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Rent-a-Cab in GST- Unfolding the Mystery

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Rent-a-Cab in GST –Unfolding the Mystery

The Word **Rent-a-Cab** has not been defined in the CGST Act, 2017 . The Word has been used in CGST Act 2017 only once u/s 17(5). Paragraph mentioned is follows :

Section -17(5) of the CGST Act,2017 says ;

*(iii**) rent-a-cab**, life insurance and health insurance except where—*

(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

Here I am going to discuss the word Rent a cab as the word is used for denying the input credit . Means thereby , if any supplier of Goods or Services uses this service, it will not be allowed as Input Tax Credit. First of all there is no logic behind the fact that why this service is not eligible for ITC. Second what constitute Rent a Cab.

Is the world “Rent-a-Cab” constitute any “motor vehicle” or Motor Cab or Maxi Cab or Stage carrier or Contract Carrier as defined in the Motor Vehicle Act, 1988.

Why this question is of immense importance because, if any, supplier hire bus or other vehicle carrying more than six passenger for his employees , does it fall under Rent-a-cab and is disallowed u/s 17[5] of the CGST Act,2017. If it does not fall under rent-a-cab , it means supplier of services can take credit of ITC .

Before we move on to GST on this issue , **we need to make analysis of Rent-a-Cab under Service Tax in earlier law.**

Section 65(20) – *“**Cab** means –*

(i) a motor cab, or

(ii) a maxi cab, or

(iii) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward:
Provided that the maxi cab referred to in sub-clause (ii) or motor vehicle referred to in sub-clause (iii) which is rented for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre, shall not be included within the meaning of cab.”

However, as per **Notification No. 20/2012-ST dated 05-06-2012**, the provisions of Section 65 shall not apply with effect from 01-07-2012. It means, in the **Negative List regime**, the definitions contained in Section 65 are no longer applicable for service provided or agreed to be provided on or after 01-07-2012. The new definitions are contained in section 65B of the Finance Act, 1994 which do not define 'Rent-A-Cab' or any similar service. Therefore above definition is provided in section 65[20] was made redundant in post Negative list era of Service tax.

Any person providing service of 'renting' of motor vehicle designed to carry 'passengers', which is not covered under the negative list u/s 66D and also not exempted vide **Notification** **No.25/2012-Service Tax, dated the 20th June, 2012** is covered in the description of rent-a-cab service. It can be clearly seen that renting of **any** motor vehicle (and not just a cab/taxi) is included. It means it includes renting of motor cars, motor cabs, maxi cabs, mini buses, buses and all other motor vehicles which are designed to carry passengers, irrespective of its passenger carrying capacity.

Rent-a-Cab in GST

Since the rent-a-cab has not been defined under GST Act, we need to analyse the same word taking the help of Motor Vehicle Act,1988.

Dictionary meaning of Rent a cab is " Taxi ".

"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 thirty-five cubic centimeters;

"Radio taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).

'Stage Carriage' means a motor vehicle constructed or adopted to carry more than six passengers excluding the driver for hire or reward at separate fairs paid by or for individual passengers, either for the whole journey or for stages of the journey [section 2(40) of the Motor Vehicles Act, 1988].

***Motor* Cab** Section 2(25) of Motor Vehicles Act, 1988 defines 'motor cab' as any motor vehicle constructed or adapted to carry not more than 6 passengers *excluding* driver, for hire or reward

Section 2(*7*) of the Motor Vehicles Act defines **a 'contract carriage'** as follows : 'Contract carriage' means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether express or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum— (*a*) on a time basis, whether or not with reference to any route or distance; or (*b*) from one point to another;- - and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, - - and includes— (*i*) a maxi-cab; and (*ii*) a motor-cab notwithstanding that separate fares are charged for its passengers.

Thus, the essential ingredient of a contract carriage is that it plies under a contract for a fixed set of passengers, and does not allow any other passenger to board or alight from the carriage at will.

A 'contract carriage' carries passengers as a group and cannot pick up passengers *en-route*.

As per section 2(22) of Motor Vehicles Act, 1988 **'maxi cab'** means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, *excluding* the driver, for hire or reward. These vehicles are more popularly known as vans, Innova, sumo etc

After going through the above definitions in Motor Vehicle Act, it can be concluded that Rent-a-cab falls under the definition of “motor cab” which can not carry more than six passenger

Though in case of Service Tax, all motor vehicle meant to carry passenger was covered in Rent-a-cab service .

Conclusion;

Therefore in my opinion , if any supplier of goods or services hires bus or any other motor vehicle carrying more than six passenger for their employees or otherwise , shall not fall under the definition of rent-a-cab u/s 17[5] and ITC will be allowed on this service which falls under the SAC - 9964.

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