

GIB/MH/B U BHANDARI/20.06.18/AAR-126

Advance Ruling Category : Determination of Liability

State : Maharashtra

Order No.: GIB/MH/B U BHANDARI/20.06.18/AAR-126

Name of Entry :

1.B U Bhandari Pvt Ltd 2. B U Bhandari Automative Pvt Ltd 3.BU Bhandari Motors Pvt Ltd

Date : 20-06-2018

Product/ Service Involve :

Applicant is engaged deals in motor vehicles viz, passenger cars, parts and components and accessories there of and render services of various types to various persons

Breif Issue :

1. Whether the registration Charges, insurance Charges, handling charges received and paid on behalf of the customer of a motor vehicle, form part of the "sale price", of such motor vehicle, considering the provisions of Section 2(25) of the MVAT Act?
2. Whether Incentive and discount, received from the automotive manufacturers form part of the "sale price" or need to be treated as a "sale price" of the motor vehicle sold to the customer or whether it results in reduction of set off ?
3. Whether the Applicant is entitled to claim set off, on purchased motor vehicle and used it as 'Demo Vehicles', irrespective of the fact that such vehicle continuing to be "stock-in-trade" or not being treated as "capital asset" in the books of accounts of the Applicants?
4. Whether the prayer of "prospective effect", considering the fact that the decision of the Hon. High Court Of Judicature at Bombay in the case of Sehgal Autoriders Private Limited was rendered on 11th July, 2011 and whereas the decision of the Hon'ble Supreme Court of India in the case of K.T.C. automobiles was rendered only on 29th January, 2016.

Decision of Advance Ruling Authority :

Held as—1. In affirmative, the registration Charges, insurance Charges handling charges received and paid on behalf of the customer of a motor vehicle, form part

of the "sale price"

2. In affirmative, Incentive and discount, received from the manufacturer automotive need to be treated as a "sale price" of the motor vehicle sold to the customer. Since the automotivemanufacturer has given the credit note Of tax amount, it results in reduction of set off also.
3. In affirmative, if the demo cars are not capitalized.
4. The tax liability of the applicant on the receipt of handling charges or service charges related to registration only is protected from period July, 2011 to 29th January, 2016 only.