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Tax Law Decisions

**A UNIQUE AND BEST MONTHLY MAGAZINE ON
GST, VALUE ADDED TAX AND ALLIED LAWS
IN TWO VOLUMES PER YEAR**

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Volume 64

Part - 6

June 2020

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Chart Showing LATE FEES/INTEREST PAYABLE on delay in filing of GSTR-3B by the dealers having TURNOVER ABOVE 5 CRORE in preceding F.Y. (Noti No. 51 & 52/2020 - Central Tax dtd. 24-06-2020)

Liability of INTEREST on delay in filing of GSTR-3B					Liability of LATE FEES on delay in filing of GSTR-3B	
Tax Period	Due Date	No interest if the GSTR-3B filed on or before following dates.	Interest @ 9% if return filed within below prescribed time	Interest @ 18% w.e.f. 25/06/20 if the GSTR-3B filed on or after following dates.	Without Late Fees	Late Fees from the Original Due Date if GSTR-3B filed on or after following dates.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Feb	20/03/2020	04/04/2020	From 05/04/20 to 24/06/2020	25/06/2020	24/06/2020	25/06/2020
March	20/04/2020	05/05/2020	From 06/05/20 to 24/06/2020	25/06/2020	24/06/2020	25/06/2020
April	20/05/2020	04/06/2020	From 05/06/20 to 24/06/2020	25/06/2020	24/06/2020	25/06/2020

Note - It is to be Noted that the date of filing of GSTR-3B has not been extended but the Late Fees has been waived on certain conditions. If the condition is not fulfilled then the Late Fees will attract from the original due date.

There will be no Liability of Interest upto the dates specified in Column (3) above. Further Interest shall be charged @9% for the period specified in Column (4) and @18% from the date specified in Column (5) viz from 25.06.2020.

In case if a dealer to has any liability of Tax can file GSTR-3B between 01/07/2020 to 30/09/2020 for the period from July 2017 to January 2020 by paying Maximum Late Fees of Rs. 500 per return (Noti no. 52/2020 dtd. 24/06/2020)

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(158) Central Goods and Services Tax (Sixth Amendment) Rules, 2020

No. 48/2020-Central Tax

G.S.R. 394(E). New Delhi, Dated 19th June, 2020 - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: -

1. (1) These rules may be called the Central Goods and Services Tax (Sixth Amendment) Rules, 2020.

(2) They shall come into force on 27th day of May, 2020.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 26 in sub-rule (1), for the second proviso, following provisos shall be substituted, namely: -

“Provided further that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 21st day of April, 2020 to the 30th day of September, 2020, also be allowed to furnish the return under section 39 in **FORM GSTR-3B** verified through electronic verification code (EVC).

Provided also that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall, during the period from the 27th day of May, 2020 to the 30th day of September, 2020, also be allowed to furnish the details of outward supplies under section 37 in **FORM GSTR-1** verified through electronic verification code (EVC).”.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610(E), dated the 19th June, 2017 and last amended vide notification No. 38/2020 - Central Tax, dated the 5th May, 2020, published vide number G.S.R. 272 (E), dated the 5th May, 2020.

[Published in the Gazette of India dated 19-6-2020]



(159) Notification u/s 1(2) of Finance Act, 2020 bringing into force Sections 118, 125, 129 & 130 of Finance Act, 2020 in order to bring amendment to Sections 2, 109, 168 & 172 of CGST Act w.e.f. 30-6-2020

No. 49/2020-Central Tax

G.S.R. 402(E). New Delhi, Dated 24th June, 2020 - In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2020 (12 of 2020) (hereinafter referred to as the said Act), the Central Government hereby appoints the 30th day of June, 2020, as the date on which the provisions of sections 118, 125, 129 and 130 of the said Act, shall come into force.

[Published in the Gazette of India dated 24-6-2020]



(160) Central Goods and Services Tax (Seventh Amendment) Rules, 2020

No. 50/2020-Central Tax

G.S.R. 403(E). New Delhi, Dated 24th June, 2020 - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

- 1.(1) These rules may be called the Central Goods and Services Tax (Seventh Amendment) Rules, 2020.
- (2) They shall come into force with effect from the 1st day of April, 2020.
2. In the Central Goods and Services Tax Rules, 2017, in rule 7, for the Table, the following Table shall be substituted, namely:-

“TABLE

Sl. No.	Section under which composition levy is opted	Category of registered persons	Rate of tax
(1)	(1A)	(2)	(3)
1.	Sub-sections (1) and (2) of	Manufacturers, other than manufacturers of	half per cent. of the turnover in the

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	section 10	such goods as may be notified by the Government	State or Union territory
2.	Sub-sections (1) and (2) of section 10	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent. Of the turnover in the State or Union territory
3.	Sub-sections (1) and (2) of section 10	Any other supplier eligible for composition levy under subsections (1) and (2) of section 10	half per cent. of the turnover of taxable supplies of goods and services in the State or Union territory
4.	Sub-section (2A) of section 10	Registered persons not eligible under the composition levy under sub-sections (1) and (2), but eligible to opt to pay tax under sub-section (2A), of section 10	three per cent. of the turnover of *[...] supplies of goods and services in the State or Union territory.’’. *deleted by corrigendum

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610(E), dated the 19th June, 2017 and last amended vide notification No. 48/2020 - Central Tax, dated the 19th June, 2020 published vide number G.S.R. 394 (E), dated the 19th June, 2020.

[Published in the Gazette of India dated 24-6-2020]



(161) Notification u/s 50(1) r/w 148 of CGST Act, 2020 providing relief by lowering of interest rate for a prescribed time for tax periods from February, 2020 to July, 2020

No. 51/2020-Central Tax

G.S.R. 404(E). New Delhi, Dated 24th June, 2020 - In exercise of the powers conferred by sub-section (1) of section 50 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 148 of the said

Act, the Central Government, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.13/2017 – Central Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 661(E), dated the 28th June, 2017, namely:–

In the said notification, in the first paragraph, for the first proviso, the following proviso shall be substituted, namely : –

“Provided that the rate of interest per annum shall be as specified in column (3) of the Table given below for the period mentioned therein, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who are required to furnish the returns in **FORM GSTR-3B**, but fail to furnish the said return along with payment of tax for the months mentioned in the corresponding entry in column (4) of the said Table by the due date, namely:-

TABLE

S. No. (1)	Class of registered persons (2)	Rate of interest (3)	Tax period (4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	Nil for first 15 days from the due date, and 9 per cent thereafter till 24th day of June, 2020	February, 2020, March 2020, April, 2020
2.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat,	Nil till the 30th day of June, 2020, and 9 per cent thereafter till the 30th day of September, 2020	February, 2020
		Nil till the 3rd day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	March, 2020
		Nil till the 6th day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	April, 2020

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	Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	Nil till the 12th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	May, 2020
		Nil till the 23rd day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	June, 2020
		Nil till the 27th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	July, 2020
3.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	Nil till the 30th day of June, 2020, and 9 per cent thereafter till the 30th day of September, 2020	February, 2020
		Nil till the 5th day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	March, 2020
		Nil till the 9th day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	April, 2020
		Nil till the 15th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	May, 2020
		Nil till the 25th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	June, 2020
		Nil till the 29th day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	July, 2020.”.

Note: The principal notification number 13/2017 – Central Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.661(E), dated the 28th June, 2017 and was last amended *vide* notification number 31/2020 – Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.231(E), dated the 3rd April, 2020.

[Published in the Gazette of India dated 24-6-2020]



(162) Notification u/s 128 of CGST Act, 2020 providing one time amnesty by lowering/waiving of late fees for non furnishing of FORM GSTR-3B from July, 2017 to January, 2020 and also seeks to provide relief by conditional waiver of late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 2020 to July, 2020.

No. 52/2020-Central Tax

G.S.R. 405(E). New Delhi, Dated 24th June, 2020 - In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with section 148 of the said Act, the Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 76/2018– Central Tax, dated the 31st December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) vide number G.S.R. 1253(E), dated the 31st December, 2018, namely :—

In the said notification,-

- (i) in the third proviso, for the Table, the following Table shall be substituted, namely :-

“TABLE

S. No. (1)	Class of registered persons (2)	Tax period (3)	Condition (4)
1.	Taxpayers having an aggregate turnover of more	February, 2020, March,	If return in FORM GSTR-3B is furnished on or before the 24th day

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	than rupees 5 crores in the preceding financial year	2020 and April, 2020	of June, 2020
2.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020
		March, 2020	If return in FORM GSTR-3B is furnished on or before the 3rd day of July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 6th day of July, 2020
		May, 2020	If return in FORM GSTR-3B is furnished on or before the 12th day of September, 2020
		June, 2020	If return in FORM GSTR-3B is furnished on or before the 23rd day of September, 2020
		July, 2020	If return in FORM GSTR-3B is furnished on or before the 27th day of September, 2020
3.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab,	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30th day of June, 2020
		March, 2020	If return in FORM GSTR-3B is furnished on or before the 5th day of July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 9th day

Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi		of July, 2020
	May, 2020	If return in FORM GSTR-3B is furnished on or before the 15th day of September, 2020
	June, 2020	If return in FORM GSTR-3B is furnished on or before the 25th day of September, 2020
	July, 2020	If return in FORM GSTR-3B is furnished on or before the 29th day of September, 2020

(ii) after the third proviso, the following provisos shall be inserted, namely:-

“Provided also that the total amount of late fee payable for a tax period, under section 47 of the said Act shall stand waived which is in excess of an amount of two hundred and fifty rupees for the registered person who failed to furnish the return in **FORM GSTR-3B** for the months of July, 2017 to January, 2020, by the due date but furnishes the said return between the period from 01st day of July, 2020 to 30th day of September, 2020:

Provided also that where the total amount of central tax payable in the said return is nil, the total amount of late fee payable for a tax period, under section 47 of the said Act shall stand waived for the registered person who failed to furnish the return in **FORM GSTR-3B** for the months of July, 2017 to January, 2020, by the due date but furnishes the said return between the period from 01st day of July, 2020 to 30th day of September, 2020.”.

Note: The principal notification No. 76/2018-Central Tax, dated 31st December, 2018 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 1253(E), dated the 31st December, 2018 and was last amended *vide* notification number 32/2020 – Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.232 (E), dated the 3rd April, 2020.

[Published in the Gazette of India dated 24-6-2020]



(163) Notification u/s 128 of CGST Act, 2020 providing relief by waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods for months from March, 2020 to June, 2020 for monthly filers and for quarters from January, 2020 to June, 2020 for quarterly filers

No. 53/2020-Central Tax

G.S.R. 406(E). New Delhi, Dated 24th June, 2020 - In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 4/2018–Central Tax, dated the 23rd January, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 53(E), dated the 23rd January, 2018, namely:-

In the said notification, for the *[fourth proviso], the following proviso shall be substituted, namely:-

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who fail to furnish the details of outward supplies for the months or quarter mentioned in column (2) of the Table below in **FORM GSTR-1** by the due date, but furnishes the said details on or before the dates mentioned in column (3) of the said Table:-

TABLE

Sl.No.	Month/ Quarter	Dates
(1)	(2)	(3)
1.	March, 2020	10th day of July, 2020
2.	April, 2020	24th day of July, 2020
3.	May, 2020	28th day of July, 2020
4.	June, 2020	05th day of August, 2020
5.	January to March, 2020	17th day of July, 2020
6.	April to June, 2020	03rd day of August, 2020.”.

* See Corrigendum dated 25-6-2020

Note: The principal notification No. 4/2018– Central Tax, dated the 23rd January, 2018, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) *vide* number G.S.R. 53(E), dated the 23rd January, 2018 and was last amended by notification No. 33/2020- Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, *vide* number G.S.R. 233(E) dated the 3rd April, 2020.

[Published in the Gazette of India dated 24-6-2020]



(164) Notification u/s 168 of CGST Act, 2020 amending No. 29/2020 – CT dt. 23-3-2020 extending due date for furnishing FORM GSTR-3B for supply made in the month of August, 2020 for taxpayers with annual turnover up to Rs. 5 crore

No. 54/2020-Central Tax

G.S.R. 407(E). New Delhi, Dated 24th June, 2020 - In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said Rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 29/2020 – Central Tax, dated the 23rd March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 212 (E), dated the 23rd March, 2020, namely:-

In the said notification, in the first paragraph, after the fifth proviso, the following provisos shall be inserted, namely:-

“Provided also that, for taxpayers having an aggregate turnover of up to rupees five crore rupees in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep, the return in **FORM GSTR-3B** of the said rules for the month of August, 2020 shall be furnished electronically through the common portal, on or before the 1st day of October, 2020:

Provided also that, for taxpayers having an aggregate turnover of up to rupees five crore rupees in the previous financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi, the return in **FORM GSTR-3B** of the said rules for the month of August, 2020 shall be furnished electronically through the common portal, on or before the 3rd day of October, 2020.”.

Note: The principal notification number 29/2020-Central Tax, dated the 23rd March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.212(E), dated the 23rd March, 2020 and was last amended vide notification number 36/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.236(E), dated the 3rd April, 2020.

[Published in the Gazette of India dated 24-6-2020]



(165) Corrigendum to No. 50/2020-Central Tax, dated the 24th June, 2020

CORRIGENDUM

G.S.R. 412(E). New Delhi, Dated 25th June, 2020 - In the notification of the Government of India, in the Ministry of Finance, Department of Revenue, No. 50/2020-Central Tax, dated the 24th June, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 403(E), dated the 24th June, 2020, at page 3, in line 40, for the words “turnover of taxable”, read “turnover of”.

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(166) Corrigendum to No. 53/2020-Central Tax, dated the 24th June, 2020

CORRIGENDUM

G.S.R. 413(E). New Delhi, Dated 25th June, 2020 - In the notification of the Government of India, in the Ministry of Finance, Depart-

ment of Revenue, No. 53/2020-Central Tax, dated the 24th June, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 406(E), dated the 24th June, 2020, at page 12, in line 17, for the words “third proviso”, *read* “fourth proviso”.

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(167) Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19)

Circular No. 141/11/2020-GST

CBEC-20/06/04-2020 -GST

Government of India, Ministry of Finance, Department of Revenue
Central Board of Indirect Taxes and Customs, GST Policy Wing

New Delhi, dated the 24th June, 2020

Subject: Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19) - Reg.

Circular No. 136/06/2020-GST, dated 3-4-2020 was issued by the Board on the subject issue clarifying various issues relating to the measures announced by the Government providing relief to the taxpayers. The GST Council, in its 40th meeting held on 12-6-2020, recommended further relief to the taxpayers and accordingly, following notifications have been issued:

S.No.	Notification No.	Remarks
1.	Notification No. 51/2020-Central Tax, dated 24-6-2020.	Seeks to provide relief to taxpayers by reducing the rate of interest from 18% per annum to 9% per annum for specified period.
2.	Notification No. 52/2020-Central Tax, dated 24-6-2020.	Seeks to provide relief to taxpayers by conditional waiver of late fee for delay in furnishing FORM GSTR-3B for specified period.
3.	Notification No. 53/2020-Central Tax, dated 24-6-2020.	Seeks to provide relief to taxpayers by conditional waiver of late fee for delay in furnishing FORM GSTR-1 for specified period.

2. The above referred notifications have amended the parent notifications through which the relief from interest for late payment of GST and late fee for delay in furnishing of **FORM GSTR-3B / FORM GSTR-1** was provided for the tax periods of February, March and April, 2020. Accordingly, the clarifications issued vide Circular No. 136/06/2020-GST, dated 3-4-2020 stand modified to the extent as detailed in the succeeding paragraphs to incorporate the decisions of the 40th meeting of the GST Council. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) clarifies the issues detailed below:

Manner of calculation of interest for taxpayers having aggregate turnover above Rs. 5 Cr.

3.1 Vide notification No. 31/2020- Central Tax, dated 3-4-2020, a conditional lower rate of interest was provided for various class of registered persons for the tax period of February, March and April, 2020. The same was clarified through Circular No. 136/06/2020-GST, dated 3-4-2020 (para 3, Sl. No. 3, 4 and 5). It was clarified that in case the return for the said months are not furnished on or before the date mentioned in the notification No. 31/2020- Central Tax, dated 3-4-2020, interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed.

3.2 The Government, vide notification no 51/2020-Central Tax, dated 24-6-2020 has removed the said condition. Accordingly, a lower rate of interest of NIL for first 15 days after the due date of filing return in **FORM GSTR-3B** and @ 9% thereafter till 24-6-2020 is notified. **After the specified date, normal rate of interest i.e. 18% per annum shall be charged for any further period of delay in furnishing of the returns.**

3.3 The calculation of interest in respect of this class of registered persons for delayed filing of return for the month of **March, 2020** (due date of filing being **20-4-2020**) is as illustrated in the Table below:

Table

Sl. No.	Date of filing GSTR-3B	No. of days of delay	Interest
1.	2-5-2020	12	Zero interest

2.	20-5-2020	30	Zero interest for 15 days, thereafter interest rate @9% p.a. for 15 days
3.	20-6-2020	61	Zero interest for 15 days, thereafter interest rate @9% p.a. for 46 days
4.	24-6-2020	65	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days
5.	30-6-2020	71	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days and interest rate @18% p.a. for 6 days

Manner of calculation of interest for taxpayers having aggregate turnover below Rs. 5 Cr.

4.1 For the taxpayers having aggregate turnover below Rs. 5 Crore, notification No. 31/2020- Central Tax, dated 3-4-2020 provided a conditional NIL rate of interest for the tax period of February, March and April, 2020. The Government, vide notification No. 52/2020-Central Tax, dated 24-6-2020 provided the NIL rate of interest till specified dates in the said notification and 9% per annum thereafter till 30th September, 2020. Similar relaxation of reduced rate of interest has been provided for the tax period of May, June and July 2020 also for the said class of registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year. **The notification, thus, provides NIL rate of interest till specified dates and after the specified dates lower rate of 9% would apply till 30th September 2020. After 30th September, 2020, normal rate of interest i.e. 18% per annum shall be charged for any further period of delay in furnishing of the returns.**

4.2 The calculation of interest in respect of this class of registered persons for delayed filing of return for the month of **March, 2020** (for registered persons for whom the due date of filing was **22-4-2020**) and **June, 2020** (for registered persons for whom the due date of filing is **22-7-2020**) is as illustrated in the Table below:

Table

S. No.	Tax period	Applicable rate of interest	Date of filing GSTR-3B	No. of days of delay	Interest
1	March, 2020	Nil till the 3rd day of July, 2020, and 9 per cent thereafter till the 30th day of September, 2020	22-6-2020	61	Zero interest
2			22-9-2020	153	Zero interest for 72 days, thereafter interest rate @9% p.a. for 81 days
3			22-10-2020	183	Zero interest for 72 days, thereafter interest rate @9% p.a. for 89 days and interest rate @18% p.a. for 22 days
4	June, 2020	Nil till the 23rd day of September, 2020, and 9 per cent thereafter till the 30th day of September, 2020	28-8-2020	37	Zero interest
5			28-9-2020	68	Zero interest for 63 days, thereafter interest rate @9% p.a. for 5 days
6			28-10-2020	98	Zero interest for 63 days, thereafter interest rate @9% p.a. for 7 days and interest rate @18% p.a. for 28 days

Manner of calculation of late fee

5.1 Vide notification No. 32/2020-Central Tax, dated 3-4-2020, a conditional waiver of late fee was provided for the tax period of February, March and April, 2020, if the return in **FORM GSTR-3B** was filed by the date specified in the said notification. The same was clarified through Circular No. 136/06/2020-GST, dated 3-4-2020.

5.2 The Government, vide notification No. 52/2020-Central Tax, dated 24-6-2020 has provided the revised dates for conditional waiver of late fee for the months of February, March and April, 2020 and extended the same for the months of May, June and July, 2020 for the small taxpayers.

5.3 It is clarified that the waiver of late fee is conditional to filing the return of the said tax period by the dates specified in the said notification. **In case the returns in FORM GSTR-3B for the said months are not furnished on or before the dates specified in the said notification, then late fee shall be payable from the due date of return, till the date on which the return is filed.**

6. The contents of the Circular 136/06/20-GST, dated 3-4-2020 are modified to this extent. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

7. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg) Principal Commissioner



(168) Central Goods and Services Tax (Removal of Difficulties) Order, 2020 - Extending the time limit for filing an application for revocation of cancellation of registration for specified taxpayers

ORDER

No. 01/2020-Central Tax

S.O. 2064(E). New Delhi, Dated 25th June, 2020 - WHEREAS, sub-section (2) of section 29 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act) provides for cancellation of registration by proper officer in situations described in clauses (a) to (e) as under:-

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

2020) (Removal of Difficulties) Order, 2020 dt. 25-6-2020 309

- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

AND WHEREAS, sub-section (1) of section 169 of the said Act provides for service of notice (opportunity of being heard); clauses (c) and (d) of said sub-section are as under:-

.....

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

.....;

AND WHEREAS, sub-section (1) of section 30 of the said Act provides for application for revocation of cancellation of the registration within thirty days from the date of service of the cancellation order;

AND WHEREAS, sub-section (1) of section 107 of the said Act provides for filing appeal by any person aggrieved by any decision or order passed by an adjudicating authority within three months from the date on which the said decision or order is communicated to such person and sub-section (4) of section 107 of the said Act empowers the Appellate Authority that it may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month;

AND WHEREAS, a large number of registrations have been cancelled under sub-section (2) of section 29 of the said Act by the proper officer by serving notices as per clause (c) and clause (d) of sub-section (1) of section 169 of the said Act and the period of thirty days provided for application for revocation of cancellation order in sub-section (1) of section 30 of the said Act, the period for filing appeal under section (1) of section 107 of the said Act and also the period of condoning the delay provided in sub-section (4) of Section 107 of the said Act has elapsed; the registered persons whose registration have been cancelled under clause (b) or clause (c) of sub-section

(2) of section 29 of the said Act are unable to get their cancellation of registration revoked despite having fulfilled all the requirements for revocation of cancellation of registration; the said Act being a new Act, these taxpayers could not apply for revocation of cancellation within the specified time period of thirty days from the date of service of the cancellation order, as a result whereof certain difficulties have arisen in giving effects to the provisions of subsection (1) of section 30 of the said Act;

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Central Goods and Services Tax Act, 2017, the Central Government, on the recommendations of the Council, hereby makes the following Order, to remove the difficulties, namely:-

1. **Short title.-** This Order may be called the Central Goods and Services Tax (Removal of Difficulties) Order, 2020.
2. For the removal of difficulties, it is hereby clarified that for the purpose of calculating the period of thirty days for filing application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act for those registered persons who were served notice under clause (b) or clause (c) of sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and where cancellation order was passed up to 12th June, 2020, the later of the following dates shall be considered:-
 - a) Date of service of the said cancellation order; or
 - b) 31st day of August, 2020.

[Published in the Gazette of India dated 25-6-2020]



(169) The Taxation and other laws (relaxation of certain provisions) Ordinance, 2020

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st March, 2020/Chaitra 11, 1942 (Saka)

THE TAXATION AND OTHER LAWS (RELAXATION OF CERTAIN PROVISIONS) ORDINANCE, 2020

No. 2 of 2020

2020) The Taxation and other laws Ordinance, 2020 311

Promulgated by the President in the Seventy-first Year of the Republic of India.

An Ordinance to provide relaxation in the provisions of certain Acts and for matters connected therewith or incidental thereto.

WHEREAS, in view of the spread of pandemic COVID-19 across many countries of the world including India, causing immense loss to the lives of people, it has become imperative to relax certain provisions, including extension of time limit, in the taxation and other laws;

AND WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance: -

**CHAPTER I
PRELIMINARY**

1. Short title and commencement.

- (1) This Ordinance may be called the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020.
- (2) Save as otherwise provided, it shall come into force at once.

2. Definitions.

- (1) In this Ordinance, unless the context otherwise requires, -
 - (a) “specified Act” means-
 - (i) the Wealth-tax Act, 1957;
 - (ii) the Income-tax Act, 1961;
 - (iii) the Prohibition of *Benami* Property Transactions Act, 1988;
 - (iv) Chapter VII of the Finance (No. 2) Act, 2004;
 - (v) Chapter VII of the Finance Act, 2013;
 - (vi) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;
 - (vii) Chapter VIII of the Finance Act, 2016; or
 - (viii) the Direct Tax Vivad se Vishwas Act, 2020;

- (b) “notification” means the notification published in the Official Gazette.
- (2) The words and expressions used herein and not defined, but defined in the specified Act, the Central Excise Act, 1944, the Customs Act, 1962, the Customs Tariff Act, 1975 or the Finance Act, 1994, as the case may be, shall have the meaning respectively assigned to them in that Act.

CHAPTER II

RELAXATION OF CERTAIN PROVISIONS OF SPECIFIED ACT

3. Relaxation of certain provisions of specified Act.

- (1) Where, anytime limit has been specified in, or prescribed or notified under, the specified Act which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify in this behalf, for the completion or compliance of such action as-
 - (a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the specified Act; or
 - (b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the specified Act; or
 - (c) in case where the specified Act is the Income-tax Act, 1961,
 - (i) making of investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purposes of claiming any deduction, exemption or allowance under the provisions contained in-
 - (I) sections 54 to 54GB or under any provisions of Chapter VI-A under the heading “B.-Deductions in respect of certain payments” thereof; or
 - (II) such other provisions of that Act, subject to fulfillment of such

2020) The Taxation and other laws Ordinance, 2020 313

conditions, as the Central Government may, by notification, specify; or

- (ii) beginning of manufacture or production of articles or things or providing any services referred to in section 10AA of that Act, in a case where the letter of approval, required to be issued in accordance with the provisions of the Special Economic Zones Act, 2005, has been issued on or before the 31st day of March, 2020,

and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action shall, notwithstanding anything contained in the specified Act, stand extended to the 30th day of June, 2020, or such other date after the 30th day of June, 2020, as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions.

