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NOTIFICATIONS



Rate of Tax column added in place of Total Value in GSTR-1 for HSN/SAC furnished in HSN Summary

In GSTR-1 against serial number 12, in the Table, in column 6, the words 'Total Value' has been replaced with 'Rate of Tax' for each HSN/SAC furnished in HSN Summary from the return for tax period of May, 2021 onwards.

Source: Notification No. 79/2020- Central Tax dated October 15, 2020.

Advisory on generation of GSTR-2B for the month of April, 2021

Rule 36(4) shall apply cumulative for the period April and May, 2021 while filing GSTR-3B for the tax period May, 2021.

Taxpayers willing to file FORM GSTR-3B for the month of April, 2021 before generation of GSTR-2B may avail ITC on self-assessment basis.

Source: Notification No. 13/2021-Central Tax dated May 01, 2021

JUDGEMENTS AND ADVANCE RULING



Rejecting refund claim on the grounds of technical glitches in GSTN software is unfair

Issue: Whether the Petitioner's claim for refund of CGST and IGST can be denied on the ground that

the entire refund amount got consolidated under one head i.e. SGST, due to the technical error and new system of software in GSTN?

Judgement: The Hon'ble Madras High Court set aside the order rejecting refund claim of CGST and IGST of the assessee wherein, the entire

refund liability of Input Tax Credit ("ITC") got auto populated under a single head i.e., State Goods and Services Tax ("SGST") instead of SGST, Central Goods and Service Tax ("CGST") and Integrated Goods and Services Tax ("IGST"). Held that, if the assessee was otherwise eligible to refund, the refund claim ought not to be denied on the ground of technical glitches and error occurred due to auto-population in Goods and Services Tax Network ("GSTN") software. Nothing can be more unfair.

Source: Tvl. Mehar Tex v. the Commissioner of CGST & Ors. [W.P.(MD) Nos. 22996, 22999 & 23001 of 2019 and W.M.P.(MD) Nos. 19733, 19736 & 19739 of 2019 dated March,18 2021]

Practicing advocates exempted from service tax/GST

Issue: Whether the notices issued by the Respondents calling upon the Petitioner to pay service tax/GST are valid?

Judgement: The Hon'ble Orissa High Court quashed the notice demanding to pay service tax/GST issued to the advocates. Held that, practicing advocates should not have to face harassment on account of the Department issuing notices calling upon them to pay service tax/GST when they are exempted from doing so, and in the process also having to prove they are practicing advocates.

Source: Devi Prasad Tripathy v. the Principal Commissioner CGST and Central Excise [W.P.(C) No. 27727 of 2020, dated April 22, 2021]

All the supplies made in relation to distribution of electricity are not exempt under GST

Issue: Whether the entire value chain of electricity and transmission distribution are beyond the purview of GST under the Constitution of India?

Ruling: The AAAR, Tamil Nadu held that GST is applicable on supply of operation and maintenance materials used in regular day-to-day functioning by one subsidiary company engaged in the generation and distribution of electricity to another subsidiary company engaged in the transmission of electricity. Further, modified the ruling to the extent that GST is not leviable on deployment of employees from one subsidiary company to another.

Source: Order-in-Appeal No. TN/AAAR/12/2021 of dated March 30, 2021

ITC not available on promotional products distributed FOC for sales promotion

Issue: Whether ITC is available on the promotional products/marketing items used by the Appellant in promoting their brand & marketing of their products?

Ruling: The Hon'ble AAAR, Karnataka held that the promotional products/materials & marketing items used by the Appellant in promoting their brand & marketing their products can be considered as 'inputs' as defined in Section 2(59) of the CGST Act and the goods procured on payment of GST which are disposed of by way of gifts are barred from being eligible for ITC in terms of Section 17(5)(h) of the CGST Act, even if they are used in the course or furtherance of business. Therefore, the ITC is not eligible on the promotional items distributed

as give away items on the grounds that the same is blocked by virtue of the provisions of Section 17(2) and Section 17(5)(h) of the CGST Act.

