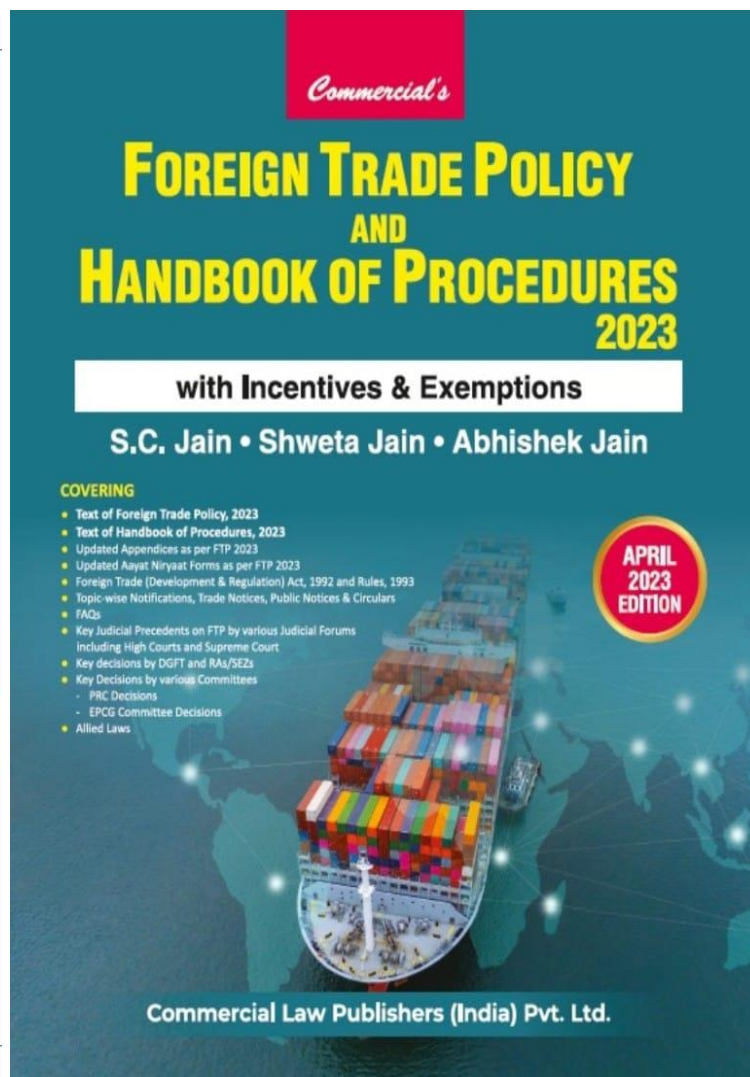


We are proud to announce the launch of our new book **"How to Handle Customs Problems"** published by Commercial Law Publisher and authored by SC Jain (Managing Partner) and Shweta Jain (Partner) RSA Legal Solutions.

Key highlights of the book are:

- Updated by Union Budget, 2023
- Updated by CBIC Customs Manual, 2023
- Supported by legal provisions and judicial precedents
- Procedural clarity
- Appropriate for CHAs, industry, students and professionals

The link to purchase the book is
https://commerciallawpublishers.com/home/product_view/1110/How-to-Handle-Customs-Problems



It gives us immense pleasure to announce the launch of our new book titled **"Foreign Trade Policy and Handbook of Procedures, 2023"** published by Commercial Law Publishers and authored by SC Jain (Managing Partner), Shweta Jain (Partner) and Abhishek Jain (Partner) at RSA Legal Solutions. Key highlights of the book are:

- Foreign Trade Policy, 2023
- Handbook of Procedures, 2023
- Updated Appendices as per FTP, 2023
- Updated Aayat Niryaat Forms as per FTP, 2023
- Foreign Trade (Development and Regulation) Act, 1992 and Rules 1993
- Topic wise Notifications, Trade Notices, Public Notices and Circulars
- FAQs
- Key Judicial Precedents by High Courts and Supreme Court
- Key decisions by DGFT, RAs and various committees

