

# DA TAX UPDATE INDIRECT TAX

An E-Tax update from  
**Darda Advisors LLP**

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Issue -38

**Goods and Service Tax**

**Customs and Others**



## Goods and Service Tax

### **M/s. MBR Flexibles Ltd. [2022 (6) TMI 655 - Gujarat High Court]**

It was clear from the record that Notice as well impugned order was passed on the same date. An opportunity of hearing has not been afforded to the petitioners and therefore, it is in breach of principles of natural justice.

### **Jar Productions Private Limited [Bombay High Court]**

When services are rendered abroad, CGST will not apply. In the case at hand also, the petitioner has rendered services abroad. Therefore, GST does not apply to the services rendered abroad as they amount to the export of services. In addition to that the respondent could not establish that the incident of tax has been passed on to the recipient.

Thus, both, the Adjudicating Authority and the Appellate Authority committed error in rejecting the refund of GST.

### **In re Singareni Collieries Company Limited (GST AAR Telangana)**

GST is payable on forest permit fee on reverse charge basis. The supply is to be clarified as tolerating to do an act and is to be treated as service as per entry 5(e) of the schedule II to the CGST Act, 2017.

### **In re Srico Projects Private Limited (GST AAR Telangana)**

Merely because the application before the AAR was filed earlier to the investigation initiated by DGGI it will not be immune them from any inquiry

## Goods and Service Tax

In re Hyderabad  
Metropolitan Water  
Supply and Sewerage  
Board [GST AAR  
Telangana]

Medical insurance premium taken to provide health Insurance to the employees, pensioners and their family members, is not eligible for exemption as mentioned in Entry No. 3 of the Notification Number 12/2017 – Central Tax (Rate), dt. 28 June, 2017.

However, if the vehicles are directly used for to provide services under Schedule XII of the Constitution, then it would be eligible.



## Goods and Service Tax

### Waiver of interest for specified e-commerce operators under GST

Govt provides waiver of interest for specified electronic commerce operators for specified tax periods vide Notification No. 08/2022 –Central Tax, dated 07 June 2022

### GST Refund sanction in Form GST RFD-06 should be speaking order

CBIC instructs GST officials to upload Speaking Order along with GST Refund sanction order in FORM GST RFD-06 and also specified that post-Audit may be conducted within 3 months from issue of FORM GST RFD-06 order for GST Refund claims exceeding Rs. 1 Lakh.

### Identification and prevention of bill traders

In order to prevent the potential bill traders applying for the registration, the instructions are issued.

It has been instructed that any application for new registration filed has to undergo the process of matching with the database as to whether any of the following six parameters pertaining to cancelled registration found to have been matched with details provided in the application for new registration, to invariably undertake pre-verification of the business premises.

- i. Place of business
- ii. PAN
- iii. Mobile number
- iv. E-mail ID
- v. Authorized signatory
- vi. Bank account number.

## Customs & Others

### M/s. A.S. Enterprises [2022 (6) TMI 629 - Madras High Court]

Seeking provisional release of imported goods were goods detained on the ground of undervaluation and it was alleged that the declared value was only 10% of the actual value.

Also submitted that the subject goods lying in the custody of the Department, which are perishable in nature, have now, become obsolete and therefore, the same are of negligible value.

This court is of the opinion that no further orders need be passed with respect to release of the subject goods at this stage, except directing the appellants to complete the adjudication proceedings, if not completed earlier, and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible and Appeal disposed off.

### M/s. Mannat International [2022 (6) TMI 434 - CESTAT New Delhi]

The statute vests discretion in Commissioner (Appeals) for condoning the delay subject to being satisfied of the sufficient cause for the said delay.

### Rajhans Impex Pvt Ltd, Jinesh F Shah, Jakap Metind Pvt Ltd and Apple International [2022 (6) TMI 432 - CESTAT Ahmedabad]

It is settled that once in the 100% EOU the raw material imported duty free is used in the manufacture of final product and final product is cleared on payment of duty in DTA, for any reason the customs duty on the raw material which was used in the finished goods cannot be demanded therefore, the demand of Customs Duty on this ground also is clearly not sustainable.



