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## **INDIRECT TAX NEWSLETTER**

**April, 2022 (updated till 04.04.2022)**



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## **REGULATORY UPDATES**

### **TRADE DEALS WITH INDIA**

#### **INDIA AUSTRALIA TRADE DEAL**

- ❖ After negotiating for almost 10 Years India and Australia finally signed India-Australia Cooperation and Trade Agreement (IndAus ECTA) on 02.04.2022 in a virtual ceremony. The IndAus ECTA will open new gates for India in the world of Global Trade. It will propel bilateral trade from the existing \$27.5 billion to \$45-50 billion in five years, bringing huge benefits to both countries. This is the first trade agreement with a developed economy after more than a decade, and has been achieved after widespread consultations with exporters, traders, small enterprises and professionals. India and Australia have a complementary economic relationship.
- ❖ India exports mainly finished products to Australia and imports primarily minerals, raw material and intermediate goods. India will have duty-free access in Australia for all its products, removing the disadvantage India faced against major rivals who already have trade deals with Australia.
- ❖ India will also enjoy greater market access for its products, while the easing of regulatory processes for pharmaceutical products will open up the attractive \$12 billion Australian market in the sector. Similarly, textiles exports are expected to triple \$1.1 billion in three years, creating 40,000 new jobs every year with new units likely to come up in small towns and rural areas. Exports of engineering products is likely to jump from \$1.2 billion in 2020-21 to \$2.7 billion in five years.
- ❖ Further students will be the major beneficiaries of the agreement with the benefit of post-study visa for up to 4 years which will give them exposure of vital international job experience.

#### **INDIA-UAE CEPA SIGNED**

- ❖ Hon'ble Prime Minister Shri Narendra Modi and Crown Prince of Abu Dhabi HH Sheikh Mohammed bin Zayed Al Nahyan held a Virtual Summit on 18.02.2022 wherein the respective Finance ministers of the two nations signed India-UAE Comprehensive Economic Partnership Agreement (CEPA) in front of the two leaders.
- ❖ The agreement is planned out to enhance market access and reduced tariffs amongst the two nations.
- ❖ It is forecasted that CEPA will lead to increase in bilateral trade from current USD 60Bn to USD 100Bn in next 5 years.
- ❖ Further, both leaders have agreed to collaborate in order to promote Start-Ups in both the nations.
- ❖ The Virtual Summit between the two nations has increased the investment opportunities in India and has promised a better future for Star-ups in India along with more job opportunities.
- ❖ The agreement is expected to be in force from 1<sup>st</sup> May 2022.

#### **INFORMATIVE SESSION**

**An in-depth discussion on the India UAE CEPA/ FTA.**

<https://www.youtube.com/watch?v=ws9l7tyOfOQ>

The same can be accessed by clicking on the link mentioned above



## CUSTOMS

### **NOTIFICATIONS**

❖ **Notification No. 17/2022-Cus dated 31.03.2022**

The CBIC has amended the Notification No. 25/2021-Cus dated 31.03.2021 to give effect to the 2<sup>nd</sup> tranche of tariff concessions as per India Mauritius CEPA. The same shall come into force **w.e.f. 31.03.2022**.

❖ **Notification No. 18/2022-Cus dated 31.03.2022**

The CBIC has extended the exemption of IGST and Compensation CESS to EOUs on imports from 01.04.2022 to 30.06.2022.

❖ **Notification No. 19/2022-Cus dated 31.03.2022**

The CBIC has extended the exemption of IGST and Compensation CESS till 30.06.2022 on goods imported against AA/EPCG Authorization.

❖ **Notification No. 20/2022-Cus (N.T.) dated 30.03.2022**

The CBIC, to promote the ease of doing business, has introduced a new facility of **Electronic Cash Ledger** which shall be used for the payment of customs duty, interest, penalty, etc. and shall come into force **w.e.f. 01.06.2022**.

Post-implementation of the above-notified facility, the person is not required to make the payment of customs duties, interest, penalty etc. through TR-6 Challans, they may simply deposit the amount in their Electronic Cash Ledger which can be utilized later on against any amount payable. This facility will bring a heave sigh of relief for the trade and industry which would save a lot of time and cost.