The link to purchase the book is:
https://commerciallawpublishers.com/home/product_view/1141/Foreign-Trade-Policy-and-Handbook-of-Procedures-2023

SEMINAR FOR DGFT



We had been invited by Directorate General of Foreign Trade (DGFT) under Ministry of Commerce to present a seminar on the Adjudication procedure in terms of Foreign Trade (Development and Regulation) Act, 1992. It was a very interactive session with the officials of DGFT including very senior dignitaries of DGFT. Delhi DGFT office was physically present while the other RAs of DGFT at various locations in the country were present through live streaming with them. The interaction involved discussion over various case laws as decided by High Courts and Supreme Court, view point of DGFT on each aspect, industry issues being faced, challenges being faced by DGFT and industry in various matters etc. We are grateful to DGFT, Ministry of Commerce for having provided us this opportunity.



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UNDERSTANDING QCOS ISSUED BY BIS

FAQS for Stakeholders on Quality Control Orders



Ques 1: As a stakeholder, why should I be concerned about QCOS?

Ans: QCOs ensure the products you deal with meet specific quality, safety, and reliability standards. Complying with them safeguards the public interest, protects the environment, and prevents unfair trade practices.

Ques 2: How will I know when a QCO commences?

Ans: The commencement date of each QCO is clearly emphasized in the Order itself. It's crucial to stay updated with official announcements to ensure timely compliance.

Ques 3: I import products. Does QCOS apply to me?

Ans: Yes. The regulations that apply to domestically produced goods also apply to imported goods, unless there's a specific exemption. Ensure your imported products comply with Indian Standards.

Ques 4: What if I manufacture products abroad for the Indian Market?

Ans: You must obtain a Licence or CoC from BIS under the Foreign Manufacturers Certification Scheme (FMCS) of BIS to ensure your products comply with the necessary Indian Standards.

Ques 5: What happens if I don't comply with a QCO?

Ans: Non-compliance can lead to penalties under the BIS Act, 2016. This may include imprisonment, fines, or both.



Ques 6: I deal with a product that has undergone a standard revision. How do I transition?

Ans: BIS provides a concurrent period for both the existing and revised versions of the standard. You should transition to the revised version within the timelines specified by BIS.

Ques 7: Can I request exemptions for specific products under QCOS?

Ans: Exemptions are decided by the Line Ministry (Regulator) issuing the QCO. If you believe your product should be exempt, it would be best to approach the respective ministry.

Ques 8: Where can I find the latest information on QCOS relevant to my products?

Ans: Stay updated by regularly checking the BIS website and official notifications. They provide detailed information on QCOs and any related updates.

Ques 9: I have specific concerns about a QCO. Whom should I approach?

Ans: For concerns related to the applicability or implementation of a QCO, reach out to the concerned Line Ministry/Department of the Central Government. For queries about product coverage under an Indian Standard in a QCO, BIS is your point of contact.

Ques 10: How can I ensure continuous compliance with QCOS and avoid disruptions in my operations?

Ans: Engage in stakeholder consultations, liaise with BIS for technical inputs, and stay abreast of official announcements. Regular internal reviews and audits can also ensure continuous compliance.



REGULATORY UPDATES

GST

NOTIFICATIONS

❖ **Notification No. 53/2023- Central Tax dated 02.11.2023**

Through this notification, the CBIC has provided relief to taxable persons who could not file an appeal against the order passed by the proper officer on or before 31.03.2023 under section 73 or 74 of the CGST Act, 2017 within the specified period or their appeal was rejected on the ground that the appeal was not filed within the period specified in section 107 of CGST Act, 2017. The CBIC has allowed such persons to file an appeal in FORM GST APL-01 up to 31.01.2024, subject to them paying the following:

- ✚ admitted amount of tax, interest, fine, fees, and penalty arising from the impugned order.
- ✚ pre-deposit equal to 12.5% of the remaining amount of tax under dispute, subject to a maximum of Rs. 25 Crores, out of which at least 20% should be debited from Electronic Cash Ledger.

