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POLICY Updates

What's Inside

National Bench of the GST Appellate Tribunal

The Union Cabinet approved the creation of a National Bench of the Goods and Services Tax Appellate Tribunal (GSTAT). The Central Goods and Services Tax Act, 2017 requires the central government to constitute a GST appellate tribunal at the national level and its benches at the state level. The GSTAT will hear appeals against orders passed by the appellate authorities constituted under the central and state GST laws. The GSTAT will be headed by its President (a judicial member) and consist of two technical members with experience in tax administration. Of the two technical members, one will represent the centre, and the other will represent the states. For the national bench, the judicial member will be appointed by the central government after consultation with the Chief Justice of India or his nominee. The technical members of the bench will be appointed by the central government on the recommendations of a selection committee.

Expert Committee constituted on MSMEs by the Reserve Bank of India

RBI constituted an Expert Committee on Micro, Small and Medium Enterprises. The Committee will be chaired by Shri U K Sinha (former Chairman, Securities and Exchange Board of India). The terms or reference of the Expert Committee include: (i) reviewing the current institutional framework supporting the MSME sector, (ii) examining factors affecting timely and adequate financing to the sector, (iii) examining the impact of recent economic reforms on the sector, and (iv) proposing measures for leveraging technology in accelerating growth of the sector. The Committee is expected to submit its report by the end of June 2019.

Reserve Bank of India Guidelines on Restructuring of Advances to MSMEs

RBI released guidelines to allow one-time restructuring of existing stressed loans to Micro, Small and Medium Enterprises. In order to be eligible for loan restructuring, the following conditions will apply on the borrowing MSME:

(i) the aggregate exposure of banks and NBFCs to the borrower does not exceed Rs 25 crore, as on January 1, 2019,

(ii) the borrower's account is in default, but is classified as a standard asset as

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on January 1, 2019 and continues to be classified similarly till the date of restructuring, and

(iii) the borrower is a GST-registered entity on the date of implementation of the restructuring.

In addition to the provisions already made, a provision of 5% shall be made for borrowings restructured under the scheme. To adopt this, each bank or NBFC is required to formulate a policy for the scheme, with board approval, within one month of the date of the circular. The policy should include a framework for viability assessment of the stressed accounts and regular monitoring of the restructured accounts. Accounts restructured under the scheme will not be downgraded to a non-performing asset (NPA). Further, accounts classified as NPA can be restructured, with existing asset classification norms being applicable. Restructuring of eligible accounts is to be completed before March 31, 2020.

GST Cess in Kerala

The GST Council allowed Kerala to levy a Cess on intra-state supply of goods and services. The Revenue generated from levying the cess will be used as funds for relief measures required to be taken due to natural calamities. Article 279A (4) of the Constitution provides for the GST Council to make recommendations to the centre and states on any special rate (for a specified period) to raise additional resources during any natural calamity or disaster. The cess will be levied at a rate not exceeding 1% for a period of up to two years.

Revised Threshold Limits for Registration, New Composition Scheme for Suppliers of Services

The GST Council approved revised threshold limits of turnover, below which, suppliers of goods will be exempted from registration and payment of GST. The Council approved two threshold limits: (i) Rs 20 lakh, and (ii) Rs 40 lakh. States can choose the limit that they want to adopt in their state. Presently, the threshold limit for registration for suppliers of goods as well as services is Rs 20 lakh in all states except Manipur, Mizoram, Nagaland, and Tripura (where it is Rs 10 lakh). The limit remains unchanged for suppliers of services.

Further, the GST Council approved an increase in the threshold limit specified for the composition scheme from one crore rupees to one crore and fifty lakh rupees. Under the composition scheme, certain taxpayers with their annual turnover within this limit are allowed to pay GST on their turnover, instead of on the value of supply of goods and services. Under the GST laws, suppliers of services (other than restaurant services) are eligible for the composition scheme only under a specific condition. Such suppliers are eligible if the value of supply of their services does not exceed 10% of their turnover in the state in the previous financial year, or five lakh rupees, whichever is higher. The GST Council approved another composition scheme for suppliers of services who have their annual turnover within Rs 50 lakh. Under the approved composition scheme, the suppliers will be liable to pay an amount of GST equivalent to 6% of their annual turnover. Suppliers who supply goods along with services will also be eligible for the approved scheme. The approved composition scheme as well as the increase in threshold limits will come into effect on April 1, 2019.

