

IMPORTANT GST UPDATES



Issued in case of Sai Service Pvt Ltd by Telangana State Authority for Advanced Ruling
Order No. 13/2023 | Date: 01-08-2023

Ruling

ITC eligible on demo car only if it is used for further supply and not used in workshop as replacement vehicle.

Observations & Findings

The Applicant, M/s. Sai Service Pvt Limited, is an authorized car dealers for various manufacturers and engaged in the business of supplying automobiles, spares, and servicing vehicles. As part of their sales promotion activity, they require demo vehicles for test drives in their showrooms. These demo vehicles are procured from manufacturers like Maruti Suzuki Industries Limited (MSIL) at discounted prices and are capitalized as fixed assets in their books of accounts. The Applicant seeks clarification on whether they can avail input tax credit (ITC) on the tax charged on inward supplies of motor vehicles used for demonstration purposes.

According to the test vehicle policy of MSIL, the test vehicles will be registered under the company/dealership's name and can only be retained as test vehicles for a maximum of two years. After this period, the vehicle can either be used as a replacement vehicle in the workshop or sold, but such sale requires written approval from the vendor company. This means that:

- The test vehicles will be treated as capital assets in the books of the company/dealership.
- The vehicles cannot be sold within the two-year period or before reaching a usage of 40,000 kilometers, whichever comes earlier.
- The vehicles must be utilized as replacement vehicles in the workshop after the two-year test drive period.
- If the company wants to sell the vehicles before the two-year period ends, they need approval from the vendor company.

Section 17(5) of the CGST Act, 2017 generally restricts the ITC claim on motor vehicles purchased by a taxpayer, even if they are used for business purposes. However, certain exceptions apply based on the purpose of usage. The term "supply" in the context includes sale, lease, rental, etc. Therefore, the exception applies not only to the sale of motor vehicles but also to the purpose of lease, rent, etc., where there is no immediate transfer of property in goods. In such cases, the motor vehicle may be capitalized in the purchaser's books if there is an intention to lease or rent it.

Based on the observations and findings, TSAAR ruled that:

1. If the applicant is making further supply of such vehicle then it is eligible for the ITC claimed.
2. If the applicant is retaining the vehicle for his workshop as replacement vehicle as mentioned in the sales policy of MSIL, then he shall not be eligible for ITC as there is no further supply at his hands. Therefore, the ITC claimed by him has to be repaid in cash.