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Treading the GST Path – XVIII

ITC on Motor Vehicles



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Credit of duties paid on motor vehicles was always a hard bargain.

Position under Cenvat Credit Rules, 2004.

Under the Cenvat Credit Rules, 2004, the definition of "capital goods" under Rule 2 (a) contains the following.

"capital goods" means :-

(A) the following goods, namely :-

(viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis [but including dumpers and tippers

used –

(1) in the factory of the manufacturer of the final products; or

(2) for providing output service;

(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the service provider, when used for -

(i) providing an output service of renting of such motor vehicle; or

(ii) transportation of inputs and capital goods used for providing an output service; or

(iii) providing an output service of courier agency;

(C) motor vehicle designed to carry passengers including their chassis, registered in the name of the provider of service, when used for providing output service of -

(i) transportation of passengers; or

(ii) renting of such motor vehicle; or

(iii) imparting motor driving skills.

From the above, it may be observed that cenvat credit of duties paid on motor vehicles would be allowed only in the following circumstances.

- A) A manufacturer or service provider can take credit of duties paid on any motor vehicles, except vehicles falling under 8702 (passenger transport vehicles having a capacity to carry more than ten passengers), 8703 (passenger transport vehicles other than those covered under 8702), 8704 (Goods transport vehicles) and 8711 (motor cycles). Though dumpers and tippers are falling under chapter 8704, it has been specifically provided that they are entitled for credit.
- B) The following service providers are entitled to avail credit for goods transport vehicles, registered in their name.
- Who is engaged in the service of renting of such vehicles.
 - If the vehicles are used by any service provider for transportation of his inputs and capital goods, for providing his output service (Example – a construction contractor, who has to transport cement and steel to the construction site, is entitled to avail credit of duties paid on goods transport vehicles, subject to other conditions).
 - A courier agency can avail credit of duties paid on goods transport vehicles.
- C) The following service providers are entitled to avail credit for passenger transport vehicles, registered in their name.
- Who are engaged in providing the service of transport of passengers.
 - Who are engaged in providing the service of renting of such vehicles.
 - Driving Schools.

Position under the old Model GST law.

Under the model GST law released in June 2016, the restriction on availment of credit on capital goods is worded as below, under section 16 (9) of the model Act.

(9) Notwithstanding anything contained in sub-section (1), (2), (2A) or (3) input tax credit shall not be available in respect of the following:

(a) motor vehicles, except when they are supplied in the usual course of business or are used for providing the following taxable services—

(i) transportation of passengers, or

(ii) transportation of goods, or

(iii) imparting training on motor driving skills.

It may be observed from the above that Input Tax Credit on motor vehicles was sought to be curtailed in the old model law. Credit of GST paid on motor vehicles

was sought to be allowed only to three kinds of service providers, mentioned above, i.e

- (i) those who are engaged in transportation of passengers;
- (ii) those who are engaged in transportation of goods; and
- (iii) those who are imparting training on motor driving skills.

Position under the new model law.

The above restriction has been amended in the new model law, under section 17 (4) as below.

(4) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1), (2), (3) and (4) of section 18, input tax credit shall not be available in respect of the following:

(a) motor vehicles and other conveyances except when they are used

(i) for making the following taxable supplies, namely

(A) further supply of such vehicles or conveyances ; or

(B) transportation of passengers; or

(C) imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) for transportation of goods.

It may be observed from the above that the list of cases where input tax credit on motor vehicles is allowed are categorised into two. Under sub clause (i), the following persons are entitled to avail input tax credit of GST paid on motor vehicles.

- A) Those who are engaged in supply of such vehicles (Eg. Dealers of motor vehicles).
- B) Those who are engaged in providing passenger transportation services.
- C) Driving schools.

Under sub clause (ii), when the motor vehicles are used for transportation of goods, input tax credit is entitled. It may be noted that this provision is not with reference to any particular type of supplier. Whether a manufacturer or a trader or a service provider, is purchasing any motor vehicle, for transportation of goods, input tax credit thereon would be allowed without any restrictions.

When we compare this provision with the current provisions of the Cenvat Credit Rules, 2004 it may be noted while CCR, 2004 allowed credit only for dumpers and tippers for transportation of goods, now all types of vehicles used for transport of goods, by a manufacturer, trader or a service provider would now be permissible.

A welcome measure indeed.

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