IGST on oxygen concentrators imported for personal use or as gift to resume

SC has stayed Delhi HC decision quashing May 1 notification levying 12 per cent IGST

SHISHIR SINHA
New Delhi, June 2

Individuals will now have to pay Integrated Goods and Services Tax (IGST) on oxygen concentrators imported for personal use or as a gift.

This follows the Supreme Court order to stay the Delhi High Court decision to quash the May 1 notification that prescribes IGST at 12 per cent on oxygen concentrators imported for personal use. This rate will be applicable till June 30 and, if not extended or exempted, the rate will be 28 per cent.

“Once the order is stayed, it will cease to apply right from the beginning till today (date of stay),” a senior Finance Ministry official told BusinessLine. All personal imports of concentrators, whether as a gift or otherwise, will attract IGST of 12 per cent as ‘on date and beyond’, he said.

On May 21, the Delhi High Court held that imposition of IGST on oxygen concentrators imported by individuals and received by them as gifts (free of cost) for personal use, is unconstitutional. Following the court quashing the May 1 circular, the Centre moved the Supreme Court. It submitted that the HC judgment trenches upon a pure issue of policy and said that the exemption which was granted for concentrators imported by the State or its agencies falls in a clearly distinct classification. The matter is now likely to be heard by the Apex Court on July 2.

Bombay HC petition
Prateek Bansal, Associate Partner (Tax & Customs) at law firm White and Brief, said a petition challenging the levy of 12 per cent IGST on import of oxygen concentrators for personal use/gifts is also pending consideration before the Bombay High Court, where the Centre has been directed to file its reply. The next hearing is scheduled on June 7.

“It will be ideal if this issue is heard and decided expeditiously by the Supreme Court to avoid multiplicity of judicial proceedings, besides giving clarity to the importers with regard to tax positions to be adopted,” he said.

Currently, there are two questions — one, what will happen to the concentrators imported between May 21 and June 1; two, what will happen in case the Supreme Court upheld exemption. The Finance Ministry official feels, in case of a stay, IGST is to be levied from May 21.