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C.No. IV/16/40/2017-CC-HZ-Tech PF-1

DATE: 10.08.2017.

MINUTES OF THE MEETING OF THE REGIONAL ADVISORY COMMITTEE,
HYDERABAD ZONE HELD ON 28.07.2017

A meeting of the Regional Advisory Committee (RAC) of Hyderabad Zone was held on 28.07.2017 at 15.00 hrs at Hyderabad. The meeting was chaired over by Shri Bankey Behari Agrawal, Chief Commissioner of Customs & Central Tax, Hyderabad Zone, Hyderabad, and was attended by the following members :-

1. Shri Devendra Surana, Managing Director & Chairman of the Federation of Telangana Chamber of Commerce and Industry.
2. Shri Gowra Srinivas, President, Federation of Telangana and Andhra Pradesh Chamber of Commerce and Industry (FTAPCCI).
3. Shri Ashok Surana, All India Manufacturers Organization.
4. Dr. Hanumantha Rao, MC Member of Federation of Telangana Small Scale Industries Association (FETSIA).

2) Following Departmental Officers were also present:-

1. Shri Naresh Penumaka, Principal Commissioner, Hyderabad GST Commissionerate, Hyderabad.
2. Shri M. Srinivas, Commissioner, Medchal GST Commissionerate, Hyderabad.
3. Shri A.R.S. Kumar, Commissioner, Ranga Reddy GST Commissionerates, Hyderabad.
4. Shri D. Purushotham, Commissioner, Hyderabad Audit-II Commissionerate, Hyderabad.
5. Shri M. Uma Shankar, Additional Commissioner, CCO, Hyderabad.
6. Shri R.K. Raman, Additional Commissioner, Customs Commissionerate, Hyderabad.
7. Dr. Manjula D. Hosmani, Additional Commissioner, Ranga Reddy GST Commissionerate, Hyderabad.
8. Shri D. Sai Ramesh, Assistant Commissioner, CCO, Hyderabad Zone, Hyderabad.
9. Shri Ravi Jarpula, Assistant Commissioner, CCO, Hyderabad Zone, Hyderabad.
10. Shri M.V.S.N. Vamsidhar, Superintendent, CCO, Hyderabad zone, Hyderabad.
11. Shri S.Maheshwar, Inspector, CCO, Hyderabad Zone, Hyderabad.

3) The Chief Commissioner welcomed all the members/participants of the Regional Advisory Committee (RAC) for the Organized Sector and Small Scale Industries of Hyderabad Zone to the meeting. He introduced, Shri. Naresh Penumaka, Principal Commissioner of Hyderabad GST Commissionerate to the RAC members and also congratulated Shri. Gowra Srinivas for being elected as President, FTAPCCI.

Thereupon, the following agenda points were taken up for discussion:-

3.1) Issues raised by All India Manufacturers' Organization:

Issue No.1 : Whether GST allows freely or has set a procedure for an assessee to explore opportunities and diversify business activities by allowing trade in articles other than what an assessee is routinely handling.

Reply : Commissioner, Medchal Commissionerate explained that there is no such bar on the assessee. The Registration certificate can be amended to include the new article proposed to be traded in/ service to be supplied.

Issue No.2 : Procedure to be followed by Assessee having GST registration for sending goods to job worker located within the state.

Reply : Commissioner, Medchal Commissionerate explained that there is no change in the procedure to be followed for the job work and infact it is the same as the one that existed in the past. Further explained that Section 143 of CGST Act details the procedure to be followed for Job work and also added that the detailed procedural aspects for job-work are also clearly elucidated in the e-flier released by CBEC and placed on website. {<http://www.cbec.gov.in/htdocs-cbec/gst/eflier-jobwork22062017.pdf>}.

Issue No.3 : Procedure to be followed by Assessee having GST registration for sending goods to job worker located outside the state.

Reply : Any supplies made to a person located outside the state for job-work is akin to the procedure to be followed for sending the goods in state. However, the taxability on the transactions would depend upon the agreement drawn between the parties for getting the job-work done.

Issue No.4 : Procedure to be followed by Assessee having GST registration in Telangana for moving goods to job worker located outside the state (say, Karnataka) from supplier located in another state (say, Maharashtra).

Reply : Reply to issue 3 above sustains.

3.2) Issues sponsored by The Federation of Telangana and Andhra Pradesh Chamber of Commerce and Industry (FTAPCCI) :

Issue No.5 : Problems concerning Preparation and Issuance of Invoices

There is no guidance or suggested format for issue of invoices:

Reply : Commissioner, Medchal Commissionerate explained that the details required in a GST Invoice are prescribed under Rule 46 of the CGST Rules, 2017. The tax-payers can devise their proforma with all the requisite fields. Various proformae are also available on the Internet which can be used, provided all the mandated fields are available. This was also clarified in Q.No.29 of FAQ (Part – 3) published by the Board.

