LKS UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

3 JANUARY 2023

INDIRECT TAX

No claim bonus by insurance companies clarified

UPDATE NO. 5 OF 2023

Lakshmikumaran & Sridharan attorneys

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CBIC CIRCULAR NO. 186/18/2022-GST, DATED 27 DECEMBER 2022

(I) Clarifications regarding no claim bonus ('NCB') offered by insurance companies

- *NCB not a consideration for any supply by the insured*

CBIC has clarified that the insured is not under a contractual obligation to not make an insurance claim during any period covered under the policy, in lieu of NCB. Therefore, no supply is provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance during such period, and accordingly NCB cannot be considered as a consideration for any supply.

- *NCB is a discount under Section 15(3)(a) of the CGST Act, deductible from the value of insurance services*

CBIC has clarified that the availability of discount in the form of NCB is disclosed by the insurance company in the policy itself and details of NCB are provided in the invoices also. This is in consonance with the conditions under Section 15(3)(a). Accordingly, GST is only leviable on the actual amount of insurance premium payable by the insured, after deduction of NCB.

LKS COMMENTS

The Circular has been issued pursuant to the recommendations of the 48th GST Council Meeting in this regard. The clarification puts an end to a contestable issue for assessees in insurance sector.

(II) Exemption from e-invoicing applicable on entity as a whole

CBIC has clarified that exemption from e-invoicing on certain entities/sectors as per N.N. 13/2020-C.T. dated 21 March 2020 applies to all the supplies made by such entities irrespective of the nature of supply.

LKS COMMENTS

- As per N.N. 13/2020-C.T., dated 21 March 2020, an insurer, banking company, financial institution, GTA, supplier of passenger transportation service and supplier of service of admission to exhibition of cinematograph films in multiplex screens, are exempted from issuing e-invoices. The Circular clarifies that such entities are not required to issue e-invoices for any outward supply. For example, a banking company is not required to issue e-invoice even for supplies other than banking services.

- The impact of the Circular needs to be examined in certain cases, considering the wide definition of the term 'business' under GST and the applicability of such exemption basis the quantum and frequency of other supplies undertaken by the specified entities. For example, whether a supplier registered as GTA for business purposes but generating majority of its turnover from some other activity than GTA services will qualify for such exemption w.r.t. all its supplies?

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