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DA TAX ALERT
INDIRECT TAX
AN E-TAX ALERT FROM
Darda Advisors LLP
December 2023
Issue: 43
GST COMPLIANCE CALENDER
GOODS AND SERVICE TAX
CUSTOMS AND OTHER
DA NEWS

PREFACE

We are pleased to present to you the Forty Third 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 November 2023.

During the month of November 2023, there were certain changes under Goods and Service Tax, Customs and other; key judgments and rulings such Refund with interest is allowed in IDS even when the supplier charged higher rate of tax then applicable – HC & Let export order cannot be issued before payment of full custom duty – CESTAT

In the Forty Third 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 November 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

Vineet Suman Darda
Co-founder and Managing Partner

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GST COMPLIANCE CALENDAR

December 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

- Classification of goods cannot be changed by recommendation of GST Council and circulars issued by TRU of CBIC – HC
- Refund with interest is allowed in IDS even when the supplier charged higher rate of tax then applicable – HC
- Refund application processing cannot be halted when mandatory documents filed – HC
- Services of loading, unloading, packing etc., rendered in relation to the imported wheat is entitled for GST exemption – HC
- Amount deposited in escrow account pending appeal against Arbitral award not liable to GST – AAR
- Cash not forming stock-in-trade cannot be seized by GST Dept. – HC
- Non-filing GSTR-3B for 6 months continuously leads to GST registration Cancellation even when tax is paid – HC
- Assessment order quashed given Revenue's failure to verify GSTR-01, 3B filing via portal – HC
- Other Notifications/Circulars/Guidelines/instructions/Portal changes

Classification of goods cannot be changed by recommendation of GST Council and circulars issued by TRU of CBIC - HC

DA Insights:

The Honorable High Court rightly held that the power of GST Council is recommendatory and as long as the Customs Tariff Act, 1975 is adopted for the purpose of interpretation of goods or services under GST, classification has to be strictly in accordance with the classification under Customs Tariff Act, 1975, irrespective of the fact that concessions were given under the earlier regime.

Issue:

The writ petition is filed under Article 226 of the Constitution of India for calling for the records of GST Council relating to Minutes of its meeting held on December 22, 2018, more particularly, the decision to classify "flavoured milk" under HS Code 2202, and quash the same for being contrary to the decision of the Supreme Court of India in Commissioner Vs. Amrit Food reported in 2015 (324) ELT 418 (SC), provisions of Articles 279(A), 14, 19(1)(g) and 265 of the Constitution of India.

Goods falling in the First Schedule to the said Notification attracts 2.5% GST. On the other hand, the GST Council in the impugned Minutes of the Meeting dated 22.12.2018 has classified "Flavoured Milk" under Chapter Heading 2202 90 30 of the Customs Tariff Act, 1975. Sl.No.8 to the First Schedule deals with goods falling under Heading 0402. Sl.No.50 to Second Schedule to Notification No.1/2017-Central Tax (Rate) dated 28.06.2017 prescribes 6% CGST on "Beverage Containing Milk".

Legal Provisions:

GST Council minutes of meetings dated December 22, 2018.

Observation and Comments:

The Honorable High Court observed and held that:

The function of the GST is not to determine the classification under the provisions of the Customs Tariff Act, 1975. The recommendation of the GST Council is recommendatory. It is not binding on the Government as evident from a reading of Article 279-A(4) of the Constitution of India. Article 279-A(4) of the Constitution of India.

It has to be therefore construed that "Beverage Containing Milk" will not include flavoured milk made out of dairy milk. "Beverage Containing Milk", "Non-Alcoholic Beverages" can include only plant / seed based "Milk".

M/s.Parle Agro Pvt. Ltd vs UOI and Others [W.P.Nos.16608 & 16613 of 2020 and W.M.P.Nos.20602 & 20604 of 2020 – Madras High Court] Similar view in Association Of Technical Textiles Manufacturers And Processors & Anr vs UOI and Others [W.P.(C) 5933/2019 – Delhi High Court]

Classification of goods cannot be changed by recommendation of GST Council and circulars issued by TRU of CBIC - HC

DA Insights:

The Honorable High Court rightly held that the power of GST Council is recommendatory and as long as the Customs Tariff Act, 1975 is adopted for the purpose of interpretation of goods or services under GST, classification has to be strictly in accordance with the classification under Customs Tariff Act, 1975, irrespective of the fact that concessions were given under the earlier regime.

At the same time, I am of the view that "Flavoured Milk" that was proposed to be manufactured by the petitioner at the time of institution of the Writ Petition has to be still classified under Tariff Heading 0402 of the Customs Tariff Act, 1974 and is therefore liable to Central Tax at 2.5% in terms of Entry 8 to First Schedule to Notification No.1/2017-CT(Rate) dated 28.06.2017.

The 3rd respondent GST Council has wrongly clarified that "Flavoured Milk" is classifiable under heading 2202 of Harmonious System of Nomenclature (HSN) based on Chapter Note 1 to Heading 0402. It also cannot determine the classification. Determination of classification also does not fall within the preserve of the 3rd respondent GST Council.

Further, the power of the 3rd respondent GST Council is merely recommendatory. It is for the Government to fix appropriate rate on the goods that are classifiable under the Customs Tariff Act, 1975. As long as the Customs Tariff Act, 1975 is adopted for the purpose of interpretation of Notification No.1/2017-CT(Rate) dated 28.06.2017, classification has to be strictly in accordance with the classification under Customs Tariff Act, 1975, irrespective of the fact that concessions were given under the earlier regime by the Central Government under Sections 5 & 11C and Section 4A of the Central Excise Tariff Act, 1985.

M/s.Parle Agro Pvt. Ltd vs UOI and Others [W.P.Nos.16608 & 16613 of 2020 and W.M.P.Nos.20602 & 20604 of 2020 – Madras High Court] Similar view in Association Of Technical Textiles Manufacturers And Processors & Anr vs UOI and Others [W.P.(C) 5933/2019 – Delhi High Court]

Refund with interest is allowed in IDS even when the supplier charged higher rate of tax then applicable – HC

DA Insights:

The Honorable Court rightly allowed the refund in the said case when the supplier charged higher tax instead of tariff rate as section 54(3) of CGST Act, 2017 allows refund in IDS scenario when tax on input is higher than output.

Issue:

The issue involved is that the respondent had procured the materials from the supplier, where the supplier paid IGST at the rate of 18% and made the supply. However, for the final product, the first respondent is liable to pay IGST only at the rate of 5%. Further, the supplier of the first respondent is also supposed to have paid only 5% IGST on the input product, but he had wrongly paid 18% IGST and since there is no inverted duty structure in this case, the refund application can be rejected on this ground. Hence, he would contend that since the second respondent had passed the impugned order without considering the above aspect, the said impugned order is liable to be set aside.

Legal Provisions:

Section 54(3) of CGST Act, 2017

Observation and Comments:

The Honorable High Court observed and held that:

In terms of Section 54(3)(ii) of the GST Act, if the rate of tax on input is higher than the rate of tax on output, certainly, the person can claim the refund. Accordingly, in the present case, the duty paid on input is 18% though it is chargeable at 5%. Therefore, this Court is of the considered view that the petitioner is entitled for refund in terms of the provision of the Section 54(3)(ii) of the GST Act and the said view was also held by the second respondent in the impugned order. Hence, this Court does not find any error or illegality in the order passed by the second respondent on this aspect.

