / from beginning to the end /during entire period by e-commerce operator. In the instant case, it is observed that the applicant, because of their unique business model, merely connects the driver and passenger and their role ends on such connection; they do not collect the consideration; they have no control over actual provision of service by service provider; they do not have the details of the ride; they do not have control



room. The supply happens independent of the applicant and the applicant is involved only in the identification of the supplier of services and does not take responsibility for the operation and completion of the ride. Thus, it was observed that supply of services is not through the electronic commerce operator but are independent. Therefore, the applicant does not satisfy the conditions of Section 9(5) for the discharge of tax liability by electronic commerce operator. Thus, the AAR in this particular ruling held that the applicant, is not the person liable for discharge of tax liability under Section 9(5) of the CGST Act, 2017.

6.14 The applicant submits that they shall be liable to pay GST @18% as per SAC Code ~~XXXXXX~~ on the pay-per-use ride monitoring charge which shall be levied on the passenger if the passenger opts for the same during the ride. The same shall be independent of the contract between the passenger and the service provider for the provision of cab service. This will be purely optional for the passenger and the contract is between the passenger and the applicant. It is not to be considered as an act of aiding the driver for the continuation and completion of the ride, rather it is a purely a service to the passenger and sought to be done in order to ensure the safety of the passenger per se.

The Company wishes to reiterate the following points for consideration in their favour in seeking the advance ruling:

Revenue from passenger

There is no revenue from passenger or consideration towards the ride at all.

Revenue from Driver

There would be a subscription charges from the driver for usage of app per se. The Subscription charges is towards usage of the platform or the app in order to provide leads to the driver about passengers who is looking for a ride.

Revenue from platform usage

Other than subscription fee, there would no charges on the drivers. The Subscription charges towards usage of the app is the only charges that would be collected from the driver.

Collection of money on behalf of from passenger

The settlement of consideration is between the driver and the user, and the company has no role to play. The company does not act "on behalf of the driver" in collecting any fare from the passenger at all.

Intent of the App

Lead Generation for Driver and discovery of drivers for Customers.

There is no Settlement to driver by the company at all.

There is no collection of money from any passenger on behalf of the driver.

Treatment of supply through e-com

The supply is not through the company or the app at all. The App is meant as a



pure discovery platform to enable driver to provide services to the users and the company doesn't facilitate the mobility.

Who arrives at the fare details?

The fare is driver driven in terms of the proposed system. At the best Rapido may show a standard fare to empower the end user to understand what would be the standard fare for the ride involved.

The company is not the provider of commuting services.

The taxable supplies effected by the subscribers of the app platform of the applicant to their passengers by using the applicant's app platform, and not the applicant.

The company is not providing any services on behalf of anyone at all.

An e-commerce operator, as specified, should supply the services through it. The services are only initiated by the applicant's and hence the applicant cannot be held to be an e-commerce operator.

PERSONAL HEARING PROCEEDINGS HELD ON 07.09.2023 & 28.05.2024

7. Sri N V Raman, Advocate & Authorised Representative of the applicant appeared for personal hearing proceedings and reiterated the facts narrated in their application.

8. The applicant, during the hearing held on 07.09.2023, submitted to the Hon'ble Bench that they would make additional submissions on few matters and have requested for an additional time to do the same and accordingly, vide their letter received in this office on 21.09.2023, they submitted the following documents.

- The true copy of terms and conditions for Users has been attached as Annexure A.
- The true copy of terms and conditions for Drivers has been attached as Annexure B.

Further, they confirmed, during the hearing, that the charges towards the Pay-per-use charge out would be a standardised amount based on the distance and the time of the ride involved. It is reiterated that the pay per use would be an option to be opted for by the end-user rider and is attributable towards the safety features that are provided to the riders.

The following is the applicant's submission in terms of some of the safety features that are offered for which Pay per use would be charged.

