

### Case Study – 1: Search Operation

(BHK)

ABC Ispat Limited is having registration under erstwhile Central Excise, Service Tax & State VAT and they have migrated into GST, they have been granted GSTIN under GST. ABC Ispat Limited is having two manufacturing units at Location “A” and Location “B” and having registered office at Location “C”. Search under Section 67(2) of the CGST Act, 2017 was conducted by the DGGI – Hyderabad Zonal Unit on 15-03-2021 at the premises of ABC Ispat Limited.

DGGI – Hyderabad Zonal Unit as conducted search at all the locations (i.e., Location “A”, “B” and “C”). During the search operation the DGGI has seized certain documents as incrementing materials at Location “C” and no incrementing material were ceased at Location “A” and “B”. while in search, the department has conducted physical verification of goods, the DGGI has found excess finished stock of 23.50 MTs at Location “A” and shortage of finished stock of 14.75 MTs at location “B”. The DGGI has collected GST on the excess stock and shortage stock an amount of Rs. 3,50,000/- and Rs. 1,25,000/- for Location “A” and “B” respectively, during the search operations on 15-03-2021.

DGGI has alleged that ABC Ispat Limited as procured raw materials from few bogus and fictitious firms basing on the information received from other DGGI office on 16-03-2021. Basing on the information from other DGGI office, the search was initiated and the GST involved is Rs. 3.95 Crores from these few bogus and fictitious firms. ABC Ispat Limited has paid Rs. 2.50 Crores under Protest to avoid arrest of one of the Director of the company.

Recently, DGGI, Hyderabad Zonal Unit has issued Show Cause Notice, ABC Ispat Limited as submitted objections to Show Cause Notice, adjudication orders are awaited. In light of the above facts:

1. Is, Collection of GST on Excess or Shortage of Stock, Valid.
2. Is, Collection of Rs. 2.50 Crores under the guise of arrest without adjudication is permitted.
3. Is Search Operations are justified on the ground “Reasons to Believe” as contained in Section 67(2) of CGST Act, 2017.

---

### Case Study – 2: ITC Mismatch

(VSS)

Mr. Innocent, is a trader in Karimnagar into the business of Construction Materials, applied for GST Registration in the month of April, 2019 and got the same. Since April, 2019 till date, he has filed all the GST monthly returns and paid the Taxes.

In the past one year, Mr. Innocent has received the following letters / communications / notices from the following GST Offices.

1. DGGI – New Delhi – asking to reverse the ITC which he claimed on supplies from his Supplier Mr. Mischief. As per DGGI, New Delhi that Mr. Mischief has taken registration basing on the fake documents and he is not traceable. Mr. Mischief has filed all GSTR-1 returns and GSTR-3B returns till date. DGGI, New Delhi also mentioned that the suppliers of Mr. Mischief have not filed GSTR-3B and they have filed all GSTR-1 Returns.
2. DGGI – Bhopal – Asking to reverse the ITC which he claimed on supplies from his Supplier Mr. Naughty and asking for details of Ledger Copy, Copies of Tax Invoices and Bank Statement showing the payment of consideration.
3. Hyderabad – Anti Evasion – directed to pay the consideration if any due to supplier Mr. Doubtful as he has defaulted in the payment of GST.

# Hyderabad Branch of SIRC of ICAI

## Practical issues in GST - Case Studies or Brain Trust Session

---

4. CGST Commissionerate, Kadapa Range – Communicated to reverse the ITC as he has not paid the consideration to his supplier M/s. Bankrupt within 180 days from the date of Tax Invoice / Debit Notes.
5. Chennai – Anti Evasion – Intimation to reverse the ITC over and above GSTR-2B returns from April, 2019 onwards till date and also directed to pay interest on the same.

In light of the above facts:

1. Whether Mr. Innocent is required to answer all these letters / notices / intimations / communications?
  2. Whether all the above Offices of GST are having jurisdiction to collect information / data and direct Mr. Innocent to reverse ITC?
  3. Is Mr. Innocent liable for Interest for non-reversal of ITC in light of Section 50 of CGST Act, 2017?
- 

### Case Study – 3: Input Tax Credit

(TRP)

DMKC Limited is having Head Office & Registered Office located in Delhi and having branches at Mumbai, Kolkata & Chennai. DMKC Limited has obtained separate registrations under GST for four locations and is also having ISD Registration at Mumbai. Each branch is having different line of activity and all the payments are made from Mumbai Branch where CFO is stationed.

#### Issue-1:

Head Office received the Tax Invoices for Audit Fee, Software License and Health Insurance of all the employees. HO has taken total input tax credit and set off against its output liability – Is this correct?

#### Issue – 2:

Chennai Branch is into real estate business under Joint Development Agreements. As on 01-04-2019 they were having accumulated ITC of Rs. 2.75 Crores and they have opted for 5% GST without ITC. Consultant of DMKC Limited has advised for refund of accumulated ITC. Accordingly, they have filed refund application and the same was rejected by the department. DMKC Limited seek your advice for filing First Appeal. Please clarify with respect to First Appeal, 'Reversal of ITC as on 01-04-2019 and applicability of interest on late reversal'.

