

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

CENTRE PLANS SHARPER INCOME TAX SCRUTINY ON RICH FARMERS

Dodging tax by passing off earnings as agricultural income is set to get tougher as robust checks are being introduced, the government has told Parliament's Public Accounts Committee, which pointed to several lapses in granting blanket exemptions.

Super-rich farmers will face stricter scrutiny by tax authorities, who will comb through details of agricultural income — tax-free under the law — in jurisdictions where farm income exceeds a threshold of ₹10 lakh a year, the finance ministry said in a response to questions to the parliamentary committee.



In about 22.5% of cases, authorities approved tax-free claims without proper assessment and verification of documents, allowing scope for evasion of taxes, the committee said. The panel released its 49th report, "Assessment related to Agricultural Income" on Tuesday. It is based on a report by the Auditor and Comptroller General of India. One such case involved tax exemption of farm income of 1.09 crore as proceeds from the sale of farmland in Chhattisgarh.

Pointing to lapses, the parliamentary panel said in the above instance, that authorities had neither vetted "documents" that support a tax waiver in "assessment records", nor were they "discussed in the assessment order".

Under section 10(1) of the Income Tax Act, 1961, agricultural income is exempted from tax. Any proceeds from rent, revenue or transfer of agricultural land and incomes from farming are considered as agricultural income under the law.

The income tax department said it did not have sufficient manpower to check all cases of fraud in all its jurisdictions, known as commissionerates. To overcome this, the finance ministry has devised its own system to directly scrutinise tax-free claims in cases where agricultural income is shown to exceed 10 lakh, the parliamentary panel was told.

EXPORTERS IN DILEMMA FOR RECOVERY NOTICES OF GST REFUND



After a short lull, exporters have started receiving notices for wrong avilment of GST refund on exports.

The said recovery notices run into crores of Rupees. Fact is exemption from payment of IGST has been availed by the importers at the time of import as per Advance Authorization Scheme.

Exporters after consuming the said goods during manufacture have exported the final products on payment of GST during the period July 2017 to September 2018. The refund due to them as per shipping bill has also been received. The said refund is now a bone of contention between the department and the trade.

There was a huge confusion due to various notifications issued by the authorities from time to time and frequent modification/amendment to Rule 96(10).

However, the last notification issued on 09.10.2018 specifically clarified that "The amendments shall come into force on the date of their publication in the Official Gazette". Hence the restriction for claiming refund on payment of IGST during export for those assesses who have claimed the benefit of advance authorization arose only from October 2018. Before the said date there were no restrictions.

Further the said issue was clarified by the CBIC authorities also vide their circular in 2018. Even the Gujarat High court in the case of Zaveri And Co Pvt Ltd v. Union of India have held that condition prescribed under Notification No 54/ 2018 (supra) should have prospective application. The exporters have claimed the legitimate refund due to them till September 2018.

FRUIT-BASED FIZZY DRINKS TO DRAW 40% RATE UNDER GST AFTER GUJARAT RULING



Fruit-based fizzy drinks will continue drawing goods and services tax (GST) of 28 per cent along with 12 per cent compensation cess after a ruling by the Gujarat-based authority for advance ruling (AAR).

The authority did not agree with a petitioner's that fruit-based drinks should attract 12 per cent GST. The ruling was on a petition by Mohammed Hasanbhai Kabalai, who appealed the AAR for relevant GST for his proposed 'Apple Cola Fizzy' and 'Malt Cola Fizzy' drinks.

He said both drinks are apple juice-based and the second one has added flavour of malt.

Under GST tariffs, fruit-pulp or fruit juice-based drinks draw a 12 per cent rate. On the other hand, aerated waters and carbonated drinks are charged 28 per cent GST along with 12 per cent cess.

The petitioner based his arguments on the Food Safety and Standards Authority of India (FSSAI) regulations. He argued that the drinks are not carbonated.

Kabalai relied on a Supreme Court ruling on the similar product to say that his products are not carbonated but are thermally processed with carbon dioxide (CO₂) which helps in preserving the fruit juice concentrate. As such the products are ready to serve fruit beverages which should attract 12 per cent rate, he argued.

The AAR, however, relied on the GST Council's decision which kept these goods under the category--carbonated beverage with fruit juice--and ruled that 28 per cent GST along with 18 per cent cess will be levied on these drinks.

TODAY'S QUOTE

*Never measure your progress
using someone else's ruler*

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