Almost every small to medium business is confused on the following aspects:

a) Format of invoice:

Reply : As above.

b) In case of supplies outside the state, whether the billing shall be made from the base state or registration shall be taken in other state and invoice shall be issued from the other state after such registration:

Reply : In case, the goods are supplied from one State to another and the supplier does not have any fixed establishment, registration shall be taken in the base state. In the alternate, if goods are supplied from an establishment of

supplier outside the base state, then registration has to be taken from other State.

- c) In case of high volume supplies, what should be the pattern of issue of invoice as the condition is to issue invoice at the time of removal which will lead to issuance of hundreds of invoices

Reply : Section 31 of CGST Act envisages issue of Invoice for each supply. However, taking into consideration the practical difficulties, Board is in the process of issuing a Circular/ instructions on this issue.

- d) In case of continuous supply of goods, invoice shall be issued when the statement is issued. Till the statement is issued, can the goods be removed based on Delivery Challan

Reply : Taking into consideration the practical difficulties, Board is in the process of issuing a Circular/ instructions on this issue.

- e) What document shall be issued in case of Line Sales i.e. Goods are sold from vehicle because at the time of removal of goods, supply does not take place and supply will happen only when vehicle goes in the market?

Reply : It was explained that Rule 55(4) of CGST Rules addresses the situation.

- f) Issue of invoices in case of reverse charge payments on supplies from un-registered persons. Confusion on Rs. 5,000 limit whether per person per day or per day?

Reply : As per Notification 8/2017 – Central Tax (Rate) dated 28.6.2017, the Rs.5000/- limit pertains to any or all the suppliers:

“supplies of goods or service or both received by a registered person from **any or all the suppliers.....**”.

Hence, it is clarified that the limit applies to “per day”.

Issue No. 6 : HSN classification

- a) The awareness on HSN classification is very poor.

Reply: Trade Awareness programmes are being conducted to sensitise the taxpayers on HSN classification. Further, as per the footnotes of the Central Tax (Rate) Notifications,

“Tariff item”, “sub-heading”, “heading” and “chapter” shall mean respectively a tariff item, sub-heading, heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975.

Hence, it is pertinent to mention that awareness of First Schedule of the Customs Tariff Act, 1975 is sufficient.

In terms of **Notification No. 12/2017 – CT dated 28.6.2017**, tax payers with turnover below Rs.1.5 cr. need not mention the HSN code at all. Similarly, for turnover between 1.5 Cr. to 5 Cr., only 2 digits need to be mentioned and above Rs.5cr., four digits have to be mentioned. GST Rate App has been developed and is available as a free download to assist the tax-payers to identify the tariff head of their product.

- b) Majority of the establishments are finding it difficult to identify their goods in the tariff schedule

Reply: As stated above, GST Rate App helps the tax payers in this regard. The same is also being developed in 10 regional languages to assist the trade.

Issue No. 7 : E-way bills

- a) Telangana government has closed the generation of way bill facility :

Reply: Advised to take up issue with State Government.

- b) There is no clarity on the e-way bills especially the fear of confiscation if the goods are not accompanied by proper documents

Reply: The provisions pertaining to E-way bill has not yet come into force. So no comments are offered.

Issue No. 8 : Import of Inputs

- a) For inputs imported in June 2017, cleared from Customs in June 2017, with duties (BCD, CVD and SAD) paid by the importer, ensuring receipt of such goods inside the factory premises, on or before 30 June 2017, from the port of clearance, in order to avail Cenvat, is practically impossible.

- b) The provision for transitional credit [Section 140(5)] allows credit of only duties paid/discharged by the supplier on inputs or input services. In the above scenario of imports, as the recipient is paying the duties, credit under this Section 140(5) may not be permitted.

Reply : The "eligible duties" for the purpose of transition has been defined at Explanation 2 to Section 140 of the CGST Act, 2017,

"Explanation 2.—For the purposes of sub-section (5), the expression "eligible duties and taxes" means—

.....

(ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;

(iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;

.....in respect of inputs and input services received on or after the appointed day"

Hence, as per the above explanation, it is to clarify that such credit is permissible.

Issue No. 9 : Capital Goods in-Transit

- a) No transitional provision for capital goods in-transit. Invoices under old law are prior to 1 July 2017, with capital goods being received in the factory post 1 July 2017

Reply : It was informed that there is no such provision and also as per FAQ No. 34 in Part -2 of FAQs issued by the Board, "No provision for such credit is there in GST law."

