Executive summary

Excise & Taxation Commissioner, Haryana has issued internal guidelines to all the Deputy Excise & Taxation Commissioners in Haryana, vide Memo dated 30 October 2018.

The jurisdictional officers have been directed to use the functionality made applicable through Application Program Interface (API) released by Goods and Services Tax Network (GSTN) for blocking/unblocking input tax credit (ITC) in the electronic credit ledger of the taxpayers under Goods and Services Tax (GST) in certain situations. The functionality shall be used in following situations:

- The registered taxpayer is found to be bogus/fake as a result of any investigation or intelligence.
- The tax-paying entity is found non-functional.
- The taxpayer has claimed excess transitional credit through TRAN-1/TRAN-2.
- The supplies procured are not used in the course or furtherance of business.
- The credit is inadmissible in accordance with Section 17(5) and other relevant provisions of the Central Goods and Services Tax (CGST) Act.

Memo No. 3555/GST 2 dated 30 October 2018
Background

- GSTN has released an Application Program Interface (API) of the functionality for blocking and unblocking of input tax credit (ITC) by the statutory authorities on the GST common portal.
- The system integrator of the Haryana Revenue department has developed the necessary backend application for blocking and unblocking ITC for the electronic credit ledger taxpayers. Such application has already been launched across Haryana.
- The functionality of blocking and unblocking ITC is a tool to safeguard revenue especially in cases of fraudulent activities by taxpayers.
- Excise & Taxation Commissioner, Haryana has issued guidelines regarding the use of above functionality vide an internal Memo No. 3555/GST-2 dated 30 October 2018 to all the Deputy Excise & Taxation Commissioners in Haryana.

Guidelines

The jurisdictional officers are directed to use the functionality for blocking/unblocking of ITC in the following situations:

Fake taxpayers

- The full amount of ITC available in the electronic credit ledger of the taxpayer will be blocked instantaneously where such taxpayer is found to be bogus/fake as a result of any investigation or intelligence.
- The rationale behind the same is that there is no entitlement to credit as no supply has been made and no tax has been deposited in respect of the claimed credit.

Non-functional firms

- The full amount of credit will be blocked in case of a non-functional firm on the ground that there is no entitlement of ITC as no supply has been received.

Excess credit claimed through TRAN-1/TRAN-2

- If the registered taxpayer has claimed transitional credit (through TRAN-1/TRAN-2), in excess of the lawful entitlement, then credit will be blocked only to the extent of such excess credit as claimed by the taxpayer.

Credit on supplies not used in the course of business

- A taxpayer is not entitled to avail credit on inward supplies which have not been used in the course or furtherance of business.

Such credit will be blocked if it is detected in pursuance of examination of returns.

The amount of credit blocked will be only to the extent of amount of inadmissible credit.

Inadmissible credit

- A taxpayer cannot avail ITC on certain inward supplies where the credit is inadmissible as per Section 17(5) of the CGST Act.
- If in pursuance of examination of returns or otherwise, such cases are detected, the credit will be blocked to the extent of amount of inadmissible credit.

Non-entitlement of credit

- Credit will be blocked (only to the extent of amount of inadmissible credit) in case where the taxpayer is not entitled to ITC in accordance with relevant provisions of the law.
- Examples of such cases are as follows:
  - Tax on supplies has not been paid by the supplier;
  - Recipient is not in possession of the tax invoice;
  - Supply is outdated;
  - Supplier is a taxpayer availing composition scheme

Comments

Issuance of such guidelines for unilateral blocking of ITC could have far reaching implication and be susceptible to challenge. While the objective of the state government could be to safeguard the revenues, it may cause hardship to the taxpayer in genuine cases and lead to unwarranted litigation.

Since the instructions would be of binding nature, the jurisdictional authority may tend to follow the guidelines strictly and proceed to block the tax credits in the specified circumstances.

It will be interesting to see whether other states follow Haryana and implement similar process by developing backend application for blocking the ITC.
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