



## INDIRECT TAX NEWSLETTER

May, 2022 (updated till 30.04.2022)



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## REGULATORY UPDATES

### GST LAW

#### ADVISORY/UPDATE

❖ The GSTN has issued the advisory/update in relation to the **GSTR-1/IFF enhancements deployed on GST Portal:**

- ✓ The statement of outward supplies in FORM GSTR-1 is to be furnished by all normal taxpayers on a monthly or quarterly basis, as applicable. Quarterly GSTR-1 filers have also been provided with an optional Invoice Furnishing Facility (IFF) for reporting their outward supplies to registered persons (B2B supplies) in the first two months of the quarter. Continuous enhancements & technology improvements in GSTR-1/IFF have been made from time to time to enhance the performance & user-experience of GSTR-1/IFF, which has led to improvements in Summary Generation process, quicker response time, and enhanced user-experience for the taxpayers.
- ✓ The previous phase of GSTR-1/IFF enhancement was deployed on the GST Portal in November 2021. In that phase, new features like the revamped dashboard, enhanced B2B tables, and information regarding table/tile documents count were provided. In continuation to the same, the next Phase of the GSTR-1/IFF improvements is now available on the Portal.
- ✓ GSTR-1/IFF can be viewed as usual by navigating in the following manner :

***Return Dashboard > Selection of Period > Details of outward supplies of goods or services GSTR-1 > Prepare Online***

The following changes are being done in this phase of the GSTR-1/IFF enhancements :

- ✚ **Removal of 'Submit' button before filing** : The present two-step filing of GSTR-1/IFF involving 'Submit' and 'File' buttons will be replaced with a simpler single-step filing process . The upcoming 'File Statement' button will replace the present two-step filing process and will provide taxpayers with the flexibility to add or modify records till the filing is completed by pressing the 'File Statement' button.
- ✚ **Consolidated Summary** : Taxpayers will now be shown a table-wise consolidated summary before actual filing of GSTR-1/IFF. This consolidated summary will have a detailed & table-wise summary of the records added by the taxpayers. This will provide a complete overview of the records added in GSTR-1/IFF before actual filing.
- ✚ **Recipient wise summary** : The consolidated summary page will also provide recipient-wise summary, containing the total value of the supplies & the total tax involved in such supplies for each recipient. The recipient-wise summary will be made available with respect to the following tables of GSTR-1/IFF, which have counter-party recipients :
  - Table 4A : B2B supplies
  - Table 4B : Supplies attracting reverse charge
  - Table 6B : SEZ supplies
  - Table 6C : Deemed exports
  - Table 9B : Credit/Debit notes



- ✦ It was previously intimated that this enhancement would be made available on the Portal shortly. It is to inform that these changes have now been implemented, and are available on the Portal.
- ❖ The GSTN has issued the advisory/update in relation to the **Annual Aggregate Turnover (AATO) computation for FY 2021-22:**

The functionality of AATO for the FY 2021-22 has now been made live on taxpayers' dashboards with the following features:

  - ✓ The taxpayers can view the exact Annual Aggregate Turnover (AATO) for the previous Financial Year (FY).
  - ✓ The taxpayers can also view the Aggregate Turnover of the current FY based on the returns filed till date.
  - ✓ The taxpayers have also been provided with the facility of turnover updation in case taxpayers feel that the system calculated turnover displayed on their dashboard varies from the turnover as per their records.
  - ✓ This facility of turnover update shall be provided to all the GSTINs registered on a common PAN. All the changes by any of the GSTINs in their turnover shall be summed up for computation of Annual Aggregate Turnover for each of the GSTINs.
  - ✓ The taxpayer can amend the turnover twice within the month of May, 2022. Thereafter, the figures will be sent for review by the Jurisdictional Tax Officer who can amend the values furnished by the taxpayer wherever required.

## CUSTOMS

### **NOTIFICATIONS**

- ❖ **Notification No. 39/2022-Cus (N.T.) dated 30.04.2022**

The CBIC has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and the United Arab Emirates) Rules, 2022. The same shall come into force **w.e.f. 01.05.2022**.

## FOREIGN TRADE POLICY

### **NOTIFICATIONS**

- ❖ **Notification No. 01/2015-2020 dated 29.04.2022**

The DGFT has amended the Import Policy of items under ITC (HS) Codes 71123000, 71129100, 71129200, 71129910, 71129920, and 71129990 under Chapter 71 of Schedule – I (Import Policy) from “**Free**” to “**Restricted**”. The same shall come into force **w.e.f. 29.04.2022**.

