



Updates



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Highlights



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Tax Notification

Sl No	Subject	Central Tax Notification	State Tax Notification
1	<p>Interest waived for certain e-commerce operators who could not file FORM GSTR-8 due to technical glitch on the Portal.</p> <p>The waiver is given for specified periods and is from the date of deposit of the tax collected under section 52(1) into the electronic cash ledger till the date of filing of Form GSTR-8.</p>	<p><u>8/2022-CT, dt. 07-06-2022</u></p>	<p>.....</p>

Rulings by WBAAR



Order No & dt: [03/WBAAR/2022-23 dated 30.06.2022](#)

Name of the Applicant: TOPLINK MOTORCAR PRIVATE LIMITED

The applicant is an authorized dealer of Hyundai Motor India Limited for supply of different ranges of motor vehicles & also carries on business activities as an authorized service station. He purchases vehicles against tax invoices which are reflected in his books of accounts as capital assets and are used as demo cars for providing trial run to the customers to make them understand the features of the vehicles.

Following are the rulings in respect of the queries before the WBAAR:

i. Whether GST liability on sale of vehicle, spares, labour can be set-off by utilizing the ITC on purchase of demo vehicle, other expenses like repairs & maintenance, insurance etc. ?

✓ ITC on motor vehicles used for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver) can be availed only when such motor vehicles are (i) supplied further, or (ii) used for transportation of passengers, or (iii) used for imparting training on driving such motor vehicles.

Rulings by WBAAR (contd...)



Order No & dt: [03/WBAAR/2022-23](#) dated 30.06.2022

Name of the Applicant: TOPLINK MOTORCAR PRIVATE LIMITED

RULING (contd)...

- ✓ The standard business practice of a car dealer is to purchase vehicles including one or more demo vehicles for further supply of such vehicles. While non-demo vehicles are made available for sale immediately after the purchase, the demo vehicles are put up for sale after the demonstration/test drive period. The demo vehicles are purchased all along for further supply with the condition that they will be kept for a specific period of time. Purchase of demo vehicles & further supply of the same satisfies the conditions laid down in section 17(5)(a)(A) of the GST Act.
- ✓ The applicant is eligible to avail ITC on purchases of demo vehicles which can be set off against output tax payable under GST

Rulings by WBAAR (contd...)



Order No & Dt: 04/WBAAR/2022-23 dated 30.06.2022

Name of the Applicant: ROHIT SINGH KHARWAR

The applicant is engaged in the business as an importer of spare parts of electrically operated vehicles. He intends to enter into the business of manufacturing & reselling of electrically operated three wheeled vehicles in West Bengal.

Following are the rulings in respect of the queries before the WBAAR:

i. Whether a three-wheeled electrically operated vehicle, commonly known as e rickshaw, when sold without battery is classifiable as an “electrically operated motor vehicle” under HSN 8703?

ii. In case where the answer to question No 1 is in negative, what shall be the classification and the rate of tax?

✓ A three-wheeled electrically operated vehicle, commonly known as e-rickshaw, when supplied without battery is classifiable as an “electrically operated motor vehicle” under HSN 8703.

Rulings by WBAAR (contd...)



Order No & Dt: 05/WBAAR/2022-23 dated 30.06.2022 contd.

Name of the Applicant: AMWA MOTO LLP

The applicant is engaged in the business as wholesaler of electrically operated two wheeled vehicles. The company wants to enter into the business of manufacturing and reselling of electrically operated three wheeled vehicles in the state of West Bengal.

Following are the rulings in respect of the queries before the WBAAR:

i. Whether a three-wheeled electrically operated vehicle, commonly known as e rickshaw, when sold without battery is classifiable as an “electrically operated motor vehicle” under HSN 8703?

ii. In case where the answer to question No 1 is in negative, what shall be the classification and the rate of tax?

✓ A three-wheeled electrically operated vehicle, commonly known as e-rickshaw, when supplied without battery is classifiable as an “electrically operated motor vehicle” under HSN 8703.

Court Judgement

HIGH COURT OF CALCUTTA : Ramesh Kumar Patodia v. Citi Bank [WPO NO. 547 OF 2019 JUNE 24, 2022]

Facts:

- ❖ Petitioner is a holder of a valid Citi Bank Credit Card issued by the respondent no. 1/Bank. He was granted an instant loan by the Bank at a specified rate of interest above the credit limit. The loan on his credit card is disbursed and is repayable in Equated Monthly Instalments [EMIs] along with an additional initial interest amount.
- ❖ The petitioner detected that IGST @ 18% was charged on the initial interest as well as interest component of EMI.
- ❖ The petitioner raised objection against charging of IGST on the initial interest as well as interest component of EMIs by the bank & filed the writ petition.

Judgement:

The writ petition filed by the petitioner was dismissed by the Hon'ble Court based on the following grounds:-

- ✓ It is evident from the offer of loan that the same was not an offer to all intending borrowers but was restricted to a particular category of persons holding the Citi Bank Credit Card.

Court Judgement (contd...)

HIGH COURT OF CALCUTTA : Ramesh Kumar Patodia v. Citi Bank [WPO NO. 547 OF 2019 JUNE 24, 2022]

Judgement (contd)...

- ✓ The criteria for processing the loan, the manner in which the EMI of loan is reflected in the Credit Card statements & the charging of interest in case there is a shortfall in the payment of the amount due as well as the mode of payment all goes to prove that **the service rendered by the Bank in extending the loan in question is nothing but a service pertaining to the said credit card.**
- ✓ The expression "other than interest involved in credit card services" appearing under Serial No. 28 of notification no. 9/2017-IGST (R) dt 28.06.2017 carves out **an exception by excluding the interest on credit card services from the purview of the said exemption notification.**
- ✓ The services rendered by the bank by way of extending loans to the petitioner in the instant case **amounts to credit card services, the interest component of EMI of the said loan is nothing but interest involved in credit card services which is not exempted by notification no. 9/2017-IGST (R) dt 28.06.2017.**

Thank
you



Image courtesy:
<https://www.google.co.in/imghp?hl=en&tab=ri&ogbl>

Disclaimer:

This presentation is clarificatory in nature. It is not to be construed as a legal explanation or interpretation of the Acts and the Rules.