Further, the notification provided that no refund shall be granted till the disposal of the appeal, in respect of any amount paid by the appellant, which is in excess of what should have been paid as provided above for filing an appeal. Moreover, no appeal under this notification shall be admissible in respect of a demand not involving tax.

❖ **Notification No. 54/2023- Central Tax dated 17.11.2023**

Through this notification, the CBIC has notified that the provisions of sub-rule (4A) of Rule 8 of CGST Rules which provides for biometric-based Aadhaar authentication for GST registration to conduct the pilot project shall apply in the State of Andhra Pradesh along with the States of Gujarat and Puducherry.

CUSTOMS

NOTIFICATIONS

❖ **Notification No. 63/2023- Customs dated 30.11.2023**

Through this notification, the CBIC exempted BCD on all goods falling under Tariff Item 2207 10 12 when imported into the Republic of India from the United Arab Emirates.

❖ **Notification No. 87/2023- Customs (N.T.) dated 29.11.2023**

Through this notification, the CBIC has extended the exemption available to the following deposits from being made in the Electronic Cash Ledger till 19.01.2024 :

- ✚ deposits with respect to goods imported or exported in customs stations where customs automated system is not in place;
- ✚ deposits with respect to goods imported or exported in International Courier Terminals;
- ✚ deposits with respect to accompanied baggage;
- ✚ deposits other than those used for making electronic payments of:
 - any duty of customs, including cesses and surcharges levied as duties of customs;
 - integrated tax;
 - GST Compensation Cess;
 - interest, penalty, fees, or any other amount payable.



❖ **Notification No. 11/2023- Customs (ADD) dated 17.11.2023**

Through this notification, the CBIC has imposed anti-dumping duty which shall be levied for five years on “Toughened Glass for Home Appliances having thickness between 1.8 MM to 8 MM and area of 0.4 SqM or less” falling under Chapter 70 of Customs Tariff Heading, originated in or exported from China PR and imported into India. This imposition shall be payable in Indian currency and is made to safeguard the domestic industry from the injury caused due to dumping.

❖ **Notification No. 12/2023- Customs (ADD) dated 21.11.2023**

Through this notification, the CBIC imposed an anti-dumping duty on imports of Synthetic Grade Zeolite 4A (Detergent Grade) exported from China PR for 5 years to safeguard the domestic industry from the injury caused by dumping the products at a price lower than the normal rate.

❖ **Notification No. 13/2023- Customs (ADD) dated 22.11.2023**

Through this notification, the CBIC has redetermined the anti-dumping duty imposed on imports of Natural mica-based pearl industrial pigments excluding cosmetic grades exported from China PR.

CIRCULARS

❖ **Circular No. 27/2023- Customs dated 01.11.2023**

Through this circular, the CBIC has authorized 170 additional Booking Post Offices and their corresponding Foreign Post Offices in terms of Postal Export (Electronic Declaration and Processing) Regulations, 2022. This expansion of authorized post offices is a significant development and aims to facilitate and enhance the export of goods through postal channels.

❖ **Circular No. 28/2023- Customs dated 08.11.2023**

Through this circular, the CBIC allowed the advance assessment of Courier Shipping Bills (CSBs) on the Express Cargo Clearance System (ECCS), which marks a pivotal step towards improving the ease of doing business in India's customs process. With this technical modification, assessing officers now have access to CSBs marked for assessment even before the physical arrival of the export consignment at the Inland Container Terminals (ICTs).

ORDERS

❖ **CAVR Order No. 02/2023- Customs dated 15.11.2023**

Through this order, the CBIC has specified the rules and specifications for the declaration of value, documentation, and compliance measures with respect to Stainless Steel of J3 grade falling under HS Codes 72191200, 72191300, 72191400, 72192390, 72193290, 72193390, 72193490, 72193590, 72199012, 72199013, 72199090, 72202029, 72202090, 72209022, 72209029 & 72209090. Importers dealing with the above-mentioned HS Codes need to adhere to the following specifications for a smooth and compliant import process:

- ✚ The Unique Quantity Code of Kilogram (Kg) shall be necessarily used by the importer to declare the value in the bill of entry;
- ✚ Grade of Stainless Steel being imported must be mentioned in the bill of entry;
- ✚ Further, in addition to the prescribed documents, the importer is required to produce the following documents:
 - Manufacturer's Invoice;
 - Mill Test Certificate of the product;



- Positive Material Identification (PMI) Test report;
- Declaration from the manufacturer that goods are J3 stock lot/ex-stock (where applicable); and
- Purchase Order or Contract.

