

AUTHORITY FOR ADVANCE RULING, TAMIL NADU
No.207, 2nd FLOOR, PAPJM BUILDING, No.1, GREAMS ROAD,
CHENNAI 600 006.

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

Members present:

Shri Balakrishna S, I.R.S., Additional Commissioner/Member (CGST), Office of the Commissioner of GST and Central Excise, Audit II Commissionerate, Chennai - 600 034.	Shri B.Suseel Kumar, B.E., MBA., Joint Commissioner/Member (SGST), Authority for Advance Ruling, Tamil Nadu, Chennai - 600 006.
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Advance Ruling No. 06/ARA/2025, dated 13.02.2025

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

GSTIN Number, if any/User id	33AOGPN6397H1ZK
Legal Name of Applicant	M/s. Batcha Noorjahan
Trade Name of Applicant	School Transport
Registered Address/ Address provided while obtaining User id	No.52, Amruth Enclave, Malai Theru, Ponmar, Kanchipuram-600 048.
Details of Application	Application Form GST ARA-01 received from the applicant on 23.02.2024.
Jurisdictional Officer	Center – Chennai (Outer) Commissionerate, Maraimalai Nagar Division. State –Chengalpattu Assessment Circle, Chengalpattu Division
Nature of activity (s) (proposed/present) in respect of which advance ruling sought for A. Category B. Description (in brief)	Service provision The applicant is engaged in the business of plying school buses and providing transportation services to the school students in commuting to their school and back home. The transport permit from the Transportation Department were also obtained as the buses are under the lease with the schools specifically, which means, the buses will not be operated for any other purposes other than for the transportation of students and staffs. Further the bus hire charges are directly collected from the students as per the agreement with the schools. However, the service recipient in these cases are only the respective schools with whom the applicant have the lease agreements executed. As per the provisions of GST Acts and the Serial No.66 of Notification No.12/2017-Central Tax (Rate) dated 28 th June 2017, the services provided to the Educational Institutions by way of transportation of students, faculty and staff are exempted from GST.

Issues on which advance ruling required	<p>Applicability of a notification issued under the provisions of this Act.</p> <p>Determination of the liability to pay tax on any goods or services or both.</p> <p>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.</p>
Question(s) on which advance ruling is required	<ol style="list-style-type: none"> 1. Shall we consider our Services provided to the school students by way of transportation of students and staff as the services provided to the school (Educational Institute) 2. Shall we consider the Services provided by us as mentioned above, as exempted from GST as per the Serial No.66 of Notification No.12/2017 – Central Tax (Rate) dated 28th June 2017 or any other applicable provision of the Act.

Tvl. Batcha Noorjahan, proprietrix of M/s. School Transport at Flat No.52, Amruth Enclave, Malai Theru, Ponmar, Kanchipuram 600 048 (hereinafter called as the “Applicant”) is engaged in the business of plying school buses and providing transportation services to the school students in commuting to their school and back home. They are registered under the GST Acts with GSTIN 33AOGPN6397H1ZK.

2. The Applicant has made a payment of application fees of Rs.5,000/- each under sub rule (1) of Rule 104 of CGST Rules, 2017 and SGST Rules, 2017. The Applicant has filed this application seeking Advance Ruling on the following questions, viz.,

1. Whether the services provided by the applicant to the school students by way of transportation of students and staff, shall be considered as the services provided to the school (Educational Institute).
2. Whether the services provided by the applicant as mentioned above, shall be considered as exempted from GST as per the Serial No.66 of Notification No.12/2017 – Central Tax (Rate) dated 28th June 2017 or any other applicable provision of the Act.

3.1. The applicant has submitted the following relevant facts having a bearing on the questions raised on their application,

- i) The fees for the transportation of school students are being collected from the students directly as per the agreement with the schools.
- ii) There could be a view that since the fees are directly collected from the students, the service recipient is not the school or the Educational Institution.
- iii) In this scenario, whether the exemption clause provided in the notification No.12/2017-Central Tax (Rate), dated 28th June 2017 is applicable to the applicant?

3.2. The applicant has also submitted the following interpretation of law in respect of the questions raised by them for which Advance Ruling is sought:

- (i) As per the provisions of the Act, the services provided to the Educational Institution by way of transportation of students and staff is exempted from GST (Notification No.12/2017). In their case, the applicant are providing services by way of transportation of students and staff though the bus fee is received from the students directly.
- (ii) The applicant considered that the schools are the service recipients though the consideration is not directly paid by them.