As far as the contention of the petitioner, that since the supplier of the first respondent had wrongly paid 18% IGST on the input, the first respondent should have paid 18% duty on output, is concerned, this Court is not inclined to accept the same since this Court does not find any substance in the said submission made by the learned counsel for the petitioner for the reason that at any cost, the petitioner cannot insist or advise the Assessee (first respondent) to pay excess rate of duty than the duty prescribed in the law.

Therefore, this Court is of the view that the first respondent is entitled for refund as per the order passed by the second respondent and the first respondent is also entitled for interest at the rate of 9% per annum of the refund amount for the delay period in terms of Section 56 of the GST Act.

The Commercial Tax Officer vs. Suzlon Energy Ltd. [TS-603-HC(MAD)-2023-GST]

Refund application processing cannot be halted when mandatory documents filed – HC

DA Insights:

It is very common practice of not processing the refund application by terming it as deficient without any proper reason and leading to filing of new refund application which may be time barred under section 54 (3) of CGST Act, 2017. The said decision has rightly held and set aside the said order.

Issue:

The petitioner had filed an application for refund of the unutilized ITC in respect of zero-rated supplies along with all documents in terms of Rule 89(2) of the CGST Rules, 2017 which was not processed and the concerned officer issued the impugned communication is bereft on any specific details. It neither sets out the relevant documents that have not been provided nor indicates the documents that are supposedly incomplete. Accordingly, the refund application was not processed against which the writ petition is filed.

Legal Provisions:

Rule 89 (2) of CGST Rules, 2017

Observation and Comments:

The Honorable High Court observed and held that:

Mr. Aggarwal, does not controvert that the documents referred to in the file noting and also reflected in the GST portal are not covered under Rule 89(2) of the CGST Rules. Concededly, the petitioner had filed all relevant documents that were mandatory in terms of Rule 89(2) of the CGST Rules.

This Court had considered a similar issue in National Internet Exchange of India v. Union of India & Ors.: Neutral Citation No.2023:DHC:6002-DB.

In view of the above, we set aside the impugned communication. We direct the concerned officer to issue the acknowledgement in terms of Rule 90 of the CGST Rules and process the petitioner's application for refund in accordance with law.

AB Enterprises vs Commissioner of Delhi Goods and Services Tax [TS-604-HC(DEL)-2023-GST]

Services of loading, unloading, packing etc., rendered in relation to the imported wheat is entitled for GST exemption – HC

DA Insights:

The AAR cannot add conditions for the notification and also cannot go beyond notification to determine whether applicable or not which has been rightly held by the Honorable High Court..

Issue:

The petitioner imports wheat for milling purposes through various seaports and engaged the services of 2nd respondent at port for loading, unloading, packing, storage or warehousing of the imported wheat and its further clearance to petitioner's factory. The 2nd respondent i.e. supplier in the contract filed an application for Advance Ruling seeking clarification on whether the services rendered in respect of wheat imported by the petitioner is exempted under S.No.54(e) of the Notification No.12/2017-CT dated 28.06.2017 which AAR has rejected on the ground that the services of loading, unloading, packing, storage or warehousing of wheat is not meant for primary market instead the wheat imported is intended to be milled at the petitioner's factory into wheat products such as maida, atta, sooji, bran etc. The question before the Honorable High Court is whether the contract between the petitioner and the 2nd respondent for services of loading, unloading, packing, storage, warehousing is rendered in relation to "agricultural produce"

Legal Provisions:

S.No.54(e) of the Notification No.12/2017-CT dated 28.06.2017

Observation and Comments:

The Honorable High Court observed and held that:

On a plain reading of the definition of "agricultural produce", all that it does is to identify the nature of the product that would be covered while also including certain processes which does not alter the essential character as an "agricultural produce" but merely makes it marketable for the primary market. The petitioner's entitlement to exemption must be determined by testing whether the services of loading, unloading, packing, storage or warehousing is rendered to agricultural produce or other than "agricultural produce" and not on the basis of the process the agricultural produce is meant to be subject to in the hands of the petitioner/ importer.

Naga Ltd. vs AAR and Others [2023-VIL-833-MAD]

Services of loading, unloading, packing etc., rendered in relation to the imported wheat is entitled for GST exemption – HC

DA Insights:

The AAR cannot add conditions for the notification and also cannot go beyond notification to determine whether applicable or not which has been rightly held by the Honorable High Court..

This Court also finds that the impugned order is flawed inasmuch as it results in adding conditions to exemption notification which is impermissible.

Applying the above reasoning to the term "marketable" used in the definition of "agricultural produce" it would be clear that it only means that the goods in question in the instant case wheat must be capable of being marketed in the primary market and it is not necessary to show that it is actually marketed. The impugned order is set aside.

Naga Ltd. vs AAR and Others [2023-VIL-833-MAD]

Amount deposited in escrow account pending appeal against Arbitral award not liable to GST – AAR

DA Insights:

When the amount is deposited is towards the dispute pertaining to the supply and not available to the supplier, the same does not fall under the definition of 'consideration' and thus the transaction cannot be considered as 'Supply' under GST law.

Issue:

The applicant has sought advance ruling on the below mentioned question:

Whether the amount deposited by the applicant (75%) in escrow account against bank guarantee pending outcome of the further challenge against Arbitral Award or dissatisfaction against DAB decision is liable to GST under the provisions of CGST Act. 2017.

Legal Provisions:

Section 7 of CGST Act, 2017 and section 2(31) of CGST Act, 2017

Observation and Comments:

The AAR observed and provided the ruling that:

The 'consideration' shall not include any subsidy given by the Central/Statc Government. Consideration further also includes monetary value of any act/forbearance, whether by the recipient or by any other person. What is significant is however the proviso to the definition which states that a deposit given in respect of supply of goods or services or both shall not be considered as consideration for the said supply unless the supplier applies such deposit as consideration for the said supply.

We find that though the amount i.e. 75% paid into an escrow account is towards the dispute pertaining to the supply, what brings this particular transaction out of the scope o['the consideration is the fact is that it is not paid to the contractor [supplier but is deposited in an escrow account; that it cannot be withdrawn from the account without the explicit approval of the applicant; that the amount can be withdrawn only subject to the condition that the supplier [contractor] provides a BG for the said amount. In-fact, the applicant, though he has deposited the amount in an escrow account, also docs not term this as a consideration for the supply since he is agitating his case, being aggrieved by the decision rendered against him. In view of the foregoing, we hold it to be outside the scope of 'consideration' as defined under section 2(31) of the CGST Act, 20I7.

In this background, ongoing through the definition of consideration and section 7 of the CGST Act, 2017 , we find that this 75% deposit mad in an escrow account as per the O.M. of NITI Aayog, is neither a consideration nor a supply till it is finally decided against the applicant and accepted by the applicant.

Dedicated Freight Corridor Corporation of India Ltd. [TS-594-AAR(GUJ)-2023-GST]

Cash not forming stock-in-trade cannot be seized by GST Dept. – HC

DA Insights:

The cash is not covered in the definition of 'goods' and under section 67 of CGST Act, 2017, only goods can be seized when the officer have reason to believe that the same is relevant for proceedings.

Issue:

The assessee contended on following aspects before the Honorable High Court:

i) The case was seized without issue of notice and subjected to retention for over six months, which is the outer limit in the case of seizure with permission and therefore, the seizure of cash is contrary to law.

