AKSHAY SHAH
05-01-2022

JAN 2022
ISSUE 23

TAXTIME

NEWSLETTER

INDIRECT TAX NEWS

TAXMAN MAY COME KNOCKING ON THE DOORS OF MORE CRYPTO EXCHANGES

IMPLEMENTATION OF RULE-59(6), AS AMENDED

As per Notification No. 35/2021 – Central Tax dated 24th September 2021, clause (a) of the sub-rule (6) of Rule 59 of CGST Rules, 2017 was amended. By way of this amendment, for the words “for preceding two months”, the words “for the preceding month” were substituted with effect from 1st January 2022. This means that from 1st January 2022 onwards, if a monthly filer has not filed the GSTR-3B for the preceding month, then such taxpayer will not be allowed to file the GSTR-1 for the subsequent month, till the GSTR-3B for the preceding month is filed.

Illustration:

A taxpayer has not filed the monthly GSTR-3B for November 2021. Now, the taxpayer tries to file GSTR-1 for December 2021 on 10th January 2022. The system will not allow filing of GSTR-1 for December 2021, and will allow filing of GSTR-1 for December 2021 only after the filing of GSTR-3B for November 2021

With more number of investments and investors being highlighted, the tax department has started knocking the doors of crypto platforms to see if they are paying taxes properly. As of now, they have detected nearly half dozen have evaded Goods & Services Tax (GST) and have collected over ₹70 crore. Meanwhile, crypto exchanges said they are paying taxes but due to lack of regulatory clarity, there have been some issues resulting in calculation issues.

Tax officials say that action will intensify in coming days and is likely to cover all exchanges. It is happening at a time when the fate of new crypto Bill hangs in balance, though it seems the government might push the Bill during the Budget session. It is expected to prescribe more clarity on the taxation provision. However, since the transaction service provided by crypto platforms is financial in nature, GST needs to be applied at the rate of 18 per cent, officials said.

US FINAL FOREIGN TAX CREDIT REGULATIONS ADDRESS OUTSTANDING ISSUES

On December 28, the US Internal Revenue Service released the latest round of final regulations on the foreign tax credit, further amending the rules in response to the 2017 Tax Cuts and Jobs Act and other issues.

The new rules cover the jurisdictional nexus requirement, the disallowance of credits or deductions in connection with dividends-received deductions, the allocation and apportionment of interest and certain other expenses, the time at which credits accrue, and various definitions. The final regulations also clarify rules relating to foreign-derived intangible income (FDII).

The final regulations revise the definition of a foreign income tax, including revisions to the net gain requirements. Despite receiving several critical comments on the jurisdictional nexus requirement included in the proposed rules for purposes of determining if a foreign tax is an income tax in the US sense, the final regulations adopt the requirement, renaming it “attribution requirement.” The IRS expects that these changes will restrict the creditability of foreign taxes to some extent relative to the existing rules.

NEW GST REGIME DOES NOT MEAN NEW TAX

The new Goods and Services Tax (GST) regime for E-Commerce Operators (ECOs) engaged in food delivery such as Zomato and Swiggy will not have any impact on the consumers, Government officials clarified on Monday.
They also claimed that removal of inverted duty structure (IDS) for footwear will reduce cost for the businesses and prices for consumers in long run.

Footwear:

According to the official, the dual rates of 5 per cent on footwear priced below ₹1,000 and 12 per cent on footwear above ₹1,000 were creating “operational and interpretational difficulties” for the trade and industry. The lower rate of 5 per cent was resulting in inversion of duty as most of the raw materials used for manufacturing of footwear attract GST of 18 per cent
“The inversion in tax structure forced the manufacturers and suppliers to file refunds of accumulated input tax credit. This increased compliance burden and costs of businesses. The uniform 12 per cent rate of GST on all footwear shall go a long way in facilitating trade and promoting ease of doing business.,” he said.

Textile:

The GST Council in its emergency meeting on December 31 decided to defer removal of IDS for textile. This means there is status quo on rates as against uniform rate of 12 per cent from January 1. The Council after detailed discussions on the representations received from the textile sector and the State Government of Gujarat has decided to revisit the entire issue of GST rates in the textile sector and has referred it for detailed examination to the Group of Ministers.

TODAY'S QUOTE

"Do not wait until the conditions are perfect to begin. Beginning makes the conditions perfect."

— Alan Cohen

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AKSHAY SHAH
Email: ca.akshah@gmail.com
Contact No.: 9958975768
Website: www.jainshah.com