

DA TAX ALERT INDIRECT TAX

AN E-TAX ALERT FROM
Darda Advisors LLP

June 2024

Issue: 49

**GST COMPLIANCE
CALENDER**

**GOODS AND
SERVICE TAX**

**CUSTOMS AND
OTHER**

DA NEWS

PREFACE

We are pleased to present to you the Forty Ninth 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 May 2024.

During the month of May 2024, there were certain changes under Goods and Service Tax, Customs and other; key judgments and rulings such as HC Refuses Writ Petition on ITC and IGST Refund and Tribunal Allows Refund of Accumulated Cenvat Credit Despite Procedural Lapse

In the Forty Ninth 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 May 2024.

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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GST COMPLIANCE CALENDAR

June
2024

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

Court Orders Re-adjudication of IGST Demand on SEZ Transactions

DA Insights:

This judgment emphasizes the necessity for tax authorities to consider all relevant facts and submissions, particularly payments already made, before passing orders.

Issue:

Whether the demand of IGST amounting to approximately Rs. 2 crores under section 73 of the CGST Act, 2017, for transactions carried out with ONGC Petro Additions Ltd., a Special Economic Zone, is valid considering the factum of IGST payment.

Legal Provisions:

Section 73 and Section 75(4) of the CGST Act, 2017

Observation and Comments:

The HC observed that the proper officer did not consider the factum of IGST payment made by Softrose Petrochemicals Pvt. Ltd. for the goods imported from ONGC Petro Additions Limited, an SEZ unit. The petitioner had clarified this IGST payment through a response submitted on 14th October 2023. Additionally, the proper officer overlooked the relevant Ministry of Finance's press release dated 29th August 2020. Given these oversights, the court agreed that the issue required further consideration based on the petitioner's disclosures.

In its judgment, the court set aside the order dated 15th March 2024 under Section 73 of the CGST Act and remanded the matter back to the proper officer for re-adjudication. The proper officer was directed to consider the factum of the IGST payment and to bring the show cause notice to a logical conclusion. The court

mandated that the petitioners be given an opportunity for a personal hearing and that a reasoned order be passed within six weeks from the date of the judgment.

Softrose Petrochemicals Pvt. Ltd. vs. The Assistant Commissioner of State Tax [TS-290-HC(CAL)-2024-GST]

HC Upholds Denial of ITC for Transactions with Non-Existent Suppliers

DA Insights:

It highlights the risk of relying on documentation from non-existent entities and emphasizes that authorities can retroactively deny ITC if fraud is discovered. Taxpayers must ensure that their suppliers are legitimate to avoid penalties and interest liabilities..

Issue:

Whether the denial of ITC (Input Tax Credit) benefit to Rajshi Processors Raebareli, due to the non-existence of supplier firms, and the subsequent imposition of liability, penalty, and interest, is legally valid

Legal Provisions:

Section 16 of the CGST Act, 2017 and Rule 36 of the CGST Rules, 2017

Observation and Comments:

In the case High Court upheld the lower authority's decision to deny Input Tax Credit (ITC) benefits to the Assessee due to non-existent supplier firms. The Assessee, engaged in manufacturing aluminum casting & machinery parts, claimed ITC on inward supplies from firms later found to be bogus.

The court emphasized that fraud vitiates proceedings and rejected the Assessee's argument that previous ITC benefits granted based on firm registration create an estoppel. It affirmed the lower authority's order for recovery of wrongly claimed ITC, penalty, and interest, dismissing the writ for lacking merit.

Rajshi Processors Raebareli vs. State of U.P. [TS-295-HC(ALL)-2024-GST]

High Court Corrects Limitation Period Error in GST Registration Cancellation Appeal

DA Insights:

The terms "from" and "to" in legal documents, particularly when calculating limitation periods. It underscores the necessity for administrative authorities to adhere strictly to statutory provisions to avoid unjustly dismissing appeals.

Issue:

Appeal for the revocation of GST registration cancellation was incorrectly deemed time-barred due to miscalculation of the limitation period by the lower authorities.

