

GST NEWSLETTER

BHASIN SETHI & ASSOCIATES

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NOTIFICATIONS AND CIRCULARS

SOPs for exporters

Circular No. 131/2020-GST dated January 23, 2020.

CBIC has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification after finding many cases of fraudulent refund claims. The exporters, on being informed in this regard, to expedite the verification, should fill in information in the format attached as Annexure 'A' and submit the same to their jurisdictional CGST authorities, who will complete the verification within 14 working days. Exporter may register his grievance at CBIC site where the details in prescribed format had been submitted but refund remains pending for more than one month.

Amendment to CGST Act/Rules; transition plan for UTs of J&K & Ladakh

Notifications No. 1/2020-Central Tax; 2/2020-Central Tax; 3/2020-Central Tax, all dated 1st January 2020

CGST Rules have been amended to empower the Commissioner to extend the date for submitting the declaration electronically in FORM GST TRAN-1 till March 31, 2020 and such registered persons may submit the statement in FORM GST TRAN-2 by April 30, 2020. FORM REG-01 and GSTR-3A are amended and new FORM INV-01 is prescribed. Further an option is provided to registered persons to whose principal place of business or place of business lies in erstwhile State of Jammu and Kashmir till October 30, 2019 and lies in Union territory of Jammu and Kashmir or in the Union Territory of Ladakh from October 31, 2019, to transfer ITC from the registered GSTIN, till the

December 31, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in Union Territory of Ladakh from January 1, 2020 by following the specified procedure. Also, the balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the January 1, 2020, are allowed to be transferred as balance of Union territory tax in the electronic credit ledger.

Extension of late fee waiver of GSTR-1

Notification No. 04/2020-Central Tax dated January 10, 2020

The time limit for filing of GSTR-1 has been extended in order to avail late fee waiver for the period July 2017 to November 2019 upto January 17, 2020.

Appointment of 'Revisional Authority' under CGST Act

Notification No. 05/2020-Central Tax dated January 13, 2020

CBIC notified the appointment of Revisional Authority u/s 108 of Central Goods and Services Tax Act, 2017. (a) the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by Additional or Joint Commissioner of Central Tax; and (b) Additional or Joint Commissioner of Central Tax for decisions or orders passed by Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax, are authorized as the Revisional Authority.

CASE LAWS AND RULINGS

Gujarat HC struck down levy of IGST on ocean freight

In the case of **Mohit Mineral Pvt. Ltd. vs UOI**, Gujarat HC struck down levy of IGST on 'Ocean Freight' on transportation of goods by vessel from a place outside India to a place in India imposed vide Notification No.8/2017 – Integrated Tax (Rate) and Entry 10 of the Notification No.10/2017 – Integrated Tax (Rate). It was noted that entire chain of events took place outside India and was asserted that "mere fact that the transportation of goods terminates in India, will not make such supply of transportation of goods as taking place in India". As per Section 5(3) of the IGST Act, Government

cannot further specify the person liable to pay tax as other than recipient of supply. "The term 'recipient' has to be read in the sense in which it has been defined under the Act" and "There is no room for any interference or logic in the tax laws". It was noted that once the freight has already suffered the IGST as a part of the value of the goods being imported, the dual levy of the IGST cannot be imposed on the same freight amount by treating it as supply of service, claims HC. Further it was clarified that there is no provision for determining the place of supply where both the location of supplier and recipient is outside India. The scheme of the IGST Act only contemplates transactions of intra-state supply, inter-state supply and exports & imports and said supply of service is neither an inter-state nor an intra-state supply.

Jharkhand HC, allowing write, directed refund/adjustment of tax paid under wrong head

In the case of **Shree Nanak Ferro Alloys Pvt. Ltd. vs. The Union of India**, Jharkhand HC (Ranchi) quashed letter demanding IGST of Rs. 42 lakhs (approx.) along with interest, where GST was inadvertently deposited by assessee under a wrong head of tax (i.e. CGST). It was held that "we are not in a position to doubt the bona fides of the petitioner Company, that due to the initial stage of the CGST regime, there might be some confusion, and the cash was wrongly deposited in the wrong electronic cash ledger". It was further explained that Section 77 (1) of CGST Act, r/w Section 19(2) of IGST Act clearly stipulates that a registered person who has paid the Central tax, on a transaction of inter-State supply, is entitled to the refund of the amount of tax so paid, u/s 77 (1) of the CGST Act. The assessee was directed to deposit the amount under the IGST head, towards the liability of September 2017 and assessee's liability to pay any interest on the said amount was waived. Further, the assessee was also entitled to get the refund of the amount deposited by them under the CGST head, or they may get the amount adjusted against their future liabilities, in accordance with law, as they may choose.

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