

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

Fortnightly update – March 2024
Issue -61

Goods and Service Tax

Customs and Others

Goods and Service Tax

Pioneer Co-operative Car Parking Servicing And Constructions Society Limited Versus Senior Joint Commissioner [WP No. 3092 of 2024]

The petitioner challenges an order passed by the respondent without affording an opportunity to respond adequately. Despite seeking an extension to respond to a show cause notice, the petitioner's request was denied, and the final order was passed prematurely. The court finds the denial of extension unjustified and notes a violation of principles of natural justice. Consequently, the order for tax recovery is quashed, and the petitioner is directed to file a response within a specified timeframe, with the respondents instructed to schedule a personal hearing. The court emphasizes that the petitioner shall not be entitled to further extensions or adjournments.

In the matter of Suswani Foundations Pvt Ltd [ARN.123/AAR/2023]

The Tamil Nadu AAR has ruled that Input Tax Credit (ITC) is not available on inputs used for the construction of a godown for commercial renting purposes. The AAR cited Section 16

and 17(5)(d) of the GST Act, stating that ITC on goods/services received for constructing an immovable property is unavailable. The AAR concluded that the godown is intended for storing stock for further business activities.

White Mountain Trading Pvt. Ltd vs Additional Commissioner [W.P.C. 2752/2024]

In a case concerning an appeal filed under the CGST Act 2017, the petitioner challenged an order dismissing their appeal as time-barred. The Commissioner Appeals had held that the appeal, filed over one month after the deadline, could not be condoned. However, the petitioner argued that they had initiated the appeal process online within the stipulated timeframe. The court agreed, stating that the date of initial online filing should be considered, remitting the matter back to the Commissioner Appeals for reconsideration. The court clarified that it did not address the merits of the case but directed prompt disposal by the Commissioner Appeals.

Goods and Service Tax

APITCO Ltd. vs. UOI & Ors [WPN. 4401/ 2024]

The appellants challenged the rejection of their appeal due to a technical error in GST filing. They mistakenly credited an amount to the CGST account instead of the intended SGST account. Despite representations and no response, a show cause notice was issued. The court directed rectifying the mistake and allowing transitional credit. The Nodal Officer was instructed to facilitate filing and provide manual options if electronic rectification isn't feasible.

PAV Warehouse vs The Assistant Commissioner [W.P. No.2393/2024]

The petitioner challenges the cancellation of their GST registration, citing lack of clarity and non-application of mind in the show cause notice and the impugned cancellation order. The petitioner pointed out that the show cause notice did not specify the provisions allegedly violated, making it impossible to respond adequately. The court noted that no documents were enclosed with the show cause notice. The cancellation order lacked reasons and contained contradictory

statements regarding the petitioner's reply. Consequently, the court quashed the cancellation order and directed the restoration of the petitioner's registration. The respondents were given the option to initiate proceedings for non-compliance in accordance with the law. The petition was allowed with no costs incurred.

Anurag Garodia vs. The Assistant Commissioner of State Tax & Ors [W.P.A 3788/2024]

The High Court has ruled in a writ petition challenging an order under Section 73(9) of the West Bengal Goods and Services Tax Act, 2017. The petitioner argued that the final order was passed without granting sufficient time, despite seeking an extension. The court found that passing the order without considering the petitioner's request was a colorable exercise of power. The court set aside the order and directed the petitioner to file a response by March 15, 2024. If no response is filed, the respondent can proceed with appropriate orders.

GST Updates

Advisory on GSTR-1/IFF: Introduction of New 14A and 15A tables

As per Notification No. 26/2022 – Central Tax dated 26th December 2022, two new tables, namely Table 14A and Table 15A, have been introduced in GSTR-1. These tables are specifically designed to capture the details of amendments related to supplies made through e-commerce operators (ECO) on which the operators are liable to collect tax under section 52 or liable to pay tax under section 9(5) of the CGST Act, 2017. These tables have now been made live on the GST common portal and will be available in GSTR-1/IFF from February 2024 tax period onwards.

