

Economy

Relief for back-office firms: Govt withdraws GST circular on intermediary services

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In what could be seen as a major relief for corporates, especially multinational companies, the government has decided to withdraw a circular on intermediary services under the GST.

This circular, issued in July, had created a lot of upheaval in the back-office/IT services industry. Substantial GST refunds were also stuck because of this circular, it is said. The withdrawal should come as a relief to IT/ITeS (IT-enabled services) firms and back-office support service providers.

Numerous representations

The Central Board of Indirect Taxes & Custom (CBIC) said in a circular that numerous representations were received expressing apprehensions on the implications of the circular. “In view of these apprehensions and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by Section 168(1) of the Central Goods and Services Tax Act, 2017, hereby withdraws, *ab initio*, Circular No. 107/26/2019-GST dated July 18, 2019,” it said.

The withdrawal will be effective from July 18.

“Withdrawal of circular definitely looks to be a move in the right direction as tax authorities were placing reliance on the July circular to issue show-cause notices to back-office support providers and also denying refunds to other service providers on the allegation of being an intermediary,” Harpreet Singh, Partner in KPMG, said. It would be interesting to see the stand that tax authorities would adopt on withdrawal of the July circular, he added. “This is because the law has not changed,” Singh clarified.

Abhishek Jain, Tax Partner at EY, said that the earlier circular had created ambiguity for back-office support centres specifically on whether some of the activities performed by them came under the ‘intermediary’ classification.

“While the withdrawal of the circular should be helpful, the industry as well looks forward to an explicit clarification on the scope of intermediary; to avoid unwarranted litigation and possible financial repercussions and uncertainty,” he said. The circular said that multinational companies will need to redefine their back-end support system for the applicability of GST. The said circular intended to clarify

on issues related to supply of ITeS such as call centre and business process outsourcing services and 'intermediaries' to overseas entities under the GST law and whether they qualify as 'export of services' or not.

It was emphasised that a supplier of service would not be treated as intermediary, if the services are provided on his own account, despite him qualifying as an agent/broker. If these are not on his account, the service provider will come under the GST ambit and be required to pay tax at the rate of 18 per cent.

Experts said the circular was ambiguous and continued to fuel the debate as to which back-end services constitute as support services (during pre-delivery, delivery, post-delivery of supply, post sales support) and which services would qualify as 'arranging or facilitating the supply of goods or services between two or more persons'.

Now the latest move might provide respite to the industry, to the extent that the authorities were placing reliance on the erstwhile circular to issue show cause notices to back-office support providers. Also, a lot of GST refunds were held up by the tax authorities, on account of services qualifying as 'intermediary' and hence not exports. However, one would need to understand the legal implications of withdrawal of the circular, before deciding the future course of action.

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COMMENTS

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