(ii) The definition of 'goods' means every kind of movable property other than money.

Legal Provisions:

Section 67 of CGST Act, 2017

Observation and Comments:

The Honorable High Court observed and held that:

When this is read in context of provisions of sub-section (2) of section 67, obviously, when the proper officer confiscates any goods, documents, books, or things, he must have reason to believe that they shall be useful for or relevant to any proceedings under this Act.

As observed by the Kerala High Court, it was not the case of seizing officer that it was an investigation, which concerned the Income Tax Department. It was not in the context of GST Act that the proper officer could have reason to believe that seized cash, otherwise cannot be termed to be useful for the purposes of and relevant to any proceedings under the CGST Act.

Bharatkumar Pravinkumar and Co. Vs State of Gujarat [TS-568-HC(GUJ)-2023-GST]

Non-filing GSTR-3B for 6 months continuously leads to GST registration Cancellation even when tax is paid – HC

DA Insights:

Non-compliance of filing returns under GST regime have various implications including cancellation of registration and even when tax is paid along with interest, the same will not restore their cancelled registration..

Issue:

The petitioner had failed to upload returns in form 3B under Section 39 of the GST Act, 2017. As per Section 29 of the GST Act, 2017, if a dealer fails to file returns continuously for a period of six months, his registration is likely to be cancelled. The petitioner was issued SCN directing him to show cause as to why registration under the GST Act, 2017 should not be cancelled for the failure to file returns for a continuous period of six months and also to appear before the authority and was given time to file reply to the SCN and also to appear for personal hearing. Despite the said notice, neither the petitioner filed a reply, nor he had filed a return. Therefore, the petitioner's registration was cancelled against which the writ petition is filed.

Legal Provisions:

Section 29 of CGST Act, 2017

Observation and Comments:

The Honorable High Court observed and held that:

According to the learned counsel, if the GST amount and the interest is paid, then the petitioner cannot be held to be a defaulter for not filing the return and therefore, the proceedings for cancellation of the registration becomes non est and the order cancelling registration ought to be restored. I do not consider the said submission sustainable under law. The provisions for cancellation of registration and making payment of the tax due with interest are different. Both the provisions have different scope, purpose and intent. If an assessee fails to make payment of the full GST amount or part thereof, interest is liable to be levied for the delayed payment.

Against the order of cancellation of registration, the petitioner ought to have availed the remedy of appeal within a maximum period of three months from the date on which the order is communicated. Admittedly, the petitioner did not file returns for a period of six months consecutively and therefore, the authority has no option than to cancel the registration.

Even though the learned counsel for the petitioner submits that the GST software is not in consonance with the Act and the Rules thereto, the said contention is only to be rejected. When the whole of the country files returns and pays tax by uploading the same in the same software, it cannot be said that the GST portal is not viable.

Sanscorp India Pvt. Ltd. vs. The Assistant Commissioner [TS-585-HC(KER)-2023-GST]

Assessment order quashed given Revenue's failure to verify GSTR-01, 3B filing via portal – HC

DA Insights:

The Honorable Court rightly observed that after filing of GSTR-1 and GSTR 3B how much tax has been deposited by the selling dealer can be verified from the GST portal which has not been done by Revenue and thus such impugned order is not sustainable.

Issue:

During the assessment period in question purchase of coal was made from Rohit Coal Traders for which tax invoice was issued in which CGST and SGST was charged as well as GST composition cess was also charged; on the said purchases even after payment of tax, no input tax credit was availed by the petitioner on the ground that the petitioner has opted for composition. But the proceedings under Section 74 was initiated and a notice was issued on the ground that Rohit Coal Traders was not found to be in existence and thereafter the order was passed for imposition of tax and penalty and accordingly the demand was raised; against the said order a rectification application under Section 161 was filed but by order no relief was granted to the petitioner; against the said order, an appeal was preferred which was also rejected by the impugned order against which writ petition is filed.

Legal Provisions:

Section 74 of CGST Act, 2017

Observation and Comments:

The Honorable High Court observed and held that:

Under the GST regime all details are available in the portal of GST department. The authorities could have very well verified as to whether after filing of GSTR-1 and GSTR 3 B how much tax has been deposited by the selling dealer i.e. Rohit Coal Traders but the authorities have failed to do so. Thus looking to the said facts, the impugned orders cannot be sustained in the eyes of law.

The impugned orders are set aside. The matter is remanded to the first appellate authority, who shall pass a fresh order in accordance with law, expeditiously, preferably within a period of two months from the date of producing a certified copy of this order, without granting any unnecessary adjournment to the parties.

Rama Brick Field vs. Additional Commissioner [TS-579-HC(ALL)-2023-GST]

GST Notification / Circulars / Guidelines / Instructions

Serving GST DRC-01 Notice & Uploading DRC-07 Order Electronically

The CBIC GST Policy Wing has issued a directive emphasizing the importance of adhering to electronic portal obligations under the CGST Act. The directive focuses on serving notices in FORM GST DRC-01 and uploading orders in FORM GST DRC-07. The directive highlights the legal framework, challenges faced by field formations, and the critical role of compliance in maintaining seamless record-keeping under GST. It also highlights the importance of electronic records, as they make notices and orders accessible to taxpayers and facilitate efficient tracking of proceedings.

Instruction No. 04/2023- GST, Dated: 23rd November, 2023

Creation of State Co-ordination Committee comprising of the GST authorities from the State and the Central Tax Administrations

The GST Council, in its 50th Meeting on 11.07.2023, approved the establishment of a Co-ordination Committee in each State/UT, enhancing collaboration between GST authorities from the State and Central Tax Administrations. The Committee for Rajasthan is formed with representatives from both administrations. It operates perpetually with a rotational Convenorship. Its functions include data sharing on evasion cases, knowledge exchange, addressing fake ITC cases, and uniform stand on legal matters. The Committee meets quarterly to discuss GST-related issues and ensure coordinated efforts between Central and State Tax Administrations.

