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DA TAX ALERT
INDIRECT TAX

AN E-TAX ALERT FROM
Darda Advisors LLP

October 2021
Issue: 17

GST COMPLIANCE CALENDER

GOODS AND SERVICE TAX

CUSTOMS AND OTHER

DA NEWS

PREFACE

Greetings from Darda Advisors!

We are pleased to present to you the seventeenth edition of DA Tax Alert, our monthly update on recent developments in the field of Indirect tax laws. This issue covers updates for the month of September 2021.

During the month of September 2021, the implementation of GST Council meeting's decisions on rate change and further there were certain changes under Goods and Service Tax, Customs and other; key judgments and rulings such as SC denied refund of input services credit under IDS, Refund under IDS is allowed in respect of the difference between the rate of tax of input and output supplies and others.

In the seventeenth edition of our DA Tax Alert- Indirect Tax, we look at the tumultuous and dynamic aspects under indirect tax laws and analyze the multiple changes in the indirect tax regime introduced during the month of September 2021.

The endeavor is to collate and share relevant amendments, updates, articles, and case laws under indirect tax laws with all the Corporate stakeholders.

We hope you will find it interesting, informative, and insightful. Please help us grow and learn by sharing your valuable feedback and comments for improvement.

We trust this edition of our monthly publication would be an interesting read.

Shubh Navaratri!

Regards

Vineet Suman Darda
Co-founder and Managing Partner

DA Updates and Articles for the month of September 2021

Indirect Tax Fortnightly Update for the month of September 2021 including the updates of 45th GST Council Meeting

https://dardaadvisors.com/indirect-tax-alert/it-updates/da-indirect-tax-fortnightly-update_september-2021/

Aatmanirbhar Bharat - PLI Scheme for Automotive and Auto Components Industry

https://dardaadvisors.com/indirect-tax-alert/da-indirect-tax-update_pli-scheme-for-automotive-and-auto-components-industry-for-advanced-automotive-products/

Aatmanirbhar Bharat - PLI Scheme for Textile Industry

https://dardaadvisors.com/indirect-tax-alert/da-indirect-tax-update_aatmanirbhar-bharat-pli-scheme-for-textile-industry/

Aatmanirbhar Bharat - Production Linked Incentive Scheme for Drones and Drone components in India

https://dardaadvisors.com/tax-articles/aatmanirbhar-bharat-production-linked-incentive-scheme-for-drones-drones-components/

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GST COMPLIANCE CALENDAR

OCTOBER 2021

10
GSTR-7
TDS DEDUCTOR

10
GSTR-8
TCS DEDUCTOR

11
GSTR 1
NORMAL TAXPAYER (MONTHLY)

13
GSTR 6
INPUT SERVICE DISTRIBUTOR

13
GSTR 1
QRMP SCHEME TAXPAYER

18
CMP 08
COMPOSITION DEALERS

20
GSTR 5A
OIDAR SERVICE PROVIDER

20
GSTR-3B
NORMAL TAXPAYER

20
GSTR 5
NON-RESIDENT TAXABLE PERSON

22/24
GSTR 3B
QRMP SCHEME TAXPAYER

- Supreme Court denied refund of input services credit under Inverted Duty Structure
- Transitional Credit to be allowed irrespective of technical glitches, evidence availability, writ petitions filed or not – Allahabad High Court
- Appeal at first appellate level cannot be dismissed on mere basis that pre deposit not paid when the complete disputed liability is already paid
- Refund under Inverted duty Structure is allowed in respect of the difference between the rate of tax of input supplies and the rate of tax on output supplies
- Mere suspicion is not sufficient to invoke the provision of the confiscation – Honorable High Court
- Anyone intentionally avoiding the mandate in law is not entitled for any protection in law – Jharkhand High Court
- Changes in GST rates post GST Council Meeting
- Restriction on filing of GSTR 1 if GSTR 3B not filed

Supreme Court denied refund of input services credit under Inverted Duty Structure

The Honorable Supreme Court uphold the validity of Rule 89(5) of CGST Rules, 2017 and denied refund of input services credit under Inverted Duty Structure (IDS). The divergence between the views of the Gujarat High Court on the one hand, and the Madras High Court on the other, forms the subject matter of this batch of appeals. We have briefly captured the key aspects and conclusions of the judgment of Honorable Supreme Court along with questions to ponder, in our update which can be read at the below link

https://dardaadvisors.com/indirect-tax-alert/da-update_supreme-court-denied-refund-of-input-services-credit-under-inverted-duty-structure/

Transitional Credit to be allowed irrespective of technical glitches, evidence availability, writ petitions filed or not – Allahabad High Court

Issue:

The writ petitions are filed seeking relief in the nature of mandamus commanding the respondent authorities to allow to submit/revise/re-revise electronically, their respective declarations on Form GST TRAN-1 and GST TRAN-2. Further, these batch of writ petitions have been instituted from the year 2018 to 2021 and corresponds to the period when similar petitions were filed and were decided in favour of other "registered persons"/taxpayers, by other High Courts, allowing them margin of time to submit/revise electronically, Form GST TRAN-1 and/or TRAN-2.

Legal Provision:

Section 140 of the CGST Act, 2017 read with Rule 117 of the CGST Rules, 2017

Observation and judgment:

The Honorable High Court observed and held that:

- No procedural law may be valid or held mandatory, if there exists physical impossibility or unreasonable difficulty/obstruction, to comply with the same.
- State was obligated to provide a robust and wholly reliable GST Portal to comply with that law. Failure or inability to provide that reliable online platform would render the strict time prescription (made under Section 140 of the CGST Act read with Rule 117 of the CGST Rules), arbitrary and, therefore, violative of Article 14 of the Constitution of India.
- CBIC recognized that there were IT related glitches on the GST Portal resulting in compliances remaining from being made by a vast section of "registered persons". Once that difficulty was recognized to have existed on a pan-India basis, over a long duration of time, the CBIC, in its own wisdom, created a mechanism to resolve the same. [Circular dated 3 April 2018 refers]
- Rule of law and good administration go hand in hand. Though unintentional on part of the State authorities, it cannot be lost sight that the obstruction thus caused was attributable only to the conduct of the State authorities since, the GST Portal is a creation of the State authorities and the responsibility to run the same seamlessly, rests exclusively on them.
- In absence of any enabling law, that burden cast on the "registered persons"/tax payers - to lead evidence of difficulty faced, is wholly arbitrary and unreasonable and therefore unenforceable. To enforce that condition is plainly not protected by any Statute or Rule.

Transitional Credit to be allowed irrespective of technical glitches, evidence availability, writ petitions filed or not – Allahabad High Court

- At the relevant time, there was no requirement in law and even today, there is no requirement either under the Act or the Rules, to obtain evidence of every attempt made to submit Form GST TRAN-1 or TRAN-2. It is only by way of the Circular instruction dated 3 April 2018 that such a requirement was introduced by the revenue authorities. It is arbitrary and, therefore, unenforceable.
- If allowed to work, it would create hostile discrimination between two similarly situated persons based solely on the chance occurrence of one having in his possession proof of attempt/s made to submit/revise/rerevise Form TRAN-1/TRAN-2, electronically, though he was not required (by law), to obtain or maintain such evidence.
- *Any law that may differentiate between two similarly situated persons based on a chance occurrence/s and allow the valuable civil rights of a citizen to be prejudiced, based solely on that, would remain exposed to the vice of arbitrariness and, therefore, be invalid.*
- *Taxing statute and equity considerations are not natural allies.*
- Bench has no hesitation in observing that a reasonable opportunity ought to have been granted to all "registered persons"/taxpayers to submit/revise/re-revise electronically their Form GST TRAN-1/TRAN-2.
- All the writ petitions allowed with the relevant instructions and timeline.
- This order is made applicable to all other "registered persons"/taxpayers within the State of U.P. (who are not before this Court), subject to the modification that such non-petitioners/" registered persons" may approach their jurisdictional authority, within a period of eight weeks from today.

DA Comments:

The judgment will give major relief as updation and filing of TRAN-1 and TRAN-2 is allowed to all taxpayers irrespective of nature of issue, availability of evidence or not

M/s Ratek Pheon Friction Technologies Pvt Ltd and others vs PC & others [2021-TIOL-1879-HC-ALL-GST]

Appeal at first appellate level cannot be dismissed on mere basis that pre deposit not paid when the complete disputed liability is already paid

Issue:

The appeal was preferred against the order of imposing the tax liability and rejection of the appeal on the ground that petitioner has failed to deposit the amount of 10% as required under section 107(6)(b) of the CGST Act as the said order is wrong on facts inasmuch as since the entire tax liability was deducted from the cash ledger, therefore, the deposit of 10% amount while filing the appeal would automatically stand satisfied. Further, the Revenue authority confirmed that the entire tax liability was deducted as no stay was operating.

