



S.C. Jain  
Managing Partner  
☎: 9891086862



# INDIRECT TAX UPDATES

RSA Legal Solutions

8<sup>th</sup> Apr, 2019

## About RSA Legal Solutions



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

## Changes in E-way bill system & Composition scheme

### General Updates

- GST revenue surpasses Rs. 1 lakh crore for the month of March, 2019; 76 lakhs GSTR – 3B filed.
- CII has suggested manifesto calls for two or three rates of tax. GST Council nod for transition formula for reversal of ITC on pro-rata basis.
- Realtors can opt for old GST rates with ITC till May 10, 2019.
- UDIN is mandatory for GST & Tax Audit Reports, it is not applicable to Statutory Bank Audits.
- E-way bill system has been enabled to auto calculate the route distance for movement of goods, based on postal PIN codes.
- CESTAT Appeals to be filed in legal size papers only with spacing 2.0.
- Intelligence (DGGI) arrested a GST Practitioner for running a fake invoice racket.
- Maharashtra has unveiled a one-time amnesty scheme for settlement of pre-GST State Tax disputes.



## Key Notifications/Circulars/Public Notice

- The CBIC vide **Notification No. 10/2019-CT dated 07.03.2019** has allowed exemption from registration for any person engaged in the exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Rs 40 lakhs. The Notification shall come into force from 01.04.2019.
- The CBIC vide **Notification No. 11/2019-CT dated 07.03.2019** has prescribed 31st July 2019 as the due date for furnishing of FORM GSTR-1 for those taxpayers with aggregate turnover up to Rs. 1.5 crores in the preceding financial year, for the months of April, May, and June 2019.
- The CBIC vide **Notification No. 12/2019-CT dated 07.03.2019** has prescribed that the taxpayers with aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year shall furnish FORM GSTR-1 for each of the months from April, 2019 to June, 2019 till the eleventh day of the month succeeding such month.
- The CBIC vide **Notification No. 13/2019-CT dated 07.03.2019** has prescribed that FORM GSTR-3B for the months of April, May, and June 2019 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month.
- The CBIC vide **Notification No. 14/2019-CT dated 07.03.2019** has allowed the registered persons whose aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees to pay tax under composition scheme with effect from 01.04.2019. The limit in special category states has been raised up to Rs. 75 lakhs.
- The CBIC vide **Notification No. 2/2019-CT (Rate) dated 07.03.2019** has allowed composition scheme for the supplier of services with a tax rate of 6% having an annual turnover in the preceding year up to Rs 50 lakhs.
- The CBIC vide **Notification No. 03/2019-IT (Rate) dated 29.03.2019** has amended the notification No. 8/2017-IT (Rate) so as to notify IGST rates of various services as recommended by Goods and Services Tax Council for real estate sector.
- The CBIC vide **Notification No. 04/2019-IT (Rate) dated 29.03.2019** has amended the notification No. 9/2017-IT (Rate) so as to exempt certain services as recommended by Goods and Services Tax Council for real estate sector.
- The CBIC vide **Notification No. 05/2019- IT (Rate) dated 29.03.2019** has amended the notification No. 10/2017- Integrated Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) as recommended by Goods and Services Tax Council for real estate sector.
- The CBIC vide **Notification No. 06/2019-IT (Rate) dated 29.03.2019** has notified certain class of persons by exercising powers conferred under Section 148 of CGST Act, 2017.
- The CBIC vide **Notification No. 07/2019-IT (Rate) dated 29.03.2019** has notified certain services to be taxed under RCM under section 5(4) of IGST Act as recommended by Goods and Services Tax Council for real estate sector.