Provided further that such action shall not include payment of any amount as is referred to in sub-section (2).

- (2) Where any due date has been specified in, or prescribed or notified under the specified Act for payment of any amount towards tax or levy, by whatever name called, which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify in this behalf, and such amount has not been paid within such date, but has been paid on or before the 30th day of June, 2020, or such other date after the 30th day of June, 2020 as the Central Government may, by notification, specify in this behalf, then, notwithstanding anything contained in the specified Act,-
 - (a) the rate of interest payable, if any, in respect of such amount for the period of delay shall not exceed three-fourth per cent. for every month or part thereof;
 - (b) no penalty shall be levied and no prosecution shall be sanctioned in respect of such amount for the period of delay.

Explanation.- For the purposes of this sub-section, the period of delay” means the period between the due date and the

date on which the amount has been paid.

CHAPTER III

AMENDMENT TO THE INCOME TAX ACT, 1961

4. Amendment of sections 10 and 80G of Act 43 of 1961.

In the Income-tax Act, 1961, with effect from the 1st day of April, 2020,-

- (i) in section 10, in *clause* (23C), in sub-clause (i), after the word “Fund”, the words and brackets “or the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” shall be inserted;
- (ii) in section 80G, in sub-section (2), in clause (a), in sub-clause (iiia), after the word “Fund”, the words and brackets “or the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” shall be inserted.

CHAPTER IV

AMENDMENTS TO THE DIRECT TAX VIVAD SE VISHWAS ACT

5. Amendment of section 3 of Act 3 of 2020.

In section 3 of the Direct Tax *Vivad Se Vishwas* Act, 2020, -

- (a) in third column, in the heading, for the figures, letters and words “31st day of March, 2020”, the figures, letters and words “30th day of June, 2020” shall be substituted;
- (b) in fourth column, in the heading, for the figures, letters and words “1st day of April, 2020”, the figures, letters and words “1st day of July, 2020” shall be substituted.

CHAPTER V

RELAXATION OF TIME LIMIT UNDER CERTAIN INDIRECT TAX LAWS

6. Relaxation of time limit under Central Excise Act, 1944, Customs Act, 1962, Customs Tariff Act, 1975 and Finance Act, 1994.

Notwithstanding anything contained in the Central Excise Act, 1944, the Customs Act, 1962 (except sections 30, 30A, 41, 41A, 46 and 47), the Customs Tariff Act, 1975 or Chapter V of the Finance Act, 1994, as it stood

prior to its omission vide section 173 of the Central Goods and Service Tax Act, 2017 with effect from the 1st day of July, 2017, the time limit specified in, or prescribed or notified under, the said Acts which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify, for the completion or compliance of such action as-

- (a) completion of any proceeding or issuance of any order, notice, intimation, notification or sanction or approval, by whatever name called, by any authority, commission, tribunal, by whatever name called; or
- (b) filing of any appeal, reply or application or furnishing of any report, document, return or statement, by whatever name called,

shall, notwithstanding that completion or compliance of such action has not been made within such time, stand extended to the 30th day of June, 2020 or such other date after the 30th day of June, 2020 as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions under clause (a) or clause (b).

CHAPTER VI

AMENDMENT TO THE FINANCE ACT (NO. 2), 2019

7. Amendment of section 127 of Act 23 of 2019.

In section 127 of the Finance Act (No. 2), 2019,-

- (i) in sub-section (1), for the words “within a period of sixty days from the date of receipt of the said declaration”, the words, figures and letters “on or before the 31st day of May, 2020” shall be substituted;
- (ii) in sub-section (2), for the words “within thirty days of the date of receipt of the declaration”, the words, figures and letters “on or before the 1st day of May, 2020” shall be substituted;
- (iii) in sub-section (4), for the words “within a period of sixty days from the date of receipt of the declaration”, the words, figures and letters “on or before the 31st day of May, 2020” shall be substituted;
- (iv) in sub-section (5), for the words “within a period of thirty days from the date of issue of such statement”, the words, figures and letters “on or before the 30th day of June, 2020” shall be substituted.

CHAPTER VII
AMENDMENT TO THE CENTRAL GOODS AND SERVICES
TAX ACT, 2017

8. Insertion of new section 168A in Act 12 of 2017.

After section 168 of the Central Goods and Services Tax Act, 2017, the following section shall be inserted, namely:-

168A. Power of Government to extend time limit in special circumstances.

- (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to *force majeure*.
- (2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation.- For the purposes of this section, the expression “*force majeure*” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.’.

[Published in the Gazette of India dated 31-3-2020]



(170) Notification u/s 6 of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020

G.S.R. 418(E). New Delhi, Dated 27th June, 2020 - In exercise of the powers conferred by section 6 of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (2 of 2020), the Central Government hereby specifies that, -

- (i) the 29th day of September, 2020 shall be the end date of the period during which the time limit specified in, or prescribed or notified under, the Central Excise Act, 1944 (1 of 1944), the Customs Act, 1962 (52 of 1962) (except sections 30, 30A, 41, 41A, 46 and 47), the Customs Tariff Act, 1975 (51 of 1975) or Chapter V of the Finance Act, 1994 (32 of 1994) falls for the completion or compliance of such action as specified under clause (a) or (b) of the said section; and

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(ii) the 30th day of September, 2020 shall be the end date to which the time limit for completion or compliance of such action shall stand extended.

[Published in the Gazette of India dated 27-6-2020]



(171) Sabka Vishwas (legacy Dispute Resolution) Scheme (Amendment) Rules, 2020

No. 01/2020-Central Excise (N.T.)

G.S.R. 295(E). New Delhi, Dated 14th May, 2020 - In exercise of the powers conferred by sub-section (1) and (2) of section 132 of the Finance (No.2) Act, 2019 (23 of 2019), the Central Government hereby makes the following rules to amend the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019, namely:-

1. (i) These rules may be called the Sabka Vishwas (legacy Dispute Resolution) Scheme (Amendment) Rules, 2020.
(ii) They shall come into force from the date of their publication in the official gazette.
2. In the Sabka Vishwas (Legacy Dispute Resolution) Scheme Rules, 2019 (hereinafter referred to as the said rules), in rule 6,-
 - (i) In sub-rule (2) for the words “within a period of sixty days from the date of receipt of the declaration”, the words, figures and letters “on or before the 31st day of May, 2020” shall be substituted;
 - (ii) In sub-rule (3), for the words “within thirty days of the date of receipt of the declaration under sub-rule (1) of rule 3”, the words, figures and letters “on or before the 1st day of May, 2020” shall be substituted;
3. In the said rules, in rule 7, for the words “within a period of thirty days from the date of its issue”, the words, figures and letters “on or before the 30th day of June, 2020” shall be substituted.

Note:-The Principal rules were published in the Gazette of India, Extraordinary vide number G.S.R. 588(E), dated the 21st August, 2019.

[Published in the Gazette of India dated 14-5-2020]



(172) Amendment to Circular No. 1071/4/2019-CX.8 dated 27th August, 2019 issued vide file of even number

**Amendment to Circular No. 1071/4/2019-CX.8
F.No.267/78/2019/CX-8-Pt. III**

Government of India, Ministry of Finance,
Department of Revenue Central Board of Indirect Taxes and Customs

Dated, the 29th May, 2020

Subject: Amendment to Circular No. 1071/4/2019-CX.8 dated 27th August, 2019 issued vide file of even number - reg.

As you are aware, certain provisions of Section 127 of the Finance (No.2) Act, 2019 were amended by the Central Government vide “The Taxation and Others Laws (Relaxation of certain Provisions) Ordinance, 2020 (No. 2 of 2020)”, dated 31st May, 2020. In pursuance of the said amendments, the SVLDRS Rules, 2019 were also amended vide Notification No. 01/2020 dated 14th May, 2020 issued vide F.No. 267/50/2020-CX.8.

2. In view of the above, I am directed to say that the following paras in Circular No. 1071/4/2019-CX.8 dated 27th August, 2019 (herein after referred as the said Circular) stand amended to the extent as mentioned below: -

- (i). In para 7, in line 8, of the said circular, for the words “ within 90 days”, the words, figures and letters “on or before the 30th day of June, 2020” shall be substituted.
- (ii). In para 10(i), in line 2, of the said circular, for the words “within a period of thirty days”, the words, figures and letters “on or before the 30th day of June, 2020” shall be substituted.
- (iii). In para 11(iii), in line 1, of the said circular for the words “ though this Scheme provides a period of sixty days of the Designated Committee to decide on declaration filed by a taxpayer”, the words, figures and letters “though this Scheme provides that the Designated Committee shall decide on declaration filed by a taxpayer on or before the 31st day of May, 2020” shall be substituted.

3. Difficulty, if any, in implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

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No. 55/2020–Central Tax dated 27-6-2020

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(Mazid Khan)

OSD/Deputy Commissioner (CX)

□

(173) Notification u/s 168A of CGST Act, 2017 r/w Section 20 of IGST Act, 2017 and Section 21 of UTT Act, 2017 amending No. 35/2020-Central Tax, dated 3-4-2020 extending due date of compliance which falls during the period from “20-3-2020 to 30-8-2020” till 31-8-2020

No. 55/2020–Central Tax

G.S.R. 416(E). New Delhi, Dated 27th June, 2020 - In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020, namely:-

In the said notification, in the first paragraph, in clause (i),—

- (i) for the words, figures and letters “29th day of June, 2020”, the words, figures and letters “30th day of August, 2020” shall be substituted;
- (ii) for the words, figures and letters “30th day of June, 2020”, the words, figures and letters “31st day of August, 2020” shall be substituted.

Note : The principal notification No. 35/2020-Central Tax, dated the 3rd April, 2020 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 235(E), dated the 3rd April, 2020 and was last amended by notification No. 47/2020–Central Tax, dated the 9th June, 2020, published in the Gazette of India, Extraordinary vide number G.S.R. 362(E), dated the 9th June, 2020.

[Published in the Gazette of India dated 27-6-2020]

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(174) Notification u/s 168A of CGST Act, 2017 r/w Section 20 of IGST Act, 2017 and Section 21 of UTT Act, 2017 amending No. 46/2020 - CT dated 9-6-2020 extending period to pass order under Section 54(7) of CGST Act

No. 56/2020–Central Tax

G.S.R. 417(E). New Delhi, Dated 27th June, 2020 - In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Government, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.46/2020-Central Tax, dated the 9th June, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 361(E), dated the 9th June, 2020, namely:-

In the said notification, in the first paragraph,—

- (i) for the words, figures and letters 29th day of June, 2020 , the words, figures and letters “30th day of August, 2020” shall be substituted;
- (ii) for the words, figures and letters “30th day of June, 2020”, the words, figures and letters “31st day of August, 2020” shall be substituted.

Note : The principal notification No. 46/2020-Central Tax, dated the 9th June, 2020 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 361(E), dated the 9th June, 2020.

[Published in the Gazette of India dated 27-6-2020]



(175) Notification u/s 21(8) of C.G. Vat Act, 2005 extending time limit for assessment for the year 2015-16 for such dealers whose turnover does not exceed Rs. 1 crore upto 31-12-2020

No. F 10-59/2020/CT/V (78) Nava Raipur, Atal Nagar, Dated 25th June, 2020 - In exercise of the powers conferred by sub-section (8) of section 21 of the Chhattisgarh Value Added Tax Act, 2005 (No. 2 of 2005), the State Government, hereby, makes the following further amendment in this departments Notification No. F-10-46/2018/CT/V (76), dated 4-9-2018, namely :-

AMENDMENT

In the said notification,-

1. For the figures, words and punctuation “30th June, 2020”, the figures, words and punctuation “31st December, 2020” shall be substituted.

History of Amendments

Time extended time to time vide :-

Noti. No. (83) dt. 30-09-2019 from 31-12-2019 to 31-03-2020

Noti. No. (20) dt. 26-03-2020 from 31-03-2020 to 30-06-2020

Noti. No. (78) dt. 25-06-2020 from 30-06-2020 to 31-12-2020



(176) Notification u/s 21(8) of C.G. Vat Act, 2005 extending time limit for assessment for the year 2015-16 for such dealers whose turnover exceeds Rs. 1 crore upto 31-12-2020

No. F 10-59/2020/CT/V (79) Nava Raipur, Atal Nagar, Dated 25th June, 2020 - In exercise of the powers conferred by of sub-section (8) of section 21 of the Chhattisgarh Value Added Tax Act, 2005 (No. 2 of 2005), the State Government, hereby, makes the following further amendment in this departments notification No. F-10-63/2018/CT/V ¹(106), dated 10-12-2018, namely :-

AMENDMENT

In the said notification,-

1. For the figures, words and punctuation “30th June, 2020”, the figures, words and punctuation “31st December, 2020” shall be substituted.

1. HISTORY OF AMENDMENTS

Time extended time to time vide :-

Noti. No. (84) dt. 30-09-2019 from 31-12-2019 to 31-03-2020

Noti. No. (21) dt. 26-03-2020 from 31-03-2020 to 30-06-2020

Noti. No. (79) dt. 25-06-2020 from 30-06-2020 to 31-12-2020



(177) Notification u/s 21(8) of C.G. Vat Act, 2005 extending time limit for assessment for the year 2016-17 time barring ending on 31-12-2019 extended up to 30-06-2021

No. F 10-59/2020/CT/V (80) Nava Raipur, Atal Nagar, Dated 25th June, 2020 - In exercise of the powers conferred by sub-section (8) of section 21 of the Chhattisgarh Value Added Tax Act, 2005 (No. 2 of 2005), the State Government, hereby, makes the following further amendment in this departments notification No. F-10-23/2019/CT/V ²(59), dated 29-06-2019, namely :-

AMENDMENT

In the said notification,-

- For the figures, words and punctuation “30th September, 2020”, the figures, words and punctuation “30th June, 2021” shall be substituted.

2. HISTORY OF AMENDMENTS

Time extended time to time vide :-

Noti. No. (85) dt. 30-09-2019 from 31-03-2020 to 30-06-2020

Noti. No. (22) dt. 26-03-2020 from 30-06-2020 to 30-09-2020

Noti. No. (80) dt. 25-06-2020 from 30-09-2020 to 30-06-2021



(178) Notification u/s 15-B(1)(ii) of C.G. Vat Act, 2005 extending time for filing Form-18 (Self Assessment) for FY 2016-17 upto 30-11-2020

No. F 10- 59/2020/CT/V (81) Nava Raipur, Atal Nagar, Dated 25th June, 2020 - In exercise of the powers conferred by clause (ii) of sub-section (1) of section 15-B of the Chhattisgarh Value Added Tax Act, 2005 (No. 2 of 2005), the State Government, hereby, makes the following further amendment in this departments notification No. F-10-63/2018/CT/V (103), dated 10-12-2018, namely :-

AMENDMENT

In the said notification,-

For the figures and punctuation “30-06-2020”, wherever they occur the figures and punctuation “30-11-2020” shall be substituted.

• HISTORY OF AMENDMENTS

(Notification No. (103) dated 10-12-2018)

[Notification u/s 15-B(1)(ii) of C.G. Vat Act, 2005 extending time for filing Form-18 (Self Assessment) for **FY 2015-16 upto 31-03-2019** and for **FY 2016-17 upto 30-06-2019**]

Time extended time to time vide :-

For 2015-16

Noti. No. (26) dt. 02-03-2019 from 31-03-2019 to 30-06-2019

Noti. No. (57) dt. 29-06-2019 from 30-06-2019 to 30-09-2019

Noti. No. (81) dt. 30-09-2019 from 30-09-2019 to 31-12-2019

For 2016-17

Noti. No. (26) dt. 02-03-2019 from 30-06-2019 to 30-11-2019

Noti. No. (57) dt. 29-06-2019 from 30-11-2019 to 31-12-2019

Noti. No. (81) dt. 30-09-2019 from 31-12-2019 to 31-03-2020

Noti. No. (23) dt. 26-03-2020 from 31-03-2020 to 30-04-2020

Noti. No. (60) dt. 30-04-2020 from 30-04-2020 to 30-06-2020

Noti. No. (81) dt. 25-06-2020 from 30-06-2020 to 30-11-2020



(179) Notification u/s 9-AA of M.P. Vat Act, 2002 amending Notification No. (55) dated 5-7-2019 relating to enhancement of Additional Tax on Petrol and High Speed Diesel effective from 13-6-2020

No. F-A-3-60-2015-I-V (41). Dated 12th June 2020 - In exercise of the powers conferred by Section 9-AA of the Madhya Pradesh VAT Act, 2002 (No.20 of 2002) the State Government hereby amends the department's Notification No. FA 3-60/2015/1/V (55) dated 5th July, 2019, namely:-

AMENDMENTS

In the Table, of the said notification, -

- (1) In column (3) of entry No. 1, for the words and figures "Rupee 3 and 50 Paisa per liter" the words and figures "Rupee 4 and 50 Paisa per liter", and
 - (2) In column (3) of entry No. 2, for the words and figures "Rupee 2 per liter" the words and figures "Rupee 3 per liter", shall be substituted.
- 2. This notification shall come into force from 13th June 2020.**



HISTORY OF AMENDMENT

[Notif. No. (55) dated 5th July, 2019 issued under Section 9-AA and 71 of M.P. Vat Act, 2002 superseding Noti. No. (02) Dated 2-1-2016 relating to Additional Tax on Petrol and High Speed Diesel effective from 6-7-2019]

TABLE

S. No.	Class of Goods	Amount of Tax	Term and Condition
(1)	(2)	(3)	(4)
1.	Petrol	Rupee 3 and 50 Paisa per liter.	1. The additional tax as specified in column (3) shall be payable on the sale of the goods inside the State of Madhya Pradesh
2.	High Speed Diesel	Rupee 2 per liter	2. The returns as prescribed under the Madhya Pradesh VAT Rules, 2006 shall mutatis mutandis apply to the registered dealer selling the goods specified in column (2).

- 2. This notification shall come into force from 6th July 2019.**

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(2020) 64 TLD 353 Authority for Advance Ruling, Madhya Pradesh
Manoj Kumar Choubey & Virendra Kumar Jain, Members

Vippy Industries Ltd., Dewas

Case No. : 17/2019

Order No. : 01/2020

January 2, 2020

AAR-MP - Bio Processed Meal - Preparation of a kind used in Animal Feeding 'Bio Processed Meal' is not entitled to classify under HS Code 23099090.

Shri C.L. Dangi, Advocate and Shri Ravi Shankar Choudhary on behalf of the applicant

:: PROCEEDINGS ::

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and Madhya Pradesh Goods & Service Tax Act, 2017)

1. M/s. Vippy Industries Ltd. 28, Industrial Area A.B. Road, Dewas (hereinafter referred to as the Applicant) is engaged in manufacturing and export of various soya processed food, used for human as well as animal consumption. The Applicant is having a GST registration with GSTIN **23AABCV1297N3ZY**.

2. The applicant has sought Advance Ruling on the confirmation of classification of the product "Preparation of a kind used in Animal Feeding - Bio Processed Meal" falling under HS Code 23099090. The applicant has provided the following process for manufacture of said product.

3. Brief Facts of the Case:

3.1 Soybean meal (raw material) with 12% moisture is conveyed to buffer tank after removal of metal impurities. All raw materials after measurement are sent into batch mixer for mixing, and then mix with liquid bacteria/Enzymes in the continuous mixer through a variable frequency screw conveyor which regulates its flow rate. Moisture content is adjusted to around 40% - 50% in the continuous mixer. Finally Soybean meal after inoculation and mixing is delivered to fermentation section.

3.2 After Inoculation Soybean meal through conveying equipment is transported to fermentation bed & kept there for 60-72 hours. The thickness of the material deck is designed to be within 75-150 mm range and may

be adjusted according to actual circumstances. The processing capacity of fermentation bed will also be adjusted by changing the thickness of material layer. During the fermentation process agitation of material may be needed according to the process design. After the fermentation process the material is discharged and collected by a belt conveyor to the drying section. In the conveying process, some material may be fall off the conveyor and needs to be cleaned manually.

3.3 The fermented Soybean meal is then pre-dried by a tube bundle dryer to around 20-25% moisture content and then enters live drying tower for further drying at relatively low temperature. The retention time inside the drying tower can be adjusted by adjusting the thickness of the material deck in each tray of the drying tower. The hot air in the drying tower is utilized repeated in each layer and then achieves energy efficiency and maintains desirable colour of the finished product.

3.4 The dried meal is then transported through cold air transfer to pulveriser for grinding to 1 mm size and is finally transported through pneumatic transfer to finished product buffer tank and then for measurement and packing.

3.5 The end product will be sold for use as Aquatic feed including shrimp feed, poultry feed, Cattle feed & Pig feed in domestic and Export market. This product will be used for consumption of Aquatic feed including shrimp feed, poultry feed, Cattle feed & Pig feed etc.

3.6 Bacteria Enzymes are mixed in to soyabean meal & left for fermentation for 60 to 72 hours (approx.) During this time following changes takes place in the meal.

S. No.	Properties	Soya bean meal	Bio-Processed Soya Bean meal
1.	Anti nutritional factor.		Less than 50% of Soyabean
	a. Glycinin	4-6	Meal
	b. B.Conglycinin	2-3	
2.	P.H.	6.5-7	4.5-5.0
3.	Lactic Acid	0.03-0.05	3-4

3.7. The applicant has provided the following points in support of his claim that the their end product will be used only Animal Feed:

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- (i) The raw material for the preparation of Bio-Processed meal is soya bean meal feed grade falling under HS code 23040030.
- (ii) The protein content of the feed grade is less than 50% and not fit for human consumption. During the manufacturing process soya meal undergoes through fermentation process.
- (iii) **The process uses biotechnology to convert protein structure to smaller molecular weight to increase efficiency digestion and absorption.**
- (iv) It also breaks down and reduce antigens or anti-nutrient substance due to fermentation.
- (v) It is a high quality soya protein source of animal such as young animals in Aquatic feed including shrimp feed, poultry feed, Cattle feed & Pig feed.
- (vi) It focuses on the use of protein sources in animal feed by replacing fish meal, skim milk, milk replacer.
- (vii) Fermented soya protein can be use in the various kinds of feeds, such as Poultry, Aqua, cattle, Pig feed etc.

3.8 The applicant has cited that Notification 02/2017-CT (Rate) dated 28-6-2017 where it is mentioned that Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake (other than rice bran) falling under heading number 2309 of GST Tariff attracts nil rate of GST.

3.9 The applicant has also cited that explanatory Note to Heading 23.09 applies, *mutatis mutandis*, to this heading.

- 23.09 - Preparations of a kind used in animal feeding.
- 2309.10 - Dog or cat food, put up for retail sale
- 2309.90 - Other

This heading covers sweetened forage and prepared animal feeding stuffs consisting of a mixture of several nutrients designed :

- (1) to provide the animal with a rational and balanced daily diet (*complete feed*);
- (2) to achieve a suitable daily diet by supplementing the basic farm-

produced feed with organic or inorganic substances (*supplementary feed*);
or

(3) for use in making complete or supplementary feeds.

As per The Explanatory Note the product “preparation of a kind used in animal feeding - bio processed meal is classifiable under sub heading 23099090.

3.10 The applicant has cited the following case laws in support of their case:

- (a) As per decision of AAR in the case of **National Plastic Industries Ltd.** reported in **(2018) 16 GSTL 287** it has been decided that classification to be decided as per terms of headings, sub headings and tariff item and the relevant section / chapter notes / sub notes in terms of interpretative rules to the Customs Tariff.
- (b) As per decision of AAR - GST in the case of **Maheshwari Stones Supplying Company reported in (2018) 13 GSTL 345** Heading which provide more specific description to be preferred over heading providing general description.
- (c) As per decision of AAR - GST in the case of **C.P.R. Mill reported in (2018) 17 GSTL 146** cattle feed has been classified under 2309 of tariff and exempted vide Sr.No. 102 of Notification 02/2017 CT (Rate).
- (d) As per decision of AAR - GST in the case of **SRIVET HATCHERIES** reported in **(2018) 19 GSTL 140 (AAR-GST)** and held that Biofos mono calcium phosphate/Di-calcium phosphate - Animal/Poultry/Aqua feed supplement - Exemption under GST - Admissibility - Aforesaid product classifiable under Tariff Item 2309 90 90 of Customs Tariff Act, 1975, is a feed grade mono calcium phosphate and being marketed accordingly - Thus it is fully covered under Entry 102 of Notification No. 2/2017-C.T. (Rate) - Exemption admissible.

4. Questions raised Before The Authority:-

The following questions have been posted before the Authority:-

Whether the product “Preparation of a kind used in Animal Feeding - Bio Processed Meal” will fall under HS Code 23099090 and applicable rate of GST on said product shall be ‘Nil’ as per Notification 02/2017-CT (Rate) dated 28-6-2017?

5. Officer's View Point:

The Superintendent (Tech), CGST & Central Excise, Division Dewas vide his letter F.No. IV(16)100/Misc./Tech/CGST/17-18/Pt.II/1409 dated 7-11-2019, has forwarded department's view point in respect of the issue raised in the Application. It is submitted in the report that the statement of relevant facts mentioned in the application by the party appears to be correct.

6. Record Of Personal Hearing: Shri C.L. Dangi, Advocate and Shri Ravi Shankar Choudhary Advocate of the applicant, has appeared for Personal Hearing and reiterated the points mentioned in their written submission dated 26-7-2019, 14-10-2019 and 18-11-2019.

