

# GST NEWSLETTER

BHASIN SETHI & ASSOCIATES

02/09/2019

VOLUME II, ISSUE IX

## CONTENTS

### NOTIFICATIONS AND CIRCULARS

- Further extension of E-way bill blocking/un-blocking facility under Rule 138-E.
- Extension in due dates for filing GSTR-3B.
- CBIC waived ITC-04 filing upto March '19.
- Waiver of late-fee for certain returns for J&K/flood affected districts.

### CASE LAWS AND RULINGS

- AAR upheld levy of GST on violation charges, liquidated damages & interest thereon recovered from contractors.
- Interest/late-fee relating to pre-GST period service, received post July 2017, liable to GST.

### NOTIFICATIONS AND CIRCULARS

**Further extension of E-way bill blocking/un-blocking facility under Rule 138-E.**

**Notification No. 36/2019-Central Tax; dated 20<sup>th</sup> August 2019.**

CBIC notified extension in the facility of blocking and unblocking of e-way bill as per the provision of Rule 138E of CGST Rules, 2017 upto November 21, 2019.

**Extension in due dates for filing GSTR-3B.**

**Notification No. 37/2019-Central Tax dated 21<sup>st</sup> August 2019.**

CBIC notified extension in due date of filing FORM GSTR-3B for the month of July 2019. Extension of 2 days viz. upto August 22, 2019 granted for all taxpayers, upto September 20, 2019 for taxpayers having principal space of business in flood affected districts of specified States, and upto September 20, 2019 for taxpayers in J&K is granted.

**CBIC waived ITC-04 filing upto March '19.**

**Notification No. 38/2019-Central Tax dated 31<sup>st</sup> August 2019**

CBIC provided a waiver for furnishing declaration in FORM ITC-04 [Details of goods sent for job-work] for the period July, 2017 to March, 2019. However, said persons are required to furnish the details of all challans w.r.t. goods dispatched to a job worker in the said period but not received from a job worker or not supplied from job

worker's place of business as on March 31, 2019, in serial number 4 of FORM ITC-04 for the quarter April-June, 2019.

**Waiver of late-fee for certain returns for J&K/flood affected districts**

**Notifications No. 40/2019 - Central Tax and 41/2019 - Central Tax dated 31 August 2019.**

The last date for furnishing GSTR-7 [Return for tax deducted at source] for the month of July, 2019 is extended upto September 20, 2019 for specified taxpayers in J&K and flood affected districts in 7 States. The late fees for the month of July for FORM GSTR-1 [Details of outward supplies] is waived for taxpayers in J&K and flood affected districts having aggregate turnover of more than 1.5 crore rupees in the preceding or the current financial year, who have furnished details of outward supplies in FORM GSTR-1 for the said month on or before September 20, 2019. Further, late fee is waived for the month of July for FORM GSTR-6 [Details of ITC distributed by Input Service Distributors (ISD)] where principal place of business of ISD is in J&K and flood affected districts and who have furnished said return on or before September 20, 2019.

**CASE LAWS AND OTHER UPDATES**

**AAR upheld levy of GST on violation charges, liquidated damages & interest thereon recovered from contractors.**

In the matter of Dholera Industrial City Development Project Ltd., Gujarat AAR ruled that applicant, a Special Purpose Vehicle (SPV) constituted between the State Government (51% stake) and Government of India (49% stake) entrusted with development of 'Dholera Special Investment Region' is a 'Government entity' in terms of Notification No.31/2017-CT (Rate) dated November 13, 2017. Considering the extent of business of construction & erection, maintenance, repair to be conducted by the applicant, states that eligibility of ITC can only be decided after ensuring that further supply of works contract is made by the applicant on a case to case basis. Referring to Clause (e) of Para 5 of Schedule II of the CGST Act, 2017, it was stated that, violation charges payable by contractors are required to be

treated as consideration, liable to GST. Further, applicant is liable to collect GST on amount recovered from contractors on account of not achieving milestone. It was also held that liquidated damages and interest amount received on liquidated damages received for deferring the liquidated damages recovered from contractors is liable to tax.

**Interest/late-fee relating to pre-GST period service, received post July 2017, liable to GST.**

In the matter of Chennai Port Trust, Tamil Nadu AAR held that amount received after July 01, 2017 towards interest, late fee and penalty for the delayed payment of consideration for the leasing services rendered by applicant before appointed date are liable to GST. It was observed that separate invoices were raised for amount received as interest/ late fee/ penalty on belated payment of rent after July 01, 2017 and amount relating to the continuous supply of services (CSS) rendered by the applicant before July 01, 2017. It was stated that in case of original service of leasing/renting, the time of supply is before July 1, 2017 which is not covered under GST. As the applicant has tolerated delayed payment of consideration of lease/rent which the recipients should have paid much before, same is a separate 'supply of service' governed by Section 7(1)(a). it was further clarified that, consideration for this was received and invoice was raised both after July 1, 2017, accordingly, time of supply would be after July 1, 2017 in terms of Section 13 (2).

Disclaimer: Information in this newsletter is for educational purpose only. Bhasin Sethi & Associates assumes no responsibility of any mistakes which, despite of all precautions, may be found therein. The material contained in this document does not constitute any professional advice that may be required before acting on any matter