# INDIRECT TAX UPDATE- JULY 2020-I<sup>ST</sup> ISSUE FOR JULY

S.K.KANODIA & ASSOCIATES

## CONTENTS

-0-

2

RECENT CASE LAWS

GST DUE DATES IN JULY 2020 EXTENSION IN SERVICE TAX AND EXCISE DATES

CONTACT US

3

IDT UPDATE\_SKKA\_ISSUE I FOR JUNE 2020

## P&H High Court allows TRAN1 ITC to be taken in GSTR 3B of July 2020 is TRAN portal not opened by department-

### Haryana Mill Store Vs Uol - 2020-TIOL-1129-HC-P&H-GST

Petitioner challenges vires of Rule 117(1A) of CGST Rules, 2017 and seeks direction to Respondent to permit Petitioner to electronically upload form TRAN-1 in order to avail credit of excess VAT reflected in Returns, as due to technical glitches on the GST Portal, the petitioner could not file Form TRAN-1 -Petitioner contends that issue involved is squarely covered by judgment of this Court in the case of Adfert Technologies Pvt. Ltd. - 2019-TIOL-2519-HC-P&H-GST , SLP filed by Revenue against aforesaid decision havine been dismissed - Petitioner also submits that Delhi High Court in the case of Brand Equity Treaties Ltd. 2020-TIOL-900-HC-Del-GST has permitted Petitioners to file TRAN-I on or before 30.06.2020 and further directed the Respondents Revenue to permit all other similarly situated tax payers to file TRAN-I on or before 30.06.2020;

Delhi High Court though has not declared Rule 117(1A) ultra vires the Constitution, **nonetheless treated as violative of Article 14 of Constitution of India being arbitrary, discriminatory and unreasonable** - in the instant case, the Petitioner has challenged vires of Rule 117 (1A) of Rules, however Bench does not think it appropriate to declare it invalid as it is of the considered opinion that Petitioner is entitled to carry forward Cenvat Credit accrued under Central Excise Act, 1944 - contd...



DT UPDATE\_SKKA\_ISSUE I FOR JUNE 2020

## P&H High Court allows TRAN1 ITC to be taken in GSTR 3B of July 2020 is TRAN portal not opened by department-

### Haryana Mill Store Vs Uol - 2020-TIOL-1129-HC-P&H-GST

Repeated extensions of last date to file TRAN-I in case of technical glitches as understood by Respondent vindicate claim of the Petitioner that denial of unutilized credit to those dealers who are unable to furnish evidence of attempt to upload TRAN-I would amount to violation of Article 14 as well Article 300A of the Constitution of India - In view of decision of this Court in the case of Adfert Technologies Pvt. Ltd. (supra) and Delhi High Court in the case of Brand Equity Treaties Ltd. (supra) present petition deserves to be allowed and is accordingly allowed - The **Respondents are directed to permit Petitioner to upload TRAN-I on or before 30.06.2020 and in case Respondent fails to do so, the Petitioner would be at liberty to avail ITC in question in GSTR-3B of July 2020** - respondents would be at liberty to verify genuineness of claim(s) made by Petitioner: High Court

#### **SKKA COMMENTS**

The above judgment holds significance as the HC has allowed the assessee to avail ITC of TRAN1 in GSTR 3B of July 2020 if the department is unable to open the TRAN1 portal and thus this judgment would be very useful for all such assessee facing TRAN I issues. However, it is to be kept in mind that the Apex Court has issued notice and stayed the judgment of the Delhi HC in Brand Equity and other similar matters of TRAN1 credit.

IDT UPDATE\_SKKA\_ISSUE I FOR JUNE 2020

### Telengana High Court quashes demand order issued by STO being a non speaking order and remands for further adjudication

### Sany Heavy Industry India Pvt Ltd Vs STO- 2020-TIOL-1122-HC-AP-GST

The assessee-company is engaged in manufacturing heavy equipment such as Hydraulic Excavators, Concrete Machinery, Mining Machinery, Crawler Excavator, Truck Crane - In the relevant period, it entered into a **Machine Demo Activity Agreement for demonstration and evaluation of Hydraulic Excavator, for 45 days and on returnable basis** - The petitioner loaded the single machinery and raised a **returnable challan in the name of the company to whom the machine was being sent - The bill to ship was addressed to its Head Office** - Later owing to an error, the address for delivery of the goods was shown to be a different city - Such error was also made in the e-way bill - The driver was instructed to proceed to the correct destination - Subsequently, **the consignment was intercepted by the STO concerned, who checked the necessary papers & detained the consignment - Form GST MOV 07 was issued to the driver and demand for IGST was raised along with equivalent amount of penalty - Hence the present writ. –** 

The petitioner had raised the issue of the tax liability on the transaction -According to the petitioner, the tax liability had not even arisen - Since there was no taxable event, which had occurred, the question of having to pay the tax would not arise - Despite the fact that the said contention was raised by the petitioner, the STO has failed to deal with the said contention contd...

