ACUPRO CONSULTING

WEEK 1, JANUARY 2023

THE GST PULSE

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Recent Judgements and Rulings

GST REGISTRATION NOT TO BE CANCELLED ON THE BASIS OF DIRECTION OF HEAD OFFICE WITHOUT ASSIGNING ANY REASON

HON'BLE KARNATAKA HIGH COURT

M/s S.B. Traders ("the Petitioner") is engaged in the business of purchase and sale of iron scrap. A show cause notice (SCN) was issued by the superintendent ("the Respondent") to the petitioner as to why GST registration of the petitioner should not be cancelled. No particulars of any fraud, willful misstatement or suppression were mentioned in the SCN. The Petitioner was directed to appear before the respondent on the next day of service of SCN and submit reply within seven working days. Further, GST registration of petitioner was suspended from the day of service of SCN itself. The petitioner submitted the reply after seven working days and on the same day, respondent passed an order to cancel the GST registration of the petitioner on basis of the directions of head office, but the same were not disclosed.

The applicant filed a petition claiming that the order passed by the respondent for cancellation of GST registrations without stating any reason is not valid.

The High Court observed that SCN for cancellation of GST registration should not have been issued in such a cavalier manner. Also, the court mentioned that suspending registrations on the basis of direction of the Head Office cannot be a reason for cancellation of GST registration. The Hon'ble High Court set aside the SCN and the impugned order passed by superintendent.



ITC DISALLOWED ON INPUTS USED FOR PIPELINES LAID OUTSIDE FACTORY PREMISES BEING NOT COVERED WITHIN 'PLANT AND MACHINERY'

THE AUTHORITY FOR ADVANCE RULING, MAHARASHTRA

M/s Mumbai Aviation Fuel Farm Facility Pvt. Ltd. ("the Applicant") is in the business of providing fuel infra services wherein the Automatic transmission Fluid of the oil public sector undertakings is stored in the storage tank. The Applicant is setting up a Connector Pipeline for Fuel Hydrant System in a way that 10 per cent of total length of Connector Pipeline is within their premises and rest of pipeline falls outside project sites.

The Applicant stated that the Connector Pipelines should be considered as the 'plant and machinery' integral to the facility serving the aircraft fueling needs. Hence, the Applicant should be entitled to claim ITC on the Goods and Services Tax ("GST") paid on works done for entire Connector Pipeline.

The AAR, Maharashtra observed that as per the provisions of section 17 of the CGST act, 2017; the Connector Pipeline laid outside the factory premises is not included in the definition of "Plant & Machinery". Hence it was held that the applicant will not be eligible to avail ITC on the inputs used for construction of connector pipeline outside the factory premises.



REFUND CLAIM SHOULD NOT BE REJECTED DUE TO DEFICIENCY OF GST NETWORK/SOFTWARE
HON'BLE GUJARAT HIGH COURT

Aartos International LLP ("the Petitioner") is engaged in the business of Ceramics and Tiles. The Petitioner exported the goods in the month of Feb-Mar 2020. Shipping bills along with Form GSTR-3B and Form GSTR-1 were tendered. The Petitioner however did not receive refund on one export invoice dated 6th February 2020 of INR 19,94,994/-. The Respondent submitted that refund invoice has not been paid by HDFC Bank on account of mismatch in the name of the Petitioner's firm. Further, it was stated by the Respondent that since the process of sanction of refund claim is automatic and system driven, the same will be taken up for processing the refund as and when the Shipping Bill will be available again in Scroll PC. Hence, the current petition was filed by the petitioner.

The Hon'ble high court opinioned that, when nothing is being disputed with respect to the two of the tax invoices wherein, the refund has already been credited in the account of the Petitioner, this appears to be a difficulty at the end of the GST network or some error in the software itself, which would require a cure. The court further mentioned that the Petitioner not to be dragged to the Court when there is nothing for the Court to adjudicate except pointing out the limitation of the software of the Respondent. Hence Hon'ble High Court directed Respondent to refund the amount of INR 19,94,994/- with interest at the rate of 6% and with all consequential benefits within a period of two weeks.



Recent Circulars

GST NOT APPLICABLE ON NO CLAIM BONUS
CIRCULAR NO.186/18/2022

This circular has been issued to clarify the taxability of No Claim Bonus offered by the insurance companies. The insured procures insurance policy to indemnify himself from any loss as per the terms of the policyand it is not under any contractual obligation for not to claim insurance claim during any period covered under the policy, in lieu of No Claim Bonus.

It is clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s). Hence, No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company.

Further, No Claim Bonus provided by the Insurance Company to the insured is to be considered as an admissible discount for the purpose of determination of value of supply provided by the insurance company to the insured, since Section 15(3)(a) of the CGST Act provides that the value of supply shall not include any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply and the insurance companies make the disclosure of the fact of availability of discount in form of No Claim Bonus to the insured in the insurance policy document itself and also provide the details of the no claim bonus in the invoices also.



Thank You!

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