



Week of 28th January, 2019

A. CHANGES IN THE GST REGIME

Notifications issued to bring the provisions of Amendment Act into effect

By notifications dated 29th January, 2019, the Ministry of Finance has stated that the provisions of Union Territory Goods and Services Tax (Amendment) Act, 2018, Goods and Services Tax (Compensation to States) Amendment Act, 2018 and Integrated Goods and Services Tax (Amendment) Act, 2018 to take effect from 1st of February, 2019.

Notification issued to rescind earlier Notification

The Ministry of Finance by a notification dated 29th January, 2019 has rescinded notification No. 8/2017- Union Territory Tax (Rate), dated 28th June, 2017. The said notification exempted intra-State supplies of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the Union territory tax leviable thereon under sub-section (4) of section 7 of the said Union Territory Goods and Services Tax Act.

The Ministry of Finance by a Notification dated 29th January, 2019 has rescinded the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 32/2017-Integrated Tax (Rate), dated the 13th October, 2017. The said notification exempted the inter-State supply of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the integrated tax leviable thereon under sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017.

B. PROPOSED CHANGES AND INDUSTRY ISSUES

Input Tax Credit claims to be examined due to fall in GST revenues

Concerned over a decline in GST revenues, tax officials are likely to examine the high usage of ITC to set off tax liability by businesses. The issue of high ITC was flagged at the meeting of the Group of Ministers (GoM) which was set up by the GST Council to look into the reasons for revenue shortfall being faced by a large number of states. The revenue department would now analyse the large number of ITC claims to find out if they are genuine or based on fake invoices and take corrective action.

Price cannot be revised due to change in tax structure

In the case of Bipson Surgical (India) (P.) Ltd. v. State of Gujarat, the High Court of Gujarat has held that manufacturers cannot revise price due to increase in tax liability as a result of implementation of GST law. In this case the petitioners were engaged in the business of manufacture and distribution of surgical dressing items. The petitioners in view of the introduction of the GST and change in the rate structure asked the procuring agency to consider new GST rates which would be applicable to the product supplied by them and pay the duty amount, if any. When the agency did not agree, the petitioners filed Special Civil Application praying before the High Court that they may be permitted to revise the price in view of the change in the tax structure by introduction of the GST. The Court held that in the instant case, as such the liability to pay GST is upon the supplier, the price quoted and the rate contract was inclusive of all the levies and taxes. Therefore, the petitioners shall not be entitled to the revision of price as sought.

Delayed refunds worry the world's largest contract manufacturer

Foxconn, the world's largest contract manufacturer, has flagged its concerns to the government over delays in refunds of about Rs 1,000 crore under the goods and services tax regime, saying one of its key India units has been left cash-starved and this could hurt plans to deepen local production of electronics. Typically under GST, manufacturers can claim credits on taxes paid on various inputs and set them off against their tax liability. Where the tax rate on inputs is higher than that on output supplies – as in the case of the contract manufacturers - refunds can be claimed where input tax credits have accumulated.

Scam involving Rs 177-crore GST surfaced in Gujarat

Ehsas Ali Saiyad, a resident of Vadodara, was the mastermind of a scam involving issuing of fake invoices. The man has been arrested for allegedly issuing fake invoices to claim Rs 177.64 crore input tax credit. The 29-year-old allegedly floated 66 fake companies with as many dummy owners in whose name he issued tax invoices to claim input tax credit. The accused obtained GST registration, GST identity cards, login-password, SIM cards, bank accounts and online passwords in the name of these dummy owners.

Notices issued to Banks for payment of GST on use of logos

The tax department has issued notices to banks that allow subsidies, such as mutual fund and insurance units, to use the logos for free. The department wants the banks to pay 18% GST on “deemed” value of such transactions and have even calculated how much these are worth. Subsidiaries use logos for the promotion of related products with the understanding which is sometimes included in the contract that no fees has to be paid. According to the department, these are “related party transactions” and hence should be subjected to valuation regulations as per the GST law.

Glossary

GST – Goods and Service Tax

ITC – Input Tax Credit

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