Vide above-referred notification, CBIC has notified the **Customs (Electronic Cash Ledger) Regulations, 2022**. These Regulations provide provisions relating to Manner of maintaining Electronic Cash Ledger, Manner of making payment from the electronic cash ledger and Refund which are summarized below for ease of better understanding:

**Manner of Maintaining Electronic Cash Ledger:-**

- ✓ The electronic cash ledger shall be maintained in FORM ECL-1 on the common portal for each person in regard to every deposit made towards duty, interest, penalty, fee or any other sum payable by the person.
- ✓ A unique identification number shall be generated at the common portal when a credit or debit, as the case may be, is made to the electronic cash ledger.
- ✓ The unique identification number relating to such debit or credit shall be indicated in the relevant Customs declaration.
- ✓ Deposit in the ledger shall be made by generating a deposit challan in FORM-ECL-2 on the common portal. The deposit challan as so generated in FORM-ECL-2 shall be valid for a period of fifteen days.
- ✓ The deposit shall be made through internet banking through an authorized bank; National Electronic Fund Transfer or Real Time Gross Settlement from any bank or over the counter payment through an authorized bank.



- ✓ It is imperative to note that the deposit made in the electronic cash ledger shall not accrue any interest.

**Manner of making payments from the electronic cash ledger:**

- ✓ A person may use the amount available in the electronic cash ledger for making payments by generating FORM-ECL-3 on the common portal.
- ✓ After the generation of the above-referred form, the amount shown in the payment challan shall be automatically debited from the electronic cash ledger by the customs automated system.

**Refund:**

- ✓ The person, post-payment of any amount payable, may apply for a refund of the balance amount remaining in the credit ledger in FORM-ECL-5.
- ✓ Further, the application for refund shall be decided within thirty days from the date of application on the common portal and the amount to be refunded shall thereafter be credited to the bank account of the person registered with the customs automated system.

## **CIRCULARS/INSTRUCTIONS**

❖ **Circular No. 07/2022-Cus dated 31.03.2022**

The CBIC has provided the clarification in relation to the several notifications issued on account of amendment or insertion (enacted vide Finance Act, 2022) of the section 2(34) provides the definition of "Proper Officer" section 3 provides more classes of officers of customs, new sub-sections (1A), (1B), (4) and (5) inserted under Section 5 defines the power of Customs officer, and a new section 110AA inserted relating to action subsequent to inquiry, investigation or audit which applies in specified situations.

## **GST LAW**

### **INSTRUCTIONS**

❖ **Instruction No. 02/2022-GST dated 22.03.2022**

The CBIC has delineated the Standard Operating Procedure (SOP) for scrutiny of GST Returns pertains to the FY 2017-18 and 2018-19. Some of few points are encapsulated below for ease of your reference:

- ✓ **Selection of returns for scrutiny:**  
Selection of returns for scrutiny is to be based on specific risk parameters. For this purpose, the Directorate General of Analytics and Risk Management (DGARM) has been assigned the task to select the GSTINs registered with the Central Tax authorities, whose returns are to be scrutinized, and to communicate the same to the field formations from time to time through the DDM portal (to the nodal officer of the Commissionerate concerned) for further action.
- ✓ **Proper Officer for scrutiny of returns:**  
Scrutiny of returns of a taxpayer may be conducted by the Superintendent of Central Tax in-charge of the jurisdictional range of the said taxpayer
- ✓ **Scrutiny Schedule:**



The proper officer shall conduct scrutiny of returns pertaining to a minimum of 3 GSTINs per month. Scrutiny of returns of one GSTIN shall mean scrutiny of all returns pertaining to a financial year for which the said GSTIN has been identified for scrutiny.

