

Demystifying Section 9(4) – RCM on purchase of goods and services on purchase made from unregistered persons

Introduction

Goods and Service Tax was rolled out on 1st July,2017 and since its introduction there has been lot of hue and cry over it in the industry. The impact of GST has been both positive and negative .Lot of traders especially the small businessman are not happy with it. Heavy compliance requirements, burdensome procedure, blockage of working capital are some of the reasons that has caused dissatisfaction among people. One provision Section 9(4) hit the small businesses really bad.

Analysis

Due to section 9(4) the small or petty contractors who were not liable for registration because their turnover was less than 20 lakhs may lose business or will be forced to take registration. The big businesses stopped taking goods from unregistered persons as they had to comply with Reverse charge provisions and has to do everything from issuing self-invoice to filing return on behalf of unregistered persons. Concession of Rs. 5,000 every day made no real difference. As there was lot of dissatisfaction among the small traders ,government deferred this section again and again.

Many people are still confused about applicability of Section 9(4) as this section was deferred again and again by the government. There is widespread confusion and lot of ambiguity in their mind regarding its section.

Notification No. 8/2017-Central Tax (Rate) which provided exemption from reverse charge upto Rs.5000 per day has been rescinded and this exemption is no more required in view of changes made by CGST Amendment act,2018. Now govt need to specify class of registered persons or specified categories of goods or services on which recipient needs to pay rcm ,in case it purchase from unregistered person. As of now only 3 services are covered under till date and all three are in context of real estate. The detailed analysis of the supplies on which section 9(4) is applicable is as follows:

	<p>3) Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended.</p>	<p>Promoter</p>	<p>3) Promoter is liable to pay GST under reverse charge on Capital goods supplied to promoter by unregistered person for construction of a project</p>
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Conclusion

In the current scenario the reverse charge u/s 9(4) is only applicable to specified category of goods and services. By changing the provision of section 9(4), government has provided some relief to small traders but even now there are lot of technical glitches and problem faced by the traders which needs to be addressed by the government. As the GST is about to turn three on 1st July, 2020 the government should bring some reforms to remove these roadblocks in the path of smooth compliance of GST.

Conclusion

The Delhi High Court read down para 4 of the impugned Circular No. 26/26/2017-GST dated 29.12.2017 to the extent that it restricts the rectification of Form GSTR-3B in respect of the period in which the error has occurred and Bharti was allowed to rectify Form GSTR-3B for the period to which the error relates, i.e. the relevant period from July, 2017 to September, 2017 within a period of two weeks.

