M/s Platinum Motocorp LLP, Plot No. 282, Sector-06, Industrial Estate IMT Manesar, Gurugram

Authority for Advance Ruling — Haryana

Advance Ruling No. HAR/HAAR/R/2018-19/40 (In Application No. 40/2018… Dated **01.03.2019**

Q Questions Before the Authority

- Whether Input Tax Credit can be availed on demo cars, which are capital goods, and set off against output tax payable under GST.
- Whether Input Tax Credit can be availed on ancillary input services such as insurance and repair and maintenance availed in respect of the demo cars.

F Facts

The applicant is an authorised dealer of Maruti Suzuki India Limited. Alongside vehicles bought for further supply, it buys demo cars for customer demonstration, each used for up to two years before being sold as a second-hand car. The applicant says GST is paid on these purchases on taxable value under section 18(6) of the CGST Act, 2017, and that the demo cars are capitalised in its books.

H Ruling

ITC on demo cars (capital goods) set off against output tax	****Not available.** GST paid on purchase of demo vehicles cannot be availed as ITC.**	Barred by section 17(5)(a). The demo cars are not used for the taxable supplies listed there (further supply of such vehicles, transportation of passengers, or imparting driving training). The authority read 'further supply' as meaning resale, which is not the applicant's purpose.
ITC on insurance, servicing, repair and maintenance for demo cars	****Not available.** No ITC on these ancillary input services for the demo vehicles.**	Barred by section 17(5)(ab). The demo vehicles are not used for the purposes in section 17(5)(a), so the first proviso (i) is not met, and neither exception in proviso (ii) applies.

The authority held that GST paid on the purchase of demo cars cannot be availed as input tax credit and set off against output tax. It also held that no input tax credit is available on insurance, repair and maintenance services relating to the demo cars. For the period before Notification No. 2/2019-Central Tax took effect, the authority held that credit on both the demo cars and the ancillary services was inadmissible.

R Reasoning

Section 16(1) entitles a registered person to credit on inputs and capital goods used in the course of business, but section 17(5)(a) overrides this for motor vehicles carrying not more than thirteen persons, except where they are used for further supply of such vehicles, passenger transportation, or driving training. The authority read the words 'notwithstanding' as making the restriction exhaustive, so capitalisation and business use do not save the

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

credit. It gave weight to the word 'further' in 'further supply', holding that it connotes resale, which is not what a demo car is bought for, even though the applicant said demo cars are eventually sold in the open market. For the services, section 17(5)(ab) denies credit on insurance, servicing, repair and maintenance for such vehicles, and the provisos do not apply because the vehicles are not used for the specified purposes. The order also records that the position before the 1 February 2019 amendment was the same, with credit on the vehicles and services inadmissible under sections 17(5)(a) and 17(2) as printed.

P Provisions Relied On

- Section 16(1) of the CGST Act, 2017
- Section 17(5)(a) of the CGST Act, 2017 (as amended w.e.f. 01.02.2019)
- Section 17(5)(ab) of the CGST Act, 2017
- Section 17(2) of the CGST Act, 2017 (cited in para 6 as printed)
- Section 18(1) and section 18(6) of the CGST Act, 2017
- Section 2(19) of the CGST Act, 2017 (definition of capital goods)
- Section 49 of the CGST Act, 2017 (referred to in section 16(1))
- Notification No. 2/2019-Central Tax dated 29.01.2019

! For the Practitioner

This order helps a practitioner advise dealers and motor vehicle businesses that demo or pool vehicles, even when capitalised and used in business, fall within the section 17(5)(a) and (ab) blocks and carry no ITC. It also settles that the 'further supply' exception is read as resale, so an in-house demonstration use does not qualify. The order does not address vehicles used for passenger transport or driver training, and it does not deal with the separate treatment of other capital goods. It is an advance ruling binding only on the applicant and the jurisdiction, so it is persuasive rather than authoritative for other taxpayers.

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_40_2018-19_01.03.2019_pmllp.pdf

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Pune (HQ)
RTC Silver, B4-708, Sai Satyam Park, Wagholi, Pune, Maharashtra 412207

Mumbai
104, Rajshila Building, 597 J.S.S. Road, Marine Lines, Mumbai 400002

Delhi
3rd Floor, B-6/154-155, Sector 5, Rohini, Delhi 110085

Gurugram
Pioneer Urban Square, B109, Golf Course Ext Road, Sector 62, Gurugram…

Ahmedabad
Phoenix Tower, 1107, near Commerce Six Road, Drive In Road, Navrangp…

Talk to us: **+91 94594 56700** | sales@patronaccounting.com | patronaccounting.com

Patron Accounting LLP