7. Discussion & Findings:

7.1 We have carefully considered the submissions made by the applicant in the application, the pleadings on behalf of the Applicant made during the course of personal hearing. We find that the issue raised in the Application is squarely covered under Section 97(2)(a)/(b) of the GST Act 2017 being a matter related to classification of the product, being produced by the applicant and applicability of a cited Notification. The applicant have complied with the all the requirements for filing this application as laid down under the law. We therefore admit the application for consideration on merits.

7.2 Going through the application of the party, it is found that the applicant has sought confirmation of classification of their product to whom they term it "*Preparation of a kind used in Animal Feeding - Bio Processed Meal*" and also informed that the said product falls under the HS Code 23099090. Further, it is noted that the main raw material for the said preparation is '*Meal of Soyabean*'.

Further, the applicant has provided the following reasoning to establish that the said product is meant for Animal Feeding:

"The protein content of the feed grade is less than 50% and not fit for human consumption. During the manufacturing process soya meal undergoes through fermentation process. The process uses biotechnology to convert protein structure to smaller molecular weight to increase efficiency digestion and absorption. It also breaks down and reduce antigens or anti-nutrient substance due to fermentation".

7.3 We further notice that the applicant vide their letter dated 18-11-2019 has submitted an additional reply acknowledging a typographical error in para

15F of their advance reply application submitting therein the following:

“In continuation of our application dated 25-7-2019 and hearing on 14-10-2019 for classifying our product under heading 23099090 ‘Preparation of a kind used in animal feeding - bio processed meal’ the applicant wish to further inform that in place of statement as mentioned in 15(f) of our advance Ruling Application ***“The Protein content of the feed grade is less than 50% and not fit for human consumption”*** should be read as ***“The Protein content is up to 52%”***.”

7.4 It is noted that the applicant is renowned manufacturer of soya based products used for the consumption of general public namely Soya Flakes / Grits, Soya Flour, Soya lecithin, Soya Protein / TVP etc. They are also engaged in the manufacturing of various products meant for animal feeding namely GMO Soyabean meal, non GMO Soya Grits etc. They are also manufacturing soya products for industrial use. The products meant for industrial use and for consumption of general public are leviable to various rates of GST whereas the applicant has claimed the chapter heading of 23099090 which is exclusively meant for animal feed and attracts Nil rate of duty. In such a situation, a critical analysis is required to establish that the said product is meant only for animal feed.

7.5 The applicant has claimed the classification under HSN Code 23099090 which is exclusively meant for animal feed and attracts Nil rate of GST. The chapter note 2309 reads as under:

“Note: Heading 2309 includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristic of the original material, other than vegetable waste, vegetable residues and by - products of such processing.”

Further the tariff heading 23099090 is detailed as under:

23.09	Preparations of a kind used in animal feeding.
2309.10	Dog or cat food, put up for retail sale
2309.90	Other
23099010	Compounded animal feed
23099020	Concentrates for compound animal feed

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Feed for fish (prawn etc.)

23099031	Prawn and shrimps feed
23099032	Fish meal in powdered form
23099039	Others
23099090	Others

Further, the Notification 02/2017-CT(Rate) dated 28-6-2017 and corresponding notification issued under MPGST Act has **exempted** intra-State supplies of goods, the description of which is specified in column (3) of the Schedule appended to the said notification, falling under the tariff item, subheading, heading or Chapter, as the case may be, as specified in the corresponding entry:

Sl. No.	Chapter heading / sub heading/Tariff item	Description of goods
102.	2302, 2304, 2305, 2306, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake.

7.6 From above it is derived that the Chapter heading **23099090** is exclusively meant for animal feed. It is noted that the applicant has not provided any evidence to prove that the said product “Bio Processed Meal” is meant for animal feed. We find that the applicant is renowned manufacturer of soya based products, both for general public, for animal use as well as for industrial use. In such a situation, a critical analysis is required to establish that the said product is meant only for animal feed.

We further noticed that in their Advance Ruling application. they have mentioned at point 15(f) that:

“The Protein content of the feed grade is less than 50% and not fit for human consumption”.

We further noticed that vide their letter dated 18-11-2019, they have submitted fresh plea that above clause in their Advance Ruling application should be read as under:

“The Protein content is up to 52%”.

From above, it is clear that they have also removed the line *“and not fit for human consumption”*

7.7 From above discussion, it is clear to us that there are no evidences in support of the applicant’s claim that the said product falls under Chapter heading **23099090**. The applicants withdrawn of the comment that *“and not fit for human consumption”*, further substantiates our contention.

7.8 As the applicant has failed to submit any evidence to support their claim of Chapter heading 23099090 for their product, and therefore the applicant is not entitled to claim ‘Nil’ rate of duty under as per Notification 02/2017-CT(Rate) dated 28-6-2017 and corresponding notification issued under MPGST Act. We hold accordingly.

8. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

- 1.** The Product *“Preparation of a kind used in Animal Feeding - Bio Processed Meal”* is not entitled to classify under HS Code 23099090 and therefore not entitled for the benefit of Notification No. 02/2017-CT(Rate) dated 28-6-2017 and corresponding notification issued under MPGST Act.
- 2.** This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.



(2020) 64 TLD 360 Authority for Advance Ruling, Madhya Pradesh
Manoj Kumar Choubey & Virendra Kumar Jain, Members

Vidit Builders, Jabalpur

Case No. : 19/2019

Order No. : 02/2020

January 6, 2020

AAR-MP - Development of the raw land into residential plots - The applicant cannot be classified under Para 5 of Schedule III - It amounts to supply of services under works contract and is liable to be taxed under GST Act.

Shri Vishal Jaseja, CA on behalf of the applicant

:: PROCEEDINGS ::

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and Madhya Pradesh Goods & Service Tax Act, 2017)

1. The present application has been filed u/s. 97 of the Central Goods and Services Act, 2017 and MP Goods and services Act, 2017 (hereinafter also referred to CGST Act and SGST Act respectively) by M/s. Vidit Builders (hereinafter referred to as the Applicant), registered under the Goods & Services Tax.

2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE:

3.1 The applicant is partnership firm and engaged in the business of real estate developer and is developing a colony by executing joint development agreement on 14-3-2019 with the land owner M/s. Star Construction. In this project developer will develop and provide the following common facilities in the colony.

1. Construction of concrete roads and compound walls.
2. Development of garden.
3. Construction of drain and water supply system.
4. Erection of electric poles and transformers etc.

3.2 With due permission from the local municipal corporation. Developer will sale vacant plots to individual buyers and will not do any construction activities on these plots. No common facilities developed like road, garden, electric poles, water drainage etc. will be transferred / sold to buyers.

3.3 After development of all the above-mentioned common facilities, local municipal corporation will review and provide completion certificate to the developer and developer will hand over the colony to the municipal corporation for further maintenance.

4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

In view of the above, the applicant has sought in respect of the following question.

4.1 Whether it is covered in para 5 of Schedule III (Sale of Land) or classified under works contract.

4.2 If it is covered under works contract, how the valuation would be done.

4.3 Residual Rules i.e. Rule 30/31 provided **under GST Valuation Rules** can be considered or not.

5. CONCERNED OFFICER'S VIEW POINT:

The concerned officer is his view submitted that the work undertaken by the applicant doesn't fall under Para 5 of schedule III and rule 31 applies for the valuation.

6. RECORD OF PERSONAL HEARING: Shree Vishal Jaseja CA authorized representative of the applicant appeared and reiterated the submission given in the application. He also gave a copy of the agreement executed between the applicant and the land owner M/s. Star construction.

7. DISCUSSIONS AND FINDINGS:

7.1 We have carefully gone through the submission made by the applicant in their application, as well as the submission made at the time of personal hearing and copy of agreement between the applicant and the land owner.

7.2 The applicant has entered into joint development agreement with the land owners in terms of the agreement the applicant undertakes the development of plots which also concludes construction of concrete roads and compound walls, development of garden, construction of drain and water supply system and erection of electric poles and transformer etc. The revenue accruing from the sale of the plots is shared as per the agreement. After developing the land and formation of developed plots, the amenities like roads, etc. are handed over to the Authorities as per the Statutory requirement. The salient provisions contained in the agreement and having a bearing on the questions raised by the applicant are discussed in the following paragraphs.

7.3 The agreement deed clearly states that as the land is under mortgage of the State Bank of India, Jabalpur, therefore permission was taken from State Bank of India, Jabalpur of entering into the agreement. In it it has been clearly stated that the applicant would enter into an agreement with the land owner only for the development of the land.

7.4 “Para (1)” of the agreement says that applicant would follow all rules and regulations for development of colony.

7.5 In “Para (2), (3), (5), (6), (7), (14), (15) and (16)” deals with the works and duties to be carried out by the applicant.

7.6 In Para (4)” says that it is land owner who has got diversification of land use to residential purpose.

7.7 The agreement further provides that once the project has been developed the applicant will ensure the sale of the plots. For selling any expenses incurred by the applicant will be recovered by the applicant from the purchaser and would be shared between land owner and applicant in a fixed ratio.

7.8 “Para (8)” of the agreement provides for the revenue sharing arrangement. The applicant is entitled to a revenue share equal to 40% of the sale value of each plot. The agreement also states that the security deposited by the applicant will be refundable within a stipulated time and if not it will be refunded with 18% percent per annum interest.

7.9 “Para (11)” of the agreement obliges the applicant to complete the work in a stipulated time.

7.10 In “Para (10)” it is the land owner who gives the right to the applicant to develop the land.

7.11 “Para (13) and (14)” entrust upon the land owner to pay any tax/rent and to settle any legal dispute regarding land.

7.12 “Para (15)” says that the land owner authorizes the applicant would get the approval of design, layout and other permission from the concerned authorities.

7.13 The above are salient features of the agreement. The main argument of the applicant is that they are primarily engaged in the sale of land and the said activity is not liable to be taxed in terms of the provisions contained in serial number 5 of Schedule III of the GST Act, 2017. Therefore nearly by developing common facilities like drainage, electricity, road facilities, garden development etc should not attract GST.

7.14 The applicant further contend that mentioned development activities should not be covered under the ambit of GST. Since the dominancy in the transaction / activities is in respect of land/plots, whole transaction / activities

would be covered in sale of plots/ land though the ancillary services (Common facilities) has been provided.

7.15 Now we examine the contention of applicant in light of the salient features of the agreement discussed in the preceding paragraph.

7.16 The core contention of the applicant is that they are engaged in the sale of land, The sine qua non for any sale of land is the ownership of the land sold. The seller can claim that he is engaged in the supply of land by way of sale only if he himself enjoys the title of the land. Anyone who does not possess any title of the land cannot be considered as the seller. Such a person may have a role in the activity of sale but he cannot claim himself to be the seller. In the instant case the applicant understands that they have a right to 40 % of the total number of plots developed and the sale of these plots, as well as those of the landowners share, is covered under serial number 5 of Schedule III. We do not agree with this interpretation of the agreement by the applicant. We deconstruct the understanding and the arguments professed by the applicant in the following discussion.

7.17 The first and foremost point to understand is the actual nature of the activities required to be performed by the applicant in terms of the agreement. One of the important point in the agreement is that as the land is under mortgage of State Bank of India, Jabalpur, permission was taken by the bank for the development of the land and in that permission it was clearly stated that the applicant would enter into an agreement with the land owner only for the development of the land the agreement also clearly defines the scope of work to be undertaken by the applicant the main work to be carried out by the applicant the development of plots which also concludes construction of concrete roads and compound walls, development of garden, construction of drain and water supply system and erection of electric poles and transformer etc. Therefore it is very much clear that the activities to be undertaken by the applicant are in nature of development of land into residential layout. The agreement provides that the applicant can enter into sale agreements. However this activity is incidental to the main activity of development of land. The sale is entrusted to the applicant as the applicant has invested huge sums in the development of the land and it is a measure to protect his financial exposure in the matter. Here it becomes evident that the core competence and the activity actually carried out by the applicant is that of development of land and not the sale of land. The land owner still remains the land owner still the property is transferred in the name of purchaser.

7.18 The agreement also states that the land owner authorizes the applicant to prepare the necessary plans drawing designs and get it approved by the concern authority. The authorization clause clearly shows that the activities are to be done by the applicant is on behalf of the land owner. The applicant doesn't become the land owner himself.

7.19 There are many other provisions in the agreement that applicant has no right over the land and consequently the applicant cannot claim to be engaged in the activity of sale of land as envisaged in the provisions of entry at Serial number 5 of said Schedule III. The provisions of this entry will apply only to those persons who are the owners of the land and not to persons who are incidental to the sale of land.

7.20 According to the agreement the primary role of the applicant is development of the land into residential plots. The other activities to be done by the applicant are ancillary to the above prime activity. The applicant doesn't get the right himself to deal with many government agencies but he has been authorized by land owner to do so. He doesn't himself become the land owner.

7.21 The agreement also provides that the cost of development shall be borne by the applicant. It is agreed upon by the applicant and the landowners that all the cost of the execution of the project subsequent to the receipt of the Sanctioned plan, including costs like fee payable to architects, engineers, workmen etc shall be borne by the applicant. The applicant is entitled to recover these costs from the purchasers of the plots.

7.22 The revenue sharing agreement in "Para 8" of the agreement indicates that the applicant gets an amount on the sale of each individual plot. This shows that there are no fixed earmarked plots to which the applicant can claim an entitlement. Further the amount received on the sale of the plots is credited to an escrow account and then only the same is divided. This further shows that the applicant is not the owner of the plots and consequently cannot claim sale of the plots as his supply.

7.23 On the basis of the aforementioned provisions of the agreement it would be in order to conclude that activities undertaken by the applicant are not qualified to be covered under entry number 5 of Schedule III of the said Act. Thus the activities to be performed by the applicant amount to a supply of service.

7.24 The service provided by the applicant is regarding development of the site which includes civil construction and amenities regarding the site in order to make it for the purpose of residence. The services provided by the applicant are based on an agreement signed between the land owner and the applicant which comes under works contract.

7.25 The applicant has also raised that if the activity to be performed comes under works contract how the valuation would be done. GST Rule 30/31 will be considered or not.

7.26 The terms of the agreement provide that the cost of execution of the development of the land including the cost of fee payable to the architects, contractors, staff, workmen etc shall be borne by the applicant. Further it provides that the applicant recovers the cost from the purchasers of the plots. In this regard the provisions of Para 8 dealing with revenue sharing are worth noting. Para 8.1 provides that as and when any plot is sold, the proceeds shall be divided between the applicant and the landowners in the given ratio. This shows that the charges that the applicant receives for the services provided by them to the landowners for the development of the land are equal to their revenue share when the plots are sold. Now we look at the definition of 'Consideration' as enumerated in Section 2(31) of the Act. It is stated therein that "consideration" in relation to supply of goods or services or both includes any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, supply of goods or services or both, whether by the recipient or by any other person.

7.27 In this context we see that the applicant receives consideration equal to 40% of the value at which each of the plots is sold. This amount constitutes the consideration for the services provided by the applicant. Section 15 of the CGST Act, 2017 provides that the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply where the supplier and the recipient are not related and the price is the sole consideration. It is seen here that the applicant does not get any physical possession of 40% of the plots as understood by the applicant. The agreement provides that the applicant gets 40% of the amount at which each of the plots is sold. This shows that the consideration that the applicant receives is in the form of money and not in the form of land. The only peculiar feature of this arrangement is that the landowners do not arrange any cash amount on their own to pay to the applicant for their services. They do not have to invest any personal amount in this manner and as and when

a plot is sold the amount is shared and the applicant receives a part of their consideration. In this manner the applicant gets paid his consideration progressively. Therefore in terms of the provisions of Section 15 the applicant receives the value of taxable supply made by them.

7.28 Rule 27 deals with the determination of Value of supply of goods or services where the consideration is not wholly in money. In the present case the entire consideration is received in money form. Therefore this Rule does not apply to the present case. Rule 28 is applicable for determination of value of supply of goods or services or both between distinct or related persons, other than through an agent. The distinct persons are as defined in sub section (4) and (5) of Section 25. In the present transaction there are no distinct persons as defined in sub section (4) and (5) of Section 25 are involved. Therefore Rule 28 also does not apply. Rule 29 and 30 also do not apply in the case. Consequently Rule 31 comes into play in the instant case. Rule 31 provides that where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15.

7.29 Section 15, as already discussed in para 7.27 above, provides that the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply where the supplier and the recipient are not related and the price is the sole consideration. In the instant case what the applicant receives as their remuneration for the provision of the services of development of the land and their subsequent activities related to the sale of the plots is an amount equal to 40% of the open market value of each plot. The arrangement is that the applicant shall get the amount only as and when the plots are sold. As already discussed earlier this arrangement, where the applicant gets paid for their services only upon the sale of the plots, enables the landowners to not to spend their financial resources to pay the applicant for their services. The applicant gets 40% of the amount collected from the plot purchasers. This amount constitutes their consideration for their services rendered to the landowners. Consideration for a service is the total value that the service provider gets in the deal and not what the service provider expends for the provisioning of the service. The total gain to the applicant or the total amount accruing to the applicant for the services is 40% of the amount at which the plots are sold. It has already been emphasized and held that the applicant

has no right in the title of the land and therefore the applicant cannot be considered as the sellers of the plots. Their role is limited to aiding and assisting the landowners in the sale of the plots. They are only service providers in the whole process, be it development of the raw land into residential plots or their sale after the development. Therefore the entire amount received by them is liable to be taxed.

8. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

8.1 The activities performed/to be performed by the applicant cannot be classified under Para 5 of schedule III. It amounts to supply of services under works contract and is liable to be taxed under GST Act.

8.2 Rule 31 applies in the instant case and the value of supply is equal to the amount received/receivable by the applicant which is equal to 40% of the amount on which the plots are sold.

8.3 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.

□

(2020) 64 TLD 368 Authority for Advance Ruling, Madhya Pradesh
Manoj Kumar Choubey & Virendra Kumar Jain, Members
Innovative Clad Solutions (ICS), Pithampur

Case No. : 21/2019

Order No. : 03/2020

January 16, 2020

AAR-MP - Advance Ruling - The Authority shall not admit the application where the question raised in the application is already decided in any proceedings in the case of an applicant.

Mr. Manoj Jain, Consultant & Mrs. Sonal Kawadi, Authorized Signatory and Financial Comptroller on behalf of the applicant.

:: PROCEEDINGS ::

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and the M.P. Goods & Service Tax Act, 2017)

1. M/s. Innovative Clad Solutions (ICS) is a SEZ unit (hereinafter referred

to as the Applicant) is engaged in manufacturing of Clad and Rerolled Bimetal Strips 108 SP. The Applicant is having a GST registration with GSTIN **23AABCI8209H1ZS**.

2. The provisions of the CGST Act and MPGST Act are identical, except for certain provision. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE -

3.1 M/s. Innovative Clad Solutions (ICS) is a SEZ unit (hereinafter referred to as the Applicant) is engaged in manufacturing of Clad and Rerolled Bimetal Strips 108 SP and registered with GST with GSTIN **23AABCI8209H1ZS**. **The Applicant manufacture ‘Re Rolled Bimetal Strip 108 SP’ in small quantity as per customer requirements.**

3.2 The company was established in 2009. It is a joint venture of Aperam (France) and Shivalik Bimetals with Aperam as its major share holder. ICS is recognized globally as one of the industry leaders providing custom clad solutions

3.3 The “Re-Roll Bimetal Strips 108SP” is Thermostatic Bimetal Strips in Re-roll form, made by bonding of two metallic strips. One strip of which is made of alloys of 72% Manganese, 10% Nickel, 18% Copper and another strip is made of 36% Nickel and 64% Iron. Both the strips are bonded to make Bimetal Strips 108 SP. After bonding of these two metallic content of the bimetal strip, the resultant composition of Bimetal Strips is Manganese 36%, Iron 32%, Nickel 23% and Copper 9%. Thus, in the Bimetal Strips Manganese is predominating with metallic contents of 36%.

3.4 The Applicant since starting manufactured and cleared the goods Re Rolled Bimetal Strip 108 SP from SEZ unit vide Bill of entry for home consumption with HSN 81110010 and paying duty leviable on it under said chapter heading (HSN) as the said product predominating the base metal manganese.

3.5 The Applicant filed the application under Advance Ruling for clarification in the matter of classification of Re-rolled Bimetal Strips 108 SP under HSN 81111010.

4. QUESTION RAISED BEFORE THE AUTHORITY

The Applicant wishes to know whether Re-rolled strip 108 SP is covered under HSN **81110010** or not.

5. DEPARTMENT VIEW POINT - As per the Bill of Entry submitted by Applicant and assessed by the SEZ of the applicant, the said product i.e. Rerolled Bimetal Strip 108 SP Classified under HSN 82110010.

6. RECORD OF PERSONAL HEARING -

Shri Manoj Jain, Consultant and Mrs. Sonal Kawadi, Authorised Signatory of the applicant appeared for personal hearing on 19-11-2019 and they reiterated the submission already made in the application and attached additional submission which goes as follows -

- (i) That the Bimetal Strips is Manganese 36%, Iron 32%, Nickel 23% and Copper 9%. Thus, in the Bimetal Strips Manganese is predominating with metallic contents of 36%.
- (ii) That the Bimetal Strips supplied by applicant cannot be used directly by the customers. That the Bimetal Strips supplied to the Industries and the Industries further process it to make it usable as per the customer requirements. After being processed by the industries, it is generally used in making electrical on / off switches.
- (iii) That the as per the contemporary Bill of Entry submitted by the applicant, the same product imported under Ch. 81110010 vide Bill of entry No. 9226129 dt. 14-5-2015 and 2028935 dt. 25-7-2015 of M/s. Zodiac Metal strips Ltd., for Product - -Re Rolled Bimetal 108SP Strips Thickness 1.65 mm width 200 mm (Nickle 23%, Ferrous 32%, Manganese 36%, Copper 9%) wherein the BOE is assessed by the Customs Authorities in HSN 81110010.
- (iv) That, Since starting of our unit at SEZ, Pithampur, we are manufacturing this product and clearing the same in HSN 81110010 and department being agreed with our declaration have finally assessed the same in HSN 81110010. That the applicant submitted the copies of BOE Nos. 2012767/12-11-2018, 2003320/21-3-2018, 2009393/21-9-2017, 0003954/19-4-2017, 0001150/31-1-2017, 0009798/25-10-2016, 0006708/25-7-2016, 0004011/3-5-2016 finally assessed by the department in support.

- (iv) That as per chapter notes of Chapter 72 (Base metal) of the Customs Tariff Act, 1975, the Manganese is covered under the category of Base Metals and as per the foot notes given in the Chapter 72, the Re Roll Bimetal Strip 108SP which is **manganese predominating by weight is treated as Manganese based Alloy**. Therefore it falls under chapter 81 under heading **81110010, where specifically written “manganese base alloy”**.

7. DISCUSSIONS AND FINDINGS -

7.1 We have carefully gone through the application, provisions and submission of the Applicant, we proceed to decide the case as under :-

7.2 The Applicant submitted that the Bimetal Strips supplied by applicant cannot be used directly by the customers. That the Bimetal Strips supplied to the Industries and the Industries further process it to make it usable as per the customer requirements. After being processed by the industries, it is generally used in making electrical on / off switches.

7.3 The Applicant submitted that the as per the contemporary Bill of Entry submitted by the applicant, the same product imported under Ch. 81110010 vide Bill of entry No. 9226129 dt. 14-5-2015 and 2028935 dt. 25-7-2015 of M/s. Zodiac Metal strips Ltd., for Product - Re Rolled Bimetal 108SP Strips Thickness 1.65 mm width 200 mm (Nickel 23%, Ferrous 32%, Manganese 36%, Copper 9%) wherein the BOE is assessed by the Customs Authorities in HSN 81110010.

7.4 The applicant submitted that, since starting of their unit at SEZ, Pithampur, they are manufacturing this product and clearing the same in HSN 81110010 and department being agreed with our declaration have finally assessed the same in HSN 81110010. That the applicant submitted the copies of BOE Nos. 2012767/12-11-2018, 2003320/21-3-2018, 2009393/21-9-2017, 0003954/19-4-2017, 0001150/31-1-2017, 0009798/25-10-2016, 0006708/25-7-2016, 0004011/3-5-2016 finally assessed by the department in support.

7.5 As per the Bill of entry of submitted by the applicant, the said goods classified under 81110010. The applicant units is under SEZ and also the SEZ assessing and clearing the said goods i.e. Re rolled Bimetal Strip 108 SP manufactured by the applicant under HSN 81110010. Hence, it appears that the practice being followed by the department to classify the said goods under chapter 81110010.

7.6 The provisions of Section 98(2) of CGST Act, 2017 is reproduced below:-

“(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

*Provided that the Authority shall not admit the application where the question raised in the application is already pending or **decided in any proceedings in the case of an applicant under any of the provisions of this Act.**”*

7.7 As per the submission of the Applicant that their Bill of entry is being assessed by the department under the Chapter heading (HSN) No. 81110010 and paying the Customs duty and IGST as per the rate applicable in this chapter heading means the question raised by the applicant has already been decided by the department by assessing the goods under HSN 81110010 and also Applicant paid the IGST under this heading, hence as per the proviso to Section 98(2) of CGST Act, the Authority shall not admit the application where the question raised in the application is already decided in any proceedings in the case of an applicant.

7.8 As per the **Notification No. 1/2017-Central Tax (Rate) dated 28-6-2017**, “Tariff item”, “sub-heading”, “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the **Customs Tariff Act, 1975** (51 of 1975). Hence, in GST HSN is applicable as per the Customs Tariff Act, 1975 and in this case the assessment was done by the department under Customs Tariff as well as GST tariff and duty has paid customs as well as IGST.

