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Week of 30th October 2017

A. CHANGES IN THE GST REGIME

Extension of dates for furnishing returns

The due dates for furnishing the inward supply return (form GSTR-2) and the monthly return (form GSTR-3) for the month of July have been extended yet again to 30th November, 2017 and 11th December, 2017 respectively from 31st October and 10th November, 2017. The due dates for furnishing these returns for the subsequent months have not yet been notified.

Cancellation of registration

The last date for cancellation of registration for migrated taxpayers has been extended till 31st December, 2017. Registered taxpayers (who had migrated to GST regime but subsequently were not liable to obtain registration under GST) may apply for cancellation of their registration in form GST REG-29 before 31st December, 2017. The time period for conversion of the provisional registration to final GSTIN (goods and services tax identification number) has also been extended till 31st December, 2017.

Maharashtra Authority for Advance Ruling notified

The Government of Maharashtra has constituted the Maharashtra Authority for Advance Ruling (MAAR) for the state of Maharashtra consisting of two members. Under the erstwhile regime, advance rulings could be obtained only on a proposed transaction, whereas under GST, advance ruling can be obtained on a proposed transaction as well as a transaction already undertaken by the applicant. Some of the questions which on which advance ruling may be sought include:

- Classification of any goods or services or both
- Determination of time and value of supply of goods or services or both
- Admissibility of input tax credit of tax paid or deemed to have been paid
- Determination of the liability to pay tax on any goods or services or both
- Whether applicant is required to be registered
- Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both

The ruling given by the Authority for Advance Ruling is binding on the applicant as well as Government authorities. The form and the detailed procedure for making application has been prescribed in the CGST Rules; 201. It may be noted that no separate AAR is constituted under the CGST Act. AAR is constituted only under the respective state/union territory act and therefore the ruling given by the state AAR will be applicable only within the jurisdiction of the concerned state or union territory. It is also for this reason that questions on determination of place of supply cannot be raised with the AAR.

GST on unstitched fabric material

A circular has been released by CBEC to clarify the issue regarding classification of cut pieces of fabrics sold in an unstitched state. As per the current industry practice, before becoming readymade articles or an apparel, the fabric is cut from bundles and sold in that unstitched state to the consumers. It has been now clarified that mere cutting and packing of fabrics into pieces of different lengths from bundles will not change the nature of these goods and such pieces of fabrics would continue to be classifiable as the fabric itself (and not as an apparel) and attract the 5% GST rate.

Offline utility for GSTR-2 available

GST Network, the technology backbone for the new indirect tax regime, has launched an offline tool for furnishing the inward supply return GSTR-2. The tool will allow taxpayers to export data of GSTR-2 to an MS-excel spreadsheet. This will be helpful in comparing this data with the purchase register to take actions like accept, reject and modify the data.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Impact of the budgetary support scheme

The GST budgetary support scheme introduced by the Department of Industrial Policy and Promotion in lieu of the erstwhile prevailing schemes offering area based exemptions from excise duty (refer to our GST Update Volume 16) is of little consonance to the pharmaceuticals companies, automobile companies and FMCG companies which have their manufacturing units in the areas where the support scheme applies. This is because the GST budgetary support scheme allows reimbursement of only the CGST component of the total GST paid by such companies on manufacturing operations carried on by them in the specified states. Under the erstwhile prevailing schemes, these companies received absolute excise exemptions on all their manufacturing operations carried on in the specified states. Further, the way the scheme has been worded, it appears that such a reimbursement will only be for the GST paid at the job work level contrary to the previous excise regime where companies used to get excise benefits on maximum retail price of the products (i.e. on the entire chain of manufacture).The tax benefits are considerably diluted under the new scheme, apparently contrary to the government's intention to promote Indian manufacturing sector. The industry has, as such, sought clarity from government on the new scheme.

