

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

Fortnightly update – July 2022

Issue -39

Goods and Service Tax

Customs and Others

Goods and Service Tax

Shyam Hardware Store Versus The State Of Jharkhand [2022 (7) TMI 805 - JHARKHAND HIGH COURT]

Violation of principles of natural justice in the instant case as no pre show cause notice in form of Form GST DRC 01 A was issued intimating him of the liability of tax, interest applicable and/or penalty which if not paid would lead to initiation of adjudication process.

Tafe Access Ltd., Versus Vs Union of India [2022 (7) TMI 804 - KARNATAKA HIGH COURT]

In Para 4.2 of the Circular dated September 25, 2021, Ministry of Finance has clarified that the limitation shall be two years from the date of payment of tax. In our

considered view, refund application is in time. Though the learned Standing Counsel for the revenue is right in his submission that there is appeal remedy, since petitioner has paid tax twice relegating petitioner to the Appellate authority would not be just and appropriate..

M/s. Varidhi Cotspin Private Limited Versus State Of Gujarat [2022 (7) TMI 753 - GUJARAT HIGH COURT]

The claim was negated on the ground that refund was inadmissible because of wrong ITC claim. It turns out that the new ground is relied on by the authority. It rejected claim of refund which was never mentioned in the show cause notice. The petitioner has never opportunity to meet with the said ground.

Goods and Service Tax

In Re: M/S. K.P.H. Dream Cricket Private Limited [2022 (7) TMI 700]

The argument by the appellant that on account of absence of consideration in such activity or transaction, the same should not fall within the territory of supply is well taken and therefore the activity of providing such free or complimentary tickets is not a supply as per the GST Act - However, it is important to note here that as per section 7 of the Act read with Schedule I any activity or transaction between the related person including employee shall be treated as supply even if the aspect of consideration is not there. So, where such complimentary tickets are being provided by the appellant to related person as defined in section 15 of the Act or to distinct person as defined in section 25 of the Act the same would fall within the ambit of supply even if there is no consideration.

Notification No. 09/2022–Central Tax dated 05 July 2022

Section 110 and 111 of Finance Act 2022 has been notified with effect from 05 July 2022.

Notification No. 10/2022–Central Tax dated 05 July 2022

Filing of annual return for taxpayers with AATO of up to two crores has been exempted for FY 2021-22.

Notification No. 11/2022–Central Tax dated 05 July 2022

Payment of self-assessed tax in FORM CMP 08 for quarter ending 30 June 2022 has been extended to 31 July 2022

Goods and Service Tax

Notification No. 12/2022– Central Tax dated 05 July 2022

Seeks to extend the waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22

Notification No. 13/2022– Central Tax dated 05 July 2022

Seeks to extend dates of specified compliances in exercise of powers under section 168A of CGST Act

Notification No. 14/2022– Central Tax dated 05 July 2022

Seeks to make amendments (First Amendment, 2022) to the CGST Rules, 2017

Circular No: 170/02/2022– GST dated 06 July 2022

Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1

Circular No: 171/03/2022– GST dated 06 July 2022

Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices.

Circular No: 172/04/2022– GST dated 06 July 2022

Clarification has been made on various issues pertaining to GST with respect to refund claimed by recipient of deemed exports, interpretation of section 17(5) of CGST Act and others.

Goods and Service Tax

Circular No: 173/05/2022- GST dated 06 July 2022

29.06.2019.

Clarification on issue of claiming refund under inverted duty structure where the supplier is supplying goods under some concessional notification.

Circular No: 174/06/2022- GST dated 06 July 2022

Prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A.

Circular No: 175/07/2022- GST dated 06 July 2022

Manner of filing refund of unutilized ITC on account of export of electricity.

Circular No: 176/08/2022- GST dated 06 July 2022

Withdrawal of Circular No. 106/25/2019-GST dated

Notification No. 7/2022- Central Tax (Rate)

The concept of branded and unbranded has been done away with, and the concept of pre-packaged commodity on which declaration rules under Legal Metrology Act has been made applicable.

Customs & Others

Pinnacle Life Science Pvt. Ltd. Versus Union Of India [2022 (7) TMI 725]

A Circular could not have been issued by the Central Board of Excise & Custom (CBEC) providing for three months time period to make a request for amending the shipping bills. This is because in Section 149 of the Act no time period has been prescribed and if in any specific statutory provision of law, no time period has been prescribed, then such circular could not have been issued by the CBEC. As rightly submitted by Mr. Namboodiri where the legislature wanted to prescribe any time limit for taking action like Section 128, 129 and 130 etc., of the Act, such time limit has been specifically laid down in the relevant provisions of the Act.

M/S. Nexage Innovations Versus The Deputy Commissioner Of Customs [2022 (7) TMI 665]

It not possible to proceed on the basis of assumptions and presumptions since as of now, the only allegation against the petitioner is that few of the suppliers are suspected suppliers. The respondent Department directed the petitioner to reverse the credit availed by them alleging that the suppliers are nonexisting suppliers. This demand made by the Department has been complied with by the petitioner. Therefore, it will not augur well to continue the brand of the petitioner as a "Risky Exporter" in the absence of fresh material available on record.

M/S Auto Gas India Versus Commissioner Of Customs [2022 (7) TMI 664]

Allegation is that the appellant should have paid the customs duty based on the MRP, whereas the appellant have paid the customs duty on the transaction value - there was no MRP affixed on the goods imported and sold by the appellants.

Import and Export data

Imports of March 2022 at \$ 82.42 B

Exports of March 2022 at \$ 64.91 B

		June 2022 (USD Billion)	June 2021 (USD Billion)	Growth vis-à-vis June 2021 (%)
Merchandise	Exports	40.13	32.49	23.52
	Imports	66.31	42.09	57.55
	Trade Balance	-26.18	-9.60	-172.72
Services*	Exports	24.77	20.30	22.04
	Imports	16.11	10.84	48.62
	Net of Services	8.67	9.46	-8.41
Overall Trade (Merchandise+ Services) *	Exports	64.91	52.79	22.95
	Imports	82.42	52.93	55.72
	Trade Balance	-17.51	-0.14	-12596.34

Source : PIB

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