



INDIRECT TAX UPDATES

RSA Legal Solutions

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About RSA Legal Solutions



RSA Legal Solutions is an Indian Law firm specialized in the area of Indirect taxation i.e. Goods and Services Tax, Customs, Central Excise, Service Tax, Foreign Trade Policy (FTP), Special Economic Zone ('SEZ'), Value Added Tax (VAT)/ Central Sales Tax (CST), Foreign Exchange Management Act etc. With experience, constant training and updation of knowledge, the firm has developed unique expertise in the entire spectrum of indirect taxes. We provide litigation, advisory and compliance services to our clients.

Tax Services

Advisory
Litigation
Compliances
Audit
GST Handholding

Inter-state E-way Bill shall be made compulsory from 1st February 2018: 24th GST Council Meeting

General Updates

- The 24th GST Council meeting decided that the Uniform E-way Bill system for Inter-state as well as Intra-State movement will be implemented across the country by 1st June 2018.
- Form GST Tran-2 is now available at the GSTN portal.
- Form GSTR 3B is now simplified. The assessee has to answer some questions as per the transaction made during the tax filing period and only those sections will appear.
- GST data may be used to track income-tax evaders. The government is setting up a mechanism wherein data obtained through GST reporting could be correlated with the income-tax filings.
- The government is set to issue notices who have failed to file returns: Business Standard Report.
- Tax dept. starts probe into Bitcoin exchanges to ascertain rate they can be taxed under GST.
- GST council may bring petrol, realty under GST in future: Sushil Modi.
- Facility of filing of GSTR – 1 (Quarterly or Monthly) is now available at GSTN portal.



Key Notifications/Circulars/Public Notices

- The CBEC vide **Notification No. 114/2017- Customs (NT) dated 14.12.2017** has eased the norms for furnishing security/ surety along with Bank Guarantee/ bond by importers seeking to avail concessional duty benefit in terms of Customs (Import of Goods at Concessional Rate of Duty) Rules 2017.
- The CBEC vide **Circular 48/2017- Customs dated 08.12.2017** has provided clarification about the change in the norms for the purpose of extending the benefit under the Customs (Import of Goods at Concessional Rate of Duty) Rules 2017. The category of exporters along with quantum of the Bank Guarantee/cash security and requirement of Surety have been provided by the department in the circular.
- The CBEC vide **Circular 49/2017- Customs dated 12.12.2017** has clarified that Countervailing Duties which are leviable under section 9 of the Customs Tariff Act are rebatable as Drawback in terms of Section 75 of the Customs Act.

Case Laws

GST

- GST Impact –Tender cancellation- Sustainability - Nothing illegal or arbitrary in decision of State Government to cancel tender proceedings in view of change in tax environment on introduction of GST –Since tenderer eligible for ITC on GST paid on goods/services, nothing wrong in decision to exclude amount of GST in tender value - Article 226 of Constitution of India. Contract – Right to enforcement – Letter of acceptance of tender not yet issued – It is not a case of concluded contract for petitioner to claim right to seek enforcement – Petition not sustainable - Article 226 of Constitution of India. [**Nirmal Constructions V/s State of Madhya Pradesh. 2017 (7) G.S.T.L. 3 (M.P.)**.]
- Works contract – GST Rate – Representation of Association of Road Contractors – consideration thereof – Petitioner’s representations against rate of GST of 12% on works contract executed prior to 1-7-2017 or in alternative reimburse tax at same rate by Department of Highways, yet to be decided – Commissioner of Commercial taxes directed to consider representations and pass orders on merits within a period of four weeks after hearing the petitioner – Article 226 of Constitution of India. [**Coimbatore Road Contractors Welfare Association V/s. State of Tamil Nadu. 2017 (7) G.S.T.L. 4 (Mad.)**.]
- Refund – Cenvat credit not relating to any input or input service used in any final product or used in intermediate product cleared for export or used in providing output service exported - Rejection of refund or Cenvat credit accumulated due to difference in rate of Excise duty on input and final



product when assessee opted out of Cenvat regime rightly affirmed by Tribunal – Rule 5 of Cenvat Credit Rules, 2004. **[Triveni Rayons P. Ltd. V/s. Commissioner of Central Excise and Customs. 2017 (7) G.S.T.L. 10 (Guj.)]**

