

EY Tax and Regulatory Alert

January 2024

Prepared for ACMA

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INDIRECT TAX

Part A - Key Indirect Tax updates

Goods and Services Tax

This section summarizes the regulatory updates under GST for the month of January 2024

- ▶ **Notification No. 56/2023 -CGST Dated: 28.12.2023:** was issued to extend the time limit specified under section 73(10) of CGST Act, 2017 for issuance of order under 73(9) for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the Financial years 2018-19, 2019-20.
 - ▶ This amendment, specified in Notification 56/2023 – CT, extends the time limit as follows:
 - Financial Year 2018-19: The deadline for issuing order is extended to 30th day of April, 2024.
 - Financial Year 2019-20: The deadline for order is extended until the 31st day of August, 2024.
 - ▶ Accordingly, the aforesaid extension provides taxpayers with additional time to address issues related to tax non-payment, underpayment, or incorrect utilization of input tax credit for the specified financial years.
- ▶ **Notification No. S.O.1[E] -CGST Dated 29.12.2023:** was issued to constitute the Principal Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi with effect from 01-01-2024.
- ▶ **GSTN Advisory: Date extension for reporting opening balance for ITC Reversal:** In order to facilitate taxpayers to ensure correct and accurate reporting of Input Tax Credit (ITC) reversal and reclaim thereof, a new ledger
 - ▶ namely 'Electronic Credit and Re-claimed Statement' was introduced on the GST portal.
 - ▶ This ledger serves as a tool for taxpayers to track ITC that has been reversed in Table 4B(2) and subsequently reclaimed in Tables 4D(1) and 4A(5).
 - ▶ In this regard, the opportunity to declare opening balance for ITC reversal in the statement has been extended till **31st January, 2024.**
 - ▶ It is to be noted that after declaring the opening balance for ITC reversal, only **three** amendment opportunities post the declaration will be provided to correct declared opening balance in case of any mistakes or inaccuracies in reporting.
 - ▶ The facility to amend declared opening balance for ITC reversal would be available till 29th February, 2024.
- ▶ **GSTN Advisory: Payment through Credit Card (CC)/Debit Card (DC) and Unified Payments Interface (UPI):** To facilitate the taxpayer registered under GST with more methods of payment, two new facilities of payment have now been provided under e-payment in addition to net-banking.
 - ▶ The two new methods are Cards and Unified Payments Interface (UPI). Cards facility includes Credit Card (CC) and Debit Card (DC) namely Mastercard, Visa, RuPay, Diners(CC only) issued by any Indian bank.
 - ▶ Currently, the payment through CC/DC/UPI can be made through Kotak Mahindra Bank irrespective of CC/DC issued by any Indian bank. Other banks are in the process of integration. At present the facility is available in 10 states and remaining states are expected to join soon.

Customs and Foreign Trade Policy (FTP)

This section summarizes the regulatory updates under Customs and FTP for the month of January 2024

▶ **Notification No.94/2023 -Customs (NT) Dated 29.12.2023:** was issued to amend the Sea Cargo Manifest and Transshipment Regulations, 2018.

▶ As per the said notification, the timeline for the authorised sea carrier to deliver the cargo declaration in Form III of the Import Manifest (Vessels) Regulations, 1971 and Form I of the Export Manifest (Vessels) Regulations, 1976, in the manner as was applicable before the commencement of these regulations, is extended till 31st March, 2024.”

▶ **Notification No.67/2023 -Customs Dated 29.12.2023:** was issued to amend Notification No. 96/2008 Customs dated 13.08.2008 relating to duty free tariff preference for Least Developed Countries. The said Notification No 96/2008 Customs specified concessional rate of duties when the goods specified in the notification are of the origin of the country listed in the Schedule to the said notification.

▶ As per the amendment, a new entry is added in the Schedule, after serial number 37, introducing the “Democratic Republic of Congo” as the 38th country. This addition implies modifications to customs regulations concerning trade and interactions with the Democratic Republic of Congo.

▶ **Notification No.17/2023 -Customs (ADD) Dated 27.12.2023:** was issued to impose anti-dumping duty on imports of Wheel Loaders falling under Tariff item 84295900 and 84295100 of the First Schedule to the Customs Tariff Act, 1975, originating in or exported from China PR.

▶ The duty rates range from 18.84% to 82.71%, varying upon on the producer of specific goods.

