



Week of 14th January, 2019

## **A. CHANGES IN THE GST REGIME**

### **E-way bill in Bihar**

E-way bill would not be required in an intra-State transaction in Bihar if value of consignment does not exceed Rs One Hundred Thousand. By a notification issued on 14<sup>th</sup> January 2019, the requirement of generating an e-way bill for intra-State transaction in Bihar for a consignment below the value of Rs One Hundred Thousand has been done away with. The notification will come into force with effect from 21<sup>st</sup> January 2019.

### **CA certificate required for supply of goods against Advance Authorization within 6 months**

Central Board of Indirect Taxes and Customs has issued Notification No. 1/2019 dated 15th January 2019 which provides that, the supply of goods by a registered person against advance authorisation will be treated as deemed export only if a certificate from a chartered accountant is submitted to jurisdictional GST Commissioner within 6 months of advance authorization. However, certificate is not required if ITC has not been availed on inputs used in manufacture of for export goods.

## **B. PROPOSED CHANGES AND INDUSTRY ISSUES**

### **No writ can be filed against issues which must be addressed by appellate authorities under GST**

In the case of Indusind Media Communications Ltd. v. Union of India, the assessee had failed to upload Form GST TRAN-1 due to technical glitches and, therefore, due credit of the input tax credit which was lying in its credit under the earlier tax regime was not reflected in the data base of the Government. The assessee filed a writ petition contending that despite a representation filed with the Commissioner, GST, Bengaluru, the Commissioner had not decided on the same. It had also challenged the assessment order. The High Court of Karnataka ruled that the Court is not inclined to entertain a writ petition on the merits of the issues as the same can be addressed by the authorities under the GST Act and the appellate authorities.

### **Sale of goods located outside India not taxable under GST**

In a recent ruling by AAR, Maharashtra, it was held that sale of tools, which are located outside India, would not be liable to tax in India under section 7(5)(a) of Integrated Goods and Services Tax Act, 2017. In INA Bearings India (P.) Ltd., In re, the applicant who was engaged in supply of bearing and tools placed an order for production of such tools with a German entity. When the production was completed by the German entity it raised an invoice on applicant at Pune, whereas there was no physical movement of tools from Germany to India, i.e., tools continued to remain in possession of the Germany entity, whereas the applicant in turn raised an invoice to its customer in India. The Authority held that the sale of tools, which are located outside India, would not be liable to tax in India under section 7(5)(a) of Integrated Goods and Services Tax Act, 2017.

### **Manufacturer found guilty of profiteering as it kept same prices in spite of reduction in GST rate**

In the case of Surya Prakash Loonker v. Excel Rasayan (P.) Ltd., where the applicant filed an application before the Anti-profiteering Authority alleging that respondent did not pass on benefit of reduction in GST rate so that there was no reduction in prices to recipients. Therefore, the Authority held that the Respondent has violated the provisions of section 171 in as much as the prices have remained the same in spite of reduction in the tax rate.

### **Services provide by an intermediary between principal outside India and Indian importer not 'Export of Service'**

In a recent Ruling by AAR, Maharashtra in the case of In re MRS. Vishakhar Prashant Bhawe, the applicant was acting as an intermediately between principal located outside India and an Indian importer. The Authority came to the conclusion that the services provided by the applicant as an intermediary between the principals at Germany and Indian importers of equipment's cannot be classified as 'export of services' falling under section 2(6) of the IGST Act, instead it will be treated as 'inter-State supply' covered under section 7(5)(c) of IGST Act.

### **Rectification of GST Return for non-IT related errors**

The GST Council has directed a committee for IT grievance redressal to draw up a solution to allow businesses to amend their GST returns. The GST law does not provide for any appeal on issues related to TRAN1 or TRAN2, thus many tax payers filed writs in high courts and also secured favourable orders holding the view that bona fide errors should be considered by the government.

### **Finance Ministry to prevent Composition Dealers from charging GST from Buyers**

Soon it would be mandatory for composition dealers and service providers to mention in the invoice generated by them that they are composition dealers and, hence, are not required to charge GST. Traders and manufacturers who have opted for the composition scheme, need to pay only one percent GST on goods which otherwise attract a higher levy of tax.

### **Uniform GST rate on lottery**

A ministerial panel headed by Maharashtra Finance Minister will examine uniformity of taxation on lottery under GST or other issues arising out of it. According to the terms of reference, the panel will decide whether the disparity in tax structure on the same product needs be continued or a uniform rate be prescribed for both. Under GST, state-organised lottery falls under the 12 percent tax slab while state-authorized lottery attracts 28 percent tax.

## Glossary

**AAR – Authority for Advance Ruling**  
**GST – Goods and Service Tax**  
**IT – Information Technology**  
**ITC – Input Tax Credit**  
**TRAN – Transition forms**

**GST Council- Goods and Services Tax Council, a constitutional body comprising of members of the Central and the State Governments to recommend changes under the existing GST regime.**

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