M/s BMW India Pvt. Ltd.

Authority for Advance Ruling — Haryana

ADVANCE RULING NO. HAR/HAAR/R/2018-19/17 (In Application No. 17/2… Dated **09.10.2018**

Q Questions Before the Authority

- Whether the Applicant-unit is entitled to avail input tax credit of IGST and Compensation Cess paid on receipt of cars (on stock-transfer basis) for use in relation to specified business activities and thereafter onward supply to dealers after use by the Applicant-unit for a limited period of time?

F Facts

BMW India manufactures vehicles at its Chennai plant and stock-transfers a few of them to its Gurgaon unit, which is separately registered. At Gurgaon the cars are registered in the company's name and used for limited periods (about 12 months under company policy) as marketing, sales, press and training fleet, or for other internal purposes, and are then sold to authorised dealers after being de-capitalised. The applicant says it pays GST on those dealer sales under the margin-based notification for old and used cars and takes no Cenvat credit on them.

H Ruling

ITC of IGST and Compensation Cess on cars received on stock transfer from the Chennai unit, used for marketing, sales, press and training fleet purposes and later sold to dealers	**Not entitled to ITC**	Ruling is confined to motor vehicles put to use as described in para 5 of the application. Reasoning rests on section 17(5)(a): the cars were not used for the taxable supplies listed there, and were capitalised.

The authority ruled that the applicant-unit is **not entitled to avail input tax credit on motor vehicles put to use as per the submissions in para 5** of the application. It held that the cars were not acquired for any purpose listed in section 17(5)(a), and that the restriction in section 17(5) overrides the general credit entitlement under sections 16(1) and 18(1).

R Reasoning

The authority accepted that demonstration cars are an indispensable sales tool and that the cars were received against tax invoices and capitalised in the books. It noted that the general credit entitlement for capital goods lies in sections 16(1) and 18(1) read with rule 43, but that section 17(5) opens with a non obstante clause and restricts credit on motor vehicles for transporting persons up to 13 seats. Adopting the jurisdictional officer's comments, it held that **the cars were not purchased for the purposes in section 17(5)(a)** and so the exception for further supply, passenger transport or driving training did not apply. The order does not separately analyse whether onward sale to dealers can itself be a 'further supply of such vehicles' under section 17(5)(a)(A).

Prepared as a reading aid. Where this summary and the original order differ, the order governs.

P Provisions Relied On

- Section 16(1) of the CGST/HGST Act, 2017
- Section 18(1) of the CGST/HGST Act, 2017
- Rule 43 of the CGST/HGST Rules
- Section 17(5)(a) of the CGST/HGST Act, 2017
- Section 98 of the CGST/HGST Act, 2017

! For the Practitioner

This is a useful adverse ruling for any manufacturer or group company that routes demonstration, press, or fleet cars through a separate registered unit and expects to recover IGST and cess on them. It shows the authority will treat such cars as outside the section 17(5)(a) exceptions where they are capitalised and used for internal promotion or demonstration. It does not decide whether the dealer sale might qualify as a 'further supply' under section 17(5)(a)(A), and it binds only the applicant. Read the full order for the applicant's arguments on that limb, which the authority does not address in detail.

Source

Summary prepared from the published order, which is a scanned document. It is a reading aid and not the authority: where the two differ, the order governs. Verify every provision against the original before relying on it.

Original order: www.gstcouncil.gov.in -> har_aar_17_2018-19_09.10.2018_bmwipl.pdf

Prepared 25-10-2026.

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