L&S Update

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Lakshmikumaran & **Sridharan**

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Budgetary Support Scheme under GST in lieu of area based exemption of excise

Overview of the Scheme

- The Scheme of Budgetary Support under Goods and Service Tax regime (‘**Scheme**’) has been introduced to compensate the units located in State of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim (“**specified areas**”) which were earlier availing the area based exemption under Central Excise law.

- The Scheme has been notified by the Department of Industrial Policy and Promotion (DIPP) by a Notification dated 05 October 2017.

- The benefit of the scheme will be available to only those manufacturing units which were availing the area based exemption prior to 1-7-2017 under any of the Notifications mentioned in the Annexure.

- The benefit under this scheme will be made available by way of refund of tax paid and upfront exemption will not be available.

- The scheme has come into operation w.e.f. 1-7-2017 and is valid up to 30-6-2027. However, benefit of the scheme will only be available in respect of ‘**specified goods**’ and during the ‘**residual period**’.

Specified Goods and Residual Period

- ‘Specified Goods’ means:

  - Goods specified in exemption Notifications which were eligible for exemption (For Instance: exemption in relation to tobacco and tobacco products, cement clinkers etc. was not available under NN 50/2003-CE.)
  - Goods which were being manufactured and cleared by the eligible unit by availing the benefit of excise duty exemption.

- ‘Residual Period’ means the remaining period out of the total period of 10 years during which the unit would have been eligible to avail the area based exemption under the specified Notifications.

Issue:

- Whether refund under scheme will be available if new product is manufactured (even using same machinery) at the eligible unit? (**Circular No. 939/29/2010-CX** and **Circular No. 960/03/2012-CX.3**)

Amount of Budgetary Support under the Scheme:

- The scheme mandates the eligible unit to first utilize input tax credit of Central tax and Integrated tax and then balance of liability, if any, has to be paid in cash.

- The amount of budgetary support allowed shall be sum total of –

(i) 58% of the central tax paid through debit in cash ledger account after utilization of input tax credit
(ii) 29% of the integrated tax paid in cash through debit in the cash ledger account after utilization of the Input tax credit tax of the Central Tax and Integrated Tax

- Where inputs are procured from a registered person operating under the Composition Scheme under GST, the amount i.e. sum total of (i) & (ii) above will have to be reduced by the same percentage as is the percentage value of inputs procured under composition scheme out of total value of inputs procured.

Multiple Units in the state where eligible unit is located

Maintenance of separate records for eligible unit

- Where the entity is carrying out operations from different premises, in addition to manufacture of goods from the eligible unit, under the same the same GSTIN, the unit will be required to submit additional information, duly certified by a Chartered Accountant relating to receipts of inputs, input tax credit of inputs or capital goods received and quantity of specified goods manufactured by the eligible unit vis-à-vis the inputs and input tax credit availed.

Transfer of goods to eligible unit from other business location

- Where the inputs are transferred from other business location of the business entity to the eligible unit in the same state (covered in same GSTIN), the details of credit availed by the supplying unit on such inputs are also to be submitted. In such cases, reimbursement will be sanctioned after reducing credit attributable to inputs supplied from the other business location.

Issues

- Whether refund eligible where intermediate products manufactured at eligible unit are supplied to other units which are part of same GSTIN for further manufacturing?
- How to compute the input tax credit on the services which are common to the business operations in the entire state?

Value Addition Limits

- Notification provides that where the CGST or IGST paid on value addition is more than rate of value addition specified for the goods in the Table in the Notification, the unit may be taken up for verification of the value addition.

- It further provides that for calculation of value addition, the procedure specified in Notification No. 01/2010-CE shall apply mutatis-mutandis.

- Notification No. 1/2010-CE provides that the actual value addition shall be arrived at by deducting cost of raw materials and packing material consumed in the goods and the cost of fuel (if eligible for input credit under CCR) from the sale value of goods

- Thus, for the purpose of computation of value addition for the purpose of the Notification, the value of input services and capital goods will not be considered.

Claim for reimbursement under the Scheme

- Quarterly refund claim to be filed.
- Application to be submitted to the Assistant Commissioner or Deputy Commissioner of Central Taxes by 15^{th} day of the succeeding month after the end of the quarter.
- Eligible units required to obtain Unique ID which will be used for processing of claims under the scheme.
- Application to be filed on ACES-GST portal with reference to Unique ID obtained.
- Claims to be released only after inspection by a team constituted by DIPP for each state. Provisional reimbursement may be allowed for a period of six months where delay is expected in the findings of the inspection team.

Other Issues

Job Workers

- Status of job workers availing the area based exemptions – Whether amount of benefit restricted to the GST paid on services provided by them?

Inter-State Procurements

- Notification provides for reimbursement of GST paid by cash after utilization of credit of CGST and IGST.
- Where the manufacturer is purchasing goods from vendors located outside the state (IGST) and selling the goods within the state (CGST+SGST), as per the order for utilization of credit under Section 49 of the CGST Act, entire credit of IGST will be first utilized for payment of CGST.
- In such situations, as per the Notification, reduced amount of reimbursement will be available.

Annexure :

Erstwhile Notifications which were in operation till 18th July 2017:

Sl. No.	State	Notification
1	Jammu & Kashmir	• Notification No. 56/2002 - CE • Notification No. 57/2002 - CE • Notification No. 01/2010 – CE
2.	Himachal Pradesh and Uttarakhand	• Notification Nos. 49/2003 - CE • Notification No 50/2003 - CE
3.	North East States including Sikkim	• Notification No. 20/2007 - CE

Lakshmikumaran & Sridharan attorneys

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