Source: Order No. KAR/AAAR/05/2021, dated April 16, 2021

CUSTOMS



Further extended the facility of accepting undertaking in lieu of bond till June 30, 2021 to facilitate the trade during COVID-19 pandemic

The CBIC restored the facility of acceptance of an undertaking in lieu of bond by Customs formations from the date of issue of this Circular till June 30, 2021. Importers/Exporters availing this facility shall ensure that the undertaking furnished in lieu of bond is duly replaced with a proper bond by July 15, 2021.

The terms and conditions underlined in Circular No.17/2020-Cus., dated 03.04.2020 as amended by Circular No. 21/2020-Customs, dated April, 21 2020 remain the same.

Source: Circular No. 09/2021-Customs dated May 08, 2021

Changes introduced through the Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2021

The CBIC introduced changes through the Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2021.

Reference is drawn to the Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2021 notified vide Notification No. 09/2021-Customs (N.T.), dated February 2, 2021 so as to make certain amendments in existing Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 ("IGCR Rules, 2017") that took effect from February 2, 2021.

The major changes brought in vide the said Amendment Rules, 2021, are highlighted as below:

Job Work

The facility of carrying out job work under the ambit of IGCR has been introduced. The scope of the job work facility has been extended to an importer who is a manufacturer but without complete manufacturing facility. Also, 100% outsourcing for manufacture of goods on job-work basis has been permitted for importers who do not have any manufacturing facility at all. However, sensitive sectors such as gold, articles of jewellery and other precious metals or stones have been excluded from the facility of job work.

Import and clearance of capital goods

An option has been given to the importers to import capital goods for a specified purpose at a concessional rate of duty and after having put such capital goods to use for the said purpose, clear the same after payment of the differential duty and interest, at a depreciated value, with permission from the jurisdictional Customs Officer.

Bringing more end-use based exemptions under the ambit of IGCR Rules, 2017

At present, there are certain end-use based exemptions in Notification No. 50/2017-Customs, dated 30.06.2017 which are being administered without the need to follow the procedure set out under the said IGCR Rules, 2017. With an intention to bring forth uniformity in the procedures for end-use based exemptions, the condition of compliance of the said IGCR Rules, 2017 is being provided for certain entries and these have already been notified by amending the said Notification.

Procedure to be followed by an importer which includes

- One time - Prior Intimation of intent to avail IGCR Benefit
- Intimation before import
- Clearance of goods from the port of import

- Receipt of goods at premises of importer/job worker
- Goods sent for job work from importer's premises
- Receipt of goods from the job worker
- Re-Export or clearance for home consumption
- Quarterly return and maintenance of account

Any importer or the job worker who contravenes the provisions of these rules shall be liable to a penalty as prescribed in the said rules (refer rule 8A). It is clarified that, this is in addition to any other action taken under the Customs Act, 1962 for recovery of duties.

The Directorate General of Systems, CBIC, is in the process of automating and facilitating online submission of compliances prescribed in the rules through the ICEGATE portal, thereby obviating the need for furnishing paper-based documents to the Customs Officer. Meanwhile, in order to facilitate the trade, it is proposed to route all the intimations and other communications specified in the said IGCR Rules, 2017, as amended, vide e-mail to the Customs Officers concerned.

Source: Circular No. 10/2021-Customs dated May 17, 2021

GST REVENUE COLLECTION

The gross GST revenue collected in the month of May 2021 is ₹1,02,709 crore of which CGST is ₹17,592 crore, SGST is ₹22,653, IGST is ₹53,199 crore (including ₹26,002 crore collected on import of goods) and Cess is ₹9,265 crore (including ₹868 crore collected on import of goods). The above figure includes GST collection from domestic transactions till 4th of June since taxpayers were given various relief measures in the form of waiver/reduction in interest on delayed return filing for 15 days for the return filing month May'21 in the wake of covid pandemic second wave.

During this month the government has settled ₹ 15,014 crore to CGST and ₹ 11,653 crore to SGST from IGST as regular settlement.

Source: pib.gov.in

LET'S TALK

For a deeper discussion of how these issues might affect your business, please contact our Indirect Taxation Team.

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