- The CBIC vide **Notification No. 08/2019-IT (Rate) dated 29.03.2019** has amended the notification No. 1/2017- Integrated Tax (Rate) so as to notify IGST rate of certain goods as recommended by Goods and Services Tax Council for real estate sector.
- The CBIC vide **Notification No. 09/2019 dated 29.03.2019** has amended notification No. 02/2019- Central Tax (Rate) so as to provide for application of Composition rules to persons opting to pay tax under notification no. 2/2019- Central Tax (Rate).
- The CBIC vide **Notification No. 08/2019 dated 29.03.2019** has amended the notification No. 1/2017- Integrated Tax (Rate) so as to notify IGST rate of certain goods as recommended by Goods and Services Tax Council for real estate sector.
- The CBIC vide **Circular No. 92/11/2019-GST dated 07.03.2019** has clarified on various doubts related to the treatment of sales promotion schemes under GST.
- The CBIC vide **Circular No. 93/11/2019-GST dated 08.03.2019** has clarified on the nature of Supply of Priority Sector Lending Certificates (PSLC).
- The CBIC vide **Removal of Difficulty Order No. 3/2019-CT dated 08.03.2019** has clarified that a person registered under Notification No. 2/2019 -CT (Rate) dated 07/03/2019 shall, in respect of exempted services issue a bill of supply as per Section 31(3)(c) of the CGST Act, 2017.
- The CBIC vide **Removal of Difficulty Order No. 4/2019-CT dated 29.03.2019** has obviate the difficulty in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the CGST Act, 2017.
- The CBIC vide **Notification No. 15/2019-CT dated 28.03.2019** has extended the time limit for filing declaration in GST ITC-04, in respect of goods sent to or received from a job worker, during the period from July, 2017 – March, 2019, till 30.06.2019.
- The CBIC vide **Circular No. 94/13/2019-GST dated 28.03.2019** has clarified on refund related issues.
- The CBIC vide **Circular No. 95/14/2019-GST dated 28.03.2019** has clarified on verification process of application for grant of new registration.
- The CBIC vide **Circular No. 96/15/2019-GST dated 28.03.2019** has clarified in respect of transfer of input tax credit in case of death of sole proprietor.
- The CBIC vide **Notification No. 08/2019-Cus dated 25.03.2019** has extended the exemption from Integrated Tax and Compensation Cess upto 31.03.2020 on goods imported against AA/EPCG authorizations.
- The CBIC vide **Notification No. 09/2019-Cus dated 25.03.2019** has made amendment into the Notification No. 52/2003-Cus dated 31.03.2003 in order to extend exemption from IGST and compensation cess to EOUs on imports till 31.03.2020.
- The CBIC vide **Circular No. 10/2019-Cus dated 12.03.2019** has delineated with the respect to the scheme for Rebate of State and Central Taxes and Levies on export of garments and made-ups (RoSCTL).
- The DGFT vide **Notification No. 57/2015-2020 dated 20.03.2019** has extended the time period for exemption of Integrated Goods and Service Tax



