INDIRECT TAX UPDATE- JUNE 2020-IST ISSUE FOR JUNE

S.K.KANODIA & ASSOCIATES CHARTERED ACCOUNTANTS

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NAPA : Anti-Profiteering - s.171 of the CGST Act, 2017 2020-TIOL-25-NAA--GST

DGAP was to conduct a detailed investigation in the matter of the allegation that M/s Raymond Ltd. had not passed on the benefit of tax reduction from 28% to 18% w.e.f 15.11.2017 on 'After-Shave lotion Park Avenue Good Morning 50 ml' which was supplied to M/s Big Bazar, Inderlok run by M/s Future Retail Ltd. The respondent pleaded that it had reduced GST Rate from 28% to 18% on the invoices issued by them and hence has passed the benefit of tax reduction to its customers. However, mere charging of GST @18% and increasing the base price does not amount to passing on the benefit of tax reduction. It was seen that the respondent was charging same cum tax prices before and after tax reduction.

Thus, The NAPA held that Profiteered amount is required to be deposited in Consumer Welfare Fund of Central and State Governments in the ratio of 50:50 along with interest @18%. In addition to this, penalty was also imposed u/s 171(3A) of the CGST Act, 2017.

SKKA COMMENTS

Since, it is observed that the respondent has not kept base prices same before and after rate reduction. It implies that respondent has profiteered and thus is liable to deposit the profiteered amount along with interest and penalty.

DT UPDATE SKKA ISSUE I FOR JUNE 2020

AAAR: Exemption Notifications are to be interpreted strictly as to their eligibility The Nurserymen Co-operative Society Ltd [KAR/AAAR-20/2020-21]

Applicant is an association of persons and is in the business of maintaining gardens and landscape development for State and Central governments, local bodies and government undertakings - they are also providing pure services to these service recipients and the same is exempted by way of sr. no. 3 of 12/2017-CTR. Applicant states that he is sub-contracting this work to the sub-contractors and sought to know as to whether such sub-contact work is liable to tax under the Act.

AAAR held that Entries under SI. no. 3 and 3A will apply only if the recipient of services is a government (Central/State/UT) or local authority or a Governmental authority or a government entity. One cannot be influenced by extraneous factors while determining a person's eligibility to an exemption notification.

SKKA Comments

It is observed that the supplier of services i.e. the sub-contractor odes not qualify the criteria mentioned in the Exemption Notification. Hence, supply by them to the appellant is not eligible for exemption.

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AAR: Ice-Cream Parlour an 'eating-joint', supply of ice-cream along with various services taxable as 'restaurant-service'

In the matter of Sri Venkateshwara Agencies- [TS-340-AAR-2020-NT]

Telangana AAR holds that ice-cream and allied products served in the ice-cream parlour & at customer's premises during party events shall be taxable at 5% without ITC w.e.f. October 01, 2019; Observes that applicant, a distributor of "SCOOPS" brand ice-cream provides in its parlours, certain service activities viz., serving of ice cream by the waiters, seating facility, air conditioning facility, drinking facility, provision of dust bin and tissue papers etc. to the customers; Concludes that parlour would fall within the terms 'eating joint' and the supply of ice cream along with the service activities by the applicant are 'Restaurant service' as per para 4(xxxii) of Notification No. 11/2017-CT(R) dated June 28, 2017;

SKKA Comments

Earlier Maharashtra AAR in case of Arihant Enterprises [TS-229-AAR-2019-NT] held that supply of ice-cream by applicant from its retail outlets in wholesale packs (tubs) or scoops in paper cups/cones not exceeding MRP consumed outside applicant's premises constitute a supply of 'goods' thereby taxing it at 18% GST, which was however ruled to be void-ab-initio for being "vitiated by the process of suppression of material facts" as per AAAR order [TS-952-AAAR-2019-NT].

