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GST UPDATES FOR DECEMBER 2019 & JANUARY 2020

INDIRECT TAX STUDY CIRCLE MEETING ON 22.01.2020

BY CA KUSH VORA

A. JUDICIAL PRECEDENTS & ADVANCE RULINGS

1. LGW Industries Limited & Ors. vs. Union of India & Ors- Calcutta HC

- Constitutional validity of Section 16(2)(c) is challenged
- ITC cannot be denied to a bona fide purchaser, only because of the default of the supplier, over whom it has no control whatsoever.
- It was argued that Petitioner have taken all reasonable steps to ensure that suppliers of goods are not fictitious by verifying their registration details on the GSTN portal and also matching its purchases with the GSTR 2A automatically generated by the GSTN portal.

2. Abbott Healthcare Private Limited vs. The Commissioner of State Tax Kerala & Ors. - [TS-4-HC-2020(KER)-NT]

- The assessee was supplying medical instruments to hospitals, laboratories etc., for their use without any consideration along with supply of products like reagents, calibrators, disposables etc.
- The AAR held that such supply on instruments without consideration and products is composite supply and the AAR went on to observe that the supply of the instrument was to be treated as the principal supply, in the said composite supply. Accordingly, the reagents, calibrators and disposables had to be taxed at the higher rate applicable to the instrument supplied.
- Kerala HC quashes order of AAAR & AAR in case of Abbott Healthcare P Ltd. Rejects finding that the placement of medical instruments to
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hospitals, laboratories etc., for use without any consideration, constitutes a "composite supply

3. Bombay HC- Lodha Developers

- Bom HC issues notice in a writ petition challenging NAA order whereby the NAA authority held 'Lodha Developer' guilty of profiteering on the ground of failure to pass on benefit on additional ITC;
- Petitioner contests the constitutional validity of Section 171, composition of the NAA, the Methodology and Procedure as well as
- HC lists matter on January 22 while also granting stay on notice issued by

4. Kalyan Jewellers India Ltd. [TS-1188-AAR-2019-NT]

- Tamil Nadu AAR holds that own closed Pre-paid Instruments (PPI's) issued by the Applicant qualify as 'vouchers and constitute a supply of 'goods' as per Section 2(52).
- Rejects applicant's claim that PPIs are actionable claims equivalent to money and issue of PPIs are not supply and GST is not liable to be paid at the time of supply of PPIs
- Distinguishes SC ruling in case of Sodexo

B. NOTIFICATION & CIRUCLARS

1. Govt. notifies January 01, 2020 as the date on which provisions of sections 92 to 112 (except section 92, section 97, section 100 and sections 103 to 110) & Section 114, of the Finance (No. 2) Act, 2019 (23 of 2019), shall come into force.
2. Amends FORM REG-01 and GSTR-3A and prescribes new FORM INV-01
3. Provides an option to registered persons to transfer ITC to new Union Territory GSTIN from old state GSTIN till 31.12. 2019

4. CBIC amends Notification No. 12/2017- CT (Rate) dated June 28, 2017 to give effect to GST Council's proposal, exempts upfront amount payable for long term lease of industrial/ financial infrastructure plots by an entity having 20% or more ownership of Central or State Govt. w.e.f. January 01, 2020;
5. Waives late fee for the registered persons who failed to furnish the details of outward supplies in GSTR-01 upto November, 2019 but furnishes the said details in upto January 10, 2020;
6. Amend Rules 36 (4) restricting ITC availment to 10 % in respect of invoices/debit notes not reflected in its FORM GSTR-2A,
7. Inserts new Rule 86A stipulating Conditions of use of amount available in electronic credit ledger
8. Issues order extending due-date for filing of Annual Return for FY 2017-18 for all taxpayers till January 31, 2019
9. **Circular No. 130/49/2019 dt. 31.12.2019**
 - CBIC issues clarification on applicability of Reverse Charge Mechanism (RCM) on renting of motor vehicles w.r.t. entry inserted in RCM Notification with effect from October 1, 2019;
 - Explains that, there are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC;
 - The only interpretation of the Notification Entry would be that
 - (i) *where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and*
 - (ii) *where the supplier of the service does not charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM;*