

INDIRECT TAX NEWSLETTER

July 2020 (updated till 30th June 2020)



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ARTICLES BY RSA LEGAL SOLUTIONS:

- ❖Cus: Duty payable by an EOU on wastage beyond permissible limits - Rajat Dosi, Partner. https://taxindiaonline.com/RC2/in side2.php3?filename=bnews detail.p hp3&newsid=38802
- Misc: All medical devices in India regulated & requires registration – Shweta Jain, Partner.

https://taxguru.in/corporatelaw/medical-devices-indiaregulated-requires-registration.html

INFORMATIVE SESSION:

- ❖ Cus: Deemed Exports & Physical Export Incentives for SEZ & EOU − S.C. Jain, Managing Partner https://www.youtube.com/watch?v=WnjRxJMWYng
- ❖ GST: Updates covering launch of e-office, 40th Council Meeting, clarification on Director's remuneration − Shweta Jain, Partner. https://www.youtube.com/watch?v=XaVKQFhp4Vs

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

REGULATORY UPDATES

GOODS & SERVICES TAX (GST) LAW

Notifications

Notification No. 46/2020-CT, dated 09.06.2020

CBIC has notified that in cases where a notice has been issued during the period from 20th March, 2020 to 29th June, 2020 w.r.t. the rejection of full or partial refund claim, the time limit for issuance for such order shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 30th day of June, 2020, whichever is later.

Notification No. 47/2020-CT, dated 09.06.2020

The CBIC has notified that the E-way bills which were generated on or before 24th March, 2020 and the validity of those had been expired on or before 20th March, 2020, their validity shall be deemed to be extended till 30th June, 2020. The said notification has come into force w.e.f. 31st May, 2020.

Notification No. 49/2020-CT, dated 24.06.2020

Certain changes have been notified in the CGST Act 2017, i.e. change in the definition of Union Territory to include Ladakh and merge 'Dadra and Nagar Haveli' and 'Daman and Diu'; Government is enabled to constitute Appellate Tribunal in the Union territory of Jammu and Kashmir and Ladakh, as applicable to other States; extending the period of one year and three years for return of input and capital goods in case of job work to a further period not exceeding one year and two years respectively on sufficient cause shown to the Commissioner etc. These changes have become effective from 30th June 2020.

Notification No. 50/2020-CT, dated 24.06.2020

The CBIC has notified the rate of 6% (CGST - 3% & SGST/UGST - 3%) for taxpayers who have been registered as composition taxpayers not eligible under the composition levy under specified categories.

❖ Notification No. 51 & 52/2020-CT, both dated 24.06.2020

The CBIC has notified the rate of interest and waiver of late fee or late filing of return in Form GSTR-3B, as follows:



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Aggregate Turnover in the preceding FY	Period	NIL rate of interest and late fees if return in Form GSTR-3B filed before prescribed date	Reduced rate of interest
More than ₹ 5 crores	February, March and April 2020	Nil rate of interest for first 15 days from due date. Late fees waived if return is filed on or before 24 June 2020.	Thereafter, 9 p.a. upto June 24, 2020
Upto ₹ 5 crores and having	February 2020	June 30, 2020	
principal place of business in the	March 2020	July 3, 2020	
States of Chhattisgarh, Madhya	April 2020	July 6, 2020	
Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra	May 2020	September 12, 2020	
Pradesh, the Union territories of Daman and Diu and Dadra and	June 2020	September 23, 2020	
Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.	July 2020	September 27, 2020	Thereafter, 9% upto September
Upto ₹ 5 crores and having principal place of business in the	February 2020	June 30, 2020	30, 2020
States of Himachal Pradesh,	March 2020	July 5, 2020	
Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar,	April 2020	July 9, 2020	
Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram,	May 2020	September 15, 2020	
Tripura, Meghalaya, Assam, West Bengal, Jharkhand,	June 2020	September 25, 2020	
Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	July 2020	September 29, 2020	