#### Issue – 3:

Factory Located at Kolkata has purchased a motor vehicle to transport the goods from one place to another place within the factory premises. Motor Vehicle is sold after 36 months of its usage at the book value to one of the employees. The GST Auditor is of the opinion that, the book value cannot be adopted as the transaction is between related parties; He is also of the view that the Compensation CESS paid at the time of purchase of motor vehicle is not allowable as they are using the vehicle in their business but not making any further supply at the time of purchase. Kindly advise on the same with best possible way to optimize the ITC.

#### Issue – 4:

One of the suppliers of Mumbai branch has issued Tax Invoice with the Delhi HO GSTIN; The payment for the same is made from Mumbai Branch. Mumbai has recorded the transaction in their books and the transaction is appearing in the GSTR-2B of Delhi GSTIN. Please advise how the ITC can be claimed in such a situation.

---

### Case Study – 4: Transitional Credit:

(SS)

#### Part-A:

Mohan Engineering & Contractors Limited (MECL) were registered under State VAT & Service Tax, having registered office at Hyderabad & they were migrated into GST. As on 30-06-2017 they were having VAT Input Tax Credit of 1.26 Crores and Service Tax Credit of NIL. MECL has filed TRAN-1 and got SGST Credit of 1.26 Crores.

They were subjected to State VAT Assessment for the Years 2014-15, 2015-16 & 2016-17 and the assessment proceedings were concluded in the month of August, 2019. The assessment resulted into VAT liability of Rs. 2,25,000/- for 2014-15, Rs. 54,600/- for 2015-16 & Nil demand for 2016-17. MECL has contested the same and filed first appeal by paying 12.5% of disputed tax as pre-deposit for both the years and for the balance amount, they have not filed any stay application as the demands are small.

The State Tax Officer has issued a notice under Section 74 of CGST Act, 2017 & SGST Act, 2017 seeking their objections for recovery from transitional credit as their State VAT assessments have resulted into demand. MECL has approached you for advice on the validity of the Show Cause Notice U/s. 74 and also sought your assistance in replying to the Show Cause. Please advise in light of the provisions of GST Law.

#### Part – B:

M/s. MSJ Enterprises (MSJE) is a partnership Firm, doing the business of Authorized Dealers of FMCG Goods and is located at Madhapur, Hyderabad. MSJE was having registration under Telangana Value Added Tax Act, 2005 and as on 01-07-2017 they had migrated into GST and was allotted a GSTIN and they were regularly complying with the GST Law. As on 30-06-2017 they were having stock of 1500 items having value of Rs. 11.25 Crores. Out of these 1500 items, they had received 250 items from Excise Duty exempted unit (Location Based Exemption) and the remaining were subjected to Excise duty.

As per the advice of their GST Consultant, they have filed TRAN-1 application for 1500 items and taken Credit basing on the assumption that they are eligible for the same.

At present, they have received a letter from the CGST Jurisdictional Superintendent stating that they are not eligible for Transactional Credit on 250 items which were received from excise duty exempted unit. Your expert advice is sought on the same.

---

### Case Study – 5: Scope of Supply & Levy:

(BHK)

#### Part - A

Sudhir Infra Technology Limited was awarded turn key project in the month of August, 2018 and the turn key project to be handed over to the contractee in three years i.e., July, 2021. Due to COVID -19 the project was delayed, the possible date of completion is estimated to be July, 2022.

As per the Contract terms Sudhir Infra Technology Limited is liable to pay Rs. 1.00 Crore for every month of delay in case the delay is otherwise than on account of the contractee. Sudhir Infra Technology Limited is approaching you to advice on the applicability of GST on the amount payable to the contractee on account of delay in completing the project.

---

### Part – B

Mokshit Academy (MA) is into training of aspirants of Civil Services. They have taken a premises on rent at Ashok Nagar, Hyderabad for a term of 6 years from their landlord Mr. Ramakrishna on 01-04-2019. Due to COVID – 19 the academy is not running in profits and they wanted to shift to New Delhi. As per the terms of contract between MA and Mr. Ramakrishna, in case the premises is vacated before the completion of tenure of 6 years, MA is liable to pay 5% of rent of unexpired period as damages to Mr. Ramakrishna. MA & Mr. Ramakrishna are seeking your advice on the applicability of GST on the damages payable by MA to Mr. Ramakrishna.

---

### Case Study – 6: Returns:

(VSS)

#### Part – A:

Mr. Lazy, is having GST registration from appointed date and is very irregular in filing his returns. Mr. Lazy for the year 2017-18, has not claimed part of input tax credit till the filing September, 2018 GSTR-3B Return and as per the advice of one enthusiastic GST Consultant, the unclaimed ITC was claimed in GSTR-9 for the Year 2017-18.