Legal Provisions:

Section 9 of the General Clauses Act, 1897 (GC Act)

Observation and Comments:

The High Court, in the case, observed an incorrect calculation of the limitation period by lower authorities. It highlighted the significance of the phrase "from the date on which the said decision or order is communicated to such person" as the crucial starting point for the limitation period for filing an appeal. Additionally, the court clarified the interpretation of terms such as "from," "to," and "within" in legal terminology. It emphasized that errors apparent on record provide a valid ground for the exercise of writ jurisdiction by courts.

The court set aside the order rejecting the Assessee's appeal for revocation of GST registration as time-barred due to the erroneous

calculation of the limitation period. Consequently, the first appellate authority was directed to allow the delay in filing the appeal and to hear it on merits expeditiously, preferably within two months. Referring to Section 9 of the General Clauses Act, 1897, the court clarified the interpretation of terms used in computing time periods. Lastly, the court exercised writ jurisdiction based on errors apparent on record, highlighting the right of aggrieved parties to seek judicial intervention to rectify such mistakes and ensure justice.

[Balaji Coal Traders vs. Commissioner \[TS-301-HC\(ALL\)-2024-GST\]](#)

High Court Overturns Demand for Alleged Excess ITC

DA Insights:

This case highlights the importance of a thorough examination of evidence by tax authorities before creating demands against taxpayers. It underscores the necessity for proper adjudication procedures and adherence to principles of natural justice.

Issue:

Whether the demand created against Maa Padmawati Lamination for alleged excess claim of Input Tax Credit (ITC) for FY 2018-2019, based on Form GSTR-2A, was correctly adjudicated by the Commissioner of Delhi Goods and Service Tax.

to the decision for a remit. As a result, the impugned order was set aside, and the matter was directed back to the Proper Officer for a thorough review and re-adjudication in accordance with the law, with all rights and contentions of the parties duly reserved by the Court.

Legal Provisions:

Section 75(3) of the CGST Act

Observation and Comments:

In the case High Court overturned the order issued by the Commissioner, Delhi Goods and Service Tax, which had demanded the Petitioner to pay for an alleged excess claim of Input Tax Credit (ITC) for the financial year 2018-2019. The Assessee presented evidence from forms GSTR-2A, GSTR-8A, and GSTR-9 available on the portal, demonstrating no such excess claim. Despite the submission, the court noted that the Proper Officer had not carefully examined the evidence, prompting the court to remand the case for further adjudication.

The Assessee had filed a reply before the impugned order was issued, it was disregarded by the Proper Officer. The reply, which refuted the excess claim of ITC, pointed to available forms on the portal as evidence. After examining Form GSTR-2A, the court found deficiencies in the Officer's examination, leading

Maa Padmawati Lamination Vs. Commissioner DGST & Ors. [TS-304-HC(DEL)-2024-GST]

HC Refuses Writ Petition on ITC and IGST Refund

DA Insights:

This case highlights the importance of exhausting available legal remedies before seeking judicial intervention. By emphasizing the appellate process as the appropriate avenue for addressing tax-related grievances.

Issue:

The issue pertains to the jurisdictional validity of an order concerning the alleged wrongful avilment of Input Tax Credit (ITC) and IGST refund under the Advance Authorisation Scheme.

Legal Provisions:

Section 107 and Section 73 and 74 of the CGST Act

Observation and Comments:

In the case High Court declined to entertain a writ petition challenging orders related to the alleged wrong avilment of Input Tax Credit (ITC) and IGST refund under the Advance Authorisation Scheme. The Court held that since there is an available remedy of appeal, it is not fit to examine the jurisdictional issues of the impugned order at this stage. The assessee argued that the notice was issued under the wrong section of the CGST Act, and that the order was issued despite an ongoing challenge to the relevant Notification. The Court dismissed the writ petition, deeming it misconceived, and directed the assessee to pursue an appeal before the Appellate Authority under section 107 of the CGST Act.

The case emphasized that appellate authorities are equipped to handle both factual and legal questions in the first instance, and that the proper procedural route is to file an appeal

rather than seeking direct judicial intervention through a writ petition. The Court's ruling underscores the importance of exhausting available remedies before approaching higher judicial forums.

