

Merely connecting auto drivers and passengers through a mobile application does not imply that services are provided through e-commerce operator – Karnataka AAR

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Summary

The Karnataka Authority for Advance Ruling (AAR) has noted that the applicant is engaged in providing computer application services through the 'Namma Yatri' application for facilitating services provided by registered auto drivers to the recipients. The AAR held that the applicant owns the digital platform 'Namma Yatri' for the supply of services and qualifies as an electronic commerce operator (ECO). The AAR further ruled that the applicant's services are confined to connecting the auto drivers and the passengers and do not include providing operational aspects such as arranging supplies, collecting consideration, customer care services, etc. Accordingly, the services provided are not 'through' the ECO. Therefore, the supply made by the auto drivers to their customers does not constitute a supply made by the applicant, and hence, the applicant is not liable to collect and pay tax on such supplies.

Facts of the case

- M/s. Juspay Technologies Private Limited (the applicant) is engaged in providing computer application services through the 'Namma Yatri' application for facilitating services connecting through the platform of auto drivers and recipients registered under the application.
- The applicant submitted that it shall charge membership and subscription fee to the person who enrolls for the application services. Further, it is not concerned with collecting the consideration for supply from the clients/business associates of the subscribed suppliers.
- The applicant has no role in the arrangement between the registered members and their recipients, including in the case of disputes. The applicant is not involved in arranging the supply or collecting any consideration from the buyers to the registered members.
- The applicant is a technology provider to autorickshaw drivers, which differs from a rent-a-cab aggregator. Therefore, it does not fulfill the mandatory requirements for obtaining a rent-a-cab

aggregator licence from the regional transport office (RTO).

- The applicant sought clarification on whether it qualifies as an ECO and supply falls within the ambit of the reverse charge mechanism (RCM). Further, whether the supply by the auto-rickshaw driver to the customer would be equivalent to the supply of the applicant, and accordingly, whether the applicant would be liable to collect GST on such supply.

Karnataka AAR's observations and ruling [KAR ADRG 31/2023; Order dated 15 September 2023]

- **Applicant qualifies as ECO:** Referring to the definitions of 'electronic commerce' and ECO, the AAR stated that an ECO is any person who owns, operates or manages a digital or electronic facility or a platform for electronic commerce, i.e., for the supply of goods and/or services, including digital products over a digital or electronic network. The AAR noted that the applicant owns a digital platform for the supply of services, and hence, qualifies as an ECO.

- **Supply of services not through the applicant:** The AAR noted that in the present case, the passenger transportation services are provided by an auto-rickshaw, which qualifies as a motor cab. As an ECO, the applicant would be liable to pay tax if the supply of intra-state supplies notified by the government is through an ECO. In the instant case, the category of services of intra-state supplies notified by the government covers passenger transportation services by a motor cab. Further, since the applicant merely connects the auto drivers and passengers and has no control over the actual provision of the service, it can be understood that the services are independent and not provided through an

ECO. Hence, the applicant does not meet the conditions of Section 9(5) of the Central Goods and Services Tax Act, 2017 (CGST Act).

- **No liability of applicant to pay GST on services provided by auto drivers:** The AAR held that though the applicant meets the criteria of an ECO, it does not fulfil the nature of supply prescribed in Section 9(5) of the CGST Act read with Notification No. 17/2017- Central Tax. Further, the supply made by the auto drivers to their customers does not amount to supply by the applicant. Hence, the applicant is not liable to collect and pay GST on supplies made on the application.

Our comments

Earlier, the Karnataka Appellate AAR (AAAR), in the case of M/s. Opta Cabs Private Limited, ruled that the passenger transportation services supplied through the appellant's electronic platform and digital network would be subject to tax in the hands of the appellant. The AAAR emphasised that 'booking' a taxi ride using the appellant's app is the first step in providing passenger transportation services, without which no services can be provided. Hence, the services are supplied 'through' the ECO.

However, contrary to the above, the AAR Karnataka, in the case of M/s. Multi-verse Technologies Private Limited, ruled that the word 'through' in the phrase - 'services supplied through ECO' - meant that the services are to be supplied by means of / by the agency of / from beginning to the end / during the entire period by an ECO. The AAR held that although the applicant qualifies the definition of an ECO, it is not the person liable to discharge tax liability under Section 9(5) of the CGST Act. The present ruling is also in line with the above ruling.

Even though the advance rulings are applicable only to the applicant and the jurisdictional officer, they have a persuasive effect and can be inferred in similar cases.

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