



INDIRECT TAX NEWSLETTER

October, 2020 (updated till 30.09.2020)



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ARTICLES BY
RSA LEGAL SOLUTIONS:

- ❖ **Cus: CAROTAR, 2020 - Challenges For Importers: Shweta Jain, Partner; co-authored by Garima Goyal, Associate**

<https://taxindiaonline.com/RC2/NewsDesc.php?MpoQsrPnM=MzkzODk=1>

***For complete articles kindly click on the link.**

REGULATORY UPDATES

GOODS & SERVICES TAX (GST) LAW

Notifications

❖ **Notification No. 66/2020 – CT, dated 21.09.2020**

The CBIC has extended the date **upto 31.10.2020** for the compliance required in relation to those goods which are sent or taken out of India on approval of sale or return which take place during the period from 20.03.2020 to 30.10.2020.

❖ **Notification No. 67/2020 – CT, dated 21.09.2020**

The CBIC has curtailed the late fee to INR 500/- only for the registered persons who failed to furnish the return in FORM GSTR-4 (filed by the Composition Dealer) for the quarters beginning from July, 2017 to March, 2020 by the due date but furnish the same between the period beginning from 22.09.2020 to 31.10.2020.

❖ **Notification No. 68/2020 – CT, dated 21.09.2020**

The CBIC has curtailed the late fee to INR 500/- only for the registered persons who failed to furnish the return in FORM GSTR-10 (filed by the taxpayer whose registration either cancelled or surrendered) by the due date but furnish the same between the period beginning from 22.09.2020 to 31.10.2020.

❖ **Notification No. 69/2020 – CT, dated 30.09.2020**

The CBIC has extended the date from 30.09.2020 to 31.10.2020 for filing the annual return in FORM GSTR-9 and 9C for the Financial Year 2018-19.

❖ **Notification No. 70/2020 – CT, dated 30.09.2020**

The CBIC has stated that every registered person, whose aggregate turnover in 'any preceding financial year from 2017-18 onwards' exceeds INR 500 Crores in respect of supply of goods and / or services or for exports, shall be required to issue the E-invoice.

❖ **Notification No. 71/2020 – CT, dated 30.09.2020**

The CBIC has stated that an invoice issued by a registered person, whose aggregate turnover in any preceding financial year from 2017-18 onwards, exceeds INR 500 Crores, is required to have Dynamic Quick Response (QR) code. Further, the date of implementation of requirement of Dynamic QR code in B2C invoices is deferred up to **01.12.2020** which was earlier deferred to 01.10.2020.

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CUSTOMS LAW

Circulars

❖ **Circular No. 42/2020 – Cus, dated 29.09.2020**

The CBIC has amended the Circular No. 38/2016-Cus dated 22.08.2016 (provides the guidelines w.r.t. the provisional assessment U/s. 18 of Customs Act, 1962) in order to align with CAROTAR, 2020 which stated that all class of importers, including Authorized Economic Operators (AEO) will be required to furnish 100% of differential duty as a security if provisional assessment is requested by the importer when inquiry is initiated in terms of rule 5 or when verification is initiated in terms of rule 6(1)(a) or 6(1)(b) of CAROTAR, 2020.

FOREIGN TRADE POLICY

Notifications

❖ **Notification No. 32/2015-2020, dated 17.09.2020**

The DGFT has inserted the new policy conditions in Chapter 85 and 94 of ITC (HS), 2017, Schedule-I (Import Policy) in order to enable the random sampling of LED products and Controls Gear for LED products notified under “Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012.

❖ **Notification No. 33/2015-2020, dated 28.09.2020**

The DGFT has asserted that import of goods falling under the Chapter 72, 73 and 86 of ITC (HS), 2017 shall now require the compulsory registration under Steel Import Monitoring System (SIMS). Further vide Public Notice No. 19/2015-2020, dated 28.09.2020, it is intimated that the compulsory registration under SIMS shall be required from **16.10.2020 onwards**.

❖ **Public Notice No. 16/2015-2020, dated 22.09.2020**

The DGFT has extended the date of implementation **upto 01.04.2021** of the Track and Trace system for export of drug formulations w.r.t. maintaining the Parent-Child relationship in packaging levels and its uploading on Central Portal. The said extension will be applicable on both SSI and Non-SSI manufactured drugs.

