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NEWSLETTER

DIRECT TAX NEWS

HUGE TAX EVASION DONE BY MULTINATIONAL GROUP: I-T DEPT.

The Income Tax Department on Thursday claimed to have detected irregularities on the part of a multinational group engaged in the distribution of telecom products and providing captive software development services.

The department had initiated the searches on the premises of the company and its key office-bearers in Delhi, Gurugram and Bengaluru on February 15. An agency source confirmed the group's identity as Huwaei.

In a statement on February 16, Huawei had said: "We will approach related government departments for more information and fully cooperate as per the rules and regulations and follow the right procedure."

Without naming the company, the I-T Department in a statement on Thursday alleged that the group had made inflated payments against receipt of technical services from its related parties outside India.

"The assessee company could not justify the genuineness of obtaining such alleged technical services in lieu of which payment has been made and also the basis of determination of consideration for the same," it said, adding that the expenses debited by the company towards receipt of such services were of ₹129 crore over five years.

As alleged, in recent financial years, the group had debited over ₹350 crore in its books of account towards royalty to its related party. "Such expenses have been incurred for the use of brand and technical know-how related intangibles... the group has failed to substantiate receipt of any such services/technical know-how, or the basis of quantification of royalty rate for such claim," the agency said.

The department said one of the group entities, which is into software development services, had allegedly been disclosing lower net margins from the related parties.

"However, the evidence collected during the investigation indicated that this entity has been rendering significant services/operations of high-end nature. On this aspect, suppression of income of ₹400 crore has been detected," it said.

INDIRECT TAX NEWS

STATES CAN'T TAX ALCOHOL NOT MEANT FOR DRINKING

State legislature has no authority to levy duty or tax on alcohol not meant for human consumption, only the Centre can levy tax, the Supreme Court said on Thursday.

A bench of Justices L Nageswara Rao and BR Gavai said that the State government was only empowered to levy excise duty on alcoholic liquor for human consumption and has no power to levy excise duty on wastage of liquor after distillation.

The apex court said that the Constitution Bench has held that the Constitution makers distributed the term 'alcohol liquor' into two heads -- for human consumption and other than for human consumption. It has been held that the alcoholic liquors, which are for human consumption, are put in Entry 51 List II authorising the State Legislature to levy tax on them, whereas alcoholic liquors other than for human consumption have been left to the Central Legislature under Entry 84 for levy of duty of excise, the top court said.

"The Constitution Bench clearly held that the State Legislature had no authority to levy duty or tax on alcohol, which is not for human consumption as that could be levied only by the Centre," the bench said.

MADHYA PRADESH MILLS SEEK CUT IN MANDI TAX ON PULSES

Dal millers in Madhya Pradesh have urged the State government to reduce the tax on pulses sourced from other States as higher mandi tax is resulting in flight of business to neighbouring States.

Madhya Pradesh levies a mandi tax of 1.7 per cent, almost twice that of neighbouring Maharashtra (0.8 per cent) and over three times the tax imposed in Gujarat (0.5 per cent).

"The State government had introduced a mandi tax of 1.7 per cent during the corona period in 2020 when the Covid pandemic set in," said Suresh Agarwal, President of the Indore-based All India Dal Mills Association. Prior to 2020, dal mills were exempted from mandi tax, he said.

States such as Bihar and Delhi have zero mandi tax, while Uttar Pradesh levies 1.5 per cent, still lower than MP, Agarwal said. As a result of the higher mandi tax, pulses processed by mills in Madhya Pradesh such as tur dal and chana dal among others are expensive by about ₹1 per kilogram, Agarwal said. This has resulted in stiff competition from pulses processors in States such as Gujarat, Maharashtra, Karnataka and Andhra among other States and has led to lower capacity utilisation.

INTERNATIONAL TAX NEWS

NEW UAE TRANSFER PRICING REGULATIONS TO ENHANCE UAE REGIONAL HUB STATUS

On January 31, the United Arab Emirates Ministry of Finance announced the implementation of a federal corporate tax regime including transfer pricing regulations that are expected to be largely inspired by OECD transfer pricing guidelines.

Transfer pricing and its internally agreed arm's length principle is becoming prevalent in the Middle East region with more countries either adopting regulations or focusing their scrutiny on transfer pricing-related issues. The list of countries adopting transfer pricing regulations is getting longer with Egypt, Saudi Arabia, Qatar, Jordan and now the UAE.

A low corporate tax rate of 9%, coupled with the arm's length principle, is the perfect balance the UAE has very carefully crafted to remain a location of choice for foreign direct investment in the Middle East.

Like its neighbors, the UAE decided to opt for a simple transfer pricing regime fully in line with the OECD transfer pricing guidelines.

The application of the arm's length principle within the corporate tax regime allows MNEs and the UAE federal tax authority to adjust the declared taxable base to ensure it reflects arm's length intragroup transactions, i.e. prices that would have been agreed between independent parties.

In addition to the above, the UAE transfer pricing regulations will include documentation obligations requiring MNEs to justify the rationale behind the pricing of the intragroup transactions involving the UAE entity. In line with the OECD transfer pricing guidelines, the documentation will be structured around the master file and the local file.

The thresholds for the documentation requirements—often based on a level of turnover and assets—will be released with the law. The UAE might decide to focus only on very large multinationals and set high thresholds, which would shield small businesses from a compliance burden.

TODAY'S QUOTE

"It is never too late to be what you might have been."

-George Eliot

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