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- Further, in respect of the tax period July 2017 to January 2020, if the return in Form GSTR-3B has not been filed by the due date, then the late fee payable above ₹ five hundred (CGST + SGST) shall stand waived, subject to the condition that returns for such tax period are filed between the period July 1, 2020 to September 30, 2020.
- ✓ Also, if the tax payable as per return in Form GSTR-3B is Nil, then, the late fee payable on such returns shall stand waived subject to the condition that the said returns are filed between the period July 1, 2020 to September 30, 2020.
- It pertinent to note that the government has further given additional time to registered persons having turnover of upto ₹ 5 crores for filing GST return in Form GSTR-3B along with reduced / NIL rate of interest and waiver of late fees. For registered persons having a turnover more than ₹ 5 crores, there has been no further extensions for filing return in Form GSTR-3B. Further, it is relevant to note that in case of delayed filing of Form GSTR-3B beyond prescribed dates, benefit of reduced rate of interest shall continue to apply till prescribed dates and any further delay beyond such prescribed dates should attract interest at the rate of 18 percent. Also, as a clean-up measure, the Government has also given full / partial waiver of late fee for delay in filing return in Form GSTR-3B for the period July 2017 to January 2020 subject to the condition that the said returns are filed during the period July 1, 2020 to September 30, 2020

Notification No. 53/2020-CT, dated 24.06.2020

The CBIC has waived the late fees for delay in filing return in Form GSTR-1 for the following tax periods subject to the condition that the said returns are filed within the prescribed dates, which are as follows:

Sl. No.	Month / Quarter	Revised Dates	Earlier Dates
1.	March, 2020	July 10, 2020	June 30, 2020
2.	April, 2020	July 24, 2020	June 30, 2020
3.	May, 2020	July 28, 2020	June 30, 2020
4.	June, 2020	August 5, 2020	-
January to March, 2020 (Quarterly)		July 17, 2020	June 30, 2020
6.	April to June, 2020	August 3, 2020	-

✓ It is pertinent to note that there has been no specific extension of due dates for filing return in Form GSTR-1 for the aforesaid periods. However, by virtue of the said amendment, there is an additional time given for filing return in Form GSTR-1 along with waiver of late fees.



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The CBIC vide Notification No. 54/2020-CT, dated 24.06.2020 has notified the due dates for filing return in Form GSTR-3B for the month of August 2020 in respect of taxpayers having aggregate turnover upto ₹ 5 crores, which are as follows:

Aggregate Turnover in preceding FY	Due Date
Upto ₹ 5 crores and having principal place of business in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	October 1, 2020
Upto ₹ 5 crores and having principal place of business in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	October 3, 2020

Notification No. 55/2020-CT, dated 27.06.2020

The CBIC has extended the dates of various compliances under GST in view of the pandemic COVID-19. The due date of compliances which are to be completed by 30th August 2020 has been extended to 31st August. These compliances include: -

- ✓ Completion of proceedings or passing of order
- ✓ Issuance of notice, intimation, notification, sanction or approval of such or other action.
- ✓ Filing of appeal, reply or application
- ✓ Furnishing of any report, document, return, statement or such other record.

However, such extension of time is not applicable on for compliances related to

- ✓ Time of Supply under GST
- ✓ Provisions related to Registration, Composition, Issue of Invoice, Late fees of returns, Interest, Powers of arrest, Penalty, detention etc. and Filing of returns under GSTR-1 and GSTR-3B.
- ✓ Provisions of related to E-way bill
- ✓ All due dates as per rules in relation to above provisions

It is important to note that the date of expiry of E-way bills have already been extended by various notifications time to time.

Notification No. 56/2020-CT, dated 27.06.2020

CBIC has notified that in cases where a notice has been issued during the period from 20th March, 2020 to 30th August, 2020 w.r.t. the rejection of full or partial refund claim, the time limit for issuance for such order shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 31st August, 2020, whichever is later



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Notification No. 57/2020-CT, dated 30.06.2020

The CBIC has waived off the late fee in excess of Rs. 500 (CGST+SGST) for the registered taxpayers having aggregate turnover of more than 5 Cr. who fail to furnish their return in the Form GSTR-3B for period May, 2020 to July, 2020, by due date but furnish the same on or before 30th September, 2020. The late fee shall remain waived off for the taxpayer who file Nil return for above-captioned period.

Notification No. 58/2020-CT, dated 01.07.2020

The CBIC has facilitated with the service to file the Nil return in the Form GSTR-1 and GSTR-3B for a tax period through the "SMS".

Circulars and Orders

Circular No. 139/2020-GST, dated 10.06.2020

The CBIC has clarified that the treatment of refund of accumulated ITC relating to Imports, ISD invoices, inward supply liable under RCM shall continue to be same as before the issuance of Circular No. 135/2020-GST, which restricts ITC to the invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and reflected in the FORM GSTR-2A of the applicant. It was elucidated that the said Circular does not impact the refund of accumulated ITC relating to Imports, ISD invoices etc.