Legal Provision:

Section 107 of CGST Act, 2017

Observation and judgment:

The Honorable High Court observed and held that:

- The appeal was required to be filed within three months; however, it was filed with a delay.
- If the entire amount of tax liability has been deducted and the appeal was pending along with an application for condonation of delay, then the appellate authority can always adjudicate the facts whether there was sufficient cause to condone the delay and may further extend the period of filing for a period of one month as per section 107 (4) of the CGST Act
- The tax part having been deducted on, then it would amount to satisfaction of deposit of tax of 10% to the account of the respondent. Consequently, the dismissal of the appeal only on the ground that 10% amount has not been deposited cannot be too technically viewed.
- The order is set aside and the respondents are directed to decide the appeal on merits

DA Comments:

The CBIC should come with relevant instructions so that such issue at adjudicating authority and first appellate authority can be settled without inference of Honorable Courts

M/s NSPR PLR JOINT VENTURE vs CCST [2021-TIOL-1804-HC-CHHATTISGARH-GST]

Refund under Inverted duty Structure is allowed in respect of the difference between the rate of tax of input supplies and the rate of tax on output supplies

Issue:

The assessee had submitted a claim for a refund under for Inverted Duty Structure (IDS) under section 54(3)(ii) of CGST Act, 2017 against which the adjudicating authority had issued a SCN that the assessee had mis declared and, therefore, the refund claimed is liable to be rejected and accordingly rejected the refund claim by concluding that the input and output supplies in the instant case being the same, though it may attract a different tax rate depending upon the class of buyer would not be covered under the provisions of Section 54(3)(ii) of the CGST Act, 2017 by putting reliance on paragraph 3.2 of the clarificatory circular No. 135/05/2020-GST. Further, the Joint Commissioner (Appeals) arrived at a conclusion that the adjudicating authority had rejected the claim of refund of the assessee on a ground which was not incorporated in the show cause notice that was issued to the assessee, and, therefore, there was a violation of the principles of natural justice. Having set aside the order rejecting the claim of refund, the Joint Commissioner (Appeals) held that the assessee is entitled to the benefit of refund of duty under Section 54(3)(ii) of the CGST Act of 2017 and accordingly the Revenue filed the appeal.

Legal Provision:

Section 54(3)(ii) of CGST Act, 2017 read with circular No. 135/05/2020-GST dated 31 March 2020

Observation and judgment:

The Honorable High Court observed and held that:

By virtue of paragraph 3.2 of the circular No. 135/05/2020-GST dated 31 March 2020, CBIC had made a declaration that even though there may be different tax rates at different point of time i.e. it has to be understood that even for different tax rates for the input supplies and the output supplies, the refund provided under Section 54(3)(ii) would be inapplicable in cases where the input and output supplies are the same.

Such declaration/provision/clarification by the Central Board of Indirect Tax and Customs in paragraph 3.2 of their circular No. 135/05/2020-GST dated 31 March 2020 appears to be in conflict and provides for the contrary to the provisions of Section 54(3)(ii) of the CGST Act of 2017.

Refund under Inverted duty Structure is allowed in respect of the difference between the rate of tax of input supplies and the rate of tax on output supplies

In the instant case, the input supplies and the output supplies made by the petitioner assessee are not governed either by a nil rate of tax nor it is governed by fully exempted rate of tax and, therefore, the refund provided under Section 54(3)(ii) would be applicable in respect of the difference between the rate of tax of input supplies and the rate of tax on output supplies.

In other words, the provisions for refund of the unutilized input tax credit under Section 54(3)(ii) of the CGST Act of 2017 would be applicable in case of the petitioner assessee.

Bench finds that there is a conflict between the provisions of paragraph 3.2 of the circular No. 135/05/2020-GST dated 31 March 2020 with the provisions of Section 54(3)(ii) of the CGST Act of 2017. Whenever there is a conflict between the provisions of a statutory Act and that of a notification or circular issued by an administrative authority, the provisions of the statutory Act would prevail over such conflicting provisions of a notification or a circular of an administrative authority - In view of the clear and unambiguous provisions of Section 54(3)(ii), provisions of paragraph 3.2 of the circular would have to be ignored

Consequently, both the orders i.e., dated 22 May 2020 of the Assistant Commissioner as well as the appellate order dated 29 October 2020 of the Joint Commissioner (Appeals) are set aside and the matter stands remanded back to the Assistant Commissioner, GST, Guwahati to consider the matter afresh and pass order within six weeks.

In the instant case, when the provisions of Section 54(3)(ii) of the CGST Act of 2017 are unambiguous and explicitly clear in nature, there is no requirement of bringing in any uniformity in the implementation of the Act (by exercising the powers u/s 168(1) of the Act, 2017) and the provisions of Section 54(3)(ii) would have to be applied in the manner it is provided in the Act itself. Writ petitions stand disposed of.

Refund under Inverted duty Structure is allowed in respect of the difference between the rate of tax of input supplies and the rate of tax on output supplies

DA Comments:

Recently, the rates for number of products have been increased based on GST Council recommendation and if IDS arise, the organisation can explore to claim refund under IDS under section 54(3)(ii) of CGST Act, 2017

BMG Informatics Pvt Ltd vs UOI and others [2021-TIOL-1831-HC-GUW-GST]

Mere suspicion is not sufficient to invoke the provision of the confiscation – Honorable High Court

Issue:

The petitioner has challenged the constitutional validity of Section 129 of the CGST Act as well as Rule 140 of the CGST Rules on the grounds that these provisions are arbitrary, unreasonable and violative of Article 14, 19 (1) (g) and Article 300 A of the Constitution of India and on other aspect that the petitioner was not given an opportunity of being heard before passing the orders by the respondent under Section 130 of CGST Act in Form GST MOV-11.

Legal Provision:

Section 129, 130 of CGST Act, Rule 140 of CGST Rules, 2017

Observation and judgment:

The Honorable High Court observed and held that:

The Petitioner is not able to show that the provisions of the enactments-in-question are unreasonable or the object of these enactments are to destroy a fundamental right/ constitutional right.

A statute is an edict of the Legislature. The first and primary rule of interpretation of a statute is that the intention of the Legislature must be found in the words used by the Legislature itself. Therefore, the statute should be read as it is, without distorting or twisting its language.

Before invoking the provisions of Section 130 for confiscation, there should be a very strong base to proceed for confiscation. Mere suspicion is not sufficient to invoke the provision of the confiscation. Moreover, the petitioner should be given an opportunity of being heard according to the intent of the Legislature before passing the confiscation order as mentioned in sub-section (4) of Section 130.

However, the respondents have completely failed to show that the petitioner was indeed, given an opportunity of being heard before the passing the orders of the confiscation in Form GST MOV-11.

The confiscation orders dated 23 April 2021, passed under Section 130 in Form GST MOV-11, are not found to be passed in accordance with law. Therefore, the said impugned orders dated 23 April 2021 are liable to be quashed and set aside.

Anyone intentionally avoiding the mandate in law is not entitled for any protection in law – Jharkhand High Court

Issue:

The contempt cases have been filed by the Directorate General of GST Intelligence. Inasmuch as the counsel for DG, GSTI submits that in flagrant violation of the directions issued by this Court, the writ petitioners did not appear before the Senior Intelligence Officer and have failed to submit necessary documents and tender other evidences and, therefore, the present contempt cases; that the Directorate is reluctant to proceed against the individuals because of observation of the writ Court that they shall not be arrested on the first date of their appearance before the Senior Intelligence Officer.

Legal Provision:

Sections 69 and 70 of the CGST Act, 2017

Observation and judgment:

The Honorable High Court observed and held that:

- From the paragraph 8 of the order dated 21 February 2019, it would appear that the writ Court formed an opinion on a conjoint reading of sections 69 and 70 of the Act, 2017 that the Senior Intelligence Officer is not authorised to arrest an individual to whom he had issued summons on the first date of his appearance and that it is certainly not the import of section 69 read with section 70 of 2017 Act that an individual who is avoiding appearance before the authority without any 'just' excuse can claim that even if he appears after a dozen summons, the authority cannot take coercive action against him, including his arrest.
- Bench is of the view that the Directorate has misread and misconstrued the observations in paragraph nos. 8 and 9 of the order dated 21 February 2019.
- It is well-settled in law that anyone intentionally avoiding the mandate in law is not entitled for any protection in law.
- Contempt cases stand disposed of. Directorate can proceed in the matter in accordance with law

DA Comments:

The Honorable High Court rightly held that it is well-settled in law that anyone intentionally avoiding the mandate in law is not entitled for any protection in law

DGGST vs Pankaj Agarwal and others [2021-TIOL-1892-HC-JHARKHAND-GST]

Changes in GST rates post GST Council Meeting

S.No	Description	From	To
GST Rate Changes			
1	Retro fitment kits for vehicles used by the disabled	Appl. rate	5%
2	Tamarind seeds meant for any use other than sowing	Appl. rate	5%
3	Medicine Keytruda for treatment of cancer	12%	5%
4	Biodiesel supplied to OMCs for blending with Diesel	12%	5%
5	Iron ores and concentrates, including roasted iron pyrites.	5%	18%
6	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry weight.	5%	12%
7	Copper ores and concentrates.	5%	18%
8	Nickel ores and concentrates.	5%	18%
9	Cobalt ores and concentrates	5%	18%
10	Aluminium ores and concentrates.	5%	18%
11	Lead ores and concentrates.	5%	18%
12	Zinc ores and concentrates.	5%	18%
13	Tin ores and concentrates.	5%	18%
14	Chromium ores and concentrates	5%	18%
15	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like	12%/18%	18%

Changes in GST rates post GST Council Meeting

S.No	Description	From	To
GST Rate Changes			
16	Following renewable energy devices and parts for their manufacture: – (a) Bio-gas plant; (b) Solar power-based devices; (c) Solar power generator; (d) Wind mills, Wind Operated Electricity Generator (WOEG); (e) Waste to energy plants / devices; (f) Solar lantern / solar lamp; (g) Ocean waves/tidal waves energy devices/plants; (h) Photo voltaic cells, whether or not assembled in modules or made up into panels. Explanation:- If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 [G.S.R. 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as seventy percent of the gross consideration charged for all such supplies, and the remaining thirty percent of the gross consideration charged shall be deemed as value of the said taxable service.”;	5%	12%

Changes in GST rates post GST Council Meeting

S.No	Description	From	To
GST Rate Changes			
17	Waste, Parings and Scrap, of Plastics	5%	18%
18	Plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, being originals drawn by hand; hand-written texts; photographic reproductions on sensitised paper and carbon copies of the foregoing	12%	18%
19	Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title (other than Duty Credit Scrips).	12%	18%
20	Transfers (decalcomanias).	12%	18%
21	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings.	12%	18%
22	Calendars of any kind, printed, including calendar blocks.	12%	18%
23	Other printed matter, including printed pictures and photographs; such as Trade advertising material, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices	12%	18%
24	Railway parts, locomotives & other goods in Chapter 86	12%	18%

Changes in GST rates post GST Council Meeting

S.No	Description	From	To
GST Rate Changes			
25	Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice	18%	28%
26	Temporary or Permanent transfer or permitting the use or enjoyment of Intellectual Property Rights	12%/18%	18%
27	Services by way of job work in relation to manufacture of alcoholic liquor for human consumption	5%	18%
28	Services by way of printing of all goods falling under Chapter 48 or 49 [including newspapers, books (including Braille books), journals and periodicals]	12%	18%
29	Services by way of admission to; (a) theme parks, water parks and any other place having joy rides, merry- go rounds, go carting, or (b) ballet	-	18%
30	Services by way of admission to (a) casinos or race clubs or any place having casinos or race clubs or (b) sporting events like Indian Premier League	-	28%

Notification No: 06/2021 (Central Tax Rate) dated 30 September 2021

Notification No: 08/2021 (Central Tax Rate) dated 30 September 2021

GST Exemptions provided post GST Council Meeting

In adherence to recommendations of 45th GST Council Meeting, Certain Services have been exempted

- Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities. Now Section 12AB has also been inserted
- Services by way of grant of National Permit to goods carriages on payment of fee is exempted. Earlier it was taxable at 18%.
- Skill Training for which Government bears 75% or more of the expenditure. Presently exemption applies only if Government funds 100%.

