

AUTHORITY FOR ADVANCE RULING, TAMIL NADU
NO.207, 2ND FLOOR, PAPJM BUILDING, NO.1, GREAMS ROAD,
CHENNAI -600 006.

RULING UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND
UNDER SECTION 98(4) OF THE TNGST ACT, 2017.

Members present:

Sri. Balakrishna S, I.R.S., Additional Commissioner/Member (CGST), Office of the Commissioner of GST and Central Excise, Audit II Commissionerate, Chennai - 600 034.	Smt. A. Valli, M.Sc., Joint Commissioner/Member (SGST), Authority for Advance Ruling, Tamil Nadu, Chennai - 600 006.
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Advance Ruling No. 29/ARA/2024 Dated: 06.12.2024

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai as under Sub-Section (1) of Section 100 of CGST Act / TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed is communicated.

2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-

(a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.

GSTIN Number, if any / User id		33AAOCA1565H1ZP
Legal Name of Applicant		M/s. A2Mac1 INDIA PRIVATE LIMITED
Registered Address / Address provided while obtaining user id		Building B-02 B, ESR Orgadam Industrial and Logistics Park, Varanavasi Village, Oragadam-Walajabad Road, Walajabad Taluk, Varanavasi, Kancheepuram – 6313604
Details of Application		GST ARA – 01 Application Sl. No. 101/2023/ARA, dated 10-11-2023.
Jurisdictional Officer		State: Oragadam Assessment Circle Zone : Sriperumpudur Division: Kancheepuram
Concerned Officer		Center: Chennai North Commissionerate Division: Nungambakkam, Range : Range III
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provider
B	Description (in brief)	<p>M/s A2Mac1 (India) Private Limited ('the Applicant') is engaged in providing collaborative automobile benchmarking services, data management online platform to their customers.</p> <p>The Applicant provides access to the knowledge database as subscription package by way of online platform to customers where the detailed analysis of the software concept of structure, process and catalyze global benchmarking data is made available. The subscriber will get 360 degrees vehicle insights such as technology insights, cost insights, performance insights, market insights, sustainability insights, software insights, supply chain insights etc. The revenue from 'Automotive bench marking subscription' is classified under SAC 998331-'Engineering Advisory Services' @ 18%. The clients of the applicant comprises of both OEMs (Original Equipment Manufacturers) and OESs (Original Equipment Suppliers). For the above service, the applicant purchase cars in domestic market, disassembles them and adds research data to the corpus knowledge database for providing various insights to the customers. The motor vehicles bought are wholly and exclusively used for automotive research purposes carried out at the company's factory. Those vehicles are temporarily registered with the RTO. The cost of vehicles bought</p>

	and used for automotive benchmarking process are expensed out in the books. At the end of specific/vehicle retention period, they are sold on payment of applicable GST on such transactions. The applicant wish to submit that the issue for consideration is admissibility of input tax credit of tax paid on purchase of vehicles/cars as the service rendered using the vehicles/cars are integral part of the business model. The cost of purchase of vehicles are predominant to their business. The applicant seeks to clarify whether the input tax credit on the purchase of vehicle/cars are claimable, in terms of Section 17(5)(a) of the Central Goods & Services Tax Act, 2017.
Issue/s on which advance ruling required	Whether input tax credit can be claimed on the purchase of motor vehicles in terms of exception provided under Section 17(5)(a) of Central/Tamilnadu Goods and Services Tax Act, 2017.
Question(s) on which advance ruling is required	Query 1: Whether input tax credit can be claimed on the purchase of motor vehicles in terms of exception provided under Section 17(5)(a) of Central/TamilNadu Goods and Services Tax Act, 2017.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Services Tax Act and the Tamil Nadu Goods and Services Tax Act are in *parimateria* and have the same provisions in like matters and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Services Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Services Tax Act, 2017.

2. M/s A2Mac1(India) Private Limited (hereinafter '**the Applicant**') submitted a copy of challan CIN-HDFC23093300396513 dated 25-09-2023 evidencing payment of application fees of Rs. 5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017. The online application form for advance ruling dated 4th Oct, 2023 was physically received on 15-11-2023 as mandated under Rule 107A.

3. STATEMENT OF RELVANT FACTS AS NARRATED BY THE APPLICANT:

- M/s A2Mac1 (India) Private Limited (hereinafter '**the Applicant**') is incorporated under the Indian Companies Act with its registered office at Kancheepuram in the State of Tamilnadu. The company has registered under the Goods and Service Tax Act with GSTIN 33AAOCA1565H1ZP.

