

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

Fortnightly update - June 2021

Issue -21

Goods and Service Tax

Customs and Others

Goods and Service Tax

Tecnovate E Solutions Pvt Ltd [2021-TIOL-301-CESTAT-CHD]

In case of claim for refund of taxes by the taxpayer, any delay beyond three months is to be payable with interest to the assessee

Dharmendra M Jani vs. Union of India [Writ Petition No. 2031 of 2018]

GST on Intermediary Services (Section 13(8)(b) of IGST Act, 2017) – unconstitutional and ultra vires. No pronouncement on this case has been made yet due to difference in opinion of HC of Bombay to the orders given by the HC of Gujarat.

M/s Bellary Nirmiti Kendra [2021-TIOL-141-AAR-GST]

Supply of service by a Government controlled Association to State Government, Local Authority or any person specified by State Government, Local Authority against consideration received from State Government, Local Authority, in the form of grants is not liable to GST only if the Government controlled Association is covered under the definition of "Government Entity"

Goods and Service Tax

M/s Udupi Nirmiti Kendra [2021-TIOL-139- AAR-GST]

Tax Invoice shall itself be considered as a “contract” and TDS shall be applied if the value of the supply exceeds the limit u/s 51 of Central Goods and Service Tax, 2017.

Notification No. 05/2021- Central Tax (Rate), dated 14 June 2021

CBIC provides the concessional rate of GST on Covid-19 relief supplies, up to and inclusive of 30 September 2021

Notification No. 04/2021- Central Tax (Rate) dated 14 June 2021

Notification was issued so as to notify GST rates of various services as recommended by GST Council in its 44th meeting held on 12 June 2021

Various Circulars issued on 17 June 2021 to clarify the GST rates

- 155/11/2021-GST:
Clarification regarding tax rate applicable on parts used solely for sprinklers or drip irrigation system. It has been stated that GST @ 12% is applicable even if the parts covered under HSN 8424 are supplied separately for sole use of sprinklers or drip irrigation system.

Goods and Service Tax

Various Circulars issued on 17 June 2021 to clarify the GST rates

- 154/10/2021-GST: It has been clarified that Services supplied by the Government in respect of guaranteeing of loans for PSUs or other undertaking is exempt from GST.
- 153/09/2021-GST: It has been clarified in the case of supply of service by way of milling of wheat into wheat flour, along with fortification, by any person to a State Government for distribution of such wheat flour under Public Distribution System is exempt only if the value of goods added is less than 25% of the composite supply, else GST @5% is applicable.
- 152/08/2021-GST: It has been clarified that works contract service provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis will attract GST @18%.
- 151/07/2021-GST: It has been clarified that GST is exempt on services like conduct of entrance examinations and input services relating to conduct of examinations, provided by a State/Central board. While GST @18% is applicable on other services (like accreditation, registration, etc.)

Goods and Service Tax

Various Circulars issued on 17 June 2021 to clarify the GST rates

- 150/06/2021: It has been clarified that GST is not exempt on deferred annuity payments paid for construction of roads.
- 149/05/2021: It has been clarified that services provided to an educational institution or anganwadi by way of serving of food (catering including mid-day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations

Customs & Others

M/s Ruchi Soya Industries Ltd [2021-TIOL-1311-HC-KAR-CUS]

If the Notification or rule is made before its publication, the condition that, it would not come into force without publication in the Gazette, has to be read as essential or mandatory condition

Shahid Ali Vs Principal Commissioner Customs (CESTAT Delhi)

Penalty could not be imposed on sole proprietor along with proprietorship firm as it amounted to double jeopardy

Fle Fast Line Express Pvt. Ltd. Vs Commissioner of Customs (CESTAT Delhi)

Authorized courier was prohibited from opening and verifying contents of imported consignments and it had not violated Regulation 12(1)(v) Customs House Agents Licensing Regulations, 2004 (CHA Regulations) and therefore, revocation of the registration and forfeiture of security deposit under Regulation 13(1) of CHA Regulations and imposition of penalty under Regulation 14 of CHA Regulations could not be sustained.

Customs & Others

Notification No. 33/2021- Customs

CBIC rescinds notification No. 30/2021-Customs, dated 01 May 2021 by which IGST on Import of Oxygen Concentrators for personal use was reduced from 28% to 12% till 30 June, 2021.

Guidelines for Power Generation, Transmission and Distribution in Special Economic Zones (SEZs)

Office Memorandum has been issued on 7 June 2021 regarding Guidelines for Power Generation, Transmission and Distribution in SEZs

Issues raised regarding EOU scheme to DG, DGFT

Various issues such as relevance of the EOU Scheme in view of introduction of the Bonded Manufacturing Warehouse Scheme under Section 65 of the Customs Act, DGFT IT platform has no provision for a EOU module for online compliances of EOUs etc., were raised during the meeting held on 19 March 2021 under the chairmanship of DG, DGFT regarding EOU Scheme

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