

## INDIRECT TAX NEWSLETTER

March 2020 (updated till 29<sup>th</sup> February 2020)



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## NEWS CORNER

### ARTICLES BY RSA LEGAL SOLUTIONS

- ❖ **Cus: The dreadful “others” category in HSN-warning by DGFT, Ministry of Commerce – Shweta Jain, Partner**

<https://taxguru.in/dgft/dreadful-others-category-hsn-warning-dgft-ministry-commerce.html>

**\*For complete article, kindly click on the [hyperlink](#)**

- ❖ The Central govt has paid over Rs.1.2 trillion towards GST compensation to states and UTs<sup>1</sup>.
- ❖ The CBIC has started capturing district-wise data on origin of export goods that will feed into national level trade policy making<sup>2</sup>.
- ❖ GST officials has examined that if GST Rules could be further tightened to improve tax compliance and revenue collections<sup>3</sup>.
- ❖ Mr. Piyush Goyal has proposed to discontinue the export incentives under a scheme to the services sector with the view that it has not helped to increase the exports positively<sup>4</sup>.
- ❖ Global supplier India curbs drug exports as coronavirus fears grow<sup>5</sup>.
- ❖ Ministry of Commerce & Industry Says Exports from SEZs Hit \$100 Billion Mark<sup>6</sup>.
- ❖ The Govt. has proposed to amend the Customs Act to give it wide powers to ban imports and exports of goods that may hurt the local economy, clearing the way for it to bar imports of cheap toys and firecrackers from China<sup>7</sup>.
- ❖ Top 10 products that can boost India's apparel exports: AEPC compiles list<sup>8</sup>.

<sup>1</sup>[https://www.business-standard.com/article/pti-stories/central-govt-releases-rs-19-950-cr-gst-compensation-to-states-120022001318\\_1.html](https://www.business-standard.com/article/pti-stories/central-govt-releases-rs-19-950-cr-gst-compensation-to-states-120022001318_1.html)

<sup>2</sup><https://economictimes.indiatimes.com/news/economy/policy/cbic-starts-capturing-district-wise-data-on-origin-of-export-goods/articleshow/74173894.cms>

<sup>3</sup><https://www.livemint.com/news/india/gst-officials-examine-further-tightening-of-rules-to-boost-revenue-11583510994938.html>

<sup>4</sup><https://economictimes.indiatimes.com/news/economy/policy/piyush-goyal-proposes-to-discontinue-export-incentives-for-services-exports-under-seis/articleshow/74175153.cms?from=mdr>

<sup>5</sup><https://www.cnn.com/2020/03/04/global-supplier-india-curbs-drug-exports-as-coronavirus-fears-grow.html>

<sup>6</sup><http://agriexchange.apeda.gov.in/news/NewsSearch.aspx?newsid=32963>

<sup>7</sup><https://www.hindustantimes.com/india-news/centre-proposes-to-widen-scope-of-customs-act/story-g1185eAcXq920lprKyOJM.html>

<sup>8</sup>[https://www.business-standard.com/article/companies/top-10-products-that-can-boost-india-s-apparel-exports-aepc-compiles-list-120022001551\\_1.html](https://www.business-standard.com/article/companies/top-10-products-that-can-boost-india-s-apparel-exports-aepc-compiles-list-120022001551_1.html)

## REGULATORY UPDATES

### GOODS & SERVICES TAX (GST) LAW

- ❖ The CBIC vide **Order No. 01/2020-GST**, dated **07.02.2020** has extended the time limit for submitting the declaration in FORM GST TRAN-1 under rule 117(1A) of the CGST Rules, 2017 till 31<sup>st</sup> March, 2020 for the specified class of registered person who fails to furnish the same due to account of technical glitches on the common portal and whose cases have been recommended by the Council.
- ❖ The CBIC vide **Notification No. 07/2020-CT**, dated **03.02.2020** has notified the due date for furnishing the GSTR-3B for the months of January 2020, February 2020 and March 2020 in the following staggered manner:

S.No.	Aggregate Turnover in the previous FY	And Taxpayer having principal place of business in the State/ UT of	Due date
1.	More than Rs. 5 Crore	Anywhere in any State or UT	20 <sup>th</sup> day of the subsequent month.
2.	Less than Rs. 5 Crore	State of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman, and the Nicobar Islands and Lakshadweep.	22 <sup>nd</sup> day of the subsequent month.
3.	Less than Rs. 5 Crore	State of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh, and Delhi.	24 <sup>th</sup> day of the subsequent month.