✓ **Reporting and monitoring:**

A Scrutiny Register shall be maintained by the proper officer in respect of the GSTINs allotted for scrutiny in a specified format. The progress of the scrutiny exercise as per the scrutiny schedule shall be monitored by the jurisdictional Principal Commissioner/ Commissioner on monthly basis. Further, a Scrutiny Progress Report, in the specified format, shall be prepared by the proper officer at the end of every month. The monthly Scrutiny Progress Report for each Commissionerate of the CGST Zone shall be compiled for each month and forwarded to the Director-General of Goods and Service Tax (DGGST) by the Principal Chief Commissioner/Chief Commissioner of the concerned Zone by the 10th day of the succeeding month. The DGGST, in turn, would present the progress report to the Board, through the GST Policy Wing, by the 20th day of the corresponding month.

### ADVISORY/UPDATE

❖ The GSTN has issued the advisory/update in relation to the **Auto-population of e-invoice details into GSTR-1:**

✓ Generation of e-invoice is mandatory for certain class of taxpayers, as notified by the Government. These taxpayers are required to prepare & issue their e-invoices by reporting their invoice data in the prescribed format (e-invoice schema in FORM GST INV-01) and reporting the same on the Invoice Registration Portal (IRP). Invoices reported successfully on the IRP are given a unique Invoice Reference Number (IRN). The documents (invoices, debit notes, credit notes) reported on the IRP are then transmitted electronically to the GST system and are auto-populated in the respective tables of GSTR-1.

❖ The GSTN has issued the advisory/update in relation to the **Enhanced Registration application user interface (UI):**

User Interface (UI) with respect to the address fields in the Registration Application GST REG-01 has been enhanced as follows:-

- ✓ Incorporation of a map tile along with a drag and drop facility of address pinhead on to the exact location of the applicant's address.
- ✓ Once selected, the details will automatically fill in the various address input fields given in the application.
- ✓ Address fields have been linked so as to auto- fill other macro level address entry fields based on the entry in one of such fields particularly PIN Codes. For example; on entering the PIN code, the corresponding State and Districts will get auto-filled.
- ✓ The user can also directly fill up the address input fields which are now aided with suggestive address input dropdowns from which the user can select the appropriate/relevant address field(s). This action will reduce errors in the address texts and will also ease the filling up of the appropriate address input fields by the user.
- ✓ The address fields have been segregated appropriately to reduce confusion while entering the relevant inputs under various address heads.



- ✓ Based on the address entries given by the user, the Latitude/ Longitude of the address will get auto-populated which is non-editable.

## **FOREIGN TRADE POLICY**

### **NOTIFICATIONS**

❖ **Notification No. 58/2015-2020 dated 07.03.2022.**

The DGFT has extended the last date of filing the application of Duty Credit Scheme. The same tabulated below:

S. No.	Details of Scheme	Extended Due Date
1.	MEIS (for exports made in the period between 01.04.2020 to 31.03.2020)	30.04.2022
2.	2% additional ad hoc incentives (incentive under para 3.25 of the FTP for exports made in period 01.01.2020 to 31.03.2020 only)	30.04.2022
3.	ROSCTL (for the exports made from 07.03.2019 to 31.12.2020)	15.03.2022
4.	ROSL (for exports made up to 06.03.2019 for which claims have not yet been disbursed under scrip mechanism)	15.03.2022

Further, it is provided that the total benefit under the MEIS (for period Sept. to Dec. 2020) shall not exceed 2 Crores. Furthermore, IEC Holder who has not made export during Sep 2019 to Aug 2020 or new IEC obtained after 01.09.2020 would not be eligible for submitting any claim under MEIS w.e.f. 01.09.2020.

❖ **Notification No. 64/2015-2020 dated 31.03.2022.**

The DGFT has extended the existing [FTP 2015-2020](#) from 31.03.2022 to 30.09.2022.

❖ **Notification No. 66/2015-2020 dated 01.04.2022.**

The DGFT has extended the exemption of IGST and compensation CESS on the import of goods against the AA/EPCG Authorization or by EOUs up to 30.06.2022.

### **PUBLIC NOTICES**

❖ **Public Notice No. 51/2015-20 dated 23.03.2022**

The DGFT has extended the timeline for installation and operationalization of Radiation Portal Monitors and Container Scanner in the designated seaports from 31.03.2022 to 30.09.2022.

❖ **Public Notice No. 53/2021-22 dated 31.03.2022**

The DGFT has extended the existing HBP 2015-2020 from 31.03.2022 to 30.09.2022.