- (IGST) and Compensation Cess under Advance Authorisation, EPCG and EOU scheme upto 31.03.2020.
- The DGFT vide **Notification No. 59/2015-2020 dated 29.03.2019** has inserted the new provision pertains to the Scheme for Rebate of State and Central Taxes and Levies (RoSCTL) notified by the Ministry of Textiles.
  - The DGFT vide **Public Notice No. 78/2015-20 dated 11.03.2018** has extended the time period for one-time condonation under the EPCG Scheme upto 30.09.2019.
  - The DGFT vide **Public Notice No. 79/2015-20 dated 15.03.2019** has facilitated for obtaining the Import licenses for 'Restricted' items from 18th March, 2019 onwards.
  - The DGFT vide **Public Notice No. 80/2015-20 dated 22.03.2019** has extended the time period for the installation & operationalization of Radiation Portal Monitors & Container Scanner in the designated ports upto 30.06.2019.
  - The DGFT vide **Public Notice No. 83/2015-20 dated 29.03.2019** has delineated the addition of provisions under the Handbook of Procedures for implementation of the Scheme for Rebate of State and Central Taxes and Levies, as notified by the Ministry of Textiles for issuance of scrip for RoSCTL under a MEIS type mechanism.
  - The DGFT vide **Circular No. 21/2015-20 dated 11.03.2019** has discontinued the issuance of physical copy of Advanced/EPCG Authorisation - Procurement from SEZs.
  - The DGFT vide Circular **No. 22/2015-2020 dated 29.03.2019** pertains to the EPCG Scheme - Applicability of amendment to para 5.10 (c) of Hand Book of Procedures 2015-20 (Mid-Terms Review).
  - The DGFT vide **Trade Notice No. 48/2015-20 dated 13.03.2019** pertains to the Consideration of application for grant of authorization for import of gold dore - reg.
  - The DGFT vide **Trade Notice No. 49/2015-20 dated 13.03.2019** has facilitated with the online facility for obtaining import license for 'Restricted' items from 18th March, 2019 (Para 2.50 of Handbook of Procedures, 2015-2020)-regd.
  - The DGFT vide **Trade Notice No. 50/2015-20 dated 18.03.2019** pertains to the online filing and processing of applications for export of Restricted items (Non-SCOMET) at DGFT HQ.
  - The DGFT vide **Trade Notice No. 51/2015-20 dated 29.03.2019** has delineated the procedure for online filing, processing and system-based approval of MEIS applications in respect of SEZ shipping bills.







- GST** - The petitioner firm claimed to have been unable to upload the declaration in Form GST TRAN-1, due to technical glitches in the GST portal - Despite requests, the petitioner received no relief - Hence it filed the present writ, seeking that directions be issued to the Revenue to consider a physical copy of Form GST TRAN-1 filed by it - It also sought that credit be given to the electronic ledger in respect of CGST input credit and SGST input credit. **Held:** As per the amended provisions of Rule 117 of the CGST Rules, 2017, the time period for uploading the Form GST TRAN-1 is extended up to 31.03.2019, if difficulty in filing such form is on account of technical difficulties - Thus, the petitioner is directed to approach the Nodal Officer is empowered to redress the petitioner's grievance relating to the technical glitches on GST Portal - The Nodal Officer shall expeditiously address the petitioner's grievances. Assessee's writ petition disposed of: HC [M/s. **Universal Builder Vs Uol, 2019-TIOL-707-HC-KAR-GST**]
- GST** - Tax liability under GST is for four packages, which are provided to guests by way of separate services like accommodation, serving food and beverages, service of authorized guides, trekking accessories etc., against separate invoices. **Held:** In case where a supply involves supply of both goods and services and value of such goods and services supplies are shown separately, goods and services would be liable to tax at rates as applicable to such goods and services separately. [In Re M/s Kerala Forest Development Corporation (2019) 104 Taxmann.com 42 (AAR-Kerala)].

## CUSTOMS

- CUS** - Petitioner has challenged the Explanation to sub-rule (2) of Rule 10 of the **Customs Valuation Rules, 2007** and prayed to declare the same to be *ultra vires* the provisions of Section 14 of the Customs Act, 1962. **Held:** 'Demurrage' has not been included as a part of cost envisaged by the legislation -It is a kind of penalty, therefore, it could not have been envisaged by the legislation to be included in the definition of Section 14 of the Act - in view of the decisions of the Apex Court, it is made clear that demurrage cannot be included for the purpose of valuation under the Customs Act, 1962. Explanation to sub-rule (2) of Rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is held to be bad and hence declared *ultra vires* the Constitution/provision of Section 14 of the Customs Act and is hence struck down. [ M/s Tata Steels v. Union of India, 2019-TIOL-595-HC].
- CUS** – Appellant applied for the conversion of shipping bill to draw back shipping bill under Section 74 read with Section 149 of the Customs Act, 1962 read with Re-Export of Imported Goods (Drawback of Customs Duties) Rules, 1995. The Appellant had re-exported the goods under bond, which was, at the relevant time, alive and has not been examined by the Customs. **Held:** The appellant has disclosed in the shipping bill that they have re-exported the goods, and all the information was on the record of the Customs Department, as is evident from the facts on record. Order of rejection of the draw back claim passed by the Dy. /Asstt. Commissioner is set aside granting the substantial benefit to the appellant. Accordingly, the



