



INDIRECT TAX UPDATES

RSA Legal Solutions

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About RSA Legal Solutions

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RSA Legal Solutions is an Indian Law firm specialized in the area of Indirect taxation i.e. Goods and Services Tax, Customs, Central Excise, Service Tax, Foreign Trade Policy (FTP), Special Economic Zone ('SEZ'), Value Added Tax (VAT)/ Central Sales Tax (CST), Foreign Exchange Management Act etc. With experience, constant training and updation of knowledge, the firm has developed unique expertise in the entire spectrum of indirect taxes. We provide litigation, advisory and compliance services to our clients.

Tax Services

Advisory
Litigation
Compliances
Audit
GST Handholding

Last date for submission of GSTR-2 and GSTR-3 has been extended to 30.11.2017 and 11.12.2017, respectively.

General Updates

- The Government is likely to come out with a new order to make it mandatory for restaurants, malls and other shopping outlets to ensure that the MRP of the goods and services includes GST.
- Exporters can soon start claiming refunds for GST paid in August and September as GSTN will soon launch an online application for processing of refund.
- The 23rd meeting of GST Council is scheduled to convene on 10.11.2017 at Guwahati, Assam.
- GSTN has started Offline utility for GSTR-1 and GSTR-2 on its website.
- The Customs, Central Excise and Service Tax Commissionerate has constituted a State-level Anti-Profitteering Screening Committee in MP, Chhattisgarh to ensure that the benefits of GST reduction are passed on to the consumers.
- FORM GST PMT-07 is now available to taxpayers to inform about payment related discrepancies on GST Portal.



Key Notifications/Circulars/Public Notice

- The CBE&C has notified the extended date for submission of FORM GSTR-2 to 30.11.2017, vide **Notification No. 54/2017-Central Tax, dated 30.11.2017.**
- Submission of FORM GSTR-3 has been extended to 11.12.2017 by the CBE&C vide **Notification No. 54/2017-Central Tax, dated 30.10.2017**
- The CBE&C vide **Circular No. 41/2017-Customs, dated 30.10.2017**, has implemented electronic sealing for Containers by exporters under self-sealing procedure.
- The Government has extended the time period for filing FORM GST TRAN-1 under Rule 117 of CGST Rules, 2017 to 30.11.2017. **Order No. 07/2017-GST, dated 28.10.2017.**
- The Government has extended the time period for filing FORM GST TRAN-1 under Rule 120A of CGST Rules, 2017 to 30.11.2017. **Order No. 08/2017-GST, dated 28.10.2017.**
- The CBE&C has extended the time period for submitting the application in FORM GST REG-26 to 31.12.2017. **Order No. 06/2017- GST, dated 28.10.2017**
- The due date for submission of FORM ITC-01 has been extended to 30.11.2017, vide **Notification No. 52/2017-Central Tax, dated 28.10.2017.**
- Intimation of details of stock in FORM GST CMP-03 has been extended to 30.11.2017, vide **Order No. 5/2017-GST, dated 28.10.2017.**
- The Government vide **Notification No. 50/2017-Central Tax, dated 24.10.2017**, has waived off the late fee for all registered persons who failed to furnish the return in FORM GSTR-3B for the months of August and September, 2017 by the due date.
- The DGFT vide **Public Notice No. 34/2015-2020, dated 24.10.2017**, notified onetime relaxation for EO extension and clubbing of Advance Authorizations.
- Onetime condonation of time period in respect of obtaining block-wise extension in Export Obligation period under EPCG Scheme has been notified by the DGFT vide **Public Notice No. 35/2015-2020, dated 25.10.2017.**
- The Government has notified onetime condonation of time period with respect to obtaining extension in Export Obligation period under EPCG vide **Public Notice No. 36/2015-2020, dated 25.10.2017.**
- The CBE&C notified Central Tax Rate of 0.05% on intra-state supply of taxable goods by a registered supplier to a registered recipient for export subjected to specified conditions. **Notification No. 40/2017- Central Tax (Rate), dated 23.10.2017.**



