Lakshmikumaran & Sridharan attorneys

L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

L&S GST Update No. 38
3rd July 2017

CGST Rules, 2017 - Notification providing for additional rules

Demands and Recovery

- Rules relating to issuance of show cause notices for demanding GST not paid, have been issued.
- Various Forms for notices, replies, intimations, orders, etc. in respect of the demand of amount payable under GST have also been notified.

Recoveries by officer through sale of goods of defaulter:

- Such sale of goods shall be effected through a process of auction, including e-auction, for which a notice shall be issued indicating the goods to be sold and the purpose of sale
- Bidders shall have at-least 15 days from the date of notice, to submit their bids
- Auction shall be cancelled and goods shall be released where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery

Demands and Recovery

- Amount realised from the auction shall be appropriated in the following sequence:
  - first, be appropriated against the administrative cost of the recovery process;
  - next, be appropriated against the amount to be recovered;
  - next, be appropriated against any other amount due from the defaulter under the Acts and the rules made thereunder; and
  - Any balance, be paid to the defaulter.

- Similar provisions will apply in case of recovery of amount by selling the movable or immovable property

Demands and Recovery

Payment of tax in instalments:

- Application has to be filed electronically by the defaulter for seeking extension of time for payment or request for payment of tax in instalments
- Before approving the application, financial ability of the person shall be scrutinised by the Commissioner using the report from the jurisdictional officer
- Taking into consideration the request and report, Commissioner shall allow the defaulter further time to make the payment or to make the payment in monthly instalments, not exceeding 24
- Instalment facility shall not be available where the amount for which instalment facility is sought is less than Rs. 25,000

Inspection, Search and Seizure

- A place of business or any other place can be inspected or searched, or any goods, documents, books, etc. can be seized, where an officer not below the rank of Joint Commissioner has reasons to believe that such inspection or search or seizure is required.

Provisional Release of seized goods:

- Any goods seized may be released on a provisional basis on execution of a bond for the value of goods and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.
- The security shall be encashed and adjusted against the amount payable, where the person fails to produce the goods at the appointed date and place indicated by the proper officer.

Inspection, Search and Seizure

Perishable or Hazardous goods:

- Perishable or hazardous goods can be released on proof of payment of the lower of the following amounts:
  - Market price of such goods or things,
  - Tax, interest and penalty that is or may become payable
- The said goods may be disposed of by the Commissioner where the person fails to pay the above amount
- The amount realized by the Commissioner shall be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods

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Procedure for compounding of offences

Application by the taxable person	Application shall be submitted to the commissioner, either before or after the institution of prosecution
Report from concerned officer	Commissioner shall examine the report of the concerned officer to decide the future course of action
Order of the Commissioner	Commissioner may grant the applicant immunity and indicate the compounding amount to be paid, where the applicant has co-operated and made full and true disclosure of the facts
	In other cases, he may reject such application within ninety days, after giving the applicant an opportunity of being heard

Procedure for compounding of offences

Payment of compounding sum

Compounding sum shall be paid within 30 days of the order, and proof of payment shall be furnished to the commissioner

Non-payment of compounding sum

The order shall become void where the sum is not paid within 30 days

Withdraw of immunity

If the applicant has concealed any material particulars or had given false evidence during the course of proceedings, immunity granted may be withdrawn. Such person will then be tried for the applicable offences under the Act.

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