Issue No. 10 : Reverse Charge

- a) With respect to services attracting reverse charge for invoices dated prior to 01 July 2017 (for which consideration is paid to the service provider in July 2017 or later), there is no clarity as to whether service tax is payable under RCM or GST.

Example:

1. For rent-a-cab services covered under RCM rendered in June 2017, the invoices for which are issued in July 2017 and payment to the vendors made in July 2017, the POT would be July 2017. There is no clarity as to whether the cab service providers are required to issue GST invoices charging GST, or whether the

recipient of such services would continue to be liable to discharge service tax under reverse charge.

Reply : Since POT is in July 2017, GST needs to be paid. Since there is no RCM for Rent-a-Cab service in GST, the supplier, i.e. cab service operators are required to issue GST invoices.

2. Similarly, there is no clarity in case import of services, and in case where legal services are procured within India.

Reply : This is clarified by way of Press release dated 15.7.2017 and a copy of the press release was provided to the member for information.

Issue No. 11 : Registration

- a) The Place of Supply of services with respect to renting of Immovable property is held to be the place where such Property is located. There is no clarity as to whether such immovable property qualifies as Fixed Establishment warranting local registration in each State.

Reply : Commissioner, Ranga Reddy GST Commissionerate explained that if the property owner does not have an establishment in the state where the property is located, IGST has to be paid.

- b) Similarly, the place of supply of Installation of Goods is held to be the place where the installation takes place. There is no clarity as to whether such place of installation would qualify as Fixed Establishment, and hence whether registration in each State where such installation activity is carried out by the Supplier, is required.

Reply : If the supplier of goods does not have an establishment in the state where the goods are installed, IGST has to be paid.

- c) As per Section 24 (vii) of GST Act, persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise are required to get themselves registered. The Principals are agriculturists and as such not taxable persons, then is there any necessity for the selling agents of dry Chillies to get themselves registered for GST.

Reply : Yes, they have to take registration as the subject goods attract GST under Chapter heading 0904.

Issue No. 12 : Carry Forward of Credits

- a) There is no clarity as to whether credit of Education Cess and Secondary & Higher Education Cess is eligible for carry forward to GST regime.

Reply : Commissioner, Ranga Reddy GST Commissionerate explained that credit of Education cess and Secondary Higher Education Cess taken before 01.03.2015 is not eligible, for carry forward to GST regime as it is not covered by definition of "eligible duties and taxes" under Section 140 of the CGST Act. Further, it was also clarified vide sl.no.93 of GST Twitter Handle FAQs.

- b) There is no provision in transitional credits, for carry forward of service tax paid under RCM in July 2017, to GST regime.

Reply : Commissioner, Ranga Reddy GST Commissionerate explained that the tax required to be paid under RCM for the services rendered on or before 30.06.2017 and payable in the month of July, 2017 is governed by the Finance Act, 1994. The assessee can avail credit of the tax paid on the RCM under transition provisions.

Issue No. 13 : Manufacturing

- a) In the case of bulk supply of goods through rail, for example when 100 tons of cement is supplied through rake, it may involve movement of over 100 trucks from the factory to the rake station, until the entire wagon is filled. Thereupon, the goods (cement in this case) would be dispatched to the client.
- b) In terms of Section 31, for each clearance from factory, the supplier is required to issue a tax invoice.
- c) In this specific case, the manufacturer is required to issue 100 invoices for single supply made to customer, only for the reason that the movement from factory takes place in 100 trucks. This is a huge burden resulting in voluminous documentation and reconciliation issues.

Reply : *It was informed that Board is in the process of issuing clear instructions/procedure regarding bulk supplies.*

Issue No. 14 : Employee Benefits

- a) In car-lease arrangements extended by employer to employee, a company treats such car-lease payment as a part of salary and also income tax is paid on such perquisite value by inclusion of the same in the CTC / salary of the employee.

Reply : *Commissioner, Medchal and Range Reddy GST Commissionerates jointly explained that, if it is included in CTC/ salary, as such, does not attract GST.*

- b) Further, when such car is leased to the employee, there is no clarity as to whether the Company is required to pay GST treating the same as taxable supplies.

Reply : *Commissioner, Ranga Reddy GST Commissionerate explained that GST is liable to be paid in such a situation as lease is covered under the definition of Supply.*

- c) Any such liability would result in double taxation in the hands of employees, leading to significant burden on the employee.