The said order shall be effective from 29.11.2023 till 28.11.2024.

FOREIGN TRADE POLICY

NOTIFICATIONS

❖ **Notification No. 43/2023 dated 11.11.2023**

Through this notification, the DGFT has provided a one-time exemption from 'Prohibition' to Patanjali Ayurved Limited for the export of 20 MT of Non-basmati white rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other) as donation to Nepal for earthquake victims.

❖ **Notification No. 44/2023 dated 20.11.2023**

Through this notification, the DGFT has revised the policy condition which restricted the import of "Other unwrought forms of gold" falling under ITC (HS) Code 71081200. The new policy condition permits the import of the said gold through:

- ✚ nominated agencies as notified by RBI (in case of banks) or DGFT (for other agencies).
- ✚ qualified jewellers through India International Bullion Exchange (as notified by IFSCA).

Further, valid India-UAE TRQ holders as notified by IFSCA can import gold through IIBX against the TRQ and can obtain physical delivery of the same through IFSCA registered vaults located in SEZs as per the guidelines prescribed by the IFSCA. Additionally, the Gold Dore can be imported by refineries against an import license with Actual User condition.

❖ **Notification No. 46/2023 dated 30.11.2023**

Through this notification, the DGFT has allowed the export of various food items such as Wheat Grain, Wheat Flour (Atta), Maida/Semolina, and Broken Rice with the designated quantities to specific countries through the National Cooperative Exports Limited (NCEL).

TRADE NOTICE

❖ **Trade Notice No. 32/2023-24 dated 06.11.2023**

Through this trade notice, the DGFT introduced a new facility of Centralized Video Conference Facility at DGFT Headquarters which will be effective from 08.11.2023, every Wednesday between 10 am to 12 noon, for the benefit of the exporting community. Senior officers from DGFT HQs shall remain present during these VCs to address the matters which could not be resolved by various DGFT Regional Authorities (RAs) despite concerted efforts.

❖ **Trade Notice No. 33/2023-24 dated 10.11.2023**

To improve trade facilitation for exporters, the DGFT has implemented an enhanced electronic Bank Realisation Certificate (eBRC) system w.e.f. 15.11.2023, for self-certification by exporters. This more streamlined system will allow electronic Inward Remittance Messages (IRMs) to be transmitted directly by banks to DGFT and based on the IRMs received, the exporters shall self-certify their eBRCs. The enhanced eBRC system will not only reduce transaction time and costs of the exporter but also ease the



burden on bankers by simplifying the reconciliation of IRMs with shipping bills, SOFTEX, invoices, etc. Furthermore, for prompt data exchange, all banks are required to integrate using an Application Programming Interface (API) by 31.01.2024.

❖ **Trade Notice No. 34/2023-24 dated 16.11.2023**

Through this trade notice, the DGFT has provided that Calcined Petroleum Coke (CPC) manufacturing industries, seeking an allocation of imported Raw Petroleum Coke (RPC), are instructed to provide necessary details as outlined in the Annexure, which includes the name of the unit, contact details, current and past manufacturing capacities, sources of RPC, sulphur content in imported RPC, yearly procurement details, desired annual quantity for RPC import, and information on emissions monitoring, etc. Such details are to be submitted through email by 20.11.2023 and in case any CPC manufacturing industry/unit does not provide the requisite details within the stipulated time, it is to be presumed that the unit has nothing to state to the sub-committee constituted by the Commission for Air Quality Management (CAQM).

