

ITC available on 12% GST paid on Supplying, Operating, and Maintaining Air-Conditioned Electrically operated Buses: The AAR, Maharashtra

Fact of the Case

The Applicant, MH Ecolife E-Mobility Pvt. Ltd. and Navi Mumbai Transport Undertaking (NMMT) have entered into an Operator Agreement dated 25.02.2020 which, Applicant shall be responsible to procure and supply air conditioned electric buses to NMMT on gross contract basis to be plied on the routes identified by NMMT. During the term of the Agreement, ownership of the buses to be vested with the Applicant.

In terms of the Agreement, the Applicant, as an Operator, will be responsible for operating and maintaining the buses by employing drivers and other staff necessary for the operation and maintenance of buses. Further, Applicant shall incur all expenses for operating the buses including expenses on repairs, maintenance, procurement of spare parts, charging of batteries etc. NMMT or a third party appointed by NMMT, shall collect appropriate fare from the passengers.

The applicant has sought the advance ruling on the issues

- whether services provided by the applicant to NMMT under the Agreement, by way of supplying, operating and maintaining air-conditioned electrically operated buses are taxable and subject to GST and whether Applicant shall be eligible to avail the input tax credit of tax paid on the procurement of input supplies used in supplying services to NMMT under the Agreement.

Decision of the Case

The Coram ruled that services provided by the applicant to NMMT under the Agreement, by way of supplying, operating and maintaining air-conditioned electrically operated buses the appropriate SAC (Services Accounting Code) for classifying the services provided by the applicant is Tariff Heading 9966. The rate of GST is 12% (with availment of ITC) or 5% (without availment of ITC).

The Maharashtra Authority of Advance Ruling (AAR) held that Input Tax Credit (ITC) available on 12% GST paid on supplying, operating and maintaining air-conditioned electrically operated buses.