- The Applicant is engaged in providing 'Collaborative Automobile Benchmarking services' by data management online platform to the customers as a subscription package through an online platform where the detailed analysis of software concept of structure, process and global benchmarking data is made available.
- From the database, the subscribers of the Applicant will get 360 degrees vehicle insights such as technology insights, cost insights, performance insights, market insights, sustainability insights, software insights, supply chain insights etc.
- The subscription to the company's knowledge database enables their customers to
 - Benchmark and learn from most successful competitors, the best-in-class vehicle and their future innovations;
 - Assess and address the fundamental challenges of cost, performance, supply chain and sustainability impact;
 - Access to advanced comparison features and reporting tools that allow them to share these with users across different departments, locations and geographies, and help in optimizing the designs, giving them a competitive edge.
- The Applicant has stated that the revenue from 'Automotive Benchmarking Subscription' of the company is classified under SAC of 998331 'Engineering Advisory Services' and the applicant is discharging GST @ 18% on such income.
- The clients of the applicant comprises both OEMs (Original Equipment Manufacturer) and OESs (Original Equipment Supplier). Sample invoice copies raised by the Applicant to its customers towards Automotive Benchmarking Subscription are furnished.
- For vehicle benchmarking, the Applicant purchases brand new cars in the domestic market, disassembles them and adds research data to the corpus knowledge database for providing various insights to the customers. Motor vehicles bought by the Applicant are wholly and exclusively used for automotive research purpose carried out at the applicant's factory. Hence, these vehicles are temporarily registered with RTO(Regional Transport Office). Copies of sample invoice and undertaking provided by the Applicant to the vehicle supplier in relation to temporary registration is furnished.
- The applicant furnished a detailed process flow of the activities undertaken by them connected to vehicle dynamic benchmarking process with relevant images.
- The cost of the vehicle bought and used for automotive benchmarking process are expensed out in the books. Further, at the end of specific/vehicle retention period, they are sold and the Applicant is of the view that it is an activity of 'supply' in the course of its business and discharges applicable GST on such transactions.
- The Applicant submits that the issue for consideration is the admissibility of the input tax credit of tax paid on the purchase of new vehicles/cars. As the applicant is providing taxable service using vehicles/cars for research purposes, the purchase of vehicles/cars are integral part of the business model. The cost of purchase of vehicles/cars are predominant to the business without it the main

revenue stream of the Applicant i.e, supply of services via platform subscription would fail.

- The Applicant seeks to clarify whether the input tax credit on the purchase of vehicles/cars are claimable, in terms of Section 17(5)(a) of the Central Goods & Service Tax (CGST) Act, 2017. Applicant has furnished a statement containing their interpretation of law in addition to the facts, in respect of the aforesaid question.

4. SUBMISSIONS ON THE MERITS BY THE APPLICANT

- Under GST regime, input tax credit is a foundational mechanism provided under the Central Goods and Services Tax Act, 2017 and similar State enactments like Tamil Nadu Goods & Service Tax, 2017, for the avoidance of cascading effect of tax.
- Referring to 'input tax', Applicant stated that any supply of goods/services used/intended to be used as an input during the course of or in furtherance of business, the input tax is the credit or can be reduced by the taxable person towards their outward liability. Input tax credit is essentially the set-off of the amount of GST paid on purchases from the amount of GST to be paid on the sales. At the time of paying tax on output supplies, the output tax liability may be reduced by the input tax credit which is the amount of tax already paid. Thus, the concept is to provide an uninterrupted inflow of credit at all stages of the business chain.
- The applicant quotes Section 16 which deals with the eligibility and conditions for taking input tax credit. Sub-section (1) entitles a registered person to take ITC on supply of inputs as well as capital goods with conditions and restrictions.
- The applicant quoted Section 16(2) of the Act and stated that they have fulfilled all conditions prescribed for a registered person for availing eligible ITC.
- The applicant also quoted Section 17(5)(a)(A) which provides exceptions to the exclusions resulting in eligibility of ITC in the present case for the 'motor vehicles for transportation of persons' used for making 'further supply of such motor vehicles'.
- They have submitted that for the Company's business, the motor vehicles are indispensable tools for carrying out 'Automotive Research Study' which in turn offered for subscription to the customers. It is business requirement to buy a latest launched and popular vehicles, the cost of which are expensed in the books as input cost and after a specific/retention period the cars are sold by paying the applicable taxes/GST.
- Motor vehicles purchased are only for research purposes and kept for a specific period of time before selling. As the purchase of motor vehicle and further supply satisfies the conditions laid down in Section 17(5)(a)(A) of the Act and hence the applicant is eligible to avail input tax credit on purchases of motor vehicles which can be set-off against output tax payable under GST.
- The applicant submitted that the term 'further supply' has not been defined in the GST Act and therefore one has to go by the definition of 'supply' which is the very plinth of GST law. The term 'further' prefixed to 'supply' is merely in the form of an

