FINANCIAL EXPRESS
THURSDAY, FEBRUARY 07, 2019

Late filing: Hyderabad GST commissionerate orders interest levy on input tax credit

FE BUREAU
New Delhi, February 6

IN CASE OF delayed GST return filing, a taxpayer is liable to pay interest not only on the outstanding tax liability but also on the input tax credit (ITC) balance in the electronic credit ledger maintained on the GST Network portal, a Hyderabad GST commissionerate order said. This has raised the heckles of the industry as it goes against the proposed amendment in the GST law and may even be replicated by other commissionerates, tax experts said.

A regular GST taxpayer has to pay a late fee of ₹100 per day along with 18% interest on the tax liability.

The order was issued despite the GST Council's decision in its 31st meeting on December 22 last year, which said interest should be charged only on net tax liability of the taxpayer, after taking into account the admissible input tax credit.

This means that interest would be levied only on the amount payable through the electronic cash ledger, and not on any amount payable through the electronic credit ledger. However, the said decision of the GST Council has not been made effective yet, since it requires amendment in the GST Act.

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In its order, the Hyderabad commissionerate said that the ITC balance can't be treated as tax paid, unless it is debited in the said credit ledger while filing the GST return.

Accordingly, the order directed field officers to ensure that interest liability is paid by taxpayers not only on the cash component, but also on the credit component of tax paid, which otherwise becomes a recoverable arrears for the purpose of initiating recovery under GST laws.

"The central government may consider issuing suitable instruction/clarification to provide that in line with the amendment proposed under Section 50, no such recovery proceedings should be initiated by any state government where the taxpayer had sufficient credit balance to discharge GST liability. The government may also consider amending the Section 50 retrospectively from July 1, 2017," Pratik Jain, partner and leader, indirect tax at PwC, said.