❖ **Public Notice No. 21/2015-2020, dated 30.09.2020**

The DGFT has extended the period upto **31.12.2020** for installation and operationalization of Radiation Portal Monitors and Container Scanner in the designated sea ports.

Trade Notices

❖ **Trade Notice No. 27/2020-21, dated 14.09.2020**

In order to obviate the difficulties faced by the members of Trade and Industry in complying with the standard UQCs in their old Advance and EPCG authorizations which have been issued with quantity units that do not match with the standard UQCs being adopted/available now. To address the such issue, the following has been decided by the DGFT:

- ✓ No new authorizations mentioning Non-standard units such as BoU, packs, Boxes cartons and bottles etc. would be issued by RAs. For this, necessary changes are being carried out in the DGFT EDI system also.
- ✓ In order to ensure that exports do not suffer in the meanwhile, for the authorizations already issued and carrying any non-standard units such as BoU, packs, Boxes cartons and bottles etc., Customs have been requested to allow exports against such authorizations till 30.10.2020 by accepting exporter's shipping bills in the UQCs provided in ICEGATE. After 01.11.2020, exports/imports without standard UQCs will not be permitted.



- ✓ In the meanwhile, such authorization holders are requested to approach concerned RA and get the non-standard units indicated in their authorizations in the import and export quantities, converted to standard quantity units. In case RAs face any difficulty in carrying out these amendments, they will get in touch with the concerned Norms Committee (NC) in Hqrs.

JUDICIAL UPDATES

GST LAW

❖ **M/s. Las Palmas Co-Operative Housing Society; 2020-TIOL-53-AAAR-GST: –**

In the instant matter, the Appellant is engaged in the process of replacing existing lift of the society for which a contract has been awarded to M/s. Fujitec India Pvt. Ltd. The Appellant recovers a separate amount for replacement of lifts from the members, apart from the normal charges for installation of new lifts and charges GST @18% on it from the members of the society. Therefore, the Appellant filed an application before the Hon'ble Advance Ruling Authority to know about the eligibility of Input Tax Credit on the lift installation charges paid to Fujitec. The Hon'ble AAR held that the erection, commissioning, and installation of the lift under question is immovable property. The Authority went on to decide that the input tax credit in respect of the charges paid to the lift contractor were not admissible to the Appellant in terms of section 17(5)(d) of the CGST Act, 2017. Aggrieved from the order passed by the Hon'ble Advance Ruling Authority, the appellant filed an appeal before the Hon'ble Appellate Advance Ruling Authority. However, the Hon'ble Appellate Advance Ruling Authority opined that no ITC can be claimed on the lift installation charges: **Maharashtra Appellate Authority for Advance Ruling**

❖ **M/s. Bharti Telemedia Limited vs. Union of India & Ors.; TS-812-HC-2020(DEL)-NT: –**

In the instant case, the Petitioner is engaged in the business of providing Direct to Home (DTH) satellite television broadcast services. Petitioner has filed the writ challenging the Rule 36(4) of the CGST Rules, 2017 for being arbitrary and ultra vires of the provisions of the CGST Act, 2017. Petitioner contended that the restriction to avail credit with respect to unreported invoices to the tune of 10% of eligible credit available in respect of the invoices/debit notes for which details have been uploaded by the suppliers was discriminatory as it doesn't draw distinction between the genuine taxpayers who fill the form on quarterly basis in accordance with the provisions laid down and fraudulent persons who intentionally avoid filing of returns and evade taxes. Petitioner submitted that it was following the mandate of Rule 36(4) and has been not taking ITC in respect of invoices/debit notes which have not been uploaded by suppliers u/s 37(1) and was only taking credit of 20% of the eligible credit from 09.10.2019 to 31.12.2019 and 10% w.e.f. 01.01.2020 and hence, is losing out the entire ITC where invoices/debit notes have not been uploaded by the suppliers in their returns u/s 37(1) but for 10% of the eligible credits. The Hon'ble High Court tags the matter along with similar petitions pending consideration.: **Delhi High Court**