RATIO DECIDENDI

ERSTWHILE LAW

❖ **Commissioner of Central Excise, Ahmedabad vs Chiripal Industries Ltd., CESTAT Ahmedabad**

In the instant case, the respondent had procured capital goods for the installation of a power plant under EPCG license which was installed from July 2008 to September 2010 and availed CENVAT Credit on it in 2013. The department contended that CENVAT Credit was wrongly availed as per the provisions of the Cenvat Credit Rules considering that credit on capital goods installed outside the factory for generation of electricity was not allowed. Accordingly, a show cause notice was issued demanding CENVAT credit availed by the respondent by invoking the extended period of limitation. The adjudicating authority dropped the proceedings citing both merit and limitation. On appeal, the tribunal observed that the fact about the installation of capital goods outside the factory premises, in some other unit owned by the respondent, and availment of cenvat credit thereon was in the knowledge of the department. The respondent also filed their ER-1 return during the relevant period wherein the availment of CENVAT credit on such capital goods was categorically declared. Therefore, the tribunal held that the allegation of suppression of fact on the part of the respondent is baseless, and accordingly, the demand being time-barred is liable to be set aside.

❖ **Modi Naturals Ltd. vs Commissioner of Commercial Tax, UP, Supreme Court of India**

In the instant case, the appellant purchases Rice Bran for manufacturing and selling Rice Bran Oil. However, during the manufacturing process, a by-product in the form of De-Oiled Rice Bran is also produced which falls within the category of exempted goods under Sr. No. 4 of Schedule I of the UP VAT Act. Thereafter the appellant claimed full amount of tax paid as ITC on the purchase of the Rice Bran. However, the claim of the appellant was rejected on the ground that the appellant was competent to avail ITC only with respect to taxable sales, as the sale price of the final goods was less than the manufacturing cost of the purchased goods and only the taxable goods would be considered as goods under the UP VAT Act. The Hon'ble Supreme Court observed that in terms of Section 13(3)(b) read with Explanation (iii) of Section 13 if any exempt goods are produced as by-products or waste products during the process of



manufacturing of taxable goods, then it should be deemed that purchased goods have been used in the manufacture of taxable goods only. Accordingly, the Supreme Court allowed the appeal and held that the appellant is entitled to claim the full amount of ITC on rice bran purchased for manufacturing of rice bran oil.

GST LAW

❖ **Raymond Limited vs Union of India, Madhya Pradesh High Court**

In the instant case, the Petitioner filed a writ petition challenging the show cause notice issued to it on 03.09.2022 and the consequential impugned order passed on 12.09.2022. At the outset, the High Court observed that although no time period is stipulated in Section 73 of the CGST Act, 2017, however, it is obvious that the statute contemplates affording reasonable opportunity to the noticee to file a reply to the show cause notice, which in the opinion of the High Court should not be less than 15 days. However, since the time period provided for paying tax, interest, and penalty specified in the show cause notice is statutorily prescribed to be thirty days in Section 73(8) of the CGST Act, 2017, the reasonable period within which show cause notice is to be responded to, ought to be treated as thirty days as well. Since, the time gap provided between the show cause notice and the impugned order was only eight days, the court held that it desperately falls short of satisfying the concept of reasonable opportunity of being heard. Further, it was observed that a show cause notice can withstand the test of judicial scrutiny only when the same contains enough and adequate material which motivated the concerned authority to take a prima facie view against the noticee. If the contents of the impugned show cause notice are lacking in material particulars or are vague in regard to any of the entries contained therein then such show cause notice becomes vulnerable to judicial review. Accordingly, the High Court held that the show cause notice does not contain any material particulars of adverse nature which constituted the foundation to issue the show cause notice. In view of the aforesaid, the High Court set aside the show cause notice and the impugned order.

