CD. – 1812099

OFFICE OF THE DELHI AUTHORITY FOR ADVANCE RULING
LAW & JUDICIAL BRANCH GOVT. OF NCT OF DELHI
DEPARTMENT OF TRADE & TAXES
VYAPAR BHAWAN IP .ESTATE
NEW DELHI

F.No. DT&T/DAAR/2025-26/ 1281 Date: 8/10/25

To,

The System Analyst (IT)
EDP Cell, DT&T Deptt.
Vyapar Bhawan,IP Estate
New Delhi-110002

Sub:- Regarding uploading of one order passed by Delhi Authority for Advance Ruling (DAAR), of GST portal of Trade & Taxes Department.

Sir,

Please find the enclosed herewith below mentioned one order for uploading on the website of GST portal of Trade & Taxes Department Govt. of Delhi for the purpose of Public domain.

Advance Ruling No. 13/DAAR/2025 dated 01.10.2025
M/s Young Optimistic Transport Solutions Private Limited.
75, 3rd Floor, Vijay Block,
Vikas Marg, Laxmi Nagar,
Delhi-110092

You are requested to kindly take appropriate action in the regard at the earliest with intimation to this branch.

AC/GSTO
(DAAR)

Enclose: - As above

Advance Ruling No. 13/DAAR/2025

GOVT. OF NCT OF DELHI
OFFICE OF THE DELHI AUTHORITY FOR ADVANCE RULING
DEPARTMENT OF STATE TAX
7th Floor, Vyapar Bhawan, I.P. Estate, New Delhi-110002

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING UNDER SECTION 98 OF THE GOODS AND SERVICES TAX ACT, 2017

Members present:

Shri Bhavan Lal Meena, I.R.S. Member (Centre)/Additional Commissioner Delhi Authority for Advance Ruling O/o the Principal Chief Commissioner of CGST & Central Excise, Delhi Zone, New Delhi - 110002	Smt. Asha Chaudhary, Member (State)/Additional Commissioner Delhi Authority for Advance Ruling, Govt. of NCT of Delhi, Vyapar Bhavan, I.P. Estate, New Delhi - 110002

Advance Ruling No. 13/DAAR/2025 Dated: 01/10/2025

1. Any appeal against this Advance Ruling order shall lie before the Delhi Appellate Authority for Advance Rulings, New Delhi as under Sub-Section (1) of Section 100 of CGST Act / DGST Act 2017, within 30 days from the date on 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) of 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 CGST Act, 2017 and DGST Act, 2017 are *pari-materia* 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 DGST Act and vice-versa.

Department of Trade & Taxes
DAAR
Govt. of NCT of Delhi

Advance Ruling No. 13/DAAR/2025

DELHI AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
DEPARTMENT OF TRADE AND TAXES
13TH FLOOR, VYAPAR BHAWAN, IP ESTATE, NEW DELHI -110002

ADVANCE RULING NO. 13/DAAR/2025 **dated** 01/10/2025
(In Application No: 128/DAAR/2020 **dated** 26/10/2020)
26-10-2020

GSTIN of the Applicant		07AABCY0813D1ZS
Legal name of the Applicant		M/s Young Optimistic Transport Solutions Private Limited
Registered Address		75, 3rd Floor, Vijay Block, Vikas Marg, Laxmi Nagar, Delhi-110092
Date of Application		26.10.2020
Clause(s) of Section 97(2) of CGST/DGST Act, 2017, under which the questions raised		(g)
Date of Hearing		09.07.2025
Jurisdictional Authority (Centre):		Range 151, Laxmi Nagar, Delhi East
Jurisdictional Authority (State)		Ward 80, Zone-VII
Nature of activity(s) (proposed/present) in respect of which advance ruling sought		
A. Category		Service Provision