DT UPDATE_SKKA_ISSUE I FOR JUNE 2020

AAR: IGST applicable on ex-factory sales where goods movement terminates in other State

In the matter of Penna Cement Industries Ltd. [TS-341-AAR-2020-NT]

Telangana AAR holds that **IGST** is to be charged on ex-factory interstate sale of cement wherein goods are made available by the supplier to the recipient of at the factory gate; Notes that factory gate is not the point where movement terminates since the recipient subsequently assumes the charge for transportation of the goods up to the destination in another state; Infers from section 10 (1) of the IGST Act that place of supply has to be determined with reference to the location where the movement of goods ultimately terminates as per billing address; Accordingly, observes that the 'location of supplier' and the 'place of supply' fall under different states and the supply qualifies as inter-State supply:

SKKA Comments

The above judgment provides an insight in to the interpretation of section IO(I)(a) of the IGST Act, 2017 and states that since the transporation can be arranged by the recipient also, hence the POS should be the billing address and hence IGST should be charged by the supplier. Indeed one of the correct interpretation of the law by the AAR.

NEXT GST COUNCIL MEET ON I 2TH JUNE 2020

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GST COMPENSATION CESS AND NEXT COUNCIL MEETING

• Requests have been made for waiver of late fees pertaining to the period-August 2017 to January 2020.

Late fees is imposed to ensure that Compliance is done on time. And, In the absence of this provision, Honest and Compliant taxpayers would be discriminated negatively.

In GST, every decision is taken with the approval of GST Council. And therefore, this issue of late fees would be taken up for discussion in the NEXT GST COUNCIL MEETING on 12/06/2020.

• The Central Govt. releases GST Compensation of Rs 36,400 crore for the period from December 2019 to February 2020 to States & Union Territories with Legislature considering the current situation due to COVID-19 where State Governments need to undertake expenditure while their resources are adversely hit: Ministry of Finance PIB

GST DUE DATES FOR JUNE 2020

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DUE DATES FOR GST FOR JUNE 2020

| Particulars | Returns/Forms to be filed | Due Date |
|--|------------------------------|---|
| Filing of GST outward supplies return having turnover less than 1.5 crore in the PFY for the months of March 2020 April 2020 & May 2020 | GSTR-1 | 30 th June, 2020 31 st July, 2020 |
| Filing of GST outward supplies return having turnover more than 1.5 crore in the PFY for the months of March 2020 to May 2020 | GSTR-1 | 30 th June, 2020 |
| Filing of Summary return and payment of taxes in respect of the taxpayers having aggregate turnover of more than Rs. 5 cr. in previous Financial Year for the months of February 2020 to April 2020 May 2020 | GSTR-3B | 24 th June, 2020 (with Interest payable @9% from 04/04 and 05/05 and 04/06 for Feb, March and Aperil) 27 th June, 2020 |
| Filing of Summary return and payment of taxes in respect of the taxpayers having aggregate turnover of more than Rs. 1.5 cr. but less than Rs. 5 cr.in previous Financial Year for the months of February 2020 and March 2020 April 2020 May 2020 | GSTR-3B | 29 th June, 2020 30 th June, 2020 12 th July/14 th July, 2020 for Category 1 and Category 2 states respec. |
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| Particulars | Form | Due date |
|--|---------|---|
| | Туре | |
| Filing of Summary return and payment of taxes in respect of the taxpayers having aggregate turnover of less than Rs. 1.5 cr. in previous Financial Year for the months of February 2020 March 2020 April 2020 May 2020 | GSTR-3B | 30 th June, 2020 3 rd July, 2020 6 th July, 2020 12 th July/14 th July, 2020 for Category 1 and Category 2 states respect |
| Due date for filing return by non-resident for the months of February 2020 to May 2020 | GSTR-5 | 30 th June, 2020 |
| Due date for filing return by non-resident OIDAR Service Provider for the month of February 2020 to May 2020 | GSTR-5A | 30 th June, 2020 |
| Due date for filing return by Input Service Distributors for the months of February 2020 to May 2020 | GSTR-6 | 30 th June, 2020 |
| Filing of TDS return for the months of February 2020 to May 2020 | GSTR-7 | 30 th June, 2020 |
| Filing of TCS return for the months of February 2020 to May 2020 | GSTR-8 | 30 th June, 2020 |

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Category 1-

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

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THANK YOU

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