

DA TAX ALERT INDIRECT TAX

AN E-TAX ALERT FROM
Darda Advisors LLP

July 2023
Issue: 38

**GST COMPLIANCE
CALENDER**

**GOODS AND
SERVICE TAX**

**CUSTOMS AND
OTHER**

DA NEWS

PREFACE

We are pleased to present to you the thirty eighth 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 June 2023.

India is celebrating 6th year of GST implementation and we need to deep dive on expectations, perceptions & realities from the new law.

During the month of June 2023, there were certain changes under Goods and Service Tax, Customs and other; key judgments and rulings such as Order issued due to non-co-operation by the assessee under proceedings cannot be set aside – HC, Adopting the values as fixed by Valuation Committee without revealing methodology and basis is not correct and is not in accordance with the law – Export valuation

In the thirty eighth 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 June 2023.

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.

Regards

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Co-founder and Managing Partner

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Tax and Regulatory Services

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GST COMPLIANCE CALENDAR

July
2023

10

GSTR-7
TDS Deductor

10

GSTR-8
TCS
Deductor

11

GSTR-1
Normal Taxpayer

13

GSTR-1/6
QRMP Taxpayer & Input
Service Distributor

20

GSTR-5A
OIDAR Service Provider

20

GSTR-3B
Normal & QRMP Taxpayer

20

GSTR-5
Non-Resident Taxable
Person



- Authorities should conduct proper investigation qua the assessee and not to generalize to prove all assessee as fraudsters – HC
- Simultaneous proceedings with same subject matter not allowed – HC
- Order issued due to non-co-operation by the assessee under proceedings cannot be set aside – HC
- Impugned assessment order is set aside and be treated as a SCN in the interests of substantial justice – HC
- Summary Order in the absence issue of proper SCN is set aside – HC
- Other Notifications/Circulars/Guidelines/instructions/Portal changes

Authorities should conduct proper investigation qua the assessee and not to generalize to prove all assessee as fraudsters – HC

DA Insights:

The Honorable High Court rightly held that Police Department as well as the GST Department to conduct a proper investigation qua the assessee and not to generalize and grant all assessee throughout the State of West Bengal to be fraudsters, this approach is not in accordance with law

Issue:

The multiple petitions filed against the investigation into evasion of tax and GST fraud and initiation of criminal proceedings and on the validity of issuance of standardized format of notices under Section 160 Cr.P.C to Directors of various Companies and notices also issued to learned Advocates calling for information regarding their clients in cases pertaining to GST/WBVAT/WBST Acts and other related enactments.

Legal Provisions:

Various provisions of GST and WBVAT

Observation and Comments:

The Honorable High Court observed and held that:

- In our view, the observation issued by the court has to be understood within the four corners of law. The police authorities have been directed to

investigate and the observation of the court is to investigate about filing of fake cases. Unfortunately, the authorities of the Anti Fraud Department have misconstrued and misunderstood the scope of the direction which is clear from the notice issued under Section 160 Cr.P.C. to the Directors of various assessee.

- Therefore, the notices issued under Section 160 Cr.P.C. which are standardized forms are set aside and we give liberty to the Police Department as well as the GST Department to conduct a proper investigation qua the assessee and not to generalize and grant all assessee throughout the State of West Bengal to be fraudsters this approach is not in accordance with law.

[Himangshu Kumar Ray Vs State Of West Bengal \[2023-VIL-394-CAL\]](#)

Simultaneous proceedings with same subject matter not allowed – HC

DA Insights:

The purpose of allocation of registration to Centre or State and relevant provision under section 6 (2) (b) of CGST Act, 2017 which allows only single authority for any proceedings under law need to be followed by the authorities in true spirit. The Honorable High Court has rightly transfer all proceedings for all cases to single authority.

Issue:

The petition is filed under Article 226 of the Constitution of India to direct other respondents to transfer the proceedings in connection with the case of the petitioner alongwith the documents which are in their possession to DGGI and to complete the proceedings at the earliest. Further, it is also prayed that the summons issued by concerned other respondents be quashed and set aside.

Legal Provisions:

Section 6 (2) (b) and Section 67 (1) of CGST Act, 2017

Observation and Comments:

The Honorable High Court observed and held that:

The learned advocate for the petitioner has referred and relied upon Section 6 (2) (b) of CGST Act, 2017.

In view of the aforesaid facts and circumstances of the present case, when the respondent no.4 has initiated the inquiry

and inspected the documents and carried out the inspection at the place of the petitioner and inquiry is going on in connection with five different Firms at present including M/s. J.M. Enterprise, for which, the summon was issued by the respondent no.1, whereas M/s Galaxy Enterprise, summon was issued by respondent no.2. Hence, we are of the view that the present petition deserves consideration.