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B. Description (in brief)		M/s Young Optimistic Transport Solutions Private Limited ('the Applicant' in short) is primarily engaged in providing and operating and offering services by way of public transportation under the above scheme in the form of air conditioned buses for the DOT under the Govt. of NCT of Delhi. The applicant has already procured a fleet of buses and also tied up with service maintenance agencies subject to provisions of GST law. The entire scope of services by the applicant to DOT, Govt. of NCT of Delhi will be providing air-conditioned buses with drivers including fuel, repairs and maintenance of the buses without any right to collect fares, fines or penalties from the passengers that will be collected by the DOT direct and the entire revenue will be collected in their name. The DOT shall pay to the applicant service charge on "Gross Cost Model" basis that is discussed in the agreement dated 28.09.2019. The Applicant has been advised its services shall be covered under Notifications issued from time to time and will be subjected to a GST rate of 12 percent with full availability of input tax credit. Applicant has sought advance ruling on the issue of Whether the outward transportation services provided by the applicant are subject to output tax and if so what is the rate applicable to such outward transportation services based on the enclosed Agreement with the Govt of NCT dated 28.9.2019 where the service is all-inclusive including fuel and the operator of the busses? And if such services are subject to tax, is there any restriction to claim an input tax credit under Section 16 of the DGST Act/CGST Act in terms read with Section 17/Section 18 of these Acts?
Represented for the Applicant by		Sh. Neeraj Sharma, Director Sh. Nisar Batra
Issue(s) on which advance ruling required		(iv) Admissibility of input tax credit of tax paid or deemed to have been paid
Question(s) on which advance ruling required		As reproduced in para 01 of the proceedings below

Department of Trade & Taxes ★ Govt. of NCT of Delhi ★ DAAR

Advance Ruling No. 13/DAAR/2025

PROCEEDINGS

(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Delhi Goods and Services Tax Act, 2017)

1. The present application has been filed under section 97 of the Central Goods and Services Tax Act, 2017 and the Delhi Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act" and "DGST Act" respectively) by M/s. Young Optimistic Transport Solutions Private Limited seeking advance ruling in respect of the following issue.

i. Whether the outward transportation services provided by the applicant is subject to output tax and if so, what is the rate applicable to such outward transportation services based on the enclosed Agreement with the Govt of NCT dated 28.09.2019 where the service is all-inclusive including fuel and the operator' of the busses? And if such services are subject to tax, is there any restriction to claim an input tax credit under Section 16 of the DGST Act/CGST Act in terms read with Section 17/Section 18 of these Acts?"

ii. If the answer to (i) above is yes, what will be the appropriate SAC (Services Accounting Code) for classifying the services provided by the applicant and the applicable GST rate thereon?

iii. Whether the applicant is eligible to avail ITC on goods and services used by M/s Young Optimistic in supplying the service, to DOT under the Agreement?

2. FACTS AND CONTENTION - AS PER THE APPLICANT

The submissions made by the applicant are as follows:-

2.1 The Applicant is primarily engaged in providing operating and offering services by way of public transportation under the above scheme in the form of air-conditioned buses for the DOT under the Govt. of NCT of Delhi.

2.2 The applicant has already procured a fleet of buses and also tied up with service maintenance agencies subject to provisions of GST law. The entire scope of services by the applicant to DoT, Govt. of NCT of Delhi will be providing air-conditioned buses with drivers including fuel, repairs and maintenance of the buses without any right to collect fares, fines or penalties from the passengers that will be collected by the DoT direct and the entire revenue will be collected in their name.

2.3 The DoT shall pay the applicant service charge on a "Gross Cost Model" basis that is discussed in the agreement dated 28.09.2019 The Applicant has been advised its services shall be covered under Notifications issued from time to time and will be subjected to a GST rate.

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2.4 The fare for the said buses is being collected by the Department of Transport from the passengers. It is relevant to mention here that the service of 'renting of motor vehicles to carry passengers' by the Applicant to the Department of Transport is covered within the definition of 'supply' as defined in Section 7 of the Central Goods and Services Tax Act, 2017 (hereinafter for the sake of brevity referred to as "CGST Act"). Accordingly, the Applicant was liable to pay GST on the same. The said service of "renting of motor vehicles to carry passengers" is a "service" as per Entry No.5(f) of Schedule II of the CGST Act, 2017.