adverb and does not differentiate it from 'supply' in any way. Thus, it makes the applicant eligible for availment of input tax credit on motor vehicles for the tax paid by them while acquiring the said vehicle.

- The applicant relied upon the findings of AAR, Kerala in the case of *M/s. A.M. Motors*, wherein, while analyzing the issue that whether ITC on motor car purchased for demonstration purpose of the customers can be availed as credit and set off against output tax payable under GST, the AAR held that , '*goods which are used in the course or furtherance of business, is entitled for input tax credit. As the impugned purchase of demo car is in furtherance of business, the applicant is eligible for input tax credit*'.
- In the case of *M/s. Chowgule Industries Pvt. Ltd*, AAR Maharashtra held that demo vehicles were used for a specific period and then sold after paying the applicable taxes on sale value at that time. Such sale amounted to making additional supplies, and when no time limit is prescribed in the GST Act, such sale would be eligible for input tax credit.
- In the case of *M.s. Narsingh Transport*, AAR, Madhya Pradesh has held that the applicant is entitled to avail ITC on cars (passenger vehicles) which are further supplied to customers on lease rent.
- The applicant submitted that the Hon'ble Supreme Court in the case of *M/s. Bajaj Temp Limited, Mumbai Vs. CIT(1992)* observed that while interpreting the statute, provision granting incentives for promoting economic growth and development should be liberally construed. Restriction placed on it by way of exception should be construed in a reasonable and purposive manner so as to advance the objective of the provision.
- From the above, it is clear that mechanism of ITC under the GST regime is a noble approach to restrict the cascading effect of taxes and enable the registered taxpayer for effective set-off of the ITC paid by them against the outward tax liability. The primary criteria for such set-off of ITC against the output tax liability is that the inputs must have been acquired in the course of business or for the furtherance of business.
- Finally, the applicant stated that it may be construed that for the business model of the company, the ITC on purchase of motor vehicle must be allowed. As such, the supplies are primarily associated with a commercial aspect of earning income and not intended for personal use. Therefore, specific restriction on availment of ITC in terms of Section 17(5)(a) of the GST is not applicable.

5. COMMENTS OFFERED BY AC, ORGADAM CIRCLE

- The applicant has filed application regarding admissibility of ITC of tax paid or deemed to have been paid. Appellant is a service provider HSN (998331)-Engineering Advisory Services and Consulting Engineer. Their business activity is to purchase automobiles, make detailed study of the vehicle, adding their automotive research. They share their knowledge to the customers regarding the automobile purchased. Applicant has placed reliance on Advance Rulings from various states in support of their contention. The said ruling are related to

purchasing of vehicles which are used as demo vehicles, vehicles used for rental/leasing purposes.

- In the applicant's case, they share their knowledge acquired by studying the automobiles as service which is different from the citations presented by them.
- Hence, ITC is not admissible for the applicant and informed that there is no proceedings pending before them.

6. COMMENTS OFFERED BY AC, MM NAGAR DIVISION, CHENNAI OUTER, CGST

- Reproducing the relevant portion of Section 17(5) of the CGST Act, 2017, the jurisdictional officer stated that the applicant is not eligible to avail ITC on purchase of motor vehicle, since they are not engaged in same line of business. The applicant is engaged in providing collaborative bench marking service by data management online platform to the customers (subscribers). The nature of business of the applicant is classified under SAC code 998331 as 'Engineering Advisory Services' which shall not be construed as same line of business.
- The applicant's reference to a decision of AAR mentioned in the application is not relevant as all the three namely, M/s. A.M. Motors, M/s. Chowgule Industries (P) Ltd and M/s. Narsingh Transport were engaged in the same line of business and hence eligible for ITC.
- However, in the instant case, the applicant is not eligible as they are engaged in 'bench marking service'.
- Further, the applicant is falling under State jurisdiction and hence the question of pending and decided proceedings on the subject issue in respect of the applicant does not arise.