Companies (Amendment) Bill, 2018 passed by Lok Sabha

The Companies (Amendment) Bill, 2018 was passed by Lok Sabha. It replaced the Ordinance promulgated on November 2, 2018. The Bill amends several provisions in the Companies Act, 2013 relating to penalties, among others.

- **Re-Categorisation of certain Offences:** The 2013 Act contains 81 compoundable offences punishable with fine or fine or imprisonment, or both. These offences are heard by courts. The Bill re-categorizes 16 of these offences as civil defaults, where adjudicating officers (appointed by central government) may levy penalties for default. These offences include: (i) issuance of shares at a discount, and, (ii) failure to file annual return.
- **Commencement of business:** The Bill states that a company may not commence business, unless it (i) files a declaration within 180 days of incorporation, confirming that every subscriber to the Memorandum of the company has paid the value of shares and (ii) files a verification of its registered office address with the Registrar of Companies within 30 days of incorporation. If a company fails to comply with these provisions and is found not to be carrying out any business, its name may be removed from the Register of Companies.
- **Change in approving authority:** Under the Act, change in period of financial year for a company associated with a foreign company, has to be approved by the National

Company Law Tribunal. Similarly, any alteration in the incorporation document of a public company which has the effect of converting it to a private company, has to be approved by the Tribunal. Under the Bill, these powers have been transferred to the central government.

- **Compounding:** Under the Act, a regional director can compound (settle) offences with penalty of up to five lakh rupees. The Bill increases the limit to Rs 25 lakh.

Amendment in Guidelines for Bidding Process for Procuring Power from Grid Connected Solar PV Projects

The Ministry of Power notified amendments to the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects. The original guidelines were issued in August 2017. The amendments reduce the time frame for several stages under the bidding mechanism. The changes are as follows:

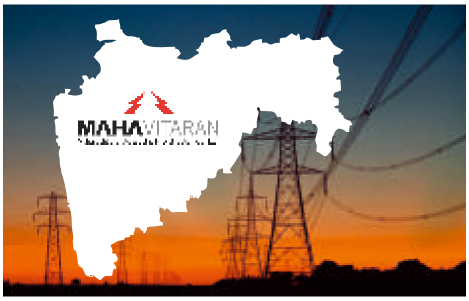
- **Bid submission:** Earlier, bid submission for request for selection documents was 30 days. This has been reduced to 22 days.
- **Financial closure:** Earlier, the solar power generator had to attain financial closure, in terms of the power purchase agreement (PPA), within 12 months from the date of execution of the PPA. This time frame has been reduced to nine months for projects being set up in solar park.
- **Commissioning schedule:** Earlier, the Projects were required to be commissioned within a period of 21 months, from the date of execution of the PPA. This time frame has been reduced to 15 months for projects being set up in the solar par, and to 18 months for all other projects.

Public Procurement Order for Power Sector Issued

The Ministry of Power issued public procurement guidelines to provide for purchase preference (linked to local content) for the transmission, thermal, and hydro power sectors. These guidelines are in furtherance of the notification of the Department of Industrial Policy and Promotion on public procurement (preference to Make in India). The notifications provide details of the minimum local content required for various projects in these sectors. The Ministry of Power will constitute a Committee for each of the sectors to take decisions on complaints relating to implementation of the orders. Each Committee will be chaired by Member of the respective department of the Central Electricity Authority.

However, the substance of the orders relating to the local content is at variance in some places, from the recommendation of IEEMA submitted to CEA. The topic was discussed in the meeting of the IEEMA Public Policy Cell and a working group was formed, under Mr. A S Subramaniyan, IEEMA Executive Council Member, for defining further actions points with CEA / MoP. Inputs were sought from IEEMA members on the same.

DIPP Advised MSETCL to Provide Preference to Locally Manufactured Goods in Public Procurement



The Maharashtra State Electricity Transmission Company Limited had issued tender for 220/33kV GIS Substation at Raigad, Maharashtra, wherein technical qualifying requirements allowed foreign manufacturers to supply at least one bay manufactured from India. Clauses 3.2.1.1 (A), (B) and (C) of the tender encouraged foreign manufacturers to participate in the bid without having domestic manufacturing experience. GIS technology is very well established in India and major MNCs and domestic manufacturers have more than sufficient capacities to meet the requirement for the whole range of MV, HV and EHV GIS.