▶ Further, the wheel loaders imported in the form completely built unit (CBU) or semi-knocked

down (SKD) are included in the scope of investigation. However, import of wheel loader in completely knocked down (CKD) or component form or battery-operated wheel loaders are excluded.

▶ Furthermore, wheel loaders having the following specifications are excluded in the scope of investigation:

- Rated payload capacity of more than 7000 kg; and
- Gross engine power of above 180 kW; and
- Measured distance at the center between right and left wheel (wheel tread/ track) above 2280 mm; and
- Measured distance between front and back wheel axles (wheelbase) above 3350mm.

▶ The anti-dumping duty, calculated as a percentage of CIF value in US\$, will be in effect for five years from the date of publication unless revoked, superseded, or amended earlier and shall be payable in Indian currency.

▶ **Public Notice No.51/2023 -Customs Dated 28.12.2023:** As per advisory 32/2023 dated 23.12.2023, declaration of warehousing code was made mandatory for filing into-bond bill of entry.

▶ In this regard, technical error 835 was generated while filing the Bills of Entry on 23.12.2023 and system showed as "invalid Warehousing code or suspended" even though the correct WH Code declared. The same was rectified by ICES on 26.12.2023 afternoon.

▶ Considering the fact that trade was faced difficulties in ring Bills of entry due to the said technical error during 23.12.2023 to 26.12.2023, waiver of Late Fee for the Warehouse Bills of Entry filed for the Vessels arriving entry inwards is granted at Chennai Seaport from 24th to 26th December, 2023.

▶ **Public Notice No.40/2024 -Customs Dated 01.01.2024:** was issued to specify that no transshipment bond is required under ETP for movement of goods from port to Port through sea route.

▶ Under the pre-existing Export Transshipment (ETP) module for movement of export cargo from one customs locations to a gateway customs location, when ETP is filed at the first customs location, transshipment bond was mandatory for transshipment of cargo.

▶ However, as per Regulation 9 (c) of SCMT Regulations 2018, no transshipment bond is required for transshipment of goods directly between two sea ports, through the sea route.

▶ Accordingly, necessary changes have been made in the System, and transshipment bond is no longer mandatory for transshipment of goods directly between two sea ports, through the sea route.

▶ **Public Notice -Customs Dated 12.01.2024:** was issued in relation to container delivery process for fully Risk Management System(RMS) facilitated Import Consignments.

▶ In this connection, it is informed that the importer may avail the facility of Direct Port Delivery (DPD) for the Full Container Load (FCL) containers under Bills of Entry based on the following conditions;

i. The said Bill of Entry should be "fully facilitated" by RMS.

ii. The Importer / Customs Broker (CB) desirous of availing such DPD facility shall file advance / prior Bill of Entry.

iii. The Bill of Entry for commodities which does not require drawl of samples by PGAs for NOC.

iv. The Bill of Entry for commodities which does not have any NCTC alert.

v. The Bills of Entry which are not on hold by investigating agencies.

vi. For such Bills of Entry that are fully facilitated by RMS, the Importer(s) shall discharge Custom Duty and all other dues to the relevant stake holders in advance.

vii. Importer/Custom Broker availing this DPD facility shall give advance intimation to Port Authority / Terminal on their registered email IDs i.e. dpdkandla@jmbaxi.com, and similarly the respective shipping lines, through their registered email IDs, any time before granting of "Entry Inward" to the vessel carrying the relevant container(s). A copy of said advance intimation shall be endorsed by the Terminal through auto email to Customs /Custom Broker / Shipping line.

▶ It is further communicated that the AEO clients presently registered as DPD importers shall continue to avail DPD (DPD-DPD or preferred CFS) in respect of FCL consignments which have been either fully facilitated or not subjected to examination.

▶ Furthermore, it is stated that for all non-AEO clients, all the advance filed and fully RMS facilitated bills of entry (for FCL containers) are granted/ permitted facility of DPD. No separate permission letter from Customs House, Kandla would be issued for each instance of import subject to the procedure followed in the public notice.

▶ Moreover, for availing the facility of DPD, the Importers/ Custom brokers shall also fulfil the criteria of exclusion and conditions as mentioned in para 4 of Circular no 29/2019 dated 05.09.2019.