GST Exemptions provided post GST Council Meeting

- Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup
- Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India
- Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended upto September 30, 2022. Earlier it was exempted till September 30, 2021

Notification No: 07/2021 (Central Tax Rate) dated 30 September 2021

Clarification issued for use of seeds other than sowing

Vide this notification, an explanation has been inserted at S. no. 86 in the Goods exemption notification to clarify that, "Seeds, fruit and spores, of a kind used for sowing" only shall be exempted and it does not cover seeds meant for any use other than sowing

Notification No: 09/2021 (Central Tax Rate) dated 30 September 2021

Amendment in RCM notification for goods

- CBIC has further amended Notification No. 04/2017-Central Tax (Rate) dated June 28, 2017 ("the RCM notification for goods"), in order to adhere to the recommendations of 45th GST Council meeting held on September 17, 2021.
- In the RCM notification for goods, in the Table, after S. No. 3, essential oils other than those of citrus fruits- namely (i) of peppermint (ii) of other mints where the supplier of goods is an unregistered person and the recipient is a registered person

Notification No: 10/2021 (Central Tax Rate) dated 30 September 2021

Grant of relief on supply of Fortified Rice Kernel for free distribution to EWSs from GST

- In order to grant relief on supply of Fortified Rice Kernel for free distribution to economically weaker sections, CBIC has amended GST rate on such supply. In effect, Fortified Rice Kernel (Premix) supply for ICDs or similar scheme duly approved by the Central Government or any State Government shall be taxable at 5%, if condition of production of certificate to the effect that such goods have been distributed free to the economically weaker sections of the society, is satisfied

Notification No: 11/2021 (Central Tax Rate) dated 30 September 2021

Extension of concessional GST rates relief to COVID-19 essential drugs

CBIC vide this notification has further extended concessional GST rates relief to COVID-19 essential drugs from September 2021 to December 2021 in case of drugs like remedesivir, heparin, Tocilizumab, Amphotericin B.

Further reduction of GST rate to 5% on other Covid-19 treatment drugs, valid up to December 31, 2021, has been granted on drugs like Itolizumab, Posaconazole, Infliximab, Favipiravir, Casirivimab & Imdevimab, 2-Deoxy-D-Glucose, Bamlanivimab & Etesevimab

Notification No: 12/2021 (Central Tax Rate) dated 30 September 2021

Compensation cess on Carbonated Beverages

Compensation cess has been levied on 'Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice' falling under tariff heading 2202 at 12% in addition to 28% GST

Notification No: 01/2021 Compensation Cess (Rate) dated 30 September 2021

Change in GST Refund rules

- CBIC has amended the provision of Refund rules

  i. stating that the refund shall be granted in Bank Account which is linked with the same PAN as in case of GST. Also, in case of proprietorship concern, the PAN shall also be linked with Aadhar Number of the proprietor.

  ii. Also, Aadhar Authentication is mandatorily required to be carried out by all persons.

Notification No 35/2021-Central Tax, Dated: September 24, 2021

Restriction on filing of GSTR 1 if GSTR 3B not filed

CBIC has also amended the provisions of rule 59, restricting filing of GSTR-1 in case GSTR-3B for the previous month has not been filed w.e.f. 01 January 2022

Notification No 35/2021-Central Tax, Dated: September 24, 2021

Changes in Rule 10A- Bank account shall be obtained on PAN name

- Rule 10A has been amended to prescribe that the bank details which is required to be furnished by the registered person after obtaining registration shall be such which is in name of the registered person and obtained on PAN of the registered person.
- It has also been provided that in case of a proprietorship concern, the PAN shall also be linked with the Aadhar number of the proprietor

Notification No 35/2021-Central Tax, Dated: September 24, 2021

Compulsory Aadhaar authentication for certain purposes

- Compulsory Aadhaar authentication for registered person in order to be eligible for following purposes:
  - Filing of Revocation Application under Rule 23
  - Filing of Refund Application under Rule 89
  - Refund under Rule 96 on IGST paid exports
- Further, Rule 23 has been amended to incorporate mandatory Aadhaar authentication for filing revocation application

Notification No 35/2021-Central Tax, Dated: September 24, 2021

ITC-04 to be filed now half-yearly/annually

FORM ITC-04 shall be furnished once in six months by a principal whose aggregate turnover during the immediately preceding financial year exceeds 5 crore rupees and yearly in case of other taxpayers w.e.f 1 Oct 2021

Notification No 35/2021-Central Tax, Dated: September 24, 2021

Refund of tax paid under wrong head

Refund of the amount paid wrongly by the registered person, can be claimed within 2 years from the date of payment of tax under correct head

Notification No 35/2021-Central Tax, Dated: September 24, 2021

Exemption of Aadhaar authentication to registered persons

- Exemption from Aadhaar authentication under Sec 25(6B) & (6C) given to persons covered under Sec 25(6D) shall also be applicable in case of authentication of existing registered persons covered under Sec 25(6A)
- Non-citizen of India, PSUs, local authority, dept of CG/SG, statutory body, any specialised agency of the United Nations Organisation, Consulate or Embassy of foreign countries are exempted from Aadhaar authentication

Notification No 36/2021-Central Tax, Dated: September 24, 2021

Clarifications issued by CBIC on various aspects

Aspect	Issue	Clarification

Intermediary services	Scope of intermediary services under GST regime	• From the perusal of the definition of "intermediary" under IGST Act as well as under Service Tax law, it is evident that there is broadly no change in the scope of intermediary services in the GST regime vis-a-vis the Service Tax regime, except addition of supply of securities in the definition of intermediary in the GST Law.
		
		• Primary Requirements for intermediary services:
		  • Intermediary service provider to have the character of an agent, broker or any other similar person: The use of the expression "arranges or facilitates" in the definition of "intermediary" suggests a subsidiary role for the intermediary. It must arrange or facilitate some other supply, which is the main supply, and does not himself provides the main supply. Thus, the role of intermediary is only supportive.
		  • Does not include a person who supplies such goods or services or both or securities on his own account: In cases wherein the person supplies the main supply, either fully or partly, on principal to principal basis, the said supply cannot be covered under the scope of "intermediary".
		  • Sub-contracting for a service is not an intermediary service

Debit Note	Whether date of issuance of debit note/invoice will determine FY for sec 16(4)	• With effect from 01 January 2021, section 16(4) of the CGST Act, 2017 was amended vide the Finance Act, 2020, so as to delink the date of issuance of debit note from the date of issuance of the

Clarifications issued by CBIC on various aspects

Aspect	Issue	Clarification
Debit Note	Whether date of issuance of debit note/invoice will determine FY for sec 16(4)	underlying invoice for purposes of availing input tax credit. The words "invoice relating to such" were omitted from Sec 16(4). • Accordingly, it has been clarified that w.e.f. 01 January 2021, in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of the CGST Act
E-way bill	Carrying of physical invoice in case e-invoice is generated during movement of goods	CBIC has issued a clarification that Carrying physical copy of invoice is not compulsory during movement of goods in cases where suppliers have issued invoices in the manner prescribed under rule 48 (4) of the CGST Rules, 2017 (i.e., in cases of e-invoice)
Refund	Which goods are covered under the restriction imposed under section 54(3) from availment of refund of accumulated ITC	It has also been clarified that only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under the restriction imposed under section 54(3) from availment of refund of accumulated ITC. Goods, which are not subject to any export duty and in respect of which either NIL rate is specified in Second Schedule to the Customs Tariff Act, 1975 or which are fully exempted from payment of export duty by virtue of any customs notification or which are not covered under Second Schedule to the Customs Tariff Act, 1975, would not be covered
Refund of tax	Refund of wrong payment of tax	CBIC vide issue of this circular has clarified/brought into force sub-rule (1A) of section 89 of CGST Rules, 2017 – which states that Any person, claiming refund under section 77 of the Act of any tax paid

Clarifications issued by CBIC on various aspects

Aspect	Issue	Clarification
Refund of tax	Refund of wrong payment of tax	by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of two years from the date of payment of the tax on the inter-State supply, file an application electronically in FORM GST RFD-01
Distinct persons	Whether supply of services by a subsidiary of foreign company is considered as export of services	A company incorporated in India and a body corporate incorporated by or under the laws of a country outside India, which is also referred to as foreign company under Companies Act, are separate persons under CGST Act, and thus are separate legal entities. Accordingly, these two separate persons would not be considered as "merely establishments of a distinct person in accordance with Explanation 1 in section 8". Therefore, supply of services by a subsidiary/ sister concern/ group concern, etc. of a foreign company, which is incorporated in India under the Companies Act, 2013 (and thus qualifies as a 'company' in India as per Companies Act), to the establishments of the said foreign company located outside India (incorporated outside India), would not be barred by the condition (v) of the sub-section (6) of the section 2 of the IGST Act 2017 for being considered as export of services, as it would not be treated as supply between merely establishments of distinct persons under Explanation 1 of section 8 of IGST Act 2017