Office Order No. 28/2023 – Dated: 28th November, 2023

GSTN Portal Changes

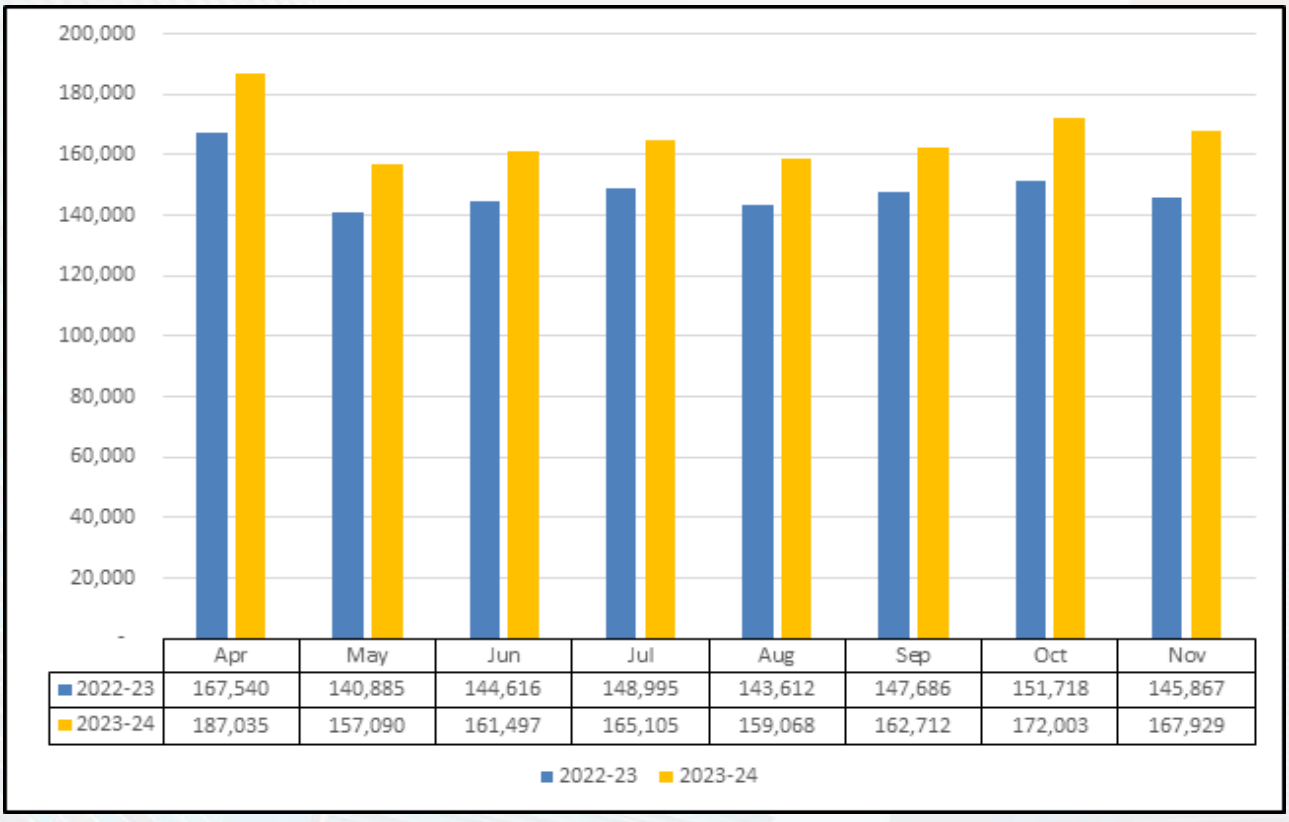
Advisory for Pilot Project of Biometric-Based Aadhar Authentication and Document Verification for GST Registration Applicants of Andhra Pradesh

The GST registration process has been updated to include biometric-based Aadhaar Authentication and document verification. The new functionality, developed by GSTN, will be rolled out in Andhra Pradesh on 4th December 2023. Applicants will receive links for OTP-based Aadhaar Authentication or appointment booking at a GST Suvidha Kendra (GSK). The appointment confirmation email and necessary documents are required for the biometric verification process. The appointment booking feature is currently available for applicants in Andhra Pradesh.

Advisory: Two-factor Authentication for Taxpayers

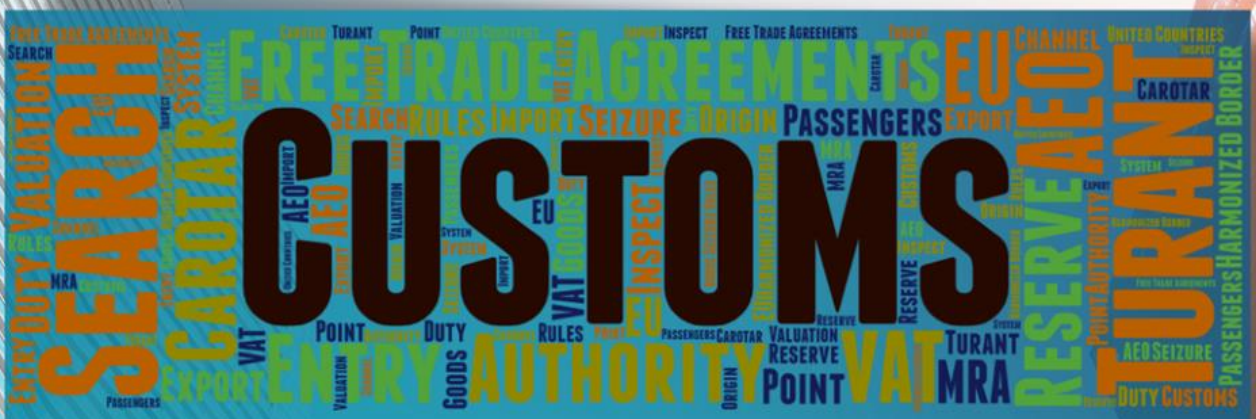
GSTN is introducing two-factor authentication (2FA) for taxpayers to improve login security in the GST portal. The pilot rollout has been successful in Haryana, with the system being rolled out in Punjab, Chandigarh, Uttarakhand, Rajasthan, and Delhi in the first phase. In the second phase, it is planned to be implemented across all states across India. Taxpayers must provide a one-time password (OTP) after entering their user ID and password. The solution will be implemented from December 1, 2023.

GST Revenue Collection in November - Rs. 1,67,929 Cr.



	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
2022-23	167,540	140,885	144,616	148,995	143,612	147,686	151,718	145,867
2023-24	187,035	157,090	161,497	165,105	159,068	162,712	172,003	167,929

Source: PIB



- Revoking of MEIS benefit retrospectively is unsustainable – HC
- Competent Authority under Customs Act empowered to assess IGST exemption
- Refund of unutilised Cenvat Credit on closure of factory is allowed and limitation period not applicable – CESTAT
- Tax wrongly paid under RCM is not barred by time limitation period – CESTAT
- Time limit under SVLDRS Scheme is directory in nature and cannot lead to disallowance of the application
- Cenvat Credit reversal not required as Bagasse is not a manufactured final product
- DGFT's delay in acting on EPCG-license redemption request cannot deprive the benefit under the exemption notification – CESTAT
- Let export order cannot be issued before payment of full custom duty – CESTAT
- Supreme Court Upholds IBC Waterfall Mechanism for CBIC Dues
- Royalty cannot be included in Transaction Value under Customs Valuation Rules, 2007, Once Arms Length Price Accepted – CESTAT
- Other Notifications/Circulars/Instructions

Revoking of MEIS benefit retrospectively is unsustainable – HC

DA Insights:

The Court rightly clarified that even if a benefit is rescinded in the broader public interest, it does not necessarily legitimize a retrospective withdrawal without clear legislative backing.

Issue:

The Petitioner has approached this Court under Article 226 of the Constitution of India, challenging the notification dated 29th January, 2020 which has retrospectively revoked the benefit under the Merchandise Exports from India Scheme [hereinafter "MEIS"] in respect of Flexible Intermediate Bulk Container [hereinafter "FIBC"] bags, with effect from 07th March, 2019.

Legal Provisions:

Notification no. dated 29.01.2020

Observation and Comments:

The Honorable High Court observed and held that:

Retrospective withdrawals of benefits and incentives by their nature, risk inflicting irreversible harm, in this case – the Petitioner's member units. While prospective amendments or alterations are within the Central Government's purview and typically beyond reproach, retrospective changes that could devastate an entire sector raise serious concerns. Such actions risk breaching the fundamental tenets of natural justice, equity, and fair play, potentially undermining the legitimacy of administrative decisions.

We find that paragraph 1.02 of the FTP 2015-20 recognizes the Central Government's discretion to amend the FTP in the public interest. However, it does not suggest that these amendments can retrospectively reshape prior understandings or actions. In such a scenario, the FTP certainly does not authorize the DGFT to rescind substantive benefits retrospectively.