Nectar Life Sciences Ltd. vs. UOI & Ors. [TS-306-HC(P&H)-2024-GST]

HC Stays GST Demand Against company over Jurisdictional and Timing Issues

DA Insights:

Tax proceedings and the validity of extending such timelines only under genuine 'force majeure' conditions. It reaffirms that taxpayers have a defensible right against administrative actions taken beyond legally permissible periods, ensuring that the principles of natural justice are upheld.

Issue:

The challenge against the jurisdiction and timing of the demand order for GST issued three years after the due date for furnishing returns, citing an absence of 'force majeure' conditions.

Legal Provisions:

Section 73(9), 73(1) and 168A of the CGST Act

Observation and Comments:

The HC stayed an order demanding GST from the assessee. The petitioner contended that the order was issued three years after the due date for furnishing returns, during a period when ordinarily no proceedings should be initiated. The petitioner further argued that there was no prevailing 'force majeure' when the show cause cum demand notice was issued, relying on CBIC Notifications. The court acknowledged the jurisdictional issue raised by the assessee and noted a prima facie case, drawing upon a precedent from a coordinate bench in the case of OSL Executive Pvt. Ltd. Consequently, the court stayed the impugned demand order until the end of September 2024 or until further orders.

The ruling emphasized the necessity to address jurisdictional concerns and the prima facie

validity of the petitioner's claims before proceeding with the enforcement of the demand. The court directed the parties to file the necessary affidavits within a specified timeline, indicating that a thorough examination of the case would follow in subsequent hearings.

[Benoy Bhushan Palit Memorial Education Society vs. The Deputy Commissioner of State Tax \[TS-316-HC\(CAL\)-2024-GST\]](#)

HC Orders Re-Hearing of Appeal Dismissed Over Procedural Technicality

DA Insights:

This decision emphasizes the importance of substantive justice over procedural technicalities. It ensures that taxpayers' rights are protected, particularly when they comply with the core requirements of filing within the stipulated timeframe.

Issue:

The appeal filed by Enkay Polymers was dismissed due to the non-filing of a self-certified copy of the decision within the prescribed time, despite being filed electronically within the time frame.

Legal Provisions:

Section 107 and Rule 108 of CGST

Observation and Comments:

The High Court held that dismissing an appeal solely on the grounds of not filing a certified copy within the time limit is unjust when the appeal has been filed electronically within the prescribed period. The Court noted that the self-certified copy requirement is procedural, and its non-submission should be treated as a technical defect.

The High Court directed the Appellate Authority to re-hear the appeals filed by Enkay Polymers and to pass a reasoned order. The Court referenced precedents from the Orissa High Court and the Madras High Court, which supported the view that procedural requirements should not hinder the consideration of appeals on merit.

[Enkay Polymers vs. State of UP & 2 Ors. \[TS-318-HC\(ALL\)-2024-GST\]](#)

HC Rules on Refund of Late Fee for GSTR-9C Filings

DA Insights:

The decision underscores the principle that procedural lapses should not hinder substantial benefits, aligning with the policy of zero-rated exports. This ruling sets a precedent for similar cases, reinforcing the necessity for authorities to adhere to the provisions of announced amnesty schemes.

Issue:

The issue was whether the collection of a late fee for the delayed filing of GSTR-9C, despite the availability of an Amnesty Scheme, was justified.

Legal Provisions:

Section 44 of the CGST/SGST Act, Rule 80 of the GST Rules, 2017.

Observation and Comments:

The HC noted that GSTR-9C is a reconciliation statement between GSTR-9 and audited financial statements. Prior to August 1, 2021, GSTR-9C was applicable for turnover exceeding Rs. 2 Crores, but it was amended to Rs. 5 Crores with the removal of CA/CMA certification. The Court recognized that the Government had introduced an Amnesty Scheme, waiving the late fee in excess of Rs. 10,000 for returns filed before April 1, 2023.

The HC found no justification for continuing the notices demanding late fees when the Government had already provided a waiver under the Amnesty Scheme. The Court ruled in favor of the petitioner, setting aside the notices demanding late fees for the delayed filing of GSTR-9C. However, the HC clarified that the assessee is not entitled to a refund of any late fee already paid over Rs. 10,000.