7. PERSONAL HEARING

Personal hearing was held on 25-09-2024. Shri. Prabhat BK, Chartered Accountant, Partner in M/s. Roy Vargese & Associates and Authorised Representative (AR) attended the hearing. AR reiterated the submissions made by them in the facts of the case and submitted the merits of the issue. During the personal hearing, AR explained the business operations. On the merits, AR stated the exception to the exclusion provided under Section 17(5)(a) of the Act. Hence claimed that they are eligible for the availment of ITC on the cars purchased by them for providing the taxable output service. Alternatively, AR claimed that the motor vehicle purchased and used by them is not used for transportation of persons and hence would not fall within the scope of Section 17(5) of the Act. Hence they are to be considered as 'Plant and Machinery' on which they are eligible to claim ITC on its purchase.

8. DISCUSSION AND FINDINGS

8.1. The applicant is rendering Automobile Benchmarking services through data management online platform to their customers by providing access to the knowledge database by way of 'subscription package', where the detailed analysis of software concepts of structure, process and global benchmarking data is made available. For providing the service, they make outright purchase of motor vehicles (mostly cars) in domestic market, disassembles them and adds research data to the corpus knowledge

database with various insights to the customers. The motor vehicles bought are 'temporarily registered' with the RTO and used wholly and exclusively for automotive research purposes, carried out in their own factory. The cost of vehicles bought and used for automotive benchmarking process are expensed in their books. At the end of retention period (mostly 14 to 20 months), these cars are assembled again and sold to secondary market on payment of applicable GST on the transaction value.

8.2. With the above facts of the case, the applicant has filed an Advance ruling application seeking ruling on the following query.

Query 1 – *Whether input tax credit can be claimed on the purchase of motor vehicles in terms of exception provided under Section 17(5)(a) of Central/Tamilnadu Goods and Services Act, 2017.*

9.1 Input Tax Credit (ITC) on inputs and input services is a facility provided by the Government to avoid cascading effect of tax on tax. Chapter-V of the CGST/TNGST Act, 2017 deals with the 'Input Tax Credit' where the conditions, eligibility, apportionment, reversal and ineligibility were provided with explanations. Hence purchases made for business purposes plays a crucial role in reducing the overall tax burden. Section 16 of the Act, stipulates the eligibility and conditions for taking the input tax credit. Section 17 and its provisions deals with the apportionment of credits and **blocked credits**. Section 17(5) of the Central Goods and Services Tax (CGST) Act, 2017, restricts ITC on certain supplies received by a registered taxpayer. One such restriction is on motor vehicles used for the 'transportation of persons'.

9.2. As a general rule, Input Tax Credit is not available on motor vehicles with an approved seating capacity of less than or equal to 13 persons (including the driver). This encompasses most cars commonly used for business travel. There are exceptions to the general rule, allowing ITC to be claimed on specific categories of motor vehicles. However, specific restrictions apply to claiming ITC on motor vehicles. The eligibility of ITC on motor vehicles is provided with a particular focus on exceptions for motor vehicles not exceeding 13 persons (excluding driver) of seating capacity. To understand the intention of the Government and to decide the eligibility of input tax credit on 'motor vehicles for transportation of persons', the definition of Motor Vehicle and the provisions of Section 17(5) of the CGST Act, 2017 is required to be studied.

9.3. The relevant extract of Section 17(5) of the Act, to the present query sought by the applicant is reproduced below.

Section 17. Apportionment of credit and blocked credits.-

(1) *Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes,*

(2) *Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts,*

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis,.....

¹**[Explanation.** - For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, ⁴[except,—

- (i) the value of activities ; and
- (ii) the value of such activities or transactions]

(4) A banking company or a financial institution

Provided that the option once exercised shall not be withdrawn:

Provided further that the restriction of fifty per cent shall not apply.

(5) **Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:-**

²**[(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the 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;¹

(aa) vessels and aircraft except when they are used-

.....
.....