❖ **Parle Agro Pvt. Ltd. vs Union of India, High Court of Madras**

In the instant case, the Petitioner filed two writ petitions for the issuance of a writ of Certiorari and Mandamus for calling the record of 31st GST Council relating to minutes of meeting held on 22.12.2018 classifying the 'Flavoured Milk' under HS Code 2202; quashing the said entry; and for the issuance of writ of Mandamus directing the respondent to classify the goods under Chapter 0402 of the Customs Tariff Act, 1975 and levying GST accordingly. Relying upon the Supreme Court judgment of *Union of India vs Mohit Mineral Private Limited*, the High Court observed that the GST Council cannot determine the classification of goods and therefore the recommendations of the GST Council are not binding in nature. The responsibility lies with the Central Government to set the appropriate rate of goods falling under the Customs Tariff Act, 1975. Furthermore, the Court further held that flavoured milk manufactured by the Petitioner is to be classified under Heading 0402 of the Customs Tariff Act, 1975 and is therefore liable to GST@5%.

CUSTOMS/FOREIGN TRADE POLICY

❖ **Shri Sumit Arora vs. Commissioner of Customs, CESTAT Chandigarh**

In the instant case, a show cause notice was issued to the appellants who was engaged in the import of Steel Balls classified under CTH 84829900, proposing the re-classification of the impugned goods under CTH 8714 9990. **The Tribunal observed that the heading which provides the most specific description**



shall be preferred to headings providing a more general description. It observed that, as per the Customs Tariff Act, 1975, CTH 8482 contains a specific description of Steel Balls. Furthermore, Chapter Note 6 to Chapter 84 applies to polished Steel Balls and since the impugned goods were polished, hence the same merits to be classified under CTH 84829900. Furthermore, the appellant has submitted that the importers are importing from various ports and all the other customs stations have accepted the classification under CTH 8482 whereas only the Commissioner of Ludhiana have raised the issue. Accordingly, the Tribunal observed that customs being one department should maintain uniformity in respect of commodities imported at various stations. Giving a differential treatment to the appellants and supporting the same by stating that the classification arrived at other customs station has no bearing on the impugned case, is not acceptable. Accordingly, the classification and duty demanded in the show cause notice was set aside. Furthermore, when the classification and the duty demanded in the show cause notice are set aside, there is no way that the penalty on the appellant can survive.

❖ **Sanghi Industries Ltd. vs C.C. Kandla, CESTAT Ahmedabad**

In the instant case, the question before the Hon'ble CESTAT was whether the demurrage charges paid by the assessee should be part of the assessable value of the imported goods. At the outset, the Hon'ble CESTAT relied upon the decision of the High Court of Orissa in *Tata Steel Limited vs. Union of India* wherein it has been held that demurrage charge is not envisaged as a part of the cost under the Customs Act, 1962. It is viewed as a penalty and cannot be included in the customs valuation of the imported goods for the purpose of charging customs duty. Moreover, it was observed that even though an appeal against the *Tata Steel Limited* (supra) case has been filed in the Supreme Court, the same does not alter the prevailing judgement of the Orissa High Court, as no stay has been granted. Therefore, upholding the settled position, the CESTAT Ahmedabad held that demurrage charges are not to be included in the assessable value of the goods for levying customs duty.

NEWS NUGGETS

- ❖ [GSTN issues advisory on procedures and provisions related to the GST Appeal Amnesty Scheme](#)
- ❖ [FM Nirmala Sitharaman Inaugurates 12 GST Seva Kendras in Vapi; Distributes Mera Bill Mera Adhikaar Prizes](#)
- ❖ [GSTN releases advisory for Biometric-Based Aadhaar Authentication and Document Verification Pilot Project in Gujarat and Puducherry](#)
- ❖ [Taxpayer Alert: GSTN advises to reverse ITC by 30.11.2023 in compliance with the CGST Rule 37A](#)
- ❖ [GSTN issues instructions for Direct API Integration with 6 IRPs](#)
- ❖ [GSTN rolls out automated intimation feature for ITC discrepancies: Form GST DRC-01 is now active on the GST portal](#)

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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 is 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. RSA has partners from top law firms and Big 4s.

Our firm has recently been awarded with the **“Highly Recommended Law Firms, 2022”** by the Leaders Globe Magazine. RSA 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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