[Anishia Chandrakanth vs. The Superintendent, Central Tax & Central Excise, \[TS-310-HC\(KER\)-2024-GST\]](#)

High Court Rules on Rectification of GSTR-9 Filing Errors

DA Insights:

It highlights the need for adjudicating authorities to exercise discretion and fairness, particularly in cases where errors are rectified promptly and do not result in revenue loss or gain.

Issue:

The appeal challenges the rejection of the appellant's challenge to the adjudication order concerning the annual return filed in GSTR-9 for the financial year 2017-18.

Legal Provisions:

Section 44 of the CGST/SGST Act, Rule 80 of the GST Rules, 2017.

Observation and Comments:

The Court noted the appellant's submissions regarding unintentional errors in filing GSTR-9, attributed to the complexities of the new GST regime and the appellant's status as a small assessee. Despite the appellant's efforts to rectify the errors, the adjudicating authority maintained its stance. The Court recognized the significance of the GSTR-9 filing, considering it within the extended deadline due to pandemic-related notifications.

Additionally, it emphasized the revenue-neutral nature of the errors, with no loss to the government and no gain to the appellant. Consequently, the Court decided to remand the matter back to the adjudicating authority, directing a fresh examination of the submissions and the GSTR-9 filing.

[Ankit Kumar Agarwal vs. The Assistant Commissioner of State Tax & Ors., M.A.T. 939 of 2024](#)

GST Notification / Circulars / Guidelines / Instructions

Guidelines for initiation of recovery proceedings before three months from the date of service of demand order

The Central Board of Indirect Taxes and Customs (CBIC) issued guidelines on 30th May 2024 regarding the initiation of recovery proceedings under the CGST Act, 2017. Generally, recovery proceedings start after three months from the date of service of the demand order. However, in exceptional cases, if it is in the interest of revenue, recovery can be initiated before three months with written justification.

Key points:

- 1. Sections Referenced:** Sections 78 and 79 of the CGST Act outline the timelines and procedures for recovery.
- 2. Normal Procedure:** Recovery starts after three months from the demand order service date.
- 3. Early Recovery:** If necessary for revenue interests, a Principal Commissioner/Commissioner can authorize early recovery with written reasons.
- 4. Authorization Process:**
 - Deputy/Assistant Commissioner proposes early recovery with justification.
 - Principal Commissioner/Commissioner examines and, if justified, issues directions for early payment.
 - Specific reasons and credible evidence must support early action.
- 5. Balance Consideration:** Financial health and business operations of the taxable person must be considered to balance revenue interests and ease of doing business.

