



Office of the Commissioner,
State Tax, Uttar Pradesh
(GST Section)

Letter No. GST/2024-25/ 92 /State Tax
Lucknow: Dated: 27, September, 2024

To,

All Zonal Additional Commissioner Grade -1,
Additional Commissioner Grade -2 (S.I.B.)
Joint Commissioner (Executive/Corporate Circle/ S.I.B)
State Tax, Uttar Pradesh.

Subject: Clarification on availability of input tax credit in respect of demo vehicles-reg.

The demo vehicles are the vehicles which the authorised dealers for sale of motor vehicles are required to maintain at their sales outlet as per dealership norms and are used for providing trial run and for demonstrating features of the vehicle to the potential buyers. These vehicles are purchased by the authorised dealers from the vehicle manufacturers against tax invoices and are typically reflected as capital assets in books of account of the authorized dealers. As per dealership norms, these vehicles may be required to be held by the authorized dealers as demo vehicle for certain mandatory period and may, thereafter, be sold by the dealer at a written down value and applicable tax is payable at that point of time.

2. Reference has been received to issue clarification regarding availability of input tax credit in respect of demo vehicles on the following issues:

- i. Availability of input tax credit on demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of Uttar Pradesh Goods & Services Tax Act, 2017 (hereinafter referred to as the 'UPGST Act').
- ii. Availability of input tax credit on demo vehicles in cases where such vehicles are capitalized in the books of account by the authorized dealers.

3. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of its powers conferred by section 168 of the UPGST Act, hereby clarifies the above issues as below.

4. **Availability of input tax credit on demo vehicles, which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5) of UPGST Act.**

4.1 Clause (a) of Section 17(5) of UPGST Act provides that input tax credit shall not be available in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), **except when they are used for making following taxable supplies, namely:**

- A. **further supply of such motor vehicles;** or
- B. transportation of passengers; or
- C. imparting training on driving such motor vehicles.

4.2 The intention of law, as it appears from the use of expression **‘when they are used for making the following taxable supplies’** in clause (a) of section 17(5) of UPGST Act, is to exclude certain cases (based on the nature of outward taxable supplies being made using the said motor vehicle) from the restriction on availment of input tax credit in respect of the specified motor vehicles i.e. motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver). The taxable supplies, permitted for the purpose of being excluded from the blockage of input tax credit as per provisions of clause (a) of section 17(5) of UPGST Act, being further supply of such motor vehicles, transportation of passengers and imparting training on driving such motor vehicles.

4.3 As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it is quite apparent that demo vehicles cannot be said to be used by the authorized dealer for providing taxable supply of transportation of passengers or imparting training on driving such motor vehicles. Therefore, demo vehicles are not covered in the exclusions specified in sub-clauses (B) and (C) of clause (a) of section 17(5) of UPGST Act. Accordingly, it is to be seen whether or not the Demo vehicles in question can be said to be used for making “further supply of such motor vehicles”, as specified in the sub-clause (A) of the clause (a) of section 17(5) of UPGST Act.

4.4 Regarding the provision for blockage of input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), the usage of the words **“such motor vehicles” instead of “said motor vehicle”, in sub-clause (A) of the clause (a) of section 17(5) of UPGST Act,** implies that the intention of the lawmakers was not only to exclude from the blockage of input tax credit, the motor vehicle which is itself further supplied, but also to exclude from the blockage of input tax credit, the motor vehicle which is being used for the purpose of further supply of similar type of motor vehicles. As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making ‘further supply of such motor vehicles’. **Accordingly, input tax credit in respect of demo vehicles is not blocked under clause (a) of section 17(5) of UPGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.**

4.5 There may be some cases where motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver) are used by an authorized dealer for purposes other than for making further supply of such motor vehicles, say for transportation of its staff employees/ management etc. In such cases, the same cannot be said to be used for making 'further supply of such motor vehicles' and therefore, input tax credit in respect of such motor vehicles would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of UPGST Act.

4.6 Further, there may be cases where the authorized dealer merely acts as an agent or service provider to the vehicle manufacturer for providing marketing service, including providing facility of vehicle test drive to the potential customers of the vehicle on behalf of the manufacturer and is not directly involved in purchase and sale of the vehicles. In such cases, the sale invoice for the vehicle is directly issued by the vehicle manufacturer to the customer. For providing facility of vehicle test drive to the potential customers of the vehicle, the dealer purchases demo vehicle from the vehicle manufacturer. The dealer may sell the said demo vehicle to a customer after a specified time or kilometres as per agreement with the vehicle manufacturer on payment of applicable GST. In such a case, the authorized dealer is merely providing marketing and/or facilitation services to the vehicle manufacturer and is not making the supply of motor vehicles on his own account. Therefore, the said demo vehicle cannot be said to be used by the dealer for making further supply of such motor vehicles. Accordingly, in such cases, input tax credit in respect of such demo vehicle would not be excluded from blockage in terms of sub-clause (A) of clause (a) of section 17(5) of UPGST Act and therefore, input tax credit on the same would not be available to the said dealer.

5. Availability of input tax credit on demo vehicles in cases where such vehicles are capitalized in the books of account by the authorized dealers.

5.1 As per provisions of section 16(1) of UPGST Act, every registered taxpayer is entitled to take input tax credit charged on any supply of goods and services made to him, where such goods or services are used in the course or furtherance of business of such person, subject to such conditions and restrictions as may be prescribed and in the manner which is specified.

5.2 Further, "goods" has been defined in section 2(52) of UPGST Act, as,

"goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

5.3 Also, section 2(19) of UPGST Act defines "capital goods" as,

"capital goods" means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business.

5.4 As mentioned in paras above, as the demo vehicles are used by the authorized dealers to promote further sale of motor vehicles of the similar type and therefore, such vehicles appear to be used in the course or furtherance of business of the authorized dealers. Where such vehicles are capitalized in the books of accounts by the authorized dealer, the said vehicle falls in the definition of “capital goods” under section 2(19) of UPGST Act. As per provision of section 16(1) of UPGST Act, subject to such conditions and restrictions as may be prescribed, a recipient of goods is entitled to take input tax credit in respect of tax charged on the inward supply of any goods, which as per definition of “goods” under section 2(52) of UPGST Act, includes even capital goods. Further, section 2(19) of UPGST Act also recognizes that capital goods are used or intended to be used in the course or furtherance of business. **Accordingly, availability of input tax credit on demo vehicles is not affected by way of capitalization of such vehicles in the books of account of the authorized dealers, subject to other provisions of the Act.**

5.5 However, it is to be mentioned that in case of capitalization of demo vehicles, availability of input tax credit would be subject to provisions of section 16(3) of UPGST Act, which provides that where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed. It is further mentioned that in case demo vehicle, which is capitalized, is subsequently sold by the authorized dealer, the authorized dealer shall have to pay an amount or tax as per provisions of section 18(6) of UPGST Act read with rule 44(6) of the Uttar Pradesh Goods and Service Tax Rules, 2017.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Undersigned.


By Order,


(Dr. Nitin Bansal) 27/9/20

Commissioner, State Tax, U.P.

Copy To:

1. Joint Commissioner (I.T.), State Tax HQ, Lucknow for uploading the Circular on the Departmental Website.


Joint Commissioner (GST)
State Tax HQ, Lucknow.