



Week of 8th October, 2018

A. CHANGES IN THE GST REGIME

CGST (11th Amendment) Rules, 2018

The CBIC has vide notification no. 53/2018 – central tax dated 9th October, 2018, notified the CGST (11th Amendment) Rules, 2018 wherein rule 96(10) of the CGST rules has been deemed to be substituted with effect from 23rd October, 2017.

CGST (12th Amendment) Rules, 2018

The CBIC has vide notification no. 54/2018 – central tax dated 9th October, 2018, notified the CGST (12th Amendment) Rules, 2018 wherein rule 96(10) of the CGST rules has been substituted to allow the exporters who have received capital goods under the Export Promotion Capital Goods Scheme to claim refund of the IGST paid on exports.

Letter clarifying Central and State officials to initiate enforcement action

CBIC noticed that ambiguity prevails on initiation of enforcement action by central tax officers in case of taxpayers assigned to state tax authority and vice versa. It is accordingly clarified by CBIC that the officers of both central tax and state tax are authorized to initiate intelligence based enforcement action on the entire taxpayer's base irrespective of the administrative assignment of the taxpayer to any authority. The authority which initiates such action is empowered to complete the entire process of investigation, issuance of Show Cause Notice (SCN), adjudication, recovery, filing of appeal etc. arising out of such action. In other words, if an officer of the central tax authority initiates intelligence based enforcement action against a taxpayer administratively assigned to state tax authority, the officers of central tax authority would not transfer the said case to its state tax counterpart and would themselves take the case to its logical conclusions. Similar position would remain in case of intelligence based enforcement action initiated by officers of state tax authorities against a taxpayer administratively assigned to the central tax authority. It is also informed that GSTN is already making changes in the IT system in this regard.

Constitution of AAR and appellate authority for AAR in union territories

The government has vide notification no. 14/2018 and notification no. 15/2018 - union territory tax dated 8th October, 2018 notified the constitution of AAR and appellate authority for AAR in the union territories being Andaman and Nicobar Islands, Chandigarh, Daman and Diu, Dadra and Nagar Haveli and Lakshadweep.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Central and State officials can access all taxpayers

As the CBIC has clarified that the officers of both central tax and state tax are authorised to initiate intelligence-based enforcement action on the entire taxpayer's base irrespective of the administrative assignment of the taxpayer to any authority, the centre and the state authorities can act against the GST evaders irrespective of jurisdiction. As per the media reports, the industry fears that this may lead to rise in enforcement action and that the industry may get caught in the cross fire of central and state authorities.

Glossary

AAR – Authority for Advance Ruling

CBIC – Central Board of Indirect taxes and Customs

CGST – Central Goods and Services Tax

GSTN - Goods and Services Tax Network

IGST – Integrated Goods and Services Tax

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