Circular No 159/15/2021-GST, Dated: September 20 2021

Circular No 160/16/2021-GST, Dated: September 20 2021

Circular No 161/17/2021-GST, Dated: September 20 2021

Circular No 162/18/2021-GST, Dated: September 25 2021

Clarifications regarding GST rates & classification of supplies

Supply item/issue	Clarification
Requirement of Original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods imported at concessional GST rate for petroleum operations	GST Council deliberated upon this issue and a decision was taken that the original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) is sufficient and there is **no need for taking a certificate every time** on inter-state movement of goods within the same company / stock transfer so long as the goods are the same as those imported by the company at concessional rate The importer is required to maintain records and should be able to establish nexus between the stock transfer of goods and the description in the essentiality certificate
External batteries sold along with UPS Systems/ Inverter	References have been received seeking clarification about whether, 'UPS Systems/inverter sold along with batteries as integral part' are classified under heading 8507 at 28% GST or under heading 8504 at 18% GST. The matter has been examined and it is observed that even if the UPS/inverter and external battery are sold on the same invoice, their price are separately known, and they are two separately identifiable items. Thus, this constitutes supply of two distinctly identifiable items on one invoice. Therefore, it is clarified that in such supplies, UPS/ inverter would attract GST rate of 18% under heading 8504, while external batteries would attract the GST rate as applicable to it under heading 8507 (**28% for all batteries except lithium-ion battery)**
Solar PV Power Projects	Representations have been received seeking clarification regarding the GST rates applicable on Solar PV Power Projects on or before 1st January, 2019. The issue seems to have arisen in the context of Notification No.24/2018- Central Tax (Rate), dated 31st December, 2018. An explanation was inserted vide the said notification that GST on specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, with effect from 1 January, 2019. The request has been that same ratio (for deemed value) may be applied in respect of supplies made before 1 January 2019

Clarifications regarding GST rates & classification of supplies

Supply item/issue	Clarification
Solar PV Power Projects	As per this explanation, if the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28 June, 2017, the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value of the said taxable service. This mechanism for valuation of supply was recommended by the Council considering that it adequately represented the value of goods and services involved in the supply The GST Council has now decided to clarify that GST on such specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, for the period of **1 July, 2017 to 31 December, 2018, in the same manner as has been prescribed for the period on or after 1 January, 2019**, as per the explanation in the Notification No.24/2018 dated 31 December, 2018. However, it is specified that, no refunds will be granted if GST already paid is more than the amount determined using this mechanism
Fibre Drums, whether corrugated or non-corrugated	Disputes have arisen as regards applicable GST on fibre drums, which is partially corrugated (as to whether it is be treated as corrugated or otherwise). This dispute gets resolved on account of the recommendation of the GST Council, in its 45th meeting, to prescribe a uniform GST rate of **18% on all goods classifiable under heading 4819** For the period prior to 1 October 2021, the Council upon taking note of the fact that there was an ambiguity regarding the GST rates applicable on a Fibre Drums, because of its peculiar construction (partially corrugated), has decided that supplies of such Fibre Drums even if made at 12% GST (during the period from 1 July 2017 to 30 September 2021), would be treated as fully GST-paid. Therefore, no action for recovery of differential tax (over and above 12% already paid) would arise. However, as this decision has only been taken to regularize the past practice in view of certain ambiguity, as detailed in para 14.1, no refund of GST already paid shall be allowed if already paid at 18%

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Pharmaceutical goods falling under heading 3006	Entry at S. No. 65 of Schedule II of notification No. 1/2017-Central Tax (Rate) dated 28 June 2017, reads as "Pharmaceutical goods specified in Note 4 to this Chapter [i.e. Sterile surgical catgut, similar sterile suture materials (including sterile absorbable surgical or dental yarns) and sterile tissue adhesives for surgical wound closure; sterile laminaria and sterile laminaria tents; sterile absorbable surgical or dental haemostatics; sterile surgical or dental adhesion barriers, whether or not absorbable; Waste pharmaceuticals] [other than contraceptives] S. No. 65 of Second Schedule of Notification 1/2017- Central Tax (Rate) dated 28 June 2017 refers to the note 4 to Chapter 30 of the First schedule of the Customs Tariff Act, 1975 while mentioning an illustrative list. Certain representations were received seeking clarification on the applicable rate of goods falling under heading 3006 that are not specifically mentioned in the Entry at S. No. 65 of Schedule II of notification No. 1/2017-Central Tax (Rate) dated 28 June 2017 Thus, it is clarified that said entry 65 covers all goods as specified in Chapter Note 4 and Chapter Note 4 in turn covers all goods covered under Heading 3006. Therefore, said entry 65 covers all goods falling under heading 3006, irrespective of the fact that such goods are specifically mentioned in said entry. Therefore, all **goods falling under heading 3006 attract GST rate of 12%** under entry 65 in the 12% rate schedule
Laboratory reagents and other goods falling under heading 3822:	Entry at S. No. 80 of Schedule II of notification No.1/2017-Integrated Tax (Rate) dated 28 June 2017 prescribes GST rate of 12% for "All diagnostic kits and reagents". Heading 3822 covers "Diagnostic or Laboratory Reagents, Certified Reference Materials etc The issue was placed before the GST Council and on its recommendations, it is clarified that the intention of this entry was to prescribe GST rate of 12% to all goods, whether diagnostic or laboratory regents, falling under heading 3822. It is accordingly clarified that **concessional GST rate of 12% is applicable on all goods falling under heading 3822**

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Fresh vs dried fruits and nuts	At present, fresh nuts (almond, walnut, hazelnut, pistachio etc) falling under heading 0801 and 0802 are exempt from GST, while dried nuts under these headings attract GST at the rate of 5%/ 12%. The general Explanatory Notes to chapter 08 mentions that this chapter covers fruit, nuts intended for human consumption. They may be fresh (including chilled), frozen (whether or not previously cooked by steaming or boiling in water or containing added sweetening matter) or dried (including dehydrated, evaporated or freeze-dried). Thus, HS chapter differentiates between fresh, frozen and dried fruits and nuts. Fresh fruit and nuts would thus cover fruit and nuts which are meant to be supplied in the state as plucked. They continue to be fresh even if chilled. However, fruit and nuts do not qualify as fresh, once frozen (cooked or otherwise), or intentionally dried to dehydrate including through sun drying, evaporation or freezing, for supply as dried fruits or nuts. It may be noted that in terms of note 3 to Chapter 8, dried fruits, even if partially re-hydrated, or subject to preservation say by moderate heat treatment, retain the character of dried fruits or dried nuts Therefore, **exemption from GST to fresh fruits and nuts covers only such products which are not frozen or dried in any manner as stated above or otherwise processed**
Tamarind seeds	As per general Explanatory Notes to HS 2017, heading 1209, covering seeds, fruit and spores, of a kind used for sowing, covers tamarind seeds. As per Chapter note 3 to Chapter 12, for the purposes of heading 1209, beet seeds, grass and other herbage seeds, seeds of ornamental flowers, vegetable seeds, seeds of forest trees, seeds of fruit trees, seeds of vetches (other than those of the species Vicia faba) or of lupines are to be regarded as "seeds of a kind used for sowing". Thus, tamarind seeds, even if used for any purpose other than sowing, **is liable to be classified under heading 1209 and hitherto attracted nil GST rate, irrespective of its use** (for the period 01 July 2017 to 30 September 2021)

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Tamarind seeds	The GST council in its 45th meeting recommended GST rate on seeds, falling under heading 1209, meant for any use other than sowing to 5% (S. No. 71A of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017) and Nil rate would apply only to seeds for this heading if used for sowing purposes (S. No. 86 of schedule of notification No. 2/2017- Central Tax (Rate) dated 28.06.2017). Hence, with effect from 1.10.2021, tamarind and other seeds falling under heading 1209, (i.e. including tamarind seeds), **if not supplied as seed for sowing, would attract GST at the rate of 5%**
Copra	As per Explanatory Notes to HS (2017 edition) to heading 1203, Copra is dried flesh of coconut generally used for the extraction of coconut oil. Coconut kernel turns into copra, when it separates from the shell skin, while still being inside the shell. The whole unbroken kernel could be taken out of shell only when it converts to copra. Once taken out of shell, copra could be supplied either whole or broken As per the Explanatory Notes to HS, the heading 0801 covers coconut fresh or dried but excludes Copra. Thus, exemption available to Coconut, fresh or dried, whether or not shelled or peeled, vide entry at S. No. 47 of notification No. 2/2017- Central Tax (Rate) dated 28.6.2017, is not available to Copra. Accordingly, **Copra, classified under heading 1203, attracts GST rate of 5%** vide entry at S. No. 66 of Schedule I of 1/2017-Central Taxes (Rate) dated 28.06.2017, irrespective of use
Pure henna powder and leaves	As per the Explanatory Notes to HS 2017, heading 1404 is vegetable products not elsewhere specified or included. Further, as per the said Explanatory Notes, heading 1404 includes raw vegetable materials of a kind used primarily in dyeing or tanning. Such products are used primarily in dyeing or tanning either directly or in preparation of dyeing or tanning extracts. The material may be untreated, cleaned, dried, ground or powdered (whether or not compressed). Accordingly, it is clarified that pure henna powder and henna leaves, having no additives, is classifiable under tariff item 1404 90 90 and shall attract GST rate of 5% (S. No. 78 of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28 June 2017)

