AKSHAY SHAH
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NEWSLETTER

DIRECT TAX NEWS

TAX-FREE SIKKIM, A HAVEN FOR COMMODITY MARKET SPECULATORS

Sikkim, a tiny State with a population of 6.58 lakh, is now an abode for commodity market speculators, thanks to its special tax haven-like status. In February, the market share of Sikkim-based traders on the Multi Commodity Exchange (MCX) in Mumbai climbed to 5.5 per cent from nil just over a couple of years ago. Data show that MCX witnessed a total volume churn of over $110 billion on its platform during February, of which Sikkim's share stood at over $6 billion. The number of traders from the State, based on unique client code, increased to 2,217 in February compared with 674 in February 2020.

Experts told that Sikkim's newfound love for commodity speculation could be due to the exemption its residents get from the mandatory requirement of a Permanent Account Number (PAN), which allows them to skip filing of tax returns.

More than 95 per cent of the trading volume on the MCX is concentrated in crude oil, gold, silver and other base metals, the price discovery of which mainly happens abroad. Hence, the activity of Sikkim-based traders was primarily speculative, experts say, adding that traders in other States may be using Sikkim-based residents as a proxy to carry out these trades. Sikkim, an erstwhile kingdom, was merged into India on condition that its old laws and special status, as envisaged in Article 371(f) of the Constitution, remain intact. Thus, the State followed its own Sikkim Income Tax Manual 1948, which governed the tax laws. Under it, no resident was supposed to pay taxes to the Centre. However, when Sikkim's tax laws were repealed in 2008, the Union Budget exempted the State's residents from tax by inserting section 10 (26AAA). Under this, the income accrued to Sikkimese individuals in the State or by way of dividend or interest on securities from elsewhere was exempt from tax. This, combined with exemption of PAN requirements and lack of tax filings, makes it nearly impossible to assess market speculators from Sikkim. Post-2008, SEBI exempted Sikkim residents from PAN requirement for investments in the securities market and mutual funds, provided they gave a proof of residency. The exemption was made following an order by the Sikkim High Court in 2007. In September 2015, the erstwhile commodity market regulator Forward Markets Commission that oversaw MCX was merged into SEBI. Hence, the SEBI rules of PAN exemption could have also become available to the commodity traders on MCX. Experts say this laxity of PAN requirement has now come in handy for Sikkim-based commodity market traders, who face no urgency of tax filings and thus enjoy a tax haven-like status.

INTERNATIONAL TAX NEWS

OECD INVITES PUBLIC INPUT ON THE DRAFT RULES FOR SCOPE UNDER AMOUNT A OF PILLAR ONE

As part of the ongoing work of the OECD/G20 Inclusive Framework on BEPS to implement the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, the OECD is seeking public comments on the Draft Model Rules for Domestic Legislation on Scope under Amount A of Pillar One.

The purpose of the scope rules is to determine whether a Group will be in scope of Amount A. The rules are designed to ensure Amount A only applies to large and highly profitable Groups and have been drafted to apply in a quantitative manner, such that they are readily administrable and provide certainty as to whether a taxpayer is within scope. The Draft Rules for the Exclusions for Extractives and Regulated Financial Services will be released for public consultation at a later date.

The Inclusive Framework on BEPS has agreed to release this public consultation document (également disponible en français) in order to obtain public comments, but the draft rules do not reflect consensus regarding the substance of the document. The stakeholder input received on the Draft Model Rules for Domestic Legislation on Scope will assist members of the Inclusive Framework on BEPS in further refining and finalising the relevant rules

INDIRECT TAX NEWS

GST RATE FOR COVID-19 MEDICINES PEGGED AT 5% GST: GOVT

COVID-19 medicines and instruments are being sold at a GST rate of five per cent while other medicines are sold at a GST rate between five and 12 per cent ever since the pandemic started, Union Minister of State for Finance Pankaj Chaudhary said in the Lok Sabha on Monday. Chaudhary also said that 66 per cent of government-sponsored health insurance schemes in the country are being run by the central government. "When the COVID-19 pandemic started, a decision was made for sale of all medicines at the GST rate between 5 and 12 per cent and the GST rate for COVID-19 related medicines and instruments has been reduced to five per cent," he said during the Question Hour. The minister said the GST rate for health insurance is 18 percent, which is as per international standards, and similar to what it was during pre-GST days in the country. He said senior citizens can avail tax rebate of up to Rs 1 lakh on health insurance policies. "At present, Goods and Services Tax (GST) on health insurance services is levied at standard rate, i.e., 18 per cent. Specific health insurance schemes catering to the needs of economically weaker sections of the society and differently abled, such as Rashtriya Swasthya Bima Yojana (RSBY), Universal Health Insurance Scheme, Jan Argoya Bima Policy and Niramaya Health Insurance Scheme are fully exempt from GST," he said.

BRICK MANUFACTURING, TRADING TO ATTRACT 6% GST WITHOUT ITC; 12% WITH CREDIT

The government is drawing up a framework for issuing summons to the top management of companies or arrest by goods and services tax (GST) authorities amid growing concerns about arbitrariness and harassment, said officials. There has been a surge in summons to top management of companies by GST authorities requiring CFOs or CXOs to be mandatorily present in person for hearings. In some instances, multiple summons have been issued over the same issue.

An officialBrick kilns can opt for a composition scheme to pay a 6 per cent GST without input tax credit (ITC) beginning Friday, higher than 5 per cent earlier. Those businesses who do not wish to opt for the composition scheme would be subject to 12 per cent Goods and Services Tax (GST) with ITC. The government on March 31 notified the GST rates that would be applicable from April 1. As per the notification, building bricks, earthen or roofing tiles, fly ash bricks and blocks, bricks of fossil meals can opt for a composition scheme. So far, manufacturing and trading of bricks were chargeable at 5 per cent GST, and businesses were allowed to claim credit on inputs. The GST Council had in September last year decided to bring brick kilns under a special composition scheme from April 1, 2022.

TODAY'S QUOTE

Happiness is not by chance, but by choice

- Jim Rohn

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