

Input tax credit allowed on demo cars purchased with an intent of further supply - West Bengal AAR

19 July 2022



Summary

The West Bengal Authority of Advance Ruling (AAR) noted that the applicant capitalises demo cars and intends to avail input tax credit (ITC) of tax paid on inward supplies of such demo cars. The AAR opined that merely providing a test drive facility or demonstrating the features of a vehicle to prospective buyers cannot be regarded as imparting training on driving the vehicle. Further, ITC on purchase of demo vehicles cannot be denied merely on the ground of capitalisation of the vehicles in the books of accounts. The AAR stated that the purchase of demo vehicles and further supply of the same satisfies the condition¹ and hence, the AAR concluded that the applicant is eligible to avail ITC on purchases of demo vehicles.

Facts of the case

- The applicant² is an authorised dealer of Hyundai Motor India Limited for supply of different ranges of motor vehicles and carries on business activities as an authorised service station.
- The applicant purchases vehicles against tax invoices which are reflected in his books of accounts as capital assets and are used as demo cars for providing trial runs to the customers to make them understand the features of the vehicles. The demo vehicles are kept only for a limited period and then the applicant supplies them when the mandatory usage time of the test drive gets over.
- The applicant has approached the AAR seeking clarity on the admissibility of ITC on purchases of demo vehicles.

West Bengal AAR observations and ruling³:

- **ITC cannot be denied merely on ground of capitalisation of the**

vehicles: The business model of the applicant delineates that the demo vehicles are initially kept by the applicant for a certain period as mandated by the car manufacturing company for providing a test drive facility to the prospective buyers. The applicant, after receipt of the demo vehicles, capitalises the same in his books of accounts in lieu of booking the same as stock-in-trade. The GST⁴ provisions do not restrict to avail ITC to the extent of capitalisation⁵. Thus, the AAR stated that ITC on purchase of demo vehicles cannot be denied merely on the ground of capitalisation of the vehicles in the books of accounts.

- **No time limit prescribed under GST law to make further supplies of motor vehicles:** The applicant maintains the stock of the demo vehicles for a specified period and thereafter supplies the same, may be at a price lower than the purchase value of the said vehicle. However, the GST

¹ laid down in Section 17(5)(a)(A) of the GST Act

² M/s Toplink Motorcar Private Limited

³ Order Number 03/WBAAR/2022-23, dated 30 June 2022

⁴ Goods and services tax

⁵ sans clauses (c) and (d) of section 17(5) of the Act

provisions nowhere specifies that ITC shall not be available in respect of any outward supplies which is made at a price lower than its procurement value. The restriction imposed for further supply of such motor vehicles should not be applied on the ground that the supplies have been made after ascertaining period since there is no time limit prescribed in this regard for making such further supplies.

- **ITC available on demo cars:** The intention of the law, as it appears from the expression 'for further supply of such vehicles' is to allow ITC in respect of taxpayers dealing with motor vehicles as they are engaged in further supply of such motor vehicles. The demo vehicles are purchased all along for further supply and put up for sale after the demonstration/test drive period. Thus, purchase of demo vehicles and further supply of the same satisfies the condition⁶. Hence, the applicant is eligible to avail ITC on purchases of demo vehicles which can be set off against output tax payable under GST.

Our comments

Earlier, even the Maharashtra AAR, in case of Chowgule Industries Private Limited,⁷ and the Kerala AAR, in case of A.M. Motors,⁸ had allowed ITC on motor vehicles used for demo purposes.

However, contrary to the above, the Haryana AAAR in case of BMW India Private Limited⁹ had disallowed ITC of tax paid on demo cars by contending that the demo car loses the character of new motor vehicles in its very first demonstration and is akin to second-hand goods, which is different from new vehicle. Similarly, the Madhya Pradesh AAR in case of Khatwani Sales and Services LLP¹⁰ and the Haryana AAR, in case of Platinum MotoCorp LLP¹¹ had disallowed the ITC on demo vehicles.

Divergent rulings from different state AARs create unnecessary confusion and do not serve the objective pursued. Since this matter is extensively litigated, a due clarification from the government on this issue will surely be helpful in mitigating the ambiguity.

⁶ laid down in section 17(5)(a)(A) of the CGST Act, 2017

⁷ Order No. GST-ARA-18/2019-20/B-121 dated 26 December 2019

⁸ AAR No. KER/10/2018, dated 26 September 2018

⁹ HAR/AAAR/2019-20/02 dated 28 June 2021

¹⁰ Case No. 02/2020 Order No. 13/2020 dated 23 July 2020

¹¹ HAR/HAAR/R/2018-19/40, dated 1 March 2019

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