ACUPRO CONSULTING

WEEK 4, JANUARY 2023

THE GST PULSE

ONE PLACE FOR ALL THE UPDATES



ITC ON SOLAR PANELS USED AS PLANT AND MACHINERY IS NOT ELIGIBLE AS THE SUPPLY OF ELECTRICITY EXEMPTED UNDER GST

THE AUTHORITY FOR ADVANCE RULING, TAMIL NADU

VBC Associates ("the Applicant") is a partnership firm engaged in the business of maintenance of the immovable property. The Applicant submitted that for the service of maintenance of the immovable property, they raise an invoice to the tenants, with applicable Goods and Services Tax ("GST"). A maintenance agreement was executed between the Applicant and "M/s Tamil Nadu Generation and Distribution Corporation Limited" for the wheeling of a solar power plant through a transmission and distribution network. The applicant is to provide maintenance services using the infrastructure available to him.

The Applicant sought an advance ruling on whether ITC can be claimed on solar power plants used for providing such services. The Applicant submitted that solar power plants are not covered under the definition of immovable property as panels are not attached to the earth and are covered under the definition of 'plant and machinery', and thus, ITC can be claimed on it.

The AAR held that electrical energy is exempted. Therefore the solar power panels installed by the Applicant is exempted goods and consequently, ITC will be ineligible for it as ITC on capital goods used exclusively for the supply of exempted supply is not eligible under Section 17(2) of the CGST Act read with Rule 43(a) of the CGST Rules.



GST @12% APPLICABLE ON UNBRANDED PRE-PACKAGED NAMKEENS AND SALTED/FLAVORED POTATO CHIPS

THE AUTHORITY FOR ADVANCE RULING GUJARAT

M/s Prajapati Keval Dineshbhai ("the Applicant") is an unregistered person and wanted to set up a manufacturing unit of various unbranded food products like potato chips. The Applicant intends to be producing 'dry potato starch powder' as a by-product of the manufacture of potato-based products.

The Applicant professed that the unbranded products fall under the category of 'Namkeens' and should be classified under Sl. No. 101A of Schedule – I of the Goods Rate Notification and Customs Tariff Heading ("CTH") 2106 90 99 irrespective of their ingredients and shall be liable to be taxed at 5%. Further, the dry potato starch powder shall be classified under Sl. No. 18 of Schedule – II of the Goods Rate Notification and under CTH 1108 13 00 and shall be liable to be taxed at 12% GST.

The AAR held that the Applicant intends to supply pre-packaged and labeled food products. Further, w.e.f. July 18, 2022, SI. No. 101A of the Schedule-I of the Goods Rate Notification is applicable to the goods that are not pre-packaged and labeled, which was earlier applicable to un-branded packages which do not contain any brand name. Thus, the Applicant is not eligible for a tax rate of 5% GST. The Products will be classified under Sl. No. 46 of Schedule II of the Goods Rate Notification which attracts GST at 12%.



ADVISORY ISSUED ON THE FACILITY OF 'INITIATING DROP PROCEEDINGS' OF SUSPENDED GSTINS DUE TO NON-FILING OF RETURN

GST NETWORK ("GSTN")

Recently, a functionality of "Automated Drop Proceedings" of GSTINs suspended due to non-filing of returns has been implemented on the GST Portal. This functionality is available for the taxpayers who have filed their pending returns i.e. 6 monthly or 2 Quarterly returns. If such taxpayers have filed all their pending returns, the system will automatically drop the proceedings and revoke the suspension.

If the status of the GSTIN does not automatically turn 'ACTIVE', then taxpayers are advised to revoke the suspension once the due returns have been filed, by clicking on 'Initiate Drop Proceeding' for which navigation is as follows:

"Log on to GST Portal > Services > User Services > View Notices and Orders > Initiate Drop Proceeding"

This functionality applies to taxpayers whose GSTINs have been suspended after 1st December 2022.



ADVISORY ISSUED FOR TAXPAYERS FACING PROBLEMS IN FILING FORM GSTR-3B

GST NETWORK ("GSTN")

According to the Hon'ble Supreme Court's directive, GSTN allowed the aggrieved taxpayers to file TRAN forms between 01st October 2022 to 30th November 2022. Few taxpayers utilized the facility; however, few submitted their TRAN forms but did not finally file them within the specified time. The TRAN form filing is completed only when the forms are e-signed after submitting them.

Further, the taxpayers who had faced issues while filing TRAN forms did not raise any tickets for the difficulty they faced. Also, when GSTN contacted some taxpayers who said they did not intend to file TRAN forms. The taxpayers whose TRAN forms are pending (submitted but not filed) couldn't file their GSTR-3B. The TRAN forms filing window has already been closed on 30th November 2022.

Hence, the taxpayers facing issues are advised to raise a ticket on GST Grievance Portal to provide consent to reset their TRAN filing status. Once the consent for resetting their unfiled TRAN forms is received, GSTN will reset the TRAN forms. Then the taxpayers can file their GSTR-3B.



Thank You!

ALOK VASANT
PARTNER
TEL: + 91 9811008421
ALOK.VASANT@ACUPROCONSULTING.COM

BALWAN BANSAL
PARTNER
TEL: + 91 9871767277
BALWAN.BANSAL@ACUPROCONSULTING.COM

ANKIT JAIN
PARTNER
TEL: + 91 9811665549
ANKIT.JAIN@ACUPROCONSULTING.COM



NEWSLETTER CONTRIBUTORS
PANKAJ BANSAL
TARUN GUPTA
ARCHIE SINGHAL

FOR MORE INFO VISIT
WWW.ACUPROCONSULTING.COM

COMMUNICATION ADDRESSES:
DELHI/NCR

ACUPRO CONSULTING
2ND FLOOR, 108, UDYOG VIHAR,
PHASE I,
GURGAON - 122016
HARYANA, INDIA
PH: +91 124-4ACUPRO(228776)

HTTPS://WWW.LINKEDIN.COM/COMPANY/ACUPROCONSULTINGINDIA/