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Week of 17th November 2017

A. CHANGES IN THE GST REGIME

Declaration of revised MRP allowed till 31st December, 2017

On account of implementation of GST and the subsequent amendments in the rate structure applicable to various goods and services, the MRPs of many pre-packaged commodities had undergone a change. To display/declare the revised MRPs on the commodity packet, manufacturers were earlier allowed to affix stamps or stickers in addition to the existing printed MRP therein for three months with effect from 1st July 2017 to 30th September, 2017(Please refer to our GST Update Volume 2 for details). The time limit to display the revised MRPs in the above stated manner has been now enhanced for a further period of three months, i.e. up to 31st December, 2017. Further, where the prices of commodities have changed more than once in the GST regime due to subsequent changes in the applicable rates, it has been allowed to affix an additional sticker or stamp for declaring the further reduced MRP on the pre-packaged commodity, keeping the earlier labelling/ sticker of MRP visible. This move is directed to ensure that all the changes due to rate amendments are evident to the ultimate consumers.

Anti-profiteering measures

A press release has been issued by CBEC to appeal to all the major fast-moving consumer goods (FMCG) companies pointing out the need to immediately revise the MRP on all the products in respect of which the applicable GST rates have been reduced. It has also been requested to give wide publicity to the revised MRP of products. The onus has thus been put on the manufacturers to inform their supply chain about the new price, going all the way down from distributors to wholesalers and retailers. Further, the department has observed that some restaurants have increased their prices post the reduction in rates applicable to restaurant services citing the reason of non-availability of input tax credit for them. Therefore, many restaurant and food chains have got queries from the GST officials seeking details about menu prices before and after the latest reduction in prices. It may be noted that in order to check any attempts of illegal profiteering, the National Anti-profiteering Authority (NAA) was recently constituted (Please refer to our GST Update Volume 21 for details). Crucially, the authority has been granted wide-ranging powers to check profiteering, including the power to cancel the registration of offending suppliers in extreme cases.

GST on parking charges

In response to the doubts being raised regarding the collection of GST on parking charges at railway station and other public places, the CBEC has clarified that GST is applicable on parking lot services. Parking lot services fall under HSN code number 996743 and liable to GST at 18% on the parking charges paid.

GST on terracotta idols

The GST rate on supply of idols made of clay is nil[1]. The CBEC has now clarified that terracotta idols will be also be eligible for nil rate as terracotta is a clay-based unglazed or glazed ceramic. However, GST at the applicable rates is payable on repairs and maintenance done in respect of such idols.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Further expected rate reduction

Recently, the government had reduced the GST rate on 178 good from 28% to 18% or less, effective since 15th November; 2017 (Please refer to our GST Update Volume 20 for details). According to media reports, another revision in the present GST rate structure is possible post which only luxury or demerit goods will be subjected to the highest tax rate of 28%. At the next GST Council meet which is scheduled in January, the GST Council is likely to reduce the applicable GST rate on electronic items such as washing machine, refrigerator and air conditioner, which are presently taxable at 28%. Attempts may also be made to merge the 12% and 18% rate slab for goods and services tax (GST) into one. However, the possibility of having a single tax rate structure for GST seems unviable.

GST on telecommunication services

When the rate of GST was fixed at 18% for telecommunication services, it was apprehended that the total tax incidence on the telecommunication sector in the GST regime will be higher in comparison to the earlier tax regime where these services were taxable at the rate of 15%. The industry association Cellular Operators Association of India (COAI) had also made a representation to the Government seeking a lower rate for telecommunication services citing that telecommunication is a necessary service in today’s era. However, despite the 3% increase in the applicable rates in the GST regime, telecommunication firms are among the major beneficiaries of the new regime for the following reasons:

- Under the previous regime, telecommunication services attracted service tax at the rate of 15% inclusive of Swachh Bharat Cess and Krishi Kalyan Cess. Moreover, the telecom service providers were neither eligible for credit of VAT paid on goods nor of special additional duty (SAD) paid on imported goods/equipment.
- As against the above, the telecommunication services now attract GST at the rate of 18% along with the availability of full input tax credit of inputs and input services used in the course or furtherance of business by the telecommunication firms. Additionally, under GST, telecommunication firms can avail credit of IGST paid on domestically procured goods as well as on imported goods.
- Further, earlier service tax was payable by these telecommunication firms on the license fee payable by them to the government to use the telecommunication spectrum. The input tax credit of the service tax so paid could not be availed entirely at once. It was available in equal parts over a period of 3 years. This means that in the year 2016, these firms could have availed only one-third credit of the input tax so paid. In the GST regime, no such restriction exists and the entire credit can be availed in one year also. Resultantly, the balance two-thirds credit of the previous year would be admissible in the current financial year 2017 itself.

All of these would reduce the liability of the telecommunication firms to pay GST by about 87% of what they paid in the last financial year.

GST incentives on digital payments

The central government has proposed a two percentage point discount in the GST rates for consumers who make digital payments. The proposal is likely to be taken up in the next GST Council meeting, wherein the exact details will be spelt out. The incentive will be available in cases of transactions for goods and services, other than for business use, that attract a GST rate of 3 percent or more. As per the proposal in its present form, the incentive will include a 1% reduction each on the CGST and SGST in case of intra-state supplies or 2% reduction on IGST in case of inter-state supplies.

GST on biodiesel

The erstwhile competitive Indian biodiesel industry, which supplies to Indian railways and other oil marketing companies, is now facing a decline owing to multiple taxes, lack of availability of input credit and absence of any exemptions. Earlier, the inputs required for manufacture of biodiesel, majority of which had to be imported due to lack of availability in India were exempt from payment of any taxes including customs duty. No tax was payable on the output supply of the biodiesel also. This encouraged a number of manufacturers to enter the biodiesel industry. Subsequently, the exemption on customs duty was withdrawn in May 2017. Currently, the import of raw materials attracts customs duty at the rate of 25%. Further, the supply of the finished goods i.e. the biodiesel itself attracts GST at the rate of 18%. Credit of the customs duty paid at the time of imports is not available against the output GST liability of 18%. As raw materials and transport account for a substantial component of biodiesel cost, this has resulted in cost escalation and closure of many biodiesel manufacturing units. The industry association has approached the government seeking a relief in this regard.

GST on gold savings schemes

Under the annual gold savings schemes, a jeweller collects monthly instalments from customers for 11 months. The 12th month instalment is paid by the jeweller and the accumulated amount can be redeemed against gold jewellery by the customer. As per the erstwhile provisions in the CGST Act, 2017 these 11 monthly instalments were considered receipt of advance on supply of jewellery in the 12th month on which GST was liable to be paid. This was an added compliance for the jewellers who had to issue a receipt voucher every time they collected an advance from the customer. Further, the details of advances received and adjusted had to be reported in the GST returns. However, on account of a recent notification (please refer to our GST Update Volume 20 for details), no GST is payable on advance payment received in respect of goods. The government has now aligned the GST law with the pre-GST era, where no value-added tax or excise was levied on the advance received against sale of goods.

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[1] Sr. no.135A of notification 2/2017 dated 28th June, 2017

Glossary

CBEC- Central board of excise and customs	**CGST-Central goods and service tax**
IGST- Integrated goods and services tax	**MRP-Maximum retail price**
VAT- Value added tax	