

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

IT SEARCHES OF HUAWEI OFFICES CONTINUE FOR SECOND DAY



Chinese telecom infrastructure major Huawei as the Income Tax Department searches at the company continued for the second day on Wednesday and senior company executives were grilled by the sleuths.

Sources said that documents related to financial transactions at the company have been seized on suspicion of evasion.

Searches were underway at its offices in Bengaluru, Delhi and Gurugram, according to sources.

IT officials looked at financial documents, accounts books and company records as part of a tax evasion investigation against the company, its Indian businesses and overseas transactions. Some records have been seized too, the sources added.

When asked, Huawei, the company, said, "We have been informed of the visit of Income Tax team to our office and also of their meeting with some personnel. Huawei is confident our operations in India are firmly compliant to all laws and regulations.

"We will approach related government departments for more information and fully co-operate as per the rules and regulations and follow the right procedure," it added.

Huawei is the second Chinese telecom firm to face IT searches, months after similar searches at ZTE offices. The government had said that it had unearthed a variety of infringements, including multi tax evasions, bogus expenses worth crores of rupees and illegal share purchases.

The two Chinese firms (Huawei and ZTE) in telecom equipment space have been providing infrastructure support to most telecom service providers (TSPs), including Bharti Airtel and Vodafone Idea, and still are part of the ongoing contracts in 4G telecom services, under their old contracts.

However, over the last two years, both the Chinese firms have been denied participation in trials for the upcoming 5G network, sighting national security issues.

'INCOME FROM GUEST LECTURES WILL ATTRACT 18% GST'



Karnataka's Authority for Advance Ruling (AAR) has said that income earned from guest lectures will attract 18 per cent Goods & Services Tax.

The applicant, Sairam Gopalkrishna Bhat, a professor at the National Law School, Bengaluru moved the AAR on whether income earned from conducting guest lectures was taxable. He also enquired whether the income earned from research training projects funded by Central and State Ministries will attract GST. AAR noted the ruling by the Supreme Court in the matter of Loka Shikshana Trust where 'education' was defined as a process of training and developing knowledge, skill and character of students by normal schooling.

The AAR mentioned that services by way of training or coaching in recreational activities relating to arts or culture or sports by charitable entities are exempted from GST.

"The applicant is providing guest lectures on law and legal awareness and not on arts and culture," it said while adding that exemption plea for guest lecturers is not tenable.

The AAR said that services provided by the applicant are covered under "other professional, technical and business services," and hence attract GST at the rate of 18 per cent.

On the income from projects funded by the Centre, State government, it will attract 'Nil' GST, but only after fulfilling two conditions.

The first condition is that training services are to be provided only to the Centre, State Government and Union Territory Administration.

The second condition is that expenditure has to be borne by the Centre, State Government and Union Territory Administration.

AAR noted that the applicant has provided a copy of MoU signed between Central Environment Ministry and Centre for Environmental Law, Education, Research and Advocacy (CEERA) of the National Law School.

"But there is no privity of contract between the Central Ministry and the applicant," AAR said, while adding the said service is not covered under the notification. This means training services provided by the applicant will attract GST at the rate of 18 per cent.

LEASE OF RESIDENTIAL PREMISES AS HOSTELS DOES NOT ATTRACT GST: KARNATAKA HC



Leasing of residential premises as hostels to students and working professional will not attract Goods & Services Tax, Karnataka High Court has ruled.

The petitioner Taghar Vasudeva Ambrish along with co-owners leased a property with 42 rooms to a company, Twelve Spaces Private Limited as a hostel for long-term accommodation to students and employees with the duration of stay ranging from three months to a year.

The petitioner first moved to Authority for Advance Ruling (AAR) with a query whether leasing will is exempt from GST. AAR ruled out exemption. Then the petitioner moved to Appellate Authority for Advance Ruling (AAAR) which held that property rented out by the petitioner is a hostel building which is more akin to sociable accommodation rather than what is commonly understood as residential accommodation. Therefore, the property is covered under GST.

Aggrieved over this, the petitioner moved to the High Court.

The Court said the residential dwelling is being rented, as a hostel and falls within the purview of residential dwelling.

High court ruling:

"It is also worth mentioning that the notification does not require the lessee itself use the premises as residence. Therefore, the benefit of exemption notification cannot be denied to the petitioner on the ground that the lessee is not using the premises," the Court said.

Further it made it clear that service of leasing out residential premises as hostel to students and working professionals is covered under Entry 13 of Notification No.9/2017 dated September 28, 2017 namely 'Services by way of renting of residential dwelling for use as residence' and hence eligible for exemption.

TODAY'S QUOTE

Eighty percent of success is showing up.

- Woody Allen

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