AMEND RECORD DETAILS			
9A - Amended B2B Invoices	9A - Amended B2C (Large) Invoices	9A - Amended Exports Invoices	9C - Amended Credit/Debit Notes (Registered)
✓ 0	✓ 0	✓ 0	✓ 0
9C - Amended Credit/Debit Notes (Unregistered)	10 - Amended B2C(Others)	11A - Amended Tax Liability (Advances Received)	11B - Amendment of Adjustment of Advances
✓ 0	✓ 0	✓ 0	✓ 0
14A - Amended Supplies made through ECO	15A - Amended Supplies U/s 9(5)		
✓ 0	✓ 0		

Customs & Others

PS Bedi & Co Pvt. Ltd. Vs Commissioner of Customs [41743 of 2013]

In the case a dispute arose over the classification of imported hand tools. The Customs Department confiscated the goods, alleging they didn't meet Foreign Trade Policy (FTP) criteria for capital goods. However, the appellant argued that hand tools should be considered equipment and apparatus under FTP para 9.12. The tribunal, referencing precedent, concluded that hand tools contribute to manufacturing or production and thus qualify as capital goods. This ruling provides clarity and fair treatment for importers under FTP regulations.

Ashapura Minechem Ltd. Vs C.C.-Jamnagar (Prev) [CAN. 10253/2021]

The appeals challenge the rejection based on time bar by the Commissioner (Appeal). The appellant argues that the decision was made without showing the report from the Adjudicating Authority and lacks proof of order acknowledgment. The appellant received the order copy only on

13.01.2020 and filed appeals within the 60-day period on 28.02.2020. Citing precedents, the appellant contends that the appeals were filed within the normal period. The revenue's representative reiterates the impugned order's finding. Upon review, it's established that there's no proof of order acknowledgment, crucial for calculating the appeal's time limit. Therefore, the appeals are not time-barred. Relying on case law, the impugned order is set aside.

Bihar Foundry & Castings Ltd. Vs Union of India [W.P.(T). 5161/2022]

Jharkhand High Court declares pre-show cause notice consultation under Section 28(1)(a) of the Customs Act, 1962 as mandatory. The petitioner, a company in Jharkhand, imported steam coal for its factory. Arguing that the orders are time-barred under Section 28(9)(a) and lack pre-SCN consultation, the petitioner seeks relief. The court, citing the precedent of Victory Electric Vehicles International Pvt. Ltd. vs. UOI, asserts that pre-notice consultation is imperative. Failure to comply renders adjudication orders liable to be quashed.

Customs & Others

Fashion Accessories Vs Commissioner of Customs [CANo. 10704/2023]

CESTAT Ahmedabad affirmed penalties imposed on M/s. Fashion Accessories for mis-classifying exported goods to claim higher incentives under the MEIS Scheme. The exporter classified quilts under different HS Codes to fraudulently avail higher MEIS benefits. The Department invoked Section 28AAA of the Customs Act, 1962, alleging wilful misstatement. Testimonial evidence and voluntary payment by the partner supported the Department's claims. The reversal of benefits and differential treatment at different ports justified the penalties imposed by the Commissioner of Customs, Kandla.

Commissioner of Central Excise Vs Kuber Tobacco Products Pvt. Ltd. & Anr. [CEAC. 40/2012]

The Delhi High Court dismissed charges of clandestine removal and undervaluation against M/s. Kuber Tobacco Products (P) Ltd. and M/s. Kuber International (India) Ltd. The Revenue Department alleged duty evasion

based on assumptions and presumptions following a search operation. However, the Court held that such charges cannot be sustained without concrete evidence. Despite a difference of opinion among members of the CESTAT, the majority decision to allow the appeals was upheld. The Court concluded that there was no serious error in the majority order and refused to interfere.

Customs & Other Updates

Concession to EVs imported under of the Ministry of Heavy Industries' Scheme to promote manufacturing of electric passenger cars in India.

The Central Government has amended notification concerning the import of electrically operated vehicles.

Amendments include:

1. A proviso related to the scheme promoting electric passenger car manufacturing in India.
2. Introduction of a new condition requiring importers to furnish a certificate from a Joint Secretary in the Ministry of Heavy Industries.
3. Conditions specifying the necessity of holding a valid Approval Letter and compliance with scheme requirements.
4. Exemptions granted for imported electrically operated vehicles.