DT UPDATE\_SKKA\_ISSUE | FOR JUNE 2020

Telengana High Court quashes demand order issued by STO being a non speaking order and remands for further adjudication

Sany Heavy Industry India Pvt Ltd Vs STO- 2020-TIOL-1122-HC-AP-GST

Moreover, the STO has not even assigned any reason for ignoring the said contention - Therefore, the order is clearly a non-speaking order, as the material contention has been totally ignored by the STO - Since the order is a non-speaking one, there is no other option, except to set aside the said order and to remand the case back to the STO with a direction to consider the arguments raised by both sides and to pass a reasoned order, within a period of one month from the date of receipt of a certified copy of this order: HC

#### **SKKA Comments**

The above judgment of the HC would help the assesses in case where non speaking orders are passed by assessing officers and thus it would become imperative for the department to check such cases and instruct the field officers to pass necessary orders keeping the law in mind and not passing non speaking orders as in the instant case.

# NOTIFICATIONS

8

NOTIFICATION NO. 55/2020 – CENTRAL TAX DATED 27TH JUNE, 2020 By the said notification, the CBIC has notified the extension in time limit for completion or compliance of any action, by any authority or by any person falling during the period from the 20th day of March, 2020 to the 30th day of August, 2020, where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto 31st day of August, 2020.

Contd....



## NOTIFICATION NO. 55/2020 – CENTRAL TAX DATED 27TH JUNE, 2020

However, no extension has been provided for the below sections along with the said rules:

a) Time and value of supply provisions (chapter IV- sec 12-15 of the CGST Act, 2017)

b) Conversion of composition person to normal taxpayer

c) Registration u/s 25 and 27 of the CGST Act, 2017

d) Issue of tax invoice u/s 31 of the CGST Act, 2017

e) Furnishing of GSTR 1 u/s 37, levy of late fee u/s 47, payment of interest u/s 50, power to arrest u/s 69, liabilities of partners of firm to pay tax u/s 90, penal provisions u/s 122 and detention and seizure of goods in transit u/s 129 of the CGST Act, 2017

f) Furnishing of returns u/s 39. However, the said extension shall be applicable for the following returns:

I.TDS deductor (GSTR 7)

2.TCS collector (GSTR 8)

3. ISD (GSTR 6)

4. Non resident taxable person (GSTR 5)

g) Inspection of goods in movement for EWB purposes.

Thus the below gets extended

\*GSTR 6 for March 2020 -July 2020 from 13th of subsequent month to 31 Aug 2020\*

\*ITC 04 for Q4 19-20 and Q1 20-21 (due date 25th day of the month succeeding the quarter) from 25/04/2020 and 25/07/2020 respectively to 31/08/2020\*



Vide this notification CBIC has notified the extension in time limit for issuance of order in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of CGST Act i.e. where a notice has been issued for rejection of refund claim, in full or in part, falling during the period from the 20th day of March, 2020 to the 30th day of August, 2020, in such cases the time limit for issuance of the said order shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 31st day of August, 2020, whichever is later.



The said notification waives the late fees in excess of Rs. 250/- each head (CGST & SGST) on GSTR 3B for all those tax payers who submit their returns till 30th September, 2020. The maximum amount of penalty has been restricted to Rs. 500/- in case other than NIL returns and 'Zero' in case of nil returns for the tax periods Feb'20 to July'20. The said relief is for both class of taxpayers i.e. taxpayers having turnover upto Rs. 5 crores or more than 5 crores.

The said notification shall come into force w.e.f. 25th June, 2020.

## NOTIFICATION NO. 58/2020 DATED 1<sup>ST</sup> JULY, 2020

The said notification paves the path for furnishing of NIL GSTR 1 return w.e.f. 01/07/2020 through short messaging service (SMS) form.



IDT UPDATE\_SKKA\_ISSUE I FOR JULY 2020

## NOTIFICATION NO. 58/2020 DATED 1<sup>ST</sup> JULY, 2020

The said notification paves the path for furnishing of NIL GSTR 1 return w.e.f. 01/07/2020 through short messaging service (SMS) form.