Recommendations to the GST Council

A specially constituted panel of five state finance ministers has made certain recommendations on the existing GST provisions which will be placed before the GST Council at its next meeting on 9th and 10th November. The ultimate decision on these recommendations rests with the GST Council. These recommendations include, inter alia, the following:

- Restaurants- The panel has recommended that the distinction between air-conditioned and non air-conditioned restaurants be done away with and instead a rate of 12% with no input tax credit for all standalone restaurants, whether air-conditioned or not, and rate of 18% with full input tax credit for restaurants attached to or inside hotels be adopted.
- Composition levy- Currently, the rates of composition levy applicable on traders, manufacturers and restaurant service providers stand at 1%, 2% and 5% respectively. The panel has now recommended a flat rate of 1% be made applicable for all of them. It has also suggested that traders opting to pay tax on their total turnover, including revenue from the sale of taxable as well as exempted goods may pay tax at the rate of 0.5% on their total turnover while traders opting to bifurcate their taxable and exempted revenue may pay tax at the rate of 1% on the turnover of taxable goods. Further, the panel has also proposed to raise the threshold limit under composition scheme from the existing Rs. 10,000,000 to Rs. 15,000,000 and to remove the restriction on making inter-state supplies by composition dealers.
- Maximum retail price- As per the applicable present law, maximum retail price (MRP) is the maximum price of a product to be sold in retail and charging anything above this is an offence. Despite this, certain traders are charging GST over and above MRP from consumers. In this regard, the panel has recommended that MRP of goods must be arrived at in such a manner that the GST component is included in the MRP itself so as to effectively address consumer complaints. However, businesses while uploading the invoice for the purpose of filing returns and paying taxes can separately show the GST component and the selling price of the product.

Review of the rate slab for goods

When the initial five-slab rate structure for GST was proposed, it was understood that only luxury and demerit goods and services would be subject to the highest rate in the slab i.e. 28%. However, once the rate structure was notified, the position seemed different. Inadvertently or not, items of frequent use, non luxury goods and goods manufactured by the micro, small and medium enterprises (MSMEs) such as washing machines, refrigerators, electrical fittings, cement, ceiling fans, nutritional drinks, auto parts, plastic furniture and plywood etc were included in the highest rate slab. The GST Council, its last meeting, had adopted a concept paper that laid down guidelines for changes in rates. For the goods subject to the 28% bracket, the paper said goods of mass consumption or of public interest, intermediate goods and those predominantly manufactured in the unorganised MSME sector and export-related items could be considered for review, subject to revenue implications. As per certain media reports, recommendations may now be made to the GST Council in its next meeting to review the application of the highest rate slab on those goods which warrant lower rates.

GST and apparel export industry

The apparel export industry is losing its competitiveness in the GST regime owing to the complex procedures for exports and refunds thereof. In this regard, the Apparel Export Promotion Council (AEPC) has made a representation to the government seeking expedited release of blocked refunds of the input tax paid on the inputs. The AEPC has also recommended the extension of exemption of IGST on imports under the various export promotion schemes from 31st March, 2018 to 31st December, 2018, in order to provide a longer window for investment decisions. It also asked for allowing utilisation of Merchandise Exports from India Scheme (MEIS) scrips for use in payment of CGST, SGST and IGST to ease the challenges of working capital blockage and other procedural issues.

GST on diamond industry

Under the GST regime, a supplier is required to obtain registration in each state from where the supply is made, contrary to the system of centralised registration which existed in the erstwhile service tax and central excise regime. Therefore, the head offices and branch offices located across states require a separate GST registration and any goods or services supplied inter-se attract GST. This provision has caused menace to many industries which have warehouses/branch offices or the like located in states other than the state of the head office. Diamond industry is one such industry. The diamond traders have now approached the government to do away with the 3% GST levied on sending polished diamonds from their manufacturing unit in one state to their branch offices in another as it is making their business unprofitable. Apart from the levy of GST, the traders are also perplexed with the procedural aspects in cases when diamonds are sent on approval basis through a trade broker. As per a recent clarification issued by CBEC (refer to our GST Update Volume 17), such movement of diamonds can take place against a delivery challan which must have the name/GSTIN of the consignor. However, it is not clear whether the consignor of a single supply will be the broker or the umpteen unidentified prospective buyers. The trader association has sought a clarification from the government on the above. Clarification is also sought on the taxability of services by the trade broker who is merely a courier transporting the goods for a fixed fee.

Glossary

AAR- Authority for Advanced Ruling	**CGST-Central goods and service tax**
CBEC- Central board of excise and customs	**IGST- Integrated goods and services tax**
FMCG- Fast moving consumer goods	

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