

Week of 26th February, 2018

A. CHANGES IN THE GST REGIME

Online submission of letter of undertaking

The Maharashtra government has issued a trade circular to explain the procedure for online submission of letter of undertaking by registered persons desiring to make zero rated supply of goods and / or services without payment of IGST. The said circular explains that application in Form GST RFD-11 is to be filed at GSTN portal. As the form once filled cannot be edited, due care should be taken while processing and submission thereof. The form inter alia requires details of two independent witnesses. The primary authorized signatory or any other authorized signatory may sign the form with a digital signature certificate (DSC).

No detention of goods transported for self consumption merely because of infraction of procedural rules under GST

In a writ petition filed before the High Court of Kerala by a company engaged in the establishment and maintenance of towers for telecom service providers, the hon'ble High Court has held that goods cannot be detained in transactions which do not amount to taxable supply on the ground of non-compliance of procedural rules during their transportation. In the present case, the petitioner was transporting goods procured by him for his own use and consumption to his own site. The transportation of goods was not accompanied by proper documents and invoices as required under the Kerala Goods and Services Tax Rules, 2017. The hon'ble High Court has held that when a taxable person transports the goods procured by them for own use to his own site where the goods are to be consumed, the transaction not amount to a taxable supply within the GST framework. Hence, such transportation may be done without the documents and invoices as are in needed in case of a taxable supply. Any detention of goods so transported for want of documents necessary only in case of a taxable supply is arbitrary and cannot be sustained.

Officer interface introduced for refund of exports

Presently, refund of IGST paid on exports is granted after matching, inter alia, the information furnished by the exporter in the prescribed format (column 6A of GSTR-1) on the GST portal and the information furnished by him in the shipping bill furnished on the customs portal. In order to eliminate the cases of mismatch of information at this stage, a circular has been issued by CBEC to prescribe an easier alternative mechanism for invoice matching in order to claim of refund of IGST in case of exports. The alternative mechanism allows an officer

interface thereby giving exporters opportunity to rectify 'invoice mismatch' errors in the initial stages¹. Through such officer interface, a Customs officer can verify the information furnished in GSTN and Customs EDI system and sanction refund in those cases where invoice details provided to GSTN are correct though said details in shipping bills were at variance. However, this procedure is available only for shipping bills filed till 31st December, 2017.

CIC directs GSTN to streamline and comply with the RTI Act, 2005

The Central Information Commission (CIC), in exercise of its supervisory powers, has directed the GSTN to *suo motu* disclose vital information in compliance with the Right to Information Act, 2005 to ensure transparency, objectivity and accountability in its functioning. The Central Information Commission (CIC) observed that till date the HR Policy of the GSTN has not been finalized, detailed norms including delegation of powers for discharge of GSTN functions as well as rules / regulations / manual to be used by employees for discharging their functions are under preparation and annual statement of accounts / balance sheet is available only till 2013-14. The CIC remarked that it is appalling to learn that an important, significant and critical area concerning the implementation of GST Network still required streamlining and consolidation and directed that such streamlining and consolidation of important affairs must be attended to forthwith in the larger public interest.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Further possible reduction in the GST rates

Since the implementation of GST in July, 2017, the goods and services have been subjected to multiple rate revisions. As per media reports, the rates of goods in the 28% rate slab may be revised again as the government has indicated that the GST Council will continue to prune the list of items in the highest tax slab of 28%. The government has also suggested that, though it seems improbable that a single rate of tax will be in place, the rate slabs of 12% and 18% may be merged in the future once the tax compliance increases.

Glossary

CBEC- Central Board of Excise and Customs
DSC- Digital signature certificate
GSTN- Goods and Services Tax Network
IGST- Integrated Goods and Services Tax

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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¹ Analysis of data post October 2017 indicates that exporters are still committing mistakes in information furnished to the GSTN and Customs EDI system while filing Shipping Bill. Out of the mistakes, 'invoice mismatch' error is most prevalent, in view of the fact that exporters are using two sets of invoices, one for GST and another for Customs which is resulting in mismatch of invoice numbers including mismatch in taxable value and IGST paid in those invoices