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GST
UPDATES

NOTE ON LEGAL PROCEEDINGS UNDER GST BY DGGI ON INSURANCE COMPANIES

The investigation of various life insurance companies found that the companies were paying overriding commissions to their agents through vendors who were never engaged to provide marketing, advertising, or manpower supply services. It is found that several Non-Banking Financial Companies (NBFCs) engaged in microfinancing businesses are acting as corporate agents of the insurance companies and are cross-selling their single premium credit linked insurance policies during their lending business.

As per IRDAI regulations, only a nominal commission is permitted for payment to corporate agents. To bypass these regulations, the insurance companies have decided to obtain invoices from these intermediaries, to transfer commission (over and above the permissible limit) to NBFCs for the supply of services of advertising, web marketing etc., whereas there has been no underlying supply of services. These payments were simply disguised as legitimate expenses to avoid paying GST.

Insurance companies have been paying banks and finance companies inflated commissions to avail of fraudulent input tax credits (ITC). These insurance companies paid a significantly inflated commission to the bank and availed Input Tax Credit (ITC) for services in the name of marketing services, advertising services etc. This allowed the insurance company to claim a tax credit for expenses they did not incur. As per the condition of taking an Input Tax Credit, the registered person must be receiving the goods or services. This is turning into an industry-wide issue, and both the GST and income tax departments have launched investigations into these practices.

As against the permitted 15% commission by the Insurance Regulatory and Development Authority of India (IRDAI) insurers have paid up to 70% of the first-year premium under various heads. Explaining the modus operandi, insurance firms

established a deal with intermediaries to transfer ineligible input tax credits (ITC) under the pretence of marketing services and generating fictitious invoices. They said that these intermediaries produce two invoices, one within the allowed limit and the other for marketing or sales-related expenses. These businesses have allegedly been taking invalid ITC using this technique, according to DGGI sources. Without the underlying supply of services, these businesses generated bogus bills. The Directorate said that IRDAI regulations regarding GST were broken.

The department probed transactions worth more than INR 5,000 crore wherein HDFC Life Insurance Co has been served a show-cause-cum-demand notice by the GST authority over liabilities of INR 942 crore for the period July 2017 to March 31, 2022. The notice alleges that HDFC Life claimed an input tax credit (ITC) without an actual supply of services.


ICICI Prudential Life Insurance is also under investigation by the GST authorities for similar charges. It is expected that ICICI Prudential's liability is the biggest after HDFC Life and the role of Policy Bazaar is also being investigated in the case. ICICI Prudential received show-cause-cum demand notice of INR 492 crore for July 2017 to July 2022 period from DGGI.


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