Instruction No. 01/2024 - GST, dated 30th May, 2024

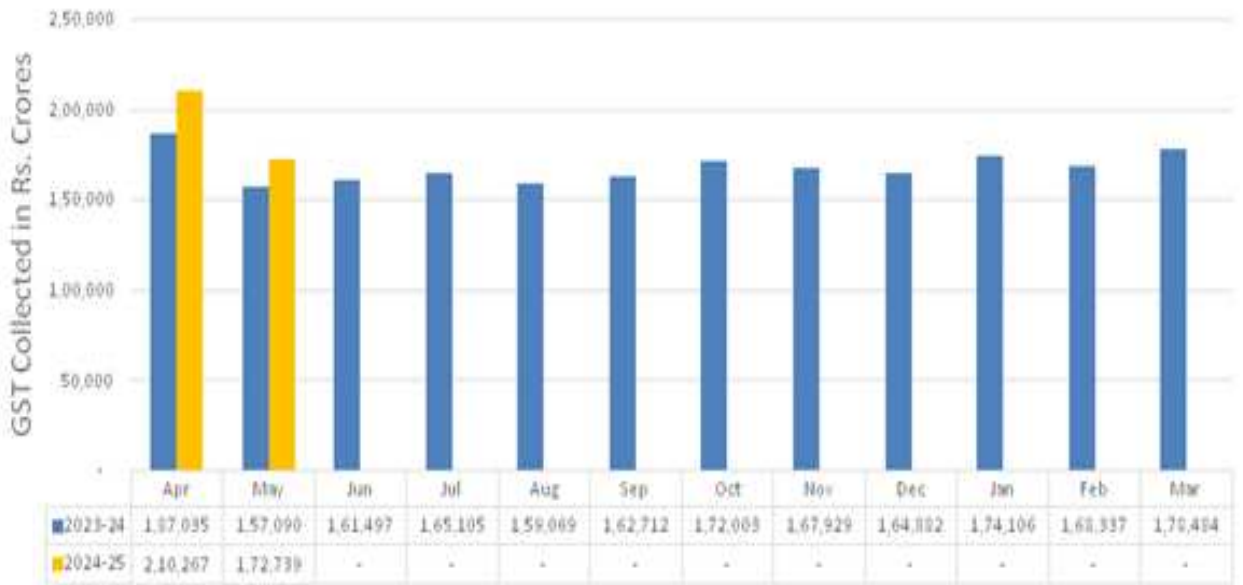
GSTN Portal Changes

Advisory on launch of E-Way Bill 2 Portal

GSTN will launch the E-Way Bill 2 Portal (<https://ewaybill2.gst.gov.in>), which will run parallel to the main e-way bill portal (<https://ewaybillgst.gov.in>). The new portal offers high availability and synchronizes e-way bill details with the main portal within seconds. Key features include the ability to generate and update e-way bills independently, web and API modes of operation, and the use of existing login credentials. The E-Way Bill 2 Portal can be utilized during technical issues on the main portal. Users can perform cross-operations between the two portals, such as updating Part-B of e-way bills. Further details are available on the e-way bill portals.

GST Revenue Collection in May - Rs. 1,72,739 Cr.

Total GST Collection (in Rs. Crores)



Source: PIB



- CESTAT Chennai Rules, Emphasizing Customs Authorities' Burden of Proving Communication Dates
- Disputed Duty Demand: Prevails Against Customs Authorities
- CESTAT Upholds Penalties in Fraudulent Drawback Claim Case
- Waste Exceeding SION Norms Exempt from Customs Duty if cleared with Proper Permissions & Payments
- CESTAT Ahmedabad Revisits Anti-Dumping Duty Imposition
- Tribunal Allows Refund of Accumulated Cenvat Credit Despite Procedural Lapse
- Other Notifications/Circulars/Instructions

CESTAT Chennai Rules, Emphasizing Customs Authorities' Burden of Proving Communication Dates

DA Insights:

This decision underscores the importance of proper communication and adherence to procedural fairness by customs authorities. It also highlights the significance of providing appellants with an opportunity to be heard before making decisions that could impact their rights.

Issue:

Whether the refund claim made by Doowon Electronics India Pvt. Ltd. was barred by the limitation period under Section 27(1) of the Customs Act, 1962, given the dispute over the communication date of the Order-in-Original

Legal Provisions:

Section 27(1) of the Customs Act, 1962

Observation and Comments:

The Tribunal observed that the customs authorities failed to mention the specific date of finalization of the bills of entry in their communications. This omission directly affected the appellant's ability to file a timely refund claim. Furthermore, the customs authorities did not adhere to the principles of natural justice, as there was no evidence that the appellant was given an opportunity to be heard before the finalization order was passed.

The authorities also did not provide documented proof of the dispatch and communication dates of the Order-in-Original. The Tribunal emphasized that the burden of proving the communication of the Order-in-Original lay with the customs authorities, which they failed to discharge. Consequently, the

appellant's contention that they were unaware of the finalization until January 2020 was accepted.

Due to the lack of proper communication, the Tribunal ruled that the limitation period for the refund claim should be considered from the date the appellant was actually informed, i.e., January 27, 2020. Therefore, the refund application filed on August 4, 2020, was within the permissible period. The Tribunal set aside the order of the lower authorities that rejected the refund claim and allowed the appeal, granting Doowon Electronics the consequential benefits as per law.

[Doowon Electronics India Pvt. Ltd. vs. Commissioner of Customs \(Customs Appeal No. 40123 of 2023\)](#)

Disputed Duty Demand: Prevails Against Customs Authorities

DA Insights:

This case highlights the importance of complying with customs procedures even in unforeseen circumstances such as the destruction of capital goods. It also underscores the significance of maintaining continuous correspondence with customs authorities to demonstrate compliance and avoid disputes.