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Pure henna powder and leaves	Further, the GST rate on mehndi paste in cones falling under heading 1404 and 3305 shall be 5% (S. No. 78A of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28 June 2017
Scented sweet supari & flavored and coated illaichi	Scented sweet supari falls under tariff item 2106 90 30 as "Betel nut product" known as "Supari" and attracts GST rate of 18% vide entry at S. No. 23 of Schedule III of notification No. 1/2017-Central Tax (Rate) dated 28.6.2017. Flavored and coated illaichi generally consists of Cardamom Seeds, Aromatic Spices, Silver Leaf, Saffron, Artificial Sweeteners. It is distinct from illaichi or cardamom (which falls under heading 0908). It is clarified that flavored and coated illaichi is a value added product and falls under sub-heading 2106. It accordingly attract GST at the rate of 18% (S. No. 23 of schedule III of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017).
Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble [DDGS] and other such residues	As per the Explanatory Notes to the HSN, heading 2303 includes residues of starch manufacture and similar residues (from maize (corn), rice, potatoes, etc.); beet-pulp; bagasse; other waste products of sugar manufacture; brewing or distilling dregs and waste, which comprises in particular - dregs of cereals obtained in the manufacture of beer and consisting of exhausted grains remaining after the wort has been drawn off; malts sprouts separated from the malted grain during the kilning process; spent hops; Dregs resulting from the distillation of spirits from grain, seeds, potatoes, etc; beet pulp wash (residues from the distillation of beet molasses).All these products remain classified in the heading whether presented in wet or dry. Thus, Brewers' spent grain (BSG), Dried distillers' grains with soluble [DDGS] and other such residues are classifiable under heading 2303, attracting GST at the rate of 5% (S. No. 104 of schedule I of notification No. 1/2017-Central Tax (Rate) dated 28.06.2017).

Circular No 163/15/2021-GST, Dated: 6 October 2021

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Services by cloud kitchens/central kitchens	The explanatory notes to the classification of service state that „restaurant service" includes services provided by Restaurants, Cafes and similar eating facilities including takeaway services, room services and door delivery of food. Therefore, it is clear that takeaway services and door delivery services for consumption of food are also considered as restaurant service and, accordingly, service by an entity, by way of cooking and supply of food, even if it is exclusively by way of takeaway or door delivery or through or from any restaurant would be covered by restaurant service. This would thus cover services provided by cloud kitchens/central kitchens Accordingly, as recommended by the Council, it is clarified that service provided by way of cooking and supply of food, by cloud kitchens/central kitchens are covered under „restaurant service", as defined in notification No. 11/2017- Central Tax (Rate) and attract **5% GST [without ITC]**
Ice cream by ice cream parlors	Ice cream parlors sell already manufactured ice- cream and they do not have a character of a restaurant. Ice-cream parlors do not engage in any form of cooking at any stage, whereas, restaurant service involves the aspect of cooking/preparing during the course of providing service. Thus, supply of ice-cream parlor stands on a different footing than restaurant service. Their activity entails supply of ice cream as goods (a manufactured item) and not as a service, even if certain ingredients of service are present. Accordingly, as recommended by the Council, it is clarified that where ice cream parlors sell already manufactured ice- cream and do not cook/prepare ice-cream for consumption like a restaurant, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service. Accordingly, it is clarified that ice cream sold by a parlor or any similar outlet would attract GST at the rate of **18%**
Renting of vehicles to State Transport Undertakings and Local Authorities	This issue has arisen in the wake of ruling issued by an Authority for Advance Ruling that the entry at Sl. No. 22 of notification No. 12/2017-Central Tax (Rate) exempts services by way of giving on hire vehicles to a State Transport Undertaking or a local authority and not renting of vehicles to them. The ruling referred to certain case laws pertaining to erstwhile positive list based service tax regime.

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Renting of vehicles to State Transport Undertakings and Local Authorities	It is relevant to note in this context that Schedule II of CGST Act, 2017 declares supply of any goods without transfer of title as supply of service even if right to use is transferred. Transfer of right to use has been declared as a supply of service [Schedule II, Entry 5(f) refers] The issue was placed before the 45th GST Council Meeting held on 17.09.2021. As recommended by the GST Council, it is clarified that the expression "giving on hire" in Sl. No. 22 of the Notification No. 12/2017-CT (Rate) includes renting of vehicles. Accordingly, services where the said vehicles are rented or given on hire to State Transport Undertakings or Local Authorities are **eligible for the said exemption** irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles
Coaching services supplied by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities	Representations have been received seeking clarification regarding applicability of GST on free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where entire expenditure is provided by Government to coaching institutions by way of grant in aid In this regard, it is to mention that entry 72 of notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017, exempts services provided to the Central Government, State Government, Union territory administration under any training Programme for which total expenditure is borne by the Central Government, State Government, Union territory administration. Accordingly, as recommended by the GST Council, it is clarified that services provided by any institutions/ NGOs under the central scheme of "Scholarships for students with Disabilities" where total expenditure is borne by the Government is covered under entry 72 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 and hence **exempt from GST**

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Admission to indoor amusement parks having rides etc.	Entry 34(iii) notification No.11/2017-CTR, prior to 01.10.2021, prescribed 18% GST on the services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet. On the other hand, Entry No. 34(iiia) in Notification No. 11/2017- CT(R) dated 28.06.2017 prescribed GST rate of 28% on the services by way of admission to entertainment events or access to amusement facilities including casinos, race club, any sporting event such as Indian Premier League and the like. On the recommendations of the Council, it is clarified that 28% rate [entry 34 (iiia)] applies on admission to a place having casino or race club [even if it provides certain other activities] or admission to a sporting event like IPL. On the other hand, Entry 34 (iii), having a rate of 18%, covers all other cases of admission to amusement parks, or theme park etc or any place having joy rides, merry- go rounds, go- carting etc, whether indoor or outdoor, so long as no access is provided to a casino or race club. This clarification will also apply to Entries 34(iii) and 34(iiia) as they existed prior to their amendment w.e.f 01.10.2021
Overloading charges at toll plaza	Entry 23 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, exempts Service by way of access to a road or a bridge on payment of toll charges. Vide notification dated 25th Sep. 2018, issued by Ministry of Road Transport And Highways, overloaded vehicles were allowed to ply on the national highways after payment of fees with multiplying factor of 2/4/6/8/10 times the base rate of toll. Therefore, it essence overloading fees are effectively higher toll charges. It is clarified that overloading charges at toll plazas would get the same treatment as given to toll charges.
Satellite launch services provided by NSIL	It has been clarified vide Circular No. 2/1/2017-IGST dated 27.09.2017 that Place of Supply (PoS) of satellite launch services supplied by ANTRIX Corporation Ltd to customers located outside India is outside India and such supply which meets the requirements of section 2(6) of IGST Act, constitutes export of service and shall be zero rated. If the service recipient is located in India, the satellite launch services would be taxable. the said circular No. 2/1/2017-IGST dated 27 September 2017, is applicable to them

Clarifications regarding GST rates & classification of supplies

Supply item	Clarification
Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption	As recommended by GST Council, it is clarified that the expression "food and food products" in the said entry excludes alcoholic beverages for human consumption. As such, in common parlance also alcoholic liquor is not considered as food. Accordingly, services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry. GST Council recommended that such job work would attract **GST at the rate of 18%**
Services by way of grant of mineral exploration and mining rights	As regards classification of service, it was recommended by the Council that service by way of grant of mineral exploration and mining rights most appropriately fall under service code 997337, i.e. "licensing services for the right to use minerals including its exploration and evaluation". As regards the applicable rate for the period from 1.7.2017 to 31.12.2018, the council took note of the following facts, namely,- (i) GST Council in its 4th meeting held on 3rd & 4th November, 2016 had decided that supply of services shall be generally taxed at the rate of 18%. (ii) (ii) More importantly, the GST Council in its 14th meeting held on 18th & 19th May, 2019, while recommending the rate schedules of services (5%, 12%, 18% and 28%), specifically recommended that all the residuary services would attract GST at the rate of 18%. (iii) (iii) The rate applicable on the service of grant of mineral exploration license and mining lease under Service Tax was also the standard rate of 15.5%. Services under this category have been standard rated in GST at 18% (iv) Therefore, the intention has always been to tax this activity / supply at standard rate of 18% Accordingly, as recommended by the Council, it is clarified that even if the rate schedule did not specifically mention the service by way of grant of mining rights, during the period **1 July 2017 to 31 December 2018**, it was **taxable at 18%** in view of principle laid down in the 14th meeting of the Council for residuary GST rate. Post, 1st January, 2019 no dispute remains as stated above

Circular No 164/15/2021-GST, Dated: 6 October 2021

GSTN Portal Updates

Resumption of Blocking of E-Way Bill (EWB) generation facility

1. The blocking of E way bill generation facility had been temporarily suspended by Government on account of Covid pandemic. In terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, the E Way Bill generation facility of a person is liable to be restricted, in case the person fails to file their return in Form GSTR-3B / statement in CMP-08, for consecutive two tax periods or more, whether Monthly or Quarterly.

2. The blocking of EWB generation facility has now resumed on the EWB portal for all the taxpayers. Going forward, from the tax period August, 2021 onwards, the System will periodically check the status of returns filed in Form GSTR-3B or the statements filed in Form GST CMP-08 as per the regular procedure followed before pandemic, and block the generation of EWBs as per rule.

3. To avail EWB generation facility on EWB Portal on continuous basis, you are, therefore, advised to file your pending GSTR 3B returns/ CMP-08 Statement on regular basis.

4. For details of blocking and unblocking EWB, Click on below link:

- https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQs_unblockingewaybill.htm

Note: Please ignore this update if you are not registered on the EWB portal.