PERSONAL HEARING

4.1. The applicant was offered an opportunity for personal hearing to appear on 03.01.2025 which was sent through RPAD and the same was acknowledged by the applicant. Shri. S.Jeyachandran, GST practitioner and the Authorised Representative (AR) of the applicant appeared for the hearing on 03.01.2025, and reiterated the submissions made in their application. Further, he stated that the applicant is in the business of transportation of school students to and from school and the applicant is having 34 buses and are in agreement with four schools. The applicant is providing only transportation service to school students and not providing the buses for any other purposes. The applicant has obtained transportation permit from Regional Transport Office for using the vehicle as school bus and are in lease agreement with the respective schools. The applicant is collecting the bus hire charges directly from the students as per the agreement with the school. Further stated that since the applicant is providing transport services to educational institutions, they are eligible to claim exemption provided under Sl.No.66 of Notification No.12/2017-C.T. (Rate) dated 28th June 2017 by way of 'transportation of students, faculty and staff'.

4.2. During the personal hearing, the Members requested the AR to submit the following documents at the earliest to proceed further in this case, viz., (i) Copies of agreement with school, (ii) IT returns for the last two years, (iii) To inform whether the applicant is the sole service provider to schools, (iv) Copies of the bills raised on the students, and (v) The nature of relationship with the schools. The AR agreed to

furnish the said documents at the earliest. Accordingly, the applicant furnished copies of agreement with school, copies of Registration certificate and permit of school buses, copies of the financial statements, and copies of receipts raised on the students.

5.1. The applicant falls within the administrative jurisdiction of 'CENTER', and the Central jurisdictional authority has not furnished any reply in this regard, and it is construed that there are no proceedings pending on the issue raised by the applicant.

5.2. The Jurisdictional State Officer viz., the Assistant Commissioner (ST), Chengalpattu Assessment Circle, vide their letter dated 31.07.2024 stated that the questions raised is not pending, and it has not been decided in any proceedings in respect of the said applicant.

DISCUSSION AND FINDINGS

6.1. We have carefully considered the submissions made by the applicant in the advance ruling application, the submissions made during the personal hearing and the documents furnished by the applicant thereafter.

6.2. The questions which require an advance ruling in this case are :-

(i) Whether the services provided by the applicant to the school students by way of transportation of students and staff, shall be considered as the services provided to the school (Educational Institute).

(ii) Whether the services provided by the applicant as mentioned above, shall be considered as exempted from GST as per the Serial No.66 of Notification No.12/2017 – Central Tax (Rate) dated 28th June 2017 or any other applicable provision of the Act.

6.3. It is seen from documents furnished by the applicant that they have entered into a lease agreement with Alphabet International School vide agreement dated 30.09.2022 for a period of 5 years for the purpose of transporting students and staff of the school only in connection with school activity as provided under clause (8) of Rule 2 of the Tamil Nadu Motor Vehicles Regulations and Control of school buses special rules, 2012. The said lease agreement was entered into by the applicant with the school in order to comply with the Tamil Nadu Motor Vehicles Regulations and Control of school buses Special Rules, 2012. The said lease agreement is live as on date.

6.4. On perusal of the said lease agreement, it was noticed that there was no mention of the consideration part payable by the school to the applicant for providing the vehicle and the services related thereto. Further, there was no mention in the lease agreement as to how the transportation fees are to be collected, whether by the applicant or by the school.

6.5. It is further mentioned in the lease agreement that the during the period of lease agreement, the lessee i.e., school, in the capacity of owner of the said vehicles

shall have the liabilities to pay all taxes, fees, penalties, fine and other necessities and requirement arising of Motor Vehicle acting rule and Tamil Nadu Motor Vehicles Taxation Act, 1974. Whereas, it is seen from the copies of the receipts furnished by the applicant, that they have directly raised receipt on the student concerned, towards 'Student Transport Fees' as noticed from the sample copy of Receipt No.AB-201 dated 23.07.2024. On perusal of the same, it is seen that the said receipt has been issued under their trade name of "School Transport", Chengalpattu-600048, bearing GSTIN:33AOGPN6397H1ZK, wherein the transport fees along with GST at the rate of 5% (CGST 2.5% and SGST 2.5%) is seen to have been collected.

