

Renting of E-Bikes and Bicycles without Operator can be taxed at Rate of 5% and 12% respectively: AAAR

Fact of the Case

- The Applicant, Yulu Bikes Pvt. Ltd. is engaged in renting vehicles like e-bikes (Miracle), bicycles (Move) in Bengaluru, Karnataka through a technology driven mobility platform.
- They enter into contract/agreement with the customers with regard to usage or renting of the e-bikes (Miracle), bicycles (Move) and charge based on the Advent of usage of such vehicles.
- The applicant sought the advance ruling on the issue whether renting of e-bikes (Miracle), bicycles (Move) without operator can be classified under the SAC 9973-Leasing or rental services without operator Sl.No.17 (viia) of Notification No.11/2017 Central Tax (Rate) dated 28th June-2017 as amended.

The Authority of Advance Ruling ruled that renting of e-bikes/bicycles without operator cannot be classified under SAC 9973, Leasing or rental services without operator and Sl.no. 17(viia) of Notification no. 11/2017 CT/R) dated 28th June 2017 as amended is not applicable to the instant case.

Decision of the Case

- However, the AAAR noted that the user agreement provides the rider access to use the vehicles (e-bikes and bicycles). Once access is provided, the rider uses the vehicle. However, while using such a vehicle, there is no transfer of any interest in the vehicle in favour of the rider. The vehicle continues to be in possession of the transferor. What is used by the rider is the service which is provided by the Appellant.
- The AAAR observed that the rider never gets the possession of the vehicle. Getting access to use the vehicle does not tantamount putting the rider in possession of the vehicle. Except having access to the facility which the Appellant is providing by virtue of possessing such goods, no such right in the goods is transferred to the rider. Providing access does not amount to right to use goods.
- The AAAR also sees from the terms of the User Agreement that the chicles (c-bikes and bicycles) are always in the physical control and possession of the Appellant at all times and there is no transfer of right to use such goods. What is permitted under the User Agreement is a permission to have access to the vehicles and use the same in designated regions / area for the designated period of time. In other words, the Appellant retains the effective control of the goods in all respects. Therefore, we do not find any transfer in the right to use the goods and we hold that in the absence of any such transfer of the right to use the goods, the Appellant does not get covered under entry Sl.No 17(iii) of the Rate Notification.

The appropriate correct entry is SL. No 17(viia) i.e Leasing or renting of goods and the rate of tax will be the same rate of tax as applicable on supply of goods involving transfer of title in goods. "Renting of e-bikes bicycles without operator is classifiable under SAC 9973 Leasing or rental services without operator and rate of tax as applicable under entry St.no. 17(viia) of Notification no. 11/2017 CT(R) dated 28th June 2017 as amended is applicable to the instant case," the AAAR ruled.

The Karnataka Appellate Authority of Advance Ruling (AAAR) while setting aside the Advance Ruling of the lower authority ruled that the renting of e-bikes and bicycles without operator can be taxed at the rate of 5% and 12% respectively.