



Week of 4<sup>th</sup> December, 2017

## **A. CHANGES IN THE GST REGIME**

### **Manual form for filing anti-profiteering application**

The CBEC has released a form, namely form APAF-1, for filing anti-profiteering applications before the Standing Committee / State level Screening Committees under the GST anti-profiteering regime. The consumers, affected by acts of profiteering by suppliers of goods or services, can file the said application before the Standing Committee if profiteering has all-India character or before the State level Screening Committee if profiteering is of local nature. The anti-profiteering application form, inter alia, provides for general information about the applicant, and the supplier who has not passed on the benefit, particulars of goods and/or services including actual price charged per unit pre and post GST, comparative price of like goods and/or services charged by other suppliers, as well as details of reduction in tax rate / input tax credit benefit available under the GST regime. Since the application form requires detailed and technical information, filing of the same may pose a challenge for the laymen consumers. However, at the same time, it will also discourage frivolous complains against suppliers of goods and services.

## **B. PROPOSED CHANGES AND INDUSTRY ISSUES**

### **GST on real estate**

Under the existing GST structure, the effective GST rate for sale of under construction properties is 12% while ready-to-move properties with completion certificate or occupation certificate are not subject to GST. The gap between the tax rates for a ready-to-move property and an under-construction property has led to drop in demand for the latter as the buyers now wait for the completion/ occupation certificate before purchasing the property. The housing finance companies' regulator i.e. National Housing Bank has now approached the GST authorities to lower the effective GST rate for under construction properties from current 12% to 6%, at least for the low-cost and affordable housing projects. Reduction in the GST rates on under construction properties would help in incentivizing end users to buy under construction properties as most homebuyers are presently giving preference to ready-to-move-in apartments to avoid payment of GST.

## Single authorities for claiming GST refunds

Presently under the GST regime, the jurisdiction of taxpayers is divided between the CGST department and the respective SGST department. The CGST department has jurisdiction over 10% of taxpayers with annual turnover up to Rs. 15,000,000 and the other 90% taxpayers come under the jurisdiction of the respective SGST departments. Over and above this threshold of Rs. 15,000,000, the taxpayers are divided equally between the centre and states. For claiming the refunds arising out of exports, a taxpayer is required to approach the respective department, central or state, within whose jurisdiction he falls. It is now being proposed that a single authority be constituted for the purpose of grant of refunds arising out of exports for all taxpayers. The actual details are still being worked upon.

## Recommendations of the GST Advisory Panel

The GST Advisory Panel, set up by the GST Council to recommend changes in the existing GST structure has submitted its first report and put forth its suggestions to the GST Council, suggesting around 100 major changes in the existing GST regime. The Panel received around 700 representations citing various problems faced by the industry with regards to filing returns, e-way bills, input tax credit and exports. Some of the recommendations are as follows:

- Reverse charge mechanism in respect of supplies made by unregistered supplies should be abolished.
- E-Way Bill should be deferred till 2019 and efforts may be made to bring some alternate method in place of this.
- Inter-state transactions should be allowed in composition scheme. Equal rate of 1% percent tax under composition scheme for traders, manufacturers and restaurants be levied.
- Refund process should be automated.
- In place of all types of returns, there should be one consolidated return. Return process should be simplified and rationalised. Form GSTR- 3B should be continued at least for one year. Return should be filed quarterly but tax may be paid monthly.
- 'Exempted' or 'Nil' rated goods and services should not be counted in the calculation of the aggregate turnover of the taxpayer.

## Glossary

**CBEC- Central board of excise and customs**

**CGST-Central goods and services tax**

**SGST- State goods and services tax**

## 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@almlegal.com](mailto:GSTUpdateTeam@almlegal.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.