## Customs & Others

### S.D. Overseas [CESTAT Delhi]

Held that once the declared value is rejected under Rule 12, valuation has to be done sequentially under Rule 4, 5 etc. Penalty u/s 114AA leviable in case of misdeclaration of the value of the imported goods as per the manufacturer's price lists.

### Amba River Coke Ltd. [CESTAT Mumbai]

The process of crushing and screening iron ore classified as iron ore fines which were entitled to the benefit of exemption from payment of CVD.

### M/S. Saint Gobain Glass (I) Ltd.

The definition of "input service" under Rule 2 (1) of Cenvat Credit Rules, 2004 is quite comprehensive and encompasses every activity /service used in the provision of output services.

Held that outbound transportation from the place of

removal gets covered by the definition of "input service"

### M/s. Vestas Technology R&D Chennai Private Ltd. [2022 (6) TMI 615 - CESTAT Chennai]

During the course of hearing the appellants could not produce documents to prove that the claims filed by the appellants were in time. Thus, it was not possible to verify the claim of the appellants that the respective refund applications have been filed within one year of realization of the export proceeds in the relevant quarter - this Bench will not be in a position to decide.

For the limited purpose of verification of the relevant dates of realization of export proceeds and the dates of filing of the refund claims, the matter should go back to the original authority to verify the same and to grant applicable refund to the appellants in the light of the principle laid down by the Larger Bench- the appeals are allowed by way of remand to the original authority.



## Customs & Others

### DGFT relaxes provision of submission of 'Bill of Export' for Advance Authorisation

For the purpose of discharge of export obligation under Advance Authorisations, in case of supplies made to SEZ units prior to 01.04.2015, the exporters can submit corroborative evidence in lieu of 'Bill of Exports' such as:

- a. ARE- t form duly attested by jurisdictional Central Excise/GST Authorities of AA holder.
- b. Evidence of receipt of the supplies by the recipient in the SEZ
- c. Evidence of payment made by the SEZ unit to the AA holder

### DGFT reduces compliance burden for applying EODC

Para 2 (b)(i) of the 'Guidelines for Applicants' under ANF-4F of Handbook of Procedures 2015-2020 has been amended to simplify the procedure and reduce the compliance burden for

applying EODC in case of deemed exports.

### Extension of date for filing annual returns under HBP 2015-20.

Extension of last date for filing of annual returns under Para 5.15 of HBP 2015-20 along with a clarification that imposition of penalty of Rs.5000/- for late filing of annual returns is applicable from 2022-23.

### Amends procedure for issue of GAICT of SCOMET items.

Amendment in Paragraph 2.79F in the Handbook of Procedures of the Foreign Trade Policy (FTP) 2015-20 to lay down the procedure for Global Authorization for Intra-Company Transfer (GAICT) of SCOMET items/software/technology.

## Customs & Others

### CBIC extends time period for furnishing final Mega power project certificate.

Extension of time period for furnishing the final Mega power project certificate from 120 months to 156 months and extending the period of validity of security in the form of Fixed Deposit Receipt or Bank Guarantee from 126 months to 162 months, in case of provisional mega power projects



## Import and Export data

Imports of May 2022: \$ 77.65 B

Exports of May 2022: \$ 62.21 B

		May 2022 (USD Billion)	May 2021 (USD Billion)	Growth vis-à-vis May 2021 (%)
Merchandise	Exports	38.94	32.30	20.55
	Imports	63.22	38.83	62.83
	Trade Balance	<b>-24.29</b>	<b>-6.53</b>	<b>-271.96</b>
Services*	Exports	23.28	17.86	30.32
	Imports	14.43	9.95	45.01
	Net of Services	<b>8.85</b>	<b>7.91</b>	<b>11.85</b>
Overall Trade (Merchandise+ Services) *	Exports	62.21	50.16	24.03
	Imports	77.65	48.78	59.19
	Trade Balance	<b>-15.44</b>	<b>1.38</b>	<b>-1215.73</b>

Source : PIB



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