On demand fetching of Bill of Entry details from ICEGATE Portal

1. To help importers of goods, and recipients of supplies from SEZ, search Bill of Entry details, which did not auto-populate in GSTR-2A, a self-service functionality has been made available on the GST Portal that can be used to search such records in GST System, and fetch the missing records from ICEGATE.
2. Please note that it usually takes 2 days (after reference date) for BE details to get updated on GST Portal from ICEGATE. This functionality should, therefore, be used if data is not available after this period.
   Note: The reference date would be either Out of charge date, Duty payment date, or amendment date - whichever is later.
3. Taxpayers can follow the below steps to fetch the requisite details:
   a. Login to GST Portal
   b. Navigate to **Services > User Services > Search BoE**
   c. Enter the Port Code, Bill of Entry Number, Bill of Entry Date and Reference Date and click the **SEARCH** button.
      Note: The reference date would be either Out of charge date, Duty payment date, or amendment date - whichever is later.
   d. If the BoE details do not appear in the Search results, click on the **QUERY ICEGATE** button, at the bottom of the screen, to trigger a query to ICEGATE.
   e. History of fetched BoE details from ICEGATE along with status of query are displayed after 30 minutes from the time of triggering the query.
4. For records of type **IMPG** (Import of Goods), details of: Period for Form GSTR-2A (system generated Statement of Inward Supplies); Reference Date; Bill of Entry Details like Port Code, BoE Number, BoE Date & Taxable Value; and Amount of Tax would be displayed.
   For records of type **IMPGSEZ** (Import of Goods from SEZ), details of: Period for Form GSTR-2A; Reference Date; GSTIN of Supplier; Trade Name of Supplier; Bill of Entry Details like Port Code, BoE Number, BoE Date & Taxable Value; and Amount of Tax would be displayed.
5. Taxpayers are advised to confirm correct details either from BE documents, or using ICEGATE portal
6. For more details, click on: https://tutorial.gst.gov.in/userguide/taxpayersdashboard/index.htm#t=Manual_boe.htm
7. In case of any problem, please create a ticket at the GST Helpdesk or GST Self-service portal by including following details:
   a. complete details of BE records
      i. GSTIN
      ii. BE Number
      iii. BE Date
      iv. Port Code
      v. Reference Date
   b. Screenshot of ICEGATE portal with BE record
   c. Any error that they may have encountered while using the "Search BoE" functionality on GST Portal

GSTN Portal Updates

Advisory for Taxpayers regarding Generation of EWB where the principal supply is Supply of services

1. Representations have been received from various trade bodies stating that they are not able to generate EWB bill for movement of those goods where their principle supply is classifiable as a service, since there is no provision for generating E-way Bill by entering SAC (Service Accounting Code-Chapter 99) alone on the E- way bill portal.

2. To overcome this issue, the taxpayers are advised as below:

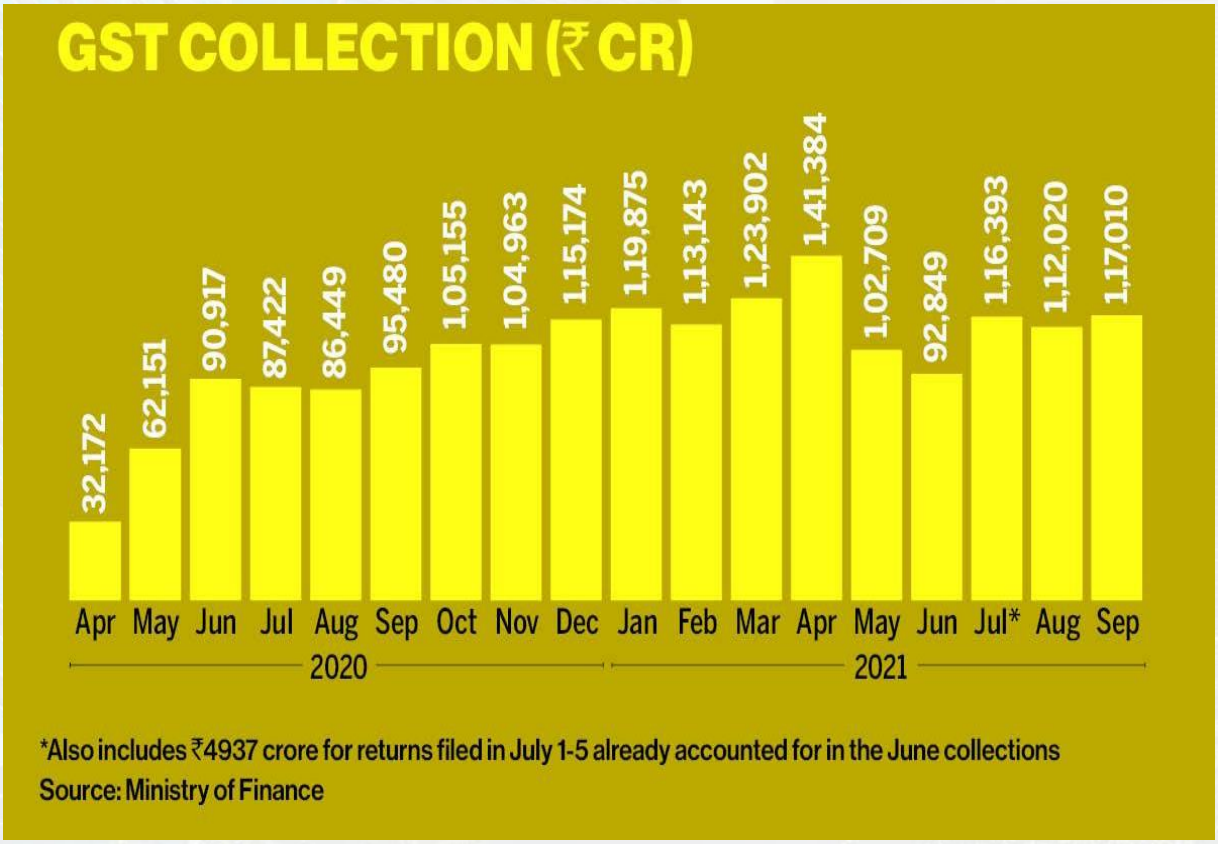
a) Rule 138 of CGST Rules, 2017, inter alia, states "Information to be furnished prior to commencement of movement of goods and generation of e-way bill.-(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees...." Thus, E way bill is required to be generated for the movement of Goods.

b) Therefore, in cases where the principal supply is purely a supply of service and involving no movement of goods, the e-way bill is not required to be generated.

c) However, in cases where along with the principal supply of service, movement of some goods is also involved, e-way bill may be generated. Such situations may arise in cases of supply of services like printing services, works contract services, catering services, pandal or shamiana services, etc. In such cases, e-way bill may be generated by entering the details of HSN code of the goods, along with SAC (Service Accounting Code) of services involved.

GST Revenue Collection in September 2021- Rs. 1,17,010 Cr.

TRENDS IN GST COLLECTION IN RS. CRORE



- SEZ Act has an overriding effect over the provisions of any other law – Service Tax Refund allowed
- Amendment of Bill of Entry is allowed
- Without a "cause of action", the 'right of action' is meaningless – Writ petition challenging SCN not sustainable
- Extended Period of Limitation is not applicable when the assessee has taken action in bonafide belief
- Services provided by University to students, staff, faculty and any allied services not liable to Service tax – Honorable High Court
- Exemption of Covid-19 Vaccines from BCD till 31 December 2021
- Procedure to issue duty credit under RoDTEP/RoSCTL notified
- Foreign Trade Policy 2015-2020 & Hand Book of Procedures, 2015-20 is made extended up to 31 March 2022
- Officers to report on disposal of the unclaimed/uncleared/seized/confiscated goods
- Extension and amendments to Sea Cargo Manifest and Transhipment Regulations, 2018
- Updation of IEC till 5 October 2021

SEZ Act has an overriding effect over the provisions of any other law – Service Tax Refund allowed

Issue:

The SEZ unit filed refund claim under service tax law which is partially rejected by adjudicating authority on the ground that the said services are not approved by the Development Commissioner, VSEZ as per the provisions of notification no. 12/2013-ST dated 01 July 2013; which is further rejected by Commissioner (Appeal).

Legal Provision:

Notification no. 12/2013-ST dated 01.07.2013 and Section 26(1)(e) and section 51 of the Special Economic Zones Act, 2005 (SEZ Act) read with Rule 31 of Special Economic Rules, 2006 (SEZ Rules)

Observation and judgment:

The CESTAT observed and held that:

- This issue was examined by the Telangana and Andhra Pradesh High Court in GMR Aerospace Engineering Limited and another v. Union of India and Others [2019 (8) TMI 748 = 2019 (31) G.S.T.R. 596 (A.P.)].
- This Tribunal in DLF Assets Pvt. Ltd., placed reliance upon the aforesaid decision of the Andhra Pradesh High Court in GMR Aerospace Engineering Ltd., and observed that the conditions set out in the notification dated March 3, 2009 were not required to be examined in view of the provisions of the SEZ Act.
- Learned authorized representative of the Department has, however, placed reliance upon sub-rule (5) of Rule 47 of the SEZ Rules that was inserted w.e.f. August 5, 2016 to contend that the aforesaid two notifications issued under Finance Act would be applicable. This submission of Learned authorized representative of the Department cannot be accepted. It is by a notification dated August 5, 2016 that in Rule 47, sub-rule (5) was inserted after Rule (4).
- Sub-rule (5) of rule 47 has no retrospective application and, therefore, it is only w.e.f. August 5, 2016 that the notifications issued under Section 93 of the Finance Act may be applicable to units situated in SEZ carrying out authorized operations under the SEZ Act. In any case, the conditions imposed by the notifications issued under the provisions of the Finance Act are merely directory in nature.
- This issue has been considered time and again. In Mast Global Business Services India Pvt. Ltd. v. Commissioner of Central Tax [2018-TIOL-3115-CESTAT-BANG], the Tribunal held that the SEZ Act had an overriding effect, in view of the provisions of Section 51 of the SEZ Act, over all other laws and, therefore, the ground for rejecting the refund claims

SEZ Act has an overriding effect over the provisions of any other law – Service Tax Refund allowed

was not tenable in law and even otherwise, approval from UAC was only procedural in nature and not a mandatory condition.

