



Week of 2nd July, 2018

A. CHANGES IN THE GST REGIME

Deferment of RCM and TDS and TCS provisions under GST

CBIC has issued notification no.12/2018 – central tax rate in order to defer the provision of RCM in case of supplies received by a registered person from unregistered suppliers by three months i.e. from 30th June, 2018 to 30th September, 2018. Further, the CBIC has issued a press release in order to defer the provisions of TDS and TCS by three months i.e. from 30th June, 2018 to 30th September, 2018. Please refer to volume 52 for further details.

No e-way bill for intra-state movement of goods up to INR 1 lakh : Maharashtra Government

The Maharashtra state has notified that no e-way bill shall be required to be generated for the intra-state movement of goods having value of up to INR 100,000 (INR 1 lakh) in the state of Maharashtra on or after the 1st July, 2018.

'GST Verify' app

The CBIC has launched an android mobile app 'GST Verify' to protect the interest of all consumers. It provides the details of the person/ company collecting GST. Every time a person shops / eats / buys any product, he can check the bill and if GST is charged, the person can verify if the person collecting GST is genuinely registered person or not, thereby saving the amount shown as GST from fraudsters. This will help in verifying if the person collecting GST from the consumer is eligible to collect it or not.

AAR Rulings

A brief summary of various AAR rulings are stated below

- **No advance ruling if same issue is pending before GST Council: Telangana AAR ruling**

The applicant is a manufacturers of Extra Neutral Alcohol (ENA) and rectified spirits. The applicant sought advance ruling to determine issues such as whether HSN Code 2207 covers both "denatured ethyl alcohol and other spirits" (not fit for human consumption) and "un-denatured alcohol"(fit for human consumption). On examination it was found that the issue of "Taxation of Rectified Spirit/ ENA under GST" is one of the agenda points placed before GST Council for deliberation in the 20th meeting of the GST Council held on 5th August, 2017. The decision on the "applicability of GST on ENA" is pending before GST Council and even in the 27th GST Council meeting held on 4th May, 2018 it was decided to defer the agenda point on the "applicability of GST on ENA" to the next meeting. It was decided that advance ruling on the issues raised in the application cannot be given at this juncture since the issue raised by the applicant is pending before GST Council for a decision.

- **GST on distribution of electricity: Rajasthan AAR ruling**

The applicant is a company engaged in the activity of distribution of electricity. For this purpose, distribution charges are recovered from the customers. In order to distribute electricity, the applicant carries out various activities and makes separate recoveries from its customers such as application fees for new connection, re-connection charges, connection transfer fee, rent for metering equipment, charges for duplicate bill, meter testing fees, labour charges for shifting of meter in the same premises, etc. The applicant sought advance ruling in order to determine whether it is eligible to avail the exemption from levy of GST under Entry No. 25 of Notification 12/2017 - Central Tax (Rate) dated 28.06.2017 bearing description 'Transmission or distribution of electricity by an electricity transmission or distribution utility'. The AAR ruled that transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under notification no. 12/2017, however, non-tariff charges recovered by distribution utility, such as application fee for releasing connection of electricity, rental charges for metering equipment, meter testing fee, labour charges for shifting of meters, etc. are taxable.

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

The applicant is engaged in selling chemicals and allied products. The applicant buys these products from overseas related party situated abroad based on purchase order received from its customers. While the goods are in transit, the goods would be sold by the applicant to its customers before the goods are entered for customs clearance in India. The applicant sought an advance ruling to determine whether IGST will be leviable on such sale effected by the applicant to customers who are known to them at the time of placing order on the overseas party. The AAR ruled that GST will not be levied in case of goods sold on high seas basis till the time of their customs clearance. Thus, goods which are sold on high seas sale basis are non-taxable supply as no tax is leviable on them till the time of customs clearance in accordance with and compliance of section 12 of Customs Act, 1962 and section 3 of Customs Tariff Act, 1975.

- **GST on compensation received by tenant for delayed possession: Maharashtra AAR ruling**

The applicant is a tenant in a building premises. The owner of said building premises entered into an agreement for redevelopment of the said premises. The applicant had to vacate the premises to facilitate the redevelopment work which means that the applicant agreed to do an act i.e. vacating the premises to facilitate the supply of service by developer. The applicant sought advance ruling on the following questions (i) is GST applicable on the compensation for alternate accommodation to be paid to the tenant of the old building by the developer/owner; and (ii) is GST applicable on the compensation for alternate accommodation/damages for delayed handover of possession of the new premises to be paid to the tenant of the old building by the developer/owner. The AAR answered both the questions in affirmative. It was ruled that the amount received by the tenant of building premises towards alternate accommodation or delayed possession of new premises would be receipt of amounts for doing an act i.e. vacating premises for redevelopment as well as tolerating construction cum redevelopment work till possession of new redeveloped premises and further for tolerating an act of not having completed redevelopment period within time and therefore, the same would be a 'supply' and GST would to be levied.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Reverse charge mechanism under GST

Since the implementation of GST, the provision of reverse charge mechanism has been postponed several times. The latest notification has deferred its implementation until 30th September, 2018. The government, however, is concerned about the benefit of implementing RCM which may disrupt small businesses without bringing any significant rise in revenue collections. The media reports also state that Group of Ministers (GoM), along with a panel of government officials will submit their report to the GST Council that is expected to meet on 21st July, 2018.

GST concessions on online payments

As per the media reports, Group of Ministers (GoM) will be conducting a meeting for offering discount to consumers making online payment i.e. on incentivising digital payments. The GST Council on 4th May, 2018 had discussed the proposal of a concession of 2% in the GST rate (where the GST rate is 3% or more) on B2C supplies, for which payment is made through cheque or digital mode. The ceiling for the discount was proposed to be capped at INR 100 per transaction. However, due to lack of consensus among states, GoM would deliberate on this subject and present their report to the GST Council in its upcoming meeting.

GST credit to home buyers

As per the media reports, some developers are still not passing on the benefit of input tax credit under GST to the home buyers buying properties from under-construction projects. This has led to increase in demand for ready-to-move-in flats and completed projects which have been granted completion certificates as they do not attract GST.

Glossary

IGST – Integrated Goods and Services Tax

AAR – Authority for Advance Ruling

TDS – Tax Deducted at Source

TCS – Tax Collected at Source

RCM – Reverse Charge Mechanism

CBIC – Central Board of Indirect taxes and Customs

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.

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. 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.