The respondents no.i & 2 are directed to transfer the papers/documents to respondent no.4 for necessary inquiry/investigation in connection with both the Firms viz. M/s. J.M. Enterprise and M/s. Galaxy Enterprise. In view of the above, the petition is allowed to the aforesaid extent.

Prop Of Vaibhavi Construction vs AC (SG) and others [2023-VIL-401-GUJ]

Order issued due to non-cooperation by the assessee under proceedings cannot be set aside – HC

DA Insights:

The GST law provides procedure and principle of natural justice for any proceedings and in case, the assessee does not follow or abide by the same, the order cannot be challenged mere on the principle of nature justice. In the said case, the Honorable High Court rightly set aside the petition due to non-cooperation from the assessee itself.

Issue:

The petitioner challenged an order of assessment passed under the provisions of Section 74 of the Act in GST DRC – 07 related to fraudulent availment of Input Tax Credit (ITC) from a non-existence supplier. The main grounds was that the impugned order is grossly in violation of principles of natural justice.

Legal Provisions:

Section 74 of CGST Act, 2017

Observation and Comments:

The Honorable High Court observed and held that:

- It is under these circumstances, that the impugned order has come to be passed in GST DRC 07 wherein, in the absence of any supporting materials as promised by the petitioner and also no appearance when the matter was fixed for personal hearing, the assessing authority has proceeded to confirm the proposals.

- I see no legal infirmity in the procedure followed by the assessing authority in passing the impugned order. It is incumbent upon an assessee to cooperate in the course of assessment proceedings and provide effective responses to the show-cause notice as well as avail of the opportunity for personal hearing. The petitioner herein has done neither. In such circumstances, the impugned order of assessment is confirmed and this writ petition is dismissed.

Mohanani Gnansekar vs STO [2023-VIL-398-MAD]

Impugned assessment order is set aside and be treated as a SCN in the interests of substantial justice – HC

DA Insights:

In Courts, whenever the impugned order is challenged, it is either set aside or does not consider the petition as alternate remedy is available. However, in this writ petition, the Honorable High Court set aside the impugned order and to be considered as SCN for further proceedings.

Issue:

The petitioner challenged the impugned order relates to reversal of ITC, which, in the opinion of the assessing officer is ineligible and ought not to have been claimed.

without expecting any further notice in this regard.

Legal Provisions:

Section 17 of CGST Act, 2017

Observation and Comments:

The Honorable High Court observed and held that:

- Prior to the impugned order of assessment, what was exchanged was only general notices calling for particulars to which the petitioner is seen to have responded, albeit, insufficiently.
- Thus, and in the interests of substantial justice, impugned order of assessment is set aside and shall be treated as a show cause notice by the petitioner, who shall appear along with all details in support of the reversal under the impugned order at the specific request of the learned counsel for the petitioner,

[M/s Hatsun Agro Product Ltd vs DC \(ST\) and others \[2023-VIL-391-MAD\]](#)

Summary Order in the absence of proper SCN is set aside – HC

DA Insights:

The Rule 142 of the JGST Rules which requires that along with DRC-01, a detailed SCN, as per Section 73 (1), shall also be served to the assessee prior to imposition of any tax, interest or penalty which has not been followed and accordingly the Honorable High Court has set aside all orders issued across all levels.

Issue:

The Petitioner has challenged the Summary Order in form GST DRC-07 whereby tax, interest and penalty has been imposed and further challenged the Appellate Order passed by the JCCT (Appeal) whereby the appeal preferred was dismissed and additionally challenged the consequential recovery notice, issued under Section 79 of the JGST Act, 2017 and the Petitioner was directed to pay the outstanding liability based on the Summary Order in form GST DRC-07.

Legal Provisions:

Section 73 of JGST Act, 2017 and Rule 142 of JGST Rules, 2017

Observation and Comments:

The Honorable High Court observed and held that:

- In the present case it is an admitted fact that no detailed adjudication order, as required under Section 73 (9) of the JGST Act, 2017, has been passed by the Respondents. Furthermore, admittedly; no such adjudication order is available

on the records of the Respondents and now it is well settled that the Form DRC-07, alone and in the absence of issuance of detailed adjudication order, can make an Assessee liable to pay any tax, interest or penalty. Accordingly, we hold that when no detailed adjudication order, as required under Section 73 (9) of JGST Act, 2017, has been passed or issued to the Petitioner, the Petitioner is not liable to pay any tax, interest, or penalty only on the basis of the said Form DRC-07.

- The Appellate authority should have decided the case on merit and should have given its finding on the grounds of Appeal that DRC-07 has been issued without issuing any no show cause notice in terms of Section 73 (1) of the JGST Act, 2017 and also without any adjudication order.
- Accordingly, all orders at various levels are set aside. However, the Respondent department would be at liberty to issue fresh show cause notice to the Petitioner, if so advised, and proceed in the matter strictly following the provisions of JGST Act and its Rules.