### CUSTOMS LAW

- ❖ The CBIC vide **Notification No. 12/2020-Cus**, dated **14.02.2020** has delineated with respect to the exemption of duties of customs against the scrips issued under the RoSCTL scheme and additional ad-hoc incentive for apparel and made-ups sector.
- ❖ The CBIC vide **Circular No. 10/2020-Cus**, dated **07.02.2020** has delineated the procedure with respect to the E-sealing where the goods are deposited or removed from the Custom Bonded Warehouses. The said system will come into force w.e.f. 15<sup>th</sup> March, 2020.
- ❖ The CBIC vide **Instruction No. 01/2020-Cus**, dated **12.02.2020** has stated that the testing of samples of imported food products should be carried out only through the FSSAI notified labs. FSSAI has notified 150 Point of Entries in order to put in place a robust food import regulatory framework which shall come into force with effective from 1<sup>st</sup> April, 2020.

## FOREIGN TRADE POLICY

- ❖ The DGFT vide **Circular No. 31/2015-20, dated 26.02.2020** has provided the relief to the exporters in Average Export Obligation (AEO) in terms of Para 5.19 of Hand Book of Procedures of Foreign Trade Policy to those sectors where total export in the sector/product group has declined by more than 5% as compared to the previous year.
- ❖ The DGFT vide **Trade Notice No. 48/2019-20, dated 04.02.2020** has provided onetime permission for resubmission of applications for claiming assistance under the TMA Scheme. All the applicants who wish to modify their application shall furnish the information latest by 20.02.2020.
- ❖ The DGFT vide **Trade Notice No. 51/2019-20, dated 21.02.2020** has provided one-time relaxation for submission of hard copy of applications for claiming assistance under "Transport and Marketing Assistance (TMA) for Specified Agriculture Products. The RA may allow the one-time relaxation to all those applicants who have made an online application(s) up to 30.1.2020, to submit physical copies of such applications along with a self-certified copy of the prescribed documents with concerned designated RAs by 15.03.2020.
- ❖ The DGFT vide **Public Notice No. 63/2015-20, dated 18.02.2020** has notified the performa of undertaking in the form of legal agreement to ensure the monitoring of return of SCOMET items allowed to be exported for the purpose of repair/replacement and display/exhibition/tender purposes.

## JUDICIAL UPDATES

### GST LAW

- ❖ **GST** – The petitioner submitted that non-functioning of the GST portal system for a couple of days including on 31.1.2020 which happened to be the last date for submitting GSTR-9 and 9C returns were the cause of filing the petition. Therefore, the grievance being raised, a ticket was issued, which, however, without resolution gets expired. The representations were made which also find reflected on the GST portal. However, no decision in this regard to representations was taken. It was held that the conceded position that the date for filing return had been extended till 7.2.2020 and in such circumstances, no adjudication was required on the petition. The respondent would also address the issue of extending the time for 30 days, so far as filing of GST Returns in the State of Assam, Nagaland, Mizoram and Arunachal Pradesh was concerned, in view of peculiar conditions prevalent in these States: **Gauhati High Court [All India Federation of Tax Practitioners Vs UoI, 2020-TIOL-265-HC-GUW-GST]**
- ❖ **GST** – In the instant case, the applicant submitted an undertaking before the Hon'ble court that they had not filed GSTR-3B for the period from May 2018 to December 2018 on account of financial stress due to past losses of the company; that since form GSTR-3B cannot be uploaded without payment of tax and hence the forms were yet to be uploaded; that the net tax liability (net of ITC) payable for the impugned period is Rs.42,63,031/-

and they undertake to pay the same in installments. The Hon'ble Bench, therefore, directs issuance of notice to the respondents returnable on 05.03.2020 by which date the writ-applicant is directed to deposit an amount of Rs.42,63,031/-: **Gujrat High Court [Nav Nirman Con Specialties Pvt Ltd Vs UoI, 2020-TIOL-324-HC-AHM-GST]**