Circular No. 140/2020-GST, dated 10.06.2020

The CBIC, w.r.t. the levy of GST on Director's remuneration, has clarified that the part of Director's remuneration which is declared as "Salaries" in the books of a company and subjected to TDS under Section 192 of the IT Act, is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment. Further, it is elucidated that the part of employee Director's remuneration which is declared separately "other than salaries" in the Company's accounts and subjected to TDS under Section 194] of the IT Act as Fees for professional or Technical Services shall be treated as consideration for providing services, and therefore, taxable. Further, the recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on RCM basis.

Circular No. 141/2020-GST, dated 24.06.2020

The CBIC has delineated the computation of interest rate in relation to the various relief provided by the Board due to spread of the unprecedent situation of COVID-19 all across the nation. Accordingly, the Board has issued the various notifications as mentioned above.

✓ Aggregate Turnover more than Rs. 5 crores in the preceding FY

The calculation of interest for delayed filing of GSTR3B for the month of March 2020 of which the original due date was 20th April 2020 shall be in the following manner:

Sl. No.	Date of filing GSTR 3B	No. of days of delay	Interest
1.	02-05-2020	12	Zero Interest
2.	20-05-2020	30	Zero interest for 15 days, thereafter interest rate @9% p.a. for 15 days



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3.	20-06-2020 61		Zero interest for 15 days, thereafter interest rate @9% p.a. for 46 days
4.	24-06-2020	65	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days
5.	30-06-2020	71	Zero interest for 15 days, thereafter interest rate @9% p.a. for 50 days and interest rate @18% p.a. for 6 days

✓ Aggregate Turnover less than Rs. 5 crores in the preceding FY

The calculation of interest for delayed filing of GSTR3B for the month of March 2020 of which the original due date was 22nd April 2020 (Category A*) shall be in the following manner:

Tax Period	Rate of Interest	Date of filing GSTR – 3B	Delay days	Interest
	Nil till 3 rd July, 2020, and 9% thereafter till 30 th September, 2020	22-06-2020	61	Zero Interest
March, 2020		22-09-2020	153	Zero interest for 72 days, thereafter interest rate @9% p.a. for 81 days
,		22-10-2020	183	Zero interest for 72 days, thereafter interest rate @9% p.a. for 89 days and interest rate @18% p.a. for 22 days
	Nil till 23 rd	28-02-2020	37	Zero Interest
September, 2020 and 9%	September, 2020,	28-09-2020	68	Zero interest for 63 days, thereafter interest rate @9% p.a. for 5 days
	thereafter till 30 th September, 2020	28-10-2020	98	Zero interest for 63 days, thereafter interest rate @9% p.a. for 7 days and interest rate @18% p.a. for 28 days

❖ Order No. 01/2020-CT, dated 25.06.2020

The CBIC has extended the time limit for filing an application for revocation of cancellation of registration for specified taxpayers till 31st August, 2020.

Ordinance

❖ Notification F. No. CBEC- 20/06/08/2020-GST dated June 27, 2020.

Earlier, the Government of India passed an ordinance, *The Taxation and Other Laws (Relaxation of Certain Provisions)* Ordinance, 2020 dated March 31, 2020 which extended the due date for the compliances for such actions [per (a) & (b) below] which would arise during the period from "20.03.2020 to 29.06.2020" upto 30.06.2020 for the specified Acts as follows:

1. The Central Excise Act,1944,



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- 2. The Customs Act, 1962 (except sections 30, 30A, 41, 41A, 46 and 47)
- 3. The Customs Tariff Act, 1975
- 4. Chapter V of the Finance Act, 1994,
- (a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or
- (b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;

Now, the due date is extended from 30.06.2020 to 30.09.2020

CUSTOMS LAW

Circulars

Circular No. 29/2020-Cus, dated 22.06.2020

The CBIC has delineated the procedure for Transshipment of Export Cargo from Bangladesh to third countries through Land Customs Stations (LCSs) to Port/Airport, in containers or closed bodied trucks.

Circular No. 30/2020-Cus, dated 22.06.2020

In its continuing endeavor to promote 'Faceless, Contactless, Paperless Customs' Board directs that w.e.f. 22.06.2020 only the digital copy of the Shipping Bill bearing the Final LEO would be electronically transmitted to the exporter and the present practice of printing copies of the said document for the exporters and also for maintaining a docket in the Customs House would stand discontinued. This reform complements the introduction of a digital pdf Out of-Charge (OOC) copy of the Bill of Entry and Gate pass w.e.f. 15.04.2020 and launch of the 1st Phase of Faceless Assessment at Chennai and Bengaluru w.e.f. 08.06.2020.