The applicant submits that the reasons for the proposed charge out towards the safety feature which is an option to the user consists of three parts of reasons which can be set out as under;



- Towards the features before the ride starts
- Towards the features during the ride
- Towards the features of post closure of the ride.

Before the ride starts

- **Number masking**
To ensure safety and comfort of the rider confidentiality of customer information, contact numbers of the customers are masked. Further, truecaller services are being enabled to ensure calls made by driver partners are being answered by customers.
- **Face recognition**
Measures are being undertaken to establish face recognition wherein the driver partner would be required to upload their selfie before the ride starts.

During the ride

- **Route deviation**
In case any route deviation is being noticed, a notification pops up on the customer's mobile app thereby highlighting such deviation.
- **Long stop**
In case a vehicle is stationed at a particular point for longer duration than expected, notification shall be sent to the customer to check if the ride is safe.
- **Sharing ride details**
Customers have the option to share the ride with anyone to make the ride safe. Upon sharing the ride, SMS or whatsapp message would be sent to the person with whom the ride has been shared by customer.
- **SOS**
It is proposed to have as part of the app, an SOS (Emergency call) button on the app that can be used by customers for reaching out to the team during any emergency throughout the ride. The option is visible to customers after the confirmation of a ride and having opted for the pay per use safety option and this facility is available till the end of the ride app has an SOS button on the app that can be used by customers for reaching out to the team during any emergency throughout the ride. The option is visible to customers only after the confirmation of a ride until the end. In case of any emergency, the Pay per use customer have an option to reach out to the Emergency Response Team of Rapido or directly dial to the nearest Police station. In case this feature is used, calling to ERT or to the police station would be triggered.



After the ride drop

- **Rides during night time:**

In case of rides taken by customers post 10 pm, upon ride being marked as dropped, Inter active Voice Response (IVR) calls would be made to check if the customers have reached their destination safely. If the calls are unanswered, an agent from Customer Support team shall reach out to the customer checking their safety. In case of any unfortunate incident, report shall be lodged immediately with the nearest police station.

9. This authority, vide letter dated 17.04.2024, had called for additional information and the applicant vide their letter, received in this office on 29.04.2024, furnished the required information inter-alia stating as under:

9.1 In respect of the fare details, the Applicant wishes to reiterate and submit that it is not involved in determining the fare for the ride services provided by the Captain to the passengers.

As the application is only a discovery platform, a standard suggested fare shall be made available to the passenger, which is merely intended for the passenger to be aware about the likely estimate within which the rides may be accepted by the Captain for the selected route. However, the passenger has an option to determine the final fare (which may be lower or higher from the suggested fare) to be offered to the Captain by navigating through a range provided on the app. Thereafter, if Captain may agree to the ride if he is agreeable to the fare offered by the passenger.

As evident from the above, the ride fare gets finalised between the Captain and passenger, and it is not decided by the Applicant.

The Applicant wishes to further submit that, while, it has visibility of the fare initially agreed/ decided between the Captain and passenger, the Applicant does not have a visibility about the actual price paid/ settled between the Captain and passenger, for the concluded ride. In other words, the Applicant does not have any information about the fare which is ultimately paid by the passenger to the Captain after the ride concludes.

Accordingly, at the beginning of a ride, the Applicant is not involved in determination of the ride fare; and after the ride concludes, while the Applicant has visibility of the fare initially agreed/ decided between the Captain and passenger, it is not aware of the actual fare paid/ settled by the passenger to the Captain.

9.2 In respect of the pay-per-use ride feature, the Applicant's intent is to ensure the passenger's safety during the ride once the passenger avails the ride. However, the Applicant wishes to submit that the said feature has not been implemented till



now. Accordingly, screenshots in relation to the same are not available with the Applicant.

Further, basis market conditions and the Applicant's assessment, in case the Applicant implements the said feature in the future, it shall be offered to the passengers using the same infrastructure.

9.3 The Applicant herein submits that the details pertaining to the ride, i.e. start location, destination, fare initially shown and fare shown on completion of the ride is maintained by the Applicant to enable their submission to traffic and other police authorities on demand.