7.9 In view of above, it is concluded that the application is liable to be rejected as per the provision of section 98(2) of CGST Act.

8. Ruling

8.1 The Application filed by the Applicant under Advance Ruling under CGST Act, 2017 is hereby rejected as per the provision of Section 98(2) of CGST Act, 2017.

8.2 The ruling is valid subject to the provisions under section 103 (2) until and unless declared void under Section 104 (1) of the GST Act.



2020) M.P. Paschim Kshetra Vidyut Vitran Co. (AAR-MP) 373

(2020) 64 TLD 373 Authority for Advance Ruling, Madhya Pradesh
Manoj Kumar Choubey & Virendra Kumar Jain, Members

Madhya Pradesh Paschim Kshetra Vidyut Vitran Co. Ltd.

Case No. : 23/2019

Order No. : 04/2020

January 16, 2020

**AAR-MP - Rural Electrification including distribution of Electricity
- The services received by the applicant eligible for claiming benefit
in area covered under Panchayat limits under Article 243G.**

Mr. Anirudh Tiwari, Accounts Officer on behalf of the applicant

:: PROCEEDINGS ::

**(Under sub-section (4) of Section 98 of Central Goods and Service
Tax Act, 2017 and the M.P. Goods & Service Tax Act, 2017)**

**1. M/s. MADHYA PRADESH PASCHIM KSHETRA VIDYUT
VITRAN CO. LTD.** CHIEF FINANCIAL OFFICER, MPPKVCL,
GPH COMPOUND POLOGROUND, INDORE (M.P.) (hereinafter referred
to as the Applicant) is engaged in supply and distribution of electricity. The
Applicant is having a GST registration with GSTIN **23AADCM7397N1ZU**.

2. The provisions of the CGST Act and MPGST Act are identical, except
for certain provisions. Therefore, unless a specific mention of the dissimilar
provision is made, a reference to the CGST Act would also mean a reference
to the same provision under the MPGST Act. Further, henceforth, for the
purposes of this Advance Ruling, a reference to such a similar provision under
the CGST or MP GST Act would be mentioned as being under the GST
Act.

3. BRIEF FACTS OF THE CASE -

3.1 M/s. Madhya Pradesh Paschim Kshetra Vidyut Vitran Company
Limited (herein after referred to as the applicant) is engaged in supply and
distribution of electricity and registered with GSTN with GSTIN -
23AADCM7397N1ZU.

3.2 The applicant for the above purpose carry work of distribution of
electricity and electrification work in rural area also.

3.3 The applicant is availing services from M/s. Primeone work force
Private Limited for supply of Unskilled, Semi Skilled and Skilled manpower

required for various work having direct nexus with distribution of electricity under the jurisdiction area of Indore and Ujjain commissionerate.

4. QUESTION RAISED BEFORE THE AUTHORITY

The applicant wishes to know the applicability of provision of S.No. 3 of the table of Notification No. 12/2017, Central Tax (Rate), Dated - 28-6-2017 on services received by the applicant from M/s. Primeone work force Private Limited being Pure services (Excluding works contract services or others composite supplies involving supply of any goods).

5. DEPARTMENT VIEW POINT - The Concerned Officer is of the view that the work for which the applicant has asked clarification comes under category of exempted service.

6. RECORD OF PERSONAL HEARING -

Shri Anirudh Tiwari, Accounts Officer appeared for personal hearing on and they reiterated the submission already made in the application and attached additional submission which goes as follows -

6.1 The Company Madhya Pradesh Paschim Kshetra Vidyut Vitaran company Ltd. (MPPKVVCL) is wholly owned subsidiary of M.P. Power management Co. Ltd.

6.2 The holding Company M.P. Power management Co. ltd. Is wholly owned by the Government of Madhya Pradesh.

6.3 Thus, the Government of Madhya Pradesh is having full control over MPPKVVCL and covers under Government Entity.

6.4 Further, the Government of Madhya Pradesh has entrusted the Company to carry out function of supply and distribution of Electricity in the area of Indore and Ujjain Commissionerate vide order No. 5555/RS/4/13/2001, Bhopal, Dated - 1-7-2002.

6.5 The Government of India, vide notification No. 12/2017 - Central Tax (Rate), Dated - 28th June 2017 notify the exempted services. Under this notification at S.No. 3 Pure Services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

2020) M.P. Paschim Kshetra Vidyut Vitran Co. (AAR-MP) 375

6.6 The said notification has been amended time to time, till date 12 notifications are issued by the Government of India for making amendment thereof. The said amendment Notification are as follows -

- 1) Notification No. - 21/2017 - Central Tax (Rate), Dated - 22-8-2017.
- 2) Notification No. - 25/2017 - Central Tax (Rate), Dated - 21-9-2017.
- 3) Notification No. - 30/2017 - Central Tax (Rate), Dated - 29-9-2017.
- 4) Notification No. - 32/2017 - Central Tax (Rate), Dated - 13-10-2017.
- 5) Notification No. - 47/2017 - Central Tax (Rate), Dated - 14-11-2017.
- 6) Notification No. - 02/2018 - Central Tax (Rate), Dated - 25-1-2018.
- 7) Notification No. - 14/2018 - Central Tax (Rate), Dated - 26-7-2018.
- 8) Notification No. - 23/2018 - Central Tax (Rate), Dated - 20-9-2018.
- 9) Notification No. - 28/2018 - Central Tax (Rate), Dated - 31-12-2018.
- 10) Notification No. - 04/2019 - Central Tax (Rate), Dated - 29-3-2019.
- 11) Notification No. - 13/2019 - Central Tax (Rate), Dated - 31-7-2019.
- 12) Notification No. - 21/2019 - Central Tax (Rate), Dated - 30-9-2019.

6.7 vide Notification No. 32/2017 - Central Tax (Rate), Dated - 13-10-2017, the definition of Government entity was inserted, which is reproduced as under -

“Government Entity” means an authority or a board or any other body including a society, trust, corporation, i) set up by an Act of Parliament or State Legislature; or ii) established by any Government, with 90 percent cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

6.8 Further, Vide notification No. 02/2018 - Central Tax (Rate), Dated - 25-1-2018, makes following amendment in the Notification No. 12/2017 - Central Tax (Rate), dated - 28-6-2017 -

- (a) Against serial number 3, in the entry in column (3), after the words “a Governmental Authority” the words “or a Government Entity” shall be inserted;
- (b) Inserting entry No. (3A) notified NIL GST rate for Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply

provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

6.9 In view of above, it is submitted that the provision referred above issued under notification No. 12/2017 - Central Tax (Rate), Dated - 28-6-2017 as amended by Notification No. - 32/2017 - Central Tax (Rate), Dated - 13-10-2017 and Notification No. - 02/2018 - Central Tax (Rate), Dated - 25-1-2018 is applicable on the Manpower services (Pure Services) received by the Company from M/s. Primeone Workforce Private Limited.

7. DISCUSSIONS AND FINDINGS -

7.1 A careful reading of conditions laid down under the Exemption Notification makes it clear that exemption from GST is granted under Serial No. 3 to the Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.

7.2 Pure service is not defined in the GST Act. However, it appears from the context that services involving no supply of goods are considered as pure service. The Applicant claims that the service received from M/s. Primeone work force private limited does not involve supply of any goods while provisioning the services. Thus services are therefore, classifiable as pure service.

7.3 Also, we must look in the contention that the Applicant being recipient of service is a government entity or not. As per Notification No. 32/2017 - CT (Rate), Dated 13-10-2017, Government Entity is defined as under -

“Government Entity” means an authority or a board or any other body including a society, trust, corporation, i) set up by an Act of Parliament or State Legislature; or ii) established by any Government, with 90per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.

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7.4 The Company Madhya Pradesh Paschim Kshetra Company Ltd. (MPPKVCL) is wholly owned subsidiary of M.P. Power Management Co. Ltd., carried out function of distribution of Electricity in the area of Indore and Ujjain Commissionerate as entrusted by the Government of Madhya Pradesh vide order No. 5555/RS/4/13/2001, Bhopal, Dated - 1-7-2002. Further, the holding Company M.P. Power Management Co. Ltd. is wholly owned by the Government of Madhya Pradesh.

7.5 The applicant had submitted the copy of Audited Annual Accounts of M/s. M.P. Power Management Co. Ltd. for F.Y. 2015-16, during the proceedings. It is evident from the schedule of Equity Share Capital of the Annual Statement that 100% share capital of M/s. M.P. Power Management Co. Ltd. is hold by Secretary (Energy), GOMP, Bhopal.

7.6 Thus, based on the above facts, it is concluded that the Government of Madhya Pradesh is having full control over the applicant M/s. M.P. Paschim Kshetra Vidyut Vitran Co. Ltd. and the applicant is covered under the definition of Government Entity.

7.7 Before deciding the applicability of Sl. No. 3 of the Exemption Notification, the functions of a Panchayat or a Municipality under the Constitution needs to be discussed.

Article 243G of the Constitution discusses the Powers, authority and responsibilities of Panchayats, stating that “Subject to the provisions of this Constitution the Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government subject to such conditions as may be specified therein, with respect to.. (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule”

1. Agriculture including agricultural expansion
2. Land improvement, implementation of land reforms, land consolidation and soil conservation
3. Animal Husbandry, Dairying and poultry
4. Fisheries Industry
5. Minor irrigation, water management and watershed development
6. Social forestry and farm forestry
7. Small scale industries in which food processing industry is involved

8. Minor forest produce
9. Safe water for drinking
10. Khadi, village and cottage industries
11. Rural housing
12. Fuel and fodder
13. Rural electrification, including distribution of electricity
14. Road, culverts, bridges, ferries, waterways and other means of communication
15. Education including primary and secondary schools
16. Non-conventional sources of energy
17. Technical training and vocational education
18. Adult and non-formal education
19. Public distribution system
20. Maintenance of community assets
21. Welfare of the weaker sections of the in particular of the schedule caste and schedule tribes
22. Social welfare, including welfare of the handicapped and mentally retarded
23. Family welfare
24. Women and child development
25. Markets and Fairs
26. Health and sanitation including hospitals, primary health centres and dispensaries
27. Cultural activities
28. Libraries
29. Poverty Alleviation Programmes

7.8 Now it is important to discuss the nature of work entrusted to the applicant. The applicant is entrusted for distribution of electricity in the commissionaires region of Indore and Ujjain. The applicant also carried out electrification work to develop distribution network for supply of electricity in the above region.

7.9 The work entrusted to the applicant as mentioned above is covered under the article 243G of the constitution as the function entrusted to the Panchayat i.e., Rural Electrification including distribution of Electricity. However, the applicant work is not covered under Article 243W of the

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constitution as the function entrusted to the municipality.

7.10 In view of above, it is concluded that the services received by the applicant from M/s. Primeone work force Pvt. Limited fulfills the requisite criteria mentioned in S.No. 3 of the notification No. 12/2017 - Central Tax (Rate), Dated - 28-6-2017 as amended from time to time and eligible for claiming benefit available under the said provision. But the benefit can be availed only in case of where services mentioned in S.No. 3 is received in area covered under Panchayat limits as the entrusted work is covered under article 243G of the constitution and not under article 243W of the constitution.

8. Ruling

8.1 The provision of S.No. 3 of notification No. 12/2017 - CT (Rate), Dated -28-6-2017 as amended by Notification No. - 32/2017 - Central Tax (Rate), Dated -13-10-2017 and Notification No. - 02/2018 - Central Tax (Rate), Dated - 25-1-2018 is applicable on the services received by the applicant from M/s. Primeone work force Private Limited being Pure services (Excluding works contract services or others composite supplies involving supply of any goods), in relation to function entrusted under Article 243G.

8.2 The benefit of exemption shall be limited to the services received in area covered under Panchayat limits.

8.3 The ruling is valid subject to the provisions under section 103 (2) until and unless declared void under Section 104 (1) of the GST Act.



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Manoj Kumar Choubey & Virendra Kumar Jain, Members

Vihan Enterprises

Case No. : 24/2019

Order No. : 05/2020

January 16, 2020

AAR-MP - Works contract - Turnkey Contract - The whole contract is a single contract but the activities are defined and segregated, with the values for each segregated supply - Taxed accordingly.

Shree Sandeep Mukharjee, CA on behalf of the applicant

:: PROCEEDINGS ::

(Under sub-section (4) of Section 98 of Central Goods and Service Tax Act, 2017 and Madhya Pradesh Goods & Service Tax Act, 2017)

1. The present application has been filed u/s. 97 of the Central Goods and Services Act, 2017 and MP Goods and services Act, 2017 (hereinafter also referred to CGST Act and SGST Act respectively) by M/s. Vihan Enterprises (hereinafter referred to as the Applicant), registered under the Goods & Services Tax.

2. The provisions of the CGST Act and MPGST Act are identical, except for certain provisions. Therefore, unless a specific mention of the dissimilar provision is made, a reference to the CGST Act would also mean a reference to the same provision under the MPGST Act. Further, henceforth, for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST or MP GST Act would be mentioned as being under the GST Act.

3. BRIEF FACTS OF THE CASE:

3.1 The applicant, M/s. Vihan Enterprises is engaged in works contract. The applicant is engaged in inter alia, in construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line (Route length 3.0 Kms) and associated feeder bay work on total Turnkey basis against Bid Identification No. RUMS/2016-17/372/014 (Lot-I) under World Bank Financing for Rewa Ultra Mega Solar Limited, hereinafter referred to as RUMS.

3.2 The work was allotted vide Notification of Award No. 04-01/RUMS/2016-17/372/14 (Lot-I) / TK - II/89 dated 23-9-2016 read with revised Notification of Award No. 04-01/RUMS/2016-17/372/14 (Lot-I) / TK - II/119 dated 17-11-2016.

4. QUESTIONS RAISED BEFORE THE AUTHORITY:-

The following questions have been posted before the Authority in the application:-

4.1 Whether the explanation to Entry No. 234 of Schedule I to Notification No. 01/2017 - Central Tax (Rate), as amended from time to time, shall apply to construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line (Route length 3.0 Kms) and associated feeder bay work on total Turnkey basis against Bid

Identification No. RUMS/2016-17/372/014 (Lot-I) under World Bank Financing?

4.2 Whether in the facts and circumstances of the case, value of all the goods supplied under the contract, independent of the Works Contract being executed in the contract shall form part of the Works Contract and taxed as service?

5. CONCERNED OFFICER'S VIEW POINT:

The concerned officer is his view point submitted that the Explanation to Entry No. 234 of Notification No. 1/2017 – Central Tax (Rate) and corresponding notifications issued under MPGST Act shall not apply to the supply of the said Works Contact Service.

6. RECORD OF PERSONAL HEARING:

6.1 Shree Sandeep Mukherjee, CA appeared for personal hearing and reiterated the submissions already made in the application. They reiterated the facts submitted along with the application. The Applicant states that -

6.2 The applicant is engaged, inter alia, in construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line (Route length 3.0 Kms) and associated feeder bay work on total Turnkey basis again Bid Identification No. RUMS/2016-17/372/014 (Lot-I) under World Bank Financing for Rewa Ultra Mega Solar Limited, hereinafter referred to as RUMS.

6.3 The work was allotted vide Notification of Award No. 04-01/RUMS/2016-17/372/14 (Lot-I) / TK - II/89 dated 23-9-2016 read with revised Notification of Award No. 04-01/RUMS/2016-17/372/14 (Lot-I) / TK - 11/119 dated 17-11-2016.

6.4 The Scope of work given in para 4 of the Contract includes the following:

- a) Supply of Transmission Line material and Sub-station equipment, Station Transformers, Fabricated, Galvanized Sub-station Structures and other materials, with related civil works, erection work and test / commissioning for construction of substation;
- b) Engineering, Manufacture, Assembly, Inspection and Testing at manufacturer's works and supply on FOR destination basis including transportation, unloading, storage, insurance of Plant / Equipment, materials and recommended spares complete in all respect as per

technical specification;

- c) Civil work as per specifications described in Volume - II of the Bid document.
- d) Erection, Testing and Commissioning of all items indicated in Annexure - III and IV.
- e) Supply, erection testing and installation fabricated, galvanized sub-station structures, stringing and earthing material, supplies testing and commissioning of all outdoor;/indoor plant. Civil work associated with construction of substation works.
- f) Carryout erection work as stipulated in the Bid Document which involves fabrication, galvanizing and delivery of Double Circuit /Multi Circuit Towers, there body extensions, river / line crossing gantries, hangars, U Bolts, D Shackles, Bolts Nuts, spring washers, pack washers, step bolts, tower accessories, earthing rods with clamps, danger boards, number plates, face plates and anti-climbing devices (including fixing arrangements and barbed wire) and ground wire, ACSR Conductor, ground wire, disc insulators, hardware and accessories for conductor and ground wire and complete erection of transmission lines including detailed/check survey, casting of foundations, tower erection, stringing etc and testing of commissioning of transmission lines.

6.5 Under the contract, the list of materials and their cost is mentioned in detail in Annexures - I to V of the Contract, which fact is detailed in para 4.17.

6.6 The contract price at para 5.1 clearly mentions the rates for supply of goods and that for service of construction separately.

6.7 It is mentioned in para 7.11 of the contract that the Civil Works and the installation services are Works Contract and that VAT @ 2% shall be deducted from our bills.

6.8 In accordance with the terms of the contract, the work was commenced and is being executed at present. Extract of the Relevant pages of the Contract are enclosed herewith, marked as Annexure - I.

6.9 After the amendment of Notification No. 1/2017 Central Tax (Rate) vide Notification No. 24/2018 - Central Tax (Rate), read with Notification No. 11/2017 -Central Tax (Rate), as amended by Notification No. 27/2018 - Central Tax (Rate) and the corresponding notifications issued under

MPGST Act, it was the opinion of Rewa Ultra Mega Solar Limited that the all the supplies of the goods and services being made under this contract was covered under the explanation to entry No. 234 in Schedule - I of the Notification No. 1/2017 - Central Tax (Rate) and the corresponding notifications issued under MPGST Act.

6.10 Based on such understanding, RUMS was of the opinion that on all the supplies of the contract, the rate of tax was 8.9%. However, in our opinion, the explanation in entry No. 234 supra is not applicable to the supplies made by us under this contract.

6.11 The entry No. 234 is for the supply of the following items:

- (a) Bio-gas plant
- (b) Solar power based devices
- (c) Solar power generating system
- (d) Wind mills, Wind Operated Electricity Generator (WOEG)
- (e) Waste to energy plants / devices
- (f) Solar lantern / solar lamp
- (g) Ocean waves/tidal waves energy devices/plants

6.12 The supplies made by them under the contract are not for any of the items listed above in 6.11 and therefore they were of the opinion that this beneficial notification was not applicable to them upto the explanation inserted in the Notification.

6.13 Under the contract, they are required to supply goods as well as provide construction service, which includes supply of material for construction. The value of the supply of materials independent of the services relating to construction is separately mentioned in the contract and invoices for the same are raised separately. Therefore, they charged GST at the rate applicable to the goods and have not included them in the value of the supply of construction service.

6.14 Regarding applicability of Entry No. 234 in Schedule - I of Notification No. 1/2017 - Central Tax (Rate) and the corresponding notifications issued under MPGST Act and Entry No. 38 in Notification No. 11/2017 - Central Tax (Rate) and the corresponding notifications issued under MPGST Act:

6.14.1 The provisions of law, which form the basis of the dispute of interpretation are Entry No. 234 in Schedule - I of Notification No. 1/2017

- Central Tax (Rate) and the corresponding notifications issued under MPGST Act and Entry No. 38 in Notification No. 11/2017 - Central Tax (Rate) and the corresponding notifications issued under MPGST Act.

6.14.2 Notification No. 1/2017 - Central Tax (Rate) contains the rate of CGST on goods being supplied. Entry No. 234 of Schedule - I of the said notification is as under:

S. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
(1)	(2)	(3)
234	84 or 85	<p>Following renewable energy devices & parts for their manufacture</p> <p>(a) Bio-gas plant</p> <p>(b) Solar power based devices</p> <p>(c) Solar power generating system</p> <p>(d) Wind mills, Wind Operated Electricity Generator (WOG)</p> <p>(e) Waste to energy plants / devices</p> <p>(f) Solar lantern / solar lamp</p> <p>(g) Ocean waves/tidal waves energy devices/plants</p> <p>Explanation: If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 [G.S.R. 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value</p>

of the said taxable service.

The explanation to the entry was added by Notification No. 24/2018 - Central Tax (Rate) dated 31-12-2018. Similar entry was incorporated in the corresponding notifications issued under MPGST Act.

6.14.3 Entry No. 38 was introduced as an amendment to Notification No. 11/2017 -Central Tax Rate vide Notification No. 27/2018 - Central Tax (Rate) dated 31-12-2018, which stated as under:

S. No.	Chapter, Section or Heading	Description Services	Rate (Per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
38	9954, 9983 or 9987	Service by way of construction or engineering or installation or other technical services, provided in relation of setting up of following,- (a) Bio-gas plant (b) Solar power based devices (c) Solar power generating system (d) Wind mills, Wind Operated Electricity Generator (WOEG) (e) Waste to energy plants / devices (f) Ocean waves/tidal waves energy devices/plants Explanation: - This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 673(E) dated 28th June, 2017.	9	-

Similar entry was incorporated in the corresponding notifications issued under MPGST Act.

6.14.4 Prior to 31-12-2018, in case of works contract service, where the supplies included any of the items included in Sl.No. 234, such were taxed at the rate applicable to the Works Contract under which the goods were being supplied, i.e. 18%. Even though the supply of the goods was taxable @ 5%, but owing to the composite nature of supply, the goods and the service were taxed in aggregate @ 18%.

6.14.5 To remove this anomaly, the explanation was added, along with introduction of Entry No. 38 in Notification No. 11/2017 - Central Tax (Rate) and in corresponding notifications issued under MPGST Act which stated that out of the gross value of the supply, 70% shall be deemed to be on account of goods and 30% was deemed to be on account of service. Accordingly, the effective rate came to 8.9% as under:

S. No.	Particulars	% of value	Rate of tax	Effective Rate of tax
1.	Goods	70	5%	3.5%
2.	Services	30	18%	5.4%
	Total			8.9%

6.14.6 This fact was clarified in Press Release by the Board, communicating the recommendations made during 31st meeting of the GST Council held on 22nd December, 2018 (New Delhi) vide C.B.I. & C. Press Release No. 78/2018, dated 22-12-2018. The relevant extract of the Press Release is reproduced hereunder:

“III. GST on solar power generating plant and other renewable energy plants

- GST rate of 5% rate has been prescribed on renewable energy devices & parts for their manufacture (bio gas plant/solar power based devices, solar power generating system (SGPS) etc.) [falling under chapter 84, 85 or 94 of the Tariff]. Other goods or services used in these plants attract applicable GST.
- Certain disputes have arisen regarding GST rates where specified goods attracting 5% GST are supplied along with services of construction etc.

and other goods for solar power plant.

- To resolve the dispute the Council has recommended that in all such cases, the 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate and the remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate.”

6.14.7 The benefit of the notification was for the goods being supplied and not for the services being supplied. If and when the goods covered under Entry No. 234 supra were supplied along with services of the nature contemplated in Entry No. 38 supra, the benefit was available. The primary condition therefore was supply of items covered under Entry No. 234. The entry refers to “renewable energy devices & parts for their manufacture”. Supply of ancillary / incidental goods or services are not included in the Entry.

6.14.8 The contract that they have been allotted is for construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line (Route length 3.0 Kms) and associated feeder bay work on total Turnkey basis they are NOT engaged in supply of -

- (a) Bio-gas plant
- (b) Solar power based devices
- (c) Solar power generating system
- (d) Wind mills, Wind Operated Electricity Generator (WOEG)
- (e) Waste to energy plants / devices
- (f) Solar lantern / solar lamp
- (g) Ocean waves/tidal waves energy devices/plants or their parts.

6.14.9 The Applicant stated that their work starts after the Solar Power is generated through Solar Power Generating System. They are engaged in Evacuation of the power generated by the Solar System. The Solar Power is supplied to the Sub-Station that is set up by us. From this sub-station, the power is further transmitted for supply.

6.14.10 The work done by them is identical to the work done for any other Power Generating System, be it Hydro Power, Thermal Power or any Power Generating System.

6.14.11 After electricity is generated in power plant, its transmission is done by using step-up transformers that increases the voltage. This high voltage electricity is transmitted through a network of electrically conductive wires of aluminium or copper. These lines are called high-voltage transmission lines that can transmit electricity over long distances. Thereafter, electricity is distributed via electric distribution substation. At the substation, the high voltage electricity from the high-voltage transmission lines is passed through step-down transformers that lower the voltage. The electricity is then transmitted to network of local electric distribution lines. Before electricity enters a home, the voltage is again lowered using step-down transformers. In most countries the voltage is 220 V AC or 110 V DC. In a home, electricity is distributed to different outlets by network of wires through electrical wiring.

6.14.12 The Applicant's role in this system is limited to construction of Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line (Route length 3.0 Kms) and associated feeder bay work. They are neither engaged in construction of Power Plant nor in supplying any renewable energy devices & parts for their manufacture.

6.14.13 The items that we supply in the execution of this contract do not fall under the Entry No. 234 supra but are items that fall under Chapter 84 or 85.

6.14.14 For the reasons stated above, in their opinion GST is leviable @ 18% of the Works Contract Services being provided by them.

6.15 Regarding taxability of goods supplied independent of works contract:

6.15.1 During the course of the execution of the work, they are engaged in two kinds of supplies, one is supply of goods and the other is supply of services in the nature of a Works Contract.

