Notification No. 2/2017 – Integrated Tax

What Notification says?

The Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him are appointed as the officers empowered to grant registration in case of online information and database access or retrieval (OIDAR) services provided or agreed to be provided by a person located in non-taxable territory and received by a non-taxable online recipient.

This notification comes into effect from 22 June 2017.

Analysis:

Section 14 of IGST Act 2017, says that OIDAR services will attract IGST. Further the suppier of OIDAR services, or his repressentative in taxable-territory shall get registered under a 'Simplified Registration Scheme' (SRS) for the payment of IGST. This registration is different from the general registration under GST.

Why effective before 1july GST roll out? To enable OIDAR services special SRS registration prior to rollout!

Various terms used are defined in section 2 of CGST Act, 2017 as follow:

1. Online information and database access or retrieval (OIDAR) services means:

Services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as:

(i) Advertising on the internet;

(ii) Providing cloud services;

(iii) Provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;

(iv) Providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;

(v) Online supplies of digital content (movies, television shows, music etc.);

(vi) Digital data storage; and

(vii) Online gaming;

2. Location of service provider means:

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

3. Taxable territory means: the territory to which the provisions GST apply

4. **Non-taxable online recipient** means:

Any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory. For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body,—

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government, with ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution

5. Location of the recipient of services means:

(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(d) in absence of such places, the location of the usual place of residence of the recipient;