In certain exceptional situations, where police authorities intervene as part of investigations concerning safety of passenger or any other issue or where such details are sought by various other Regulatory Authorities as per Narcotic Drugs and Psychotropic Substances Act, 1985 ["NDPS Act"], Customs Act, 1962, The Motor Vehicles Act, 1988 etc. the Applicant is required to submit the relevant information regarding the ride (start location, destination, Captain information and KYC details) to such authorities.

Therefore, to ensure that the Applicant is able to provide the requisite information to authorities, the Applicant is required to maintain such information in its database.

9.4 In respect of the 'final fare' being shown, the Applicant wishes to clarify that the said fare is merely the fare initially agreed between the Captain and passenger, and the actual price paid/ settled, by the passenger to the Captain, is not known to Rapido.

The above mentioned data, as maintained by the Applicant, in respect of the ride is accessible to the passenger on the application in the form of 'booking history'.

9.5 **Clarification-4: Whether the ride is tracked by the App.**

Applicant's Submission

- To emphasize and reiterate, monitoring of the rides serves solely to comply with requirements (which may arise) from the police department requiring the Applicant to furnish various details of ongoing or concluded rides.
- The ride data that the Applicant retains is tracked specifically and only to support official requests from police authorities in emergency scenarios.

9.6 **Clarification-5: Whether the App notifies the passenger on the arrival of the driver at start/ pick up location.**

Applicant's Submission



The Applicant wishes to assert that since it is a discovery platform, it is essential for the Applicant to enable the Captain to identify and meet the Passenger. Accordingly, the application is equipped with a feature which promptly notifies passengers when the Captain arrives at the designated pickup location.

9.7 Whether the App notifies the passenger at the End of Ride;

The Applicant enables the Captains to mark the ride as completed to be aware about the availability of a particular captain for subsequent rides. Accordingly, whenever the ride is marked as completed by the Captain, a communication is sent to passenger as well.

9.8 Whether App provides the Driver to notify the End of Ride

As the Applicant provides a discovery platform to the Captains to enable them to select the desired passenger to whom they wish to offer ride services, it is integral and essential for the Applicant to be aware about availability of a particular Captain, so that the leads generated on the platform are made available to such Captain, for subsequent rides.

Accordingly, the Captain's application interface includes a specific feature designed to allow Captains to notify the Applicant at the conclusion of each ride. This function is integral to ensure seamless operation of the Applicant's discovery platform service.

9.9 During the ride whether the App displays the route to the passenger

While the Applicant is a mere lead generating platform, the Applicant displays the route to the passenger bearing in mind their safety and security as a discovery platform, as it is essential for us to ensure leads generated by our platform are safe for the passenger availing the ride.

9.10: Whether on completion of ride the final price is displayed in the App.

Applicant's Submission

The application only displays limited information on completion of the ride, which is the fare initially agreed between the Captain and passenger. The Applicant asserts that while it has visibility of the fare initially agreed/ decided between the Captain and passenger, the Applicant neither has visibility about the actual price paid/settled between them nor is in any way concerned with collection of the consideration for supply from the users of "Rapido" or business associates of the Captains.

FINDINGS & DISCUSSION

At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same



provisions in like matters 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.

11. We have considered the submissions made by the applicant in their application for advance ruling. We also considered the issues involved on which advance ruling is sought by the applicant and relevant facts along with the arguments made by the applicant & the submissions made by their learned representative during the time of hearing.

12. The applicant submitted that they propose to provide website / mobile app platform ('Rapido'), as a discovery platform, to independent four-wheeler cab service providers (drivers/captains/subscribers), on a subscription basis, to enable them to connect with potential end users (also referred to as 'passengers'). The drivers shall enter into a standard agreement to create a business user account, on furnishing certain documents, which shall be limited to providing of license or permission to use the said app. The passengers also shall get registered under the app to use the said app. The applicant also proposes to introduce pay per use ride monitoring fee, which is an optional service provided to the passengers, to ensure the passenger's safety during the ride that the passenger avails from the four-wheeler cab service providers. In view of this, the applicant sought advance ruling in respect of the questions mentioned at para 3 supra.

