

Week of 7th May, 2018

A. CHANGES IN THE GST REGIME

Intra-state e-way bill

Earlier, the Maharashtra government had notified 31st May 2018 as the date of effective implementation of intra-state bill. However, as per the recent notification, this date of effective implementation has been modified to 25th May, 2018. Consequently, with effect from 25th May, 2018, intra-state e-way bill will be effective in the state of Maharashtra.

GST on hotel services provided to SEZ

In an application filed before the AAR, Karnataka the applicant, a hotel registered under GST, had sought to clarify whether hotel accommodation and restaurant services provided by them, within the premises of the hotel, to the employees and guests of SEZ units will be taxable under GST. It was the applicant's case that as per section 16 of the IGST Act, 2017, supply of goods or services to a SEZ unit is zero-rated. However, the AAR held that place of supply of accommodation services by a hotel is the place where the hotel is situated. As the hotel services provided to SEZ units are being consumed outside the SEZ (i.e. at the place where the hotel is situated), the rendition of hotel services cannot be said to have been 'imported or procured' into SEZ unit and therefore, the supply is intra-state supply.

GST on sale of scrap

In an application filed before it, the AAR, Maharashtra has held that disposal of scrap vehicles for consideration is a 'sale or disposal made for a consideration in the course or furtherance of business' and therefore taxable under GST. The AAR observed that the applicant had the business of a cash management network which involved transportation of cash in cash carrying vans. As and when these vans become scrap, they are disposed of for a consideration. This consideration is also reflected as business income in the books of account. Based on these facts, the AAR ruled that the disposal of the cash carrying vans is a transaction in connection with or incidental or ancillary to the business of having a cash management network.

GST on coaching institutes

In an application filed before it, the AAR, Maharashtra has held that coaching services provided by private institutions are liable to GST. The applicant, in the present case, ran a private institute providing preparatory training to the students for medical, engineering and other entrance examinations¹. The AAR observed that the applicant's institution was not covered by the definition of educational institution under GST legislation as the institution did not have any specific curriculum and did not conduct any examination or grant any qualification recognized by any law. Since the private institution did not qualify as an educational institution under GST, the exemption available for educational institutions under GST was not available for them.

GST on food/drinks supplied by trains

- Earlier, a circular was issued by CBIC to clarify that the GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms (static units), will be 5% without input tax credit (Please refer to our GST Update Volume 41 for details). However, the circular did not clarify whether such a supply would be treated as supply of goods or supply of services.
- Contrary to the clarification provided in the above stated circular, the AAR Delhi has ruled that supply of food and beverages (whether packed or cooked or sold at MRP) to passengers/general public at rates fixed by Indian Railways/IRCTC at food stalls railway platforms will be charged to GST on value of goods at applicable rates as pure supply of goods, as same has no element of service.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Possible linking of income tax and GST returns

As per the media reports, the government is planning to link different databases to get all relevant information about a company i.e. financial transactions, registration information and direct and indirect tax filings and use fraud analytics to look for tax evaders. Since both GST and income tax filings are linked to the permanent account numbers (PAN) of the tax payer, it is proposed that the annual return under GST (i.e. GSTR-9) will seek details of taxpayers income tax return filings to check cases of understating the sales turnover. The exchange of information between direct and indirect tax authorities will significantly enhance tax compliance in the economy.

Glossary

AAR- Authority for Advanced Rulings
CBIC- Central Board of Indirect Taxes and Customs
CGST- Central goods and Services Tax
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.

¹ Under GST, educational institution means an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent; (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; and (iii) education as a part of an approved vocational education course;

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