



Week of 9th July, 2018

A. CHANGES IN THE GST REGIME

GST on profit earned by brand owner by allowing brand use: Karnataka AAR ruling

The applicant is engaged in manufacture and supply of beer under various brand names. The applicant, apart from manufacturing beer on its own, also has manufacturing arrangement with contract brewing/bottling units (CBU) who manufacture brands of beer belonging to the applicant and supply such beer to market. CBUs manufacture beer bearing brands owned by the applicant by procuring raw materials, packaging materials, incurring overheads and other manufacturing costs on its own and sell the beer directly to government corporations/ wholesale depending on the market. The CBUs, upon the sale of the goods, pay the statutory levies and taxes. The CBUs further account for the manufacturing cost and distribution overheads in their books of account as they had procured all the resources for the manufacture of the beer. Further they retain a certain amount of profit. After accounting all these revenues, the CBUs transfer the balance amount to the applicant. The applicant sought advance ruling to determine (a) whether beer bearing brand/s owned by brand owner and manufactured by CBUs would be considered as supply of services and whether GST is payable by the CBUs on the profit earned out of such manufacturing activity; and (b) whether GST is payable by the brand owner on the surplus profit transferred by the CBU to the brand owner out of such manufacturing activity. The AAR held as follows:- (a) where the applicant has manufacturing arrangement with CBUs who manufacture brands of beer belonging to applicant and supply such beer to market by procuring raw materials, packaging materials, incurring overheads and other manufacturing costs on its own and sell beer directly, since material is purchased by CBUs and ownership of raw material required to manufacture beer rests with manufacturer and not with applicant, manufacturing activity undertaken by CBUs does not qualify classification under Heading 9988 which is applicable when the physical inputs are owned by person other than the manufacturer, as a result CBUs are not engaged in supply of any service to applicant. Therefore there does not arise any liability to pay GST on amount retained by CBUs as their profit; (b) GST is payable by the brand owner on surplus profit transferred by the CBU to brand owner out of the manufacturing activity and liable to pay GST at 18% on the amount received from the CBUs.

Input tax credit on packing materials used in exempted supply: Chhattisgarh AAR ruling

The applicant is involved in the business of supplying seeds in packaged form using packing materials, for sowing purpose, which is exempt from GST. The applicant procures taxable packaging materials/commodities which are required for processing and packing of seeds. The applicant transfers aforesaid taxable inputs within its own branches situated in various states across India and are required to pay GST merely for these inter-

branch transfers. The applicant sought advance ruling requesting ITC while transferring goods between their own branches. The AAR ruled that the applicant is not entitled to ITC on the packing material used for packaging seeds, while making such exempted supply of seeds to their own branches and to other purchasers. They are however, entitled for ITC (of the tax involved in the purchase of such packing material) on the exclusive taxable supply of such packing material made to their own branches in other states.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Proposed amendments in the GST law

The government has proposed a draft of 46 amendments in the GST law in the public domain for comments/ suggestions from the stakeholders latest by 15 July, 2018. These proposals will be placed before the next GST Council meeting to be held on 21 July, 2018. A gist of the proposed amendments will be published separately in the coming week.

Recommendation on rate cuts in the next GST Council meeting

As per the media reports, the GST Council will consider rationalisation of tax rates on various commodities and certain services as per the demands raised by the stakeholders. Some items which may be considered for cutting the tax rates include handloom, handicraft products and sanitary napkins which are currently taxed at the rate of 12% while there is a demand to exempt them from GST.

Glossary

AAR – Authority for Advance Ruling
ITC – Input Tax Credit

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.

DISCLAIMER

This update has been written for the general interest of our clients and professional colleagues by the **GSTUpdateTeam@ALMT** and is subject to change. This update is not to be construed as any form of solicitation. It is not intended to be exhaustive or a substitute for legal advice. We cannot assume legal liability for any errors or omissions. Specific advice must be sought before taking any action pursuant to this update. For further clarification and details on the above, you may write to the GSTUpdateTeam@almtlegal.com. If you would like to unsubscribe from this weekly update please send an e-mail to us at the above address with the subject unsubscribe.