



INDIRECT TAX NEWSLETTER

June, 2022 (updated till 31.05.2022)



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REGULATORY UPDATES

GST LAW

NOTIFICATION

❖ **Notification No. 07/2022-CT dated 26.05.2022**

The CBIC has waived off the late fee for the Composition Taxpayer who has delayed in furnishing the GSTR-4 for the FY 2021-22 up to **30.06.2022**.

INSTRUCTION

❖ **Instruction No. 01/2022-23 [GST Investigation] dated 25.05.2022**

The GST Department has clarified that there is no mandatory recovery of tax dues during the course of search or inspection or investigation proceedings and the taxpayers have option to pay the GST dues through the official portal.

The Department, while directing the officials to inform the taxpayers regarding the provisions of voluntary tax payments through DRC-03, clarified that there is also no bar on the taxpayers for voluntarily making the payments on the basis of ascertainment of their liability on non-payment/ short payment of taxes before or at any stage of such proceedings.

ADVISORY/UPDATE

❖ The GSTN has issued the advisory/update in relation to the **Reporting 6% rate in GSTR-1:**

- ✓ A new tax rate of 6% IGST or 3% CGST+ 3% SGST has been introduced on certain goods vide Notification No. 02/2022 dated 31st March 2022. Changes are being made on the GST portal to include this rate in GSTR-1. As a temporary measure, taxpayers who have to report goods at this rate may do so by reporting the entries in the 5% heading and then manually increasing the system computed tax amount to 6%.
- ✓ The same can be done by entering the value in the 'Taxable value' column next to 5% tax-rate and then increasing the system computed tax-amount to 6% IGST or 3% CGST + 3% SGST in the 'Amount of Tax' column under the relevant Table, namely B2B, B2C or Export, as applicable.
- ✓ It will ensure that correct tax amount is reported in GSTR-1. Meanwhile, this rate will be made available on the GST portal shortly.

CUSTOMS

NOTIFICATIONS

❖ **Notification No. 44/2022-Cus (N.T.) dated 20.05.2022**

The CBIC has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Amendment Rules, 2022. The same shall come into force **w.e.f. 20.05.2022** to prescribe the change in criteria for value addition for few items.



CIRCULARS

❖ **Circular No. 08/2022-Cus dated 17.05.2022**

The CBIC has enabled the export of goods from Bangladesh to India by rail in closed containers. It has been decided by the board that the empty containers returning from Bangladesh to India on a train may be utilized to carry export goods from Bangladesh to India. This applies to closed containers transported on Indian Railways trains by the Container Corporation of India (CONCOR).

While the train will enter India via the LCS of Petrapole or Gede, it will be permitted to transit to any ICD in India for Customs processing. The transportation must be tracked via the Electronic Cargo Tracking System (ECTS) from the LCS of entrance to the ICD of destination.

FOREIGN TRADE POLICY

NOTIFICATIONS

❖ **Notification No. 04/2015-2020 dated 11.05.2022**

The DGFT has notified the new RoDTEP Schedule (Appendix-4R). The same shall come into force **w.e.f. 01.01.2022**.

❖ **Notification No. 11/2015-2020 dated 25.05.2022**

The DGFT has revised the import policy of Paper and incorporation of policy condition in Chapter 48 of ITC (HS), 2022 from “Free” to “Free subject to compulsory registration under Paper Import Monitoring System (PIMS)”. In other words, the importer, now, required to submit advance information in PIMS and obtain an automatic Registration Number by paying registration fee of Rs. 500. The importer can apply for registration not earlier than 75th day and not later than 5th day before the expected date of arrival of import consignment.

The automatic Registration Number, thus, granted shall remain **valid for a period of 75 days**. Multiple Bill of Entries shall be allowed in same registration number within the validity period of registration for the permitted quantity. Importer shall have to enter the Registration Number and expiry date of Registration in the Bill of Entry to enable Customs for clearance of consignment. The PIMS will be effective from **01.10.2022**. This is applicable for specified HSN codes mentioned in the Notification.

TRADE NOTICE

❖ **Trade Notice No. 12/2022-23 dated 30.05.2022**

The DGFT mandates that the exporter, who has filed the shipping bills on or before 31.12.2020 against which RoSCTL scrip has been availed, shall require to update/upload the e-BRC on the DGFT Server against the relevant shipping latest by 15.07.2022. It is pertinent to note that the rebate (provided in the form of duty credit scrip) under the RoSCTL Scheme is subject to the receipt of export proceeds within the time allowed under the FEMA regulations.

Further, the DGFT clarified that if an exporter fails to comply with the *sine qua non* then a recovery proceeding will be initiated against the exporter as provided under Para 4.96 of HBP.