- The Integrated Tax Rate of 0.1% on inter-state supply of taxable goods by a registered supplier to a registered recipient for export subjected to specified conditions. **Notification No. 41/2017-Integrated Tax (Rate), dated 23.10.2017.**
- The CBE&C has notified the evidence required to be produced by the Supplier of deemed export

supplies for claiming refund under Rule 89(2)(g) of the CGST Rules, 2017. **Notification No. 49/2017-Central Tax, dated 18.10.2017.**

- CBE&C issued a CGST clarification on movement of goods on approval basis vide **Circular No. 10/2017, dated 18.10.2017.**

Case Laws

GST

- Show Cause Notice –Issuance of- Pursuant to Show Cause Notice on which adjudication order had already been issued and quashed –Latter Show Cause Notice is not sustainable as purpose of its issuance was not in existence- it was immaterial that adjudication order had been challenged in appeal. **SWAPAN ELECTRICALS v. UNION OF INDIA [2017 (5) G.S.T.L. 254 (Jhar.)]**
- Registration –GSTN portal –Accessibility thereof –petitioner who on High court directions given a

new ID as partnership certificate as proprietorship concern not able log in to said portal and access corrected RC-Department asked to specify measure taken to correct technical glitches and resolve problems being faced by traders in accessing said portal –Department also directed to ensure that petitioner gets corrected new registration certificate –Section 22 of Central Goods and Services Tax Act, 2017- Article 226 of Constitution of India. **MODERN PIPE INDUSTRIES v. STATE OF U.P. [2017(5) G.S.T.L.368 (All.)]**

Customs

- Shipping Bill- Amendment of -Omission to mention advance License Number in shipping bill –Factual inconsistency in order passed by Tribunal and Adjudicating Authority. inasmuch as, while remanding matter, noted in impugned order that invoices accompanying shipping bill bearing Advance License Number whereas, Adjudicating Authority, in its order, had mentioned such invoices as not bearing Advance License Number –Invoice on record by Revenue not bearing Advance License Number,

suggesting that invoices taken into account by Revenue , not pertained to subject shipping- bill Assessee brought on record documents showing use of items imported under Advance license in manufacturer of goods exported– having regard to facts and circumstances, Tribunal's impugned remand order modified to extent that Adjudicating Authority, in remanded proceeding, will re-examine facts and matter afresh and pass orders as per provision of Section 149 of Customs Act,



1962. COMMR, OF CUS. (EXPORT), CHENNAI v. DYNAMATIC TECHNOLOGIES LTD. [2017 (354) E.L.T. 299(Tri-Mad)]

- Appeal to Commissioner (Appeals) –Delay in filling –Condonation of-Commissioner (Appeals) not empowered to condone delay if appeal filed before him beyond six months date of receipt of order even though assessee established valid ground ,i.e., delay attributable to their consultant

–section 85 of finance Act, 1994.Writ jurisdiction – Invocation of-Condonation of delay before commissioner (Appeals)-Appeal filed before commissioner (Appeals) with a delay beyond his condonable power –Order passed rejected appeal as time-barred since neither illegal nor without jurisdiction ,writ jurisdiction not invocable –Article 226 of Constitution of India .**NIRANTAR SECURITY PVT.LTD. v. UNION OF INDIA [2017(5) G.S.T.L.365 (Guj.)]**

