

**GUJARAT AUTHORITY FOR ADVANCE RULING
GOODS AND SERVICES TAX
A/5, RAJYA KAR BHAVAN, ASHRAM ROAD,
AHMEDABAD – 380 009.**



ADVANCE RULING NO. GUJ/GAAR/R/2022/ 34
(IN APPLICATION NO. Advance Ruling/SGST&CGST/2022/AR/22)

Date: - 01.06.2022

Name and address of the applicant	:	M/s. Dishman Carbogen Amcis Limited, Dishman Corporate House, Iscon Ambali road, Ahmedabad,380058
GSTIN/ User Id of the applicant	:	24AADCC1254E1Z9
Date of application	:	12-4-22
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	c
Date of Personal Hearing	:	5-5-22
Present for the applicant	:	Shri Vinod Bohra, Manager and Shri R. Subramanya, Advocate

Brief Facts

1. The applicant, M/s. Dishman Carbogen Amcis Limited submitted that it purchased a new car [SUV of Specifications, Length > 4000 mm, and Ground Clearance > 170 mm] for Rs. 80 Lakhs on 16-02-2018 for use in its business and did not avail GST Input Tax Credit at the time of purchase as it is restricted under Section 17(5) of the CGST Act, 2017. Depreciation was claimed under the Income Tax Act, 1961 (43 of 1961).
2. The applicant has submitted that it intends to sell the same used car for a consideration of Rs. 55 Lakhs (Inclusive of all applicable taxes). The Written Down Value as per books of accounts is Rs. 47 Lakhs at the time of selling.
3. The applicant submits that it intends to sell the car and charge GST in terms of Notification 8/2018 CT(R) dated 25-01-2018.

4. Questions on which Advance Ruling sought.

1. On what value, the new car purchase by the company is sold after using it for business purpose, shall the GST be charged?
2. At what rate of GST, the new car purchase by the company is sold after using it for business purpose, shall the GST be charged?
3. Whether the value of old and used car, sold by the company as mentioned above, can be taken as the value that represent margin of the supplier, on supply of such car, and whether the GST can be charged on such margin?

4. The value that represent margin of the supplier, on supply of such old and used goods/Car will be inclusive of GST or exclusive?

Personal Hearing

5. Virtual hearing granted on 5-5-22 was attended by Shri Vinod Bohra, Manager and Shri R. Subramanya, Advocate and they reiterated the submission. During hearing, Shri Bohra submitted that the vehicles engine capacity exceeded 1500cc and the fuel used is diesel.

Revenue's Submission

6. Revenue has neither submitted its comments nor appeared for hearing.

Findings

7. As per the submissions of the applicant, We find that subject car has engine capacity exceeding 1500 cc, length > 4000 mm, and ground clearance > 170 mm, with diesel as its fuel. As the applicant submits that it has not availed ITC, We find this used car to fall under the category of sr no 3 to Notification 8/2018-CT (R) dated 25-1-18, reads as follows:

S. No.	Chapter, Heading, Subheading or Tariff item	Description of Goods	Rate
(1)	(2)	(3)	(4)
3.	8703	<p>Old and used motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles.</p> <p><i>Explanation.</i> - For the purposes of this entry, SUV includes a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm. and above.</p> <p><i>Explanation</i> - For the purposes of this notification, -</p> <p>(i) in case of a registered person who has claimed depreciation under section 32 of the Income-Tax Act, 1961 (43 of 1961) on the said goods, the value that represents the margin of the supplier shall be the difference between the consideration received for supply of such goods and the depreciated value of such goods on the date of supply, and where the margin of such supply is negative, it shall be ignored.</p>	9%

8. We pass the Ruling,

Ruling

1. The Value for intended supply shall be the difference between the consideration received for supply of said car and the depreciated value of the said car on the date of supply. Depreciation is as per Section 32 Income Tax Act.
2. GST rate leviable is 18% (9% CGST & 9% SGST).
3. Valuation & GST rate of intended supply is as per Ruling at sr no 1 & 2.
4. Valuation, as per Explanation (i) to said Notification 8/2018-CT(R), is exclusive of GST.

(ATUL MEHTA)
MEMBER (S)

(ARUN RICHARD)
MEMBER (C)

Place: Ahmedabad

Date: 01.06.2022

