

**Concessional GST rate of 12% on composite supply of works contract to be applied prospectively**

The AAR, Chhattisgarh in the matter of *M/s Dee Vee Projects Limited [Advance Ruling No. STC/AAR/03/2020/41 dated October 8, 2020]* has ruled that the Notification amending the tax rate from 18% to 12% on Composite Supply of Works Contract can only be applied prospectively, if an enactment does not expressly provides that it should be deemed to have come into effect from a past date.

**Facts:**

M/s Dee Vee Projects Limited (“**the Applicant**”) is in the business of works contract by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration.

Subsequently, the *Notification No. 11/2017- Central Tax (Rate) dated June 28, 2017* (“**the Services Rate Notification**”) was amended by the *Notification No. 20/2017 dated August 22, 2017* and *Notification No. 24/2017 dated September 21, 2017* (“**the Impugned Amendment Notifications**”) and based on these amendments the Applicant charged and paid Goods and Services Tax (“**GST**”) at the rate of 12% on the services provided in between July to September 2017.

The Applicant contended that the date of effectiveness of the amendments was nowhere mentioned in the Impugned Amendment Notifications. So, it is presumed, that the intention of the GST Council was only to reduce the rate of tax from 18% to 12% from very beginning.

**Issue:**

Whether the Impugned Amendment Notifications to the Services Rate Notification effective prospectively or retrospectively?

## **Held**

The AAR, Chhattisgarh in **Advance Ruling No. STC/AAR/03/2020/41** held as under:

- Stated that, as per the rules of interpretation, unless it is explicitly stated, a piece of legislation is presumed not to be intended to have a retrospective operation.
- Observed that, if an enactment expressly provides that it should be deemed to have come into effect from a past date, it is retrospective in nature. If an enactment is intended to be retrospective in operation, and also in effect, the legislature expresses it in clear and unequivocal language in the enactment itself.
- Noted that, in case of a notification the effective date is not written, the effect of the amending notification thus shall be the date on which the amending notification is published in the Official Gazette.
- Held that, the GST rate on composite supply of works contract as defined in clause 119 of Section 2 of the Central Goods and Services Tax Act, 2017 (“**the CGST Act**”) is 18% till August 21, 2017 as stipulated under Serial No. 3 of Heading 9954 of the Services Rate Notification and 12% after that.
- Further held that, the Applicant has wrongly interpreted the tax liability at 12% from July 1, 2017 whereas the effective date of the Impugned Amendment Notifications is the date of Notification only.

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