13. The applicant submitted that the app ('Rapido') is with a commission free monetization model and is a service provider's (drivers/captains/subscribers) hub wherein they have absolute ownership of their supply and the applicant has no rights or say or control over the supply; the relationship between the drivers and the passengers would be of supplier and recipient and any monetary consideration between them is purely privy to their contract and the applicant is no way connected with such contract; in case of any dispute between the driver and passenger, it would be purely between them and the applicant would not be responsible; there is no involvement of the applicant in the supply of services by the drivers as well as arranging for collection of any consideration or any other form of agreed means of payment from the passengers.

14. The applicant also submitted some additional facts stating that they do not propose to collect any money from passenger or consideration towards the ride; they collect only subscription charges from the drivers for usage of the platform on raising invoice and discharge GST on the entire subscription charges; they do not act "on behalf of the driver" in collecting any fare from the passenger and thus they do not act as e-commerce operator; they neither provide drivers to the passenger nor act on behalf of the driver to get into any transaction with the passenger; there is no concept of settlement to the driver as they do not collect any money on behalf of the driver; the drivers provide mobility services to the passengers, but not the applicant and thus the said services are not through the app and therefore they do not provide e-com related services and do not act as an intermediary in providing



the said service; the fare is driver driven and they show a standard fare as a measure to educate the passenger and the driver, through an interactive process has an ability to either quote a higher fare or a lower fare and the passenger opts for the driver on the basis of the fares given by various drivers.

15. The applicant, quoting the definitions of 'electronic commerce' and 'electronic commerce operator' in terms of Sections 2(44) and 2(45) respectively, Section 9(5) of the CGST Act 2017 and Notification No.17/2017-Central Tax (Rate) dated 28.06.2017 contends that the applicant is a technology provider to four-wheel cab drivers and would like to distinguish from rent-a-cab aggregator; they do not fulfill the mandatory conditions that are required to obtain rent-a-cab aggregator licence from the RTO and therefore they are not registered with the regional transport office (RTO) as a rent-a-cab aggregator and thus they are not an e-commerce operator.

16. The applicant further contends that they are a technology providers; the drivers provide mobility/ride service to the passengers; they don't have the control over the ride; they do not collect any amount towards consideration of the ride and thus the ride is not through them and thus they are not an e-commerce operator and therefore they are not liable to discharge tax in terms of Section 9(5) of the CGST Act 2017.

17. Now, the core issue before us to decide is whether the applicant qualifies to be an e-commerce operator or not and whether they are liable to discharge tax liability in terms of Section 9(5) of the CGST Act 2017. We proceed to examine the said issue and in this regard we invite reference to the Section 2(44), 2(45) and 9(5) of the CGST Act 2017, which are as under:

2(44) —electronic commerce means the supply of goods or services or both, including digital products over digital or electronic network;

2(45) —electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

9. Levy and collection.

*(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied **through** it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:*

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:



Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

It could be inferred from the definitions supra that Electronic Commerce Operator (ECO) means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce i.e. for the supply of goods or services or both, including digital products over digital or electronic network. In the instant case the applicant owns digital platform ('Rapido' APP), for the supply of services. Thus the applicant squarely fits into the definition and qualifies to be an Electronic Commerce Operator.

18. Now we proceed to examine the charging section i.e. Section 9(5) of the CGST Act 2017, mentioned at para 17 supra, which stipulates that all the provisions of the CGST Act 2017 shall apply to electronic commerce operator, as if he is the supplier liable for paying the tax in relation to the supply of certain services subject to the following conditions namely:

- a) The categories of the services shall be specified by notification, on the recommendation of the Council, by the Government.
- b) The supply of such specified services shall be intra-state supplies.
- c) The supply of such service is through the electronic commerce operator.