The impugned notification dated 29th January, 2020, insofar as it withdraws the MEIS benefit on FIBC bags classified under HS-ITC 6305 3200, shall apply prospectively.

Indian Flexible Intermediate Bulk Container Association vs DGFT [W.P.(C) 14779/2021 & CM APPLs. 46500/2021, 47436/2021 – Delhi HC]

Competent Authority under Customs Act empowered to assess IGST exemption

DA Insights:

Section 28 of Customs Act, 1962 is not only in respect of duty which means customs duty but, it is in respect of duties which may be applicable on imported item/goods and thus assessment of IGST levy can also be done by the Customs assessing officer which is rightly held by the Honorable Court.

Issue:

The petitioner had imported items declared as 'Wet Dates' (Processed dates) vide five bill of entries. On post clearance audit of the above mentioned bills of entry by Customs Receipt Audit (CRA), it was observed that the importer had imported dates and the IGST exemption claimed under Sl. No.51 of the IGST exemption Notification No.02/2017-Integrated tax (Rate) dated 28.06.2017 was applicable to "fresh dates" under Chapter 0804 wet/processed dates attracted 12% IGST against Sl. No.16 of Schedule II of Notification No.01/2017- Integrated Tax (Rate) dated 28.06.2017. The order is passed after adjudication which is challenged before the High Court. The main contention is that that the assessing authority under Section 28 of Customs Act is not empowered to assess the IGST and it is the authority under the IGST Act which could have proceeded with the matter. He therefore submits that the impugned order is without jurisdiction inasmuch as it has been passed by an authority which is not empowered to assess the tax/duty under the provisions of IGST Act.

Legal Provisions:

Sl. No.51 of the IGST exemption Notification No.02/2017- Integrated tax (Rate) dated 28.06.2017

Observation and Comments:

The Honorable High Court observed and held that:

Sub-section (15) of Section 2 defines duty which means customs duty. Section 28 empowers the assessing authority to assess and recover the duties not levied, not paid, short levied or short paid or erroneously refunded. Section 28 therefore is not only in respect of duty which means customs duty but, it is in respect of duties which may be applicable on imported item/goods.

Even otherwise, the assessment order is defined under Sub-section 2 of Section 2 of the Customs Act empowers the assessing authority to determine the dutiability of any goods and the amount of duty/tax, cess or any sum so payable under the Customs Act or Customs Tariff Act, 1975 (51 of 1975) or under any other law for the time being in force, with reference to exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under the said Act or under the Customs Tariff Act or under any other law for the time being in force.

In the above view and circumstances of the case, I find no substance in the writ petition. This writ petition appears to be wholly misconceived, and it is hereby dismissed.

M/S. Ajwa Dry Fruit Impex vs UOI and Others [WP(C) NO. 16393 OF 2023 – Kerala High Court]

Refund of unutilised Cenvat Credit on closure of factory is allowed and limitation period not applicable – CESTAT

DA Insights:

The refund of unutilised CENVAT Credit in the case of closure of factory is allowed without any limitation period under section 11B of Central Excise Act, 1944. The same has been allowed under the case of Slovak India and followed in the said case. In our view, the same principle can be applied under GST law.

Issue:

The appellants was a manufacturer of excisable goods and subsequently had closed down the factory in the year 1998, but continued to have the registration certificate effective till June, 2017. Thereafter, they have surrendered the certificate to the department and filed the refund application of the accumulated Cenvat credit owing to the reason of closure of the factory. The said refund application was filed under Rule 5 of the Cenvat Credit Rules, 2004. The Assistant Commissioner rejected the refund application filed by the appellant and the appellant had preferred appeal before the learned Commissioner (Appeals), which was disposed of by dismissing the appeal filed by the appellant. By placing reliance on the judgment of Hon'ble Bombay High Court in the case of Gauri Plasticulture Pvt. Ltd., 2018 (360) ELT 967 (Bom.), the learned Commissioner in the impugned order has held that refund of unutilized Cenvat credit cannot be granted on closure of the factory. Aggrieved with the order, the appellant has preferred the appeal before this Tribunal. While hearing the appeal, the learned Members in the Division Bench have raised the difference of opinion with regard to the issue of grant of refund of accumulated Cenvat credit, in the event of closure of the factory and final order is issued.

Legal Provisions:

Rule 5 of Cenvat Credit Rules, 2004

Observation and Comments:

The Honorable CESTAT observed and held that:

The Tribunal in the case of Slovak India Trading Co. Pvt. Ltd. Vs. Commissioner of C.Ex., Bangalore – 2005 – TIOL – 1698 – CESTAT – BANG., has held that refund claim is eligible and refund has to be made in cash, when the assessee goes out of Modvat Scheme or when the company is closed.

M/s ATV Projects India Ltd [FINAL ORDER NO. A/86340/2023 – CESTAT]

Refund of unutilised Cenvat Credit on closure of factory is allowed and limitation period not applicable – CESTAT

DA Insights:

The refund of unutilised CENVAT Credit in the case of closure of factory is allowed without any limitation period under section 11B of Central Excise Act, 1944. The same has been allowed under the case of Slovak India and followed in the said case. In our view, the same principle can be applied under GST law.

Feeling aggrieved with the order of Tribunal in the case of Slovak (supra), the department had field appeal before the Hon'ble Karnataka High Court, which was disposed of by way of rejection of appeal, reported in 2006 (201) E.L.T. 559 (Kar.). In the said judgement, the Hon'ble High Court had upheld the views of the Tribunal and had recorded the findings that there is no express prohibition for refund in terms of Rule 5 of Cenvat Credit Rules, 2004; that the said provision refers to a manufacturer; and that since there is no manufacture in the light of closure of the company, the provisions of Rule 5 ibid is not available for the purpose of rejection of the refund application. The said judgement of the Hon'ble Karnataka High Court was challenged by the Union of India by way of filing of Special Leave Petition. (SLP) before the Hon'ble Supreme Court. The SLP was dismissed by the Hon'ble Court [2008 (223) E.L.T. A 170 (S.C.)], holding that learned ASG appearing for the Union of India, had fairly conceded that those decisions of the Tribunal, which were relied upon by the Tribunal to allow cash refund of accumulated Cenvat credit, had not been appealed against.

In this context, the law is well settled that when the department has accepted the principles decided in earlier cases, in preferring for non-filing of appeals, then the issue cannot be raised subsequently for deciding such settled issue differently. The issue in hand has also been examined by the Hon'ble Supreme Court in the case of Commissioner of C. Ex., Hyderabad vs. Novapan Industries Ltd., 2007 (209) E.L.T. 161 (S.C.).

The only active provision for grant of refund of cenvat credit is available in Rule 5 ibid. Though, the said rule has considered for grant of refund in case of exportation of goods or services, but in terms of judgement of Hon'ble Karnataka High Court in the case of Slovak India Trading Co. Pvt. Ltd. (supra), the accumulated cenvat credit is available for

M/s ATV Projects India Ltd [FINAL ORDER NO. A/86340/2023 – CESTAT]

Refund of unutilised Cenvat Credit on closure of factory is allowed and limitation period not applicable – CESTAT

DA Insights:

The refund of unutilised CENVAT Credit in the case of closure of factory is allowed without any limitation period under section 11B of Central Excise Act, 1944. The same has been allowed under the case of Slovak India and followed in the said case. In our view, the same principle can be applied under GST law.

refund in absence of any express prohibition being contained in Rule 5 ibid.

