

GST paid on purchase of motor vehicles for supplying rent-a-cab service is not admissible for credit in terms of section 17(5)(b)(i)

AUTHORITY FOR ADVANCE RULINGS, WEST BENGAL

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- ✓ The applicant was supplying cabs on a rental basis. It submitted that people take the car on rent for the transportation of passengers. Rent-a-Cab was, therefore, essentially associated with the transportation of passengers. GST paid on the purchase of motor vehicles for supplying rent-a-cab service should, therefore, be admissible in terms of section 17(5)(a)(B).
- ✓ It sought an advance ruling on whether credit was admissible of the input tax paid on the purchase of motor vehicles for the supply of the above service.
- ✓ Rent-a-cab is not defined in the GST Act. Nature of the applicant's service is, therefore, derived from what is stated in the application and what can be ascertained from the invoices. The applicant provides cab rental service inter alia to institutions like West Bengal Postal Service. The recipient has to pay the applicant a certain amount per month as consideration irrespective of what distance the cab travels in a particular month. Additional amount has to be paid if the cab is retained for extra hours or requisitioned on holidays. For the purpose of covering the cost of fuel, the distance travelled needs to be brought into play, but only if it crosses a certain threshold. It is, therefore, clear from the above discussion that the nature of the service the applicant provides is classifiable under SAC 9966 as renting of a motor vehicle. Credit of GST paid on purchase of motor vehicles or other inputs for the supply of the applicant's service is not, therefore, admissible in terms of section 17(5)(b)(i).

Applicant Submission

The applicant submits that she supplies rent-a-cab service, as defined in the Finance Act, 1994. She refers to section 17(5)(a)(B) of the GST Act that allows credit of input tax paid on the purchase of motor vehicles when used for supplying passenger transportation service. The Applicant submits that people take the car on rent for the transportation of passengers. Rent-a-Cab is, therefore, essentially associated with the transportation of passengers. GST paid on the purchase of motor vehicles for supplying rent-a-cab service should, therefore, be admissible in terms of section 17(5)(a)(B) of the GST Act.

Submission of the Revenue

The concerned Officer from the Revenue submits that the GST Act. did not allow credit of GST paid on inputs for supply of rent-a-cab service in terms of section 17(5)(b)(iii) of the Act. However, the provisions of the Act. have been amended. The above restriction is removed with effect from 01/02/2019. Post-amendment, admissibility of input tax paid on the purchase of motor vehicles to be used for supply of rent-a-cab service should, therefore, be examined in terms of section 17(5)(a)(B) of the GST Act.

Observations and findings of the Bench

1. The GST Act. has been amended with effect from 01/02/2019. Before amendment the provisions of section 17(5)(b)(iii) of the Act. did not allow credit of GST paid on inputs for supply of rent-a-cab service, except under certain specific conditions that are not applicable in the applicant's case. It rules out credit of input tax paid on the purchase of motor vehicles used for supply of rent-a-cab service if the transaction was effected before 01/02/2019.
2. Amended provisions of section 17(5)(b)(iii) of the GST Act do not contain reference to the rent-a-cab service. However, post-amendment, input tax credit shall not be available in respect of supply of the service of renting or hiring of motor vehicles in terms of section 17(5)(b)(i) of the GST Act, unless the inward and the outward supplies are of the same category, standalone or as an element of a taxable composite or mixed supply.
3. Section 17(5)(a) of the Act provides that input tax credit shall not be available on inward supply of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely –
 - a. a further supply of such motor vehicles; or
 - b. transportation of passengers; or
 - c. imparting training on driving such motor vehicles.

The Applicant argues that rent-a-cab service qualifies to be treated as a supply of passenger transportation service.

4. Passenger transportation service is classified under SAC 9964. Transportation of passengers, with or without accompanied belongings, is taxable under Sl. No. 8 of Notification No. 11/2017 - CT (Rate) dated 28/06/2017 (corresponding State Notification No. 1135 - FT dated 28/06/2017), as amended from time-to-time (hereinafter collectively called the Rate Notification).
5. Renting of any motor vehicle, however, is classified under SAC 9966. It is taxable under Sl. No. 10(i) of the Rate Notification. The recipient of this service is not a passenger. He is enjoying the service of having provided a motor vehicle, with or without a driver, for use in whatever way he likes for the duration of the renting period. The consideration is paid not for the distance travelled, but for renting the cab.
6. The photocopies of the Applicant's invoices show that the recipients are institutions like West Bengal Postal Circle, who clearly could not travel as a passenger. Furthermore, they are raised for the duration of renting, which is a fixed number of hours in a calendar month. As apparent from Sl. No. 10(i) of the Rate Notification, the essential character of the service remains the same even when the cost of fuel is included in the consideration charged.
7. The Authority has explored the scope of two relevant SAC: 9964 and 9966. In passenger transportation service (SAC 9964) the recipient of the service is a passenger and he pays the consideration for the distance travelled, whatever be the degree of control he enjoys over the vehicle. In renting or hiring of a motor vehicle (SAC 9966) the recipient is provided the right to use the vehicle over a specified

duration, whether he is a passenger or not. Distance travelled is taken into consideration to recover the cost of fuel. But travelling a certain distance is not the essence of the service.

Ruling

GST paid on the purchase of motor vehicles for supplying rent-a-cab service is not admissible for credit in terms of section 17(5)(b)(i) of the GST Act.

This Ruling is valid subject to the provisions under section 103 until and unless declared void under Section 104(1) of the GST Act.