2.5 That the Applicant has submitted that he will be covered under sl.no.22 of the Notification12/2014-CT (Rate) after the clarification issued vide Circular No. 164/20/2021-GST dated 06.10.2021

STATEMENT CONTAINING APPLICANT'S INTERPRETATION OF LAW AND/OR FACTS

The services provided by the Applicant constitute supply and are subject to GST.

2.6 The services provided by the Applicant constitute supply defined under Section 7 of the Central Goods and Services Tax Act ("CGST Act") and are taxable under GST.

2.7 Based on the above, it is explicit that the Applicant is engaged in providing operating and offering services by way of public transportation under the scheme in the form of air-conditioned buses for the DoT under the Govt. of NCT of Delhi for use in return for a consideration, which qualifies as a supply of service under entry 5(f) of Schedule II of CGST Act. The services supplied by the Operator are essential services of rental of buses along with operation and maintenance of the same; they are akin to those described under Entry. No. 10(i) of Notification No 11/2017-C.T.(R) dated. 28.06.2017 ("Rate Notification"), falling under SAC Code 9966, which pertains to "Renting of any motor vehicle designed to carry passengers where the drivers, cost of fuel, repair and maintenance are included in the consideration charged from the service recipient.".

2.8 Alternatively, if the Authority decides that the services provided by the Applicant are not covered by Entry no. 10(i) supra, they shall be covered by the residual entry i.e. Entry no. 10(ii) of the Rate Notification, which pertains to "Rental services of transport vehicles with or without operators, other than (i) above" and taxable at the rate of 18%

2.9 Reliance in this regard is placed on the decision of the Advance Ruling Authority, Maharashtra in In Re: SST Sustainable Transport Solutions India Pvt.Ltd. [2019 (20) G.S.T.L. 317 (A.A.R. - GST)] wherein in a similar situation to the present facts, the Authority held that the applicant was rendering services to Nagpur Municipal Corporation, by way of giving out on rent/hire, buses which were further used by NMC for transportation of passengers. Such renting of buses by the applicant squarely fell under Sr. No. 10, Heading No.9966, sub clause (ii) as rental Service of transport vehicles, in this case with operators and

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therefore attracted CGST and SGST @ 9% each on remuneration received for such services rendered by the applicant."

2.10 The services provided by the Applicant shall be covered under Entry 10(i) of the Rate Notification which reads as follows: "Renting of any motor vehicle designed to carry passengers where the cost of fuel, repair and maintenance is included in the consideration charged from the service recipient". Under Entry 10(i) of the Rate Notification, the tax is payable at the rate of 12%. However, the supplier has an option to pay tax at the rate of 5% provided it does not avail the input tax credit of tax paid on input supplies used for providing the services. If the supplier does not exercise the option of 5%, it shall be liable to pay tax at the rate of 12% with eligibility to avail the input tax credit. The condition for service to fall under Entry 10(i) is that the cost of fuel is included in the consideration charged from the service recipient. In the present case, the buses to be given on hire to DOT shall run on fuel including the drivers. As these buses run on petrol/diesel, which is the case in the Air-conditioned Operated buses. The consideration charged by the Applicant under the contract is inclusive of all the charges including the cost of fuel, repair and maintenance of the buses, and thus it can be said that the cost of fuel is included in the consideration charged by the Applicant. Therefore, the services supplied by Applicant are eligible to GST at the rate of 12% (with the availment of input tax credit on input supplies) or 5% (without availment of credit).

2.11 However, if the authority decides that the services are not covered under Entry 10(i) of the Rate Notification, tax shall be payable at the rate of 18% under residuary Entry 10(ii) which reads as follows: "Rental services of transport vehicles with or without operators, other than (i) above"

2.12 Hence, the services to be provided by the Operator shall be classified under SAC Code 9966: "Rental services of transport vehicles with operators" eligible to GST at the following rates:-

(i) 12%, if the authority decides that services are covered by Entry 10(i) of the Rate Notification; or

(ii) 18%, if the authority decides that services are not covered by Entry 10(ii) of the Rate Notification.