9.3 Further, the definition of 'Motor Vehicle' is provided under Section 2(76), of CGST/TNGST Act, 2017, wherein,

'Motor vehicle' shall have the same meaning as assigned to it in clause (28) of Section 2 of the Motor Vehicles Act, 1988(59 of 1988);

As per the definition contained in clause (28) of Section 2 of the Motor Vehicles Act, 1988,

"motor vehicle or vehicle means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding [twenty-five cubic centimeters];"

10. As per the above definition 'motor vehicle' is a term which includes all type of vehicles which are moved or propelled mechanically for use on roads. However, Section 17(5)(a) speaks only about 'motor vehicle for transportation of persons' having approved seating capacity of not more than thirteen persons (including driver). The emphasis given to this type of vehicle in the above clause is to provide exception only

to cars, SUVs and similar other types of motor vehicles intended for transportation of persons (not more than 13 persons) and not to the other type of motor vehicles, namely Auto-rickshaw, trucks, trailers etc. The specification of motor vehicle given in the clause is only to identify a particular motor vehicle from other categories of motor vehicles to provide an exception to that specific category which is intended for that purpose, i.e for transportation of passengers. So, the law specifically mentions that such motor vehicle should be used only for the intended purpose and exceptions are available only to the three activities done using the specified motor vehicle. Those three sub-clauses where the law provides availability of input tax credit is discussed hereunder.

11. The first one at sub-clause (A) is for “further supply of such motor vehicles”. The CBIC had issued a clarification in respect of admissibility of Input Tax Credit on ‘demo-vehicles’ in terms of in its Circular No. 231/25/2024-GST dated 10th Sep, 2024. The clarification clearly distinguished that the term “further supply of such motor vehicles” is applicable to a person engaged in business as an authorised dealer of a manufacturer of motor vehicles who sells the motor vehicles after purchasing from manufacturers or any person acting as an agent to the manufacturer without buying it. Thus, the Board clarified that the Input Tax Credit on the purchase of demo-vehicles by a dealer is very much available as it is falling within the scope of ‘further supply of such motor vehicles’. The intention of the Government to specifically include this supply of service implies that the input tax credit shall not be available to other motor vehicles not used for the intended purpose. The exclusion from input tax credit availment is given to all other motor vehicle even if it is used for any activity relating to business. Any other outward supplies using the motor vehicle for transportation of persons (having approved seating capacity of not more than 13 persons) are not eligible to claim input tax credit on such motor vehicle.

12. By providing an exception to the exclusion for availability of Input Tax Credit, the law is very clear and specific that except for the exceptions provided as sub-clause (A), (B) and (C), the input tax credit on the purchase of vehicles irrespective of any kind of outward supplies shall not be eligible. Hence, it is clear that for a motor vehicle specified in 17(5)(a) of the Act, even if it is used for supplying goods or services is not eligible for availment of input tax credit, irrespective of whether or not it is used in providing taxable outward supply.

13. The normal practice and understanding is that a motor vehicle, in the nature of cars or SUVs are normally intended to be used for ‘transportation of persons’, if it is for personal or official use. The second one at sub-clause (B) is for ‘transportation of passengers’. As per the definition contained in Oxford Dictionary, “passenger”, is a person who is travelling in a car, bus, train, plane or ship and who is not driving it or working on it. As per Websters dictionary, “passenger” is a “wayfarer” or “a traveler in a public or private conveyance”. From the definition, it can be construed that the motor vehicle used as a ‘passenger transportation vehicle’ is normally used by any taxpayer engaged in the line of business of ‘Rent-a-cab’ or Tour-operator’ service. Only such taxpayers are eligible for claiming input tax credit on the motor vehicles purchased and used for the intended purpose.

14. The third sub-clause (C) "imparting training on driving such motor vehicles" is clearly applicable only to driving schools which are providing training on driving of all categories of motor vehicles" using the vehicles purchased by them.

15. The applicant is seeking to claim the input tax credit on the ground that the motor vehicles used by them for making exhaustive analysis are after a specific retention period is sold and the applicant is of the view that it is an activity of 'supply' in the course or furtherance of business and discharges applicable GST on such transaction. The applicant has not classified the motor vehicles as capital goods in their books of accounts and hence the provisions relating to 'capital goods' shall not apply to the instant case with regard to input tax credit availment or reversal. In their submission at Exhibit-B, in para-1, they have submitted that at the end of usage or retention period, the vehicles are scrapped and the proceeds therefrom identified as income and applicable GST thereon discharged. Though they have informed that appropriate GST has been paid while clearing the motor vehicles after a retention period, they have not disclosed how the transaction value is arrived for discharging the tax.