### **TRADE NOTICE**

- ❖ **Trade Notice No. 01/2022-23 dated 11.04.2022**



The DGFT has re-operationalized the Scrip Transfer Recording Module and inserted the additional features as encapsulated below:

- ✓ Owner of Scrip will not be able to transfer the scrip to another entity on immediate basis and only after 'n' number of days from scrip issue date.
- ✓ The person who purchases the script from the owner can transfer it to another entity only after 'x' number of hours from the last transfer.
- ✓ After IEC modification, IEC holders will not be able to make transfers before 'x' number of hours from IEC modification time/date. Introduction of limit on number of scrip transfers by each IEC per day.
- ✓ Email and SMS notifications to IEC holders and Directors/Partners attached to IEC on the following trigger points:
  - ✚ Transfer of scrips.
  - ✚ Modification of IEC- Change in email/mobile for correspondence and changes in director/partner section.
  - ✚ Linking of users to IEC.
- ✓ Automatic de-linking of Users from IEC every 6 months.
- ✓ Automatic de-linking of Digital Signature and Aadhaar Registration every 90 days.

❖ **Trade Notice No. 03/2022-23 dated 26.04.2022**

The DGFT has proposed a new online module for filing of application for recognition as Pre-shipment Inspection Agency (PSIA), electronic issuance of Pre-shipment Inspection Certificates (PSICs) and electronic verification of authenticity of the PSICs **w.e.f. 01.05.2022**. This online process shall not be mandatory in the initial period of go-live and the PSIAs as well as the importers are provided time till 30.06.2022 to onboard and familiarize with the said online process. All PSICs shall be mandatorily generated online through the DGFT Website **w.e.f. 01.07.2022**.

❖ **Trade Notice No. 04/2022-23 dated 27.04.2022**

The DGFT has extended the date for Mandatory electronic filing of Non-Preferential Certificate of Origin (CoO) through the Common Digital Platform till 1.08.2022. The existing systems of processing non-preferential CoO applications in manual/paper mode is being allowed.

❖ **Trade Notice No. 05/2022-23 dated 29.04.2022**

The DGFT has notified that the electronic filing and issuance of the Preferential Certificate of Origin (CoO) for India's Exports under the India-UAE Comprehensive Economic Partnership Agreement (India-UAE CEPA) shall come into force w.e.f. 01.05.2022. The key highlights to the trade notice are briefed hereunder:

- The preferential CoO shall be issued from the CoO E-platform with effect from 1<sup>st</sup> May 2022, after filing an application on the platform using website (<https://coo.dgft.gov.in/>).
- The eCoO generated shall have signature of issuing officer and will also bear Quick response code for electronic verification.
- Further at the time of applying for CoO DSC of Exporter is mandatory and it should be a Class III DSC.
- In case the application is to be filed by the New applicant exporter then he should first get himself registered at the portal.



## **PUBLIC NOTICE**

❖ **Public Notice No. 03/2015-20 dated 13.04.2022**

The DGFT has provided relaxation in order to reduce the compliance under the EPCG scheme. A few relaxations have been encapsulated below:

- ✓ **Annual reporting of EO (export obligation)** -- instead of by April 30 each year, exporters can file that by June 30 of each year with specified information, but any delay will be subject to a late fee of Rs 5,000.
- ✓ Requests for **Export Obligation Extension** should be made within six months of expiry instead of the earlier prescribed period of 90 days. However, applications made after six months and up to six years are subject to a late fee of Rs 10,000 per authorisation.
- ✓ According to the changes, requests for **Block-Wise Export Obligation Extension** should be made within six months of expiry. However, applications made after six months and up to six years will entail a late fee of Rs 10,000 per authorisation. Applications made after six years will be subject to a fee of Rs 5,000 per year. Earlier, no specified time limit was prescribed, leading to discretionary interpretations.
- ✓ Further, the facility to pay customs duty through scrips (MEIS /RoDTEP /RoSCTL) for default under EPCG has been withdrawn.

❖ **Public Notice No. 04/2015-20 dated 20.04.2022**

The DGFT has stated that online applications for allocation of Tariff Rate Quota (TRO) under India - Mauritius CECPA for the financial year 2022-23 will be considered on First Come, First Served basis, with no end date.

