

# **ITC on vehicles hired for transportation of employees not available unless obligatory under any law – HP AAR**

Issued on: 20 July 2020



## Summary

The Himachal Pradesh Authority for Advance Ruling (AAR), in a recent case, has held that input tax credit (ITC) paid on services of hiring commercially licenced vehicles for transportation of employees shall not be available unless providing such facility is obligatory under any law.

### Facts of the case

- The applicant<sup>1</sup> is a public service broadcaster. It avails services of hiring taxis to provide pick and drop facilities to its employees.
- The applicant sought an advance ruling from the AAR to determine availability of ITC on GST paid on services of hiring taxis.

### Himachal Pradesh AAR's observations and ruling

- The AAR observed that under the GST laws, ITC is available only on the condition that such goods or services, or both, is obligatory for an employer to provide to its employees under any law for the time being in force<sup>2</sup>.
- In the instant case, the applicant has not been able to cite any law under

which the service of providing the facility of transportation to his employees is obligatory under law.

Thus, the AAR held that ITC in respect of GST paid on such services shall not be available.

---

<sup>1</sup> M/s Prasar Bharti Broadcasting Corporation of India

<sup>2</sup> Section 17(5)(b) of the CGST Act, 2017

---

## Our comments

The GST law was formulated with the intention of ensuring free flow of credits. However, it provides for certain restrictions in availing ITC in respect of goods or services. With effect from 1 February 2019, the law was amended to provide that ITC shall be available on motor vehicles for transportation of persons having approved sitting capacity of not more than 13 persons, including the driver, when such is used for transportation of passengers. The Haryana Appellate Authority for Advance Rulings (AAAR)<sup>3</sup> had also ruled that ITC on hiring of buses on contract basis having capacity of more than 13 passengers shall be available.

However, ITC in respect of renting or hiring of motor vehicles is allowed only if it is obligatory under any law. Providing transportation facilities to employees is one of the major expenditures for most businesses and such kind of restrictions add to the costs rather than ensuring free flow of credits. Thus, the government should amend the provisions appropriately to ease the availability of ITC in respect of these services.

---

<sup>3</sup> M/s YKK India Pvt Ltd

# Contact us

To know more, please visit [www.grantthornton.in](http://www.grantthornton.in) or contact any of our offices as mentioned below:

<b>NEW DELHI</b> National Office Outer Circle L 41 Connaught Circus, New Delhi 110 001 T +91 11 4278 7070	<b>NEW DELHI</b> 6th floor, Worldmark 2, Aerocity, New Delhi – 110 037 T +91 11 4952 7400	<b>AHMEDABAD</b> 7th Floor, Heritage Chambers, Nr. Azad Society, Nehru Nagar, Ahmedabad – 380 015	<b>BENGALURU</b> 5th Floor, 65/2, Block A, Bagmane Tridib, Bagmane Tech Park, C V Raman Nagar, Bengaluru – 560 093 T+91 80 4243 0700	<b>CHANDIGARH</b> B-406A, 4th Floor, L&T Elante office Building Industrial area, Phase-I, Chandigarh 160 002 T +91 172 4338 000
<b>CHENNAI</b> 7th Floor, Prestige Polygon 471, Anna Salai, Teynampet Chennai - 600 018 T +91 44 4294 0000	<b>DEHRADUN</b> Suite No 2211, 2nd Floor Building 2000 Michigan Avenue, Doon Express Business Park, Subhash Nagar, Dehradun 248 002 T +91 135 264 6500	<b>GURGAON</b> 21st Floor DLF Square Jacaranda Marg, DLF Phase II, Gurgaon 122 002 T +91 124 462 8000	<b>HYDERABAD</b> 7th Floor, Block III White House Kundan Bagh, Begumpet Hyderabad 500 016 T +91 40 6630 8200	<b>KOCHI</b> 7th Floor, Modayil Centre Point, Warriam Road Junction, MG Road, Kochi 682 016 T +91 484 406 4541
<b>KOLKATA</b> 10C Hungerford Street 5th Floor, Kolkata 700 017 T +91 33 4050 8000	<b>MUMBAI</b> 16th Floor, Tower II Indiabulls Finance Centre SB Marg, Prabhadevi (W) Mumbai 400 013 T +91 22 6626 2600	<b>MUMBAI</b> Kaledonia, 1st Floor, C Wing (Opposite J&J office) Sahar Road, Andheri East, Mumbai - 400 069 T +91 22 6176 7800	<b>NOIDA</b> Plot No. 19A, 7th Floor Sector – 16A, Noida 201 301 T +91 120 4855 900	<b>PUNE</b> 3rd Floor, Unit No 309 to 312, West Wing, Nyati Unitree Nagar Road, Yerwada Pune- 411 006 T +91 20 6744 8800

For more information or for any queries, write to us at [contact@in.gt.com](mailto:contact@in.gt.com)



Follow us @GrantThorntonIN



© 2020 Grant Thornton India LLP. All rights reserved.

“Grant Thornton in India” means Grant Thornton India LLP, a member firm within Grant Thornton International Ltd, and those legal entities which are its related parties as defined by the Companies Act, 2013.

Grant Thornton India LLP is registered with limited liability with identity number AAA-7677 and has its registered office at L-41 Connaught Circus, New Delhi, 110001.

References to Grant Thornton are to Grant Thornton International Ltd (Grant Thornton International) or its member firms. Grant Thornton International and the member firms are not a worldwide partnership. Services are delivered independently by the member firms.