Availability of input tax credit to the Applicant

2.13 Under Entry 10(i), as the services provided by the Applicant are taxable, the Applicant shall be eligible to avail of the input tax credit of tax paid on the procurement of input supplies used for supplying services to DOT, if the Applicant opts to pay tax at the rate of 12% under Entry 10(i). Further, even if the tax is payable under Entry 10(ii) at the rate of 18%, the Applicant shall be eligible to avail of the input tax credit as there is no condition under the said Entry that restricts the eligibility to avail the input tax credit.

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APPLICANT'S SUBMISSION DATED 09.07.2025:-

SERVICE PROVIDED BY THE APPLICANT IS IN THE NATURE OF RENTING OF MOTOR VEHICLE AND IS EXEMPTED UNDER SR.NO.22 OF NOTIFICATION 12/2017 CT (RATE)

2.14 The service provided by the Applicant is covered under "Serial No. 22 -services by way of giving on hire to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers" of Notification no. 12/2017 - CTR dated 28.06.2017 and is thereby exempt from GST.

2.15 The Applicant in this regard has placed his submissions on the Circular No. 164/20/2021-GST dated 06.10.2021. CBIC vide Circular No. 164/20/2021-GST dated 06/10/2021, Entry 8 has been clarified that -

"Renting of vehicles to State Transport Undertakings and Local Authorities

8.1 Representations have been received seeking clarification regarding eligibility of the service of renting of vehicles to State Transport Undertakings (STUs) and Local Authorities for exemption from GST under notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Sl.No. 22 of this notification exempts "services by way of giving on hire (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers: or (aa) to a local authority, an Electrically Operate vehicle meant to carry more than twelve passengers".

8.2 This issue has arisen in the wake of ruling issued by an Authority for Advance Ruling that the entry al Sl. No. 22 of notification No. 12/2017-Central Tax (Rate) exempts services by way of giving on hire vehicles to a State Transport Undertaking or a local authority and not renting of vehicles to them. The ruling referred to certain case laws pertaining to erstwhile positive list based service tax regime.

8.3 It is relevant to note in this context that Schedule II of CGST Act. 2017 declares supply of any goods without transfer of title as supply of service even if right to use is transferred. Transfer of right to use has been declared as a supply of service [Schedule II, Entry 5(f) refers)

8.4 The issue was placed before the 45 GST Council Meeting held on 17.09.2021. As recommended by the GST Council, it is clarified that the expression. "giving on hire" in Sl. No.22 of the Notification No. 12/2017-CT (Rate) includes renting of vehicles. Accordingly, services where the said vehicles are rented or given on hire to State Transport Undertakings or Local Authorities are eligible for the said exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local

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Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles."

2.16 The impugned agreement reveals that there is the transfer of right given to DoT to use the buses. Effective possession (as distinguished from physical possession) and effective control are with DoT. The applicant is not free to use the said buses for any purpose other than complete dedication to DoT. Applicant has no right and/or authority in deciding routes, schedules and the frequency of the buses and to decide the fares. Even though the drivers are appointed by the applicant, it is the DoT which decides the routes of them. The DoT, has taken on lease all the buses, accordingly, the service provided by the Young Optimistic to DoT is considered to be 'leasing of movable assets' and falls under the category of "hiring service or services by way of giving on hire." Moreover, the hire services provided by the applicant to DoT will operate under the administrative control of DoT as 'services' by the way of giving on hire to a State Transport Undertaking. The issue was amply clarified vide recommendations made in the 45th GST Council Meeting held on 17.09.2021, i.e., "giving on hire" in Entry 22 of the CGST Service Exemption Notification includes renting of vehicles also.