- Cenvat credit of Service Tax – Input Service – Cost of input service forming part of cost of final product - Credit of Service tax paid on such input services allowable – Input services availed of in course of business of providing outward services – Assessee entitled to refund claim of Cenvat credit lying in its account due to export of service - Rule 2 (1) and 5 of Cenvat Credit Rules, 2004. **[Commr. of S.T., Mumbai-II V/s. Wills Processing Services (India) Pvt. Ltd. 2017 (7) G.S.T.L. 12 (Bom.)]**
- GST - Petitioner / Association made representations to the respondents stating that the contract works for which the agreements were executed prior to 01.07.2017, GST cannot be imposed and 2% VAT under the Tamil Nadu Value Added Tax, 2006 alone is applicable – Writ Petition was disposed of by issuing directions to the Commissioner of Commercial Taxes to consider the representations given by the petitioner/Association and pass orders on merits and in accordance with law, within a period of four weeks after hearing the petitioner/association – Now, Contempt petition filed by petitioner/Association – Respondent contending before the High Court that the respondent Commissioner of Commercial Taxes had absolutely nothing to do in the matter and it is for the Central Government to have a say in the matter. Held: Court would be fully justified in initiating action for contempt, however, considering the sensitivity of the matter and the members of the petitioner/Association, who are contractors, are put to hardship on account of the nebulous state of affairs, Court is inclined to give one more opportunity to the respondent to consider the representations given by the petitioner/Association and pass orders on merits and in accordance with law as ordered in the writ petitions within a period of two weeks – Contempt petitions disposed of: High Court. **[Coimbatore Road Contractors Welfare Association Vs CCT, 2017-TIOL-41-HC-MAD-GST]**
- GST - Petitioners have challenged the condition contained in clause (iv) of sub-section (3) of section 140 of the CGST Act, 2017 which mandates that the registered person can take in his electronic credit ledger, credit of eligible duties on the strength of invoices or other prescribed documents which were issued not earlier than twelve months immediately preceding the appointed day – it is the case of the petitioner that they have sizable stock of goods purchased prior to the said period and on which, by virtue of the said condition, no CENVAT credit would be available. Held: Issue notice returnable on 25.01.2018 - notice to be issued to Attorney General of India in view of the fact that validity of Union legislation is questioned: High Court. **[Hitesh Engineering Vs Uoi, 2017-TIOL-40-HC-AHM-GST]**
- GST – Petitioner, an importer of coal has challenged the constitutional validity of the GST



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(Compensation to States) Act, 2017 and relevant notifications issued on the ground the same are ultra vires Article 279A of the Constitution – inasmuch as it is their grievance that on the coal imported by it prior to the introduction of Goods and Services tax regime, the petitioner had already paid clean energy cess at the prescribed rate and on the stock which the petitioner had not cleared, no credit would be allowed on such cess and the petitioner would be asked to pay fresh cess under GST (Compensation to States) Act, 2017. Held: Issue notice returnable on 18.01.2018 – notice to be issued to Attorney General of India in view of the fact that validity of Union legislation is questioned: High Court [**Adi Tradelink Vs Uoi, 2017-TIOL-39-HC-AHM GST**]

- GST - Petitioner submits that it is in the business of booking tours and hotel packages for customers and charge IGST from customers for bookings in hotels located outside Delhi - However, they are unable to avail input tax credit on the SGST charged by the hotels located outside Delhi since they are not registered in the

State in question - Petitioner submits that as per the stand of the respondents, the petitioner and other assesseees would have to be registered in all States and Union Territories to avail input credit of SGST which, according to them, is contrary to the purpose and objective of Goods and Services Tax; that effective rates of tax would go up from 18 % to 27% for hotel rooms in the Rs.2,500/- to Rs.7,500/- per night slab and from 28% to 42% for hotel rooms Rs.7,500/- and above per night; that different provisions are applicable in case of online bookings through web travel portals and they are able to avail the credit. Held: Respondents to examine the assertions and so called anomalies and inform the Court on the treatment accorded on sale of manufactured goods and other services which are provided by an assessee across the country - Respondents would also examine and consider whether the matter should be placed before the GST Council - Matter to be re-listed on 8 th February, 2018: High Court. [**D Pauls Travel and Tours Ltd Vs Uoi2017-TIOL-37-HC-DEL-GST**]
