

Treading the GST Path – XXIV

Car rental agencies in a fix

(G. Natarajan, Advocate, Swamy Associates)

One unique problem faced by the car hire / travel businesses, post GST is highlighted in this article for suitable redressal.

The following GST Rates are applicable for various services of this sector (The rates refer to CGST rate and an equal rate of SGST would also apply in case of intra state supplies), as per Notification 11/2017 Central Tax (Rate) DT. 28.06.2017.

S.No.	Chapter, Section or Heading	Description of Service	Rate	Condition
(1)	(2)	(3)	(4)	(5)
8	Heading 9964 (Passenger transport services)	(vi) Transport of passengers by motorcab where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(vii) Passenger transport services other than (i), (ii) (iii), (iv), (v) and (vi) above.	9	-
10	Heading 9966 (Rental services of transport vehicles)	(i) Renting of motorcab where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(ii) Rental services of transport vehicles with or without operators, other than (i) above.	9	-

- (iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-
- (a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and
 - (b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.

The business of car rental operates mainly on outsourcing that the number of vehicles owned by the car rental agency would be very minimum and they would be hiring vehicles either from other small agencies or from individuals, who are owner cum drivers. Under the erstwhile service tax regime, such sub agencies / individual agencies would either be below the threshold exemption of Rs.10 lakhs per annum, or even if they are liable to pay service tax, the service tax paid by them after claiming abatement can be availed as cenvat credit by the main agency and still the main agency is entitled to claim abatement. (S.No. 9 of Notification 26/2012 as amended by Notification 8/2014 ST Dt. 11.07.2014).

The situation under GST is as under.

If the sub agencies / individual owners are not liable to be registered under GST, the main agency receiving their services is liable to pay GST under reverse charge. If they avail Input Tax Credit of such GST, they would not be eligible to pay GST @ 5 % on their outward supplies, but would be liable to pay 18 %. In most of the cases, the GST charged by such car rental agencies would not be entitled for ITC in the hands of the ultimate customers, as rent-a-cab service is prohibited for availment of ITC as per Section 17 (5) of the CGST Act, except in few cases. So, the customers would insist the car rental agency to charge only 5 %. In such case, the GST paid on the services provided by sub agencies / individuals, would be an additional cost in the hands of the main agency. As the car rental business is currently operating on a minimum profit margin, absorbing this additional cost of 5 % would not be commercially viable.

This imminent problem could be addressed, if the clause (iv) under Notification 11/2017 is suitably amended to allow Input tax credit of service tax on similar renting of cabs, by the service provider to provide similar service.

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