Vide Notification 17/2017-Central Tax(Rate) dated 28.06.2017, issued under Section 9(5) of the CGST Act, 2017, Government has notified that tax on intra-state supplies for '(i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;' shall be paid by the electronic commerce operator. Further explanation (b) to the said notification specifies that "maxicab", "motorcab", and "motor cycle" shall have the same meaning as assigned to them respectively in clauses (22), (25) and (26) of Section 2 of the Motor Vehicles Act, 1988. We invite reference to the relevant definition of "motorcab" which is as under:

(25) "motorcab" means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward;

In the instant case the services of transportation of passengers are provided by a four-wheel car, which is a motor vehicle adapted to carry maximum four passengers excluding driver and thereby it can carry not more than six passengers excluding the driver and hence qualifies to be a "motorcab". Thus the first two conditions viz., (a) and (b) are satisfied in the instant case, in as much as the category of services of Intra-state supplies are notified by the Government covering services by way of transportation of passengers by motor cab.



Now we proceed to examine the crucial and most important issue i.e. whether the impugned services are supplied through the electronic commerce operator or not. The word "**through**" in Section 9(5) is not defined in the relevant context and hence we proceed to discuss the meaning of the said word/phrase.

19. In this regard, we invite reference to Merriam Webster dictionary, in accordance to which the word 'through' is used as a function word to indicate means, agency, intermediacy such as *by means of*, *by the agency of* etc. The word 'through' is also used as a function word to indicate extent, period of time such as *during entire period*, *from the beginning to the end*, *to and including* etc. Thus the word *through* in the phrase **services supplied through electronic commerce operator**, in Section 9(5) *ibid*, gives the meaning that the services are to be supplied by means of / by the agency of / from beginning to the end / during entire period by e-commerce operator.

20. In the instant case, as admitted by the applicant in his application and from the reply dtd 24.4.24 to clarification, the following facts are brought out:

- (i) the applicant's App sends the information, pertaining to a specific ride that a passenger wishes to book to all the drivers within certain radius of the location of the passenger along with the standard fare;
- (ii) the driver(s) offer a fare to the passenger through the App;
- (iii) the passenger is at liberty to negotiate the fare with the driver through the App;
- (iv) if the driver agrees to the fare and accepts the ride fare, then the location of the passenger is forwarded to the driver through the App;
- (v) Ride fare is negotiated and finalized between the driver and passenger through the App. The ride fare is not decided by the App;
- (vi) that applicant / App captures the initially agreed ride fare as negotiated & decided by the driver and the passenger;
- (vii) the pick up location is shared to the driver through the App;
- (viii) the App notifies the passenger when the driver arrives at the pick up location;
- (ix) beginning/start of the ride and the end of the ride are notified to the passenger by the App;
- (x) the App displays the route to the passenger during the ride;



(xi) on completion of ride the App displays the fare initially agreed by the passenger and the driver; However the applicant is not aware of the actual fare paid at the end of the ride;

(xii) the payment from passenger is directly collected by the driver and not through the App;

From the aforesaid facts it is apparent that App not only generates leads about customers to the drivers, but also provides a platform for fare negotiation between the customer and driver. Once ride fare is finalized, the location of customer & pick up point is shared by the App; start of ride, route taken for ride, end of ride are captured and notified to customer by the App. Thus effectively the services of transportation of passenger by the driver is supplied through the Applicant's App/portal from beginning to end and during the entire period of the ride. Thus the third condition that the services are supplied through electronic commerce operator is also satisfied.

21. The applicant contends that they are not involved in collection of the consideration pertaining to the ride, on behalf of the driver. The passenger pays the consideration to the driver directly. It is pertinent to mention here that neither the definitions of *electronic commerce* under Section 2(44) or *electronic commerce operator* under Section 2(45) nor the charging Section 9(5) of the CGST Act 2017 stipulates that the e-commerce operator has to collect the consideration. Though the contract is between the driver and the passenger and the service is supplied by the driver to passenger, liability to pay tax is fastened on the electronic commerce operator by way of deeming provision in Section 9(5) i.e, "*..all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services*". Here the *supply of such service* refers to the supply of services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle; as notified vide Notification 17/2017-Central Tax(Rate) dated 28.06.2017 issued under Section 9(5) of CGST Act, 2017, and supplied through the electronic commerce operator.