▶ **Trade Notification No.55/2023 -DGFT Dated 03.01.2024:** was issued by DGFT related to amendment in Import Policy and Policy condition of Screws covered under HS code 7318 of Chapter 73 of Schedule - I (Import Policy) of ITC (HS) 2022.

▶ The amendment targets specific HS codes and their corresponding import policies for threaded articles, including Coach Screws, Machine Screws, Other Wood Screws, Screw Hooks and Screw Rings, Self-Tapping Screws, and Other Screws and Bolts.

▶ The existing import policies for these items were “Free,” subject to Policy conditions no. 2 and 3 of Chapter 73. However, the revised import policy now categorizes these items as “Prohibited.”

▶ The revised policy, nevertheless, provides an condition that the import of these screws will be considered “Free” if the CIF (Cost, Insurance, and Freight) value is Rs. 129/- or above per kilogram. Moreover, this exception is subject to the Policy conditions no. 2 and 3 of Chapter 73.

▶ **Trade Notice No.36/2023 -DGFT Dated 26.12.2023:** was issued by DGFT related to Extension of Date for Mandatory electronic filing of Non-Preferential Certificate of Origin (CoO) through the Common Digital Platform to 31st December 2024.

▶ Accordingly, the exporters and Non-Preferential CoO Issuing Agencies, as per Appendix-2E of the FTP, now have the flexibility to choose between the online system and the existing manual/paper mode for processing applications until the end of 2024. In this interim period, the existing system of processing non-preferential CoO applications in manual/paper mode is permitted.

▶ **Public Notice No. 37/2023 -DGFT Dated 12.01.2024:** was issued by DGFT related to extension of validity of Pre-Shipment Inspection Agencies (PSIAs).

▶ This extension applies to those agencies completing their original tenure of three years as of 27th December 2023, and the validity now extends up to 31st March 2024.

▶ **Policy Circular No. 09/2023 -DGFT Dated 12.01.2024:** was issued by DGFT to provide clarification regarding Import Policy Provisions for Laptops, Tablets, All-in-one Personal

Computers and Ultra Small Form Factor Computers, Servers under HSN 8471.

▶ It draws attention towards DGFT Notification No. 23/2023 dated 03rd August 2023 read with Notification No. 26/2023 dated 4th August 2023 and Notification No. 38/2023 dated 19th October 2023 and in continuation to Policy circular no. 6/2023-24 dated 19.10.2023, whereby Import of certain specified IT Hardware was 'Restricted'.

▶ In this regard, the following clarifications are provided:

- Only the import of Laptops, Tablets, All-in-one Personal Computers, Ultra small form factor Computers and Servers falling under HSN 8471 is 'Restricted' and import should be allowed against a valid Import authorization only for above five item categories.

- The given Import Restriction does not apply to any other goods such as Desktop Computers, etc. under tariff head 8471.

▶ **Advisory No:01/2024 issued by DG Systems and Data Management relating to updating of Customs EDI Systems Dated 16.01.2024:** The advisory provides that consequent to the presentation of Union Budget 2024-25 on 01 February 2024, various budget officers would update the Notifications and Tariff Directories in ICES under the supervision of Directorate General of Systems, New Delhi.

▶ Therefore, the facility for filing of Bill of Entries would not be available from 11:00 AM onwards till the completion of updation. The system will be available for filing and processing of Bill of Entries only after updation of system.

- ▶ It is to be noted that the updation is usually carried out within 48 hours. Hence, the Importers/ Customs Brokers and members are advised to schedule clearance of their Bill of Entries to avoid disruption.

Foreign Exchange Management Act

This section summarizes the regulatory updates for the month of January 2024

1. Issuance of new Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023 ('Regulations')

- ▶ Reserve Bank of India ('RBI') has issued the Regulations in suppression of the old Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 ('Old regulations').
- ▶ The Regulations aim to streamline the Old regulations in respect to the manner for receipt and payment in foreign exchange transactions.
- ▶ The key changes undertaken in the Regulations are provided below:
 - ▶ The Regulations clarify that no person resident in India shall make or receive payments from a person resident outside India unless permitted under Foreign Exchange Management or approved by the RBI.
 - ▶ As per the old regulations, the payment needed to be received in "freely convertible foreign currency". The scope has been widened to include 'Foreign currency' which means any currency other than Indian currency.
 - ▶ The Regulations provide a bifurcation basis the nature of transactions into two categories:
 - Trade transactions; and
 - Non-trade transactions.
 - ▶ For trade transactions, receipt and payment conditions have been specified for various countries like Nepal, Bhutan, Asian Clearing Union ('ACU') member countries.
 - ▶ The manner of receipt and payment for Iran which was specifically provided in the Old regulations has been removed since Iran falls under the member country of ACU.
 - ▶ In case of overseas investments in Bhutan, payment may also be made in foreign currency.
 - ▶ The Regulations clarify that payment and

receipt in India for any current account transaction, other than a trade transaction, between any person resident in India and a person resident outside India, who is on a visit to India, may be made only in Indian Rupees.