Reply : *Commissioner, Ranga Reddy GST Commissionerate explained that what is liable to be paid under the law, should be paid. If in a situation, where the company is not able to take credit of tax paid due to certain restrictions or limitations under the law, such incidence should be treated as an expense to the company.*

- d) It is not clear as to whether, when a Company/ Employer provides cars to employees for their personal and official use, GST is to be charged on such supply (employee being a related party, even free supplies are subject to GST).

Reply : *Commissioner, Ranga Reddy GST Commissionerate explained that there should be a demarcation between personal and official use, accordingly GST is chargeable.*

- e) As the Companies would not be eligible to avail credit on such cars procured (restricted credit under Section 17 of the CGST Act, 2017), the said supplies are charged to GST twice, once when the said cars are procured by the Company and secondly when the same are offered free of charge to employees).

Reply : *Reply to above question refers. Further, if the said supply is in relation to usage in person, GST is chargeable.*

- f) It is definitely not the intention of the Government to continue double taxation or to continue the cascading effect of taxes.

Reply : *Earlier clarification holds good.*

Issue No. 15 : Services by India Branch to Overseas Head Office

- a) As Branch and Overseas HO are treated as mere establishments of distinct person, services rendered by India Branch to Overseas HO, would not qualify as export, under Section 2(6)(v) of IGST Act 2017.
- b) It is not clear as to whether, owing to the place of supply being outside India, no GST is payable, despite being not qualified as Export.
- c) However, it appears to be clear that Input tax credit is NOT eligible.
- d) Secondly, as such services by India Branch will be treated as exempted services, there should be no requirement for registration under GST.

Reply : *Commissioner, Ranga Reddy GST Commissionerate explained that in the above situation, the establishment in India is liable to pay IGST as the transaction doesn't qualify to be treated as an Export under Section 2(6) of IGST Act.*

Issue No. 16 : Other Issues

- a) How to report the transactions where the law says for transactions below Rs. 200/- tax invoice is not required to be issued? Does it mean that end of the day a consolidated tax invoice for such transactions can be issued? Similar provision was there in the June 2016 MGL.

Reply : *Yes, consolidated invoice can be raised. However, if a customer insists for tax invoice, it should be obliged.*

- b) Petrol and Diesel are not in GST, which means when they are purchased from outside the state where the Oil marketing companies do not have refineries in their states, they source it from outside the state, in such cases is C form still required? If yes, can taxpayers still apply for C form, for new purchases it is not being allowed?

Reply : *Advised to take up with State authorities.*

- c) With respect to composition taxpayers, there is a provision in the law which says that existing taxpayer under VAT cannot migrate to composition scheme in GST if he is having any stock as on day prior to the appointed day. Does it mean that composition taxpayer cannot have interstate transactions?

Reply : *Yes, a supplier having interstate transactions can not opt for composition scheme.*

- d) In GSTR - 2, the Recipient has to approve the inward supplies, will they be available only after the supplier files his GSTR - 1 after digital signature i.e on 10th or after upload on daily basis. It should be made available on as and when the supplier uploads the invoice else it will be a challenge for the recipient to approve/accept the same in a span of 5 days.


Reply : *Commissioner, Medchal GST Commissionerate explained that, Invoice can be uploaded any time during the month before 10th of next month. Validation can be done continuously and any difference may be reported between 10th and 15th of every month.*

- e) What is the process or treatment of VAT / CST exemption for the existing units?
How will the units get the tax benefits?

Reply : Advised to approach State authorities.

4) Shri. Devendar Surana of FICCI informed about the fall in prices on certain products after roll over of GST. Chief Commissioner sought a detailed letter on Associations letter pad elucidating the drop in prices of commodities supplied by traders to manufacturers, so that the same can be communicated further to the Committee of Joint Secretaries overseeing the impact of GST on the society at large. The meeting was concluded with Chief Commissioner extending thanks to all the members of the Committee.

5) This issues with the approval of the Chief Commissioner of Central Tax & Customs, Hyderabad Zone.


(M.Uma Shankar) 10/8/17
Additional Commissioner (CCO)

To

All the RAC Members (by e-mail)

Copy submitted to :

- 1) The Indirect Tax Ombudsman, Chennai, 26/1, Mahatma Gandhi Road, Nungambakkam, Chennai, 600 034 w.r.to letter F.No. ITOM/RAC-Hyderabad/2015 dated 08.04.2016.
- 2) The Principal Commissioner of Customs / Pr. Commissioner of Central Excise & Service Tax , Hyderabad-I ; Commissioner of Central Excise & Service Tax, Hyd - II, III, IV; Commissioner of Service Tax; Commissioner of C. Ex & ST- Audit; Commissioner (Appeals), Customs& Central Excise and Commissioner (Appeals) Service Tax- with a request to give wide publicity.