2.17 The Applicant has also submitted M/S. MH ECOLIFE E-MOBILITY PVT LTD. GST-ARA-60/2020-21/B-69 order dated 25/05/2022 passed by Authority for advance ruling, Maharashtra wherein on the similar facts the Authority has ruled in favour of the applicant and altered its previous order of taxing the applicant at 12% GST with availment of ITC to the exempted supply by virtue of Clarification given under Circular No. 164/20/2021-GST.

2.18 Based on the aforesaid submissions and judicial precedents, it may be concluded that transaction between the Applicant and DoT is in the nature of "renting of motor vehicle" and "not of hiring". As a consequence, the same shall be exempt in terms of Serial No. 22 mentioned above.

3. CONTENTION - AS PER THE REVENUE OFFICER:

3.1 The jurisdictional/concerned officer submitted that the nature of the transaction between the applicant and DoT is of the nature of leasing/renting supply. The item under serial no 10(i) of notification no 11/2017-central tax (Rate) dated 28.06.2017 reads as renting of motor cab where the cost of fuel is included in the consideration.

*Dictionary meaning of motor cab is any motor vehicle constructed, adopted or used to carry not more than 10 passengers excluding the driver, for hire reward. As such supply being made by the applicant is not covered under entry no 10(i) of notification no 11/2017-central tax (Rate) dated 28.06.2017.

3.2 Given the above it appears that's service is covered under serial no 10(ii) of notification no 11/2017- central tax (Rate) dated 28.06.2017 which reads as rental service of transport vehicles with or without operators other than (i) above. The tax rate on this service is 18% (9% CGST+9%SGST). The input tax credit will be available in this type of service.

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3.3 On the other hand, the Centre Jurisdictional officer submitted that the applicant in the instant is a Taxpayer which deals in HSN 996411: Local land transport services of passengers by railways, metro, monorail, bus, tramway, autos, three wheelers, scooters and other motor vehicles, HSN 996414: Other land transportation services of passengers and HSN 996419: Other local transportation services of passengers nowhere else classified (as per records available on GST Portal).

3.5 As per Sr. No. 22 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017, "Services by way of giving on hire – (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (b) to a goods transport agency, a means of transportation of goods, falling under HSN 9966 and HSN 9973 does not attract any GST".

3.6 Further, as per Point 8 of Department of Revenue (Tax Research Unit) Circular No.164 /20 /2021-GST dated 06.10.2021, following observations have been made

"8.1 Representations have been received seeking clarification regarding eligibility of the service of renting of vehicles to State Transport Undertakings (STUs) and Local Authorities for exemption from GST under notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Sl. No. 22 of this notification exempts "services by way of giving on hire (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (aa) to a local authority, an Electrically Operate vehicle meant to carry more than twelve passengers".

8.2 This issue has arisen in the wake of ruling issued by an Authority for Advance Ruling that the entry at Sl. No. 22 of notification No. 12/2017-Central Tax (Rate) exempts services by way of giving on hire vehicles to a State Transport Undertaking or a local authority and not renting of vehicles to them. The ruling referred to certain case laws pertaining to erstwhile positive list-based service tax regime.

8.3 It is relevant to note in this context that Schedule II of CGST Act, 2017 declares supply of any goods without transfer of title as supply of service even if right to use is transferred. Transfer of right to use has been declared as a supply of service [Schedule II, Entry 5(f) refers].

8.4 The issue was placed before the 45th GST Council Meeting held on 17.09.2021. As recommended by the GST Council, it is clarified that the expression "giving on hire" in Sl. No. 22 of the Notification No. 12/2017-CT (Rate) includes renting of vehicles. Accordingly, services where the said vehicles are rented or given on hire to State Transport Undertakings or Local Authorities are eligible for the said exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles."

