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REVERSAL OF INPUT TAX CREDIT ON INCOME OF INTEREST EXEMPT FROM THE LEVY OF GST

Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt from the levy of CGST vide entry serial number 27 of Notification No. 12/2017 (Central Tax (Rate) dated 28.06.2017 as amended and corresponding notifications of the state governments and union territories issued in this behalf.

In terms of the GST rules governing eligibility of input tax credit, the value of exempt services by way of interest earned on extending deposits stand included in the aggregate turnover by way of exempt services on which proportionate input tax credit will have to be reversed in respect of common input services but for the entry vide clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf. The relevant extract of the said Explanation was inserted w.e.f. 23.01.2018 and is reproduced herein below:

(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount except in the case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

It is submitted that when an entity accepts deposits, the question of any consideration arising there from by way of interest or discount does not arise since in the case of acceptance of deposits, interest is paid to the depositor and no consideration constituting any value of supply arises. It is only in the case of extending of deposits that such consideration by way of interest arises.

Given the fact that services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt from the levy of GST, the entry in clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf appear to be total contradistinction thereto.

Here reference is made to clause (e) of Explanation 1 appended after erstwhile Rule 6(3D) of the CENVAT Credit Rules, 2004. The relevant extract thereof is reproduced herein below:

'Explanation 1. - Value for the purpose of sub-rules (3) and (3A)

(e) shall not include the value of services by way of extending deposits, loans or advances in so far as consideration is received by way of extending deposits, loans or advances

Provided that this clause shall not apply to a banking company and a financial institution including a non-banking financial company , engaged in providing services by way of extending deposits, loans or advances.'

It is submitted that the exclusion contemplated in clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf is that of exclusion of the value of exempt services by way of extending deposits , loans or advances in so far as consideration is received by way of extending deposits, loans or advances and not that of value of services by way of accepting deposits which appear to be of no relevance to the relevant statutory provisions embodied in the GST law.

Accordingly amendment may please be brought about in clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf by substituting the following entry

the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount except in the case of a banking company or a financial institution including a non-banking financial company , engaged in supplying services by way of accepting deposits, extending loans or advances

by the following entry

the value of services by way of extending deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount except in the case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.