M/s Shree Ram Agrotech Vs The State Of Jharkhand [2023-VIL-387-JHR]

GST Notification / Circulars / Guidelines / Instructions

Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2023

The Goods and Services Tax Act (GST) has been implemented in India since July 1, 2017. To reduce pending litigations and unlock outstanding dues under previous tax laws, the Maharashtra Settlement of Arrears of Tax, Interest, Penalty or Late Fee Act, 2023 has been enacted.

The trade circular provides an overview of the Act.

Trade Circular No. 11T of 2023, dated 26 June 2023

Guidelines to strengthen GST registration application verification process

It aims to counteract the prevalent issue of false and deceitful GST registrations used for issuing invoices without any actual supply of goods or services, leading to fraudulent passing of input tax credit and revenue loss to the government.

The new registration process features tighter scrutiny and verification of registration applications. Authorities will thoroughly review documents and details filled by applicants to ensure completeness, relevancy, and authenticity.

Special attention will be paid to applications designated as "High" risk. The proper officers can also initiate physical verification of the place of business, if deemed necessary. The guidelines stipulate timelines within which the proper officer must respond to an application.

If a registration is granted on a deemed approval basis, physical verification of the place of business must be conducted within 15 days. The Central Board of Indirect Taxes and Customs emphasizes that all officers should carry out these procedures diligently and promptly.

Instruction No. 03/2023-GST dated 14th June, 2023

GSTN Portal Changes

E-Invoice Verifier App by GSTN – Advisory

The E-Invoice Verifier App developed by GSTN, has been introduced which offers a convenient solution for verifying e-Invoices and other related details.

Benefits of using app:

- a. QR Code Verification: The app allows users to scan the QR code on an e-Invoice and authenticate the embedded value within the code. This helps in identifying the accuracy and authenticity of the e-Invoice.
- b. User-Friendly Interface: The app provides a user-friendly interface with intuitive navigation, making it easy for users to navigate through the app's features and functionalities.
- c. Comprehensive Coverage: The app supports verification of e-Invoices reported across all six IRPs, ensuring comprehensive coverage and convenience.
- d. Non-Login Based: The app operates on a non-login basis, meaning users are not required to create an account or provide sensitive personal information to access its functionalities. This simplifies the user experience and makes it more convenient for users.

Advisory on update of Status for Taxpayers for e-Invoicing

As per Notification No. 10/2023 - Central Tax dated 10th May 2023, the threshold for e-Invoicing for B2B transactions has been lowered from 10 crores to 5 crores. This change will be applicable from 1st August 2023.

To this effect GSTN has enabled all eligible taxpayers with an Aggregate Annual Turnover (AATO) 5 crores and above as per GSTN records in any preceding financial year for e-Invoicing. These taxpayers are now enabled on all six IRP portals including NIC-IRP for e-Invoice reporting.

Enablement status can be checked on the e-Invoice portal at <https://einvoice.gst.gov.in>.

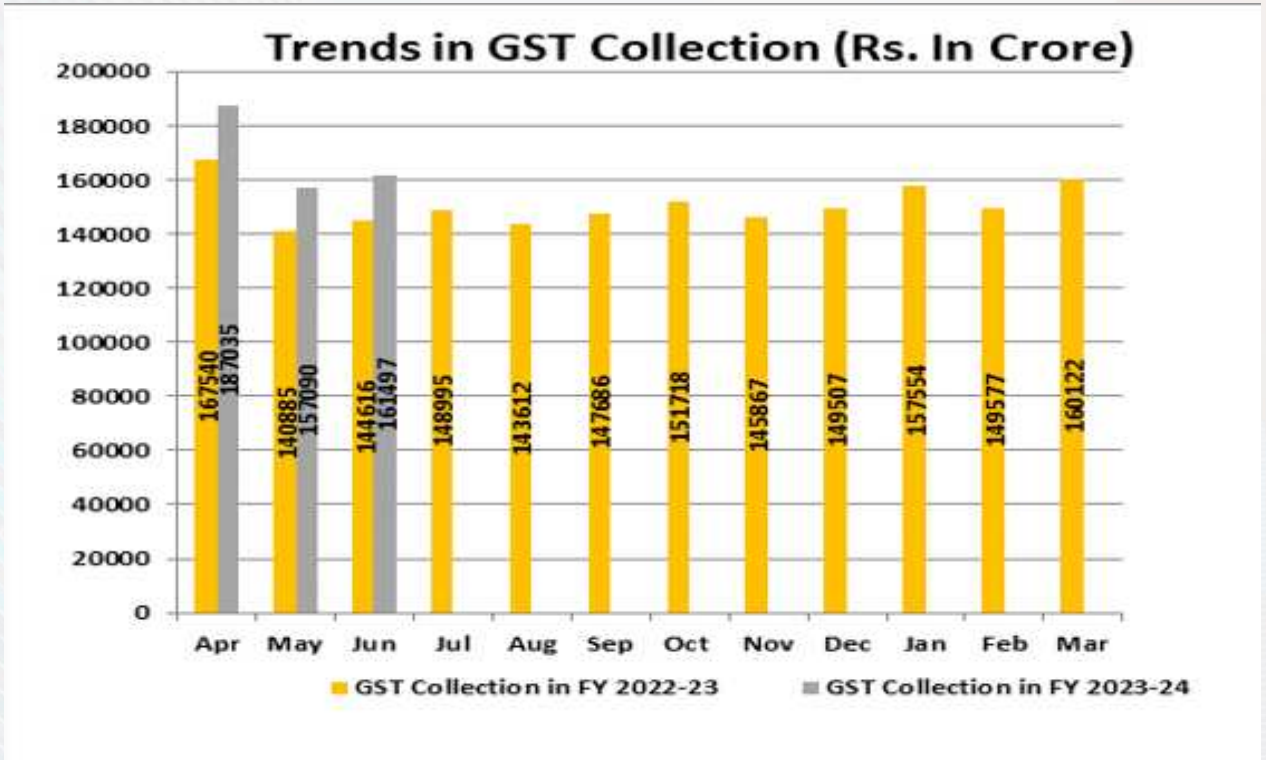
Advisory pertaining to Liability / Difference Appearing in R1 – R3B (DRC-01B)