Source: Notification No. FEMA 14(R)/2023-RB dated 21 December 2023

DIRECT TAX

This section summarizes the regulatory updates under DT for the month of January 2024

1. CBDT issues further guidelines on withholding tax on e-commerce transactions involving multiple e-commerce operators and other issues

Background

- ▶ Section 194-O of the ITL requires an EOP to withhold tax at source at the rate of 1% on the gross amount of sale or service paid or payable to a resident e-commerce participant (EP) or seller if the sale of goods or services is facilitated by the EOP through its digital or electronic facility or platform (TDS on e-commerce).
- ▶ Notably, TDS on e-commerce is applicable even if the payment is made by the purchaser of goods or recipient of services directly to the EP or seller where such sale is facilitated by the EOP. Furthermore, the EOP is deemed to be the person responsible for paying the EP or seller.
- ▶ The provision empowers the CBDT to issue guidelines, with the approval of the central government, for the purpose of removing difficulties arising from giving effect to the above provisions. Such guidelines are required to be laid before each House of Parliament. They are binding on both the tax authorities and the EOP.
- ▶ In the past, the CBDT issued Circular No. 17/2020 dated 29 September 2020 and Circular No. 20/2021 dated 25 November 2021 for removing certain difficulties and clarifying doubts on application of TDS on e-commerce on various

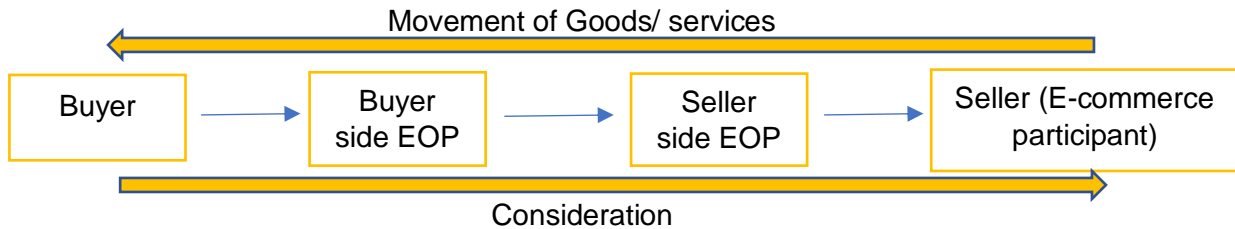
transactions like e-auction platforms, payment gateways, insurance aggregators etc.

- ▶ The CBDT received additional representations from stakeholders on the difficulties/ambiguities, which remained unaddressed in the earlier circulars. Hence, the CBDT has issued further guidelines vide the Circular, with the objective of addressing and removing practical difficulties associated with TDS on e-commerce, primarily for transactions of sale of goods or provision of services undertaken on Open Network for Digital Commerce (ONDC)

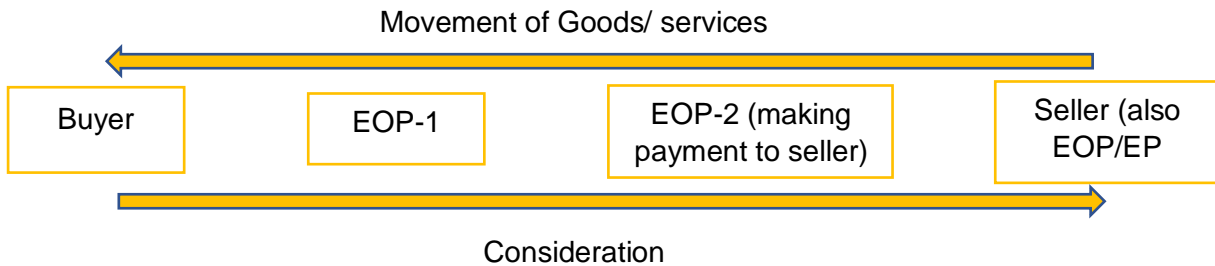
Guidelines provided in the Circular:

- i. **TDS obligations in case of multiple EOPs for a single transaction:**
 - ▶ With the rapid evolution of the e-commerce industry, e-commerce transactions may be carried out on a platform or network wherein multiple EOPs participate in a single transaction. The Circular illustrates the case of ONDC platform on which, in a single transaction of sale of goods or provision of services, “buyer-side EOP” may provide an interface to the buyer and a “seller-side EOP” may provide an interface to the seller on a common platform.
 - ▶ The CBDT explains the manner in which TDS on e-commerce is to be undertaken in two situations, as under:

- ▶ Situation 1: Multiple EOPs are involved in a single transaction of sale of goods and seller-side EOP is not the actual seller of goods or provider of services, but a facilitator to the actual seller (EP):
- ▶ The Circular clarifies that TDS on e-commerce is to be complied with by seller-side EOP which is ultimately responsible or deemed to be responsible for payment to EP on the “gross amount” of sale of goods or provision of services.



- ▶ Situation 2: Multiple EOPs are involved in a single transaction of sale of goods and actual seller of goods or provider of services also uses their own electronic or digital platform for sale:
- ▶ The Circular clarifies that TDS on e-commerce is required to be complied with by the intermediary EOP which is ultimately responsible for making payment to the EP which uses their own electronic or digital platform for sale, on the “gross amount” of sale of goods or provision of services.



ii. TDS on e-commerce for (a.) Convenience fees/commission charged by EOP (b.) Logistics, delivery fees, packaging fees charged by seller (c.) Platform charges to be paid to the EOP by the seller:

- ▶ The Circular clarifies on how “gross amount of sale or service” on which TDS on e-commerce is required to be computed when additional charges are paid by the buyer on account of: (a.) Convenience fees/commission charged by EOP. (b.) Logistics, delivery fees, packaging fees charged by the seller. (c.) Platform charges paid to the EOP (e.g., ONDC) by the seller. On principle, any amount invoiced to the buyer by the seller forms part of “gross amount of sale or services”, regardless of the manner in which

any part of such proceeds is shared between the intermediaries. On the other hand, the amount which is not invoiced to the buyer by the seller does not form part of “gross amount or sale or services”.

- ▶ This is illustrated by the Circular with the following examples:
- ▶ Situation 1:
 - ▶ Buyer purchases goods worth INR100 from the seller and opts for home delivery.
 - ▶ Seller charges the buyer for packaging fee of INR5, shipping fee of INR10 and convenience fee of INR3 (which represents recoupment of convenience fees of buyer-side EOP of INR1 and seller-side EOP of INR2).

- ▶ Seller invoices buyer for total amount of INR118.
 - ▶ The Circular clarifies that total amount charged from the buyer, being INR118, would be “gross amount of sale or services” on which seller-side EOP shall be required to undertake TDS on e-commerce.
 - ▶ It also clarifies that once TDS on e-commerce is undertaken on the transaction, no other TDS provision under the ITL shall be applicable on the convenience fee which, otherwise, would have been applicable if the transaction were not an e-commerce transaction.
 - ▶ Importantly, the Circular states that the provision of service by way of convenience fees by an EOP is in connection with the main transaction of sale of goods or provision of services by seller/EP and, hence, the exclusion will apply to the amount received by the EOP in this regard.
 - ▶ Generally, TDS on commission is applicable on convenience fees constructively paid by the seller to the EOP. However, since tax is withheld as per TDS on e-commerce by the EOP on the entire consideration, the convenience fees shall not be subjected to TDS by the seller under any other provision of the ITL (barring TDS on virtual digital asset, if applicable). The Circular further clarifies that where payment for platform fees is made on a lump-sum basis and not linked to a specific transaction, then TDS on e-commerce is not applicable, which implies that they will be subjected to TDS by the seller as per other applicable TDS provisions.
- ▶ Situation 2:
- ▶ Buyer purchases goods with label price of INR85 from seller.
 - ▶ Buyer-side EOP, enabling buyer to discover goods and place an order, charges convenience fee of INR5 and raises invoice for such amount on seller-side EOP.
 - ▶ Seller-side EOP charges convenience fees of INR10 for listing sellers’ catalogs and facilitating transactions of seller.