6.15.2 The scope of work in the contract is explicitly clear in this regard, in so far as the Value of both kinds of supplies is separately mentioned in the body of the contract itself. In this regard, kindly refer to para 4.17 of the contract and Annexures - I to V of the contract.

6.15.3 Further, the fact that the execution of the work under the contract involves Works Contract also, it duly stated in the contract itself. In this regard, kindly see para 7.11 of the contract, which states as under:

"7.11 The Civil Works and Installation Services (installation, erection, testing & commissioning) part of the contract is work contract,

therefore VAT (Present rate-2%) will be applicable on this part of the contract which shall be deducted by RUMS from your bills before release of payment.”

6.15.4 Accordingly, the supply of goods, which are independent of the Civil Works or Installation Services are taxed at the rates applicable to the goods. The goods supplied along with the construction services where such supplies are part of the construction service, as referred to in the contract at para 7.11 of the contract, their value is clubbed with the value of the construction services and taxed accordingly.

6.15.5 In their opinion, only because the supply of goods and supply of works contract service is specified in the same contract, the whole of the supply does not become a works contract. Only where transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract, then such value of such goods form part of the Works Contract.

7. DISCUSSIONS AND FINDINGS:

7.1 We have carefully considered the submissions made by the applicant in the application and during time of personal hearing.

The first issue is regarding applicability of explanation to Entry No. 234:

7.2 In the GST laws, Works Contract is defined under section 2(119). The text of the provision is as under:

(119) “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;”

Work Contract, by way of deeming provision is treated to be a supply in the nature of a service and is taxed as a service as per the rate applicable, notified in Notification No. 11/2017 - Central Tax (Rate) and corresponding notifications issued under MPGST Act. The value of the goods whose property is transferred during the execution of the works contract is included in the assessable value of the supply.

7.3 Irrespective of the rate of tax on the goods whose property is transferred during the execution of the works contract, the whole of the value of the supply is taxed as service and the value of goods component is included in

the value of the supply. Therefore, irrespective of the rate of tax on the goods being supplied during the course of the execution of the Works Contract, the tax rate applied on the supply is the rate applicable on the type of works contract being executed.

7.4 In the case of goods covered under Sl.No. 234 of the Notification, where the goods are supplied under a Works Contract, where the transfer of property in the goods is involved in the execution of such contract, such goods were taxed at the rate applicable to the Works Contract under which the goods were being supplied, i.e. 18% or such other rate as may be applicable on such supply of works contract service, even though the supply of the goods was taxable @ 5% if supplied otherwise than under a Works Contract.

7.5 So as to remove this anomaly, an explanation was added to Entry No. 234 in Notification No. 1/2017 - Central Tax (Rate) and corresponding notifications issued under MPGST Act, along with introduction of Entry No. 38 in Notification No. 11/2017 - Central Tax (Rate) and corresponding notifications issued under MPGST Act which stated that out of the gross value of the supply, 70% shall be deemed to be on account of goods and 30% was deemed to be on account of service in certain cases. This amendment brought the effective rate of tax on the supply to 8.9%.

7.6 The explanation to Entry No. 234 states that the deemed bifurcation of the value of supply into goods and services shall be made where, the goods specified in Entry No. 234 are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S.No. 38. Thus, this explanation is applicable to supply of goods in Entry No. 234, where such supplier is engaged in supply of goods or service which is to be taxed under Entry No. 38.

Entry No. 38 covers service by way of construction or engineering or installation or other technical services, provided in relation of setting up of the goods that are listed in Entry No. 234.

It is worth noting that the wording of Entry No. states that construction services are “in relation of”, thus, there may be situations, where construction or engineering or installation or other technical services are being provided in relation of setting up of Bio-Gas Plants, Solar Plants etc., as mentioned in Entry No. 38, but such service does not include supply of the goods listed in Entry No. 234. In such cases, the explanation to Entry No. 234 shall not

be attracted.

To summarize, the applicability of deemed bifurcation of the value of supply into goods and services is where the goods mentioned in Sl.No. 234 are being supplied along with or under a Works Contract of the nature covered in Entry No. 38.

The list of goods in the Entry is exhaustive and not in the nature of an inclusive list. Thus for the applicability of the Notification, the supply has to be of an item mentioned in Entry No. 234 or parts of items mentioned in the Entry.

7.7 From the agreement the applicant has entered into with RUMS, it is seen that the applicant has been awarded a contract, where some of the supply is in the nature of a Works Contract and the contract relates to solar power. Solar Power Plants are included in the list given in Entry No. 234 of the Notification.

The question therefore arises as to the rate of tax that shall be applicable on the supply being made under the contract i.e., whether the supply shall be that of goods, falling under Entry No. 234, or supply of service in the nature of a works contract, attracting tax under Entry No. 38.

7.8 From perusal of the contract, it is seen that the contract is in relation to a Solar Power Plant, which finds mention in Entry No. 234. However, the goods being supplied in the execution of the works contract are not covered in Entry No. 234. The goods being supplied by the applicant are not renewable energy devices or their parts. The relation of the work being done by the applicant and renewable energy is that the electricity being generated by the renewable energy plant is evacuated by the infrastructure erected by the applicant. It is further seen that during the course of the execution of the works contract, the applicant is not supplying any of the items listed in Entry No. 234. Further, Entry No. 38 is for service by way of construction or engineering or installation or other technical services in relation to items listed in Entry No. 234 and explanation to Entry No. 234 states that where any item listed in the entry is supplied along with a service covered in Entry No. 38, the rate of tax shall be as per the Explanation to Entry No. 234.

It is very clear in the explanation that for the explanation to apply, the supply of goods listed in Entry No. 234 along with service listed in Entry No. 38 is essential. Therefore, unless the goods listed in Entry No. 234 are

supplied too, the explanation to this entry no. 234 shall not be applicable.

7.9 It is pertinent to note that the explanation which provides for splitting the value of the supply into goods and supplies is in Entry No. 234 and not in Entry No. 38. The contention that supply of the goods in Entry No. 234 is essential is further supplanted by the inclusion of the explanation in Entry No. 234.

7.10 It therefore appears that in case of a Works Contract, the explanation to Entry No. 234 shall apply if and only if, the goods the title in which is/are being transferred during the execution of Works Contract find a place in Entry No. 234. Works Contract in relation to any of the goods listed in Entry No. 234, where such goods are not part of the Works Contract shall not merit taxation under Entry No. 234.

The second issue is regarding rate of tax on goods supplied under the contract:

7.11 From the contract entered into by the applicant, it is seen that the contract is in the nature of a Turnkey Contract and has been divided into different parts. The whole contract is a single contract but the activities are clearly defined and segregated, with the values for each segregated supply being duly stated in the Annexures to the Agreement.

The contract price of the Agreement is also mentioned separately in para 5.1 of the contract. The para states the value of supply separately for :

- Equipment for Sub-Station and Feeder Bays;
- Material for Transmission Line;
- Erection Testing and Commissioning of Outdoor and Indoor Equipment; Erection Testing and Commissioning of Transmission Line and
- Civil Work for Substation and Feeder Bay.

Annexure I to V of the agreement contains the detailed item-wise break-up of the cost.

7.12 These separate activities in aggregate form the Turnkey contract, but the contract is divisible into independent activities and values of such independent activities are also ascertainable under the contract. Each independent activity has a value assigned to it with detailed list of Equipment and Materials which form part of the independent contract within the contract.

Under the GST Act, where transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract, then the value of such goods is subsumed in the value of the supply of the works contract service and is not taxed as goods. The contract, in this case, itself identifies such portion of the contract and has identified this defined segregation in the Para 7.0 relating to taxes and duties. The relevant extract of the para is as under:

“7.11 The Civil Works and Installation Services (installation, erection, testing & commissioning) part of the contract is work contract, therefore VAT (Present rate- 2%) will be applicable on this part of the contract which shall be deducted by RUMS from your bills before release of payment.”

7.13 Thus the contract identifies the goods that form part of the works contract and goods that form part of supply as goods and not as part of a works contract. Also, unless the goods being supplied are part of contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property, they shall not form part of Entry No. 38 and it is explicitly clear in the contract, where the goods are part of the construction activity and otherwise. The work related to supply of goods, civil construction and erection are clearly delineated in the contract.

In the supply of equipment for Sub-Station and transmission line, transfer of property is not in the execution of a works contract, but during the course of Erection Testing and Commissioning, as well as in the execution of the Civil Construction work, there is transfer of title in goods during the course of the execution of the contract. Therefore, in the supply of equipment for Sub-Station and transmission line, the supply is that of goods and accordingly the rates given in Notification No. 1/2017 - Central Tax (Rate) and Corresponding notifications issued under MPGST Act shall apply. Further in the case of Erection Testing and Commissioning, as well as in Civil Work for Substation, the supply shall be taxed as service and rates applicable to a Works Contract shall apply.

8. RULING

(Under section 98 of Central Goods and Services Tax Act, 2017 and the Madhya Pradesh Goods and Services Tax Act, 2017)

In view of deliberation above we pass the advance ruling as under-

8.1 Goods listed in Entry No. 234 of Notification No. 1/2017-Central Tax (Rate) and corresponding notifications issued under MPGST Act are not part of the supply and therefore, the Explanation to Entry No. 234 of Notification No. 1/2017-Central Tax (Rate) and corresponding notifications issued under MPGST Act shall not apply to the supply of works contract service in contract of construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line (Route length 3.0 Kms) and associated feeder bay work on total Turnkey basis against Bid Identification No. RUMS/2016-17/372/014 (Lot-I) under World Bank Financing for Rewa Ultra Mega Solar limited.

8.2 Supply of goods under a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property are included in the value of contract for supply of service only where the transfer of property in goods (whether as goods or in some other form) is involved in the execution of the contract. Goods supplied under a Turnkey Contract, where there are multiple independent contracts, of which some are not in the nature of Works Contract, shall not be included in the value of contract in the nature of a works contract merely on account of the fact that goods are being supplied under Turnkey Contract, part of which is in the nature of a Works Contract, unless such supply of all such goods is a part of and made in the execution of a works contract.

The supply of equipment and materials for Sub-stations, Feeder Bays and Transmission line under contract of construction of new 33 / 220 kV Pooling Substation at Badwar, REWA along with associated 220 kV DCDS Transmission line (Route length 3.0 Kms) and associated feeder bay work on total Turnkey basis against Bid Identification No. RUMS/2016-17/372/014 (Lot-I) under World Bank Financing for Rewa Ultra Mega Solar Limited shall not be included in the value of the Works Contract for Civil Work for substation and Feeder Bay.

8.3 This ruling is valid subject to the provisions under section 103(2) until and unless declared void under Section 104(1) of the GST Act.



2020) **Laksons Shoes Vs. CCT, M.P. (MP)** 395

(2020) 64 TLD 395

In the High Court of M.P.
Hon'ble S.C. Sharma & Shailendra Shukla, JJ.

Laksons Shoes Private Limited

Tax Reference No. 17/2017

Lakhani Footwear Limited

Tax Reference No. 19/2017

Vs.

The Commissioner of Commercial Tax

May 18, 2020

Deposition : In favour of Revenue

Reference - Footwear made of PVC, chappals made of rubber and straps there of the sale price of which does not exceed Rs.50/- per pair - The High Court opined that the M.P. Commercial Tax Appellate Board was justified in holding that the exemption granted from payment of tax is not a general exemption and the assessee is not entitled to the benefit of exemption from payment of tax under Section 8 (2A) of the Central Sales Tax Act, 1956.

Reference disposed of

Cases referred :

- * Commissioner of Sales Tax, J & K Vs. Pine Chemicals Vs. (1995) 1 SCC 58
- * Manish Plastics Vs. Commissioner of Commercial Taxes dated 24-2-1995 (W.P. No.16446/1991)
- * Nayan Sukh Through Partner Mahmood Alam, Satna Vs. CTO Circle 2, (1998) 26 CUR.T.J. 175
- * Royal PVC Shoes Vs. The State of Rajasthan dated 17-1-2002 (Civil Special Appeal No.1152/2000)
- * Sivanesan Company Vs. CTO, Purasawalkam Assst. Circle, Chennai (2010) SCC OnLine Mad 6406.

Shri Sumit Nema, learned senior counsel along with Shri Gagan Tiwari, learned counsel for the petitioner.

Shri Abhishek Tugnawat, learned counsel for the respondent.

:: ORDER ::

The Order of the Court was made by **S.C. SHARMA, J. :**

Regard being had to the similitude in the controversy involved in the present cases, these Tax References were analogously heard and by a common order, they are being disposed of by this Court. Facts of the Tax Reference No.17/2017 are narrated hereunder.

The present Tax Reference has been forwarded to this Court by the Madhya Pradesh Commercial Tax Appellate Board in exercise of the power conferred under Section 17 of the Madhya Pradesh Commercial Tax Act,

02. The following questions of law have been referred to this Court :-

“Question No.1

Whether, on the facts and in the circumstances of the case, the M.P. Commercial Tax Appellate Board was right in law in holding that the assessing authority had jurisdiction and power u/s 9 (2) of Central Tax Act, 1956 read with section 19 (1) of the M.P. General Sales Tax Act, 1958 and review and revise his own order of assessment on a change of opinion of the interpretation of the Notification No.A-5-1-94/ST-V (55) dated 30-3-1994 and pass a reassessment order under the Central Sales Tax, 1956 ?

Question No.2

Whether, the Appellate Board was right in law in holding that the exemption from payment of tax granted on “all kinds of footwear made of PVC and chappals made of rubber and straps there of the sale price of which did not exceed Rs.50/- per pair” under Notification dated 30-3-1994 issued u/s 12 of M.P. General Sales Tax Act, 1958 was not general to a class of goods and therefore, the assessee was not entitled to the benefit of exemption from payment of tax under Sec. 8 (2A) of the Central Sales Tax Act, 1956 ?”

03. The facts of the case reveal that the assessee in the present case is a manufacturer of footwear and an assessment order was passed on 6-2-1998. The assessee has availed the benefit of notification dated 30-3-1994 and its contention is that the assessee is manufacturing footwear made of PVC, chappals made of rubber and straps thereof and the sale price of which did not exceed Rs.50/- per pair, and therefore, in light of the notification dated 30-3-1994 under Section 12 of the Madhya Pradesh General Sales Tax Act, 1958, the petitioner is entitled for exemption from payment of tax under Section 8(2A) of the Central Sales Tax Act, 1956.

2020)

Laksons Shoes Vs. CCT, M.P. (MP)

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04. The proceedings were initiated under Section 9 (2) of the Madhya Pradesh Commercial Tax Act, 1994. A notice was issued to the assessee and the assessee did file a reply in the matter and an order was passed on 29-4-2004 holding that the assessee is liable to pay the tax. The assessee, thereafter, preferred an appeal and the same was dismissed on 6-4-2002. The assessee, thereafter, has preferred a Second Appeal before the Madhya Pradesh Commercial Tax Appellate Board and the Madhya Pradesh Commercial Tax Appellate Board has also dismissed the second appeal by an order dated 10-2-2005. The assessee, after dismissal of its second appeal by the Madhya Pradesh Commercial Tax Appellate Board, has submitted an application under Section 70 of the Madhya Pradesh Commercial Tax Act, 1994 for referring the questions of law before this Court.

05. Heard learned counsel for the parties at length and perused the record.

06. The notification, on the basis of which the assessee is claiming exemption in the present case, dated 30-3-1994 came into force w.e.f. 1-4-1994 and the same reads as under:-

“मध्यप्रदेश शासन, वाणिज्यिक विभाग

अधिसूचना

क्र. ए5/1/94/विक.पांच (55)

भोपाल, दिनांक 30-3-94

मध्यप्रदेश सामान्य विक्रयकर अधिनियम, 1958 (क्र. 2 सन 1959) की धारा 12 द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए राज्य शासन एतद् द्वारा नीचे दी गई अनुसूची के कालम (2) में विनिर्दिष्ट माल के वर्ग को 1-4-94 से उक्त अधिनियम के अधीन देय संपूर्ण कर से छूट प्रदान करता है :-

अनुसूची

अनुक्रमांक	माल का वर्ग
(1)	(2)
1. (एक) केन्द्रीय विक्रयकर अधिनियम, 1956 (क्रमांक 74 सन 1956) की धारा 14 के खण्ड (एक) में यथा विनिर्दिष्ट घाम्य.	(दो) इस प्रविष्टि के अनुक्रमांक (एक) में वर्णित से भिन्न खाद्यान्न तथा धान्य.
2. (एक) केन्द्रीय विक्रयकर अधिनियम, 1956 (क्रमांक 74 सन 1956) की धारा 14 के खण्ड (छः-ए) में यथा विनिर्दिष्ट दाले	

- (दो) इस प्रविष्टि के अनुक्रमांक (एक) में उल्लिखित दालों को छोड़कर अन्य दाले.
3. खली को छोड़कर खाव.
 4. शक्ति तथा ट्रेक्टर की सहायता से क्रियान्वित सब प्रकार के कृषि उपकरण.
 5. पम्पिंग सेट तथा उसके अतिरिक्त पुर्जे एवं उपसाधन.
 6. उपचारित बीज.
 7. खाद्यान्न तथा घाश्यों का आटा, मेदा, सूजी, रवा, विसान तथा अन्य उपोत्पाद ।
 8. बेसन, चुनी और अन्य उपोत्पाद जो दालों को उपयोग में लाकर प्राप्त किये गये हो।
 9. बड़ी कुलड़ई, सिचई, फिंगर पापड़, साबुदाना के फूल ।
 10. गन्ना.
 11. सिंघाड़ा.
 12. फूल बहारी झाड़ू.
 13. पी.व्ही.सी. के बने सभी प्रकार के पदत्राण (फुटवियर) एवं रबर की बनी चप्पल तथा उनके स्ट्रैप्स जिनका विक्रय मूल्य 50 रु. प्रति जोड़े से अधिक न हो ।

(62) मध्यप्रदेश शासन, वाणिज्यिक विभाग

क्रमांक ए5-1/94/विक्र-पाँच(53)

भोपाल दिनांक 30-3-94

अधिसूचना

मध्यप्रदेश सामान्य विक्रयकर अधिनियम, 1958 (क्रमांक 2 सन 1959) की धारा 11 की उपधारा (1) के द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए राज्य शासन एतद द्वारा उक्त अधिसूचना की अनुसूची दो में निम्नलिखित संशोधन करता है, जिसके लिए अधिसूचना क्र.ए5-1/94/विक्र-पाँच (37) दिनांक 21-3-94 तथा क्रमांक ए5-1/94/विक्र-पाँच(45), दिनांक 24-3-94 द्वारा मध्यप्रदेश राजपत्र में पुर्व सूचना जारी की गई है ।

संशोधन

उक्त अधिनियम की अनुसूची दो में:-

1. भाग एक में -
अनुक्रमांक 4 के कालम (3) में अंक '3' के स्थान पर अंक '4' स्थापित किया जाय ।
2. भाग दो में-''

The aforesaid notification provides exemption from payment of tax on "all kinds of footwear made of PVC and chappals made of rubber and straps

there of the sale price of which did not exceed Rs.50/- per pair”.

07. The moot question before this Court is whether proper interpretation has been done by the Madhya Pradesh Commercial Tax Appellate Board by holding that the notification was not general to class of goods, and therefore, the assessee was not entitled for the benefit of exemption from payment of tax under Section 8 (2A) of the Central Sales Tax Act, 1956.

08. Learned counsel appearing for the assessee has placed reliance on the several judgments delivered in the cases of **Nayan Sukh Through Partner Mahmood Alam, Satna Vs. Commercial Tax Officer Circle 2, & Others** reported in (1998) 26 CUR.T.J. 175, **Manish Plastics Vs. Commissioner of Commercial Taxes in Karnataka & Another** dated 24-2-1995 (W.P. No.16446/1991), **Royal PVC Shoes Private Limited Vs. The State of Rajasthan & Another** dated 17-1-2002 (Civil Special Appeal No.1152/2000), **Commissioner of Sales Tax, J & K & Others Vs. Pine Chemicals Limited Vs. Others** reported in (1995) 1 SCC 58 and **Sivanesan Company Vs. Commercial Tax Officer, Purasawalkam Assst. Circle, Chennai** reported in 2010 SCC OnLine Mad 6406.

09. In the case of *Nayan Sukh (supra)*, this Court in paragraph – 10 has held as under:-

“10. In the back ground of the law declared by the Supreme Court as also the Judgment of Karnataka High Court in Manish Plastics Case (supra) I find that the goods in question cannot be said to have been exempted from payment State Sales Tax generally as the exemption have been granted under specified condition. Exemption is limited to the spectacles and other items valued at Rs.50/- only. Therefore, in my opinion, the exemption is operative under specified condition. Further, I find that for attracting the provisions of Sec. 8(2-A) of the Central Act, the goods generally exempted from payment of the State Sales Tax, would mean, exemption not dependent upon any circumstances or condition. Here, the exemption under notification from payment of State Sales Tax is under specified conditions. Thus, I do not find any merit in the submission of the learned counsel for the petitioner.”

In the aforesaid case, the notification regarding exemption of tax, exempted spectacles, lens and frames with a condition that its cost will not exceed Rs.50/-. This Court in the aforesaid case, in similar circumstances,

has held that the exemption was limited to the spectacles and other items valued at Rs.50/- only and the notification granting exemption was operative under specified conditions. It was held to be a conditional notification, and therefore, the aforesaid judgment does not help the assessee in any manner.

10. In the case of *Manish Plastics (supra)*, the issue regarding interpretation and meaning of “exempt from tax generally” has been dealt with in detail. Paragraph – 18 of the aforesaid judgment reads as under:-

18. In *T. M. Mohan Vs. Additional Agricultural Income tax Officer* [1990] 184 ITR 190, one of the questions that fell for consideration of a Division Bench of this Court was whether the circular issued by the Commissioner of Agricultural Income-tax stating that no surcharge shall be leviable where assessments were pending was binding upon the department. A learned single Judge of this Court had repelled the contention holding that any circular which was contrary to the provisions of the statute was unenforceable and could be ignored. In appeal however, Shivashankar Bhat, J., speaking for the Bench and relying upon the judgments of the apex Court in *Navnit Lal C. Javeri Vs. K. K. Sen, Appellate Assistant Commissioner of Income-tax, Bombay* [1965] 56 ITR 198 and in *Ellerman Lines Ltd. Vs. Commissioner of Income-tax, West Bengal* [1971] 82 ITR 913 held that the circulars issued by the Commissioner of Agricultural Income-tax was binding on subordinate officers and that the assessing authorities under the Karnataka Agricultural Income-tax Act, were bound to give effect to any such circular. The view taken by the Division Bench has however been considerably watered down by a later judgment of the Supreme Court in *Bengal Iron Corporation Vs. Commercial Tax Officer* [1993] 90 STC 47. That was a case in which the Government of Andhra Pradesh had in exercise of its power under section 42(2) of the Andhra Pradesh General Sales Tax Act, 1957, clarified that cast iron castings were covered within the term cast iron including ingot moulds, occurring in item 2 of the Third Schedule to the Andhra Pradesh General Sales Tax Act, 1957. Section 42 of the Andhra Act empowered the Government to remove difficulties in giving effect to the provisions of the said Act. Reliance upon the clarification issued by the Government was placed by the petitioner/assessee in the said case in support of its claim that cast iron castings were included in cast iron. Their Lordships of the Supreme Court however repelled

this argument holding that clarifications/circulars issued by the Central Government or a State Government simply represented their understanding of the statutory provisions, and that any such circulars or clarifications were not binding upon the courts nor was there any estoppel against law. Their Lordships observed thus :

“So far as clarifications/circulars issued by the Central Government and/or State Government are concerned, they represent merely their understanding of the statutory provisions. They are not binding upon the courts. It is true that those clarifications and circulars were communicated to the concerned dealers but even so nothing prevents the State from recovering the tax, if in truth such tax was leviable according to law. There can be no estoppel against the statute. The understanding of the Government, whether in favour or against the assessee, is nothing more than its understanding and opinion. It is doubtful whether such clarifications and circulars bind the quasi-judicial functioning of the authorities under the Act. While acting in quasi-judicial capacity, they are bound by law and not by any administrative instructions, opinions, clarifications or circulars. Law is what is declared by this Court and the High Court - to wit, it is for this Court and the High Court to declare what does a particular provision of statute say, and not for the executive. Of course, the Parliament/Legislature never speaks or explains what does a provision enacted by it mean. (See *Sanjeev Coke Manufacturing Co. Vs. Bharat Coking Coal* AIR 1983 SC 239).

Now coming to G.O. Ms. 383, it is undoubtedly of a statutory character but, as explained hereinbefore the power under section 42 cannot be utilised for altering the provisions of the Act but only for giving effect to the provisions of the Act. Since the goods manufactured by the appellant are different and distinct goods from case iron, their sale attracts the levy created by the Act. In such a case, the Government cannot say, in exercise of its power under section 42(2) that the levy created by the Act shall not be effective or operative. In other words, the said power cannot be utilised for dispensing with the levy created by the Act, over a class of goods or a class of persons, as the case may be. For doing that, the power of exemption

conferred by section 9 of the A.P. Act has to be exercised.”

11. Similarly, in the case of *Royal PVC Shoes Private Limited (supra)*, the High Court of Rajasthan in paragraphs – 38, 39, 40 and 41 has held as under:-

“38. In that view of the matter, we are of the opinion that notwithstanding implied over-ruling of decision in Shiv Sainath Rubber Industries Pvt. Ltd., the exemption under notification dated 7.3.94 is an exemption of class of shoes which are not made to leather and whose value do not exceed Rs. 100/- are exempt generally under RST Act, 1954, therefore, inter-State turnover of such class of shoes is also exempt Under Section 8(2-A) of the CST Act. It is not in dispute before us that turnover in respect of which exemption under Section 8(2-A) is claimed, is related to such footwears which are not made of leather and whose value is only upto Rs. 100/-. Therefore, such inter-State turnover is entitled to claim such exemption and no tax under CST is liable to be imposed.