RATIO DECIDENDI

GST LAW

❖ **Union of India Vs Mohit Minerals, Civil Appeal No. 1390 of 2022 & others- Supreme Court**

The issue, in the instant matter is, whether the importer is liable to pay tax on ocean freight services provided by foreign shipping line qua the foreign supplier under the reverse charge mechanism for the CIF contracts. In this regard, the Hon'ble Supreme Court has struck down the obligation to pay tax under reverse charge mechanism by the importer and held that when the Indian importer is liable to pay IGST on the 'Composite Supply' which includes supply of goods and supply of services of transportation, insurance etc. in a CIF contract, a separate levy on them for 'Supply of Services' by the shipping line would be in violation of Section 8 of the CGST Act.

❖ **C.C., C.E. & S.T. - Bangalore (Adjudication) Etc. v. M/s. Northern Operating Systems Pvt. Ltd., Civil Appeal No. 2289-2293 of 2021- Supreme Court**

In the instant matter, the respondent, i.e., Northern Operating Systems Pvt. Ltd. (Assessee or Indian Company), had contracted with its overseas group entities for rendering the back-office support and information technology support services. Under the contract, the overseas entity was required to second its employees (Seconded Employees) to the Assessee as per the Assessee's requests. The Seconded Employees were required to act under the directions and control of the Assessee. However, the salary, bonus/incentives, social security and welfare benefits of the Seconded Employees were paid to them by the overseas group entity. Such expenses were subsequently reimbursed by the Assessee to its overseas entity. The liability to pay service tax on such reimbursements by the Assessee was in question before the Supreme Court (SC). In this regard, the Hon'ble Apex Court held that when the Overseas group companies provide skilled employees, on a secondment basis, to its Indian counterparts, it is tantamounts to supply of manpower services. The Indian company in such a situation would be considered as a service recipient. Therefore, the Indian Company is liable to pay service tax on the salaries of the seconded employees reimbursed to the overseas company.

❖ **Dhabriya Polywood Limited Vs Union of India, R/Special Civil Application No. 7702 of 2022- Gujrat High Court.**

The issue, in the instant matter, raised was whether a bonafide mistake (stating wrong ODC vehicle type), on the part of the writ applicant is a mischievous act with a view to deriving some illegal benefit. The Hon'ble High Court, while quashing the detention order, held that selection of the wrong ODC vehicle type while generating the e-way bill is a bonafide mistake. Further, it was observed that the goods were in transit with all the necessary documents, including the e-way bill generated from the GST portal. The goods were moved by truck whose registration number was also correct. The only mistake, in this case, was the selection of the wrong ODC vehicle type while generating the e-way bill.



CUSTOMS

❖ **Aurobindo Pharma Ltd. Vs Commissioner of Customs, Customs Appeal No. 40513-40526 Of 2021- CESTAT Chennai**

In the issue involved, in the instant matter, the appellant, on account of non-fulfilment of the export obligation under the Advance Authorization Scheme, has paid the basic customs duty plus CENVAT along with the applicable interest, accordingly, filed the refund claim for CENVAT, and the same was rejected by the Adjudicating Authority. In this regard, the Hon'ble Tribunal, while relying upon the Servo Packaging Ltd. Vs. Commissioner of GST & Central Excise, Puducherry 2020 (373) ELT 550 (Tri. Chennai), rejected the refund claim and held that the availability of CENVAT paid on inputs despite failure to meet with the export obligation may not hold good here since, firstly, it was a conditional import and secondly, such import was to be exclusively used as per FTP.

❖ **Surya Roshni Ltd Vs Commissioner of Customs - CESTAT Ahmedabad**

The issue before the Hon'ble CESTAT- (i) whether the refund is admissible when an assessee paid the SAD by debiting MEIS, and (ii) where no declaration was found on the sale invoice regarding non-admissibility of cenvat credit of SAD. The Hon'ble CESTAT, while quashing the refund rejection order, held that the refund claim cannot be denied even if the duty is paid by way of debiting duty credit scrip. Further, it is held that denial of refund claim on account of the *sine qua non* declaration is not maintainable and the same is set aside.

NEWS NUGGETS

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RSA Legal has successfully found a place in the list of Finalist for “**Tax Law Firm of the Year 2021**” by Asian Legal Business (ALB) Awards. RSA recently featured in the “**Top 20 Recommended Lawyers**” in India by Business Connect magazine in 2019-2020. RSA has been chosen in top 5 finalist in the category of “**Best Start up law firm of the year**” award by the prestigious IDEX Legal Awards. Also, the firm was awarded with the “**Top 10 GST Consultants Award**” by the famous Insight Success Magazine.

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