3.7. However, in this case (as per SCN dated 23.07.2024) the services being provided by the Concessioners (the applicant) to the DoT in terms of Concession agreement is actually the Stage carriage service by Air condition buses and not the Renting of transport vehicle and accordingly classifiable under SAC 9964 and covered under Entry No. 8(ii)(b) of Notification

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No. 11/2017-Central tax (Rate) dated 28.06.2017 as amended. On going through the various clauses stipulated in the Concession Agreement entered into by the Concessionaire and DoT, the services provided by the Concessionaire to DoT appeared to be "Transport of passengers with or without accompanied belongings by air conditioned stage carriage" (in short "air-conditioned stage carriage") and those services were provided under agreement with DoT. These services appeared to be classifiable under SAC 9964 of GST Tariff and attracted GST @ 5% (CGST @ 2.5% and DGST @ 2.5%) provided that credit of input tax charged on goods and services used in supplying the service has not been taken in terms of Entry No. 8(ii)(b) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended.

3.8 However, officials of DIMTS (Delhi Integrated Multi Model Transit Systems Limited) have stated that the Concessionaire was found to have discharged the GST liabilities under SAC 9966 which pertained to "Renting services of transport vehicles with operators" by paying GST @ 12% (CGST @ 6% and DGST @ 6%) under Entry No. 10(i) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 by availing Input Tax Credit of input tax charged on goods and services used in supplying the service, which appeared to be incorrect as the services provided by the Concessionaires to the DoT were actually "Transport of passengers with or without accompanied belongings by air-conditioned Stage Carriage" (in short "Air-conditioned Stage Carriage") services and appears to be classifiable under SAC 9964 of GST Tariff and attracted GST @ 5% (CGST @ 2.5% and DGST @ 2.5%) without Input Tax Credit in terms of Entry No. 8(ii)(b) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 as amended. Concessionaires are providing private Stage Carriage services by AC buses to DoT. A perusal of the sample invoices (issued by the Concessionaires to DoT) showed that the Concessionaires had been paying GST @ 12% (CGST+DGST) by utilizing the Input Tax Credit under Entry No. 10(i) of Notification No. 11/2017-CT (Rate) and appeared to be mis-classifying their services under SAC 9966, whereas the said services are correctly classifiable under SAC 9964, as explained in paras herein above and as per Entry 8(ii)(b) of Notification No.11/2017-CT (Rate) attracted GST @ 5% provided that credit of input tax charged in respect of goods used in supplying the service under SAC is not utilized for paying Central Tax or Integrated Tax on the supply of the service.

3.9 It further appeared that it was the Concessionaires who are providing Stage Carriage Service (AC Buses) to DoT and not the DoT (who discharged GST only on the ticket collection value). Therefore, the Concessionaires are liable to pay appropriate GST (i.e. @ 5% without availing the ITC), on whole of the consideration received from DoT under the Concession Agreement. Therefore, the CGST amounting to Rs. 11,60,38,738/- (2.5% of gross value) and SGST 6. amount to Rs. 11,60,38,738/- (2.5% of gross value) payable on a value of Rs. 464,15,49,503/- against the Services of "Transport of Passengers by Air-conditioned Bus Stage Carriage" provided by the taxpayer to DoT during the period from FY 2019-20 to 2023-24 were ordered to recover under Section 74(1) of the CGST Act, 2017 along with interest payable thereon under Section 50 of the CGST Act, 2017 and Input Tax Credit taken on goods and services used in supplying the Service of Air-conditioned Stage Carriage which amounted to CGST Rs. 5,92,56,245/-, SGST Rs. 5,92,56,245/-, IGST Rs. 51,23,53,582/- and Cess Rs. 19,011/- were ordered to be dis-allowed in terms Entry No. 8(ii)(b) of Notification

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No.11/2017-Central Tax (Rate) dated 28.06.2017 as amended which prohibits taking of Input Tax Credit such goods and services'.