- In view of the entire above discussion, the finding of Commissioner (Appeals) that since ocean freight service has been included in the list of services with SEZ services authorities only on 27.11.2017 i.e. subsequent to their refund application, the retrospective application can not be allowed is not sustainable. Learned Commissioner is held to have failed to appreciate the judicial precedents. Order under challenge accordingly is hereby set aside. Consequent thereto both the appeals are ordered to be allowed.

DA Comments:

The Honorable CESTAT rightly held that SEZ Act has overriding provisions over other Act and thus refund cannot be denied due to procedural aspects. Such principle holds good under GST law too

M/s Divi's Laboratories Ltd., vs CCT [CESTAT – Order no. - ST/30584 & 30585/ 2019]

Amendment of Bill of Entry is allowed

Issue:

The present petitions were filed seeking that direction be issued to the Revenue to allow amendment of Bill of Entry. The company claimed that the right to seek such amendment in BoE flows from Section 149 of the Customs Act 1962.

Legal Provision:

Section 149 of the Customs Act 1962

Observation and judgment:

The Honorable High Court observed and held that:

- As per the provisions of Section 149 of Customs Act 1962, the amendment to Bill of Entry is clearly permissible even where the goods have already been cleared.

- Although the opening words of section 149 say that, "save as otherwise provided in sections 30 and 41", it has not been demonstrated before us that such other provisions in the Act do stand in the way of the respective petitioners' prayers for amendment; also that, the amendments sought for by them cannot be allowed because such amendment is requested on the basis of documentary evidence which were not in existence at the time of clearance of the goods. *Given such situation, coupled with the fact that the petitioners had prayed for amendment of documents only, which is squarely covered under section 149 of the Act, any deficiency in the system cannot be used by the respondents as a shield so as to deny relief to a party; if indeed the system does not permit, the deficiency has to be covered up manually until improvements are effected in the system for such amendment. We also record not having been shown from the reply-affidavit that even a manual amendment is not possible.*

- The second and third provisos have been incorporated in section 149 by way of amendment; however, such amendments do not have the effect of stultifying the prayers made by the respective petitioners. The decision in Micromax Informatics Ltd., with due respect, proceeds to read the only proviso to section 149 (as it then stood) in a constricted manner as if the words "except on the basis of documentary evidence which was in existence at the time the goods were cleared, deposited or exported, as the case may be" are not there in such proviso. However, it could be so that the interpretation placed by the Court on the first proviso is correct for the purpose of determination of the issue arising for decision therein, i.e., rejection of the petitioner's refund claims for the

Amendment of Bill of Entry is allowed

period between July 2014 and June 2015. We, therefore, hold that such interpretation of section 149 as made by the coordinate Bench turns on the facts and circumstances of the case before it.

- In our considered opinion, the decision in Dimension Data India Private Ltd. correctly interprets section 149 and we share the view expressed therein that amendment to the Bill of Entry is clearly permissible even in a situation where the goods are cleared.
- Revenue officers concerned directed to consider the petitioners' applications for amendment of Bill of Entry

DA Comments:

It is a settled principle as per Customs law and various legal precedents that the amendment of BoE is allowed. However, in most of the cases, the jurisdictional or appraiser officer does not allow the amendment of BoE

Sinochem India Company Pvt Ltd Vs UOI and Others [2021-TIOL-1859-HC-MUM-CUS]

Without a “cause of action”, the 'right of action' is meaningless – Writ petition challenging SCN not sustainable

Issue:

The petitioner challenges the SCN issued under the Customs Act, 1962 that the Directorate of Revenue Intelligence (DRI) has no authority to investigate as to whether there has been misuse of Export Incentive Scheme. Reliance is placed on the apex court decision in Canon India - 2021-TIOL-123-SC-CUS-LB.

Legal Provision:

Canon India - 2021-TIOL-123-SC-CUS-LB

Observation and judgment:

The Honorable High Court observed and held that:

- If the High Court is satisfied that the show-cause notice is totally non est in the eyes of law for absolute want of jurisdiction of the authority to even investigate into facts, in the judicious exercise of its discretion, the court may entertain the petition and pass appropriate orders.
- However, law is also well settled that writ petitions challenging show-cause notices ought not to be entertained for the mere asking and as a matter of routine.
- There is no explanation in the writ petition as to what triggered it, in the first place, and what made the petitioner apprehend that adverse action is in the offing. That after issuance of the impugned show-cause notice, the respondents have not acted in any manner to infringe the rights of the petitioner [it has been 7 years], is an important circumstance that needs to be borne in mind.
- Also, there being no real threat of infringement of any of its rights, the petitioner does not have the cause of action even for moving this Court at this stage. Without a “cause of action”, the ’right of action’ is meaningless. This is not, in the opinion of the Bench, a fit case to even examine as to whether the show-cause notice is non est in the eyes of law.
- Interest of justice would be sufficiently served if the petitioner responds to the notice and urges the point that the authority issuing the show-cause notice lacks the jurisdiction to do so based on the authority of Canon India (supra) - Authority concerned may proceed to pass an appropriate order on the basis of his appreciation of the law laid down in Canon India (supra). Writ petition disposed of.

Without a “cause of action”, the 'right of action' is meaningless – Writ petition challenging SCN not sustainable

DA Comments:

On such issue, the judgments are in favour or disfavour too. Being DRI is not a proper officer to issue SCN as held and settled by the Honorable Supreme Court of India, the question of validity and legality of such SCN does not arise.

Om Drishian International Ltd vs AD, DRI and ANR [2021-TIOL-1905-HC-MUM-CUS]

Extended Period of Limitation is not applicable when the assessee has taken action in bonafide belief

Issue:

The appellant is registered under various category of services and during Audit, the Department noticed that the appellant had received services of manpower recruitment or supply agency and had paid Service Tax under manpower recruitment or supply agency service on 75% of gross service value under reverse charge mechanism as per the provisions of notification No. 30/2012-S.T. It was observed that the appellant was otherwise liable to pay Service Tax on 100% of gross service value in terms of aforesaid Notification being amended vide notification No. 07/2015-S.T. w.e.f. 01 April 2015.

Legal Provision:

Chapter V of Finance Act, 1994

Observation and judgment:

The CESTAT observed and held that:

- Non-payment by the appellant for said period is merely due to his bonafide belief of his liability to the extent of paying service tax at 75% of the service value.
- Once there is no apparent mala fide on part of appellant, fastening the allegations as that of concealment, fraud and suppression are held to be highly unjustified. Otherwise also, there is no denial on part of Department that the balance service tax on 25% value of the service has already been paid by service provider. The Department, thus, has received 100% tax amount on the impugned transaction - Accordingly, the findings are liable to set aside. Above all, the Department was not entitled to invoke the extended period of limitation for no willful suppression on part of appellant that too with intent to not to pay duty.
- The SCN of the year 2018 alleging recovery for period 2015-16 is definitely beyond the normal period of one year, same is therefore held being barred by time. The demand for the normal period is also not sustainab

DA Comments:

The relevance of bonafide belief is rightly interpreted to set aside the extended period of limitation by Honorable CESTAT

M/s Mahatma Gandhi University Of Medical Sciences And Technology vs CCECGST [2021-TIOL-609-CESTAT-DEL]

Services provided by University to students, staff, faculty and any allied services not liable to Service tax – Honorable High Court

Issue:

The issue involved whether services of providing affiliation to its affiliated institutions by the petitioner university can be treated as a taxable service within the meaning of service tax as provided under Service Tax law till June 2017 (From 01 April 2013 till 30 June 2017) or exemption can be sought for the services of affiliation and related services rendered by the University from the purview of service tax net, by invoking the negative list clause provided under Section 66-D of Service Tax law and also the subsequent mega exemption notification and also the consequential notification No.9/2016-ST, during the relevant period. Therefore, it is contended that the claim made by the revenue is bad in law and, therefore, a challenge has been made as to the action taken by the respondent revenue to issue SCN followed by the order confirming the proposal made in the show cause notice and demanding service tax for the said period.

Legal Provision:

Negative list provision under Chapter V of Finance Act, 1994

Observation and judgment:

The Honorable High Court observed and held that:

- Affiliation activity is an integral part of imparting education for any student for getting qualified to get a qualification like degree or diploma. The college cannot independently function without the affiliation of the University. Therefore, for the purpose of providing the services of education, both, the university as well as the college concerned, who get affiliated to the university, cannot be separated. This is the purposive interpretation which is only possible, because, the services relating to admission and also the conduct of examination by such institution has been exempted.
- Narrow or pedantic interpretation cannot be possible in the words "conduct of examination". The reason being, the very prime function of the petitioner university under the statute, under which it has been created, under Section 4(4) of the University Act is to hold examinations and to confer degrees, titles, diplomas and other academic distinctions. Therefore, holding or conducting an examination is primarily a job of the university and the colleges affiliated to the university are only facilitators. Therefore, examinations are not conducted directly by the colleges, it is being conducted by the university, but the facilitator is the college

Services provided by University to students, staff, faculty and any allied services not liable to Service tax – Honorable High Court

- The word "educational institution", cannot denote only the college affiliated to the university, but, it includes the university. Without the university, college cannot impart education on its own.
- Throughout the regime between 2012 and 2017, the educational institution had been provided with the exemption. Accordingly, the stand taken by the revenue for levying service tax for the services being provided by the petitioner university cannot be approved.
- Services such as renting of immovable property for the purpose of bank, post office, canteen etc. are all allied services of education which are also included in the purview of educational services, in view of clause 9, which has given an expanded meaning of educational services which includes the services to be provided not only to the students, but also faculty and staff. Therefore, demand made for levying service tax on the services provided by the petitioner institution under the heading renting of immovable property, cannot be sustained.
- Petitioner educational institution i.e., the university cannot be assessed for demanding any service tax for the services of education provided by them, which includes affiliation or other services provided for the students, faculty as well as the staff of the university. Impugned order does not stand legal scrutiny.