- ▶ Seller charges and invoices buyer for total amount of INR100 (i.e., INR85 + INR10 + INR5).
- ▶ The Circular states that, in this case, total amount charged from the buyer, being INR100, shall be subject to TDS on e-commerce in the hands of seller-side EOP. Once TDS is undertaken on INR100, no other TDS provision under the ITL shall be applicable, say TDS on commission (barring TDS on virtual digital asset, if applicable).

iii. Exclusion of GST and other indirect tax levies for TDS on e-commerce transactions

- ▶ In the context of TDS on purchase of goods, the CBDT had issued guidelines to clarify that TDS on purchase is to be made on the amount credited to the seller, without considering GST or any other indirect tax component if such taxes have been indicated separately in the invoice. However, in case tax is deducted on payment where it is earlier than credit, then tax is to be deducted on the whole of the amount, as it is not possible to identify GST or any other indirect tax component of the amount to be invoiced in the future.
- ▶ In the present Circular, the CBDT has clarified that similar principles are applicable on TDS on e-commerce. Accordingly, if TDS is made at the time of credit of the amount in the account of the seller and the component of GST or any other indirect taxes is indicated separately, then TDS is to be made on the amount credited without including such GST or indirect tax component, as the case may be. However, if the tax is deducted on payment, if it is earlier than credit, the tax is to be deducted on the whole amount since it will not be possible to identify GST or any other indirect tax component of the payment to be invoiced in the future.

iv. Adjustment of TDS on purchase returns:

- ▶ The CBDT has applied principles applied to transactions covered by TDS on purchases in its earlier Circular No. 13 of 2021 dated 30 June 2021 to TDS on e-commerce transactions.
- ▶ Accordingly, the present Circular states that, before purchase return happens, the EOP would have already deducted TDS on the e-commerce transaction on the amount credited to the seller. In such a case, if the money is refunded by the seller, then TDS on the e-commerce transaction so deducted may be adjusted against a subsequent transaction from the same seller in the same financial year. No adjustment is required if the purchase return is in the form of replacement of goods by the seller as, in that case, sale of goods on which TDS on e-commerce transaction is made is completed with goods replaced.

v. Treatment of discount provided by EP and multiple EOPs for TDS on e-commerce transaction:

- ▶ It is customary to provide discounts by EP/sellers or EOPs on transactions taking place on digital platform or networks. The Circular explains the treatment to be provided for discounts granted by EP and EOPs while complying with TDS on e-commerce transactions.
- ▶ EP/seller's discount: If the discount is provided by the EP itself, the gross amount on which TDS on e-commerce transaction is to be undertaken shall be reduced by such discount. To illustrate, if the label price of a product is INR100 and the EP offers a discount of INR10, then INR90 shall be receivable from the buyer. In such a case, the EP will raise invoice of INR90 on the buyer and, hence, the EOP shall undertake TDS on INR90.
- ▶ Buyer EOP or seller EOP's discount: If the discount is given by the buyer or the seller EOP, usually the EP receives full consideration

on sale of product i.e., part of it is received from the buyer and part from the buyer EOP or the seller EOP. In such case, TDS on e-commerce transaction shall be undertaken on gross sale price credited or paid to the EP. To illustrate, if the price of goods quoted by the EP is INR100 and the buyer EOP gives a discount of INR10, then the buyer EOP will collect INR90 from the buyer and remit to the EP. Separately, the buyer EOP will pay balance INR10 to the EP. The EP will raise invoice of INR100 on the buyer. Hence, tax will be deducted on such gross amount of sale of INR100 by the seller side EOP.

Part B- Case Laws

Goods and Service Tax

1. M/s Lion Seat Cushions Private Limited [AAR Tamil Nadu]

Subject Matter: Ruling wherein it was held that two wheeler seat covers are classified under HSN 87149990 and are subject to a GST rate of 28%.

