ACUPRO CONSULTING

WEEK 2, APRIL2023

# THE GST PULSE

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# Recent Judgement and Rulings

## *SUPERINTENDENT OF CENTRAL TAX TO PASS ORDERS FOR REVOKING THE CANCELLATION OF GST REGISTRATION ON FILING OF RETURNS*

### *HON'BLE KARNATAKA HIGH COURT*

M/s SP Metals ("The Petitioner") stated that officials from the department ("The Respondent") visited their business premises on October 11, 2022, and seized certain invoices and documents under a Mazhaar. The Petitioner was arrested and put into judicial custody from November 15, 2022 to December 8, 2022. During this time, a Show Cause Notice was issued to the petitioner, alleging that they had issued invoices and bills without actual supply of goods or services in violation of the provisions of the CGST Act, 2017 and the Rules. This enabled wrongful availing or utilizing of input tax credit or refund of tax.

The Petitioner contented that their GST registration was cancelled by the respondent while he was in the custody, without giving them an opportunity to respond to the Show Cause Notice. The respondent contented that the cancellation was a result of their investigation against the Petitioner's issuance of invoices without actual supply of goods or services. The Respondent further, contended that the cancellation of the GST registration could be revoked if the petitioner furnished the returns for the period during which they had not filed them, as a condition for revocation.

The High court directed the petitioner to file returns within a period of four weeks from the date of receipt of a certified copy and permitted the Superintendent of Central Tax (The Respondent) to pass appropriate orders within a period of two weeks regarding the revocation of the cancellation of the GST registration provided that the petitioner files the required returns.



# DELHI HC DIRECTS PETITIONER TO REVEAL DETAILS OF HIS FRIEND WHO FRAUDULENTLY OBTAINED GST REGISTRATION

## HON'BLE DELHI HIGH COURT

Anil Kumar ("The Petitioner") is a street vendor who claims that he holds a valid vending certificate. Recently, the petitioner became aware that a GST registration had been obtained in the petitioner's name without his knowledge. The Petitioner was in the process of obtaining a GST registration for his business when it was discovered that a firm named M/s Sheel Industries had already been registered under the petitioner's identity by unknown persons who had misused his identity. The firm is registered with the GST Department and is currently active.

The Petitioner contended that a demand for GST may be raised against M/s Sheel Industries on account of the fraudulent activities by the individual who have registered a firm under his name. The unknown individual have been filing returns without the petitioner's knowledge. The petitioner also filed a complaint with the Delhi Police. In a declaration, The petitioner stated that he had given his Aadhar Card and PAN Card, to a friend for the purpose of obtaining a loan. The petitioner suspects that his documents have been misused. However, the petitioner has not disclosed the name of the friend in the petition.

The Delhi High Court directed the Petitioner to disclose the identity of the friend to whom he claims to have given his identity documents to both the police authorities and the state GST authorities. The petitioner is expected to fully cooperate with the concerned authorities and provide them with any necessary information. The court instructed the Commissioner GST/State GST Authorities to investigate the petitioner's complaint according to the law and treat the petition as a formal representation.



# TOBACCO LEAVES OR TOBACCO BHUKKO PURCHASED FROM FARMERS WILL BE SUBJECT TO A 5% GST UNDER RCM.

## THE GUJARAT AUTHORITY FOR ADVANCE RULING

M/s. JCP Agro Process P Ltd. (“the applicant”) is involved in the procurement of raw tobacco from farmers and subsequently selling unmanufactured tobacco. The applicant has requested an advance ruling on whether the reverse charge mechanism applies on the purchase of raw tobacco from farmers, including naturally broken tobacco known as 'tobacco leaves' or 'tobacco bhukko’. Another issue raised by the applicant is the applicable tax rate for coating processes carried out on unmanufactured tobacco.

The applicant argues that the coating is intended to preserve the characteristics of the unmanufactured raw tobacco leaf for a longer period. It helps to retain the nicotine content and protects the leaf from damage caused by bugs, and not affected by natural moisture due to the coating.

The Gujarat Authority for Advance Ruling (AAR) has held that the purchase of tobacco leaves or bhukko from farmers will be subject to a 5% Goods and Services Tax (GST) under the reverse charge mechanism (RCM). Additionally, the AAR has ruled that if the applicant supplies unmanufactured tobacco leaf that has been coated with natural edible gum, they will be required to pay 28% GST.



# Thank You!


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