22. In view of the foregoing we find that the applicant is squarely covered in the definition of electronic commerce operator and the supply of services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle is supplied through them. Further, by virtue of Section 9(5) the applicant is liable to pay tax on the supply of the services of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle.

23. The applicant also proposes to introduce pay-per-use ride monitoring charge, an optional service provided to the passengers, to ensure the passenger's safety before the ride, during the ride and after the ride. The said service involves providing rider confidentiality of customer information, notifying route deviation, long waits, ride sharing, SOS, customer support on call for ensuring safety of passenger. The said optional service is intended to be provided to the passenger directly by the applicant for which a separate standardized consideration is



charged based on the distance and time of the ride. The said service is covered SAC 9985 (specifically 998522 Security consulting services) attracting 18% GST(CGST 9% and SGST 9%) in terms of SL.No. 23(iii) of Notification 11/2017- Central Tax(Rate) dtd 28.07.2017 (i.e, Other support services).

24. Applicant also intended to know the taxability of services provided by independent three/two wheeler cab service provider to passengers on the Applicant's App platform. In this regard, Notification 17/2017-Central Tax(Rate) dated 28.06.2017, issued under Section 9(5) of the CGST Act, 2017, covers (i) services by way of transportation of passengers by a radio-taxi, **motorcab**, maxicab **and motor cycle**;'. Further explanation (b) to the said notification specifies that "maxicab", "motorcab", and "motor cycle" shall have the same meaning as assigned to them respectively in clauses (22), (25) and (26) of Section 2 of the Motor Vehicles Act, 1988, which read as under:

(25) "motorcab" means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward;

(27) "motor cycle" means a two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle;

From the aforesaid definitions, three wheeler is covered under Motorcab, i.e, any motor vehicle adapted to carry not more than 6 passengers; and two wheeler is covered under 'Motor Cycle' definition. In view of the discussion in para 20 & 21, the applicant is liable to pay GST on the services supplied through them.

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

R U L I N G

- a. The Applicant satisfies the definition of an e-commerce operator and the nature of supply as conceptualized in Section 9(5) of CGST Act, 2017 r/w notification No 17/2017 dated 28.06.2017.
- b. The supply by the independent four-wheeler cab service provider (person who has subscribed to 'Rapido' app) to his passengers (who do not pay any subscription fee) on the App platform amounts to supply by the Applicant by virtue of Section 9(5) of CGST Act, 2017.
- c. The Applicant is liable to pay GST on the supply of services provided by the independent four-wheeler cab service provider (person who has subscribed to applicant's 'Rapido' app) to his passengers on the Applicant's app platform, being an e-commerce operator, in terms of Section 9(5) of the CGST Act 2017 read with relevant CGST Rules 2017.
- d. 18% GST(9% CGST and 9% SGST) is applicable on the ride monitoring fee and the SAC code 9985 is applicable for the said service.



c. The Applicant is liable to pay GST on the supply of services provided by the independent three/two-wheeler cab service provider (person who has subscribed to applicant's 'Rapido' app) to his passengers on the Applicant's app platform.


(Dr. M.P. Ravi Prasad)

MEMBER
Karnataka Advance Ruling Authority
Place: Bengaluru
Bengaluru-560 009

Date : 24-07-2024

To,

The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Principal Commissioner of Central Tax, Bangalore South Commissionerate, Bengaluru.
4. The Assistant Commissioner of Commercial Taxes, LGSTO-15, Bengaluru.
5. Office Folder.


(Kiran Reddy T)
Member

MEMBER
Karnataka Advance Ruling Authority
Bengaluru-560 009

