

FINANCE MINISTRY ISSUES ADMINISTRATIVE INSTRUCTIONS FOR RECOVERY OF INTEREST ON NET TAX LIABILITY WITH RETROSPECTIVE EFFECT FROM 01.07.2017

Background:

The Central Board of Indirect Taxes (the '**Board**') vide Notification No. 63/2020-Central Tax dt. 25.08.2020 appointed 01.09.2020 as the date on which Section 100 of the Finance Act, 2019 shall come into force i.e. prospectively.

Subsequently on 26.08.2020 the Board vide its twitter handle released a press release which provided that, Notification No. 63/2020-Central Tax dt. 25.08.2020 was issued prospectively due to certain technical limitations and assured that no recoveries shall be made for the past period keeping in mind the decision taken in the 39th GST Council meeting.

Overview of Amendments:

The Finance Ministry taking cognizance of apprehensions raised by taxpayers pursuant to Notification No. 63/2020-Central Tax dt. 25.08.2020, issued administrative instructions dt. 18.09.2020¹ (the '**Instructions**') for recovery of interest on net cash liability with retrospective effect from 01.07.2017. The Instructions provide that to implement the decision taken by the Council while working within the legal framework, it has decided that:

- i. For the period July 01, 2017 to August 31, 2020, field formations may be instructed to recover interest only on net cash tax liability (i.e. that portion of the tax that has been paid by debiting the electronic cash ledger or is payable through cash ledger); and
- ii. Wherever SCNs have been issued on gross tax payable, the same maybe kept in Call Book till the retrospective amendment in section 50 of the CGST Act is carried out.

VA Comments:

1. The Instructions issued by the Finance Ministry are a sigh-of-relief for taxpayers as the same meets the expectations of taxpayers seems to be fully realized.
2. Additionally, it clears the earlier uncertainty of whether the press release would override the effect of the notification as the present Instruction hold superior legal sanctity.
3. Acting upon the Instructions, State Governments have issued directions to their respective GST departments to provide information on SCN's issued on gross tax payable for the purposes of staying the demand until retrospective amendment is made in the CGST Act.
4. The Instructions, however, fail to provide directions for cases where interest on delayed payment has been calculated on gross liability, adjudicated upon, and deducted from pending refund applications or paid otherwise.

For any further information/ clarification, please feel free to write to:

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¹F.NO. CBEC-20/01/08/2019-GST dt. 18.09.2020