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ARTICLES 2020



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EXTENSIONS – BENEVOLENT OR BELLIGERENT?

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Its raining extensions and we are often lost in the maze of extensions. But the moot question is whether all of them are really to help the assesses?

The Taxation and Other laws (Relaxation of Certain provisions) Ordinance, 2020 was promulgated by the Hon'ble President of India on 31.03.2020.

Section 6 of the Ordinance dealt with Customs Act, 1962, Customs Tariff Act, 1975, Central Excise Act, 1944 and Chapter V of Finance Act, 1994 (dealing with Service Tax) and extended various due dates under the said enactments, wherever such due dates fall between 25.03.2020 to 29.06.2020, the due date shall be extended to 30.06.2020. The said section also empowered the Government to further extend such due date, by issue of Notification.

Vide Notification dated 27.06.2020 it was ordered that any due dates under the above enactments, falling upto 29.09.2020 shall be extended to 30.09.2020.

Further, vide Notification dated 30.09.2020, it has been ordered that any due dates under the above enactments falling upto 30.12.2020 shall be extended to 31.12.2020.

In between, when the Parliament was in session, the Ordinance also received the approval of the Parliament and made into Taxation and Other laws (Relaxation of Certain provisions) Act 2020.

The benefit of these extensions shall be available in respect of

- 1. Completion of any proceeding or issuance of any order, notice, intimation, notification or sanction or approval, by whatever name called, by any authority, commission, Tribunal by whatever name called;*
or
- 2. Filing of any appeal, reply, or application or furnishing of any report, document, return or statement, by whatever name called.*

In so far as GST concerned, the Ordinance merely introduced section 168 A in the CGST Act, 2017, enabling the Government to extend various time limits, as recommended by the GST Council, due to “force majeure” events which term is also defined to include any pandemic.

In exercise of such powers under Section 168 A *ibid*, Notification 35/2020 Central Tax Dt. 03.04.2020 has been issued, extending various due dates under GST law, which falls between 20.03.2020 to 29.06.2020, to 30.06.2020. Such extension would be applicable for the following compliances, except certain exceptions provided for in the notification.

- 1. completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or*
- 2. filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;*

Subsequently, vide Notification 55/2020 Central Tax Dt. the due dates falling up to 30.08.2020 have been extended up to 31.08.2020.

There is no further extension of time limits under GST.

A comparison of extensions granted under legacy laws (which stand extended up to 31.12.2020) and under GST law (which expired on 31.08.2020) would reveal that the benevolence shown under legacy laws is absent under GST law. The reason is not far from seeking.

Various cases under the legacy levies are under investigation and show cause notices have to be issued by the Department. The investigation and processing of show cause notices were hampered during the lockdown and the department needs further time to issue the show cause notices. Hence the due dates seem to have been extended to facilitate the department to issue such notices upto 31.12.2020. For example, the due date for raising any Service Tax demand for the period Oct 2014 to March 2015, by invoking the extended period of demand, would have normally expired on 24.04.2020 (five years from the due date for filing the ST 3 return for this period); and the due date for raising any Service Tax demand for the period April 2015 to September 2015, by invoking the extended period of demand, would have normally expired on 24.10.2020.

In the process, those assesses whose due dates for filing various appeals would expire during the period may also get the benefit.

But, it may be observed that the due dates for issuing any demand notices under GST for the year 2017-18, even within the normal period is still available upto 31.10.2022 (3 months prior to the time limit for passing orders, i.e. within 3 years from the due date for filing annual return, which being 31.01.2020 for 2017-18) under section 73 (2) of the CGST Act read with Section 73 (10) and hence there is no similar extension of time under GST law!

Let us also note the following extensions granted recently.

1. Printing of QR Code on B2C invoices, by the tax payers having aggregate turnover of more than Rs. 500 crores, postponed to 01.12.2020 (Notification 71/2020 Central Tax Dt. 30.09.2020).
2. Benefit of exemption from payment of GST on Ocean freight and Air Freight for export consignments, by Shipping lines and Airlines based in India, which was due to expire on 30.09.2020 has been extended upto 30.09.2021. As similar services provided by overseas Shipping lines and overseas Airlines are not liable to GST, this exemption is required to protect the domestic industry (Notifications 4/2020 Central Tax Dt. 30.09.2020 and 4/2020 Integrated Tax Dt. 30.09.2020).
3. The due date for filing Annual returns under GST (GSTR 9 and 9C) for the year 2018-19 has been extended up to 31.10.2020 (Notification 69/2020 Central Tax Dt. 30.09.2020).

(Published in www.taxsutra.com on 01.10.2020)