Background and Facts of the case

- ▶ M/s. Lion Seat Cushions Private Limited (hereinafter referred to as "the Applicant") is a GST-registered manufacturer of Two-Wheeler seat covers for Bikes and Scooters.
- ▶ The Applicant was collecting 28% GST under HSN 8708 99 00 for Bike and Scooter seat covers which are manufactured by them, whereas other similar manufacturers collect 18% under HSN code 9401 2000 or 5% under HSN code 87149990. The customers who are buying the said two wheeler seat covers from the Applicant are resisting from paying 28% charged by them referring to the other dealers who are charging lower rate on the same product.
- ▶ Therefore, the Applicant had requested for Advance ruling regarding correct tax rate for the goods manufactured by them i.e whether the rate of 28% collected and paid by them for two wheeler seat covers for Bikes and Scooters under HSN code 87089990 is correct and if not correct, the appropriate tax to be collected for two wheeler seat covers.

Discussions and findings of the case

- ▶ The Applicant is under the administrative control of the State Tax which has contended that the seat cover is nothing but an accessory that enhances the functional value of the Motor Vehicle, thereby it falls under HSN 8714 99 90 and is liable to GST at 28% (CGST at 14% and SGST at 14%) under the chapter/ heading/ sub-

heading/Tariff 8711 and 8714. The Central Tax officer had a similar view.

- ▶ Further, the Applicant contended that the seat covers only extra fittings for the bike and not a main component/accessory and that presently they are adopting HSN 94012000 and paying GST at the rate of 18%.
- ▶ Subsequently, the Authority for Advance Rulings ('AAR') observed the Chapter heading 8708 and noted that CTH 8708 is not applicable to the goods dealt with by the Applicant, as their product is seat covers for Two Wheeler which are not parts and accessories of Motor Vehicles falling under headings 8701 to 8705, listed supra. Hence, the CTH 8708 is ruled out
- ▶ Further, it was observed that the heading 940120 covers "Seats for motor vehicles", whereas the Applicant is not manufacturing 'Seats' as such but only a seat cover which is fitted over the seat already factory fitted in a two wheeler. Thus the product manufactured by the Applicant is not covered under 940120.
- ▶ Moreover, the AAR observed that Motorcycles are classified under CTH 8711 and on the seats of such Motorcycles, the seat covers are fitted. Hence, these seat covers are nothing but part and accessories of Motor cycles and fall under CTH 8714, and more specifically under CTH 87149990.
- ▶ Furthermore, AAR noted that goods falling under the heading 8714, where the description is Parts and accessories of vehicles of heading 8711 and 8713' are liable to tax @ 28% vide entry SI.No.174 of Schedule IV of the said Notification.

Ruling

- ▶ In light of the above, it was held that the refund must be sanctioned and should be

- ▶ disbursed to the petitioner along with applicable interest. Thereby, the contention of the petitioner that the adjustment of interest is illegal was rejected.

2. M/s Ingram Micro India Pvt. Ltd vs State Tax Officer [2024-VIL-56-MAD]

Subject Matter: Ruling wherein the High Court ('HC') had directed the AO to consider all the relevant documents for non-payment to supplier within 180 days and not the Company's Financial statements.

Background and Facts of the case

- ▶ M/s Ingram Micro India Pvt. Ltd (hereinafter referred to as "the Petitioner") is a registered person under GST and had claimed Input Tax Credit (ITC) under Section 16 of the CGST Act.
- ▶ A Show Cause Notice ('SCN') was issued to the petitioner with regard to non-payment to the suppliers for a period exceeding 180 days.
- ▶ In response to the said SCN, the petitioner had submitted all supporting documents including Chartered Accountant's certificate, however, impugned order came to be issued on the basis of the total trade payables of the petitioner as per PAN India Financial Statements.
- ▶ A writ petition was filed by the petitioner against the impugned order.

Discussions and findings of the case

- ▶ The Department submitted that the total trade payables of the company were taken into consideration because the petitioner did not provide a proper break up of net trade payable relating to the State of Tamil Nadu.
- ▶ Thereby, the Hon'ble HC observed that the AO held that the trade payables of the company across India should be taken as the trade payables because the petitioner did not provide Tamil Nadu financial statements.

- ▶ It was also observed that as per the provisions of the Companies Act, 2013, every company is required to file financial statements in respect of its entire operations and there is no provision for filing State-specific financial statements.

- ▶ Hon'ble HC held that the AO has clearly not applied its mind before drawing the conclusions and therefore the impugned order is liable to be quashed.

Ruling

- ▶ Basis above, the Hon'ble HC quashed the impugned order and directed the AO to take all relevant documents into consideration, provide a reasonable opportunity to the petitioner and issue a fresh order within two months of receiving copy of the order.

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