39. Reference to a decision of Rajasthan Taxation Tribunal in M/s. Ajay Polymers (P.) Ltd. (*supra*) has been made in Assessment Order. Said judgment relates to period during which Notification dt. 7-11-88 was in force. The notification which was in force for the period in question was not before the Tribunal. I fact it does not refer to any other judgment than the II Pine Chemical’s case, without referring to contents of Notification. The decision in M/s. Ajay Polymers (P) Ltd. has no relevance in considering the notification dt. 7-3-94. As noticed by us, the question whether any goods, or class of goods or a category of goods are exempt from tax or subjected to lower rate of tax generally or such exemption or concession in rate is subject to certain specified conditions or in specified circumstances, has to be determined with reference to particular notification issued under State Sales Tax Law before arriving at conclusion about extending such exemption under Section 8(2-A) of CST Act, 1956.

40. This appeal is allowed and the judgment under appeal is set aside. The writ petition is also allowed. The impugned assessment order Annexure-3 annexed with the writ petition is also set aside. Demand notice in pursuance thereof shall stand discharged.

41. There shall be no order as to costs.”

12. In the case of *Commissioner of Sales Tax, J & K & Others (supra)*, again the issue of general exemption and conditional exemption has been dealt with.

13. In the case of *Sivanesan Company (supra)*, the Madras High Court in paragraphs – 7 to 10 has held as under:-

“7. Section 8(2A) of the Central Sales Tax Act defines the term “generally exempt” in the Explanation to section 8(2A), which reads as follows:

“Explanation.—For the purposes of this subsection, a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State, if under that law the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions or the tax is levied on the sale or purchase of such goods at specified stage or otherwise than with reference to the turnover of the goods.”

8. Referring to the said Explanation, the apex court pointed out that where terms of notification on the exemption from taxation are restricted by reason of certain conditions imposed therein or exemption granted under certain circumstances, then the said exemption is not of a general one. In the background of the said judgment, if one looks at the entry relating to the exemption on aluminium domestic utensils, it is clear that the exemption is not available in respect of aluminium domestic utensils in general and in particular if they are operated by pressure or electricity, which mean aluminium domestic utensils not operated by pressure or electricity alone qualified for exemption.

9. Applying the above said decision of the Supreme Court to the said entry “aluminium domestic utensils not operated by pressure and electricity”, it is difficult to accept the case of the petitioner that the exemption is a general exemption and is not to be read as conditioned by specific circumstances.”

10. In the circumstances, applying the above said decision of the apex court to the facts of the case herein, I hold that the petitioner is not entitled to the benefit of exemption in respect of seized transactions having regard to the Explanation appended to section 8(2A) of the Central Sales Tax Act. Accordingly, the writ petition

stands dismissed. No costs.”

14. This Court has carefully gone through the aforesaid judgments. The notification in the present case exempting all kind of footwear made of PVC, chappals made of rubber and straps there of the sale price of which does not exceed Rs.50/- per pair, can never said to be a general exemption, as it is conditioned by specified circumstances.

15. In the considered opinion of this Court, the Madhya Pradesh Commercial Tax Appellate Board was justified in holding that the exemption granted from payment of tax is not a general exemption and the assessee is not entitled to the benefit of exemption from payment of tax under Section 8 (2A) of the Central Sales Tax Act, 1956.

The questions of law are accordingly, answered in affirmative.

The order passed by this Court in the present case shall govern the connected Tax Reference also. Let a copy of this order be kept in the connected Tax Reference also.

The Tax Reference stands disposed of. The connected Tax Reference also stand disposed of.

□

(2020) 64 TLD 404

In the High Court of M.P.
Hon'ble Sheel Nagu & Rajeev Kumar Shrivastava, JJ.

Munesh Enterprises, Guna

Vs.

State of M.P. and another

Writ Petition No. : 7965 of 2015

May 11, 2020

Deposition : In favour of assessee

Reasonable opportunity - The High Court held that the Appellate Authority passed the order by assigning reasons which cannot stand the test of reasonableness as authority fails to even address the issue in its right perspective - The Court viewed that the power of judicial review deserves to be exercised u/Art.226 of Constitution in favour of the petitioner.

Writ petition allowed

2020) Munesh Enterprises, Guna Vs. State of M.P. (MP) 405

Cases referred :

- * CST, U.P., Lucknow Vs. Suresh Chand Jain, Tendu Leaves Dealer, Lalitpur (1988) (Supp.) SCC 421
- * Govind Trading Company Vs. State of M.P. WP. 442/2004 dtd. 20-7-2010
- * Mannulal Gyanichand Vs. State of M.P. WP. 5256/2006 dt. 8-8-2019
- * State of Kerala Vs. K.T. Shaduli Grocery Dealer Etc. (1977) 2 SCC 777

Shri Pawan Kumar Dwivedi, learned counsel for the petitioner.

Shri Ankur Mody, learned Additional Advocate General, for respondent/State.

:: ORDER ::

(1) This petition filed by a proprietorship firm u/Art. 226 of the Constitution of India assails Annexure P-14 dated 31-1-2012 by which the revision of petitioner has been dismissed by upholding the reassessment of tax under the Central Sales Tax Act and corresponding penalty under the M.P. Commercial Tax Act in respect of the periods from 1-4-1993 to 31-3-1994 and from 1-4-1994 to 31-3-1995.

(2) Learned counsel for the rival parties are heard on the question of admission.

(3) The skeletal facts necessary for adjudication are that the business of the petitioner firm which is a registered dealer under the M.P. General Sales Tax Act, M.P. Commercial Tax Act and Central Sales Tax Act allegedly came to a standstill and was closed from the year of 1999 due to heavy losses. It is further alleged by the petitioner that the Commercial Tax Officer vide orders dated 27-12-1997 and 20-3-1998 had completed the assessment under the M.P. CT CST and Entry Tax Act for the said periods on the basis of books of accounts after due verification and enquiry. The respondent No.2, it is alleged, reopened the original assessments of the said periods as aforesaid, under the directions of the Deputy Divisional Commissioner of Commercial Tax, Gwalior on the basis of some information received from Krishi Upaj Mandi Samiti, Guna (M.P.) as regards purchase made by petitioner. It is alleged that no opportunity during the reopening and reassessment proceedings was afforded to the petitioner and the same were conducted *ex parte* by passing appropriate orders on 3-12-2001 vide Annexure P-1, P-2, P-3, P-4, P-5 and P-6. It is submitted that consequently additional tax under the Central Sales Tax Act separately for the said two periods and penalty u/Sec.28 of the M.P. C.T. Act separately for the two

periods were levied. It is further alleged that petitioner came to know of these impugned orders of reassessment when the Revenue raised demand for the additional amount. It is submitted that consequently the petitioner on 29-3-2004 preferred a revision Vide Annexure P-7. It is submitted that the Revisional Authority by order dated 31-3-2004 vide Annexure P-10 allowed the revision and remanded the matter for fresh assessment. Respondent No.2 on receipt of the matter on remand initiated proceedings for reassessment afresh. It is submitted that the parties were heard and the petitioner filed written submissions expressly seeking opportunity of cross-examination *qua* the record received from Krishi Upaj Mandi Samiti, Guna (M.P.) which was the foundation of the reassessment proceedings. It is submitted that the Assessing Authority, however, turned down the said request for cross-examination. Accordingly, respondent No.2 passed fresh orders of reassessment on 7-12-2006 vide Annexure P-11A to Annexure P-11F. It is submitted that before passing the order the respondent No.2 did not care to even call for the records of Krishi Upaj Mandi Samiti, Guna (M.P.) and also did not afford any opportunity of cross-examination. It is submitted that petitioner being aggrieved preferred an application u/Sec.39/62 of the M.P.GST/MPCT Act before the State Government vide Annexure P- 12. The State Government vide Annexure P-13 remanded the matter to the Additional Commissioner, Commercial Tax, Gwalior (M.P.) vide order dated 3-10-2011. Thereafter, it is submitted that the Additional Commissioner, Commercial Tax, Gwalior (M.P.) initiated proceedings u/Sec.62(2) of the M.P. C.T. Act and passed final order on 31-1-2012 vide Annexure P-14 dismissing the revision petition and while doing so recorded the finding that since the period of assessment is of 1994- 95 vintage which is about 17 years' old, the possibility of records being available with the Krishi Upaj Mandi Samiti, Guna (M.P.) is remote and therefore affording of opportunity for cross-examination will be an exercise in futility.

(4) Accordingly, this petition has been filed challenging Annexure P-14 dated 31-1-2012 passed by the Additional Commissioner, Commercial Tax, Gwalior (M.P.)/Appellate Authority.

(5) Learned counsel for the petitioner by relying upon “**State of Kerala Vs. K.T. Shaduli Grocery Dealer Etc. [(1977) 2 SCC 777]**”, “**Commissioner of Sales Tax, U.P., Lucknow and others Vs. Suresh Chand Jain, Tendu Leaves Dealer, Lalitpur and others [1988 (Supp.) SCC 421]**” and two orders of the Division Bench of this Court rendered

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on 20-7-2010 in **WP.442/2004 [M/s Govind Trading Company Vs. State of M.P. and others]** and the other rendered on 8-8-2019 in **WP.5256/2006 [M/s Mannulal Gyanichand, Shivpuri Vs. State of M.P. and others]** submits that the requirement of reasonable opportunity inherently involves the opportunity to cross-examine. Relevant para 4 and 5 of the judgment in the case of **K.T. Shaduli Grocery Dealer Etc. (supra)** which has been followed in all the subsequent decisions cited by learned counsel for the petitioner are reproduced below for ready reference and convenience:

“4. Now, in the present case, we are not concerned with a situation where the rule of *audi alterem partem* has to be read into the statutory provision empowering the taxing authorities to assess the tax. Section 17, sub-section (3), under which the assessment to sales tax has been made on the assessee provides as follows:

If no return is submitted by the dealer under sub section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall, after making such enquiry as it may consider necessary and after taking into account all relevant materials gathered by it, assess the dealer to the best of its judgment:

Provided that before taking action under this subsection the dealer shall be given a reasonable opportunity of being heard and, where a return has been submitted, to prove the correctness or completeness of such return.

It is clear on a plain natural construction of the language of this provision that it empowers the Sales Tax Officer to make a best judgment assessment only where one of two conditions is satisfied: either no return is submitted by the assessee or the return submitted by him appears to the Sales Tax Officer to be incorrect or incomplete. It is only on the existence of one of these two conditions that the Sales Tax Officer gets the jurisdiction to make a best judgment assessment. The fulfilment of one of these two prerequisites is, therefore, a condition precedent to the assumption of jurisdiction by the Sales Tax Officer to make assessment to the best of his judgment. Now, where no return has been submitted by the assessee, one of the two conditions necessary for the applicability of Section 17, sub-section (3) being

satisfied, the Sales Tax Officer can, after making such inquiry as he may consider necessary and after taking into account all relevant materials gathered by him, proceed to make the best judgment assessment and in such a case, he would be bound under the proviso to give a reasonable opportunity of being heard to the assessee. But in the other case, where a return has been submitted by the assessee, the Sales Tax Officer would first have to satisfy himself that the return is incorrect or incomplete before he can proceed to make the best judgment assessment. The decision making process in such a case would really be in two stages, though the inquiry may be continuous and uninterrupted the first stage would be the reaching of satisfaction by the Sales Tax Officer that the return is incorrect or incomplete and the second stage would be the making of the best judgment assessment. The first part of the proviso which requires that before taking action under subsection (3) of Section 17, the assessee should be given a reasonable opportunity of being heard would obviously apply not only at the second stage but also at the first stage of the inquiry, because the best judgment assessment, which is the action under Section 17, sub-section (3) follows upon the inquiry and the “reasonable opportunity of being heard” must extend to the whole of the inquiry, including both stages. The requirement of the first part of the proviso that the assessee should be given a “reasonable opportunity of being heard” before making best judgment assessment merely embodies the audi alterem partem rule and what is the content of this opportunity would depend, as pointed out above, to a great extent on the facts and circumstances of each case. The question debated before us was whether this opportunity of being heard granted under the first part of the proviso included an opportunity to cross-examine Haji Usmankutty and other wholesale dealers on the basis of whose books of accounts the Sales Tax Officer disbelieved the account of the assessee and came to the finding that the returns submitted by the assessee were incorrect and incomplete. But it is not necessary for the purpose of the present appeals to decide this question since we find that in any event the assessee was entitled to this opportunity under the second part of the proviso.

5. The second part of the proviso lays down that where a return has been submitted, the assessee should be given a reasonable

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opportunity to prove the correctness or completeness of such return. This requirement obviously applies at the first stage of the enquiry before the Sales Tax Officer comes to the conclusion that the return submitted by the assessee is incorrect or incomplete so as to warrant the making of a best judgment assessment. The question is what is the content of this provision which imposes an obligation on the Sales Tax Officer to give and confers a corresponding right on the assessee to be afforded, a reasonable opportunity “to prove the correctness or completeness of such return”. Now, obviously “to prove” means to establish the correctness or completeness of the return by any mode permissible under law. The usual mode recognised by law for proving a fact is by production of evidence and evidence includes oral evidence of witnesses. The opportunity to prove the correctness or completeness of the return would, therefore, necessarily carry with it the right to examine witnesses and that would include equally the right to cross-examine witnesses examined by the Sales Tax Officer. Here, in the present case, the return filed by the assessee appeared to the Sales Tax Officer to be incorrect or incomplete because certain sales appearing in the books of Hazi Usmankutty and other wholesale dealers were not shown in the book’s of account of the assessee. The Sales Tax Officer relied on the evidence furnished by the entries in the books of account of Hazi Usmankutty and other wholesale dealers for the purpose of coming to the conclusion that the return filed by the assessee was incorrect or incomplete. Placed in these circumstances, the assessee could prove the correctness and completeness of his return only by showing that the entries in the books of account of Hazi Usmankutty and other wholesale dealers were false, bogus or manipulated and that the return submitted by the assessee should not be disbelieved on the basis of such entries, and this obviously the assessee could not do, unless he was given an opportunity of cross-examining Hazi Usmankutty and other wholesale dealers with reference to their accounts. Since the evidentiary material procured from or produced by Hazi Usmankutty and other wholesale dealers was sought to be relied upon for showing that the return submitted by the assessee was incorrect and incomplete, the assessee was entitled to have Hazi Usmankutty and other wholesale dealers summoned as witnesses for crossexamination. It can hardly be disputed that cross-examination is

one of the most efficacious methods of establishing truth and exposing falsehood. Here, it was not disputed on behalf of the Revenue that the assessee in both cases applied to the Sales Tax Officer for summoning Hazi Usmankutty and other wholesale dealers for cross-examination, but his application was turned down by the Sales Tax Officer. This act of the Sales Tax Officer in refusing to summon Hazi Usmankutty and other wholesale dealers for cross-examination by the assessee clearly constituted infraction of the right conferred on the assessee by the second part of the proviso and that vitiated the orders of assessment made against the assessee.”

(6) From the aforesaid, it appears that grant of an opportunity to cross-examine is a concomitant of the expression “Reasonable Opportunity”. In the instant case, the matter was remanded by the State only for the purpose that opportunity of cross-examination which was not afforded to the petitioner in respect of the documents of the Krishi Upaj Mandi Samiti, Guna (M.P.) should now be afforded. However, when the matter was taken up after receipt on remand, the Appellate Authority seems to have brushed aside the prayer for cross-examination by presuming without any basis that the records being 17 years old may not be available with the Krishi Upaj Mandi Samiti, Guna (M.P.). The least that was required of the Appellate Authority was to afford an opportunity to the petitioner to produce those records or to summon those records directly from the Krishi Upaj Mandi Samiti, Guna (M.P.), as the case may be and if the attempt would have failed then the Appellate Authority/Assessing Authority was well within its powers to proceed in accordance with law, but not otherwise.

(7) Since the Appellate Authority has passed the impugned order by assigning reasons which cannot stand the test of reasonableness as authority fails to even address the issue in its right perspective, this Court is of the considered view that the power of judicial review deserves to be exercised u/Art.226 of Constitution in favour of the petitioner.

(8) Consequently, the petition stands allowed to the extent indicated below:-

- (i) The impugned order Annexure P-14 dated 31-1-2012 passed by the Additional Commissioner, Commercial Tax, Gwalior (M.P.) is hereby set aside.
- (ii) The orders dated 7-12-2006 [Annexure P-11A to Annexure P-11F] are further quashed.

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- (iii) The respondents are now directed to conduct reassessment proceedings by granting reasonable opportunity to the petitioner of cross-examination in respect of the documents pertaining to the Krishi Upaj Mandi Samiti, Guna (M.P.).
- (iv) However, it is made clear that in case the petitioner fails to produce the documents after grant of reasonable opportunity and if the Assessing Authority in exercise of its powers under the relevant Act is unable to procure the said documents then the petitioner may be allowed to cross-examine any witness in the know of the said documents.
- (9) The petition accordingly stands allowed to the extent indicated above with no cost.



(2020) 64 TLD 411

In the High Court of Chhattisgarh
Hon'ble P. Sam Koshy, J.

K.P. Sugandh Ltd.

WPT No. : 36 of 2020

Kay Pan Sugandh Ltd.

WPT No. : 49 of 2020

Vs.

State Of Chhattisgarh & Others

March 16, 2020

Deposition : In favour of Petitioner

Detention of goods - The Chhattisgarh High Court opined that under valuation of a good in the invoice cannot be a ground for detention of the goods and vehicle for a proceeding to be drawn under Section 129 of the Central Goods and Service Tax Act, 2017 read with Rule 138 of the Central Goods and Service Tax Rules, 2017.

Writ Petition allowed

Cases referred :

- * Alfa Group Vs. Assistant State Tax Officer (2020) 113 taxmann.com 222 (Kerela)
- * Sakul Naza Mohmd Vs. State of Gujarat Special Civil Application No. 15655/2019

Mr. Rohit Sharma, Advocate & Mr. Manoj Paranjpe, Advocate for the petitioners.

Mr. Jitendra Pali, Dy. A.G. & Ms. Sunita Jain, G.A. for the respondents/State.

:: C.A.V. ORDER ::

1. Since the facts and grounds raised in both these writ petitions and the dates also being identical and the impugned orders also being same, both these writ petitions are being decided by this common judgment.
2. The challenge in the present writ petition is to the order dated 17-1-2020 (Annexure P/1) passed by the respondents for the purpose of release of the vehicle carrying goods belonging to the petitioners from the manufacturing centers to the dealer.
3. The relevant facts, which are relevant for the adjudication of the present dispute is that the petitioners are the limited companies under the provisions of the Companies Act. The petitioners herein are the manufacturers of 'Pan Masala and Tobacco Products'. On 14-1-2020, the petitioners dispatched goods both Pan Masala and Tobacco Products to its customer vide Maxi Truck Plus 1.2 TPS No. CG 04 ME 3494 belonging to the transporter Shyam Transport Company. The vehicle was being driven by one Shanker Yadav, resident of Ward No.3, Tilda, District Raipur. The customer to which the goods were being dispatched was M/s. Ravi Agency at Jhulelal Market, Raipur. While the goods were being transported, the petitioners/ establishment had issued with a tax invoice as well as eway bill generated and handed the same to the Incharge of the conveyance i.e. the driver namely Shanker Yadav. When the said vehicle/conveyance left for Raipur on 14-1-2020, the vehicle was intercepted by the officials of the respondents/ Department and asked for the details of the consignment. The driver of the vehicle i.e. the person, who was Incharge of the conveyance at the time of interception produced before the authorities the relevant invoice bill and also produced the e-way bill as was required under the Act to the authorities concerned.
4. In spite of the Incharge of the conveyance producing the necessary invoice bill and the e-way bill the respondent authorities seized the vehicle and the goods on the grounds of there being discrepancies in the valuation of the goods and thereafter detained the vehicle and the goods. Subsequently, a notice (Annexure P/4) dated 14-1-2020 FORM GST MOV-07 under Section 129(3) of the Central Goods and Service Tax Act, 2017 was issued to the person Incharge of the conveyance i.e. the driver. Immediately,

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thereafter the petitioners moved an application for release of the vehicle vide their response dated 17-1-2020. Without considering any of the contentions raised by the petitioners in the said reply to the notice, the respondents have passed the impugned order (Annexure P/1) whereby they have assessed the tax payable on the goods as also the penalty applicable on the said assessment made for the purpose of releasing of the goods and the vehicle. It is this order which is under challenge in the present writ petition.

5. The contention of the petitioners primarily is that when a transport vehicle is intercepted by the authorities of the respondents all that person Incharge of the conveyance is required to keep along with him is the documents as is required under Section 68 of the Central Goods and Service Tax Act of 2017 and Rules 138 & 139 of the Central Goods and Service Tax Rules of 2017. According to the counsel for the petitioners, discrepancies in the valuation of the goods is not a ground, which would be available for the Department for detaining and seizure of the vehicle and goods. According to the counsel for the petitioners, while intercepting the transport vehicle carrying goods all that Inspector has to verify is that whether the person Incharge of the conveyance has the invoice bill for the goods being transported and whether the driver also has the e-way bill.

6. According to the petitioners, the respondents if at all in the course of inspection of the vehicle or the moment they find that there was discrepancy in the valuation, they could not have seized and detained the vehicle or the goods rather should have permitted the vehicle to proceed further to the destination of supply as per the invoice. It was the contention of the petitioners that as regards the dispute of valuation, the respondent authorities could have initiated a proceeding against the petitioners in accordance with law as is applicable for evasion of tax. According to the petitioners, the item seized by the respondent authorities is also perishable and it has its own shelf life. It was further contended that in case if the goods are not immediately released, the petitioners shall be put to substantial irrecoverable loss for no fault of theirs. It was lastly contended by the petitioners that the plain reading of the notice under Section 129 issued vide Annexure P/4 and the order passed by the respondents (Annexure P/1) would clearly reveal that there is no specific details of the evasion of tax as such reflected from the notice except for a bald allegation of discrepancy in valuation.

7. The State counsel on the contrary opposing the petition submits that it is a case where during the course of inspection of the conveyance, the

Inspecting Agencies found discrepancies in the valuation of the goods being transported and that was the reason for detention of vehicle and the seizure of the goods. According to the respondents, the respondent authorities had immediately issued a notice under Section 129 to which the petitioners also submitted their reply on 17-1-2020 and since the reply of the petitioners were not convincing, satisfactory or acceptable, the respondent authorities have passed the order under Section 129. The contention of the petitioners is that the impugned order under Section 129 is one which is appealable under Section 107, therefore the writ petition for this reason itself is not maintainable. The State counsel on instructions submits that as regards the discrepancy it has been informed that the price at which product was sold to the customer was not matching the MRP of the product, which reflected in the packet transported. The second ground raised by the respondents is that subject to the compliance of the order (Annexure P/1), the respondent authorities would release the goods and the vehicle seized and detained by the respondents and thus prayed for the rejection of the writ petition.

8. Having heard the contentions put forth on either side and on perusal of record, some of the undisputed rather admitted positions from the submissions made on behalf of either side is that the petitioners are in the business of manufacturing of Pan Masala and Tobacco Products since 14-1-2020 from the petitioners-establishment. Some consignments of goods were transported to the consumer at Raipur and the product was being transported on a Maxi Truck Plus 1.2 TPS bearing registration No. CG 04 ME 3494. The said vehicle belonged to the Shyam Transport Company. The vehicle was being driven by the Driver Shanker Yadav. What is further to be seen is that undisputedly when the vehicle was subjected to inspection, the person Incharge of the conveyance i.e. the driver had with him the invoice bill duly issued which matched the quantity found in the vehicle. In addition, the driver also was in possession of the e-way bill duly generated and which also was posted in the Web portal of the Department, which again had the details of the consignment and also the details of the tax paid and both of which was produced to the Inspecting Authorities, who had intercepted the vehicle on 14-1-2020. While the goods was being transported from the petitioner/ manufacturer to its consumer at Raipur.

9. Thus, from the aforesaid factual admitted position, as it stands when the vehicle was intercepted from the 14-1-2020, the person Incharge of the conveyance was in fact carrying the requisite documents, which he was

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supposed to carry in the course of transportation of the goods. As regards the discrepancy found in the course of inspection, the only observation made by the authorities concerned is that the valuation does not seem to have been properly conducted.

10. Merely because the manufacturer sells his products to its customer or dealer at a price lower than the MRP, as such cannot be a ground on which the product or the vehicle could be seized or detained. If at all if this, according to the respondents, is contrary to the law, the authorities are supposed to draw an appropriate proceeding under the law. If at all what the State counsel has submitted is to be accepted, even then it would be only a case of an alleged sale of a product at a lower costs than the MRP. The Inspecting Authorities for the alleged discrepancy could have only intimated the Assessing Authority for initiating appropriate proceedings. What is more relevant to take note of is the fact that the details in the invoice bill as well as in the e-way bill matched the products found in the vehicle at the time of inspection except for the price of sale.