The modality for grant of refund of the excise duty is contained in Section 11B of the Central Excise Act, 1944. Since, closure of a factory is not a routine phenomenon, but happens in rarest occasion, the relevant date in context with the limitation for filing of refund application under such circumstances, cannot be reckoned by reading the Explanation clause provided in Section 11B ibid.

In other words, availment of cenvat credit is an indefeasible right of an assessee and such right conferred under the statue cannot be taken away on the ground of limitation. Further, Rule 5 ibid does not prescribe any time limit for grant of refund of the cenvat credit. Even if the time limit under Section 11B ibid is to applied, then logically it should be effective from the date of surrender of the registration certificate upon closure of the factory. The appellant in this case, since has filed the refund application within a reasonable time frame, from the date of closure of the factory, in my opinion, the same should not be denied on the ground of limitation, inasmuch as the purpose of the cenvat scheme would be defeated, if the benefits accrued in lawful manner is denied.

M/s ATV Projects India Ltd [FINAL ORDER NO. A/86340/2023 – CESTAT]

Tax wrongly paid under RCM is not barred by time limitation period – CESTAT

DA Insights:

It is held under many legal precedents that any tax paid by mistake are not governed by the time limit provided under section 11B of CEA. The same is squarely applicable under GST law.

Issue:

The Appellant continued to pay the Service Tax on "Reverse Charge Basis" during the period July 2013 to March 2014. After noticing that they have paid Service Tax which is not required to be paid because of exemption granted under Notification No.25/2012- ST dated 20/06/2012 as amended by Notification No. 03/2013-ST dated 01/03/2013, they have filed their refund claim. After due process, the Adjudicating Authority in his order has rejected the refund claim under Section 11B read with Section 83 of the Finance Act, 1994. On Appeal, the Commissioner (Appeals) has upheld the impugned order. Being aggrieved, the appellant filed the appeal before the Tribunal.

Legal Provisions:

Section 11B of Central Excise Act, 1944

Observation and Comments:

The Honorable CESTAT observed and held that:

The co-ordinate Benches have held that refund claims filed on account of Service Tax, paid by mistake, are not governed by the time limit specified under Section 11B.

The above decision of the CESTAT, which is based on the third member reference Bench's decision, amounts to LB decision on the issue. The decision of this Final Order is squarely applicable to the facts of the present case. Therefore, it is held that in the present case the provisions of Section 11B (time limit) would not be applicable.

M/s. Bansal Biscuits Private Limited vs CCE [Service Tax Appeal No. 75363 of 2016 – CESTAT, Kolkata]

Time limit under SVLDRS Scheme is directory in nature and cannot lead to disallowance of the application

DA Insights:

The Honorable High Court rightly held that if the provisions are mandatory in nature, this Court normally will not interfere and pass orders against the said provisions. As far as if the provisions are directory in nature, certainly the prevailing situation and the inability of the petitioner due to the said pandemic would be the factors that have to be considered by this Court to pass an appropriate order.

Issue:

The writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to consider the payment made by the petitioner dated 1.3.2021 as payment under SVLDRS Scheme and also direct the first respondent to issue discharge certificate in form SVLDRS 4 to the petitioner.

Legal Provisions:

Sabka Vishwas Legacy Dispute Resolution Scheme, 2019 [SVLDRS]

Observation and Comments:

The Honorable High Court observed and held that:

Further, there is no doubt that if the provisions are mandatory in nature, this Court normally will not interfere and pass orders against the said provisions. As far as if the provisions are directory in nature, certainly the prevailing situation and the inability of the petitioner due to the said pandemic would be the factors that have to be considered by this Court to pass an appropriate order.

Further, as discussed above, there is no doubt that the provision of fixing time limit under the SVLDRS Scheme is directory in nature and that is the reason why the Department had extended the time limit for payment of tax amount under the SVLDRS Scheme by virtue of notifications. When that being the case, the Department is supposed to have extended the time at par with the order passed by the Hon'ble Supreme Court, where it had considered the difficulties faced by the public in mobilizing the money, filing the cases before the Courts, etc., and granted the time limit up to 28.02.2022.

Therefore, taking into consideration of all these aspects, this Court is of the view that the amount, which was paid by the petitioner on 02.03.2021 shall be consider as the amount paid under the SVLDRS Scheme and hence, the Department is bound to issue the Form SVLDRS- 4 with regard to the discharge of liabilities.

M/s.RR Housing (India) Pvt.Ltd. vs The Designated Committee (SVLDRS) and Others [W.P.No.11601 of 2021 and W.M.P.No.12352 of 2021]

Cenvat Credit reversal not required as Bagasse is not a manufactured final product

DA Insights:

It is well settled law that bagasse are not considered as manufactured goods during the manufacturing of 'sugar' and thus the question of reversal of credit or payment of duty on the same under Rule 6 of CENVAT Credit Rules, 2000 does not arise.

Issue:

The appellant is engaged in the manufacture of 'sugar' and 'molasses' and are availing CENVAT Credit on inputs and input services which was noticed by the Department and alleged that the appellant had contravened the provisions of Rule 6 of the CENVAT Credit Rules, 2004 inasmuch as they did not maintain separate accounts for the common input services used in the manufacture of both dutiable and exempted products and has to pay an amount of 6% of the value of exempted products (bagasse / pressmud) in view of Rule 6(3)(i) of the CENVAT Credit Rules, as amended. The order was issued after adjudication against which the appeal is filed.

Legal Provisions:

Rule 6 of CENVAT Credit Rules, 2004

Observation and Comments:

The CESTAT observed and held that:

In terms of the above Explanation which was introduced with effect from 01.03.2015, the appellant has to reverse the credit or pay 6% of the value of the exempted products in case non-excisable goods are cleared for a consideration. The Board had also issued a Circular in line with the above Explanation. However, the said Circular came to be challenged before the Hon'ble High Court of Allahabad in the case of Balrampur Chini Mills Ltd. [2019 (368) E.L.T. 276 (All.)] and the same was held to be invalid and quashed.

It was also observed by the Hon'ble High Court that though the Explanation states that non-excisable goods are to be treated as exempted goods, it cannot be construed that bagasse/pressmud are manufactured by an assessee. As per Rule 6(1), the credit is to be reversed on exempted goods manufactured by an assessee.

After appreciating the facts and following the ratio laid down in the above decisions, we are of the considered opinion that the demand cannot sustain and requires to be set aside, which we hereby do.

M/s. Ponni Sugars (Erode) Limited vs CCE [Excise Appeal No. 40935 of 2017 – CESTAT – Chennai]

DGFT's delay in acting on EPCG-license redemption request cannot deprive the benefit under the exemption notification - CESTAT

DA Insights:

The approach of DGFT is questioned in the said case where no communication is done with the assessee who requested for EODC for EPCG but issued the instruction to Customs authority to disallow the benefit under the exemption notification.

Issue:

The appeal is filed against the Order in Original whereby the Commissioner of Customs has ordered the denial of duty exemption availed by the assessee in terms of EPCG Authorisation Licence for the import of capital goods under Notification No. 102/2009 dated 11.09.2009. The appellant fulfilled the export obligation prescribed under the above Notification and the certificate of the chartered accountant supports their contention however, the above Notification does not anywhere man date the production of EODC by the appropriate authority, but it is only as a matter of convenience that such EODC are obtained and filed before the Customs authorities.