Circular No. 31/2020-Cus, dated 30.06.2020

The Board has decided to extend the validity of all AEO certificates expired/expiring between 01.03.2020 and 30.09.2020 to 30.09.2020 except for those entities against which a negative report is received during this period.

FOREIGN TRADE POLICY

Notifications

Notification No. 12/2015-2020, dated 12.06.2020

The DGFT has made amendment in the import policy of the "New pneumatic Tyres" falling under ITC HSN Code 40111010, 40111090, 40112010, 40112090, 40114010, 40114020, 40114090, 40115010, 40115090 from "Free" to "Restricted"



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Notification No. 13/2015-2020, dated 18.06.2020

The DGFT has made amendment in the export policy of the Hydroxychloroquine API and its Formulations <u>from</u> <u>"Prohibited" to "Free"</u>, with immediate effect from issuance of the said notification.

Notification No. 14/2015-2020, dated 22.06.2020

The DGFT has made amendment in the export policy of the Personal Protection Equipment/Masks falling under ITC HS Code 901850, 901890, 392690, 621790, 630790. The items falling under said sub-heading will be "Prohibited" for export.

Notification No.15/2015-2020, dated 25.06.2020

The DGFT has made amendment in the Para 4.44 of FTP (Export of Cut and Polished Diamond with Re-import facility at Zero Duty) by extending the time limit for re-import facility at zero duty from three months to six months for cases where re-import is expiring between 1st February, 2020 to 31st July, 2020 in the light of COVID-19.

Notification No.16/2015-2020, dated 30.06.2020

The DGFT has revised the export policy of the PPE Kit by restricting the export of said item upto the monthly export quota of 50 Lakhs PPE medical coveralls for COVID-19. However, all items specified under Notification 14/201-2020 continue to remain "prohibited" for export whether exported as individual item or as part of PPE kits. Also, the said quota shall not be applicable on export of these items.

Trade Notices

* Trade Notice No. 14/2020-21, dated 11.06.2020

The DGFT has initiated the systematic changes to establish the secure communication with its stakeholders. The contact information provided by the exporters/importers will be used by the concerned authority for communication. In order to maintain the secrecy, the DGFT has advised to avoid sharing their potential information with any unrelated/unknown person/entities etc. which may be misused or fraud.

* Trade Notice No. 15/2020-21, dated 21.06.2020

The DGFT has delineated the procedure for issuance of Preferential Certificate of Origin (**CoO**) for India's exports to Vietnam under ASEAN-India Foreign Trade Agreement (FTA). Further, the CoO applications for exports under ASEAN-India FTA to all ASEAN countries except Thailand should now be submitted through the e-CoO Platform by the exporters to the offices of the designated issuing agencies i.e. EIA, MPEDA and Textile Committee. No physical application shall be accepted from 22.06.2020. However, manual applications submitted prior to the given date may be issued.

* Trade Notice No. 16/2020-21, dated 25.06.2020

The DGFT has launched new DGFT platform and Digital delivery of IEC related services. Under the new system, Digital Signature (DSC)/Aadhaar based e-Sign will be required for applying and modifying IEC or adding or



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updating the IEC-linked users. Further, the user profile can be then used by the IEC holders to engage with DGFT and its services. This will enable the user to electronically file their application related to IEC, AA, EPCG, including amendments & redemption, monitoring the status of the application, raising queries, replying to the deficiencies etc. among other services related to the Foreign Trade policy. Furthermore, it is informed that the IEC applications and modification process would be suspended from 3:00 pm on 10.07.2020 till 13.07.2020.

Trade Notice No: 17/2020-2021, dated 29.05.2020

The DGFT has delineated the procedure and criteria w.r.t. to the submission and approval for export of PPE Medical Coveralls for COVID-19.