Issue:

The appeal concerns the demand of duty on capital goods destroyed by a mob of villagers, filed by Mineral Enterprises Limited (the appellant), a 100% Export Oriented Unit (EOU), against two orders: Order-in-Appeal No. 170/2016-CE AU-I dated 7.11.2016 and Order-in-Appeal No.106/2017-CE dated 07.03.2017.

The continuous correspondence between the appellant and the department indicated no suppression of facts. Consequently, the court ruled in favor of the appellant, setting aside the impugned orders and allowing the appeals.

Legal Provisions:

Section 22,23 and 28(1)/28(4) of the Customs Act

Observation and Comments:

The court observed that the appeals pertained to the demand of duty on capital goods cleared after being destroyed by villagers. The appellant provided evidence, including a press report, police complaints, and correspondence with customs authorities, to demonstrate their efforts to comply with customs procedures following the destruction of the capital goods. They had obtained necessary permissions and paid duty on the scrap value as per customs procedures.

The court noted that the show-cause notices formed the foundation of the demand under the Customs Act, and since the order went beyond the scope of the notices, it was not sustainable.

[Mineral Enterprises Limited vs. Commissioner of Central Excise and Customs \(CESTAT Bangalore\) \(Customs Appeal No. 20091 of 2017\)](#)

CESTAT Upholds Penalties in Fraudulent Drawback Claim Case

DA Insights:

This case underscores the importance of due diligence and verification in customs procedures to prevent fraudulent activities such as mis-declaration of goods. It also highlights the liability of individuals involved in facilitating fraudulent claims for drawback, even if they claim unawareness or pressure.

Issue:

The appellant challenges penalties imposed under sections 114(iii) and 114AA of the Customs Act, 1962, regarding mis-declaration of goods and fraudulent claims for drawback

Legal Provisions:

Sections 114(iii) and 114AA of the Customs Act, 1962

Observation and Comments:

The tribunal found that the appellant knowingly participated in filing benami shipping bills to facilitate fraudulent claims for drawback. Despite receiving all documents from the actual exporter, Shri Ashok Sharma, who orchestrated the scheme, the appellant failed to verify the authenticity of the exporter and the documents. Consequently, penalties were imposed on the appellant under relevant sections of the Customs Act. The tribunal rejected the appellant's arguments of unawareness and pressure, upholding the penalties considering the gravity of the misdeclaration and the value of the goods involved. All appeals were dismissed, and the impugned orders were upheld.

[Jayant Vikram @ Vikram Bihari Vs Commissioner of Customs \(Export\) \(CESTAT Delhi\) \(Appeal Number : W.P. No.50198 of 2021\)](#)

Waste Exceeding SION Norms Exempt from Customs Duty if cleared with Proper Permissions & Payments

DA Insights:

It underscores the significance of proper documentation and compliance with customs procedures in claiming exemptions and avoiding duty demands. The decision provides clarity on the treatment of waste and scrap generated in manufacturing processes within EOUs, reinforcing exemptions provided under specific notifications.

Issue:

Whether Deep Recycling Industries and other appellants are liable to pay duty on the excess scrap used in manufacturing beyond the Standard Input Output Norms (SION) set by the Directorate General of Foreign Trade (DGFT), despite importing the scrap under an exemption provided by Notification No. 52/2003-Customs.

inapplicable. It relied on interpretations that waste and scrap, even if exceeding SION norms, are exempt from customs duty if cleared with proper permissions and duty payments.

Customs duty cannot be demanded on inputs used within an Export Oriented Unit (EOU) for manufacturing purposes.

Legal Provisions:

Notification No. 52/2003-Customs

Observation and Comments:

The Tribunal emphasized the non-obstante clause in Notification No. 52/2003-Customs, which allows the exemption to apply to goods used in manufacturing, including waste and scrap, even if not exported but cleared in the DTA upon payment of duties.

It was established that the waste generated in the manufacturing process was cleared legally with proper permissions and duty payments. Hence, demanding additional duty on excess wastage was deemed unsustainable.

