



Week of 10th December, 2018

A. CHANGES IN THE GST REGIME

GST on sale of flats with completion certificate

The Government of India has issued a press release dated 8th December, 2018 clarifying that no GST is applicable on sale of complex or building and ready to move-in flats where sale takes place after issue of completion certificate by the competent authority. GST is applicable only on sale of under-construction property or ready to move-in flats where completion certificate has not been issued at the time of sale. The press release also compares the rate of tax and the input tax credit available to the builder pre-GST regime and post-GST regime as follows:-

| Period | Output Tax Rate | Input Tax Credit details | | Effective Rate of Tax |
|---------|--|---|---|--|
| Pre-GST | Service Tax: 4.5% VAT: 1% to 5% (composition scheme) | Central Excise on most of the construction materials: 12.5% VAT: 12.5 to 14.5% Entry Tax: Yes | No input tax credit of VAT and Central Excise duty paid on inputs was available to the builder for payment of output tax, hence it got embedded in the value of properties. Considering that goods constitute approximately 45% of the value, embedded ITC was approximately 10- 12%. | Effective pre-GST tax incidence: 15-18% |
| GST | Affordable housing segment: 8%, Other segment: 12% after 1/3 rd abatement of value of land | Major construction materials, capital goods and input services used for construction of flats, houses, etc. attract GST of 18% or more. | ITC available and weighted average of ITC incidence is approximately 8 to 10%. | Effective GST incidence, for affordable segment and for other segment has not increased as compared to pre-GST regime. |

Extension of due date for filing GSTR 9, GSTR 9A and GSTR 9C

The Government of India has via a press release dated 10th December, 2018 decided to extend the due date for filing Form GSTR-9, Form GSTR-9A and Form GSTR-9C till 31st March, 2019. The requisite Forms shall be made available on the GST common portal shortly.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Next GST Council meeting

The next meeting of the GST Council is scheduled on 22nd December, 2018, Saturday.

GST on back-office services

The AAR Maharashtra has recently ruled that the back office services provided by an Indian company to a foreign company will be treated as an intermediary service taxable at the rate of 18% and will not be treated as export of service (For details, please refer to our GST weekly highlight volume 73, November 2018). This AAR decision has hit both Indian back-office service providers as well as the captive units of multinationals. Last week, the media reports stated that the tax department is issuing notices to captive units of multinationals and Indian companies exporting offshore support services. During this week, media reports have stated that the 18% GST on these services would completely disrupt the cost dynamics of the back-office model that operates on thin margins and would face challenges from other low-cost jurisdictions. Therefore, it is anticipated that the issue could be taken up by the GST Council or even clarified by the GST Implementation Council once the law committee firms up its view.

GST on third party insurance premium

Presently, every vehicle owner is mandatorily required to have a third-party insurance premium policy which is taxed at 18%. As per the media reports, in order to ease the burden on consumers, the GST Council in its next meeting may consider cutting the tax rate on payment of third-party vehicle insurance premium.

Companies registered under GST and vanished may invite investigation

As per the media reports, tax authorities may soon come for investigation at the premises of companies that have registered for the GST but vanished by not filing returns or payment of taxes. The tax authorities are considering having an extensive plan to hunt for these missing GST taxpayers.

Glossary

AAR – Authority for Advance Ruling

GST – Goods and Services Tax

GSTR – Goods and Services Tax Return

ITC – Input Tax Credit

VAT – Value Added Tax

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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