❖ **Public Notice No. 01/2021-22 dated 04.04.2022**

The DGFT has extended the date up to **31.03.2023** for implementation of the Track and Trace system for export of Pharmaceuticals and drug consignments along with maintaining the Parent-Child relationship



in the levels of packaging and their movement in supply chain for both SSI and Non-SSI manufactured drugs.

### **TRADE NOTICES**

❖ **Trade Notice No. 38/2021-22 dated 15.03.2022**

The DGFT has introduced the new facility of Online IT Module for Interest Equalization Scheme. The same shall come into w.e.f. 01.04.2022.

### **RATIO DECIDENDI**

#### **GST LAW**

❖ **Parekh Plastichem Distributors LLP Vs Union of India, R/Special Civil Application No. 11423 of 2020-Gujarat High Court**

The petitioner has filed instant petition before the Hon'ble High Court to issue the direction or instructions to the Respondent to refund of IGST paid on exports made for the month of September 2018 along with statutory interest on such refund. In this regard, the Hon'ble High Court held that the plain reading of Section 56 of the Act would indicate that if any tax, which is ordered to be refunded under Sub-section (5) of Section 54 to any applicant, is not refunded within sixty days from the date of receipt of the application under Sub-section (1) of that section, interest at the rate not exceeding 6% shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of an application under Sub-section (5) of Section 54 of the Act. Therefore, the writ-applicant herein is entitled to interest on the delayed payment towards refund at the rate of 6% as provided under Section 56 of the Act.

❖ **Sree Constructions vs Assistant Commissioner (ST) and Ors., WP No. 32909/2021- Andhra Pradesh High Court**

In the instant petition, the Petitioner has challenged that an opportunity of hearing has not been granted to the petitioner in terms of Sub-section (4) of Section 75 of the SGST Act, 2017. Since no opportunity was given, the matter has to be remanded back to the Assessing Authority. In this regard, the Hon'ble High Court held that no notice was given to the petitioner before contemplating to pass an adverse order. Such a course was prejudicial to the interest of assessee and the same would be in violation of Sub-section (4) of Section 75 of CGST Act, 2017. The writ petition was thus allowed setting aside the Assessment Order and the matter was remanded to the respondent for passing appropriate orders.

❖ **Ali Cotton Mill v. Appellate Joint Commissioner, Writ Petition No. 3308 Of 2021-Andhra Pradesh High**

In the instant matter, the petitioner/assessee preferred a statutory appeal against the assessment orders passed by the department. As Rule 108 of the Andhra Pradesh Goods and Service Tax Rules (APGST Rules) permits the filing of an appeal electronically, the petitioner had attempted to file the appeal electronically, but it was not received by the Department Website due to some glitches. Therefore, the petitioner filed the same manually with the department and obtained an acknowledgement. However, the department issued an appeal rejection order on the sole ground that the appeal was not filed by the assessee electronically. The Hon'ble High Court, while allowing the appeal, directed the department to receive the appeal, process it,



and, if there are any defects in the appeal, issue suitable check memos for compliance by the assessee. The petitioner shall comply with the check memos within the time prescribed and resubmit the appeal either electronically or manually. The respondent shall consider the appeal and, after hearing the petitioner, pass an appropriate order on the merits in accordance with the governing law and rules.

## **CUSTOMS**

❖ **Ashok Singhla & Ors. Vs Principal Commissioner of Customs, Customs Appeal No. 52355 of 2016-CESTAT Delhi**

The appellant, in the instant matter, has assailed the show cause notice issued by the Additional Director General, DRI. In this regard, the Hon'ble CESTAT following the judgment passed by the Hon'ble Supreme Court in the matter of Canon India, held that the entire proceeding in the present case initiated by the Additional Director General of the DRI by issuing show-cause notices in all the matters before us are invalid without any authority of law and liable to be set-aside and the ensuing demands are also set-aside. Further it is opined that the order passed by the Principal Commissioner of Customs cannot be issued and thereby, approved the three customs appeals.