A new functionality has been developed to enable the taxpayer to explain the difference in GSTR-1 & 3B return online.

The functionality compares the liability declared in GSTR-1/IFF with the liability paid in GSTR-3B/3BQ for each return period. If the declared liability exceeds the paid liability by a predefined limit or the percentage difference exceeds the configurable threshold, taxpayer will receive an intimation in the form of DRC-01B.

Upon receiving an intimation, the taxpayer must file a response using Form DRC-01B Part B. The taxpayer has the option to either provide details of the payment made to settle the difference using Form DRC-03, or provide an explanation for the difference, or even choose a combination of both options.

GST Revenue Collection in June 2023 - Rs. 1,61,497 Cr.



Source: PIB

DEPB wrongly claimed by exporter and used by other importers, to be recovered from exporter with interest and penalty – CESTAT

DA Insights:

The transferable scrips under FTP or now Customs which has been availed by mis-declaration is liable for recovery along with interest and penalty. The additional penalty on director for the same offence cannot be imposed which is rightly held by the Honorable CESTAT.

Issue:

The SCN was issued to the appellant and the DEPB transferees (Importers) alleging that FeSi exported during the relevant period had actually been imported from Bhutan. It was alleged in the Notice that the export incentives had been wrongly claimed by the appellant as the goods exported were of Bhutanese origin and the appellant had mis-declared them as Indian origin goods. The Notice also proposed penalties under Sections 114 and 114AA of the Customs Act, 1962, against the Appellant's Director. The adjudicating authority issued OIO wherein he ordered confiscation of the goods which were already exported, appropriation of DEPB amount and interest against undue export incentive and penalties each on the appellant and its director. The proceedings against the 24 importers dropped. The appellant aggrieved against the impugned order filed it before CESTAT.

Legal Provisions:

Sections 114 and 114AA of the Customs Act, 1962

[M/s VEDIKA METALS PVT LTD and others vs CC/2023-VIL-589-CESTAT-KOL-CU/](#)

Observation and Comments:

The Honorable CESTAT observed and held that:

The adjudication and imposition of penalty by DGFT shows that the Appellant has accepted their mis-declaration. Thus, the issue to be decided here is whether penalty under section 114 and 114AA are imposable on the Appellant and it's Director, for the same offence even after imposition of penalty by DGFT.

The appellant stated that in respect of violations against DEPB Scheme, DGFT is the proper authority to initiate action. Once DGFT initiates action and impose penalty for the violations, then Customs cannot initiate separate action to impose penalty for the same violation. In support of this contention the Appellant cited the various decisions.

We observe that the facts of the present case are similar to the decisions cited above. Accordingly, the said decisions are squarely applicable to the present case.

DEPB wrongly claimed by exporter and used by other importers, to be recovered from exporter with interest and penalty – CESTAT

DA Insights:

The transferable scrips under FTP or now Customs which has been availed by mis-declaration is liable for recovery along with interest and penalty. The additional penalty on director for the same offence cannot be imposed which is rightly held by the Honorable CESTAT.

In view of the above discussion, we answer the questions raised as below:

- (a) We hold that the 2169 MT of FeSi exported by the Appellant are liable for confiscation.
- (b) An amount equivalent to import duties foregone due to imports made by different importers on the strength of the DEPB Scrips purchased from the Appellant can be recovered from the Appellant along with interest.
- (c) Penalties under Section 114 and 114AA cannot be imposed on the Appellant and its Director separately for the same offence, since DGFT has already initiated action and imposed penalty for the same offence.

