VERENDRA KALRA & CO
CHARTERED ACCOUNTANTS

Communiqué

Indirect Tax

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Inside this edition

Notifications and updates from CBIC regarding various issues of GST.

Consistently deposit amount in electronic cash ledger within due date would not incur any interest liability even if there was a delay in filing the monthly return in Form GSTR-3B.

Refund application valid if filed within period of limitation of two years prescribed by statute, appellate authority erred in concluding that refund claim can only be made with regard to a specific calendar month.

High Court set's aside order as the specific ground was not mentioned in the show-cause notice, necessitating the remand of the matter for fresh consideration.

and more...

Notifications

CBIC revokes Special Procedure GST Notification for Certain Goods, effective January 1, 2024.

The Ministry of Finance, under the Central Board of Indirect Taxes and Customs, has issued Notification No. 03/2024-Central Tax, dated 5th January 2024, with the aim of rescinding Notification No. 30/2023-CT, dated the 31st July, 2023. This move, made under the authority of section 148 of the Central Goods and Services Tax Act, 2017, has far-reaching implications for businesses and tax compliance.

- **Rescission Reasons:** The rescission of Notification No. 30/2023-CT, dated the 31st July, 2023 is likely rooted in the evolving economic landscape or amendments in tax policies. A detailed analysis of the reasons behind this decision will shed light on the government's objectives.
- **Business Impacts:** Businesses that were previously affected by Notification No. 30/2023-CT, dated the 31st July, 2023 need to reassess their operations. Understanding the specific changes and their implications on various sectors is crucial for adapting to the evolving tax scenario.
- **Compliance Considerations:** The rescission has implications for compliance with the Central Goods and Services Tax Act. Businesses must comprehend the altered regulatory landscape and make necessary adjustments to ensure adherence to the current tax framework.
- **Transitional Provisions:** Examining the transitional provisions becomes essential to determine the treatment of actions taken or omitted before the rescission. Clarity on this aspect will guide businesses in understanding the retrospective impact of the change.
- **Effective Date:** The notification specifies that the rescission comes into force from the 1st day of January 2024. A closer look at this effective date and its significance will provide insights into the immediacy of compliance adjustments required.
- **Government Recommendations:** The rescission is based on the recommendations of the Council. An analysis of the Council's suggestions and their alignment with broader economic objectives will contribute to a comprehensive understanding of the regulatory shift.

Consistently deposit amount in electronic cash ledger within due date would not incur any interest liability even if there was a delay in filing the monthly return in Form GSTR-3B

Facts of the case

Interest is sought for the delayed payment of GST between July 2017 and December 2017, during which the assessee, having an accumulated CENVAT credit on the introduction of GST, faced challenges due to system unreadiness and technical glitches in the GST Common Portal. The Department extended the due dates for filing Form GST TRAN-1, leading the assessee to file it belatedly. Despite the inability to reflect the entire amount in the Electronic Credit Ledger, the assessee paid the tax dues in full within the stipulated dates, covering the GST liability for the period. Subsequently, the assessee was permitted to file returns after a delay of six years. However, interest is now demanded for the alleged belated payment of GST, asserting that depositing tax in the Electronic Cash Ledger does not qualify as the payment of tax and amounts to a failure to remit GST on time, thereby attracting interest liability.

Ruling

The assessee should not be held liable to pay interest on the GST amount routinely deposited into the Electronic Cash Ledger within the due date, as the tax amount had already been credited to the Government within the prescribed time limit. It should be emphasized that the crediting to the Government's account would invariably occur no later than the last date for filing monthly returns, as stipulated in Section 39(7).

Additionally, when an amount is paid by generating GST PMT-06, it is to be noted that the said amount would be promptly credited to the Government's account upon deposit. At this point, the tax liability of a registered person is discharged to the extent of the deposit made to the Government. Subsequently, for accounting purposes only, it is deemed to be credited to the Electronic Cash Ledger, as explained in Explanation (a) to Section 49(11).

Furthermore, as long as the GST collected by a registered person is credited to the Government's account no later than the last date for filing monthly returns, the tax liability of that registered person is considered discharged from the date of crediting to the Government's account. Any default in the payment of GST, even after the due date for filing monthly returns (on or before the 20th of every succeeding month), would lead to the registered person being liable to pay interest only for the delayed period, in accordance with Section 50(1).

Source: Madras High Court Judgement dated January, 23 2024 in case Eicher Motors Ltd. vs. Superintendent of GST and Central Excise, Range-II W.P. Nos.16866 & 22013 of 2023 W.M.P. No. 32200 of 2023.

Judgements

Refund application valid if filed within period of limitation of two years prescribed by statute, appellate authority erred in concluding that refund claim can only be made with regard to a specific calendar month.

Facts of the case

The petitioner-assessee exported processed tea without paying IGST by utilizing a letter of undertaking and subsequently sought a refund for unutilized input tax credit covering the period from July 2017 to November 2017. In the month of June 2018, the petitioner filed a refund claim and additionally claimed refunds for the period of July 2017 to November 2017 and the month of May 2018. While the claim related to June 2018 was accepted, the claims for May 2018 and July 2017 to November 2017 were denied.