- ❖ **GST** –The petitioner prayed for quashing and setting aside the order of detention dated 5th January 2020 passed by the respondent No.2 u/s 129(1) of the GST Act, 2017 and notice issued by the respondent No.2 dated 16th January 2019 u/s 130 of the GST Act in Form GST-MOV-10 - Petitioner also submitted that the petitioner would file an appropriate application u/s 67(6) of the GST Act, 2017 for provisional release of the goods and conveyance; that they would approach before the authority to proceed with the adjudication process u/s 130. Thus, the petition was disposed of by directing the respondent authorities to consider the application to be made by the petitioner for provisional release of the goods and vehicle in accordance with law; that the respondent authorities will decide such application as expeditiously as possible, preferably

within two weeks: **Gujarat High Court [Rifty Vinimay Enterprises Vs State of Gujarat, 2020-TIOL-308-HC-AHM-GST]**

- ❖ **GST** – In the instant matter, the applicant was selling their medical equipment through their distributor's networks and they sell the same to certain notified institutions engaged in the scientific research, at a concessional rate of 5% in terms of Notification No.45/2017 and 47/2017. The question raised by the applicant before the authority was whether as a manufacturer of such goods, whether such concessional rates were available for them. The hon'ble authority held that the applicant does not supply goods to the end-users who undertake or are engaged in scientific research. The goods are supplied to their distributors only. The said notification requires the said certificate to be issued to the supplier who in the subject case, was the distributor and not the applicant. In this view, we hold that the applicant cannot sell their product to their dealers/distributors by charging Goods and service tax (GST) @5% as per notification no. s 45/2017 & 47/2017: **AAR [M/s Equitron Medica Pvt. Ltd, 2020-TIOL-27-AAR-GST]**

## CUSTOMS LAW

- ❖ **Cus** – The appellant was exporting the Benzene under MEIS. The appellant submitted that the CHA inadvertently marked "N" instead of "Y" in the "Reward" column. Therefore, they sought amendment in the said shipping bills by changing the mark from "N" to "Y", but which was denied. The said issue was covered by the decision of the Hon'ble High Court of Kerala in the case of *Saint Gobain India, 2018-TIOL-2981-HC-KERALA-CUS*. Moreover, the amendment claimed by the appellant is not in the nature of change in the shipping bills which would require evidence to prove. The benefit of section 149 of the Customs Act, therefore, cannot be denied: **CESTAT**

**[Indian Oil Corporation Ltd Vs CC, 2020-TIOL-394-CESTAT-AHM]**

- ❖ **Cus** – The appellant is engaged in the manufacturing and trading of Guar Gum, Gaur Chri and Korma refined splits and guar gum powder which were exported and incentivised under the Vishesh Krishi Upaj Yojna scheme. Petitioner had challenged Circular dated 21st January, 2009 on the ground that it is contrary to the Foreign Trade Policy 2004-2009. The appellant argues that in Para 3.8.2.2 of the Yojna, the benefit of exports was not available if the exports are made by EOU or SEZ units that only

exports by these units were not entitled to incentive whereas the appellants are not part of either EOU or SEZ Unit as the expression used that the export made 'by' EOU and SEZ Unit and not 'through' them. The Hon'ble Supreme Court opined that the appellant is a purchaser from 100% export-oriented unit. Therefore, the medium of the appellant cannot be used to avoid

the intended purport of the policy for the year 2006-07. The export-oriented units cannot use the appellant for export under the Scheme and to claim benefit of export when it is not permissible for them directly: Supreme Court [M/s. Nola Ram Dulichand Dal Mills vs UoI, 2020-TIOL-53-SC-CUS]

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