Dy. Commissioner is directed to re-process the drawback claim of the appellant. **[M/s Mita India Pvt. Ltd. v. CC (Export), New Delhi, C.A. No. 52524/2018 – CU(SM)]**

- **CUS** - Refund of SAD - Lower authorities rejected the refund claims on the ground that the Balance sheet for the year ending 31.03.2008 does not show the refund amount as receivables - From the certificate given by the Chartered Accountant, it is evident that the appellant had the accounting practice of showing the SAD amount in purchase account and afterwards in next year when they received the amount of SAD, the same was credited to 'Refund received from the government account' - this practice shows that the claim is not hit by unjust enrichment. **Held:** Main requirement is that the importer should not have charged their buyers the SAD amount and which aspect has not been disputed by the appellate authority - further, in the balance sheet for the year 2008-09 the said amount is appearing as 'Refund received from Government' which is also not disputed - no reason to deny refund of 4% SAD as the conditions stand complied with - impugned order set aside and appeal allowed with consequential relief: CESTAT **[M/s Koradia Exports India Pvt Ltd Vs CC, 2019-TIOL-921-CESTAT-Mum]**.
- **CUS** - Applicant seeks rectification of mistake in the Final order of Tribunal on the ground that the norms of wastage had been revised in their case by the competent authority vide certain communications dated September/November 2008 but the same had not been placed before the Tribunal during the hearing held on 14 September 2017 and at the end of which the final order was dictated in Court - neither was any such plea of being in possession of such

communications was made during the hearing. **Held:** There is no mistake in the order pronounced by the Tribunal as the same was passed on available record - failure on the part of the applicant to make the Tribunal cognizant of the facts is not a mistake that can be corrected and to do so would tantamount to reviewing its own order - it would be a never-ending process of piecemeal introduction of records that would result in chaos which is not the end of justice - no justification to allow this application(s), hence rejected: CESTAT. **[M/s Gkb Ophthalmics Ltd Vs CC & CE, 2019-TIOL-908-CESTAT-MUM]**.

- **CUS** - The assessee-company was being investigated by the DRI during the relevant period, whereupon the assessee deposited some amount of duty during the investigation period - Such amount was partly deposited in cash and the rest through surrendering the DEPB/Excise rebate claim - An SCN was issued by the DRI, proposing to appropriate the amount deposited against the duty demand proposed to be raised - On adjudication, the demand was confirmed with interest & equivalent penalty along with personal penalty upon the director of the assessee-company - As the amount deposited during investigation far exceeded the duty finally confirmed, the assessee claimed refund of the balance amount - The same was sanctioned by the jurisdictional Asst. Commr. after adjusting interest & penalty - Thus the Asst. Commr. appropriated all the liabilities arising out of the O-i-O - However, it was mentioned by the Asst. Commr. that the main duty amount can be adjusted from the DEPB/Rebate - Such order was accepted by the Revenue - Thus the assessee filed a second refund claim, which was rejected on grounds that the provisions of the Act did not provide for such refund in



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Managing Partner  
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cash - Later, the Commr.(A) allowed the assessee's appeal - Hence the Revenue's appeal. **Held:** The amount surrendered by the assessee through DEPB/Rebate claim has been considered to be an amount deposited during investigation - The Commr.(A) correctly held that refund claim cannot be denied merely on the ground that there is no provision

under law - Once it is accepted that the benefits surrendered by the respondents are in the nature of amount deposited during investigations, then the refund of the excess amount has to be refunded - Hence the present appeals lack merit: CESTAT. [**CC Vs M/s SEL Manufacturing Company Ltd, 2019-TIOL-933-CESTAT-DEL**].

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