4. RECORD OF PERSONAL HEARING:

Accordingly, opportunity of personal Hearing was granted to the applicant on 09.07.2025, Sh. Neeraj Sharma, Director Sh. Nisar Batra (CEO, Authorized Representative) and Shri Vineet Bhatia (Advocate for the applicant) appeared for personal hearing on 09.07.2025 and submitted documents describing therein exact nature of work being undertaken by the applicant. From the side of Revenue Shri Himanshu Baghel, Inspector Range 151 (CGST) and Shri Umesh Kumar, GSTO (WARD 80-SGST) was present and submitted their reply dated 26.08.25 and 3.07.25 respectively.

5. DISCUSSION & FINDINGS:

(a). We have carefully gone through the records of the case and taken into consideration the submissions made by the Appellant in their Appeal dated 26.10.2020 and at the time of the personal hearing.

(b). The question before us to decide:

(i). Whether the outward transportation services provided by the applicant is subject to output tax and if so, what is the rate applicable to such outward transportation services based on the enclosed Agreement with the Govt of NCT dated 28.09.2019 where the service is all-inclusive including fuel and the operator' of the busses? And if such services are subject to tax, is there any restriction to claim an input tax credit under Section 16 of the DGST Act/CGST Act in terms read with Section 17/Section 18 of these Acts?"

***ii.** If the answer to (i) above is yes, what will be the appropriate SAC (Services Accounting Code) for classifying the services provided by the applicant and the applicable GST rate thereon?*

***iii.** Whether the applicant is eligible to avail ITC on goods and services used by M/s Young Optimistic in supplying the service, to DOT under the Agreement?*

5.1. In this regard, it is imperative to mention here the history of the case is:

(a). The applicant filed application for seeking Advance Ruling on 26.10.2020. Due to the non-availability/non constitution of the Advance Ruling Bench, the above-said application was pending for ruling.

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(b). The applicant, during the pendency of the application, filed Writ Petition before the Hon'ble High Court of Delhi vide W.P. No. 14364/2022 on 29.09.2022. The Hon'ble High Court vide its Order dated 11.10.2022 in para 7 held that:

- "7. *In these circumstances, we are of the view that the writ petition can be disposed of, with the following directions:*

- *(i) If the Authority is constituted within the next two weeks, the said Authority will take up the application filed by the petitioner and render its opinion, qua the same.*

- *(ii) In case the Authority is not constituted within the next two weeks, respondent no.2 will issue a clarification, as to the rate at which it could have collected and thus included it in its invoices, having regard to the fact that it is the petitioner's assertion that it has availed input tax credit."*

(c). The applicant further filed Contempt petition before Hon'ble High Court of Delhi vide case no. CONT.CAS(C)-346/2024 dated 27.02.2024 due to non-compliance of the above-said order dated 11.10.2022.

(d). After that the Delhi Authority for Advance Ruling was reconstituted on 29.03.2025 by the Competent Authority, and the Authority have taken up the application filed by the petitioner.

(e). Further, on perusal of SCN dated 23.07.2024 issued by DGGI, forwarded by Central GST officer it has come to the notice of this Authority that during pendency of the present application, DGGI have initiated the investigation with regard to nature of services provided by the Concessionaire (the applicant) and the actual classification thereof, a letter dated 07.02.2023 was issued to the MD & CEO, Delhi Integrated Multi Modal Transit System Limited (DIMTS) for submission of information in respect of applicability of GST on Contractors of operation of private stage carriage services (AC Buses). Further, Statement dated 15.05.2023 of Shri Raj Kumar Arora, Director, M/S Delbus Mobility Pvt. Ltd., was recorded under Section 70 of CGST Act, 2017 before the Senior Intelligence Officer, DGGI (DZU), New Delhi who stated that he was also the Director of **M/s Young Optimistic Transport Solutions Pvt. Limited**(the applicant) & M/S Indclan Mobility Private Limited and similar practice was followed by all such Companies, including M/S Young Optimistic Transport Solutions Pvt. Limited, i.e. the Concessionaire.Thereafter the DGGI has also issued a Show Cause Notice dated 23.07.2024 under Section 74 of the CGST Act, 2017 to 12 Noticee including the Applicant on the very same issues raised in the application, namely: classification of services, applicable rate of tax, and admissibility of input tax credit.