Exemptions Apply to:

- Kits containing necessary components for assembling a complete vehicle.
- The kit must be classifiable under the 8703 heading of the Customs Tariff Act, 1975.
- The exemption applies even if one or more components are not imported in the kit..

Notification No. 19/2024-Customs, dated 15th March 2024

CBIC notifies Social Welfare Surcharge (SWS) exemption on imported EV's

This notification further amends Notification No. 11/2018-Customs, dated the 2nd February, 2018, to exempt Social Welfare Surcharge (SWS) on EVs imported under of the Ministry of Heavy Industries' Scheme to promote manufacturing of electric passenger cars in India.

Notification No. 20/2024-Customs, dated 15th March 2024

Customs & Other Updates

Implementation of RoDTEP for Exported Products by AA Holders and EOU

This notification addresses the implementation of the Remission of Duties and Taxes on Exported Products (RODTEP) for exports of products manufactured by Advance Authorisation (AA) holders (except Deemed Exports) and Export Oriented Units (EOU) for 166 Tariff lines.

Notification No. 74/2023-DGFT, dated 11th March 2024

DGFT Automates Norms Fixation & SION Notification for Advance Authorisation

Introducing significant amendments to Para 4.14 and 4.06 of the Handbook of Procedures 2023 (HBP 2023).

Amendments in Para 4.14:

- Addition of sub-para (iii) under Para 4.14 of IIBP 2023.
- Allows decision-making on ad-hoc Input Output Norms in a rule-based IT environment without reference to the Norms Committee.
- Cases flagged by the Risk Management System (RMS) may be referred to the Norms Committee for validation/review.

Amendments in Para 4.06:

- Introduction of sub-para 4.06(vii) under HBP 2023.
- Empowers the Norms Committee to recommend the Notification of Standard Input-Output Norms (SION) on a case-to-case basis for cases where ad-hoc norms have been established.

Effects of the Public Notice:

- Aimed at streamlining and automating the process of fixing norms and notifying new SIONs under the Advance Authorisation Scheme.
- Intended to facilitate trade and enhance ease of doing business by providing clarity and efficiency in trade procedures.

Public Notice No. 51/2023-DGFT, dated 14th March 2024

Import and Export data

Imports of February 2024 at \$ 75.50 B

Exports of February 2024 at \$ 73.55 B

		February 2024 (USD Billion)	February 2023 (USD Billion)
Merchandise	Exports	41.40	37.01
	Imports	60.11	53.58
Services*	Exports	32.15	27.40
	Imports	15.39	14.97
Overall Trade (Merchandise +Services) *	Exports	73.55	64.41
	Imports	75.50	68.56
	Trade Balance	-1.95	-4.15

Source : PIB

Darda

Driven by Quality, Powered by Ideation

Darda Advisors LLP offers a wide range of services in the tax and regulatory space to clients in India with professionals having extensive consulting experience. Our approach is to provide customized and client-specific services. We provide well-thought-out strategies and solutions to complex problems in tax and regulatory matters. Our service offerings are:

Invest India Services

- Invest India Study
- Inception And Incorporation Relate
- Incentives, Subsidies and Grant Service
- Start-Up India and MSME Services



Indirect Tax Services

- GST Services
- Representation and Litigation Support
- Corporate Training
- SEZ/EOU/STP Services
- Customs and International Trade
- GCC VAT

Other Services

- Corporate Secretarial Services
- Corporate & International Tax Services
- Certification & Attestation Services
- Financial Advisory Services
- Accounting Advisory Services
- RBI Services



www.dardaadvisors.com



da@dardaadvisors.com

Our Locations

Hyderabad

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

Chennai

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

Delhi-NCR

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

Bhilwara

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

Disclaimer:

For private circulation and internal use only. The information contained herein is of general nature and not intended to address the circumstances of the particular individual or entity. The information in this document has been obtained or derived from sources believed by Darda Advisors LLP (DA) to be reliable but DA does not represent that this information is accurate or complete. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. DA neither accepts nor assumes any responsibility or liability to any reader of this publication in respect of the information contained within it or for any decision's readers may take or decide not to or fail to take.