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NEWS UPDATE

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Reverse Charge mechanism for Metal Scrap

Notification 4/2017 Central Tax (Rate) Dt. 28.06.2017 notifies various goods, where the liability to pay GST on supply of such goods would be on the recipient of such goods, under reverse charge mechanism (RCM). To this notification, the following goods have also been added vide Notification 6/2024 Central Tax (Rate) Dt. 08.10.2024, with effect from 10.10.2024.

Metal scrap falling under headings, 72, 73, 74, 75, 76, 77, 78, 79, 80 & 81 of the Customs Tariff Act.

The above headings cover scrap of iron and steel, copper, nickel, aluminium, lead, zinc, tin, and other base metals.

From 10.10.2024, RCM would be attracted, if the supplier of such scrap is not registered under GST but the recipient of the supply is registered under GST. The status of the recipient is not relevant to attract RCM, i.e. irrespective of whether the recipients are manufacturers or mere traders, RCM would apply, if they procure these scrap from unregistered suppliers.

Further, it may be noted that as per Notification 5/2017 Central Tax Dt. 19.06.2017 exemption from registration has been granted to those persons making only supplies attracting RCM. In other words, if all the supplies made by a person are liable to GST only under RCM, the said person is exempted from obtaining registration under GST. This notification has now been amended vide Notification 24/2024 Central Tax Dt. 09.10.2024, with effect from 10.10.2024. As per this amendment, the above exemption from registration would not apply to the following persons.

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Provided that nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975)."

The effect of this amendment would be, so long as the value of supply of metal scrap by a person is below the threshold limit of Rs. 40 lakhs (Rs. 20 lakhs in some States), such person is not required to obtain registration as per sub-section (1) of Section 22 of the CGST Act.

But, once the value of supply of metal scrap by any person exceeds the threshold limit, such persons shall obtain registration under GST. Once they obtain registration under GST, RCM would not apply and the suppliers of such metal scrap shall start paying GST under forward charge mechanism.

Further, as per sub-section (1) of Section 51 mandates deduction of tax at source by certain category of persons, viz.,

- (a) A department or establishment of Central government or State Government.
- (b) Local Authority.
- (c) Government agencies.
- (d) Any other persons as may be notified by the Government.

In terms of clause (d) above, Notification 50/2018 Central Tax Dt. 13.09.2018 has been issued, notifying the following categories of persons as being liable for tax deduction at source.

- (a) *An authority or board or any other body*
 - (i) *Set up by an Act of Parliament or a State Legislature; or*
 - (ii) *Established by any government.*

With fifty-one percent or more participation by way of equity or control, to carry out any function;

- (b) *Society established by the Central government or State Government or a Local Authority under the Societies Registration Act, 1860*
- (c) *Public Sector Undertakings.*

Now, vide Notification 25/2024 Central Tax Dt. 09.09.2024, with effect from 10.10.2024, the following category of persons are also notified for the purpose of Section 51 (1) (d).

(d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), from other registered person.

The third proviso in the notification 50/2018 has also been substituted as below.



Provided also that nothing in this notification shall apply to the supply of goods or services or both, which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d) of this notification.”

The effect of the above amendment would be, if a registered person is procuring metal scrap falling under Chapters 72 to 81 from another registered person, then the recipient is liable to deduct tax at source as per Section 51 of the CGST Act and follow the procedures in this regard. The rate of such TDS would be 1 % CGST and 1 % SGST (in case of intra-state supplies) and 2 % IGST (in case of inter-state supplies). The recipient shall remit the tax deducted at source to the account of the supplier, by filing a monthly return in form GSTR7. The said TDS would reflect in the Electronic cash Ledger of the supplier, which can be used by the supplier to discharge his tax liabilities.

It may be noted that the liability to deduct TDS would be on all payments made (by a registered person to another registered person for purchase of metal scrap falling under chapters 72 to 81) on or after 10.10.2024, even if the purchases were made prior to this date. This is evident from the language of Section 51.

Further, the liability to deduct TDS would arise, only if the value of supply as per the contract is more than Rs.2,50,000. For example, if the contract is for Rs.5,00,000 and one supply against the contract is made for Rs.50,000, TDS provisions would apply. It may be noted that when each and every purchase is based on a distinct contract (which may be in writing or oral) and if the value of purchase is less than Rs.2,50,000, then TDS provisions would not apply.

To summarise, the following changes are effective from 10.10.2024.

- ▶▶ If the supplier of metal scrap falling under Chapter headings 72 to 81 are not registered under GST, the recipient of such supply shall pay tax on such scrap under RCM.
- ▶▶ Once the supplier of metal scrap falling under Chapter headings 72 to 81 crosses the threshold limit of Rs.40 lakhs, he has to obtain registration under GST.
- ▶▶ Once registered under GST, RCM would not apply and the supplier has to pay tax under forward charge mechanism.
- ▶▶ Whenever metal scrap falling under Chapter headings 72 to 81 are supplied by a registered person to another registered person, the recipient shall deduct 2 % TDS.