



Week of 19th November, 2018

A. CHANGES IN THE GST REGIME

Back office service to foreign company is intermediary service: Maharashtra AAR ruling

The applicant, an Indian company incorporated to provide back office support services to overseas companies. The applicant has sought an advance ruling to decide as to whether the services proposed to be rendered by it would qualify as an export of service which is a zero rated supply under section 16 of the IGST Act, 2017. The AAR held that the back office administrative and accounting support services, pay-roll processing and maintenance of employee records, rendered by the applicant to overseas client, does not constitute an 'export of service'. Applicant arranges/facilitates supply of goods or services or both between overseas client and customers of overseas client, therefore, applicant is clearly covered and falls in 'intermediary' definition as contained under section 2(13) of IGST Act, 2017. Additionally, the place of supply in case of services provided by applicant being intermediary would be the location of supplier of services under section 13(8) of IGST Act i.e. Maharashtra. Hence, services proposed to be rendered by the applicant do not qualify as 'export of services' as defined under section 2(6) and thus not a 'zero rated supply' as per section 16(1) of the IGST Act, 2017

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Film industry

The GST Act categorised movie tickets as a luxury putting movie tickets under the highest tax bracket. The CBIC later reduced the GST rate on movie tickets to 18% for tickets up to INR 100. However, as per the media reports, some state governments are helping the movie industry. In this note, the state of Uttar Pradesh, in its recent cabinet meeting on 20th November 2018 announced to reimburse the state GST imposed on movie tickets from July 2017 i.e. 9% for movie tickets costing up to INR 100 and 14% for movie tickets costing above INR 100.

McDonald's guilty of profiteering

As per the media reports, complaints were filed against the Hardcastle restaurant, franchisee of McDonald's in western and southern regions of India, accusing it of profiteering by keeping the prices of the products same despite a reduction in the GST rate from 18% to 5% which came into effect from 15th November, 2017. The Directorate General of Anti-Profiteering (DGAP) in the course of investigation found that Hardcastle restaurants

had resorted to profiteering by charging more price and is guilty of not passing on the GST rate cut benefit to its consumers of over INR 7.49 crores. The National Anti-profiteering Authority (NAA) has in its order asked the restaurant to reduce the prices keeping in view the reduced rate of tax and the benefit of ITC which has been availed.

Aviation Turbine Fuel

As per the media reports, the process of bringing ATF under the GST ambit is still underway pending with the GST Council to add it to its agenda and consider the same.

Proposed improvements in E-way bill

National Informatics Centre has issued the proposed improvements in E-way bill generation. The proposed improvements relate to (i) checking of duplicate generation of e-way bills based on same invoice number, (ii) CKD/SKD/lots for movement of export/import consignment, (iii) shipping address in case of export supply type, (iv) dispatching address in case of import supply type, (v) bill to – ship to transactions and (vi) changes in bulk generation tool.

Glossary

AAR- Authority for Advance Ruling

CBIC – Central Board of Indirect Taxes and Customs

GST – Goods and Services Tax

IGST – Integrated Goods and Services Tax

ITC – Input Tax Credit

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