Legal Provisions:

Foreign Trade Policy

Observation and Comments:

The Honorable CESTAT observed and held that:

- At the outset, we are of the prima facie view that the impugned order cannot be sustained for the following reasons:

❖ Firstly, when an application for discharge is submitted before an authority, a ny shortcomings in such application should be essentially communicated to the applicant alone, thereby seeking clarifications. It is certainly not for the ADGFT to declare the applicant's liability to Customs duty, rather it was for the Commissioner to decide that.

❖ Secondly, the letter referred to in the said communication by the ADGFT for request of EODC clearly reveals that the same is the covering letter and all the relevant documents appear to have been enclosed and hence what was the basis for a responsible authority like the A DGFT to issue such a factually incorrect comment is the question that bothers us

M/s. Hyundai Motor India Limited vs CC [Customs Appeal No. 40600 of 2020 – CESTAT Chennai]

DGFT's delay in acting on EPCG-license redemption request cannot deprive the benefit under the exemption notification - CESTAT

DA Insights:

The approach of DGFT is questioned in the said case where no communication is done with the assessee who requested for EODC for EPCG but issued the instruction to Customs authority to disallow the benefit under the exemption notification.

- Just because the said authority who should have issued communication to the assessee applicant chose to bias the mind of the adjudicating authority does not ipso facto become sacrosanct much less, admissible evidence Had the assessee defaulted in not approaching the authority in time, then perhaps it was a different aspect altogether, which is not so here. Further, the appellant has also furnished a certificate by its chartered accountant, but unfortunately, the lower authority has not at all bothered to consider or discuss the same in the impugned order, which only points out that the order has been passed in a haste.

- In view of the above discussion, we are of the prima facie view that the appellant should not be taken to task due to a delay caused in the DGFT office to act on their request for redemption of EPCG Licence. The impugned order calls for interference and hence we set aside the same. We hereby direct the lower authority to await the certificate that may be issued by the authority, namely DGFT, as ruled by co-ordinate Benches of the Tribunal, in the interests of justice.

M/s. Hyundai Motor India Limited vs CC [Customs Appeal No. 40600 of 2020 – CESTAT Chennai]

Let export order cannot be issued before payment of full custom duty – CESTAT

DA Insights:

The Honorable CESTAT rightly held that let export order cannot be issued before payment of Customs

Issue:

The Shipping Bill for export of Iron Ore Fines was assessed provisionally on 06.12.2008. On 07.12.2008, Notification No.129/2008-Cus dated 07.12.2007 came into force which exempted Iron Ore Fines from export duty. The refund claim of duty paid was filed which was rejected holding that as the Shipping Bill was assessed on 06.12.2008 and the let export order (LEO) was given on 06.12.2008 and on the said date, the appellant was liable to pay duty on export of Iron Ore Fines, in those circumstances, refund claim is not maintainable. Against the said order, the appellant is before the Tribunal. The contention was that the Shipping Bill showing that the appellant has not paid export duty on 06.12.2008 and the same was finally paid on 08.12.2008, in those circumstances, before payment of duty let export order cannot be issued. It is his submission that let export order although mentions date 06.12.2008, but same is fabricated, and further before 08.12.2008 as no let export order can be issued, and on the said date no duty was payable on export of Iron Ore Fines, therefore, they are entitled for refund claim.

Legal Provisions

Section 17 of Customs Act, 1962

Observation and Comments:

The Honorable CESTAT observed and held that:

It is undisputed fact that let export order cannot be issued before payment of full duty by the assessee, in those circumstances, it cannot be said that let export order was issued to the appellant on 06.12.2008. Therefore, the date of let export order is to be taken as 08.12.2008.

In those circumstances, as iron ore fines were exempted from payment of duty vide Notification No.129/08 dated 07.12.2008, no duty was payable on 08.12.2008, therefore, the appellant was not liable to pay duty. Accordingly, the appellant is entitled for the refund claim of the duty paid.

M/s. Odisha Mining Corporation Limited vs CCE [Customs Appeal No.75889 of 2017 – CESTAT - Kolkata]

Supreme Court Upholds IBC Waterfall Mechanism for CBIC Dues

DA Insights:

It is settled law that IBC provisions prevail over all other statutes which is rightly held by the Honorable Supreme Court in the said case for CBIC based on windfall provision under section of 53 of IBC.

Issue:

The Section 53 of the Insolvency and Bankruptcy Code, 2016 was challenged by the revenue before the Honorable Supreme Court.

Legal Provisions

Section 53 of the Insolvency and Bankruptcy Code, 2016

Observation and Comments:

The Honorable Supreme Court observed and held that:

On the other hand, we can dispose of the appeal with the clarification that the dues of the Central Board of Indirect Taxes & Customs, Department of Revenue will be paid as per the waterfall stipulated under Section 53 of the Insolvency and Bankruptcy Code, 2016.

Recording the aforesaid, the appeals are disposed of. Pending application(s), if any, shall stand disposed of.

PCC vs Rajendra Prasad Tak Etc. [Civil Appeal Nos. 6432-6433 OF 2023]

Limitation Period Extension requires Suppression of Facts – CESTAT

DA Insights:

It is settled principle that extended period of limitation is applicable when there is suppression of facts which is rightly held in the said case.

Issue:

The appellant availed CENVAT Credit which according to the department was incorrect as per the provision of Rule 2(a)(A) of Cenvat Credit Rules, 2004. As the power plant was installed outside the factory for generation of electricity for captive use which was not permissible as capital goods. The department also contended that the rules were amended on 01.04.2011 after which the duty paid on such capital goods used in the captive power plant installed outside the factory was made eligible for cenvat credit whereas the respondent had availed cenvat credit only after the amendment was done. On the above contention a SCN was issued demanding the cenvat credit on such capital goods invoking the extended period. While adjudicating the above SCN, the adjudicating authority dropped the proceedings against all the notices. Being aggrieved by the order in original, the Revenue filed the present appeal.

Legal Provisions

Rule 2(a)(A) of Cenvat Credit Rules, 2004

Observation and Comments:

The Honorable CESTAT observed and held that:

From the above correspondence and certificate issued by the Deputy Commissioner of Central Excise-Division-IV, Ahmedabad, it is absolutely clear that the fact about installation of capital goods in the factory premises of Nandan Exim Limited and availment of cenvat credit there on by the Respondent was very much disclosed by the Respondent and was in the knowledge of the department. The appellant also filed their ER-1 return during the relevant period wherein the availment of Cenvat Credit on such capital goods was categorically declared. Therefore, we do not find any suppression of fact on the part of the Respondent.

We are therefore, of the view that even without going into the merit of the case the demand of the cenvat credit is not sustainable on the ground of limitation. Since the demand even on limitation alone is not sustainable, the Revenue's appeal has no legs to stand.

CCE vs Chiripal Industries Limited [Excise Appeal No. 10782 of 2016 – CESTAT Ahmedabad]

Royalty cannot be included in Transaction Value under Customs Valuation Rules, 2007, Once Arms Length Price Accepted – CESTAT

DA Insights:

It is rightly held by CESTAT that the pricing pattern has been examined from various angles as discussed supra and the fact that it was factually found that the prices declared by the importer was as per the price list of the supplier, the question of adding royalty of 5% does not arise.

