

1. NOTIFICATIONS

- **Notification No. 40/2018-Central Tax dated September 04, 2018 (Extension of due date)**
 - ♦ The notification extends the time limit for making declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July 2017 to June 2018 till September 30, 2018.
- **Notification No. 41/2018-Central Tax dated September 04, 2018 (Late fee waiver)**
 - ♦ The Central Government has waived the late fees, in respect of the following:
 - Form GSTR-3B (Simplified monthly return for October 2017) – In case where the said return was submitted but not filed on the common portal, after generation of the application reference number n
 - Form GSTR-4 (Return for composition Tax Payers for October 2017 to December 2017) – In case where the said return was filed by the due date, but late fee was erroneously levied on the common portal
 - Form GSTR-6 (Return for Input service distributor)– In case where late fee has been paid for filing or submission of the return for any tax period between January 01, 2018 and January 23, 2018.
- **Notification No. 42/2018-Central Tax dated September 04, 2018 (Extension of due date)**
 - ♦ The notification extends the time limit for making the declaration in FORM GST ITC-01 (details of the stock), for persons who have filed the application for withdrawal from composition scheme in FORM GST-CMP-04 between March 02, 2018 and March 31, 2018, for a period of thirty days from the date of notification.
- **Notification No. 39/2018-Central Tax dated September 04, 2018 (Amendment to CGST Rules)**
 - ♦ The notification seeks to amend the CGST Rules. Certain key amendments are:
 - If the vendor invoice does not contain all the specified particulars as prescribed in the Rules but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, the recipient will be eligible to avail input tax credit on such invoice.
 - The formula to compute 'Adjusted total turnover' used for calculating amount of refund of input tax credit in case of zero rated supplies made without payment of duty, has been amended.
 - The format of the annual return in Form GSTR-9 has been notified.

2. JUDICIAL UPDATE

- ♦ Gujarat High court admitted a writ petition which challenges the constitutional validity of Section 13(8)(b) of IGST Act, 2017, which deems the place of supply for 'intermediary' as 'location of supplier of service'.
- ♦ As per the petitioner, Section 13(8)(b) of the IGST Act seeks to create an artificial deeming fiction so as to tax export of service and is therefore, ultra vires Articles 265 and 286 of the Constitution of India.
- ♦ Further contended that as a result of the deeming fiction, the services of Indian indenting agent can never be treated as exports and consequently be zero-rated.
- ♦ The Writ petitioner seeks declaration that Section 13(8)(b) is null, void and ultra vires Article 14, 19, 265 and 286 of the Constitution of India. Besides, the writ petitioner prays for stay the implementation of the provision and direction to revenue to refund IGST paid on services provided by it to clients located outside India.
- ♦ High court has issued notice to Central Government, CBIC & GST Council and posted the matter for next hearing on October 9.

