



Week of 11th February, 2019

PROPOSED CHANGES AND INDUSTRY ISSUES

Qatar, India's biggest supplier, wants natural gas in GST ambit

Qatar, the biggest supplier of liquefied natural gas to India, wants the government to consider bringing natural gas in the ambit of Goods and Services Tax. The Indian oil and gas industry has long been demanding the inclusion of gas in GST as it would provide them with an input tax credit and help rationalize taxes. India is an important market for Qatar.

Group of Ministers favours cut in GST to 5% from effective rate of 12%

A group of Ministers formed to analyse tax rates and issues being faced by the real estate sector under the goods and services tax regime has favoured reducing GST rate on under-construction residential properties to 5 per cent without input tax credit from current effective rate of 12 per cent, after abatement of value of land. The panel is also leaning in favour of a lower rate for affordable housing at 3 per cent from 8 per cent. Currently, GST is levied at 12 per cent with input tax credit on payments made for under construction property or ready to move in flats where the completion certificate has not been issued at the time of sale. The effective pre-GST tax incidence on such housing property was 15-18 per cent. There have been complaints that builders are not passing on the ITC benefit to consumers by way of reduction in price of the property after the rollout of the GST.

Govt. may initiate recovery of interest on gross tax liability if GST return is filed belatedly

In view of Section 50 of the CGST Act, if a person, who is liable to pay GST, fails to pay the tax within the period allowed, he shall be liable to pay interest at the rate of 18% for the period of delay. Further, if he doesn't file the GST return on or before the due dates, he shall be liable to pay the late filing fees. The GST portal automatically calculates the late filing fees for the period of delay, i.e., from the date immediately succeeding the last date of filing of return till the date the return is actually filed. However, the portal doesn't calculate the amount of interest to be paid by the taxpayer for delayed payment of tax. Recently, the GST Dept. has issued an internal instruction which directs the officers to ask the taxpayers to pay interest under Section 50 of the CGST/SGST Act for late filing of GSTR-3B. This instruction has been issued as the GST portal doesn't calculate the interest to be paid by the taxpayer.

GST Council is likely to meet next week to discuss cement rate cut

The GST Council is likely to meet on 20th February 2019 to discuss a proposal to slash tax on cement to 18 per cent from 28 per cent and also consider a recommendation of a Group of Ministers on housing that advocates 5 per cent GST in under-construction properties and 3 per cent GST for affordable housing. A rate cut in cement to 18 per cent which is long pending will lead to a loss of Rs. 130 billion annually.

HC directs release of attached bank accounts as track record of tax payment of assessee was good

In a recent decision by the Gujarat High Court in the case of Mono Steel India Ltd. v. State of Gujarat the Competent Authority for recovery of Rs. 30 million from the assessee had provisionally attached its six bank accounts. The assessee filed a writ petition stating that it had a large amount of cash lying at its disposal with the concerned banks. The Hon'ble Court observed that, a perusal of the record of the case revealed that the assessee was not a fly by night operator and had paid duty and tax to the tune of more than rupees one billion in the last year. The revenue was directed to forthwith release the attachment over bank accounts of the assessee, subject to assessee maintaining an amount of Rs. 40 million in its bank account with the Dena Bank, Ahmedabad.

HC rejected bail petition considering the evasion of GST of more than Rs. 800 million

In the case of Vikas Goel v. Central Goods & Services Tax Commissionerate, Gurugram, the High Court of Punjab and Haryana, the Director General of Goods and Services Tax Intelligence, had arrested the petitioner under the provisions of section 69 of the Central Goods and Services Tax Act, 2017. The petitioner filed a writ petition for grant of regular bail. He contended that he had been taken into custody under section 69 without making any assessment by the Competent Authority. A complaint had been filed and he was only to face trial in the complaint case. The revenue, on the other hand, contended that there were serious allegations against the petitioner. He had made bogus billing and adjusted the amount without any transportation of the goods or sale of goods, etc. Only paper transactions were done and amount had been adjusted and wrongly claimed relief of more than Rs. 800 million. The assessment proceedings were independent proceedings and had nothing to do with the complaint case. The Court observed that in view of nature and gravity of the offence and in view of the fact there were justifiable grounds to arrest the petitioner under section 69 and further in view of the fact that case involves evasion of more than Rs. 800 million of tax and offence is punishable with imprisonment for a period of five years and complaint is stated to have already been filed, there is no ground to grant benefit of regular bail to the petitioner.

Glossary

CGST – Central Goods and Service Tax
GST – Goods and Services Tax
ITC – Input Tax Credit
KGST – Kerala Goods and Service Tax
KVAT – Kerala Value Added Tax
SGST – State Goods and Service 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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