



NITYA'S Outlook

Issue 1 | Admissibility of credit on cars including demo cars

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Dear Reader,

NITYA Tax Associates is pleased to present our new series '**NITYA's Outlook**' wherein we will share our viewpoints on key issues under GST. In this regard, please find '*NITYA's Outlook - Issue 1*' on admissibility of credit on cars including demo cars.

Firstly, we shall discuss the eligibility of credit of demo cars to a car dealer. Section 17(5)(a) of the Central Goods and Services Tax Act, 2017 ('CGST Act') restricts availment of credit on motor vehicles. This restriction is subject to 3 exceptions which *inter alia* includes an exception under which credit is allowed where motor vehicles are used for **further supply** of **such vehicles**.

Basis the above provision, a dealer will be eligible to claim credit on a vehicle if it qualifies the following 2 conditions:

- The same is being **further supplied**
- The same qualifies the expression '**such vehicle**'

Here, it is pertinent to determine the scope of expression '**such**'. On a perusal of various law lexicons, it can be seen that the expression '**such**' has wide coverage. Its scope is wider than the expression '**as such**'. Basis the above, a demo car would qualify the expression '**such vehicle**' even after specified period. This is for the reason that it would have same characteristics and quality, proximate to earlier demo car.

We also wish to highlight recent advance ruling in the case of **A. M. Motors, 2018-VIL-197-AAR** which dealt with the eligibility of input tax credit on demo cars purchased by a dealer of cars. The Advance Ruling Authority (AAR) held that since demo car will be further sold, the dealer can be said to be using such car for further supply (even though sale takes place after a certain period). Basis this reasoning, the AAR allowed credit on demo cars.

Basis the advance ruling, demo car even sold after specified period on payment of GST would qualify the expression '**further supply**'.

Thus, basis the dictionary meanings and advance ruling, a dealer can claim credit on demo car because such car will be further sold on payment of GST. The restriction contained under Section 17(5) will not apply on demo car since both the conditions specified in the preceding paragraphs are satisfied.

Here, another moot question which arises is whether credit on motor vehicles purchased by a taxpayer for its directors or employees etc. can be availed. These vehicles are used in business for official activities. Such vehicles are '**further**' supplied by registered person after its use, on payment of applicable GST and also qualify the expression '**such**'. Therefore, basis the dictionary meanings and reasoning given in advance ruling, the restriction contained under Section 17(5) will not apply on these vehicles too.

Hence, the registered person can claim credit on all motor vehicles purchased for business purpose which would be further supplied by such person on payment of applicable GST.

We also wish to highlight that Government vide **Notification No. 8/2018-Central Tax (Rate) dated January 25, 2018** brought margin scheme concept on sale of old / used motor vehicles. Under this Notification, GST is levied only on margin (sale value less depreciated value) subject to the condition that credit is not availed on such vehicles. Therefore, in case registered person avails credit on motor vehicles purchased under GST basis

the reasoning given above, such registered person shall not be entitled to avail the benefit of margin scheme at the time of sale of such motor vehicles.

In a nutshell, a registered person can avail credit on motor vehicles purchased under GST and shall pay applicable GST on sale price of such vehicles. For sale of motor vehicles purchased under erstwhile tax regime on which credit had not been availed, registered person may avail the benefit of abovesaid Notification and pay applicable GST only on margin value.

Trust you will find the above useful. In case of any clarification, please feel free to revert.

Regards,

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