IEEMA requested MSETCL to consider procurement of GIS equipment from domestic manufacturers through domestic / local competitive bidding, in lines with Public Procurement (Preference to Make in India) Order 2017, which mandates procurement of any goods or services locally or for the price preference for the purpose of promoting locally manufactured goods or locally provided services.

Subsequently, the Department of Industrial Policy and Promotion, Government of India, also wrote to the Chief Secretary, Government of Maharashtra, to consider formulating guidelines for providing preference to locally manufactured goods in public procurement in terms of the provisions of GFR and in pursuance of Union Government's policy to provide preference to 'Make in India' in Public Procurement.

Proposed MIP on Steel and Steel Related Products

A meeting was chaired by Hon'ble Minister of Steel, Government of India, on 6th February 2019, to discuss Minimum Imports Price on Steel and Steel Products, as proposed by the Steel Authority of India Limited.

IEEMA submitted a representation to the Government of India, opposing such a move, which would prove to be detrimental for the survival of Downstream Domestic Electrical Equipment Industry, leading to their noncompetitiveness and closure of units. IEEMA stated that various types of Steel is used in downstream Electrical Equipment manufacturing industry, as basic raw material, in almost all major equipment like Cables, Towers, Transformers, Rotating Machines, Conductors, Switchgears etc. which consumes upto 25% Steel products in their manufacturing, in terms of value. The estimated value of domestic steel production is in excess of INR 3 Lakhs crore, of which, electrical equipment manufacturing industry consumes about INR 40,000 crore worth of Steel i.e. 13%.

Imposition of MIP would discourage imports of Steel and lead to unjustified increase in the domestic price of steel and steel products, seriously impacting the downstream manufacturing units, especially the MSME units, as their raw material prices and prices of other inputs would sky rocket and make them non-competitive. The foreign suppliers having access to cheaper supplies of primary Steel would have a price advantage and dump their finished electrical equipment to India. At the same time, the foreign suppliers would have price advantage worldwide, making the domestic suppliers at a price disadvantage on exports front too.

Moreover, a large part of the Steel goes, through the downstream industries, into national building in the form of infrastructure development. Any increase in cost because of imposition of MIP would increase the cost of infrastructure and ultimately increase the cost to the consumers.

IEEMA also submitted some figures along with this representation claiming that there is no survival issue for the primary Steel Producers because of imports and these are making profits.

IEEMA requested the Government to take a holistic view by considering the perspective of downstream user industry of Steel and not impose any Minimum Import Price (MIP) on Steel and Steel Products, which would kill the downstream domestic electrical equipment manufacturing industry.

Based on IEEMA recommendations, subsequently the Government decided to scrap the proposal of imposing MIP on imports of Steel.

Electrical Equipment Industry as a part of the Capital Goods Sector

Shri Aditya Dhoot, Executive Council Member, represented IEEMA in a Post-Budget interaction with Shri Piyush Goyal, Hon'ble Minister for Railways and Coal. Shri Dhoot appealed that that Indian electrical equipment sector, contributing to the nation building, to be treated as a significant part of the Capital Goods Sector and not the Power Sector. However, many times the industry gets clubbed into the power sector, where the outlook of the Banks and Financial Institutions about the industry is of lower credit rating.

Another issue raised by Shri Dhoot was about delayed payments from the Government and Utilities itself, and its cascading effect in the banks and financial institutions of that company's account.

Hon'ble Minister immediately directed the bank officials that the Capital Goods manufacturers and financial stress in power sector should not be equated and the entire electrical equipment manufacturers should be classified under Capital Goods Category. Also, if there is a stress in one sector, the other Sectors should not suffer and should be dissected into different parts of the entire value chain. Secondly, if the Power Utilities are not paying the approved bills in time, it should be not classified into an NPA, based on a simple arithmetic of 90 days.

Working Group of Power Utility Buyers and Sellers for Government e-Marketplace

GeM is the National Public Procurement Portal and is an online Marketplace for Central and State Government Ministries / Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous Institutions and Local bodies, for procurement of common use Goods and Services. Government has aimed at registrations of all buyers and sellers of electrical equipment under GeM and thereby ensuring availability of all products and services, all procurement through GeM, quality and certification and timely assured payments to all vendors as per SLA.

GeM conducted the first meeting of Working Group of Power Utility Buyers and Sellers for Government e-marketplace, on 18th January 2018. Five product-wise working groups were created on Distribution Transformers, LV Switchgears, RE & Storage, Cables and Conductors, for finalising respective technical specification of each products. Meetings of these working Groups would be conducted shortly.

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