6.6. Though the lease agreement in the instant case is executed with the school administration, we observe that the same has been carried out only to comply with the statutory requirements. On perusal of the Profit and Loss Account furnished for the year 2023-24, it is seen that only one entry, viz., 'Bus Fees Receipt' is mentioned on the 'Income' side under the head 'Direct Incomes', which relates to 'Student Transport Fees' received from the students. And no entry is seen to have been made either on the Income side or on the Expenditure side of the Profit and Loss Account, as far as it relates to school, which goes to show that the applicant is neither receiving any amount from the school, nor paying any amount to the school. Under these circumstances, as the consideration towards the transportation activity are received in full by the applicant from the students concerned, and as no consideration is received by school administration, it becomes clear that no services are rendered by the school to the students in relation to transportation of students. It also becomes apparent that as the applicant is not receiving any payment from the school administration, no services are rendered to the school by the applicant. Overall, we find that in the impugned transaction, the role of school is effectively ruled out, as the school is neither rendering any service, nor, receiving any service in view of the reasons stated above. Therefore, the services provided by the applicant to the school students by way of transportation of students and staff, shall **not** be considered as the services provided to the school, and accordingly, the first question is answered in negative.

6.7 Once it is clear that in effect, the school has outsourced the transport service to the applicant, and that the applicant is in direct receipt of the consideration from the students, the service rendered by the applicant to the students is to be considered as 'Transport of passenger by any motor vehicle', which merits classification under service SAC 9964, attracting GST at 5% without ITC as per Sl.No.8(vi) of Notification No.11/2017, dated 28.06.2017, as amended vide Notification No.31/2017-Central Tax (Rate) dated 13.10.2017.

6.8 Proceeding to the second query raised by the applicant, we find that in order to determine as to whether the services provided by the applicant is exempted from GST as per the provisions of the Serial No.66 of Notification No.12/2017 – Central Tax (Rate) dated 28th June 2017, is required to be examined, which is as extracted below:-

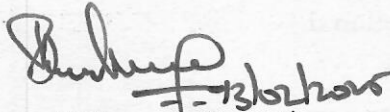
Sl. No	Heading /Service Code	Description of Services	Rate	Condition
66	Heading 9992	<p>Services provided -</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(b) <u>to an educational institution, by way of,-</u></p> <p>(i) <u>transportation of students, faculty and staff;</u></p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or house-keeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary:</p> <p>Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p>	Nil	Nil

The entry as above states clearly that services provided by way of transportation of students, faculty and staff are exempted, if the said services are provided to an educational institution. It is quite clear from the discussions above in paras 6.4 to 6.6, that the applicant receives the transportation cost directly from the students, and that no consideration is being paid by the school towards the transportation charges of either the students or its faculty and staff. Further, having held already that no service is provided to the school by the applicant, we are of the considered opinion that the exemption as provided under Sl. No.66 of Notification No.12/2017 – Central Tax (Rate) dated 28th June 2017, as amended, is not available to the applicant, under the facts and circumstances of the instant case. Apart from the same, on further examination of the other legal provisions, we find that the activities carried out by the applicant in the instant case do not get exempted under any other provisions of the Act, as well. Accordingly, the second question is answered in negative.

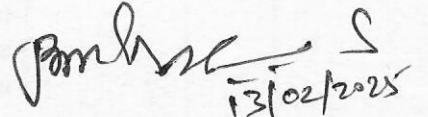
7. In view of the above, we rule as under:

Ruling

- (i) The service provided by the applicant to the school students by way of transportation of students and staff cannot be considered as the services provided to the school (Educational Institute).
- (ii) The service provided by the applicant as mentioned above is not exempted from GST, either under Serial No.66 of Notification No.12/2017 – Central Tax (Rate) dated 28th June 2017, or under any other provisions of the Act.


(B. Suseel Kumar)
Member (SGST)




(Balakrishna S)
Member (CGST)
13/02/2025

To

M/s. Batcha Noorjahan,
No.52, Amruth Enclave,
Malai Theru, Ponmar,
Kanchipuram 600 048

(By RPAD)

Copy submitted to

1. The Principal Chief Commissioner of GST and Central Excise,
26/1, Uthathamar Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.
2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai 600 005.
3. The Commissioner of GST and Central Excise,
Chennai (Outer) Commissionerate,
Newry Towers, No 2054, I block,
II Avenue, 12th Main Road,
Annanagar, Chennai 600 040.

Copy to

1. The Assistant Commissioner (ST),
Chengalpattu Assessment Circle,
No.16A, First Floor,
First Main Road,
Anna Nagar, Chengalpattu 603 002.
2. Master File / Stock File – A1