16. During the personal hearing, the authorized representative have submitted that motor vehicle after the retention period are assembled again and sold to secondary market on applicable GST. Accordingly, if it is construed that the motor vehicle is sold as an 'old & used motor vehicle' under 'second sales', any person who is supplying such goods can claim the facility of the Notification No. 08/2018-CT(Rate) dated 25th Jan, 2018, wherein the rate of tax has been prescribed for various categories of motor vehicles which are 'old and used motor vehicle'. However, this facility is not available if the supplier has availed input tax credit as defined in clause (63) of Section 2 of the Act. Further, in Chapter-IV of 'Determination of value of supply', Rule 32(5) of the CGST Rules, 2017 prescribes valuation to be adopted for supply of second hand goods, i.e used goods as such or after such minor processing which does not change the nature of the goods and **where no input tax credit has been availed on the purchase of such goods**, the value of supply shall be the difference between the selling price and the purchase price and where the value of supply is negative, it shall be ignored. Though they have informed that appropriate GST has been paid while clearing the motor vehicles after a retention period, they have not disclosed how the transaction value is arrived for discharging the tax. 'Used car' becomes an 'old car' after use, can be sold only as second hand sales. Hence, the input tax credit is not available to the applicant who clears the motor vehicles after use.

17. On perusal of the sample invoices relating to supply of motor vehicles after retention period, it is seen that the applicant is not classifying the product after use as 'used or old motor vehicles' but are supplying it as scrap of 'Automobile part' paying GST @ 18% (CGST-9% and SGST-9%). As the applicant is supplying the goods as 'Scrap', the activity will not fall within the scope of 'further supply of such motor vehicles'. Accordingly, the applicant cannot claim the exception and hence are not eligible to take ITC on the motor vehicles purchased by them.

18. The applicant, in their submission has cited two Advance ruling cases namely, **M/s. A.M. Motors** and **M/s. Cjowgule Industries Pvt. Ltd** with regard to eligibility of input tax credit on demo vehicles. On the very same issue, the Board has clarified vide Circular No. Circular No. 231/25/2024-GST dated 10th Sep, 2024 that the nature of activity of the taxpayers who used demo vehicles, it was clarified that those vehicles are being used by the authorized dealer only to provide trial run and to demonstrate features of the vehicle to potential buyers and hence would fall within the exception provided in sub-clause (A) as "further supply of such motor vehicles" under Section 17(5)(a) of the Act, and hence the vehicle used for demo purpose would be eligible for input tax credit. We are of the view that this clarification is applicable only to demo-vehicles and not for other categories of supply of goods or services.

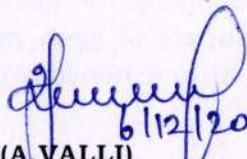
19. The applicant has cited another Advance ruling in the case of **M/s. Narsingh Transports**, wherein the taxpayer registered as 'Goods Transport Agency' were paying GST @ 12% claiming input tax credit. Further, the taxpayer had purchased cars and has provided them to various companies on lease rent under a lease agreement on monthly basis. With regard to eligibility of input tax credit on the vehicles purchased, AAR ruled that the taxpayer is eligible for ITC. The facts and circumstances of the case is different from the present case on hand and hence is not comparable.

20. From the facts presented by the applicant and as a result of detailed analysis in the preceding paras, it is inferred that the nature of outward supply rendered by the applicant would not fall under any of the exceptions provided under Section 17(5)(a) of the Act. Accordingly, Input Tax Credit on the Motor Vehicles purchased for providing the taxable output supply of 'Automobile bench marking service' is not available to the applicant for availment.

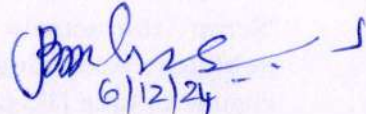
21. Based on the above discussion, we rule as under.

RULING

Based on the facts, records and evidences submitted along with the application, and after making detailed analysis, the input tax credit on the purchase of motor vehicles used for providing taxable outward supply of 'Automobile Bench Marking Service' and supplied as 'Scrap of Automobiles' is not available to the applicant as the applicant's activity would not fall within the exception to the exclusion provided under Section 17(5)(a) of CGST/TNGST Act, 2017.


(A. VALLI)
Member (SGST)




(BALAKRISHNA. S)
Member (CGST)

To

M/s. A2MAC1 India Private Limited

GSTIN: 33AAOCA1565H1ZP)

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//by RPAD//

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3. The Commissioner of GST & Central Excise,
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Copy to:

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2. Master File/ Spare – 2.

