



Week of 25th December, 2017

A. CHANGES IN THE GST REGIME

GST (Compensation to States) Amendment Bill, 2017

The Lower House of the Parliament has passed the GST (Compensation to States) Amendment Bill, 2017 that seeks to replace the ordinance on GST Compensation Cess which was issued in September, 2017. This ordinance had provided for an increase in the maximum rate at which the GST Compensation Cess could be collected on certain automobiles from 15% to 25%. The GST (Compensation to States) Amendment Bill, 2017 would now be presented to the Upper House of the Parliament for approval before it can become a law. It may be noted that the fund collected from the GST Compensation Cess is used to compensate states for revenue loss after GST implementation.

Clarification on supply of goods by artists from galleries

As per the general practice of the art works industry, the artists give their work of art to art galleries where it is exhibited for supply (sale) to the buyers. Thus, the supply of art works takes place by the artists through such galleries. Earlier, it was not clear whether such a transaction is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply through the gallery to the buyer. A circular has now been released to clarify that in such transactions, as there is no consideration flowing from the gallery to the artist when the art works are sent by the artist to the gallery for exhibition, the same is not a supply taxable under GST. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST is payable at the time of such supply.

GST on expired drugs and medicines

Presently, date-expired and damaged stocks, which are returned by the retail chemists to the pharmaceutical companies against an invoice, were taxable under GST as a supply. A representation in this regard was made earlier by the Indian Pharmaceutical Alliance (IPA) that return of such expired or damaged drugs should be

exempt from GST as these cannot be reused and have no commercial value. The IPA had asserted that GST is a tax based on "consumption" of goods and services and that the damaged or expired good are destroyed and therefore cannot be consumed. Following the IPA's representation, a press note has now been issued by the GST Policy Wing of the Finance Ministry to clarify that expired or damaged goods that are returned to manufacturers from stockists and distributors will not be treated as 'supply' and hence will not attract GST. However, the input tax credit taken on expired or damaged medicines would be required to be reversed.

Refund functionality active on GST portal

The GSTN has introduced functionality on GST portal www.gst.gov.in to claim refund arising out of the following scenarios:

- Export of services with payment of GST;
- Input tax credit accumulated due to inverted duty structure¹;
- Supplies made to a special economic zone unit / developer with or without payment of tax; and
- Receipt of deemed exports.

Taxpayers who have applied for registration but have not yet obtained their GSTIN can track the status of refund using their acknowledgment receipt number (ARN). It has also been clarified that if taxpayer has filed the returns in form GSTR-1 and GSTR-3B, then returns in form GSTR-2 and GSTR-3 are not required to be filed for claiming refund.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Proposed lowering of rates

Various ministries under the Government of India have made representations to the Finance Ministry seeking a reduced GST rate for their respective areas of operations. Some of these recommendations are as follows:

- Currently, petrochemical products like air turbine fuel (ATF) have been kept outside the ambit of GST. ATF is a major cost component for airlines which constitutes between 35-40% per cent of the overall expenses. As ATF is not included in GST regime, taxes paid on ATF are not available as input tax credit leading to a substantial increase in the cost. In view of this, the Ministry of Civil Aviation has requested the Finance Ministry to include ATF in the ambit of GST regime with full input tax credit at the earliest possible.
- The Telecom Department has suggested the Finance Ministry that GST rate for telecom services be lowered to 12% against the existing 18%.

Proposed agendas for GST Council Meeting

The 24th meeting of the GST Council is scheduled to take place on 18th January, 2018. At this meeting, the GST Council may consider merging triplicate comprehensive tax return forms (GSTR-1, 2 and 3) into one consolidated form. Another major agenda before the GST Council will be simplification of the return process for taxpayers who file nil returns to ensure that they can file their returns with just one click on the GSTN portal.

Wishing you a very happy and prosperous new year!!!

¹ Inverted duty structure means when the GST rate on inputs is more than the GST rate on outputs.

Glossary

GSTIN- Goods and Services Tax Identification Number

GSTN- Goods and Services Tax Network

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