Issue:

The appeal is filed against the impugned order of Comm (A) against addition of 5% royalty under the transaction value. The appellant claimed that the payment of 5% royalty is not a prerequisite condition to import carbon strips and other goods from the associated companies to use in the manufacture of pantographs. The royalty for technical know-how for the manufacture of pantographs is a post import activity and therefore, it cannot be the part of the transaction value for the imported goods.

Legal Provisions

Rule 10(1)(c) of the Customs Valuation Rules 2007

Observation and Comments:

The Honorable CESTAT observed and held that:

Once the fact that the pricing pattern has been examined from various angles as discussed supra and the fact that it was factually found that the prices declared by the importer was as per the price list of the supplier, the question of adding royalty of 5% does not arise. The Commissioner (A) in the impugned order has held that the appellants have not shown any imports from unrelated suppliers and therefore, it can be inferred that the import is made only from the related suppliers without substantiating the fact that when the transaction value was accepted as to how the royalty paid on the technical know-how influenced the price of the imported goods.

The appellant's submission that once the transaction value of the goods imported from the associated companies are at "arm's length price" under Rule 3(3)(a) of the Customs Valuation Rules, 2007 is accepted, the Department cannot load 5% royalty to the transaction value under Rule 10(1)(c) of the Customs Valuation Rules, 2007 is absolutely valid and sustainable in law as has been held by the Hon'ble Supreme Court in the case of Commissioner of Customs Vs. Ferodo India Pvt. Ltd.-2008 (224) ELT (23) (SC).

In the present appeal, the facts have clearly proved that the pricing was at arm's length and the relationship had not influenced the price, which has been accepted by the department hence there is no question of adding the royalty to the transaction value as held by the apex court in the judgement referred above.

CCE vs Chiripal Industries Limited [Excise Appeal No. 10782 of 2016 – CESTAT Ahmedabad]

Customs Notification / Circulars / Guidelines / Instructions

Notification to exempt deposits into ECL till 19th January 2024

The CBDT in India has issued a notification stating that deposits into the ECL will be exempt until 19th January 2024. The notification, issued on 29th November 2023, is in accordance with the powers conferred by sub-section (4) of section 51A of the Customs Act, 1962. The Central Board of Indirect Taxes and Customs has made amendments to the previous notification, replacing the date of 30th November 2023 with 19th January 2024.

Notification No. 87/2023-Customs (N.T), dated 29th November 2023

Exemption of deposits from provisions of Section 51 of Customs Act, 1962

The Indian government has issued Notification No. 88/2023-Customs, amending the Customs Act, 1962. The notification changes the provisions of Notification No.19/2022-Customs, which related to exemption of deposits from Section 51 of the Act. The Central Board of Indirect Taxes and Customs has made the necessary amendments, replacing the date of 1st December, 2023, with 20th January, 2024.

Notification No. 88/2023-Customs (N.T), dated 29th November, 2023

Amendment in Notification No. 22/2022-Customs:

The notification introduces a new serial number and entries in the TABLE I of the principal notification No. 22/2022-Customs, dated the 30th April, 2022, which deals with the basic customs duty on various goods imported into India from UAE.

Notification No. 63/2023-Customs, dated 30th November, 2023

Pilot Launch: Upgraded eBRC System for Exporters:

The Indian government has announced the pilot launch of the upgraded Electronic Bank Realization Certificate (eBRC) system for self-certification by exporters. The system is designed to streamline the process, allowing exporters to self-certify based on electronic Inward Remittance Messages (IRMs) directly transmitted by banks to DGFT. The pilot launch is set to commence on 15th November 2023, with banks establishing cut-off dates based on readiness after User Acceptance Testing (UAT). All banks are required to integrate using the Application Programming Interface (API) for prompt data exchange.

Trade Notice No. 33/2023-24 -DGFT, dated 10th November, 2023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Goods and Services Tax

- Clarify GST on NBFCs' co-lending, FIDC asks CBIC
- FinMin aims to roll out pre-filled GST return form before next fiscal: Official
- Govt looking at simplified GST processes for e-commerce, travel industries to ease compliance
- Tyre manufacture Ceat gets Rs 1.98 crore GST notice, company to file appeal

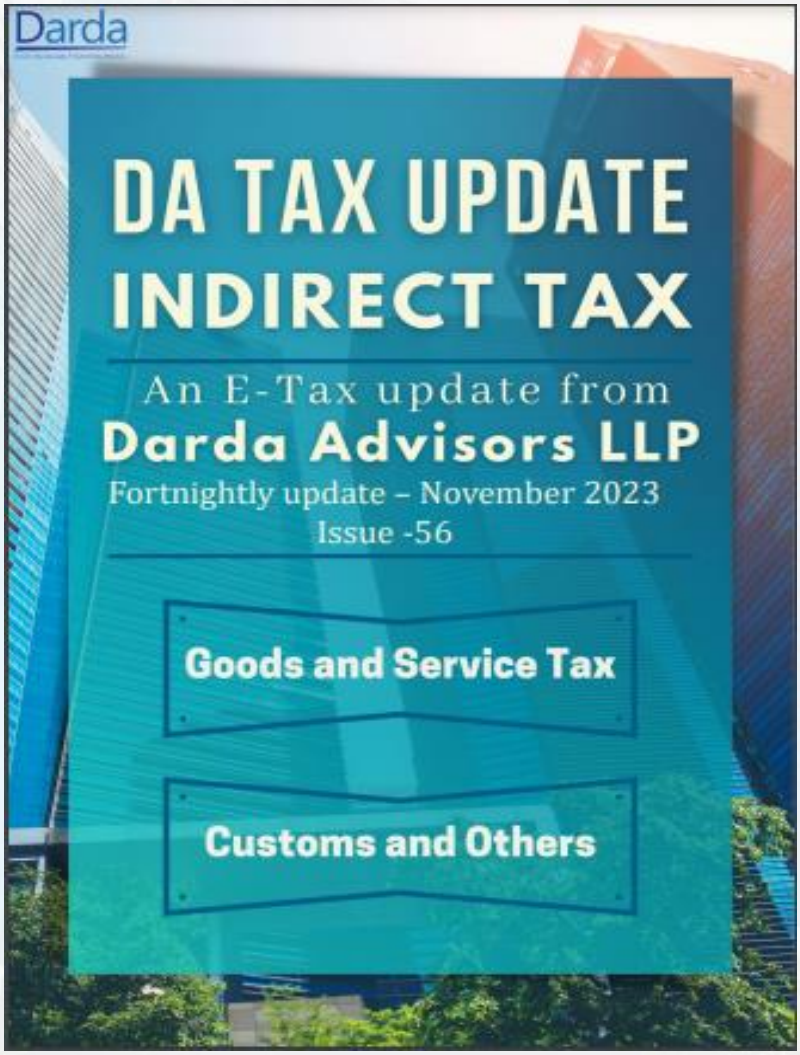
Customs and other

- Amendments Announced In Customs Tariff Values To Take Effect December 1, 2023
- Tesla India entry: 'Will never give firm-specific incentives in EV sector'
- UK seeks customs duty concessions on EV exports in FTA with India
- India-China trade data discrepancy rises to $15 billion in January-October this year

DA Updates and Articles for the month of November 2023

DA - Indirect Tax Fortnightly Update – November 2023

https://dardaadvisors.com/wp-content/uploads/2023/11/DA-Indirect-Tax-Fortnightly-Update_November-2023-1.pdf



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