ACUPRO CONSULTING

WEEK 3, APRIL2023

THE GST PULSE

ONE PLACE FOR ALL THE UPDATES



Recent Judgement and Rulings

ORISSA HC ORDERS FRESH ASSESSMENT DUE TO DIFFERENT AMOUNTS IN TAX INVOICE AND E-WAY BILL.

HON'BLE ORISSA HIGH COURT

M/s. Jena Trading (The Petitioner) has sought directions to set aside the demand and Form GST DRC-07, to quash the attachment of the petitioner's bank account, and to allow the petitioner to file a reply to the show cause notice. The petitioner created a tax invoice for a taxable amount of Rs. 1,97,047.86, using a self-generated document since they do not have access to a computer. However, the law requires that a computer-generated invoice be produced. As a result, an e-Way Bill was generated, which erroneously indicated the total taxable amount as Rs. 1,970,470.86, due to a typographical error.

The petitioner contendedthat an error was made in entering the paise as rupees in their tax invoice, resulting in a significant overstatement of the taxable amount. The petitioner, being a small dealer, requested that the mistake to be rectified. In response, The department contended that an assessment order was issued by the assessing authority under Section 74 of the OGST (Orissa GST)Act due to insufficient filing of a return for the period 2019-20, and an online notice was issued in DRC-01 but no response was received from the petitioner. However, the department stated that the assessment order could be reconsidered in accordance with the law if the petitioner approaches the assessing authority.

The Orissa High Court held that there was a discrepancy between the amounts mentioned in the tax invoice and the e-Way Bill, due to an error. The court directedthat if this issue is brought to the attention of the assessing authority, they should consider the matter and issue a fresh assessment order in compliance with the law.



SALE/TRANSFER OF AN INDEPENDENT RUNNING BUSINESS DIVISION ATTRACTS 18% GST

THE KARNATAKA AUTHORITY FOR ADVANCE RULING

M/s PICO2FEMTO Semiconductor Services PrivateLimited (The Applicant) has entered into a a business transfer agreement with M/s Tessolve Semiconductor Private Limited, executed in writing on stamp paper of requisite value in Bengaluru, India. The applicant sold their independent running business that primarily provides engineering services related to semiconductor services, along with all assets and liabilities, as a going concern under the terms of the Business Transfer Agreement or Business Sale Agreement.

The issue raised was whether the transaction of selling or transferring an independent running business division of the applicant, along with all its assets and liabilities, would be considered a "supply" under Section 7 of the CGST and SGST Acts.

The AAR held that the applicant (supplier) and the recipient of the supply are not related, and the price is the sole consideration for the supply. Therefore, the transaction value for the impugned supply is the price actually paid or payable. Since the transaction is classified as a financial service, it falls under SAC 997119, and the applicable GST rate is 18%. The applicant has to determine the value of the supply.



5% GST IS APPLICABLE ON THE SUPPLY OF PRE-PACKAGED AND LABELLED RICE UP TO 25 KG TO AN EXPORTER'S FACTORY.

THE HARYANA AUTHORITY FOR ADVANCE RULING

The applicant is engaged in the business of production and distribution of rice, providing pre-packaged and labelled rice packages to customers with quantities of up to 25 kilograms. The Applicant has sought an advance ruling on whether GST will be applicable to the export of pre-packaged and labelled rice weighing up to 25 kg to foreign purchasers.

An additional issue was brought up pertaining to whether GST would be applicable on the supply of pre-packaged and labelled rice, up to 25 kg, to an exporter following a 'bill to ship to' approach. This indicates that the exporter is billed for the rice, but it is shipped to the customs port for the final export to a foreign buyer.

The AAR held that the supply of pre-packaged and labelled rice weighing up to 25 kg is subject to a 5% GST as per Notification No. 06/2022-Central Tax (Rate) dated July 13, 2022, provided that two conditions are met. Firstly, the rice must be pre-packaged and labelled, and secondly, it must bear the necessary declarations under the Legal Metrology Act, 2009.



Recent Updates

ALL DOCUMENTS, INCLUDING INVOICES, CREDIT NOTES, AND DEBIT NOTES, FOR WHICH AN IRN IS TO BE GENERATED, ARE SUBJECT TO A 7-DAY RESTRICTION.

THE GOODS AND SERVICES TAX NETWORK(GSTN)

The GSTN has issued an Updated Advisory on April 13, 2023, regarding the time limit for reporting invoices on the e-invoice IRP portal. The government has decided to impose a time limit on reporting old invoices for taxpayers with AATO greater than or equal to 100 crores.

To ensure timely compliance, taxpayers in this category will not be permitted to report invoices older than 7 days from the date of reporting. It is important to note that this restriction applies to all document types for which IRN is to be generated, including credit and debit notes, which must be reported within 7 days of issue.

Taxpayers with AATO less than 100 crores are not currently subject to this reporting restriction. However, to allow taxpayers sufficient time to implement necessary changes to their systems, this requirement will be effective from May 01, 2023, onwards.



Thank You!

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