'Testing' processes on imported valves amounts to 'manufacture' to claim FTP benefits – HC

DA Insights:

The definition of 'manufacture' in clause 9.6 of the Exim Policy is wide and inclusive and the fact that 'testing' of the goods is included in the ambit of 'manufacture'. The Honorable High Court admittedly that such testing has been carried on by the petitioner, this would suffice to entitle it to its claim for AA benefits.

Issue:

The challenge in this writ petition is to an order passed by the DGFT by declining Advance Authorisation (AA) benefit by alleging that the items imported and ultimately exported were one and the same and there was no manufacturing activity involved that brought into existence a new product with a distinctive identity and name. The petitioner claims that the expansive definition of 'manufacture' under the clause 9.6 of the Exim policy that includes processes such as 'testing' and further the reference, in this context, is made to several judgments of the Hon'ble Supreme Court for the proposition that when the meaning of term used is clear, the interpretation must be as expressed in the statute.

Legal Provisions:

The Foreign Trade Policy for the period 27.08.2009 to 31.03.2014

Observation and Comments:

The Honorable High Court observed and held that:

[M/s Xomox Sanmar Ltd vs DGFT and ADGFT \[2023-VIL-349-MAD-CU\]](#)

- In this case, the deeming fiction by inclusion of various activities in the latter portion of the definition of manufacture, is clearly to expand the ambit of 'manufacture'. This becomes necessary for the reason that such processes would not normally be understood to connote 'manufacture' in the absence of such a deeming fiction.
- That apart, it is not necessary in all cases that the end product must be unrecognisable from the inputs that constitute it as long as the processes carried out would satisfy the statutory definition of 'manufacture', and the present case is an illustration in point.
- One approach is to state that even without such procurement and additions to the imported valves, the processes of testing of the valves prior to final supply would suffice to satisfy the definition of manufacture under Clause 9.36 of the Exim Policy.

ADGFT proceedings and findings are binding on the Customs authorities – EPCG related – HC

DA Insights:

For any FTP matters, once at the instance of the customs authority, the Licensing authority initiates action, examines the factual position, and holds the issue in favour of appellant; such finding is binding on the Customs authorities. The same has been rightly held by the Honorable High Court and also set aside the appeal of the revenue.

Issue:

The appellant obtained EPCG licenses for procurement of mobile mining equipments. The capital goods imported by appellant were seized by the DRI on the ground of violation of 'Actual User Condition' i.e., the imported machines were used in premises other than the ones mentioned in the authorization. Further, the Deputy DGFT cancel all licenses and also put under Negative list. The ADGFT allowed appellant's appeal and set-aside the order. The said order was not challenged by the Revenue and has thus attained finality. The Customs issued OIO and seized the goods and also imposed interest and penalty. Aggrieved by the said OIO, appellant preferred an appeal before CESTAT which partly allowed appellant's appeal and upheld the demand of duty and interest, however, the penalty imposed was set aside. Hence, these appeals.

Legal Provisions:

Foreign Trade Policy 2015

Observation and Comments:

The Honorable High Court observed and held that:

- In sum and substance, the revenue's case is, the machines have been given by appellant on hire to OMC and the same have not been kept in the mines mentioned in the license. The installation certificate is issued without verification and appellant has diverted some machines imported to other mines. Thereby, appellant has violated the terms and conditions of EPCG scheme.
- It was argued by Shri. Shivadass that this Court in CIT, Bengaluru Vs. Aditya Birla [Para 9] has held that once the issue is examined by the Joint Director of Foreign Trade, it not open to the Customs Authorities to take a different stand. We are in respectful agreement with the view taken by this Court in the said authority.
- In view of the above discussion, assessee's appeal merits consideration. Revenue has challenged CESTAT's order setting aside penalty. We have held that assessee's appeal merits consideration consequently, Revenue's appeal fails.

[M/s Kalinga Commercial Corporation Ltd vs CC \[2023-VIL-385-KAR-CU\]](#)

Value available in NIDB/DGOV data on similar goods are not comparable – CESTAT

DA Insights:

The valuation of similar goods depends on factors such as country of origin, quantity of the goods imported, produced by the same person who produced the goods being valued, quality of the goods i.e. characteristics, composition & like component material. Moreover, the NIDB data is not exhaustive in nature as it only depicts the value at which the goods are assessed but not whether such assessed value is proposed value by the importer or enhanced value by the proper officer which is rightly held by Honorable CESTAT.

Issue:

The Appellant imported the goods 'EG Defective/Secondary Sheets' and filed seven Bills of Entry (BoE) for clearance under self-assessment. The assessing officer re-assessed the BoE by enhancing the values and rejected the declared invoice values on the basis of higher values available on contemporaneous imports NIDB/DGOV data on 'similar goods'.