11. The High Court of Kerela in the case of “**Alfa Group Vs. Assistant State Tax Officer**” (2020) 113 taxmann.com 222 (Kerela) in an identical set of facts has held as under:

“On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find that none of the reasons stated in Ext. P2 order justify detention of the goods. There is no provision under the GST Act which mandates that the goods shall not be sold at prices below the MRP declared thereon. Further, there is nothing in Ext. P2 order that shows that, on account of the alleged wrong classification of the goods there was any difference in the rate of tax that was adopted by the assessee. In my view when the statutory scheme of the GST Act is such as to facilitate a free movement of goods, after self assessment by the assessee concerned, the respondents cannot resort to an arbitrary and statutorily unwarranted detention of goods in the course of transportation. Such action on the part of department officers can erode public confidence in the system of tax administration in our country and, as a consequence, the country’s economy itself. Under such circumstances, I quash Ext. P2 detention order and direct the respondents to forthwith release the goods belonging to the petitioner on the petitioner producing a copy of this

judgment before the said authority. I also direct the Commissioner, Kerala State Taxes Department, Thiruvananthapuram to issue suitable instructions to the field formations so that such unwarranted detentions are not resorted to in future. The Registry shall communicate a copy of this judgment to the Commissioner, Kerala State Taxes Department, Thiruvananthapuram for necessary action.”

12. A similar view has also been taken by the High Court of Gujarat for grant of an interim relief in the case of **“Sakul Naza Mohmd Vs. State of Gujarat”** in Special Civil Application No. 15655/2019.

13. So far as the ground of an alternative remedy available to the petitioner as pleaded by the State Government is concerned, this Court is of the opinion that since the case of the petitioners at the outset itself was that the entire proceedings for detention of the vehicle and the seizure of the goods being in total contravention to the GST law, relegating the petitioners to avail the alternative remedy of appeal under Section 107 would not be proper, legal and justified. More particularly when this Court also finds that the proceedings of detention and seizure of the goods and the vehicle by the respondents is without any authority of law.

14. Given the said facts and circumstances of the case, this Court is of the opinion that under valuation of a good in the invoice cannot be a ground for detention of the goods and vehicle for a proceeding to be drawn under Section 129 of the Central Goods and Service Tax Act, 2017 read with Rule 138 of the Central Goods and Service Tax Rules, 2017. In view of the aforesaid the impugned order Annexure P/1 i.e. the order passed under Section 129 and the order of demand of tax and penalty both being unsustainable deserves to be and is accordingly set-aside/quashed. The respondents are forthwith directed to release the goods belonging to the petitioners based on the invoice bill as well as the e-way bill.

15. Quashment of the impugned order by itself would not preclude the State Authorities from initiating appropriate proceedings against the petitioners for the alleged act of under valuation of the goods as compared to the MRP on the product in accordance with law.

16. With the aforesaid observations, the present writ petitions stand allowed.

☆☆☆☆☆

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- * **AAAR - Braided textile yarns** - The remarks of the lower authority in Para 4 of its Order dated: 22-3-2019 may be treated as expunged/deleted. [See AAR order at (2019) 63 TLD 91]. **Malli Ramalingam Mothilal [7-8-2019] (AAAR-TN)** 46
- * **AAAR - Construction service** - The Advance Ruling reported in (2019) 63 TLD 236 modified. **Assistant Commissioner, State Tax, Park Street Charge, Kolkata [25-9-2019] (AAAR-WB)** 53
- * **AAAR** - The Appellate Authority for Advance Ruling remanded the matter to the lower authority for consideration and passing of appropriate orders. **A.M. Abdul Rahman Rowther & Co. [21-10-2019] (AAAR-TN)** 47
- * **AAR** - 'Richyaa Damer Lemon' and 'Licta Lemon' are classifiable under CTH 22021020. **Rich Dairy Products (India) Pvt. Ltd. [23-9-2019] (AAR-TN)** 48
- * **AAR** - AAR Rejected as the relevant technical details of the supply for which classification and rate of CGST/SGST is being sought, have not been produced. **Prism Fluids LLP [25-7-2019] (AAR-TN)** 45
- * **AAR - Access cards** - The supply of 'access cards', and similar material printed with the contents supplied by the recipient of supply are classifiable under SAC 9989 and taxable under GST. **Pattabi Enterprises [17-9-2019] (AAR-Kar)** 12
- * **AAR - Accommodation in hotels** - The Applicant, if arranges for clients only accommodation in hotels, is supplying a service classifiable under SAC 998552. **Golden Vacations Tours & Travels [23-9-2019] (AAR-WB)** 51
- * **AAR** - Accommodation service supplied to an SEZ can be treated as zero rated supplies and the invoice can be raised without charging Tax after executing LUT under section 16. **Carnation Hotels Pvt. Ltd. [16-9-2019] (AAR-Kar)** 8
- * **AAR - Accommodation services to the SEZ Units** - The supply of accommodation services to the SEZ Units is an inter-State supply. **Poppy Dorothy Noel (M/s. The Pommels) [20-9-2019] (AAR-Kar)** 20

* **AAR** - Advance ruling application rejected as the issue for which Advance Ruling is sought by the applicant is already pending before the appropriate authority. **A.M. Abdul Rahman Rowther & Co. [27-8-2019] (AAR-TN)**

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* **AAR - Agent** - Sale of dry chillies- The applicant, being a commission agent, is required to be registered under Section 22(1) of CGST Act 2017, as they qualify to be an agent in terms of para 3 of Schedule I to the CGST Act 2017. **Morigeri Traders [12-9-2019] (AAR-Kar)**

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* **AAR** - Agriculture Tree Climbing Apparatus-Unipole Manually operated Aluminium ladder - Covered under Tariff Heading 8201 and exempted from GST. **S.R.K. Ladders [12-9-2019] (AAR-Kar)**

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* **AAR - Air Ventilators** - The Air Ventilators are classified under HSN 8414 59 10. **VTs TF Air Systems [30-9-2019] (AAR-Kar)**

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* **AAR - Answer booklets** - Answer booklets provided by the applicant to the Karnataka State Secondary Education Board falling under the Heading 4802 and taxable @ 12 % GST. **Datacon Technologies [27-9-2019] (AAR-Kar)**

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* AAR - Cleaning services - Cleaning of hospital premises is not classified under 'Sanitation or similar service'. Altabor Rahaman Mollah (M/s. Reliable Hospitality service) [9-9-2019] (AAR-WB)		51
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* AAR - Complementary Weaning Food Containing Amylase Activity - The Authority cannot specify how the invoices are to be raised for this composite supply. Thirumangalam Sengodan Kumarasamy (Christy Fried Gram Industry) [26-7-2019] (AAR-TN)		46
* AAR - Composite supply - Construction of new civil structures. Vishal Infrastructure Ltd. [16-9-2019] (AAR-Kar)		11
* AAR - Composite supply - The transaction is within the country and is a composite supply of goods or services to the customers by the applicant and hence does not amount to export of services as M/s Volvo Sweden is not the recipient of services provided by the applicant, but only pays the consideration to the provider of such services. Volvo-Eicher Commercial Vehicles Ltd. [12-9-2019] (AAR-Kar)		7
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* AAR - Conservancy/solid waste management service - The Applicant's supply to the Howrah Municipal Corporation is exempt from the payment of GST. Mahendra Roy [23-9-2019] (AAR-WB)		52

- * **AAR - Conservancy/solid waste management service** - The Applicant's supply to the Howrah Municipal Corporation is exempt from the payment of GST. **Singh Transport Agency [21-10-2019] (AAR-WB)** 54
- * **AAR - Construction service** - Taxable at 9% CGST and 9% KGST under the residual item no. (xii) of Serial No.3 of Notification No.11/2017-Central Tax (Rate) dated 28-6-2017. **URC Construction (P) Ltd. [23-9-2019] (AAR-Kar)** 25
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- * **AAR - Desktops** consisting of CPU, monitor, Keyboard and mouse - Classifiable under CTH 8471 is taxable @ 18% GST. **HP India Sales Pvt. Ltd. [28-8-2019] (AAR-TN)** 47
- * **AAR - Diagnostic services** - The diagnostic services to Hospitals and other establishments are exempted from GST. **Matrix Imaging Solutions India Pvt. Ltd. [30-9-2019] (AAR-Kar)** 40
- * **AAR - Drilling of bore wells and their energisation** - The service, being provided by the applicant, satisfies all the three required conditions & thereby attracts "NIL" rate of GST. **Yashaswini Enterprises [18-9-2019] (AAR-Kar)** 16
- * **AAR - Earthwork** - The rate of GST on the work of earthwork will be 18%. **Ashok Kumar Choudhary [3-9-2019] (AAR-Raj)** 44
- * **AAR - e-campus solutions** - The supply is leasing of infrastructure which is covered under SAC 997329 the description of which is "Leasing or rental services concerning other goods". **VAPS Knowledge Services Pvt. Ltd. [26-9-2019] (AAR-Kar)** 31

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* AAR - Exam fee - The amount of fee collected by the applicant from the student as exam fee which is remitted to the respective institute or college or universities is excluded from the value of supply. Arivu Educational Consultants Pvt. Ltd. [30-9-2019] (AAR-Kar)		37
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* AAR - Garden work - Landscape development and maintenance of garden work for State and Central Government Departments. The Nurserymen Co-operative Society [25-9-2019] (AAR-Kar)		29
* AAR - Goods Transport Agency - There is no provision in the law barring person being a GTA from renting the vehicle to another GTA. Saravana Perumal [27-9-2019] (AAR-Kar)		34
* AAR - Government Authority - Bengaluru Development Authority is a Government Authority and the main contractor is providing services and hence the sub-contract work of works contract provided by the applicant		

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* **AAR - Governmental authority** - Eligible for exemption on supply of any service in relation to establishment and maintenance of hospitals and similar health facilities. **West Bengal Medical Services Corp. Ltd. [9-9-2019] (AAR-WB)** 51

* **AAR - GST** - The amounts received on or after 1-7-2017 towards interest, late fee penalty relating to the services of lease/rent, due to delayed payment of consideration for those services rendered by the applicant before 1-7-2017, are liable to GST. **Chennai Port Trust [26-7-2019] (AAR-TN)** 45

* **AAR - GTA Service provider** - The applicant is a registered GTA Service provider under GST and is not exempted from paying GST. **K.M. Trans Logistics Pvt. Ltd. [29-8-2019] (AAR-Raj)** 43

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* **AAR - Health care services** - Medicines, consumables and implants used in the course of providing health care services to in-patients by the applicant is a composite supply of Inpatient Services classifiable under SAC 999311. **Royal Care Speciality Hospital [26-9-2019] (AAR-TN)** 50

* **AAR - Ice creams, chocolates, ice cream cakes** - The ice creams, chocolates, ice cream cakes and pizza cakes made as per the orders of the customers and served in IBACO outlet qualifies as composite supply classified under chapter "9963". **Hatsun Agro Product [21-9-2019] (AAR-Kar)** 21

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* AAR - Input tax credit - No question of allowing credit on the input tax credit charged on the invoices dated prior to the effective date of registration. Knowlarity Communications Pvt. Ltd. [20-9-2019] (AAR-Kar)		19
* AAR - Input tax credit - Online content - The providing of access to the online content by the applicant to their users is covered under SAC 998431 and is liable to tax - Since the transaction is not exempt, there is no restriction on input tax credit claims. Informatics Publishing Ltd. [24-9-2019] (AAR-Kar)		26
* AAR - Input tax credit - The applicant is not eligible to avail input tax credit on the inward supplies of goods and services which are attributable to the incentives provided in the form of gifts of goods and services. Surfa Coats (India) Pvt. Ltd. [12-9-2019] (AAR-Kar)		7
* AAR - Input tax credit - The applicant is not entitled to take credit of input tax charged on the inward supply of services in the in-house hospital. Chennai Port Trust [25-7-2019] (AAR-TN)		44
* AAR - Input tax credit - The applicant is not entitled to take credit of input tax charged on the inward supply of medicines in the in-house hospital. Chennai Port Trust [25-7-2019] (AAR-TN)		44
* AAR - Input tax credit - The input tax credit of GST can be availed on the detachable wooden flooring which is movable in nature and capitalized as 'furniture'. Wework India Management Pvt. Ltd. [30-9-2019] (AAR-Kar)		43
* AAR - Input tax credit - The input tax credit on the inward supplies of goods or services involved in the construction of immovable property which is a civil structure or building is not available to the applicant and hence blocked. Tarun Realtors Pvt. Ltd. [30-9-2019] (AAR-Kar)		41
* AAR - Input tax credit - The items are fixed to the earth by foundation or structural support and are intended to be used for making an outward supply of provision of rental services hence are excluded from the definition		

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* **AAR - Input tax credit** - Treatment of claiming of Input Tax Credit under Section 16 of the GST Act in regard to by-product Cotton Seed Oil Cake which is taxable at 0%. **Pramod Kumar Singala, Rajasthan [22-8-2019] (AAR-RAJ)** 55

* **AAR - Intermediary** - Section 2(13) of IGST Act - Pre-sale and Marketing Services Agreement activities in India to foreign company qualify as an 'intermediary'. **Infinera India Pvt. Ltd. [12-9-2019] (AAR-Kar)** 4

* **AAR - IT Managed services** - IT Managed services are covered under the Service Code 998316. **GDC Dimension Data Pvt. Ltd. [19-9-2019] (AAR-Kar)** 16

* **AAR - IT Support services** - IT Support services are covered under the Service Code 998313. **GDC Dimension Data Pvt. Ltd. [19-9-2019] (AAR-Kar)** 16

* **AAR - Kapton Polyimide Film Adhesive Tape** - Rate of tax on supply of Kapton Polyimide Film Adhesive Tape to Indian Railways for use in its railway locomotives. **Intek Tapes Pvt. Ltd. [17-9-2019] (AAR-Kar)** 11

* **AAR - Leasing of Satellite Transponders** - The service of Leasing of Satellite Transponders, covered under SAC 9973 19. **Antrix Corporation Limited [26-8-2019] (AAR-Kar)** 2

* **AAR - logging** - The operations of "logging" would attract tax under the Goods and Services Tax Acts. **Deputy Conservator of Forests [26-8-2019] (AAR-Kar)** 3

* **AAR - LPG Conversion Kits** - The LPG Conversion Kits are classifiable under HSN 8409 99 90 and taxable @ 28 % GST. **Sagas Autotec Pvt. Ltd. [26-9-2019] (AAR-Kar)** 30

* **AAR - Man power services** - The activity of providing manpower services is not exempted from GST. **N.C. Prakash (Wisdom Security Services) [30-9-2019] (AAR-Kar)** 41

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* AAR - Marine Propellers and accessories - The concessional rate of 5% GST is applicable. S.R. Propellers [24-9-2019] (AAR-Kar)		27
* AAR - Marketing and Pre-sales Technical Support Services - Classifiable as Intermediary services in terms of Section 2(13) of the IGST Act. ANSYS Software Pvt. Ltd. [12-9-2019] (AAR-Kar)		3
* AAR - Marketing services - The marketing services supplied by the applicant to McAfee Singapore covered under the SAC 998599. McAfee Software (India) Pvt. Ltd. [19-9-2019] (AAR-Kar)		17
* AAR - Ocean freight - IGST should be paid by the importer on ocean freight in case of CIF basis contract, under Reverse Charge. M.K. Agro Tech Pvt. Ltd. [27-9-2019] (AAR-Kar)		33
* AAR - OIDAR services - The applicant has to charge GST on the supplies of OIDAR services made to unregistered persons in taxable territory for the purposes other than commerce, industry, business or profession. Spring Nature Customer Service Centre GmbH [23-9-2019] (AAR-Kar)		24
* AAR - Online content - The providing of access to the online content by the applicant to their users is covered under SAC 998431. Informatics Publishing Ltd. [23-9-2019] (AAR-Kar)		24
* AAR - Packaged food products - Packaged food products are taxable at the appropriate rates and are not covered under the tax rate applicable to Group 99633 (HSN Code) as those relates only to services. Mountain Trail Foods Pvt. Ltd. [30-9-2019] (AAR-Kar)		41
* AAR - Parts of the tillers - Parts of the tillers are classified under HSN Code 8432 90 90. V.S.T. Tillers Tractors [19-9-2019] (AAR-Kar)		18
* AAR - Passenger Transport Services - The services provided by the applicant are "Passenger Transport Services" covered under Heading 9964. Sharma Transports [24-9-2019] (AAR-Kar)		27
* AAR - Pattadar Passbook cum Title Deed - Pattadar Passbook cum Title Deed is appropriately classifiable under HSN 4820. Manipal Technologies Ltd. [16-9-2019] (AAR-Kar)		9

- * **AAR - Pooja Oil** - The “Pooja Oil”, classified under tariff heading 1518 and taxable @ 12% under GST. **S.K. Aagrotechh [18-9-2019] (AAR-Kar)** 14
- * **AAR - Pradhan Mantri Awas Yojana** - Sub-contract - The sub-contract of construction of independent houses also taxable @ 12% GST. **Shimsha Infrastructures [27-9-2019] (AAR-Kar)** 34
- * **AAR - Prepared Laboratory Reagents** - The Prepared Laboratory Reagents or Pharmaceutical Reference standards (HSN 3822 00 90) which are not diagnostic reagents attracts IGST at 18%. **Chrochemie Laboratory Pvt. Ltd. [23-9-2019] (AAR-Kar)** 23
- * **AAR - Printed text books** - Printed text books for PUC Board classifiable under HSN Code 4901 1010 supplied to resellers is exempt from the payment of GST. **Sri Venkateswara Enterprises [18-9-2019] (AAR-Kar)** 14
- * **AAR - Printing** - Printing of question papers by the applicant with the content supplied by educational institutions constitutes a supply of services under Heading 9989. **The Bangalore Printing and Publishing Co. Ltd. [17-9-2019] (AAR-Kar)** 13
- * **AAR - Printing and binding** - Printing and binding of brochures, printed books and pamphlets, on a job work basis. **Sri Venkateswara Enterprises [18-9-2019] (AAR-Kar)** 14
- * **AAR - Printing and supply of paper** - Printing and supply of paper and paper boards and also involved in the printing under job work. **Sukee Printpack LLP [16-9-2019] (AAR-Kar)** 9
- * **AAR - Printing and supply of periodicals and magazines to the Government Departments.** **Sri Venkateswara Enterprises [18-9-2019] (AAR-Kar)** 15
- * **AAR - Printing of textbooks and workbooks** - Printing of textbooks and workbooks and supplied back to State Government. **Sri Venkateswara Enterprises [18-9-2019] (AAR-Kar)** 14
- * **AAR - Pulpwood** - The pulpwood supplied to the applicant is covered under the HSN 4403 and is liable to tax. **West Coast Paper Mills Ltd. [21-9-2019] (AAR-Kar)** 23

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* AAR - Railway locomotive spare parts - The composite goods manufactured by the Applicant that are used primarily as parts of railway locomotives are to be classified under heading 8607 and taxable @ 5% GST. Kay Pee Equipments Pvt. Ltd. [23-9-2019] (AAR-WB)		51
* AAR - Railway network - Rate of tax for the sub-contractors who executes the works contract work pertaining to Railways based on the order received from the main contractor. Quatro Rail Tech Solutions Limited [27-9-2019] (AAR-Kar)		33
* AAR - Refund - The persons who have procured goods utilising the benefits of the Notification No. 40/2017 – Central Tax (Rate) dated 23-10-2017 are not eligible to claim refund of the IGST paid on the export of such goods by virtue of the Rule 96(10). Toyota Tsusho India Pvt. Ltd. [18-9-2019] (AAR-Kar)		15
* AAR - Reimbursement of expenses from the value of supply of goods or services or both. The amounts collected towards maintenance of common areas and facilities. Vaishnavi Splendour Home Owners Welfare Association [17-9-2019] (AAR-Kar)		13
* AAR - Relocation Management Service - Where multiple services are for a single price, then since such supplies would not constitute a composite supply, the same may be categorized as a “mixed supply”. Cartus India Pvt. Ltd. [27-9-2019] (AAR-Kar)		32
* AAR - Rental or leasing services involving own or leased non-residential property - Taxable in the hands of the landlord and is liable for GST at the rate of 18 percent - SAC 997212. Sri DMS Hospitality Pvt. Ltd. [25-9-2019] (AAR-Kar)		29
* AAR - Renting - Renting of temporary residential rooms for consideration to the devotees and renting of space for shops and stalls taxable. Acharya Shree Mahashraman Chaturmas Pravas Vyavastha Samiti Trust [30-9-2019] (AAR-Kar)		36
* AAR - Renting of commercial space - The services provided by the Central Warehousing Corporation to the applicant is actually a renting, of an immovable property and not storage service of goods - The said service is covered under SAC 997212 84 is liable to a CGST of 9% and SGST of 9 %. Karnataka Food & Civil Supplies Corp. [30-9-2019] (AAR-Kar)		39

- * **AAR - Reverse charge** - Leasing of Govt. land to the applicant to carry out the activity of the mining. **JSW Steel Ltd. [21-9-2019] (AAR-Kar)** 22
- * **AAR - Rice** - Sales under Registered Brand name are liable to GST @ 5%. **Sri Balaji Rice Mill [23-9-2019] (AAR-Kar)** 25
- * **AAR - Royalty** - Royalty paid in respect of Mining Lease is a part of the consideration payable for the Licensing services for right to use minerals including exploration and evaluation falling under the Head 9973. **N.M.D.C. Ltd. [21-9-2019] (AAR-Kar)** 22
- * **AAR - Royalty** - Royalty paid in respect of Mining Lease is a part of the consideration payable for the Licensing services for right to use minerals including exploration and evaluation falling under the Head 9973. **Naren Rocks and Mines Pvt. Ltd. [21-9-2019] (AAR-Kar)** 23
- * **AAR - Seats for Railway Coaches** - The product falls under Heading 9401 and attract GST at 18%. **Sutlej Coach Products Pvt. Ltd. [29-8-2019] (AAR-Pun)** 43
- * **AAR - Services to Government** - The Applicant's services of road construction and irrigation to the State Government is eligible for exemption. **Sumitabha Ray [23-9-2019] (AAR-WB)** 53
- * **AAR - Sewerage projects** - Any activity in relation to any function entrusted to a Panchayat or Municipality under Article 243G or Article 243W of the Constitution of India are exempt. **Sewerage & Infrastructural Development Corporation of Goa Ltd. [30-9-2019] (AAR-Goa)** 2
- * **AAR - Solar power plant** - The supply of turnkey EPC Contract for construction of solar power plant wherein both goods and services are supplied can be construed to be a composite Supply. **Brightstone Developers Pvt. Ltd. [30-9-2019] (AAR-Kar)** 38
- * **AAR - Spares** for use in the Warships, Vessels and Submarines meant for Indian Navy and Shipbuilders (excluding consumables and raw materials) attracts 5% GST. **Bharat Electronics [26-8-2019] (AAR-Kar)** 3
- * **AAR - Spares** - The supply by the applicant is not to the consumer, but to JNSIPL, Maharashtra and the delivery is to the ultimate consumer on account of JNSIPL, Maharashtra. **Juniper Networks Solution Pvt. Ltd. [27-9-2019] (AAR-Kar)** 33

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* AAR - Stipend reimbursement - The reimbursement of the stipend paid to the trainees does not attract tax under the GST Acts. Cadmaxx Solutions Education Trust [25-9-2019] (AAR-Kar)		27
* AAR - Subsidy amount - The subsidy amount received from the Government for the supply of service of food to the ultimate beneficiaries (consumers) in Indira Canteens is excluded from the definition of consideration. Rashmi Hospitality Services Pvt. Ltd. [20-9-2019] (AAR-Kar)		21
* AAR - Sun cured tobacco leaves - The goods are cured once and hence are no longer plain tobacco leaves - The goods undergo the process of curing and hence are covered under tariff heading 2401 10 20 and taxable @ 28%. Sringeri Yogis Pai [26-9-2019] (AAR-Kar)		31
* AAR - Supplies by the principal to the job worker - Value of the goods provided by principal (WIPL) would not form the part of the value of the supply and must be excluded while valuing the supply. Hical Technologies Pvt. Ltd. [12-9-2019] (AAR-Kar)		4
* AAR - Supplies to the foreign going vessels shall be treated neither as a supply of goods nor services. Shewratan Company Pvt. Ltd. [11-11-2019] (AAR-WB)		53
* AAR - Supply of service to Govt. entity - KRIDL is a Government Entity and the services provided by the applicant to KRIDL are exempt. Roopesh Kumar [27-9-2019] (AAR-Kar)		34
* AAR - Supply of services by another person through the e-commerce platform operated by the applicant. Humble Mobile Solutions Pvt. Ltd. [19-9-2019] (AAR-Kar)		17
* AAR - Supply of stores to foreign going vessels is not export or zero-rated supply, unless it is marked specifically for a location outside India. Shewratan Company Pvt. Ltd. [21-10-2019] (AAR-WB)		53
* AAR - Support Services - The back-end support services is classifiable as "Support Services" under the Tariff Heading 9985. Fulcrum Info Services LLP [19-9-2019] (AAR-Kar)		16
* AAR - Tamarind - Tamarind which has not undergone the process of direct drying in sun or by industrial process is classifiable under CTH '08109020'. Murali Mogan Firm [26-9-2019] (AAR-TN)		50

* **AAR - TDS** - The applicant is not cover under any of the clauses of the Section 51(1) of the CGST Act 2017 and hence is not liable to get registered to undertake TDS deduction. **Karnataka Co-operative Milk Producers Federation Ltd. [12-9-2019] (AAR-Kar)** 5

* **AAR - Technical testing and analysis** - The activity of technical testing and analysis carried out by the applicant is a “supply of services” under the GST Acts. **Krish Biotech Research Pvt. Ltd. [30-9-2019] (AAR-Kar)** 39

* **AAR** - The Applicant and the other two co-owners of immovable property cannot be treated as an association of persons. **Rabi Sankar Tah [21-10-2019] (AAR-WB)** 54

