ACUPRO CONSULTING

WEEK 2, MAY 2023

THE GST PULSE

ONE PLACE FOR ALL THE UPDATES



Recent Judgement and Rulings

NO SERVICE TAX LIABILITY WHEN FLATS ARE CONSTRUCTED FOR PERSONAL USE BY THE RECIPIENT.

HON'BLE CHENNAI CESTAT

M/s. Rani Meyyammai Towers ("the Petitioner"), a real estate developer, began constructing flats in November 2006. The Revenue Department conducted an audit and alleged that the developer had not paid Service Tax on the construction of flats under CC Services (Construction of Complex Service). It was discovered that the Petitioner had started paying Service Tax under Works Contract Services from December 2007. Consequently, Show Cause Notices were issued to the developer demanding Service Tax for the period from February 2007 to June 2010 and July 2010 to March 2011, along with applicable interest and penalty. The Petitioner responded to the notices by denying the Service Tax liability. However, the Revenue Department passed an Order-in-Original confirming the demand for Service Tax for the specified period.

The Petitioner appealed against the decision, contended that prior to June 2007, the project fell under a composite works contract and should not be taxed under CC Services. Petitioner also contended that after June 2007, Service Tax under CC Services should only apply to service-oriented activities, as they were correctly paying Service Tax under works contract services for the construction of flats. The main question was whether the construction of flats could be subject to service tax under CC Services.

The Hon'ble Chennai CESTAT has set aside the Service Tax demand on construction of flats under CC Services. The court held that projects executed before June 1, 2007, which were considered composite works contracts and should not be classified as CC services. Further, for the period after June 1, 2007, Service Tax liability under CC services could only be imposed if the activities were purely service-oriented. The court also clarified that there was no Service Tax liability when the construction of a flat was intended for the personal use of the recipient.



Recent Circular

TIME BARRING OF SCRUTINY OF GST RETURNS OF DELHI TAXPAYERS FOR THE FY 2017-18, 2018-19 & 2019-20

DELHI GST DEPARTMENT

The Delhi GST Department has issued a circular stating that the time limit for scrutinizing GST returns of Delhi taxpayers for the financial years 2017-18, 2018-19, and 2019-20 has been extended. As per Section 73(10) of the DGST Act, the proper officer must issue an order within three years from the due date of the annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilized or from the date of erroneous refund. The Central Board of Indirect Taxes & Customs (CBIC), vide notification No. 9/2023 Central Tax dated March 31, 2023 has extended the time limit specified u/s 73(10) for issuance of order u/s 73(9) of CGST Act, 2017 for recovery of tax for non-fraudulent cases. The time limits for each financial year are specified in the circular as specified below: -

Sr. No.	Financial Year	Time limit for issuance of order
1	2017-18	Up to 31st December, 2023
3	2018-19	Up to 31st March, 2024
3	2019-20	Up to 30th June, 2024

The scrutiny process typically takes 5 to 6 months. All Ward Incharges/Proper Officers are advised to ensure timely issuance of orders for scrutiny of returns as per the CBIC notification No. 9/2023 Central Tax dated March 31, 2023.



Recent Updates

EXTENSION GRANTED FOR GOODS TRANSPORT AGENCIES TO EXERCISE FORWARD CHARGE TAX PAYMENT OPTION FOR FY 2023-24 TILL MAY 31, 2023.

THE CBIC

The CBIC has issued Notification No. 05/2023-Central Tax (Rate) on May 09, 2023, extending the time limit for Goods Transport Agencies (GTAs) to opt for Forward Charge tax payment for the Financial Year 2023-24 till May 31, 2023. Previously, the option was required to be exercised before March 15, 2023



CBIC REDUCES E-INVOICING LIMIT FROM 10 CRORE TO 5 CRORE

THE CBIC

CBIC has issued Notification No. 10/2023–Central Tax on May 10, 2023, amending Notification No. 13/2020 – Central Tax dated March 21, 2020, to reduce the E-invoicing aggregate turnover limit from 10 crores to 5 crores, which will be effective from August 01, 2023.



Thank You!

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