To avoid delay and demurrage charges, the said importer cleared the goods on payment of enhanced Customs Duty. The assessment order was passed under section 17(5) of the Customs Act 1962 for all the BoE. The Appellant filed appeals before Commissioner (Appeals), who set aside the enhancement of values and assessed the impugned BoE at declared values. The Department is in appeal against the impugned order.

Legal Provisions:

Section 14 and 17 (5) of Customs Act, 1962

[CC vs M/s R V Udyog Pvt. Ltd. \[2023-VIL-572-CESTAT-KOL-CU\]](#)

Observation and Comments:

The Honorable CESTAT observed and held that:

- From the decisions cited above, we observe that the Respondent has agreed upon the enhanced value, it does not mean that they have foregone their statutory right to appeal as the right to appeal is a statutory right. Thus, the objection of the Department on this ground is not acceptable.
- We observe that the Department has not brought in any evidence to reject the invoice value as declared by the importer. The department has resorted to rejection of the declared value and reassessment of the Bills of Entry on the basis of valuation of contemporary similar/identical goods at other ports as mentioned in NIDB/DGOV data.

Value available in NIDB/DGOV data on similar goods are not comparable – CESTAT

DA Insights:

The valuation of similar goods depends on factors such as country of origin, quantity of the goods imported, produced by the same person who produced the goods being valued, quality of the goods i.e. characteristics, composition & like component material. Moreover, the NIDB data is not exhaustive in nature as it only depicts the value at which the goods are assessed but not whether such assessed value is proposed value by the importer or enhanced value by the proper officer which is rightly held by Honorable CESTAT.

- We observe that the "EG Defective Secondary Sheets' imported by the Appellant cannot be compared with similar goods. The value available in NIDB/DGOV data on similar defective goods are not comparable.
- In view of the above, we hold that the enhancement of value has been done arbitrarily. The department has not brought in any evidence to reject the value declared by the importer. Accordingly, we hold that the appeal by the department is devoid of any merits and liable for rejection'

Adopting the values as fixed by Valuation Committee without revealing methodology and basis is not correct and is not in accordance with the law – Export valuation

DA Insights:

Under export valuation, to adopting the values as fixed by Valuation Committee without revealing methodology and basis adopted for such values is not correct and is not in accordance with the Rules which is rightly held by the Honorable CESTAT.

Issue:

Based on report of Valuation Committee, Additional Commissioner rejected declared value and re-determined the same under Rule 6 of the Rules read with Section 14(1) of the Act and restricted drawback benefits to re-determined value and also ordered for confiscation of goods under Section 113(h)(i) of the Act and imposed a redemption fine under Section 125 of the Act apart from imposing penalty under Section 114(iii) of the Act. The Commissioner (Appeals) affirmed order of Additional Commissioner against which the appeal to CESTAT is filed.

Legal Provisions:

Sections 14(1), 113(h)(i), 114(iii) and 125 of Customs Act, 1962, Customs Valuation (Determination of Value of Export Goods) Rules, 2007

Observation and Comments:

The Honorable CESTAT observed and held that:

- We find that there is no dispute as to the basis for fixation by the Valuation Committee has not been communicated to the appellant and the appellant was not accorded any opportunity to rebut the same, thus, violating the principles of natural justice.
- The revised values are fixed in terms of Rule 6 of Customs Valuation (Determination of Value of Export Goods) Rules, restricting the drawback amount to such re-determined value. In terms of the Valuation Rules, the adjudicating authority should sequentially go through Rule 4 and Rule 5 before fixing the value under Rule 6 *ibid*.
- As such adopting the values as fixed by the Valuation Committee without revealing the methodology and basis adopted for such values is not correct and is not in accordance with the Valuation Rules.

[M/S. Kalima Exim Vs The Commissioner Of Customs, Tuticorin \[2023-vil-566-cestat-che-cu\]](#)

Adopting the values as fixed by Valuation Committee without revealing methodology and basis is not correct and is not in accordance with the law – Export valuation

DA Insights:

Under export valuation, to adopting the values as fixed by Valuation Committee without revealing methodology and basis adopted for such values is not correct and is not in accordance with the Rules which is rightly held by the Honorable CESTAT.

- However, a careful reading of the orders of the lower adjudicating authorities indicate that there is mis-declaration of the value of the export goods thereby contravening the provisions of the Customs Act and Rules made thereunder. So, we cannot find fault with the orders of the original adjudicating authority in holding the goods liable for confiscation under Section 113(h), (i) and (ia) of the Customs Act, 1962 or for imposition of penalty under Section 114 (iii) of the Act *ibid.* in both these appeals.
- In view of the above reasons, we order to set aside the impugned Order-in-Appeal Nos. 15 & 16/2013 dated 21.02.2013 with consequential relief, if any, and partially allow the appeals, as indicated above.

