

July 2021

## Indirect Tax:

### CASE LAW

#### **Race club liable only on commission received for service rendered through totalisator – CGST Rule 31A(3) quashed-**

The Karnataka High Court has held that Rule 31A(3) of CGST Rules which declares value of actionable claim (taxable value) in the form of chance to win in a horse race conducted by a race club to be 100% of the face value of the bet, is ultra vires the provisions of the CGST Act. The Court held that race club provides a totalisator service for a brief period in its fiduciary capacity by holding the amount on behalf of a punter before redistribution to the winner of a stake. The commission is the only consideration received by the race club for the supply of such service. The Court further held that making the entire bet amount received by the totalisator liable for payment of GST, is against the principle that GST can only be levied on the consideration. Lastly, noting that the petitioners were not supplying bets to the punters, it was held that GST can be levied only on the commission received. **(Bangalore Turf Club Limited v. State of Karnataka – Order dated 2 June 2021 in Writ Petition No. 11168/2018 (T-RES), Karnataka High Court)**

### UPDATES AND NOTIFICATIONS

#### **Supreme Court Stayed Delhi HC Judgment Which Declared IGST Imposition on Oxygen Concentrators Imported By Individuals As Unconstitutional**

The Supreme Court on 01/06/2021 stayed the Delhi High Court order which declared the imposition of Integrated Goods and Services Tax (IGST) on the import of oxygen concentrators by individuals for Covid-19 patients as "unconstitutional".

A Supreme Court vacation bench headed by Justice DY Chandrachud and MR Shah stayed the Delhi HC order over IGST and import tax on the import of oxygen concentrators by individuals for Covid-19 patients till further orders.

On May 21, the Delhi HC had quashed the May 1 notification



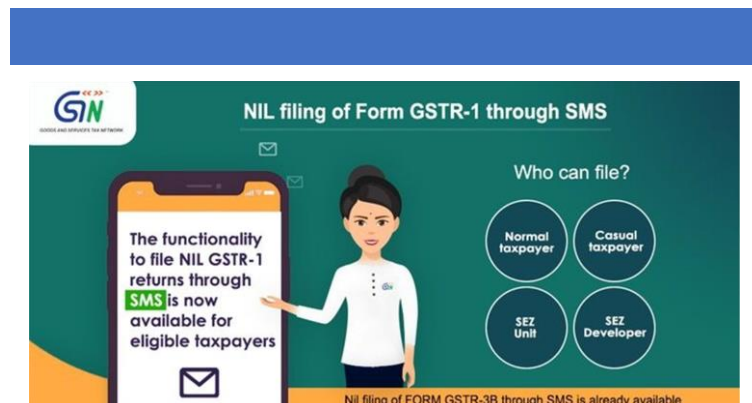
## July 2021

issued by the Ministry of Finance which stated that oxygen concentrators imported for personal use, irrespective of whether they are a gift or otherwise, will be charged with an IGST of 12 per cent.

The CBIC, from 1st January 2021 introduced QRMP (Quarterly return monthly payment) scheme which allowed the registered person having aggregate turnover up to Rs.5 crore in preceding financial year to make monthly tax payment but to file GSTR 1 and GSTR 3B quarterly. Few important changes related to QRMP Scheme implemented on the GST Portal for the taxpayers during this month are as given below:

### A. Auto population of GSTR-3B liability from IFF and Form GSTR 1

A taxpayer under QRMP Scheme can declare their liability through optional IFF for Month 1 and Month 2 of a quarter & Form GSTR-1 for Month 3 of that quarter. Declaration of liability in these forms would now be auto-populated in their Form GSTR-3B (Quarterly) for that quarter, based on their filed Form GSTR-1 and IFF. These fields are editable and in case their values are revised upwards or downwards, the edited field(s) would be highlighted in red colour and a warning message will be displayed to the taxpayer.



### B. Nil filing of Form GSTR-1 (Quarterly) through SMS:

Nil filing of Form GSTR-1 (Quarterly) through SMS has been enabled for taxpayers under QRMP Scheme. They can now file it by sending a message in specified format to 14409. The format of the

## July 2021

message is < NIL > space < Return Type (R1) >space< GSTIN > space < Return Period (mmyyyy) >.

Example: NIL R1 07XXXXX1234H8Z6 062020 (where return period must be last month of the quarter)

However, NIL filing through SMS can't be done in following scenarios:

- If Invoice Furnishing Facility (IFF) for Month 1 or 2 of a quarter is in Submitted stage, but not Filed.
- If invoices are Saved in IFF for Month 1 or 2 of a quarter, which was not submitted or filed by due date.

### **C. Impact of cancellation of registration on liability to file Form GSTR-1:**

In case registration of a taxpayer under QRMP Scheme is cancelled, with effective date of cancellation being any date after 1st day of Month 1 of a quarter, they would be required to file Form GSTR-1 for the complete quarter, as the last applicable return.

For example, if the taxpayer's registration is cancelled w.e.f. 1st of April, he/she is not required to file Form GSTR-1 for Apr-June quarter and Form GSTR-1 for Jan-Mar Quarter shall become the last applicable return. However, if the registration is cancelled on a later date during the quarter, the taxpayer would be required to file Form GSTR-1 for Apr-June quarter. In such cases the filing will become open on 1st of month following the month with cancellation date i.e., if cancellation has taken place on 20th May, Form GSTR-1 for Quarter Apr-June can be filed anytime on or after 1st of June.