ACUPRO CONSULTING

WEEK 5, JANUARY 2023

THE GST PULSE

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ANNUAL OPERATION AND MAINTENANCE OF COMPACTOR AND HOOK LOADER FOR LIFTING AND REMOVAL OF GARBAGE IS A COMPOSITE SUPPLY OF GOODS AND SERVICES

THE AUTHORITY FOR ADVANCE RULING, WEST BENGAL

Banchu Das ("the Applicant") is engaged in providing conservancy/solid waste management services to the Conservancy Department of the Howrah Municipal Corporation. The Applicant submitted that the services provided by them are "Pure services", covered under Sl. No. 3 of the Services Exemption Notification.

The Applicant sought an advance ruling on Whether conservancy/solid waste management services provided by the Applicant are exempt from the levy of GST or not.

The AAR held that the supply of services to the Government or Government authority for annual operation and maintenance of capacity portable compactor and hook loader cannot be regarded as pure services. The services provided by the petitioner are composite supply of goods and services, as it involves the supply of goods like spare parts. Further, such composite supply is eligible for exemption from the payment of GST, under Sl. No. 3A of the Services Exemption Notification, as the value of goods involved in such composite supply does not exceed 25% of the value of supply.



ASSESSES CANNOT CLAIM A SUPPLEMENTARY REFUND BASED ON THE NEW CALCULATION, AFTER THE ORIGINAL REFUND APPLICATION HAS ALREADY BEEN PROCESSED.

HON'BLE ORISSA HIGH COURT

Vedanta Limited ("the Petitioner") is engaged in the business of manufacturing and has three units having a common GSTIN Registration. All three units have made exports and supplied zero-rated supplies to the unit in the SEZ. The Petitioner sought a refund of unutilized ITC paid for the procurement of coal. The refund claimed was allowed by the Assistant Commissioner, GST and Central Excise ("the Respondent"), but the Petitioner found that the quantum of the refund as allowed by taking into consideration all the three units together was much lesser than the quantum of refund if the supplies are made unit-wise. Therefore, the petitioner manually applied for grant of such excess supplementary refund. The Respondent refused to grant the supplementary refund.

Aggrieved by the order, the Petitioner filed a petition challenging the decision passed by the Respondent of refusing the supplementary refund.

The Hon'ble High Court held that since three units of the company have been assigned one GSTIN, they are considered a single entity for making claims under the CGST Act. The Petitioner requested to combine the refund of the three units, which was granted, and the Petitioner received the benefit. The Petitioner cannot request for additional refund by calculating the refund amount based on the transactions of each unit individually.



NO LATE FEES TO BE CHARGED IF RETURNS NOT FILED DUE TO CANCELLATION OF GST REGISTRATION, WHICH WAS RESTORED SUBSEQUENTLY.

HON'BLE CALCUTTA HIGH COURT

M/s. Modicum Enterprise Private Limited ("the Appellant") was a registered dealer under the GST Act whose GST Registration was cancelled by the Revenue Department on the ground of non-existing dealer. The Appellant preferred an appeal before Appellate Authority, where appellate authority held that cancellation of Petitioner's GST Registration was not correct. Subsequently, the cancellation of GST Registration was revoked and restored. However, when the Appellant attempted to file returns, it showed a demand of INR 5,000/- per return as late fee payable.

Aggrieved by this, the Appellant filed a petition against the late fee demanded under the GST Act.

The Hon'ble Calcutta High Court held that the assessee cannot be penalised by demanding late fee under Central Goods and Services Tax Act, 2017 ("the CGST Act") where, the assessee had not filed returns due to the cancellation of its GST Registration on the factually incorrect grounds. Further held that, the demand of late fee from the assessee is without jurisdiction and not tenable in the eye of law. Directed the Revenue Department to facilitate the process of filing of return, without the payment of late fee.



SUPPLY OF TELECOMMUNICATION SERVICES TO A LOCAL AUTHORITY IS A TAXABLE SERVICE.

AUTHORITY FOR ADVANCE RULING, TELANGANA

M/s Vodafone Idea Limited ("the Applicant") is engaged in providing telecommunication services. The applicant is also providing these services to the Greater Hyderabad Municipal Corporation (GHMC), a local authority, by way of data/voice telecommunication services to be used by employees for general office and administrative purposes.

The Applicant submitted that the services provided by them qualify to be pure services rendered under SI. No. 3 of the Services Exemption Notification i.e services in relation to functions entrusted to a municipality. hence, are exempt from tax.

The AAR held that there should be a direct and immediate link with a covenant and there cannot be any independent existence outside such covenant. Further, there is no direct relation between the services provided by the Applicant and the functions discharged by the GHMC. Therefore, these services do not qualify for the exemption. Hence, the supply of telecommunication services to local authorities is a taxable service.



Thank You!

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