

Interest on delayed GST payment

Section 50 of **CGST Act, 2017** articulates that every person who is liable to pay tax in accordance with the provisions of GST shall remit tax on or before scheduled dates, but fails to pay tax or any part thereof to the Government shall pay on his own interest at such rate not exceeding 18 percent on the tax or part thereof remains unpaid.

The said provision was very ambiguous about whether the interest to be charged on Net of GST (i.e. Output GST –Input GST) or Gross GST (i.e. Output GST). Based on this ambiguous Tax Mans were insisting Tax payers to remit the interest on Output Tax which is unjustified to the trade.

In the Case of **M/s. Megha Engineering & Infrastructure Ltd and GST Department, High court of Telangana** dismissed the writ petition filed against the Interest demand raised by the revenue and held that in case of delay in filing returns the payment of tax liability, partly in cash and partly in form of claim of Input tax credit happens belatedly, Hence interest arises automatically on the gross amount i.e. output Tax.

GST Council during its meeting held on 22nd December 2018 recommended **levy of interest on Net tax** i.e. after deducting the eligible input tax credit and amendment to that effect was pronounced in section 100 of The Finance (No.2) Act,2019 and has come into force from 01st of January 2020 vide **Notification No. 01/2020 – Central Tax dated 01-01-2020**.

From 1st of January 2020, Provision to Sub Section 1 of Section 50 of **CGST Act, 2017** shall be in force and it will read as:

“50. (1) Every Person who is liable to pay tax in accordance with the provisions of this Act or the rules made there under, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which tax or any part thereof remains unpaid, pay, on his own interest at such rate, not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the council.

Provided that the interest on the Tax payable in respect of supplies made during a Tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of Section 39, except where such return is furnished after commencement of any proceedings under Section 73 or Section 74 in respect of the said period shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”

Consequent to the delay in filing returns and payment of tax from 01-01-2020, Tax payers shall pay the Interest on the Net of Taxes who fails to discharge his tax liability with in the due date.

On the one hand Govt. has cleared the ambiguity and on the other hand Govt. has to clear the ambiguity on the following:

1. What is the faith of the tax payers who have discharged interest on Gross tax prior to 01-01-2020, whether Government will refund the interest which is paid in excess?
2. What about the faith of the taxpayer who has failed to pay tax before 01-01-2020, whether he has to pay on Gross tax or Net of tax.

In the erstwhile Central Excise regime, interest shall be paid on the Net of Duty (i.e. Duty Payable – Cenvat Credit) who fails to pay Excise duty on or before due date, as manufacturer have paid the Duty on Inputs and discharge the duty on finished goods after deducting the CENVAT. This principle should square off to GST. Hence the Govt.should give relief from 01-07-2017.

Analysis of revised ITR-1 (Sahaj) & ITR-4 (Sugam) for AY 2020-21

ITR forms 1 & 4 has been notified for AY 2020-2021 on 03.01.2020 well head of time. This was long pending demand of tax payers , income tax India worked very hard to make it possible.

Following are some changes in new ITR 4Sugam AY 2020-21 :-

If having Passport, its number is to be given

If incurred aggregate expenses exceeding Rs. 2 lakh on foreign Travel for self or for others, then amount to be specified

If deposited aggregate amount exceeding Rs. 1 crore in one or more current accounts then aggregate of amount deposited in all such accounts to be specified.

If spent amount exceeding Rs. 1 lakh on electricity consumption then specify such aggregate amount.

If any assessee owns property in coownership then he will not be eligible to file ITR 1 Sahaj or 4 Sugam.

In case of 44AD or 44ADA or 44AE now the assessee will be required to give opening balance of cash in hand and opening balance of bank accounts and also will be required to give total amount received in cash during the year total Amount deposited in bank during the year, total amount of cash outflow out of cash balance during the year, total amount of withdrawal from Bank during the year and closing balance of cash in hand and closing balance of banks.

Now there will be no need to provide figures of unsecured loans, sundry debtors, sundry creditors, amount of closing stock, etc. as was required in earlier years