



Week of 11th June, 2018

A. CHANGES IN THE GST REGIME

Special drive refund fortnight

After the first special drive refund fortnight held in March 2018, the government had started a second special drive refund fortnight from 31st May, 2018 to 14th June, 2018. This facilitated all types of refund claims in which customs, central and state GST officers strived to clear all GST refund applications received on or before 30th April, 2018. This included refunds of IGST paid on exports, refunds of unutilized ITC and all other GST refunds submitted in GST refund form. The CBIC has extended the refund fortnight for fast track clearance of pending dues to exporters by two days i.e. up to 16th June, 2018.

Update details recorded against GSTIN

Complaints were received from taxpayers that intermediaries who were authorized by them to apply for the GST registration on their behalf had used their own email address and mobile number during the process. They are now not sharing the user credentials with the taxpayer on whose behalf they had done the registration in the first place and the taxpayer is at their mercy. The ministry of finance has therefore prescribed a procedure to update the details with the assistance from the concerned jurisdictional tax authority of the taxpayer. The taxpayer can follow the steps prescribed by the ministry and change the email and mobile number under the GST system.

Clarification on certain issues

Representations were made seeking clarification on certain issues under the GST law which inter alia includes clarification on whether the services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ developer or a SEZ unit should be treated as an interstate supply (under section 7(5)(b) of the IGST Act, 2017) or an intrastate supply (under section 12(3)(c) of the IGST Act, 2017). The GST policy wing has issued a circular clarifying these services shall be treated as an interstate supply as the specific provision (i.e. section 7(5)(b) of the IGST Act) shall prevail over the general provision (i.e. 12(3)(c) of the IGST Act).

Explanatory notes to the scheme of classification of services

The CBIC has issued explanatory notes to the scheme of classification of services. The explanatory notes indicate the scope and coverage of the heading, groups and service codes of the scheme of classification of services. These may be used by the assessee and the tax administration as a guiding tool for classification of

services. However, it may be noted that where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

CGST (Fifth Amendment) Rules, 2018

The CBIC has notified CGST (Fifth Amendment) Rules, 2018 wherein amendments have been made to the CGST Rules, 2017. By this notification, rule 37, rule 83, rule 89, rule 95, rule 97, rule 133 and rule 138 have been amended. Further Form GSTR 4, form GST PCT 01, form GST RFD 01 and form GST RFD 01A have been revised.

AAR Rulings

A brief summary of various AAR rulings are stated below.

- **GST on renting of space: Gujarat AAR ruling**

The applicant is a cargo handling company, which provides cargo-handling services consisting of *inter alia* providing space on rent to its customers for storage of imported agricultural commodities. The applicant has sought advance ruling to determine the classification under GST of the service provided. The AAR observed that an issue arises whether the service of providing warehouse/space on rent can be considered as 'storage or warehousing' service or 'renting of storage premises'. It further observed that the 'storage and warehousing service' provider normally makes arrangement for space to keep the goods, loading, unloading and stacking of goods in the storage area, keeps inventory of goods, makes security arrangements and provide insurance cover etc.; whereas a person providing 'renting of storage premises' service only rents the storage premises and he does not provide any service such as loading/unloading, stacking, security etc. In the present case, the applicant only rents the storage premises and therefore, it is required to pay GST at the rate of 18% on services classifiable as 'rental or leasing services involving own or leased non-residential property' under SAC 997212.

- **GST on carry bags made of non-woven fabrics: Kerela AAR ruling**

The applicant is a manufacturer of carry bags made of polypropylene (non-woven fabrics). The sale value of these non-woven carry bags made of polypropylene is less than Rs. 1,000/- per piece. The applicant has sought an advance ruling on the rate of tax of the carry bags manufactured by them under GST. The AAR ruled that these carry bags will be classifiable under entry 224 of Schedule 1 of the Notification No. 01/2017 Central Tax (Rate) dated 28.06.2017 and State Notification 360/2017 dated 30.06.2017 covering "other made up textile articles, sets, of sale value not exceeding Rs. 1000/- per piece", and hence will be taxable at the rate of 5%.

- **GST on dried tobacco leaves: Delhi AAR ruling**

The applicant proposes to carry on the activity of trading in 'dried tobacco leaves' which would be purchased from the registered dealer, who in return would purchase such tobacco leaves from agriculturist/farmers. The applicant after cleaning and removal of unwanted particles will further sell such 'dried tobacco leaves' in the wholesale market. During the activity of cleaning and removal of unwanted particles, no essence or foreign particle will be added to the 'dried tobacco leaves'. Such 'dried tobacco leaves' will be sold in wholesale market without any branding on it. Such 'dried tobacco leaves' will not be fit for direct human consumption in any way. The applicant has sought an advance ruling to determine the classification and the tax rate under GST. The AAR has ruled that such dried tobacco leaves after process of curing would be covered under Tariff Item No. 2401, Serial No. 13 of Schedule IV of Notification No. 1/2017 - Central Tax (Rate), dated 28-6-2017 and would be taxable at rate of 28% under GST.

- **GST on high seas sale: Gujarat AAR ruling**

The applicant had sought an advance ruling for taxability on high sea sales under section 97(2) of the CGST Act 2017. High seas sales are the sales taking place prior to the imported goods crossing the customs frontier. It was found that the question raised in the application for advance ruling pertains to the customs domain and not to the GST domain. The AAR application was rejected without going into the merits of the case, on the issue of lack of jurisdiction, at the stage of admission.

- **GST on earthing products: Gujarat AAR ruling**

The applicant manufactures earthing pipe, earthing rods, lightning arrester and back fill compound. The applicant also provides installation work for earthing and lightning arresters fitting and renovation. The applicant has sought advance ruling to determine the classification of the products manufactured and service provided by them. The AAR has ruled that 'earthing pipe' is classifiable under tariff heading 8538; 'solid rod earthing' is classifiable under tariff heading 7215; 'lightning arrester' is classifiable under tariff heading 8535; 'back fill compound' is classifiable under tariff heading 3824; and service of installation of earthing system is classifiable under SAC 9954.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Rationalisation of GST

Presently, the GST regime has four slab rates being 5%, 12%, 18% and 28%. As per the media reports, the government may come up with an announcement to further rationalise the GST structure and cut down the number of slabs.

GST refund to foreign tourists

As per the media reports, the department is working out a mechanism which will ensure refund of GST paid on local purchases to foreign tourists at airports at the time of their exit. The refund mechanism could start on the basis of invoices issued by big retailers as it is to be ensured that refunds are not claimed on the basis of fake invoices.

GST on natural gas and aviation turbine fuel

As per the media reports, the next GST Council meeting may bring in the petroleum products like natural gas and aviation turbine fuel under the GST ambit. However, states such as Telangana and Andhra Pradesh have showed resistance towards bringing in petroleum products under GST ambit as it will reduce the state finances.

Glossary

AAR- Authority for Advanced Rulings
CBIC- Central Board of Indirect Taxes and Customs
CGST- Central goods and Services Tax
GSTIN- Goods and Services Tax Identification Number
IGST- Integrated Goods and Services Tax
GSTR – Goods and Service Tax Return
SAC - Services Accounting Code

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.
GSTN – Goods and Service Tax Network
SEZ – Special Economic Zone
ITC – Input Tax Credit

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