IDT UPDATE\_SKKA\_ISSUE I FOR JULY 2020

### NOTIFICATION NO. 58/2020 DATED 1<sup>ST</sup> JULY, 2020

The said notification paves the path for furnishing of NIL GSTR 1 return w.e.f. 01/07/2020 through short messaging service (SMS) form.



IDT UPDATE\_SKKA\_ISSUE I FOR JULY 2020

# GST DUE DATES IN JULY 2020

101

#### GST-Due Dates in the month of JULY 2020

S.L. No.	Particulars	Returns/Forms to be filed	Due Date	Extended Due date
1.	Filing of GST outward supplies return (irrespective of turnover) for the month of June	GSTR-1	11 <sup>th</sup> July, 2020	5 <sup>th</sup> August, 2020
2.	Filing of GST outward supplies return for the Quarter April to June 2020	GSTR -1	31 <sup>st</sup> July, 2020	3 <sup>rd</sup> August, 2020 (No late fees till extended due date)
3.	Filing of Summary return and payment of taxes for the month of June in respect of the taxpayers having aggregate turnover of more than Rs. 5 cr. in previous Financial Year.	GSTR-3B	20 <sup>th</sup> July, 2020	30 <sup>th</sup> September, 2020 (with Interest @ 18% from due date and late fee capped @ Rs. 500/-}
4.	Filing of Summary return and payment of taxes for the month of June in respect of the taxpayers having aggregate turnover up to Rs. 5 cr. in previous Financial Year (category-1)	GSTR-3B	22 <sup>ND</sup> July, 2020	23 <sup>to</sup> Sep, 2020 (NIL Interest till 23/09/2020 and 9% thereafter till 30/09/2020 and @ 18% thereafter) (Late fee NIL till 23/09/2020)
5.	Filing of Summary return and payment of taxes for the month of June, 2020 in respect of the taxpayers having aggregate turnover up to Rs. 5 crs. in previous Financial Year (category-2)	GSTR-3B	24 <sup>th</sup> July, 2020	25 <sup>th</sup> Sep, 2020 (NIL Interest till 25/09/2020 and 9% thereafter till 30/09/2020 and @ 18% thereafter) (Late fee NIL till 25/09/2020)
6.	Due date for filing return by non-resident for the month of June	GSTR-5	20 <sup>th</sup> July, 2020	31" August, 2020
7.	Due date for filing return by non-resident OIDAR Service Provider for the month of June	GSTR-5A	20 <sup>th</sup> July, 2020	NA
8.	Due date for filing return by Input Service Distributors for the month of June	GSTR-6	13 <sup>th</sup> July, 2020	31# August, 2020
9.	Filing of TDS return for the month of June	GSTR-7	10 <sup>th</sup> July, 2020	31# August, 2020
10	Filing of TCS return for the month of June	GSTR-8	10 <sup>th</sup> July, 2020	31# August, 2020
11	ITC 04 for goods send and received from job worker during April 2020 to June 2020	ITC 04	25 <sup>TH</sup> July, 2020	31# August, 2020

IDT UPDATE\_SKKA\_ISSUE I FOR JULY 2020

### Category I-

 Taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep

### Category 2

 Taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi

## GST DUE DATES IN JULY 2020

# EXTENSION IN SERVICE TAX AND EXCISE DATES

The CBIC had extended the due dates for filing appeals under Service tax and Central excise matters due to the outbreak of COVID 19 by promulgating the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (2 of 2020) wherein the due date of compliances falling between 20<sup>th</sup> day of March 2020 and ending on 29<sup>th</sup> June 2020 was extended till 30<sup>th</sup> June, 2020.

Now vide Notification under F. No. CBEC-20/06/08/2020-GST] dated 27/06/2020, the said time limit has been extended from 20<sup>th</sup> March 2020 to 29<sup>th</sup> September 2020 and the compliance has to be reported before 30<sup>th</sup> September 2020.

Thus an appeal whose last date of filing under service tax/excise law was between  $20^{\text{th}}$  March, 2020 to  $29^{\text{th}}$  Sep, 2020 can be filed upto  $30^{\text{th}}$  Sep 2020 without any condonation of delay application.

## EXTENSION IN SERVICE TAX AND EXCISE DATES

# CONTACT US

111

## THANK YOU

S.K.Kanodia & Associates | Chartered Accountants HO: 13/C, Balak Dutta Lane (Near Ram Mandir) Kolkata- 700007,WB, INDIA. BO: 39A, Jorapukur Square Lane(Behind Girish Park), Room # 202, Kolkata- 700006,WB, INDIA 033-4065-8215 9831543580 INFO@SKKASSOCIATES.COM ANKIT@SKKASSOCIATES.COM