CUSTOMS LAW

❖ **M/s. L.R. Brothers Indo Flora Ltd. Vs. The Commissioner of Central Excise; C.A. No. 7157 of 2008**

In the instant case, the appellant is a 100% Export Oriented Unit (EOU) engaged in production of cut flowers and flower buds of all kinds, suitable for bouquets and for ornamental purposes. The 100% EOU is required to export all articles produced by it. As a consequence, it is exempted from payment of customs duty on the imported inputs used during production of the exported articles, vide Notification No. 126/94-Cus. Further, a subsequent



Notification was issued which carried out amendments and substituted the charging clause of the inputs used in case of non-excisable goods. The appellant contended that the Government intended to apply the notification retrospectively as it was brought in to address an anomaly, which existed vis-à-vis central excise notification. The Hon'ble Supreme Court opined that it is a settled position of law that all laws are deemed to apply prospectively unless either expressly specified to apply retrospectively or intended to have been done so by the legislature. The latter would be a case of necessary implication and it cannot be inferred lightly. The Hon'ble Court further observed that merely because an anomaly has been addressed, it cannot be passed off as an error having been rectified. Unless shown otherwise, it has to be seen as a conscious change in the dispensation, particularly concerning the fiscal subject matters: **Supreme Court**

NEWSFLASH

- ❖ GST compensation cess to stay beyond June 2022 to help states.¹
- ❖ Small taxpayers having aggregate annual turnover of less than Rs 5 crore will be able to file returns on a quarterly basis with monthly payments from 01.01.2021.²
- ❖ India reviews anti-dumping duty extension on steel imports from seven countries.³
- ❖ India slips 26 places to 105 in global economic freedom index; lags in rules & freedom to trade internationally.⁴
- ❖ CBIC gives 30-day grace period for those not yet ready for GST e-invoice.⁵
- ❖ CAROTAR Rules 2020: Will it cost importers more than gains? Check implications on trade.⁶
- ❖ GST returns information to be included in Form 26AS.⁷
- ❖ Import of Tyres under Duty Free Import Authorisation Scheme not allowed: Government.⁸
- ❖ CAG pulls up DGFT on export sops, suggests automated foolproof system for trade promotion schemes.⁹
- ❖ Australia looks to boost trade with India after relations with China sour.¹⁰

¹ <https://timesofindia.indiatimes.com/business/india-business/gst-compensation-cess-to-stay-beyond-june-2022-to-help-states/articleshow/78504229.cms>

² <https://www.moneycontrol.com/news/business/gst-council-allows-small-businesses-to-file-returns-on-quarterly-basis-5926421.html>

³ <https://www.newindianexpress.com/business/2020/oct/06/india-reviews-anti-dumping-duty-extension-on-steel-imports-from-seven-countries-2206405.html>

⁴ <https://indianexpress.com/article/business/economy/india-slips-26-places-to-105-in-global-economic-freedom-index-lags-in-rules-freedom-to-trade-internationally/>

⁵ <https://www.livemint.com/news/india/cbic-gives-30-day-grace-period-for-those-not-yet-ready-for-gst-e-invoice-11601487290291.html>

⁶ <https://www.financialexpress.com/economy/carotar-rules-2020-will-it-cost-importers-more-than-the-gains-check-implications-on-trade/2094022/>

⁷ <https://www.thehindubusinessline.com/economy/gst-returns-information-to-be-included-in-form-26as/article32733338.ece>

⁸ <https://www.bloomberquint.com/business/import-of-tyres-under-dfia-scheme-not-allowed-dgft>

⁹ <https://economictimes.indiatimes.com/news/economy/foreign-trade/cag-pulls-up-dgft-on-export-sops-suggests-automated-foolproof-system-for-trade-promotion-schemes/articleshow/78279721.cms>

¹⁰ <https://www.financialexpress.com/economy/australia-eyes-trade-with-india-as-china-spat-exposes-dependence/2084376/>



About the Firm

RSA Legal Solutions is a top-tier Tax Law firm committed to providing world-class advisory, litigation, and compliance services to businesses, and singularly focused on serving the needs of business clients. The firm specializes in GST, Customs, Foreign Trade Policy, SEZ laws, FEMA, Income Tax, Corporate laws and other allied laws.

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