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A. CHANGES IN THE GST REGIME

Amendment in the CGST Rules, 2017

CBEC has notified the CGST (Second) Amendment Rules, 2018 which amend the principal rules i.e. CGST Rules, 2017 with effect from 7th March, 2018. Some of the main amendments are listed below:

- The due date for furnishing form GST TRAN-2 has been prescribed as 31st March, 2018. Generally speaking, form GST TRAN-2 is to be furnished by a registered person under GST, who was not registered under any of the erstwhile indirect taxes and who wishes to claim the transitional input tax credit.
- Changes in the e-way bill regime
  - The rules regarding procedure to furnish e-way bills have been modified and consequently the forms pertaining to e-way bills have also been amended.
  - Earlier, every registered person who caused movement of goods of consignment value exceeding INR 50,000 was required to generate an e-way bill. Under the new rules, in the case of intra-state movement of goods, there will be no need for generating an e-way bill if the total value of consignment is over INR 50,000 but the individual consignment is valued at less than INR 50,000. Further, if both exempted and taxable goods are moved, only the value of the taxable supply will be considered for the purpose of generating an e-way bill.
  - Earlier, goods moved within a state did not need e-way bill for distances of up to 10 km. This has now been increased to 50 km.
  - Earlier, after the expiry of the validity period of an e-way bill, the transporter had to generate a new e-way bill. Now, in exceptional circumstances, the transporters will have the option to extend the validity period of e-way bills by updating the requisite vehicle details on the IT portal.
  - No e-way bill is needed for transit cargo from/to Nepal or Bhutan.

Clarification in respect of certain services

A circular has been issued by CBEC to clarify the taxability of certain services under the GST regime. The circular clarifies, inter alia, the following:

- Bus body building involves a composite supply of goods and services. The classification of this composite supply, as goods or service, would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.

- In case of retreading of tyres, the pre-dominant element is the process of retreading which is a supply of service. Supply of rubber used for retreading is an ancillary supply of goods. Therefore, retreading of tyres is a composite supply of service. However, supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.
- There is no exemption for trading in priority sector lending certificates (PSLCs) under GST. In a set of FAQs released by the Reserve Bank of India on PSLCs, it has been mentioned that PSLCs may be construed to be in the nature of goods and that PSLC are not securities. Thus, under GST, PSLCs are taxable as goods at standard rate of 18% under the residuary category[1]. The GST payable on the purchase of PSLCs would be available as an input tax credit to the bank buying these certificates.
- Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST[2]. However, the other services provided by distribution companies (DISCOMs) to consumers are taxable such as application fee for releasing connection of electricity, rental charges against metering equipment, testing fee for meters/ transformers, capacitors etc, labour charges from customers for shifting of meters or shifting of service lines and charges for duplicate bill.
- The service provided by Central Government/State Government to any business entity including public sector undertakings by way of guaranteeing the loans taken by them from financial institutions against consideration in any form (including guarantee commission) is taxable under GST.

Applicability of GST on services between a joint venture and its members

A circular has been issued by CBEC to clarify the applicability of GST on taxable services provided to a joint venture by its members and *vice versa* and also *inter se* such members. The circular states that the legal provisions with regard to levy of GST on such services essentially remains the same as it was under the erstwhile service tax regime. Thus, supply of services by an unincorporated association or a body of persons to its members for cash, deferred payment or other valuable consideration is to be treated as 'supply of services' and taxable under GST. It is also clarified that the taxability of 'cash calls', which are raised by an operating member of the joint venture on other members in proportion to their participating interests to meet the expenditure on the operations to be carried out, will depend entirely on the facts and circumstances of each case.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Agendas before the next GST Council meeting

The 26th GST Council meeting is scheduled to be held on 10th March, 2018. Following are the proposed agendas:

- Evaluation of the readiness of the IT network for e-way bills.
  As the proposed implementation of e-way bills is slated to be from 1st April, 2018, the GST Council wants to ensure that this time there is no technical glitch on the IT network which is responsible for handling the e-way bills. The scheme, earlier proposed to be enforced from 1st February, 2018 was deferred on the same day due to technical glitches (Please refer to GST Update Volumes 31 and 32 for more details). A report on the reasons for the earlier technical failures of the e-way bill portal and a progress report on the steps taken to resolve the same will be discussed in this meeting.
- Inclusion of extra-neutral alcohol in the GST regime

[1] Serial number 453 of Schedule III of notification no. 1/2017-Central Tax (Rate)

[2] Serial 25 of notification no. 12/2017- CT (Rate)

The GST Council will discuss the possibility of including extra-neutral alcohol (ENA), a key ingredient in making alcoholic beverages, within the GST ambit. Presently, taxes on ENA are levied by the state governments. ENA is a derivative of molasses and 80% of it goes into manufacturing liquor. The rest is used by the pharmaceutical industry to manufacture cough syrups and the cosmetics industry to make perfumes. It may be noted that alcohol for human consumption is presently out of the GST regime. The Government is of the view that ENA, being an input for alcohol for human consumption, is not alcohol per se and therefore the Government has the power to levy GST on the same. The pharmaceutical industry, in particular, has been demanding inclusion of ENA in the GST so that it can avail input tax credit of the GST paid on ENA. The present proposal is to tax ENA at the rate of 18%. The challenge in including ENA is that any GST paid on ENA will become an embedded cost on the final product, i.e. alcohol, which is outside the GST and therefore leading to a possible price increase in the cost of alcohol.

- The GST Council is also expected to consider new definitions for identifying various handicraft items as well as the feasibility of reduced tax rates on them in the interest of states with strong handicraft and cottage industries.
- To simplify the GST returns, the broad idea is to replace the system of four returns to be filed every month by regular taxpayers with a new system in which a modified summary return of all transactions in a month along with sales invoices will be sufficient. However, it is still not clear whether the buyer will be allowed provisional tax credits based on his summary return or whether he will have to wait till the seller uploads his invoice details. In the current system, credit is available to buyers based on his summary returns. Waiting for the seller to upload invoice details could lead to delays in the buyer getting tax credits and could affect his liquidity

Glossary

CBEC- Central Board of Excise and Customs
CGST- Central goods and services tax
FAQs- Frequently Asked Questions

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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