[M/S. Kalima Exim Vs The Commissioner Of Customs, Tuticorin \[2023-vil-566-cestat-che-cu\]](#)

Customs Notification / Circulars / Guidelines / Instructions

Pre-import Condition & Implications on IGST & Compensation Cess

Implementation of SC judgement in the matter of imposition of pre-import conditions on Imports.

Circular acknowledges that the current ICES does not have the functionality to pay customs duties on a bill of entry after Out-of-Charge has been given. This is a significant technical limitation that needs to be addressed to facilitate easier compliance with the judgment. A notable point is the introduction of a new procedure for importers to pay IGST and Compensation Cess for imports not meeting the pre-import condition which include the cancellation of the Out-of-Charge by the assessment group, reassessment of the Bill of Entry, and payment of tax and cess against the electronic challan generated in the Customs EDI System.

Circular No. 16/2023 -Cus Dated: 7th June 2023

Digitization of AEO Programme for Ease of Doing Business: Submission of AEO Applications Goes Online

Web-based portal for filing and processing of AEO-T1 and AEO- T2/T3 has been functional since December 2018 and July 2021 respectively. Now, Version (V 3.0) has been made functional since 11.04.2023 for online filing, real-time monitoring, and digital certification for AEO-LO applicants

Now, it will be mandatory for all AEO applicants to register on the portal for AEO certification and to submit the requisite documents/annexures on online platform. Further, all AEO-LO applications received manually before 25.05.2023 may be processed as per the aforesaid Circular dated 11.04.2023.

Public Notice No 49/2023 dated 12 June 2023

Manual Mode for Amnesty Scheme Application for Default in Export Obligation

Exporters who encounter issues with filing online applications through the EODC module of the DGFT website can now use the website <http://www.amnestyscheme.in> to submit their applications in manual mode. This option is available in the following circumstances: if the authorization/license data is not available in the online database of the EODC module or if there are persistent problems in filing online applications for the Amnesty scheme.

It provides clear instructions for filing the application in manual mode. Exporters need to fill out the form on the website, record the reason for not being able to file online, and obtain a printed and signed form from the authorized signatory.

The printed form, along with supporting documents, should be submitted to the Regional Authority within the specified deadline. A computerized receipt should be obtained for the submission.

Policy Circular No. 02/2023-24-DGFT, dated 23 June 2023

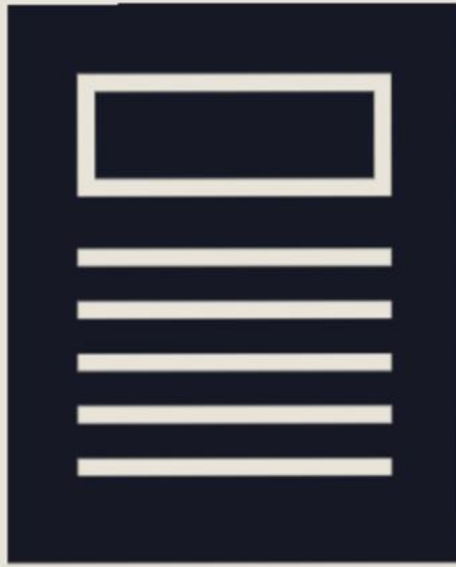
Customs Notification / Circulars / Guidelines / Instructions

Extension of Amnesty Scheme for EPCG Authorisation

DGFT has extended the date for application for amnesty scheme for EPCG authorisation to 31.12.2023 subject to payment of custom duties by 31.03.2024.

This move was imminent considering glitches faced by exporters while making online applications to DGFT.

Public notice no 20/2023, dated 30 June 2023



DA NEWS

Driven by Quality, Powered by Ideation

Goods and Services Tax

- TV makers want GST cut on large sets to offset high price of key component
- GST Council to weigh tax cuts on select items
- Nearly 25% of 69k suspected GST accounts fake

