

Input tax credit on demo vehicles disallowed: Madhya Pradesh AAR

25 February 2021



Summary

The Madhya Pradesh Authority for Advance Ruling (AAR) in a recent case has held that even though the demo vehicles are used for the furtherance of the business of the applicant, they are not eligible for input tax credit (ITC). The AAR stated that the demo vehicles do not get covered under the exceptions provided under GST law i.e. for further supply or for transportation of passengers or imparting training for driving. Therefore, it disallowed the ITC on demo vehicles.

Facts of the case

- The applicant¹ is an authorised dealer of KIA for sales and services of vehicles.
- It purchases vehicles from the supplier against tax invoices after paying tax and capitalises the demo vehicles in the books of accounts. It is of the view that the demo vehicles which are used in the course or furtherance of business may therefore be entitled for availing ITC.
- It had sought an advance ruling before the Madhya Pradesh AAR to understand whether ITC on Motor Vehicles purchased for demo purpose can be availed as the same shall be capitalised in books.

Madhya Pradesh AAR's observations and ruling

- **ITC debarred:** The relevant provisions² under GST law debar the applicant from taking ITC on demo vehicles, except in certain situations.
- **ITC in respect of motor vehicles:** Under the GST law, ITC shall be available in respect of motor vehicles which are further supplied as such or which are used for transportation of passengers or which are used for imparting training on driving of such vehicles.
- **No further supply:** By subsequent sale of demo vehicle after one or two year, it cannot be said that the demo vehicle is for further supply.
- **Sale of used or second hand vehicle:** The sale in subsequent year of demo vehicle on which depreciation has been charged is to be treated as a sale of used / second hand vehicle and not a sale of a new vehicle.
- **Charging of depreciation cannot affect ITC eligibility:** The AAR has stated that even if the applicant is not charging depreciation on the demo vehicle that will not affect the applicability of the relevant provisions under GST law according to

¹ M/s Khatwani Sales and Services LLP

² Section 17(5)(a) of the CGST Act, 2017

which it is not eligible for ITC on demo vehicles.

- **ITC not available:** Even though the demo vehicles are for furtherance of business of the applicant even then they are not eligible for ITC as they do not get covered under the exceptions provided under GST law i.e. for further supply or for transportation of passengers or for imparting training for driving.

Our comments

The availability of input tax credit on demo vehicles has been a matter of extensive litigation since its inception. In a similar matter, the Maharashtra AAR³ and the Kerala AAR⁴ had allowed the ITC on demo vehicles. Whereas, contrary to this, the ITC had been disallowed by the Haryana AAR in the case of M/s BMW India Pvt. Ltd.

The demonstration of the vehicle is a common business practice and an integral part of the marketing of any vehicle, hence, it very well qualifies to be input. In such a case, in the spirit of GST, tax credits should have been allowed.

A due clarification from the government on this issue will surely help mitigate the future litigation on this account.

³ M/s Chowgule Industries Private Limited

⁴ M/s A M Motors

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