DA Comments:

The Honorable High Court has extended the exemption to allied services such as renting of immovable property and others under the said judgment. Whether such principle can be extended under GST law needs to be looked into

Madurai Kamaraj University vs JC, OoCGST&CE [2021-TIOL-1812-HC-MAD-ST]

Exemption of Covid-19 Vaccines from BCD till 31 December 2021

Notification No. 45/2021–Customs, dated 29 September 2021

Procedure to issue duty credit under RoDTEP/RoSCTL notified

CBIC notifies the manner to issue duty credit for goods exported under the Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP) and Remission of Scheme for Rebate of State and Central Taxes and Levies (RoSCTL)

Further, CBIC hereby makes the electronic duty credit regulations ,2021 for the Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP) or the Scheme for Rebate of State and Central Taxes and Levies (RoSCTL).

Notification No 75/2021-Customs (N.T), dated 23 September,2021

Notification No 76/2021-Customs (N.T), dated 23 September,2021

Notification No 77/2021-Customs (N.T), dated 23 September,2021

Extension of Date for Sea Cargo Manifest and Transhipment Regulations, 2018

The date of implementation of Sea Cargo Manifest and Transhipment Regulations, 2018 has been extended till 31 December 2021.

Notification No 78/2021-Customs, dated 30 September,2021

Officers to report on disposal of the unclaimed/uncleared/seized/confiscated goods

CBIC has decided that the field formations to be formed to report on Disposal of the unclaimed/uncleared/seized/confiscated goods. The instructions of proforma for the monthly report in Annexure-I has been given which has to be filed by 5th of the succeeding month.

Officers to report on disposal of the unclaimed/uncleared/seized/confiscated goods

A monthly report proforma in Annexure-II is prescribed to reflect the progress made by field formations for reporting on release of long-standing container. This has to reach by 5th of the succeeding month.

Instruction No 20/2021-Customs, dated 10 September 2021

Foreign Trade Policy 2015-2020 & Hand Book of Procedures, 2015-20 is made extended up to 31 March 2022

Public Notice No. 25/2015-2020-DGFT, dated 28 September 2021

Public Notice No. 26 / (2015-2020)-DGFT

The timelines for installation and operationalisation of Radiation Portal Monitors and Container Scanners in the designated sea ports is extended from existing 30 September 2021 to 31 March 2022

Public Notice No. 26/2015-2020-DGFT, dated 29 September 2021

Relief has been provided to exporters of certain sectors

Relief has been provided to exporters of sectors where total exports in that sector/product group has been declined by more than 5% as compared to the previous year, the corresponding Average Export Obligation for the year may be reduced proportionate to reduction in exports of that particular sector/product group during the relevant year as against the preceding year.

The list of products shown decline in exports have also been notified

Police Circular No. 37/2015-20-DGFT, dated 10 September 2021

Notification No. 25/2015-2020 – DGFT

For imports specified under Notification No. 20/2015-20 dated 24 August 2021, the last date of shipment or date of issuance of the Bill of Lading or Lorry Receipt date is 31 October 2021. Import consignments of these items with Bill of Lading/Lorry Receipt issued on or before 31 October 2021 shall not be allowed by Customs beyond 31 January 2022

Notification No. 25/2015-2020 – DGFT dated 13 September 2021

Last date of submitting applications under MEIS, SEIS, ROSCTL, ROSL

The last date of submitting applications under MEIS, SEIS, ROSCTL, ROSL and 2% additional ad hoc incentive has been notified to be 31.12.2021.

Further, the validity of any scrip issued under FTP from the date of this Notification have been notified to be 12 months from the date of issue.

After 31.12.2021, no further applications would be allowed to be submitted and it would become time-barred. Late cut provisions shall also not be available for submitting claims at a later date.

The new late cut provisions for applications submitted up to 31.12.2021 has been notified.

Notification No. 25/2015-2020 – DGFT dated 13 September 2021

Option to avail extension in Export Obligation period

The option to avail extension in Export Obligation period till 31.12.2021 in case of specified Advance Authorisations and EPCG Authorisations would be provided without any composition fees subject to 5% additional export obligation on balance exports to be fulfilled.

This would be in addition to EO extensions facility (upon payment of the composition fees) already provided in FTP/HBP

Notification No. 28/2015-2020-DGFT, dated 23 September 2021

Eligible services and rates under SEIS for FY 2019-20 has been notified

It has been further notified that limit on total entitlement under SEIS has been imposed for service exports rendered in the period 01.04.2019 to 31.03.2020, and capped at Rs. 5 Cr per IEC.

The deadline for submission of SEIS applications for FY 2019-20 shall be 31.12.2021 and applications submitted till 31.12.2021 would not be liable for late cut provisions for FY 19-20 shall not apply. However, applications submitted after 31.12.2021 would become time barred.

Notification No: 29/2015-2020-DGFT, dated 23 September 2021

Updation of IEC till 5 October 2021

The concerned IEC holders are to update their IEC till 05.10.2021, failing which the given IECs shall be de-activated from 06.10.2021. Any IEC where an online updation application has been submitted but are pending with the DGFT RA for approval shall be excluded from the de-activation list.

For IEC re-activation after 06.10.2021, the said IEC holder may navigate to the DGFT website and update their IEC online. Upon successful updation the given IEC shall be activated again.

Trade Notice 18/2021-2022-DGFT, dated 20 September 2021

Revised TMA for Specified Agriculture Products Scheme

It has been decided to introduce the 'Revised Transport and Marketing Assistance (TMA) for Specified Agriculture Products Scheme' for the exports effected on or after 01.04.2021. The earlier scheme would remain in operation for the exports effected up to 31 March 2021.

F. No. 17/2/2021-EP (Agri.IV), dated 9th September,2021

CBIC issued circular to address the problem of export container shortage

In order to facilitate the exporters and to address the problem of export container shortage, circular has been issued to extend the timelines by 3 months, if intimated that it would be re-exported in laden condition. This has been made applicable till 31 March 2022.

Circular No 21/2021-Customs, dated 24 September 2021

Circular issued regarding RoDTEP

- The remission under the scheme is on percentage of the Free on Board (FOB) value of the eligible export product along with value caps specified in detailed under Appendix 4R of the policy
- To avail this scheme, an exporter would have to make declaration on the electronic shipping bill, and would not able to claim rebate for duties /Taxes already exempted provided under other schemes.
- The documents, which would the basis for claiming remission would have to preserved and would be subject to audit.
- Once the scroll has been generated, it shall contain the details of shipping bill with the duty credit allowable against the shipping bill.
- The Exporter would have option to combine all the credit available in the scroll maintained and generate e-scrip.
- The electronic ledger has to be created for holder of IEC number who either making claim of RoDTEP against export of goods or is a recipient of duty credit by way of transfer.
- The Exporter can generate e-scrips within one year of generation of scroll. If the exporter does not to avail the option of generating e-scrips, the available duty credits in each scroll would be combined customs station wise and would be transferred to the electronic ledger as an e-scrip.
- An e-scrip would be valid for a period of one year from the date of generation in the ledger. Incase of non -utilization at the end of the period, the credit would lapse.
- E-scrips are freely transferable. The validity of e-scrip would not get changed on account of transfer.
- In case of transfer, the entire duty available has to be transferred. Part transfer of duty would not be permitted.
- E-scrip would be issued with unique identification number with date of its creation. Once e-scrip is generated in the ledger, it would be registered automatically with custom station of export

Circular issued regarding RoDTEP

- E-scrips can be used for payment of duties of customs specified in the First Schedule to the Customs Tariff Act,1975.
- Credit to be allowed would be subject to realisation of sale proceeds. The detailed notification on suspensions, cancellationof duty credit, recovery of duty incase proceeds not realised has been notified.
- Categories of ineligible exports categories or sectors has been specified.

Circular No 23/2021-Customs dated 30 September 2021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Goods and Services Tax

- GST collection remains over Rs 1 lakh crore for third straight month in September
- GST: E-way bill generation at a six-month high in September
- GST rule change to limit input tax credits
- Ministerial panels set up to review GST exempt list, identify evasion sources
- Explained | Why has the GST Council decided to keep fuels outside the ambit of the tax regime for now?
- Many states likely to seek extension of GST compensation beyond 2022
- Tipping point: New GST rules to complicate tax on tips, surge fees or extra delivery charges for Swiggy and Zomato

Customs and other

- Drug seizure: How Customs tracked 'suspicious' cargo
- Govt cuts custom duties on edible oils to check prices in festive season
- Govt imposes export curbs on syringes: DGFT
- Explained: Why is government pushing for companies to update Import Export Codes?
- Commerce ministry fixes December 31 as deadline for exporters to submit applications for pending dues
- Extension of RoDTEP scheme to SEZs, export-oriented units in pipeline: Government official
- Govt. mulls allowing SEZ occupants to sell locally; sales not to be treated as imports
- Early harvest trade deal with Australia by Christmas, full FTA by 2022
- UK hopes to soon complete FTA talks with India

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www.dardaadvisors.com

da@dardaadvisors.com

Our Locations

Hyderabad

6-3-1086,5th Floor, Vista Grand Towers, Raj Bhavan Road, Somajiguda, Hyderabad – 500082, TS

Chennai

13, T.K. Mudali Street, Choolai, Chennai - 600112, Tamil Nadu

Delhi-NCR

N 93, Ground floor, Mayfield garden, Sector 51, Gurgaon, Haryana - 122018

Bhilwara

Moti Chambers, 62&63, Sancheti Colony, Pur Road. Bhilwara – 311001, Rajasthan