❖ **Pawan Kumar Vs Commissioner of Customs, Appeal No. C/60490-60491/2021-(SM)-CESTAT Chandigarh**

The appellant has challenged the penalties imposed under section 112 (a) and section 114AA of Customs Act, 1962 and alleged for preparation of fake TR-6 challans showing payment of customs duty which actually was not paid by the appellant. The Hon'ble CESTAT held that the preparation of fake TR-6 challans showing payment of customs duty which actually was not paid by the appellant. The appellant has admitted the guilty at the time of recording his statement. Further, the appellant is not entitled to any leniency from this Tribunal as the appellant misappropriated the government money.





## NEWS NUGGETS

- ❖ Companies likely to face stiff queries from GST authorities.<sup>1</sup>
- ❖ Spike in March e-way bills may help GST collection to hit Rs 1.5 trillion this month.<sup>2</sup>
- ❖ India-Australia trade pact: Thousands of Indian goods to get duty-free access.<sup>3</sup>
- ❖ Agrichem exporters may harvest gains better than India-focused players.<sup>4</sup>
- ❖ Despite external upheavals, India's exports performance on firm footing: RBI.<sup>5</sup>
- ❖ Dairy sector should focus on improving exports: Amit Shah.<sup>6</sup>
- ❖ PM Modi moots free trade agreement for BIMSTEC.<sup>7</sup>
- ❖ India's pivotal role in the BIMSTEC.<sup>8</sup>
- ❖ UK PM Boris Johnson's India Visit Likely This Month, Free Trade Pact On Cards: Report<sup>9</sup>

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<sup>1</sup> <https://economictimes.indiatimes.com/news/economy/policy/companies-likely-to-face-stiff-queries-from-gst-authorities/articleshow/90766712.cms>

<sup>2</sup> <https://cfo.economictimes.indiatimes.com/news/spike-in-march-e-way-bills-may-help-gst-collection-to-hit-rs-1-5-trillion-this-month/90777038>

<sup>3</sup> <https://www.financialexpress.com/industry/russia-ukraine-war-impact-indian-steelmakers-set-to-make-the-most-of-alloys-global-price-rally/2450373/>

<sup>4</sup> [https://www.business-standard.com/article/markets/agrichem-exporters-may-harvest-gains-better-than-india-focused-players-122041000861\\_1.html](https://www.business-standard.com/article/markets/agrichem-exporters-may-harvest-gains-better-than-india-focused-players-122041000861_1.html)

<sup>5</sup> <https://economictimes.indiatimes.com/small-biz/trade/exports/insights/despite-external-upheavals-indias-exports-performance-on-firm-footing-rbi/articleshow/90722833.cms>

<sup>6</sup> <https://timesofindia.indiatimes.com/india/dairy-sector-should-focus-on-improving-exports-amit-shah/articleshow/90765688.cms>

<sup>7</sup> <https://www.thehindu.com/news/national/pm-modi-calls-for-strengthening-bimstec/article65273458.ece>

<sup>8</sup> <https://www.financialexpress.com/defence/indias-pivotal-role-in-the-bimstec/2487626/>

<sup>9</sup> <https://www.ndtv.com/india-news/uk-pm-boris-johnsons-india-visit-likely-this-month-free-trade-agreement-on-cards-report-2863249>



### 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.

### KEY PERSONS

**Mr. S.C. Jain (Managing Partner)**  
Email : [scjain@rsalegalsolutions.com](mailto:scjain@rsalegalsolutions.com)  
Mob: +91-8588007302

**Ms. Shweta Jain (Partner)**  
Email: [shweta@rsalegalsolutions.com](mailto:shweta@rsalegalsolutions.com)  
Mob: +91-9891122735

**Mr. Rajat Dosi (Partner)**  
Email: [rajat@rsalegalsolutions.com](mailto:rajat@rsalegalsolutions.com)  
Mob: +91-8800560580

**Mr. Abhishek Jain (Partner)**  
Email: [abhishek@rsalegalsolutions.com](mailto:abhishek@rsalegalsolutions.com)  
Mob: +91-9873859616

**Ms. Anshul Mittal (Partner)**  
Email: [anshul@rsalegalsolutions.com](mailto:anshul@rsalegalsolutions.com)  
Mob: +91-8800813451

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