LKS UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

18 JANUARY 2023

INDIRECT TAX

Clarifications on accommodation services provided by mess and incentives paid by MeitY

UPDATE NO. 7 OF 2023

Lakshmikumaran & Sridharan attorneys

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Basis the recommendations of the GST Council in its 48th meeting held on 17 December,2022, following clarifications have been issued *vide* Circular No. 190/02/2023-GST, dated 13 January 2023:

APPLICABILITY OF GST ON ACCOMMODATION SERVICES SUPPLIED BY AIR FORCE MESS, ARMY MESS, NAVY MESS, PARAMILITARY AND POLICE FORCE MESS TO ITS PERSONNEL

Sl. No. 6 of Notification No. 12/2017–CTR dated 28 June 2017 exempts from GST all services supplied by Central Government, State Government, Union Territory or local authority to any person other than business entities, excluding certain services.

It is clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are exempted from GST and are covered by Sl. No. 6 of notification No. 12/2017-Central Tax (Rate) dated 28 June 2017.

It has further been stated that the said exemption shall only be available where the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

LKS COMMENTS

The Circular does not clarify that whether Air Force Mess or other similar messes qualify as Central Government, State Government, Union Territory or Local Authority.

APPLICABILITY OF GST ON INCENTIVE PAID BY MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY (MeitY) TO ACQUIRING BANKS UNDER INCENTIVE SCHEME FOR PROMOTION OF RUPAY DEBIT CARDS AND LOW VALUE BHIM-UPI TRANSACTIONS

Pursuant to the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to INR 2000/.

The Circular states that the service supplied by acquiring banks in digital payment system in case of transactions through RuPay/BHIM UPI is the same as the service provided in case of transactions through any other card or mode of digital payment.

In the former transactions, it is clarified that the consideration instead of being paid by the merchant or the user of the card, is paid by the central government in the form of incentive.

The Circular clarifies that the aforesaid amount of incentive does not qualify as a consideration for any service supplied by the acquiring bank to the Central Government but is in the nature of a subsidy directly linked to the price of the service.

Hence, it states that such incentives do not form a part of the taxable value of the transaction as per Section 2(31) and Section 15 of the Central Goods and Services Tax Act, 2017.

LKS COMMENTS

The said clarification is in line with the recommendations of the 48th GST Council Meeting.

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