## **RATIO DECIDENDI**

### **GST LAW**

❖ **Union of India & Ors. Vs. M/s Willowood Chemicals Ltd., Civil Appeal Nos. – 2995-2996 OF 2022- Supreme Court**

In the instant matter, the Appellant has assailed the order passed by the Hon'ble High Court wherein the interest, on account of inordinate delay impacted the working capacity, was allowed to the Respondent @ 9%. The Appellant, aggrieved from the order passed by the Court, has preferred to file the appeal before the Hon'ble Supreme Court whereby it is held that the delay in the instant case is ranging from 94 to 290 days and not so inordinate, thus interest would be payable at the rate of 6% not 9%. The relevant provision has provided the rate of interest at 6% in case of refund governed by the principal provision of Section 56 of the Act.

❖ **Greenlights Power Solutions Vs State Tax Officer, WP(C) No. 7716 of 2021 -Kerala High Court**

In the instant matter, the penalty is imposed on the petitioner due to the discrepancy pointed out by Officer regarding the date of the invoice which is shown as 03.02.2021 whereas the date in the e-way bill was shown as 02.03.2021. All other details in the invoice and the e-way bill including the nature of goods transported,



the details of consignor and consignee, the GSTIN of supplier and recipient, place of delivery, invoice number, value of goods, HSN code, vehicle number etc. tallied and had no discrepancy. A division bench of the Madhya Pradesh High Court has directed the GST department to consider imposing a minor penalty on the assessee for the mistake of an inadvertent human error in the E-way Bill.

❖ **In re Cosmic Ferro Alloys Limited, Advance Ruling Order No. 02/WBAAR/2022-23 - GST AAR West Bengal**

In the instant matter, the applicant sought for Advance Ruling Authority-Whether transfer of a unit by the applicant with all the assets including taking over all the liabilities by the purchaser for a lump sum consideration would amount as supply of goods or supply of services and whether the transaction would be covered under Entry No. 2 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017. The Advance Ruling Authority held that the transaction of transfer of business unit of the applicant involved in the instant shall be treated as a supply of services. The transaction would be covered under Entry No. 2 of the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 subject to fulfilment of the conditions to qualify as a going concern.

## CUSTOMS

❖ **Adroit Industries (India) Limited Vs. UoI & Ors., Civil Writ Petition No. 2614 of 2021- High Court of M.P**

In the issue involved in the instant matter, the Petitioner, for claiming the benefit under the MEIS scheme, on account of an inadvertent error, did not declare the intention by ticking or marking "Y" (for Yes) in the shipping bills. Since, this is the mandatory condition to avail of the benefit and failure to do so, the relevant shipping bill will not be transmitted from the Customs server, such shipping bills are not present in the DGFT repository and a claim under MEIS cannot be applied by the exporter for the relevant shipping bills. The Hon'ble High Court, whilst dismissing the petition, has given the liberty to the Petitioner to approach to the Customs Authorities for correction/rectification in shipping bills online and provided the instruction to the DGFT to consider the claim.

❖ **Messrs Aztec Fluids And Machinery Pvt. Ltd. Vs Union of India, R/Special Civil Application No. 5562 of 2021, Gujarat High Court**

The Petitioner has assailed the action of the respondent on the basis that the proceedings initiated by the respondent are wholly illegal and without jurisdiction because the DRI Officer is not the proper officer who can invoke Section 28 of the Customs Act and therefore, the notice issued by the respondent under Section 28 of the Customs Act is ex-facie illegal and without any authority or jurisdiction. In this regard, the Hon'ble High Court while analyzing Section 28A(4) of the Customs Act, has held that the provision must be construed as conferring the power of such review on the same officer or his successor who has been assigned the function of assessment. An officer who did the assessment could only undertake reassessment and after extensive analysis, the Court held that the entire proceeding initiated by the Additional Director, General of DRI by issuing show-cause notices in all the matters are invalid, without any authority of law and liable to be set aside and accordingly, ensuing demands also have been set aside.



## NEWS NUGGETS

- ❖ GST 2.0: Ideas to improve indirect taxation
- ❖ Govt. may subsume sin goods cess into GST to pacify states.
- ❖ Fruit-based fizzy drinks face 28% GST plus 12% cess
- ❖ India-UAE free trade pact comes into force; to facilitate duty-free exports
- ❖ Free Trade Agreement: India keeps 1,157 sensitive items out of UAE FTA ambit
- ❖ India will conclude FTA with EU next year: Goyal
- ❖ FY23 GST collections to exceed Budget estimate; Excise, customs targets challenging: CBIC Chief

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**ABOUT THE FIRM**

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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.

**KEY PERSONS**



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