3. CIRCULARS

- **Ministry of Finance – Circular No. 57/31/2018-GST dated September 04, 2018**

- ◆ CBIC issues clarification regarding scope of principal-agent relationship as contemplated under clause 3 of Schedule I of CGST Act (“The said entry”).
- ◆ This was necessary due to various representations have been received from trade and industry regarding the scope and ambit of the principal-agent relationship under GST and to ensure uniformity in the implementation of provisions of the law.
- ◆ Not all activities between principal and agent fall within the scope of the said entry. Supply of services between principal and agent is outside the ambit of the said entry, and, require consideration to qualify as a “supply” under GST law.
- ◆ Crucial component for covering a person within the ambit of the term “agent” as defined under section 2(5) of the CGST Act is the representative character to carry out activities on behalf of principal as identified from definition of “agent” under Section 182 of the Indian Contract Act, 1872.
- ◆ The key ingredient for determining principal-agent and relationship to be covered under the said entry to determine whether invoice for further supply of goods on Principal’s behalf is issued by agent or not. Accordingly, where invoice for further supply is issued by agent in his name, any provision of goods from Principal to agent would fall within fold of said entry. However, where the invoice is issued by agent to customer in the Principal’s name, such agent shall not fall within the ambit of Schedule I. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered.
- ◆ The crucial aspect is to determine whether agent has the authority to pass or receive the title of the goods on behalf of the principal.
- **Ministry of Finance – Circular No. 58/32/2018-GST dated September 04, 2018**
 - ◆ Alternative method for recovery of arrears of wrongly availed CENVAT Credit under the existing law and CENVAT Credit wrongly carried forward as transitional credit in the GST regime
 - ◆ CBIC had earlier clarified [circular No. 42/16/2018-GST dated April 13, 2018], that recovery of arrears arising under the existing law shall be made as central tax liability to be paid through the utilization of the amount available in the electronic credit ledger or electronic cash ledger of the registered person and the same shall be recorded in Part II of electronic liability register
 - ◆ Noting that the functionality to record this liability in the electronic liability register is not available on the common portal GSTN, CBIC clarifies that as an alternative method, taxpayers may reverse the wrongly availed CENVAT Credit under the existing law and inadmissible transitional credit through Table 4(B)(2) of FORM GSTR-3B.
 - ◆ Also clarifies that the applicable interest and penalty shall apply on all such reversals which shall be paid through entry in column 9 of Table 6.1 of FORM GSTR-3B
- **Ministry of Finance – Circular No. 59/33/2018-GST dated September 04, 2018**
 - ◆ Clarification on various refund related issues *inter alia* providing the following:
 - ◆ Refund claim shall be accompanied by a print-out of FORM GSTR-2A of claimant for relevant period for which refund is claimed. Proper officer may call for hard copies of invoices for the examination of refund claim where FORM GSTR-2A do not contain invoice details.
 - ◆ Refundable amount of unutilized ITC is to be debited from electronic credit ledger of claimant in following order: (a) IGST (b) CGST and SGST/UTGST equally to the extent of balance available.
 - ◆ Restriction under Rule 96(10) of CGST Rules [vide Notification No. 39/2018-Central Tax] shall be applicable only in respect of purchasers/importers directly purchasing/importing supplies on which benefit of specified notifications has been availed.
 - ◆ Tax authorities cannot refuse to disburse amount sanctioned by counterpart tax authority and remedy for correction of an incorrect or erroneous sanction order lies in filing an appeal against such order.
- **Ministry of Finance – Circular No. 60/34/2018-GST dated September 04, 2018**
 - ◆ CBIC has prescribed the manner and procedure for filing and processing of refund applications of Canteen Stores Department (CSD) who are entitled to claim refund of 50% of tax on all inward supplies of goods received.
 - ◆ Clarified that refund to be granted is not for accumulated ITC but based on invoices of inward supplies of goods received.
 - ◆ Further, CSD can apply for refund manually by filing an application in FORM GST RFD-10A to the jurisdictional tax office till the time the online utility is made available on the common portal and refund sanction/rejection order shall be issued manually along with the manual payment advice for each tax head separately.
- **Ministry of Finance – Circular No. 61/35/2018-GST dated September 04, 2018**
 - ◆ Clarification is issued in response to representations filed by textile sector and problems faced by weavers & artisans regarding e-way bill requirements for storage of their goods in the warehouse of the transporter.

- ◆ As per rule 138 of the CGST Rules e-way bill is a document which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business.
- ◆ The definition of place of business as per section 2(85) of CGST Act, includes godown where a taxable person stores his goods. Accordingly, It has been clarified that the transporter's godown is to be declared as an additional place of business by the recipient taxpayer in case the consignee/recipient taxpayer stores his goods in the godown of the transporter. In such cases, mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice and the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown, and e-way bill validity will not be required to be extended.
- ◆ A valid e-way bill shall be required to be generated whenever the goods are transported from the transporter's godown to premises of the recipient.

4. GST IN NEWS

■ National Anti-profiteering Authority starts consumer helpline

- ◆ The National Anti-profiteering Authority (NAA) has started a helpline to encourage consumers to file complaints against companies that are not passing on GST rate cut benefits.

■ Annual returns seek additional details from taxpayers

- ◆ The format of annual returns calls for additional and cumbersome details such as HSN wise details for inward supplies, reporting reconciliation between credit claimed in GSTR-3B and GSTR-2A and classifying total input tax credit (ITC) availed into ITC on input, capital goods and input services and details of reclaim of ITC reversed earlier

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