Department has issued Notice under Section 73 of CGST Act, 2017 for the Year 2017-18. Mr. Lazy has approached you for your advice in appearing before the Department – Advise Mr. Lazy.

#### Part – B:

Om Impex, an importer of specialized watches from Germany is having place of business in Secunderabad. He is having registration with DGFT and GST since appointed date. Om Impex have not claimed Input Tax Credit of IGST of Rs. 35,50,000/- paid at the time of Customs Clearing for the month of August, 2017 till date. He has approached the Department for clarification orally for claiming the IGST paid in the month of August, 2017. Department have advised him that, he lost the opportunity to take the credit of IGST paid at the time of import. He has approached you being the GST Expert – please advise.

#### Part – C:

M/s. Sun Pharma Distributors (SPD) are the sole selling distributors for the state of Telangana for Moon Pharma Private Limited (MPPL). The goods manufactured by MPPL and sold by SPD are covered under HSN – 3822 – Laboratory Reagents. As per the Tax Invoice issued by the manufacture (MPPL), SPD has charged 12% GST from all its recipient and discharged the tax liability regularly.

In the month of September, 2018 MPPL has issued a Debit Note saying that as per the Advance Ruling given in another case and as per the expert advice of Delhi based GST Consultant, Laboratory Reagents are liable to 18% and accordingly debit note was issued for 6% differential tax and advised SPD to issue Debit Notes to its recipients for the period from 01-07-2017 to 30-09-2018. MPPL and SPD had started charging GST @ 18% from 01-10-2018 to till date.

The CBIC recently vide Central Tax Circular No: 163/19/2021, Dt: 06-10-2021 has clarified that, goods falling under HSN – 3822 i.e., Laboratory Reagents are liable to GST @ 12%.

In light of the above facts and circular, SPD and MPPL have approached you for your valuable advice in interpretation of facts & circular and course of action to be taken. Please advise.

---

### Case Study – 7: Scope of Supply & Levy:

(TRP)

4Wheel AMC Private Limited (4WAPL) is engaged in the business of repairing of four wheel vehicles along with supply of spares and accessories. 4WAPL enters agreements with the customers for periodic maintenance of the four-wheeler vehicles. At the time of entering into agreement 4WAPL collects advance of Rs. 15,000/- p.a. from each customer with predetermined rates for repair service, spares & accessories applicable for entire period of agreement.

After periodic maintenance, 4WAPL issues Tax Invoice to the customers specifically mentioning the Taxable Value and CGST + SGST for repair services, spares & accessories separately and the gross value of tax invoice is adjusted from the advance collected from the customer.

At the end of the agreement period any amount left out in the advance of Rs. 15,000/-, will be carried forward to the next period in case new agreement is entered for next period. In case the agreement is not continued, the balance amount is refunded to the customer where it is more than Rs. 2,000/-. On the other hand, where it is upto Rs 2,000, the same will be forfeited.

In the light of the above facts, 4WAPL is seeking your expert advice on the following aspects:

1. Entire contract can be considered as Composite Supply having principal supply as Repair Service, liable to GST @ 18% on the entire agreement value.
  2. In case the agreement is not composite Supply, how to bifurcate Supply of Services & Supply of Goods for payment of GST on Advance received at the time of signing the contract as you are aware that advance received towards supply of goods, GST is payable at the time of issue of Tax Invoice.
  3. On termination of agreement, the balance in the contract is less than Rs. 2000/-, it will be forfeited by the 4WAPL, can amount forfeited be treated as liquidated damages and GST is not applicable on the same?
  4. In case agreement is not continued and the balance in the customer ledger is more than Rs. 2,000/- the same will be refunded to the customer. In this situation clarify whether a GST Credit Note is to be issued or Non-GST Credit Note (Financial Credit Note) is to be issued.
- 

### Case Study – 8: Scope of Supply & Levy:

(SS)

Mr. Deepak having a castle situated at Banjara hills, Hyderabad and he has let out to Mr. Pankaj for a monthly rent of Rs. 5,00,000/- for the purpose of his residence -cum- office. Mr. Pankaj stayed in the castle for few months and he allowed his friend Mr. Kailash to stay in the castle without approval of Mr. Deepak, as Mr. Pankaj got an acting opportunity at Hollywood.

Mr. Kailash has stayed for couple of years and not paid rent to Mr. Deepak. Mr. Deepak has approached the court for vacating the castle and payment of rent due. The Court has awarded that Mr. Pankaj has to pay the rent to Mr. Deepak along with interest and Mr. Kailash has to pay Rs. 1.00 Crore to Mr. Deepak for illegal occupation and trespass.

Mr. Deepak has received Rs. 1.20 Cr as arrears of rent, Rs. 25.00 Lakhs as Interest and Rs. 1.00 Cr from Mr. Kailash as awarded by court. Mr. Deepak is confused as to the applicability of GST on these amounts.

---