Mohana Ghosh, carrying on business under the trade name M/s Reesham Associates

Authority for Advance Ruling — West Bengal

08/WBAAR/2019-20 dated 25/06/2019 (rectification order; Case No. WBA… Dated **25.06.2019**

Q Questions Before the Authority

- Whether input tax credit is admissible on GST paid on the purchase of motor vehicles used for supplying rent-a-cab service, under section 17(5)(a)(B) of the GST Act as the applicant contends.

F Facts

The applicant supplies cabs on a rental basis, described as rent-a-cab service under the Finance Act, 1994. Her invoices go to institutions such as the West Bengal Postal Circle and are raised for a fixed number of hours in each calendar month, with extra charges for holidays or extra hours, and a cost-plus component for fuel only when the distance travelled crosses a threshold. The applicant argued that the service is passenger transportation, so that credit on the cabs is available under section 17(5)(a)(B).

H Ruling

Input tax credit on GST paid on motor vehicles used for supplying rent-a-cab service	**Not admissible**	Blocked under section 17(5)(a) of the GST Act. The exception for passenger transportation in section 17(5)(a)(B) does not apply because the service is renting under SAC 9966. The ruling applies only to the facts described in the application and invoices.

The Authority held that **GST paid on the inward supply of motor vehicles for supplying rent-a-cab service is not admissible for credit under section 17(5)(a)** of the GST Act. The service is classifiable under SAC 9966 as renting of a motor vehicle, not under SAC 9964 as passenger transportation. The rectified order also records that the earlier restriction under section 17(5)(b)(iii) was amended from 01/02/2019 and now sits under section 17(5)(b)(i) for renting and hiring of motor vehicles.

R Reasoning

The Bench first noted that the pre-amendment bar on rent-a-cab credit under section 17(5)(b)(iii) was replaced from 01/02/2019 by the renting-and-hiring restriction in section 17(5)(b)(i), and that section 17(5) does not stop a supplier from claiming credit on inward supplies except as provided in section 17(5)(a). It then tested whether the service is passenger transportation (SAC 9964, Sl No. 8 of Notification No. 11/2017-CT(Rate)) or renting of a motor vehicle (SAC 9966, Sl No. 10(i)). The Bench found that the recipient of rent-a-cab is not a passenger, that the consideration is a fixed amount for the rental period regardless of distance, and that fuel-linked cost-plus charges do not change the essential character of the service. It concluded that the supply is renting under SAC 9966, so the section 17(5)(a)(B) exception fails.

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

P Provisions Relied On

- Section 17(5)(a) of the CGST/WBGST Act (credit on motor vehicles for passenger transport up to 13 persons and the excepti…
- Section 17(5)(b)(i) and (iii) of the GST Act (renting and hiring of motor vehicles; earlier rent-a-cab restriction)
- Section 97(2)(a) and (d) of the GST Act (admissibility)
- Sections 100, 102, 103 and 104(1) of the GST Act (appeal, rectification, validity of ruling)
- Notification No. 11/2017-CT(Rate) dated 28/06/2017, Sl No. 8 (passenger transportation) and Sl No. 10(i) (renting of motor ve…
- SAC 9964 (passenger transportation) and SAC 9966 (renting of motor vehicles)

! For the Practitioner

A cab operator who rents vehicles on a monthly or hourly fixed-fee basis, with fuel charges as a minor add-on, should expect input tax credit on the purchase of those cabs to be blocked under section 17(5)(a). The ruling settles that a rent-a-cab arrangement is renting under SAC 9966 rather than passenger transportation. It does not decide the position for a per-trip or distance-based operator, and the order should be read in full, including the rectification, before relying on it.

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 -> 08_wbaar_2019-20-reesham_asso.pdf

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