JUDICIAL UPDATES

GST LAW

- ❖ GST The Hon'ble Apex Court provided the stay on the Delhi High Court decision in the case of *Brand Equity Treaties Ltd. v. Union of India: 2020-TIOL-900-HC-DEL-GST.* The Hon'ble High Court had held that an assessee can avail Input Tax Credit of the accumulated CENVAT credit as on 30.06.2017 by filing GST Form TRAN-1 beyond the period of limitation prescribed. Allowing the assessee to file the return by 30.06.2020, the Delhi High Court had observed that there was absence of any specific provision providing for the time limit under the Central Goods and Services Tax Act, 2017 ("CGST Act"). The High Court had read down the provisions of Rule 117 as being directory in nature, insofar as it prescribed the time-limit for transitioning of credit. It held that the same would not result in the forfeiture of the rights, in case the credit is not availed within the period prescribed: Supreme Court [UoI vs Brand Equity Treaties Ltd.; 2020-TIOL-115-SC-GST-LB]
- ❖ GST In the instant matter, the petitioner challenged vires of Rule 117(1A) of CGST Rules, 2017 and sought direction to electronically upload form TRAN-I or avail ITC in monthly return GSTR-3B. The Hon'ble High Court allowed assessee's plea to upload TRAN-I on or before 30 June 2020. The Revenue was directed to permit the same to the assessee, failing which the assessee would be at liberty to avail ITC in GSTR-3B of July 2020. It was observed that the request was made by the assessee in view of the landmark judgments of Delhi HC in Brand Equity Case and SKH Steel Metals case wherein the said form was directed to be filed on or before June 30. Though Rule 117 (1A) was not declared ultra vires of the constitution, it was held that the assessee is entitled to carry forward VAT Credit/ITC accrued under Punjab Value Added Tax Act, 2005: Punjab & Haryana High Court [M/s. Amba Industrial Corporation vs. UoI & Anr; 2020-TIOL-1046-HC-P&H-GST]
- ❖ GST In the instant case, the applicant is engaged in business of providing services of transportation of goods from/to Magdalla Port to/from the General Lighterage Area. The applicant raised a question before the Hon'ble AAR if the aforementioned services would fall within the definition of "inland waterways" and hence, eligible for exemption under Notification which exempts the services provided by way of transportation of goods by inland waterways. The Hon'ble AAR opined that in terms of the definition of 'inland waterways', the term 'other waterway on any inland water' covers any canal, river, lake or other navigable water within a State only. It was observed that the Magdalla port and general lighterage area are in the Arabian sea, which is not a part of the State of Gujarat and, hence, not covered under the term 'Other waterway on any inland water', hence, same shall not be eligible for exemption: AAR [M/s Shreeji Shipping; 2020-TIOL-141-AAR-GST]



CUSTOMS LAW

Cus – In the instant matter, the appellant is importing the goods from its related party situated in USA, and is registered with Special Valuation Branch (SVB). In this regard, Revenue started an investigation and alleged that the price of the imported goods has been influenced. The Hon'ble CESTA held that the appellant imports in bulk for resale and also stocks the goods in sufficient quantity to meet the demand for the goods which results in an additional cost to them in warehousing and reselling of the goods. Further, the appellant also undertakes sales promotion activity which is not done by the Authorized Stocking Distributors (ASD) and other importers. Accordingly, the higher discount enjoyed by the appellant on the list price as compared to the ASD has got reasonable justification: CESTAT New Delhi [M/s. Lutron GL Sales and Services Pvt. Ltd vs. Comm. of Customs; Appeal No. 51629/2019].

NEWSFLASH

- ❖ Indian exports to China face delays after Chinese-origin imports into India get held up.¹
- ❖ Global supply chains were disrupted after the Covid-19 outbreak, hurting India's manufacturers and exporters, and that was followed by border tensions with China that erupted last month.²
- India Inc. had petitioned to the PMO as delays were hurting the process of normalization that had begun June 1 with Unlock 1.0. Indian industry relies heavily on inputs from China for its factories and the development threatened to disrupt production.³
- GST consensus under threat as revenue falls.4
- Reducing dependence on China would be prudent for India's pharmaceutical industry, but it must be strategic⁵
- ST intelligence wing to check tax evasion by hand sanitizer manufacturers across India.6

¹ https://www.cnbctv18.com/economy/congestion-for-chinese-imports-worsens-indian-imports-into-china-face-delays-6220481.htm

https://economictimes.indiatimes.com/news/economy/foreign-trade/india-inc-advising-on-import-substitution/articleshow/76760133.cms

³ <u>https://economictimes.indiatimes.com/news/economy/foreign-trade/customs-begins-clearing-stuck-chinese-shipments/articleshow/76739623.cms</u>

^{4 &}lt;a href="https://www.hindustantimes.com/business-news/gst-consensus-under-threat-as-revenue-falls/story-zobncp5W1HQNQ0TCmxHiTN.html">https://www.hindustantimes.com/business-news/gst-consensus-under-threat-as-revenue-falls/story-zobncp5W1HQNQ0TCmxHiTN.html

⁵ https://indianexpress.com/article/opinion/columns/india-china-tension-pharmaceutical-industry-covid-19-medicine-6489025/

^{6 &}lt;u>https://www.cnbctv18.com/finance/gst-intelligence-wing-to-check-tax-evasion-by-hand-sanitiser-manufacturers-across-india-6281891.htm</u>



About the Firm

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