

No ITC available on GST paid on Motor Cars of Seating Capacity not exceeding 13 leased or rented with Operators to Vendors: The AAR, Tamil Nadu

Fact of the Case

The applicant, New Pandian Travels Private Limited has been engaged in transporting passengers as a Rent-a-cab operator by providing the Motor Vehicle on hire or rental basis either directly to passengers or to the organizations and they have establishments at Chennai, Bengaluru, Vijayawada, Hyderabad and other places that are duly registered under GST law. They are in the service sector for more than a decade and contribute significant revenue to the exchequer. The service provided by them is Rent-a Cab operator and classified basically under SAC 996601.

The applicant has sought the advance ruling on the issues

- whether the GST paid on the Motor cars of seating capacity not exceeding 13 (including Driver) leased or rented to customers will be available to it as ITC in terms of Section 17(5)(a)(A) of Central Goods and Service Tax Act, 2017;
- whether the GST paid on the Motor cars of seating capacity not exceeding 13 (including Driver) registered as public vehicle with RTO to transport passengers, provided to their different customers on lease or rental or hire will be available to it as ITC in terms of Section 17(5)(a)(B) of Central Goods and Service Tax Act, 2017 and
- whether the supply of services by way of Renting or Leasing or Hiring Motor Vehicles to SEZ to transport the employees of the customers without payment of IGST under LUT is deemed as taxable supply and whether ITC is admissible on Motor Vehicles procured and used commonly for such supply to SEZ and other than SEZ supplies.

Decision of the Case

The Coram ruled that GST paid on the Motor cars of seating capacity not exceeding 13 (including Driver) leased or rented with Operators to the Vendors is not available to the applicant as ITC in terms of Section 17(5)(a)(A) of Central Goods and Service Tax Act.

"GST paid on the Motor cars of seating capacity not exceeding 13 (including Driver) registered as a public vehicle with RTO to transport passengers, provided to their different customers on lease or rental or hire will NOT be available to as ITC," the AAR said.

The AAR further held that supply of services by way of Renting or Leasing or Hiring Motor Vehicles to SEZ to transport the employees of the customers without payment of IGST under LUT is deemed as taxable supply ITC is not admissible on Motor Vehicles procured as the same is restricted at S.17(5)(a)(n) of the Act.

The Tamil Nadu Authority of Advance Ruling (AAR) ruled that no Input Tax Credit (ITC) available on GST paid on the Motor cars of seating capacity not exceeding 13 (including Driver) leased or rented with Operators to Vendors.