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NEWSLETTER

INDIRECT TAX NEWS

NO GST ON SALE OF DEVELOPED PLOTS: GOA AAR

Selling plots with electric poles, drainage lines and approach roads is simply sale of land and thus does not attract GST, the Goa Authority for Advance Ruling has said. This is contrary to a ruling by Gujarat AAR.

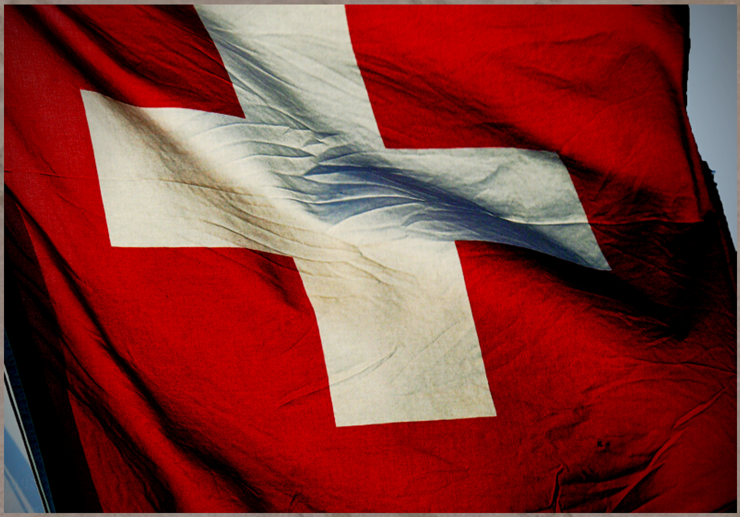
Earlier, the Gujarat AAR (in the matter of Dipesh Anil Kumar Naik, 2020) held that that the sale of a developed plot (land/plot with common facilities like water line, telephone line, electricity line, garden, common areas, water harvesting system, drainage system, water pipelines, underground cables, demarcation of individual plots and other facilities as mandated by the development authority) is not equivalent to the sale of land but tantamount to the rendering of service and would be subject to levy of GST. In the present matter before Goa AAR, the applicant Shantilal Real Estate Services owns the parcel of land. It proposes subdividing a larger parcel of land into smaller plots for sale.

Principle transaction:

New roads and drains, electricity poles will be realigned and added as necessary, but no buildings or structures will be constructed. The applicant sought advance ruling on whether the sale of the plot is a supply and liable to GST.

The Goa AAR said that roads, poles or drainages constructed by the seller of land are at no time transferred to the purchaser of the subdivided developed plot. These amenities will be available for use to every plot holder without any title . Further, these amenities, in turn, will be gifted to the local authority as mentioned by the applicant and thereafter, the local authority will be the owner of such road and/ or electricity poles.

SWITZERLAND WILL IMPLEMENT GLOBAL MINIMUM TAX BY CONSTITUTIONAL AMENDMENT



The Swiss Federal Council on January 12 decided that it will implement the 15% global minimum tax agreed by the OECD Inclusive Framework through a constitutional amendment with an aim to ensure the measure comes into force as of January 1, 2024.

The approach is intended to take time pressure off the ordinary legislative procedure. Given the democratic processes required in the country, the Swiss government has expressed concerns about the short implementation timeline under the OECD agreement. Nonetheless, Swiss implementation of the global minimum tax in 2024 would still be later than the timeline set in the OECD agreement for implementation, i.e., in 2023.

Under the new Federal Council agreement, implementation will be brought about through the creation of a constitutional basis with the involvement of Parliament, the cantons (i.e., Swiss states), and the people (via referendum). On this basis, the Federal Council will issue a temporary ordinance for the minimum tax to enter into force on January 1, 2024. The government may then prepare the legal basis to replace the ordinance through ordinary legislative processes without affecting the implementation timeline.

The Federal Council's announcement of the minimum tax implementation plan also specifies that "nothing shall change for purely domestically focused companies." This is in contrast to the EU directive, which would apply the minimum tax domestically to prevent conflict with EU anti-discrimination rules. Domestic minimum taxes are also contemplated in the UK and the US, while Spain already adopted one late last year. Ireland, on the other hand, has indicated that, for companies out of scope of the agreement, it plans no change to its 12.5% domestic tax rate.

The scope of the minimum tax in Switzerland will be in line with the OECD agreement, applying to multinational companies with annual revenues of EUR 750 million or more. The Federal Council also states that the additional taxes collected under the minimum tax will go to the cantons

FADA URGES GST CUT FOR TWO-WHEELERS, USED CARS

The Federation of Automobile Dealers Association (FADA) has sought a reduction in GST for two-wheelers and used cars to 18% and 5%, respectively to help spur demand.

"FADA requests the Ministry to regulate and reduce GST rates on two wheelers to 18%... two-wheeler is used not as a luxury but as a necessity to travel distances by lower class and rural segments for their daily working needs," the industry body said in Budget recommendations to the Finance Ministry. "The rationale of 28% GST + 2% cess which is for luxury/sin products does not hold good for the two-wheelers," it said.

It noted that at a time when vehicle prices were rising every 3-4 months due to a continuous increase in prices of metals, and other factors, a rate cut would counter the trend and help spur demand.

It also pitched for a cut in GST rates for used cars to 5% from the current 12% for vehicles measuring 4,000 mm in length, and 18% for longer ones.

"With the reduction in GST, it will help the industry to shift from unorganised segment to organised segment thus bringing in more business under the ambit of GST, helping in putting a brake on tax leakages."

COMPANIES, EXPORTERS CRY FOUL AS TAXMAN RAISE FRESH GST DEMANDS ON OCEAN FREIGHT EVEN AS ISSUE IS PENDING IN SC

The issue of Goods and Services Tax (GST) on ocean freight has come to haunt many companies as the tax department has started raising fresh queries over tax applicability on transportation of imported goods through the sea route even as the matter is pending in various courts. In the last month or so, the department has started issuing fresh tax demands and notices to companies over GST on ocean freight, prompting some of the companies to file writ petitions against the decision.

In one such writ petition filed by an importer, Deoleo India, in the Bombay High Court, concerns were also raised against "coercive action".

TODAY'S QUOTE

What you get by achieving your goals is not as important as what you become by achieving your goals

– Zig Ziglar

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