Nipha Exports Pvt Ltd

Authority for Advance Ruling — West Bengal

43/WBAAR/2018-19 Dated **26.02.2019**

Q Questions Before the Authority

- Whether input tax credit is admissible on an ambulance purchased for the benefit of employees, as required under the Factories Act, 1948.

F Facts

The applicant manufactures agricultural machinery at factories in Howrah and Hooghly. It bought an ambulance on 22/11/2018 (Invoice No. INV19A001475 from M/s Supreme & Co Pvt Ltd) for employees, which it said was required under Section 45(4) of the Factories Act, 1948. It argued that the tax on this purchase was creditable under the second proviso to Section 17(5)(b) as amended with effect from 01/02/2019.

H Ruling

ITC on ambulance bought for employees under the Factories Act, 1948 (purchased 22/11/2018)	**Not admissible**	Blocked under Section 17(5)(a) as a motor vehicle as it stood before amendment. The employer-obligation exception does not extend to ambulances, and the amended second proviso does not apply to November 2018 transactions.

Input tax credit is not admissible on the ambulance purchased in November 2018. The authority held that the amended second proviso to Section 17(5)(b) does not apply to a November 2018 transaction, so the pre-amendment Section 17(5) governs. A motor vehicle is blocked under Section 17(5)(a), and the employer-obligation exception in Section 17(5)(b)(iii)(A) covers only rent-a-cab, life insurance and health insurance, so it does not rescue the ambulance even if the Factories Act requires it.

R Reasoning

The authority first held that eligibility for ITC under Section 16(1) is governed by the law in force when the taxable event occurred, not when the claim is made. The ambulance was bought on 22/11/2018, before the amendment effective 01/02/2019 under Notification No. 2/2019-CT dated 29/01/2019, so the amended second proviso to Section 17(5)(b) was held inapplicable. Under the pre-amendment Section 17(5)(a), ITC on motor vehicles and other conveyances is barred unless they are used for specified taxable supplies or for transporting goods, and an ambulance for employees fits neither. The authority read the Section 17(5)(b)(iii)(A) exception as limited to rent-a-cab, life insurance and health insurance, so the Factories Act obligation under Section 45(4) did not help.

P Provisions Relied On

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

Section 16(1) of the GST Act

Section 17(5)(a) of the GST Act, as it stood before amendment

Section 17(5)(b)(iii)(A) of the GST Act, as it stood before amendment

Second proviso to Section 17(5)(b) of the GST Act, as amended (held not applicable)

Notification No. 2/2019-CT dated 29/01/2019

Section 45(4) of the Factories Act, 1948

Section 97(2)(d) of the GST Act (admissibility)

Section 103(2) and Section 104(1) of the GST Act (binding effect of ruling)

! For the Practitioner

This order is useful for any employer who claimed ITC on a vehicle bought for statutory welfare, such as an ambulance, in the period before 01/02/2019. It confirms that the pre-amendment Section 17(5) controls transactions from that period, and that a statutory employee obligation does not lift the motor vehicle block. It does not decide the position for purchases made on or after 01/02/2019, which depends on the amended second proviso, and it is a ruling binding only on the applicant.

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 -> wb_43_2018-19_nepl.pdf

Prepared 30-10-2026.

About Patron Accounting LLP

Patron Accounting LLP is a CA and CS-led accounting and compliance firm working with businesses across India since 2019 — bookkeeping, GST, income tax, payroll, company and LLP compliance, audit and the certificates banks and regulators ask for.

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