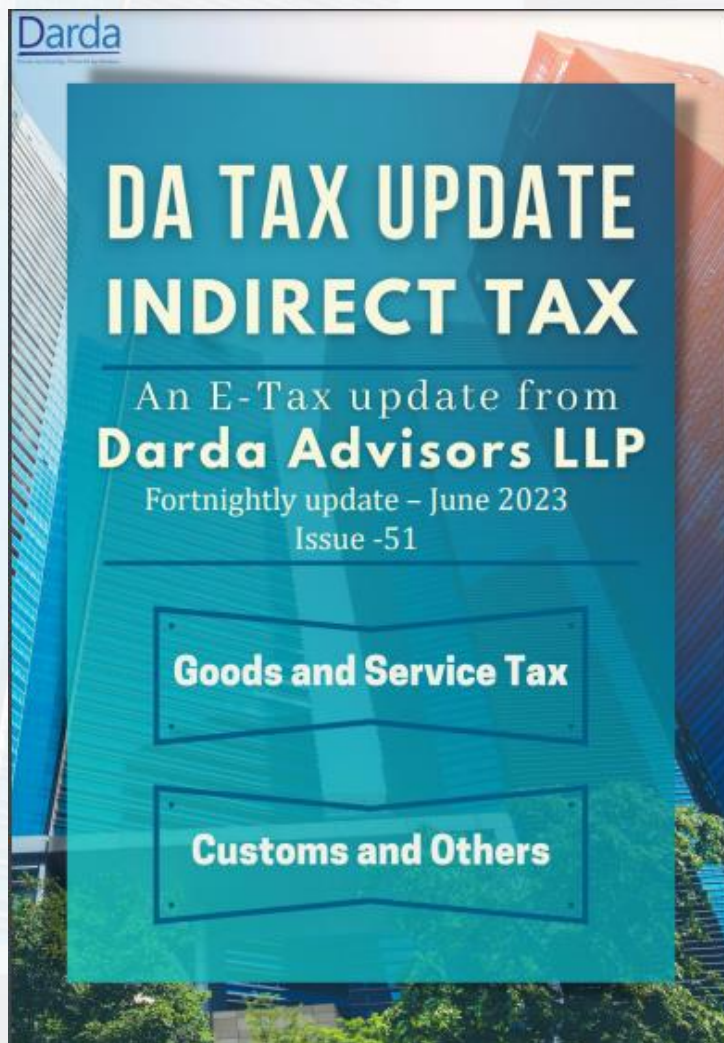
Customs and other

- India to remove retaliatory customs duties on eight US products
- Customs dept searches gold undersea off TN coast
- LPG shipments to draw customs duty of 15% & farm cess of equal amount
- Customs clearance time for imports drops 11% at air cargo complex: CBIC study

DA Updates and Articles for the month of June 2023

Indirect Tax Fortnightly Update for the month of June 2023

https://dardaadvisors.com/wp-content/uploads/2023/06/DA-Indirect-Tax-Fortnightly-Update_June-2023-1.pdf



DA Updates and Articles for the month of June 2023

DA Update - PLI 2.0 For IT Hardware -Make In India

<https://dardaadvisors.com/wp-content/uploads/2023/06/PLI-2.0-for-IT-Hardware-Make-in-India.-DALLP-1.pdf>



DA Updates and Articles for the month of June 2023

DA Update - Guidelines for GST Registration verification process

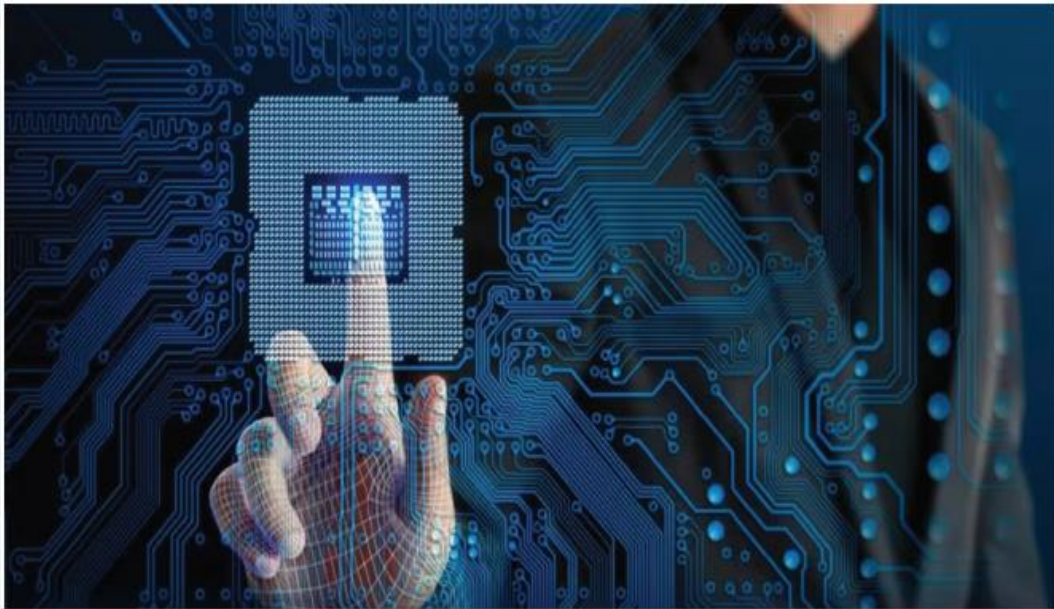
<https://dardaadvisors.com/wpcontent/uploads/2023/06/Guidelines-1.pdf>



DA Updates and Articles for the month of June 2023

DA Article - PLI 2.0 ITHW - 'Make In India' For IT Hardware Sector

<https://dardaadvisors.com/tax-articles/indirect-tax-articles/pli-2-0-ithw-make-in-india-for-it-hardware-sector/>



**PLI 2.0 ITHW - 'Make in India'
for IT Hardware Sector**

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