Ruling

The refund claim was filed within the statutory limitation period as prescribed by the statute. The determination of such entitlement should not only be based on Section 54 of the CGST Act, 2017, in conjunction with Rule 89 but also involves an examination of relevant documents related to unutilized Input Tax Credit (ITC) and exports. The appellate authority's conclusion that a refund claim can only be made concerning a specific calendar month contradicts both statutory provisions and Circular No. 37/11/2018-GST, dated 15-3-2018. As a result, the challenged order is unsustainable and is hereby annulled.

Source: Madras High Court Judgement dated Jan, 22 2024 in case of Tulip Nilgiris Exports (P.) Ltd. vs. Additional Commissioner of Central Taxes and Central Excise (Appeals) Writ Petition No.9063 Of 2021

High court orders to GST authorities to open the portal for assessee to file the GST Return.

Facts of the case

The assessee requested the Authorities for a directive permitting the filing of Form GSTR-3B return for a specific period and urged them to review its application for the revocation of the cancellation of registration due to the delay in filing the return.

Ruling

The delay in submitting the application for the revocation of the cancellation of registration was to be forgiven, provided that the petitioner fulfilled all requirements, including payment of taxes, interest, late fees, penalties, and other dues, along with completing other formalities. The assessee was to be instructed to present a copy of the order to the proper officer, and upon the petitioner's compliance with the aforementioned conditions, the proper officer could activate the portal to facilitate the filing of the GST return.

Source: Orrisa High Court Judgement dated January, 02 2024 in case of Rakesh Kumar Sethi vs. Commissioner of Central Goods & Service Tax WPC No. 41639 OF 2023.

High Court set's aside order as the specific ground was not mentioned in the show-cause notice, necessitating the remand of the matter for fresh consideration.

Facts of the case

The rejection of the refund claim for unutilized input tax credit by the GST authority, based on the grounds that the assessee did not indicate excess payment in either the monthly return (GSTR-3B) or the annual return (GSTR-9), was deemed a violation of the principles of natural justice as the specific ground was not mentioned in the show-cause notice

Ruling

The order rejecting the refund claim was to be set aside, and the matter was to be remanded back to the authority for a fresh consideration.

Source: :Calcutta High Court Judgement dated January, 02 2024 in case of Suchita Millenium Projects (P.) Ltd. vs. Assistant Commissioner of Central Goods and Service Tax & Central Excise M.A.T NO. 1891 OF 2023

Assessee was to be given the opportunity to make the payment in 10 monthly installments for pending tax payments citing Financial Hardship.

Facts of the case

The petitioner-assessee requested the granting of an installment plan for making payments of the tax and interest in question, citing financial hardship.

Ruling

Taking into account the arguments presented in the present writ petition regarding the financial hardship of the assessee and the delay on the part of the GST authority in detecting the revenue mistake against the assessee, the writ petition was allowed, permitting the payment of tax dues and interest in question through ten equal installments. However, if there is a default in any of the installments within the granted time for payment, the order of installments would lose its effect, and GST authorities would be at liberty to proceed against the assessee in accordance with the law.

Source: Calcutta High Court Judgement dated January, 01 2024 in case of Neel Kamal vs. Assistant Commissioner, State Tax W.P.A No 28930 of 2023.

CBIC issues exchange rates for import and export of goods.

CBIC vide Notification-04/2024 of Customs dated January, 18 2024 issues exchange rates for import and export of goods. Rate chart is mentioned below:

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	55.80	53.40
2.	Bahraini Dinar	229.35	212.65
3.	Canadian Dollar	62.70	60.70
4.	Chinese Yuan	11.90	11.45
5.	Danish Kroner	12.35	12.00
6.	EURO	92.30	89.10
7.	Hong Kong Dollar	10.80	10.50
8.	Kuwaiti Dinar	279.15	261.8
9.	New Zealand Dollar	52.15	49.80
10.	Norwegian Kroner	8.05	7.80
11.	Pound Sterling	107.35	103.85
12.	Qatari Riyal	23.60	22.15
13.	Saudi Arabian Riyal	22.90	21.50
14.	Singapore Dollar	62.95	60.95
15.	South African Rand	4.50	4.25
16.	Swedish Kroner	8.10	7.85
17.	Swiss Franc	98.20	94.50
18.	Turkish Lira	2.85	2.70
19.	UAE Dirham	23.35	22.00
20.	US Dollar	84.10	82.35

Schedule-2

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	57.10	55.35
2.	Korean Won	6.40	6.00

Source: Notification No-04/2024 dated January, 18 2024 of Customs

GST Revenue

The gross GST revenue collected in the month of January, 2024 is ₹1,72,129 crore, which shows a 10.4% Year-o-Year growth over the revenue of ₹155,922 crore collected in January 2023.

Notably, this is the second highest monthly collection ever and marks the third month in this financial year with collection of ₹1.70 lakh crore or more. The government has settled ₹43,552 crore to CGST and ₹37,257 crore to SGST from the IGST collection.

Source: pib.gov.in

Let's Connect

For any further assistance contact our team at kmt@vkalra.com

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