Service Tax

- Penalty –Waiver of penalty- Non-Payment of Service Tax in ignorance Of Provisions of Service tax Liability –Service Tax neither collected nor paid to Government establishing the fact that appellants had to mala fide intention to evade payment of Service tax –Full Service Tax dues along with applicable interest thereon paid-penalties imposed on appellant to be waived under section 80 of Finance Act, 1994. **INDUSLAND MEDIA & COMMUNICATION LTD. v. C.S.T., BANGLORE-I [2017 (5) G.S.T.L.268 (Tri.-Bang .)]**
- Renting of immovable property –Imposition of Service Tax- Terms lease make it clear that building let out to appellant for residential use by one to its employees-Even if some personal office work attended from premises, other than residence-Service Tax not leviable –Section 66 of Finance Act, 1994. Demand-Limitation –Extended period –Admittedly tax liability on this particular tax entry been a subject matter of substantial litigation-Delhi high Court even held that renting per se not liable to service Tax and it is only

services in relation to renting that are liable to Service Tax which resulted in statutory amendments, including retrospective amendments, with reference to this tax liability –In fact special provision Act, 1994 also made – Consequently, appellant have a strong case on limitation –Section 73 of Finance Act, 1944 **JUMERA PROMOTERS & DEVELOPERS PVT.LTD. v. COMMR. OF C.EX., DELHI [2017(5) G.S.T.L.266 (Tri.Del.)]**

- Refund claim-Limitation –Service Tax on export of services –Amount paid as service tax under proper heading and duly appropriated towards tax liability of appellant-Refund of amount collected as tax in terms of provisions of Finance Act, 1944 has to be made in terms of Sections 11B of central excise Act,1944 as applicable to service tax vide section 83 of finance Act, 1994,-Refund claim hit by limitation being filed beyond one year from date of payment of tax **LNG SECURITY SERVICES PVT LTD. v. COMMISSIONER OF SEVICE TAX, DELHI [2017 (5) G.S.T.L. 291 (Tri.- Del.)]**



Central Excise

- Cenvat credit –Re-export of rejected goods
Initially cleared under bond-CVD Paid at time of re-export –Credit denied on ground that Cenvat credit Rules,2004 did not permit credit on finished goods-HELD: Assessee eligible to take credit of duty paid on goods cleared and brought back to the factory for being remade, refined reconditioned or for any other reasons, as if such goods are received as input –Fiction created to consider finished goods cleared initially, when returned to factory for being remade, refined reconditioned, etc., or for any other reason as an input –Situation covered under expression “for any other reason “Asseesse eligible to credit of CVD Paid on said goods on its re- importation – Rules,2002. **UNIVERSAL MEDICAP LTD. v. COMM. OF C. EX, CUS. (APPEALS), VADODARA [2017 (354) E.L.T.400 (Tri.-Ahmd.)]**
- Demand –Limitation –Invocation of extended period - Whether Department can invoke clauses (d) and (e) of proviso to section 73 (1) of Finance Act, 1994 is a question of fact which requires sufficient materials in show cause notice indicating that Assesse either suppressed facts or contravened provisions with intention to evade payment of service Tax or non – mere non - payment of service tax or non –filling of return does not amount to willful suppression of facts to evade payment –On facts ,matter required fresh consideration by original authority as neither show cause notice nor order –in-original had any material to arrive at finding to invoke proviso ibid- Also, assessee had contended that service tax has already been deducted by their principals. **K. T. MURUKAN v. COMM. (APPEALS-I), C.EX., CUS. &S.T., COCHIN (2017 (5) G.S.T.L.248 (Tri-Ker.)]**
- Stay /Dispensation of pre-deposit from Cenvat Account-Payment of deposit from Cenvat Account maintained by appellant –View taken by First Appellate Authority , that deposit under section 35F (i) of central excise Act, 1944 cannot be made permissible for utilization as per Rule 3(4) of from cenvat credit Account ,not correct appreciation of law so long as Cenvat credit was Cenvat credit Rules,2004 –Direction to Commissioner (Appeals) to decide appeal on merits without insisting on any further pre-deposit .**MANAKSIA LTD. v. COMM. OF CENTRAL EXCISE ,HALDIA [2017 (354) E.L.T. 415 (Tri.-Kolkata)**
