

Introduction

- A very warm greeting to all our readers. We at SBGCo, hope and wish that all our readers stay home, stay healthy and make the most they can with time to not just bond with family, but also catch up on knowledge and latest updates.
- The Government is doing their best to ensure they cover all their bases during such lockdown and so should we, by ensuring all the updates and news are understood in the right sense and right manner.
- Hence, we bring this Newsletter to you where we will try to provide you insights and quick updates from the field of indirect taxes, covering recent relevant judgements, circular and press releases.
- We would like to highlight that a slew of notifications was issued on 23.03.2020 which were already covered in our previous updates shared on 24.03.2020 via email and through WhatsApp update group.
- We always look forward to hear from you for any feedback or suggestion for improvements. Wish you all a Happy reading.

Recent decisions from Judiciary

- The requirement of 6 months' continuous period should be fulfilled both at the time of issuance of the notice for cancellation of registration under CGST Act, and also at the stage of passing the final order cancelling the registration as per Sec. 29(2)(c).
Phoenix Rubbers vs. CTO [2020-TIOL-554-HC-KERALA-GST]

- Where the case is only of the products allegedly being sold at cost lower than the MRP, the inspecting authorities could only have intimated the assessing officer to initiate proper proceedings. If the details in the invoice bill and e-way bill match the products found in the vehicle at time of inspection, then under valuation of goods in the invoice cannot be a ground for detention of the goods
K P Sugandh Ltd vs. State of Chhattisgarh [2020-TIOL-640-HC-CHHATTISGARH-GST]
- Loss making concerns are also legally bound to pass on the benefit of tax reduction and they cannot appropriate the benefit of reduced rate against their losses
Rahul Sharma and Others Vs. Mcnroe Consumer Products Pvt Ltd [2020-TIOL-13-NAA-GST]
- The period of 7 days prescribed in Rule 159(5) of the CGST Rules for moving the objections to the provisional attachment by the objector is merely directory and not mandatory
RR India Pvt Ltd vs. UoI [2020-TIOL-562-HC-DEL-GST]
- The failure of the Parliament to mention the word "Rules", along with the Finance Act, 1994 in Section 174 (2) of the CGST Act, 2017 (Repeals and Savings), is completely meritless
Aargus Global Logistics Pvt Ltd vs. UoI [2020-TIOL-593-HC-DEL-ST]
- WhatsApp message exchange instructing supplier to mix gold with various substances and create a product roughly answering to the physical / chemical description of 'Ore' are sufficiently corroborated and, therefore, relevant and admissible
Mulchand M Zaveri Vs. Commissioner of Customs [2020-TIOL-479-CESTAT-AHM]

- A procedural law should not take away the vested rights of persons that are provided to them by statute, subject to scrutiny by department. Petitioners should be allowed to upload the TRAN-1/revised TRAN-1
Rishi Graphics Pvt Ltd and Others Vs. Uoi [2020-TIOL-561-HC-KOL-GST]
- When there is no dispute that the amount collected by the appellant from their clients is equal to the amount that the appellant pays to the bank due to dishonouring of cheque, such expenses are reimbursable expenses and not liable for tax.
TVS Finances and Services Ltd vs. Commissioner of Central Excise [2020-TIOL-512-CESTAT-MAD]
- Assessing Authority is required to give effect to order of superior Authority and not stand in judgment over same
3F Industries Ltd vs. Assistant Commissioner of Customs [2020-TIOL-677-HC-MAD-CUS]
- Taking over of incomplete residential / commercial project is transfer of business as a 'going concern' and thus exempted from GST
M/s. Rajeev Bansal And Sudershan Mittal [2020-TIOL-61-AAR-GST]
- Mobilisation advance, to the extent received prior to the implementation of GST, towards supply of Works Contract Service is not to be subjected to GST as per provisions of s.142(11)(b) of the CGST Act, 2017
Shapoorji Pallonji And Company Pvt Ltd [2020-TIOL-35-AAR-GST]

Recent Advance Rulings (incl. Appellate Authority)

- When the goods are directly despatched from port of import with invoicing done from registered place of business (different state than the port of import), then the applicant need not obtain registration in the State where the port of import is located if he is not making any supply from such state in which the port is located.
Kardex India Storage Solution Pvt Ltd [2020-TIOL-56-AAR-GST]

Recent Circulars

- Clarification on refund related issues dated 31.03.2020 [Circular No.135/05/2020 - GST]
 - The restriction on clubbing of tax periods across Financial Years has been removed
 - Refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same, where subsequent to purchase at a higher rate of tax, there has been reduction in tax rate before the same of the product as such.
 - Refund of tax paid on supplies other than zero rated supplies will now be admissible proportionately in the respective original mode of payment i.e., cash and credit correspondingly
 - Refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant

- The applicant, henceforth, will be additionally required to mention HSN/SAC code of Input / Input Services / Capital Goods, while submitting application for refund of unutilized ITC which is mentioned on the inward invoices.
- Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal dated 18.03.2020 [Circular No. 132/2/2020 - GST]
 - The circular clarified that the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office.
 - Further, the appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office

Suo Motu Writ Petition (Civil) No(S).3/2020 by The Hon'ble Supreme Court of India - In Re: Cognizance for Extension of Limitation

- The Supreme Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions / applications / suits / appeals / all other proceedings within the period of limitation
- The Supreme Court has ordered that the period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall

stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

Press Release - Finance Ministry issues Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020 dated 31.03.2020

- Relevant Extract - Indirect Taxes:
 - Last date of furnishing of the Central Excise returns due in March, April and May 2020 has been extended to 30th June,2020.
 - Wherever the last date for filing of appeal, refund applications etc., under the Central Excise Act, 1944 and rules made thereunder is from 20th March 2020 to 29th June 2020, the same has been extended to 30th June 2020.
 - Wherever the last date for filing of appeal, refund applications etc., under the Customs Act, 1962 and rules made thereunder is from 20th March 2020 to 29th June 2020, the same has been extended to 30th June 2020.
 - Wherever the last date for filing of appeal etc., relating to Service Tax is from 20th March 2020 to 29th June 2020, the same has been extended to 30th June 2020.
 - The date for making payment to avail of the benefit under Sabka Vishwas Legal Dispute Resolution Scheme 2019 has been extended to 30th June 2020 thus giving more time to taxpayers to get their disputes resolved.

Disclaimer

This newsletter is for general public information and knowledge sharing. In case any clarifications required, you may connect with us at:

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