5.2. Now, We have carefully considered the submissions made by the applicant in the advance ruling application, the additional submissions made during the personal hearings and the comments furnished by the State and Central Tax Authorities. The applicant filed advance ruling application for determination of the liability to pay tax on service, within the meaning of that term as per Section 97(2)(e) of GST Act, 2017. We also take cognizance of the fact

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that subject matter of the application viz collecting various fees by the applicant fulfils the requirement of Section 95(a) of the Act. However, while examining the application of the applicant in terms of Section 98(2), we find that the Show Cause Notice dated 23.07.2024 issued to the applicant on the same questions which is raised in the application. As per Section 98(2) of the Act, the Advance Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provision of the Act. For ease of reference, the relevant statutory provisions of the 98(2) of the Act reads as follows:

98(2) of CGST Act, 2017 which is reproduced below:

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is already ***pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:***

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

5.3. Chapter XVII - Advance Ruling is a benevolent piece of legislation in the Act with an objective to obviate litigation at initial stage of the issues arising in tax matters to taxpayers including any unregistered persons intending to commence any business activity. It provides an opportunity to all entities both commercial and non-commercial, Government and quasi-Government, statutory bodies, etc, hitherto not registered under any of the indirect tax laws to seek clarification on the taxability or otherwise of their activities after introduction of the GST Act, 2017, where the applicant is also not an exception.

5.4. However, before venturing to decide the questions on merits, the question of admissibility of the application needs to be decided in view of the information regarding issuance of SCN dated 23.07.2024 issued by DGGI, DZU, New Delhi, to the applicant came to the notice. It is apparent that the first proviso covers any 'proceedings' in the case of an applicant under any of the provisions of the Act including Section 70 of the Act, under which investigation is being conducted by DGGI, DZU, New Delhi.

5.5. However, the fact of issuance of the said SCN was not brought to the knowledge of this Authority by the Applicant at any stage of the proceedings during the hearing opportunity provided on 09.07.25 nor in his additional submissions this important fact has been highlighted by the applicant, even though the Applicant was under a duty to disclose the

same. Hence, it appears that the applicant have suppressed the fact about the ongoing investigation by DGGI, Delhi Zonal Unit, New Delhi, before this Authority and persisting for Advance Ruling on the very same issue.

5.6. Section 98(2) of the CGST Act, 2017 provides that the Authority shall not admit an application where the question raised is already pending or decided in any proceedings in the case of an applicant under the provisions of the Act.

5.7. Though, the application was admissible at the time of filing, the subsequent issuance of the SCN means that the very same questions are now under adjudication by the jurisdictional authority. The application cannot be sustained as the questions raised have become sub judice in parallel proceedings before the jurisdictional authority.

5.8. Further, the failure of the Applicant to disclose the issuance of the SCN amounts to suppression of material facts, which disentitles the Applicant to relief before this Authority. The suppression of the fact of issuance of SCN by the Applicant aggravates the matter and demonstrates lack of candour, which militates against the scheme of advance ruling envisaged under Chapter XVII of the CGST Act.

6. ORDER

Accordingly, in exercise of powers under Section 98(2) of the CGST/DGST Act, 2017, the application filed by M/s Young Optimistic Transport Solutions Pvt. Ltd. is hereby **REJECTED,** for the reasons discussed in para 5 supra.

Bhavan Meena
04.10.25

(MEMBER – CENTRE)
Delhi Authority for Advance Ruling.

1/10/25

(MEMBER – STATE)
Delhi Authority for Advance Ruling.

भवन मीना / BHAVAN MEENA
अपर आयुक्त / Additional Commissioner
केन्द्रीय माल एवं सेवा कर, दिल्ली उत्तर / CGST, Delhi North
केन्द्रीय राजस्व भवन, जई.पी. एस्टेट / C. R. Building, I. P. Estate
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DAAR
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