* **AAR** - The applicant is providing management services in marketing as an intermediary with a HSN Code of 9983 11. **Rajendran Santhosh [20-9-2019] (AAR-Kar)** 20

* **AAR** - The composite works carried out by the applicant for the Corporation are predominantly meant for trade and commerce - The applicant is therefore not eligible for the concessional rate. **Maxwell Electrical Engineers [17-9-2019] (AAR-Kar)** 12

* **AAR** - The question raised by the applicant has already been decided by the Gujarat Authority for Advance Ruling in appellant’s own case, therefore, the instant application is liable for rejection. **Hindustan Coca-cola Beverages Pvt. Ltd. [30-9-2019] (AAR-Kar)** 39

* **AAR - Timber** - The transaction of depositing timber with the Government Timber depot for disposal would amount to “supply”. **Tata Coffee Limited [27-9-2019] (AAR-Kar)** 35

* **AAR - Time of supply** - When the license for renting of immovable property is in force, but the licensee does not pay or pays only partially the periodical license fee to the applicant as agreed in the lease agreement. **Chennai Port trust [26-9-2019] (AAR-TN)** 48

* **AAR - Time of supply** - When the license for renting of immovable property has expired and not in force but the licensee continues to be in Possession and occupation of the immovable properties. **Chennai Port Trust [26-9-2019] (AAR-TN)** 49

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* AAR - Transfer of assets - Transfer of assets fastened to the building on delivering possession to the lessor free shall amount to supply. Aquarelle India Pvt. Ltd. [20-9-2019] (AAR-Kar)		18
* AAR - Trucks and its spare parts - Supply to Public Funded Research Institutions - Eligible for a reduced rate of tax. VE Commercial Vehicles Limited [27-9-2019] (AAR-Kar)		36
* AAR - Value of service - The value of the monthly passes issued plus the facilitation charges charged by the applicant and such other amounts which form the part of the value of supply as specified in Section 15 would be the value of supply of the services provided by the applicant to the commuters. Ascendas Services (India) [30-9-2019] (AAR-Kar)		37
* AAR - Wind Turbine Generator - The Supply of Used Wind Turbine Generator (WTG) or Wind Mill with accessories is a composite supply of Wind Mills taxable @5 %. Sameera Trading Co.[25-9-2019] (AAR-Kar)		28
* AAR - Wood logs - Removing the rough wood after cutting the trees and appropriating the wood logs under contract is taxable. Kohinoor Woods [24-9-2019] (AAR-Kar)		26
* AAR - Wood logs - Wood logs - or any kind of wood in the rough/timber, including the wood in rough/log/timber used for pulping falls under heading 4403 and attract GST at the rate of 18%. Shree Rajarajeshwari & Co. [12-9-2019] (AAR-Kar)		6
* AAR - Works contract services - The projects of the applicant are involving the supply of both goods and services and is in relation to an immovable property and hence is a “works contract”. Gowri Infra Engineering Pvt. Ltd. [16-9-2019] (AAR-Kar)		8
* AAR-CG - Reverse Charge - Security services - Applicability of GST under Notification No. 29/2018-Cenfral Tax (Rate), dated 31-12-2018 on service provider providing security services to the university registered as a Tax Deductor - A Tax deductor under Section 51 would not be liable for under reverse charge, in view of the exclusions - From 25-6-2019, the applicant having been registered as a regular dealer would be liable to tax under Reverse charge. Hemchand Yadav Vishwavidyalaya, Durg (AAR-CG)		323

- * **AAR-CG - Sale / booking of units** - The date of issuance of completion certificate by the competent jurisdictional authority shall be considered as the date of completion of the property and if the entire amount of consideration has been received after such date of completion, then that would not be treated as a taxable service - Para 5 of Schedule-III to the CGST Act, 2017. **Bilaspur Infrastructure Pvt. Ltd. (AAR-CG)** **311**

- * **AAR-MP - Advance Ruling** - The Authority shall not admit the application where the question raised in the application is already decided in any proceedings in the case of an applicant. **Innovative Clad Solutions (ICS), Pithampur (AAR-MP)** **368**

- * **AAR-MP - Bio Processed Meal** - Preparation of a kind used in Animal Feeding 'Bio Processed Meal' is not entitled to classify under HS Code 23099090. **Vippy Industries Ltd., Dewas (AAR-MP)** **353**

- * **AAR-MP - Coal beneficiation** - Coal beneficiation services fall under the purview of SAC 9997 and is chargeable at the rate of 18% GST. **Madhya Pradesh Power Generating Company Limited (AAR-MP)** **111**

- * **AAR-MP - Coal beneficiation and transportation services** - Transportation services fall under the SAC 9965 and is chargeable to tax @ 12% but if supplier does not avail Input tax credit the GST Rate would be 5%. The services of coal beneficiation and transportation are two different supplies. **Madhya Pradesh Power Generating Company Ltd. (AAR-MP)** **111**

- * **AAR-MP - Development of the raw land into residential plots** - The applicant cannot be classified under Para 5 of Schedule III - It amounts to supply of services under works contract and is liable to be taxed under GST Act. **Vidit Builders, Jabalpur (AAR-MP)** **360**

- * **AAR-MP - Fitness Centre cum Gym** - Needless to mention that such work shall not qualify for exemption, in as much as it does not fall within the scope of work entrusted by Government of Madhya Pradesh to MPPGCL. **Kalyan Toll Infrastructure Ltd., Indore (AAR-MP)** **96**

- * **AAR-MP - Fried Fryums** - The product 'Fried Fryums' is classifiable under Tariff Item 2106 90 99 of the First Schedule to the Customs Tariff Act, 1975 - CGST 9% + MPGST 9% or IGST 18% is applicable. **Alisha Foods, Ujjain (AAR-MP)** **117**

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* AAR-MP - Input tax credit - No input tax credit is admissible on the goods and services used in the construction of Warehouse constructed by the applicant for letting out on rent - Section 17(5) of M.P. GST Act, 2017. Unity Traders, Jabalpur (AAR-MP)		305
* AAR-MP - Promotion of Research and publishing online research journal - Promotion of Research and activity of Performing and publishing online research journal does not fall under Charitable Activity under Notification No 12/2017 – CT (R) and corresponding notification issued under MPGST Act. World Researchers Associations, Indore (AAR-MP)		103
* AAR-MP - Rural Electrification including distribution of Electricity - The services received by the applicant eligible for claiming benefit in area covered under Panchayat limits under Article 243G. Madhya Pradesh Paschim Kshetra Vidyut Vitran Co. Ltd. (AAR-MP)		373
* AAR-MP - Sub judice - The application filed by the applicant was rejected as not admissible in terms of first Proviso to Section 98(2) of the GST Act 2017, since the issue was already pending before another authority when the application was made before AAR. Anik Milk Products Private Limited, Indore (AAR-MP)		108
* AAR-MP - Transportation services - Transportation of students and staff of the contracee's Institute under contract carriage by non-air conditioned buses is exempt from GST. Bhavika Bhatia, Indore (AAR-MP)		86
* AAR-MP - Utility Van - Utility Vehicles, predominantly designed for transportation of goods conforming to the norms of Category N vehicles as per Automotive Industry Standards AIS 053, shall merit classification under Chapter 8704 of the GST Tariff. Force Motors Limited, Pithampur (AAR-MP)		90
* AAR-MP - Works contract - Turnkey Contract - The whole contract is a single contract but the activities are defined and segregated, with the values for each segregated supply - Taxed accordingly. Vihan Enterprises (AAR-MP)		379
* Alternative remedy - The Writ Petition filed directly challenging the assessment/re-assessment order is not maintainable in view of existence of alternative remedy of appeal under Section 48 of the VAT Act. State of Chhattisgarh & Others Vs. Tata Teleservices Limited (CG)		64

* **Anti-profiteering measure** - Respondent has denied benefit of ITC to the buyers of the flats being constructed by him in his Bounty Acres project in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and has thus resorted to profiteering - The authority under Rule 133 (3) (a) of the CGST Rules, 2017 ordered that the Respondent shall reduce the prices to be realized from the buyers of the flats commensurate with the benefit of ITC received by him. **Santha Sivaram & Other Vs. Virgo Properties Pvt. Ltd. (NAA)** 162

* **Detention of goods** - Section 129 of Kerala GST Act, 2017 - Goods and vehicle detained on the ground that the consignor and consignee are two different entities with different GSTINs and the transaction in question was supposedly a stock transfer - The High Court directed the respondents to release the vehicle and goods on furnishing bank guarantee for the tax and penalty amount. **Daiwik Motors Vs. The Assistant Tax Officer & Others (Ker)** 187

* **Detention of goods** - The Chhattisgarh High Court opined that under valuation of a good in the invoice cannot be a ground for detention of the goods and vehicle for a proceeding to be drawn under Section 129 of the Central Goods and Service Tax Act, 2017 read with Rule 138 of the Central Goods and Service Tax Rules, 2017. **K.P. Sugandh Ltd. Vs. State of Chhattisgarh (CG)** 411

* **Detention, seizure and release of goods and conveyances in transit** - Section 129 of CGST Act, 2017 - The goods were coming from Ahmadabad and are to be delivered at Meerut - Both the parties are registered and goods were accompanied with all the requisite documents including Gujarat away bill dated 21-3-2018, therefore, there was no ground to hold that the goods were coming in contravention of the provision of GST Act/Rule. **Harley Foods Products Pvt. Ltd. Vs. State of U.P. & 3 Others (All)** 255

* **Detention, seizure and release of goods and conveyances in transit** - Section 129 of CGST Act, 2017 - Service - The High Court viewed that the order was served on the driver and, therefore, was definitely not served on a person who would have been aggrieved by the order and, therefore, the service on the driver was no service at all. **Jindal Pipes Limited Vs. State of U.P. & 3 Others (All)** 267

* **Determination of Tax** - The petitioner cannot escape his liability of payment of GST under Act of 2017, especially when he has filed GSTR-

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1 and has quantified the tax payable by him while submitting the GSTR-1.		
Kabeer Reality Vs. Union of India (MP)		65
* Ex parte order - The order passed by the appellate authority is an ex parte order and that the petitioner was never served with the notices issued so far as hearing on the appeal is concerned - The High Court remitted matter back to the Joint Commissioner Appeal for rehearing. Skipper Ltd. Vs. State of Chhattisgarh (CG)		
		79
* GST - Constitutional validity - Circular dated 5-7-2017 issued by the CBIC, assigning functions of 'Proper Officer' under the CGST Act, 2017 and Notification dated 1-7-2017 - The CG High Court found that the challenge raised against Circular and Notification with reference to the competence of the issuing authority and the manner of issuance does not hold any water at all. Ravi Agarwal Proprietor of M/s. Yamuna Trading Corporation Vs. Union of India & Others (CG)		
		147
* GST - Detention, seizure and release of goods and conveyances in transit - Vehicle intercepted and notice issued to driver - The High Court opined that the petitioner as such as of now would not have any grievance so far as demand notice is concerned in view of the fact that the owner has subsequently entered appearance in the same proceeding and is contesting the case on merits. Shankar Yadav Vs. State of Chhattisgarh & Others (CG)		
		200
* GST - TRAN-1 - The High Court directed the respondents to either open the online portal so as to enable the petitioner to file the Form TRAN-1 electronically, or to accept the same manually - Respondents shall process the petitioner's claim in accordance with law once the Form GST TRAN-1 and GST TRAN-2 both are filed. Soni Traders Vs. Union of India & Ors. (Del)		
		182
* GST - Transitional credit - The due date contemplated under Rule 117 of the CGST Rules for the purposes of claiming transitional credit is procedural in nature and thus should not be construed as a mandatory provision. Siddharth Enterprises Vs. The Nodal Officer (Guj)		
		236
* GST - Transitional credit - The entitlement of credit of eligible duties on the purchases made in the pre-GST regime is a vested right and, therefore, it cannot be taken away by virtue of Rule 117 of the Central GST Rules, 2017, with retrospective effect for failure to file the form GST Tran- 1.		

Siddharth Enterprises Vs. The Nodal Officer (Guj) 236

* **GST TRAN- 1** - It is not fair to expect that each person who may not have been able to upload the Form GST TRAN-1 should have preserved some evidence, when the systems of the Repsondents were not efficient - The High Court directed the respondents to either open the online portal to file the Form TRAN-1 electronically, or to accept the same manually. **A.B. Pal Electricals Pvt. Ltd. Vs. Union of India (Del) 244**

* **GST TRAN-1** - The High Court allowed the petition with permission/ modification to file the said Statutory Form TRAN-1 by 31-1-2020 - It is clarified that in case the petitioner is hampered in any manner from availing the benefit due to non opening of the Portal by the Respondents, then the petitioner shall be permitted, in the alternative to claim the benefit of unutilized credit in their GST-3B Forms to be filed for the month of February, 2020 either electronically or manually. **Kay Ess Surgico Vs. Union of India (P&H) 269**

* **GST TRAN-1** - The High Court directed the respondents to permit the petitioner to file their TRAN-1 Forms either electronically or manually. **Leo Distributors Vs. The Commissioner of State GST (Ker) 264**

* **GST TRAN-1** - The High Court directed the respondents to permit the petitioner to file TRAN-1 either electronically or manually statutory form(s) TRAN-1 on or before 31-12-2019 - The respondents are at liberty to verify the genuineness of the claim of the petitioner and its claim shall not be denied only on the ground that the same was not filed by 27-12-2017. **Jay Bee Industries Vs. Union of India (HP) 271**

* **GST TRAN-1** - The High Court directed the respondents to permit the petitioners to file or revise where already filed incorrect TRAN-1 either electronically or manually statutory Form(s) TRAN-1 on or before 30th November 2019 - The Respondents are at liberty to verify genuineness of claim of Petitioners but nobody shall be denied to carry forward legitimate claim of CENVAT/ITC on the ground of non-filing of TRAN-I by 27-12-2017. **Adfert Technologies Pvt. Ltd. Vs. Union of India (P&H) 277**

* **GST TRAN-1** - The mere fact that the petitioner cannot establish that the inability to upload the required details was on account of a system error, cannot be a reason for denying him the substantive benefit of carrying forward

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the credit - The High Court directed the respondents to permit the petitioner to file their TRAN-1 Forms either electronically or manually. Kalpaka Distributors Pvt. Ltd. Vs. Union of India (Ker)		260
* GST Tran-1 - The petitioner had infact never tried to fill TRAN-1 within the stipulated period or within the extended period and also was not able to take advantage of circular dated 3-4-2018 if at all if he had bonafidely tried to fill TRAN-1. Jagadamba Hardware Stores Vs. Union of India & Others (CG)		202
* GST TRAN-1 - The Supreme Court dismissed the Special Leave Petition filed against the order of the Punjab and Haryana High Court (2020) 64 TLD 277 (P&H) in which the High Court directed the revenue to permit the petitioners to file or revise where already filed incorrect TRAN-1 either electronically or manually statutory Form(s) TRAN-1 on or before 30th November 2019. Union of Inia & Ors. Vs. Adfert Technologies Pvt. Ltd. (SC)		304
* GSTR 9 and GSTR 9C - Non-functionality of the portal due to technical bottlenecks - The Rajasthan High Court directed that the petitioner Association and the assessee, may keep uploading their returns at the earliest possible and no late fee shall be charged till 12-2-2020. Tax Bar Association Vs. Union of India & Ors. (Raj)		188
* GSTR 9 and GSTR 9C - The Supreme Court stayed that part of the order of the Rajasthan High Court reported in (2020) 64 TLD 188 which has extended the deadline for submitting the returns - The capacity for on-line processing of GST applications is extremely limited, therefore, also directed the UOI to look into this problem and come out with a solution in accordance with the aforesaid capacity as soon as is practicable. Union of India Vs. Tax Bar Association & Ors. (SC)		235
* H Form - The High Court held that if the appellate authority is satisfied that assessee was prevented by reasonable and sufficient cause which disabled him to file the forms in time, it can be accepted - It can also be accepted as additional evidence in support of the claim for deduction. Itarsi Oils and Flours Pvt. Ltd. Vs. State of Madhya Pradesh & others (MP)		126
* Interest - Demand of interest on Gross GST without considering the Input Tax Credit - The Gujrat High Court directed the respondents not to take		

any coercive steps for the purpose of recovery of the interest. **Amar Cars Private Limited Vs. Union of India (Guj)** 207

* **Interest** - Section 50 of CGST Act, 2017 - The liability fastened on the assessee to pay interest is an automatic liability, quantification of such liability certainly needs an arithmetic exercise after considering the objections if any, raised by the assessee. It is to be noted that the term “automatic” does not mean or to be construed as excluding “the arithmetic exercise”. **The Assistant Commissioner of CGST & Central Excise & Other Vs. Daejung Moparts Pvt. Ltd. (Mad)** 208

* **Interest on delayed payment of tax** - Section 50 of CGST Act, 2017 - The proper application of Section 50 is one where interest is levied on a belated cash payment but not on ITC available all the while with the Department to the credit of the assessee. The latter being available with the Department is, in my view, neither belated nor delayed. **Refex Industries Limited Vs. The Asst. Commissioner of CGST & Central Excise (Mad)** 228

* **Ocean Freight** - No tax is leviable under the Integrated Goods and Services Tax Act, 2007, on the ocean freight. **Mohit Minerals Pvt. Ltd. Vs. Union of India & 1 other (Guj)** 242

* **Reasonable opportunity** - The High Court held that the Appellate Authority passed the order by assigning reasons which cannot stand the test of reasonableness as authority fails to even address the issue in its right perspective - The Court viewed that the power of judicial review deserves to be exercised u/Art.226 of Constitution in favour of the petitioner. **Munesh Enterprises, Guna Vs. State of M.P. (MP)** 404

* **Reference** - Footwear made of PVC, chappals made of rubber and straps there of the sale price of which does not exceed Rs.50/- per pair - The High Court opined that the M.P. Commercial Tax Appellate Board was justified in holding that the exemption granted from payment of tax is not a general exemption and the assessee is not entitled to the benefit of exemption from payment of tax under Section 8 (2A) of the Central Sales Tax Act, 1956. **Laksons Shoes Private Limited Vs. The Commissioner of Commercial Tax (MP)** 395

* **Reference** - Section 70(1) of M.P. Commercial Tax Act, 1994 - Entry Tax - SIM Cards - SIM Cards are not goods and do not fall under the ambit

of Sec. 3(1) of the Entry Tax Act, 1976 and, therefore, the questions of law are answered in favour of the assessee - The question of imposition of Entry Tax on SIM Cards does not arise. **Reliance Telecom Ltd. Vs. Commercial Tax Department (MP)** 132

* **Refund** - Refund of the IGST in connection with the goods exported, i.e. 'zero rated supplies' - The circular cannot run contrary to the statutory rules, more particularly, Rule 96 - The circular explains the provisions of the drawback and it has nothing to do with the IGST refund - The writ-applicant is entitled to claim the refund of the IGST. **Amit Cotton Industries Vs. Principal Commissioner of Customs (Guj)** 239

* **Refund** - Section 54 of CGST Act, 2017 - The system limitations cannot be a justification to deny the relief, to which the Petitioner is legally entitled - The High Court rejected the hyper technical objections sought to be raised by the Respondents - to the effect, that no refund can be granted, because the system did not reflect any credit lying in the ITC ledger of the Petitioner for the months of July and August, 2017. **Vision Distribution Pvt. Ltd. Vs. Commissioner, State Goods & Services Tax & Ors. (Del)** 251

* **Review** - The 'review power' can be invoked only when there is any 'error apparent on the face of record' and it is not a substitute for appeal - GST - Constitutional validity - Circular dated 5-7-2017 issued by the CBIC, assigning functions of 'Proper Officer' under the CGST Act, 2017 and Notification dated 1-7-2017. **Mangal Commercial Pvt. Ltd. Vs. Union of India (CG)** 193

* **SARFESI Act, 2002** - Non-compliance of the mandatory statutory compliance as required under Section 13 (3A) of the Act and Rule 3A(c) of the Rules of 2002 will vitiate all subsequent proceedings. **Chhattisgarh Aviation Academy & Other Vs. Punjab National Bank (CG)** 224

* **SARFESI Act, 2002** - The said Act shall not apply to creation of any security in any aircraft. **Chhattisgarh Aviation Academy & Other Vs. Punjab National Bank (CG)** 224

* **TRAN-1** - The Delhi High Court held that in terms of the residuary provisions of the Limitation Act, the period of *three years* should be the guiding principle - All the Petitioners have filed or attempted to file Form TRAN-1 within the aforesaid period of three years they shall be entitled to avail the Input Tax Credit and permitted to file relevant TRAN-1 Form on

or before 30-6-2020 - The High Court also opined that other similarly situated taxpayers should also be entitled to avail the benefit of this judgment.

Brand Equity Treaties Ltd. Vs. The Union Of India (Del) 330

* **TRAN-1** - The Delhi High Court held that nevertheless, all things considered, in spite of the amendment, we can say without hesitation that the decision of this court in Brand Equity reported in (2020) 64 TLD 330 is not entirely resting on the fact that statute [CGST Act] did not prescribe for any time limit for availing the transition of the input tax credit - There are several other grounds and reasons enumerated in the said decision and discussed hereinafter, that continue to apply with full rigour even today, regardless of amendment to Section 140 of the CGST Act. **SKH Sheet Metals Components Vs. Union Of India (Del) 332**

* **Transitional arrangements for input tax credit** - Section 140 of CGST Act, 2017 - Any credit carried forward, without restriction of eligibility or otherwise, can be transitioned - Transitional credit allowed on Education Cess (EC), Secondary and Higher Education Cess (SHEC) and Krishi Kalyan Cess (KKC). **Sutherland Global Services Pvt. Ltd. Vs. Assistant Commissioner CGST & Central Excise & Others (Mad)**

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Chart Showing LATE FEES/INTEREST PAYABLE on delay in filing of GSTR-3B by the dealers having TURNOVER UPTO 5 CRORE in preceding F.Y. for Category- I States () (Noti No. 51 & 52/2020 -Central Tax dtd. 24-06-2020)**

Liability of INTEREST on delay in filing of GSTR-3B					Liability of LATE FEES on delay in filing of GSTR-3B	
Tax Period	Due Date	No interest if GSTR-3b filed on or before following dates	Interest @ 9% if GSTR-3b filed on or before following dates	Interest @ 18% w.e.f. 01/10/20 if GSTR-3b filed on or after following dates	No Late Fees payable if GSTR-3b filed on or before following dates	Late Fees from the Original Due Date if GSTR-3B filed on or after following dates
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Feb	22/03/2020	30/06/2020	From 01/7/20 to 30/09/20	01/10/2020	30/06/2020	01/07/2020
March	22/04/2020	03/07/2020	From 04/7/20 to 30/09/20	01/10/2020	03/07/2020	04/07/2020
April	22/05/2020	06/07/2020	From 07/7/20 to 30/09/20	01/10/2020	06/07/2020	07/07/2020
May	22/06/2020	12/09/2020	From 13/09/20 to 30/09/20	01/10/2020	12/09/2020	13/09/2020
Jun	22/07/2020	23/09/2020	From 24/09/20 to 30/09/20	01/10/2020	23/09/2020	24/09/2020
July	22/08/2020	27/09/2020	From 28/09/20 to 30/09/20	01/10/2020	27/09/2020	28/09/2020

Note - It is to be Noted that the date of filing of GSTR-3B has not been extended but the Late Fees has been waived on certain conditions. If the condition is not fulfilled then the Late Fees will attract from the original due date.

There will be no Liability of Interest upto the dates specified in Column (3) above. Further Interest shall be charged @9% for the period specified in Column (4) and @18% from the date specified in Column (5) viz from 01.10.2020.

** Chattisgarh, M.P., Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana/Andhra Pradesh or Union Territory Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

Compiled by R.S. Goyal, Tax Consultant, Indore

**GOVERNMENT OF MADHYA PRADESH
COMMERCIAL TAX DEPARTMENT
MANTRALAYA, VALLABH BHAVAN, BHOPAL-462004**

:: NOTIFICATION ::

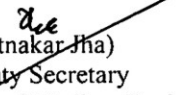
Bhopal, Dated 30 June, 2020

F A 3-40/2018/1/V(42): In exercise of the powers conferred by sub-section (8) of section 20 of the Madhya Pradesh Vat Act, 2002 (No 20 of 2002), the State Government hereby, makes the following further amendment in this department's notification No. F A 3-40-2018-1-V-(64) dated 27-09-2019 and No. F A 3-46-2019-1-V-(91) dated 29-11-2019 namely:-

AMENDMENT

In the said notifications, for the word and figure "30th June 2020", the word and figure "31st December 2020" shall be substituted.

By Order and in the name of
Governor of Madhya Pradesh


(Ratnakar Jha)
Deputy Secretary
Government of Madhya Pradesh
Commercial Taxes Department

History of Amendment

- ◆ **Noti.No. (64) dtd. 27-09-2019** - 01-04-2017 to 30-06-2017 extended upto 29-02-2020 & for all remaining cases extended upto 30-11-2019 not completed upto 30-09-2019.
- ◆ **Noti.No. (90) dtd. 29-11-2019** - Amendment in Noti.No. (64) dtd. 27-09-2019 for "30-09-2019" the figure 30-11-2019 substituted and for "30-11-2019" the figure 31-12-2019 substituted.
- ◆ **Noti.No. (91) dtd. 29-11-2019** - Date extended upto **29-02-2020** for pending cases which have to be completed by the end of calendar year 2019 i.e. 31-12-2019.
- ◆ **Noti.No. (12) dtd. 29-02-2020** - Amending (64) dtd. 27-09-2019 and (91) dtd. 29-11-2019 period extended upto **30-06-2020** not completed upto 29-02-2020.

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