Lakshmikumaran & Sridharan attorneys

L&S Update

an e-update to clients from
Lakshmikumaran & Sridharan

L&S GST Update No. 24
22nd May, 2017

GST – Revised Draft Valuation Rules

Declaration of Value of supply Rules

- **Rule 2: Value of supply of goods and/or service between distinct or related person, other than through an agent:** Following proviso is added:

  'Provided that where goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.'

- **Rule 6: Determination of value in respect of certain supplies**

❑ **Sub rule 1:** The sub rule provides for the manner of determination of value of money changing services, air travel agent services and services in relation to life insurance business on notional basis. The rule is revised to provide that the methods prescribed in this rule are optional.

L&S Comments: Supplier of above mentioned services can, instead of opting the notional value, can determine the actual value of their supplies and discharge tax liability thereon.

- **Sub rule 5:** The sub rule provides for the manner of determination of value in case of a service provided by a person dealing in second hand goods. The Rule is revised to add following proviso:

  'Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.'

- **Sub rule 7:** The sub rule provides that value of services provided by notified class of service providers as referred to in Schedule I between distinct persons, other than those where input tax credit is not available under Section 17(5), shall be deemed to be NIL. The rule is revised to provide that value shall be deemed to be NIL only in those cases where input tax credit is available.

  L&S Comments: Earlier, value could be deemed to be Nil even if credit is not available, for the reasons other than Section 17(5). Amendment of the rule provides that if credit is not available, for any reason, value cannot be deemed to be NIL.

- **Rule 7: Value of supply in case of pure agent:**

(A) The rule is revised to omit the words 'of services' after the words 'recipient of supply' contained in opening para. The revised para along with deletion is reproduced below:

'Notwithstanding anything contained in these rules, the expenditure or costs incurred by the supplier as a pure agent of the recipient of supply ~~of services~~ shall be excluded from the value of supply, if all the following conditions are satisfied, namely……'.

<u>L&S Comments:</u> Now, the concept of pure agent is not limited to services and can be applied in case of goods also.

(B) Following conditions, used for determining whether the expenditure incurred by a supplier as pure agent is includible in his value of supply or not, have been omitted:

(i) the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party ~~for the services procured as the contract for supply made by third party is between third party and the~~ *on authorization by such recipient* ~~of supply~~ (Only struck off part is omitted and part highlighted in italics is inserted)

…..Contd.

(ii) The recipient of supply uses the services so procured by the supplier service provider in his capacity as payment made by the pure agent of the recipient of supply;

(iii) The recipient of supply is liable to make payment to the third party;

(iv) The recipient of supply authorizes the supplier to make payment on his behalf;

(v) The recipient of supply knows that the services for which payment has been made by the supplier shall be provided by the third party;

(vi) The supplier recovers from the recipient of supply only such amount as has been paid by him to the third party

(C) Further in the definition of pure agent, below part highlighted in bold, has been added-

‘Pure agent means a person who, *inter alia*, receives only the actual amount incurred to procure such goods or services **in addition to the amount received for supply he provides on his own account**.’

- **Rule 9:** New rule added for determining the tax amount where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union Territory Tax.

$$\text{Tax amount} = \frac{\text{Value inclusive of tax}}{(100+\text{sum of tax rates in \%})} * (\text{Tax rate in \%})$$

- Apart from the above, there are certain other minor changes also in the rule.

NEW DELHI
5 Link Road, Jangpura Extension,
Opp. Jangpura Metro Station,
New Delhi 110014
Phone : +91-11-4129 9800

B-6/10, Safdarjung Enclave
New Delhi - 110 029
Phone : +91-11-4129 9900
E-mail : lsdel@lakshmisri.com

MUMBAI
2nd floor, B&C Wing,
Cnergy IT Park,
Appa Saheb Marathe Marg, (Near Century Bazar)
Prabhadevi, Mumbai - 400025.
Phone : +91-22-2439 2500
E-mail : lsbom@lakshmisri.com

CHENNAI
2, Wallace Garden, 2nd Street
Chennai - 600 006
Phone : +91-44-2833 4700
E-mail : lsmds@lakshmisri.com

BENGALURU
4th floor, World Trade Center
Brigade Gateway Campus
26/1, Dr. Rajkumar Road,
Malleswaram West,
Bangalore-560 055.
Ph: +91-80-4933 1800
E-mail : lsblr@lakshmisri.com

HYDERABAD
'Hastigiri', 5-9-163, Chapel Road
Opp. Methodist Church, Nampally
Hyderabad - 500 001
Phone : +91-40-2323 4924
E-mail : lshyd@lakshmisri.com

AHMEDABAD
B-334, SAKAR-VII,
Nehru Bridge Corner,
Ashram Road,
Ahmedabad - 380 009
Phone : +91-79-4001 4500
E-mail : lsahd@lakshmisri.com

PUNE
607-609, Nucleus, 1 Church Road,
Camp, Pune – 411 001
Phone : +91-20-6680 1900
E-mail : lspune@lakshmisri.com

KOLKATA
2ND Floor, Kanak Building
41, Chowringhee Road,
Kolkatta-700071
Phone : +91-33-4005 5570
E-mail : lskolkata@lakshmisri.com

CHANDIGARH
1st Floor, SCO No. 59,
Sector 26,
Chandigarh - 160026
Phone : +91-172-492 1700
E-mail : lschd@lakshmisri.com

GURGAON
OS2 & OS3, 5th Floor, Corporate Office Tower, AMBIENCE Island, Sector 25-A,
Gurgaon - 122001
Phone : +91-124-477 1300
E-mail :lsgurgaon@lakshmisri.com

ALLAHABAD
3/1A/3, (opposite Auto Sales), Colvin Road, (Lohia Marg),
Allahabad -211001 (U.P.)
Phone no. : (0532) – 2421037, 2420359
Email: lsallahabad@lakshmisri.com

www.lakshmisri.com
www.lakshmisri.cn
www.gst.lakshmisri.com
www.addb.lakshmisri.com