The Tribunal found that previous case laws cited by the Department did not consider the non-obstante clause of the notification, making them

[Deep Recycling Industries & Ors Vs C.C.E & S.T-Rajkot \(CESTAT Ahmedabad\) - Customs Appeal No. 11738 of 2013](#)

CESTAT Ahmedabad Revisits Anti-Dumping Duty Imposition

DA Insights:

The Advance Authorization Scheme allows importers to avoid duties on export goods. However, procedural irregularities can lead to overturning customs orders. Legal precedents and the Customs Act are crucial in determining disputes.

Issue:

customs disputes.

The central issue in this case is the imposition of Anti-Dumping Duty (ADD) on imported stainless steel products under the Advance Authorization Scheme, with the appellant contesting the levy based on compliance with export obligations and procedural irregularities.

Legal Provisions:

Notification No. 18/2015-Cus dated 01.04.2015.

Observation and Comments:

The CESTAT reviewed the case and found that the appellant, Jewel Utensils Industries, had imported stainless steel products under the Advance Authorization Scheme, which exempts duties on imports meant for export production. The tribunal noted that while the customs authorities had imposed ADD on the imported goods, alleging non-compliance with export obligations, the appellant had fulfilled all necessary import and export obligations under the scheme.

Additionally, the tribunal observed that the adjudicating authority's order lacked specific findings and failed to consider crucial documents, such as the Export Obligation Certificate (EODC), which proved the fulfillment of export obligations. Consequently, the CESTAT set aside the

Impugned order and remanded the case for fresh adjudication, emphasizing the importance of thorough verification and procedural fairness in

[Jewel Utensils Industries Vs C.C. Mundra \(CESTAT Ahmedabad\) - Customs Appeal No. 10328 of 2022](#)

Tribunal Allows Refund of Accumulated Cenvat Credit Despite Procedural Lapse

DA Insights:

The case underscores the significance of substantive benefits over procedural lapses in refund claims. Legislative intent, aiming to facilitate zero-rated exports, should guide decisions regarding refund claims. Precedents play a crucial role in interpreting and applying relevant provisions in customs and excise matters.

Issue:

Whether the denial of refund of accumulated Cenvat Credit for exported goods due to the absence of a bond during export is justified.

Legal Provisions:

Rule 6(6)(v) of the Cenvat Credit Rules, 2004

Observation and Comments:

Kancor Ingredients Ltd filed a refund claim for accumulated Cenvat Credit attributable to exported goods despite the absence of a bond during export. The Commissioner (Appeals) rejected the refund claim, citing Rule 6(6)(v) of the Cenvat Credit Rules, 2004.

The Tribunal noted that denying the refund solely for procedural reasons contradicts the government's export policy. Citing various cases, the Tribunal ruled in favor of Kancor Ingredients Ltd, emphasizing the legislative intent to avoid exporting taxes. It concluded that procedural lapses, such as the absence of a bond during export, should not hinder refund claims for accumulated Cenvat Credit.

[Kancor Ingredients Ltd Vs Commissioner \(CESTAT Allahabad\), Excise Appeal No.70227 of 2020](#)

Customs Notification / Circulars / Guidelines / Instructions

Disbursal of Drawback amounts into the exporters accounts through PFMS

Duty Drawback payments to exporters will transition from the current cheque-based system to the Public Finance Management System (PFMS). The practice of sending printed scrolls and consolidated cheques to authorized banks will cease. Instead, Duty Drawback scrolls processed by Customs Automated System (CAS) will be automatically transmitted to the Central Nodal eDDO, then forwarded to the nodal ePAO for approval, and credited directly to exporters' PFMS-linked bank accounts. Before this date, all pending Drawback scrolls must be processed, and last cheque details communicated to the jurisdictional PAO and bank.

Instruction No. 15/2024 - Customs, dated 29th May, 2024

Amendment in Import Policy for Electronics and IT Goods

The import of all electronics and IT goods under the Compulsory Registration Order 2021 is now restricted and requires a specific import authorization. Unregistered or non-compliant products are prohibited. Imports, including new, second-hand, refurbished, repaired, or reconditioned goods, must be registered with the Bureau of Indian Standards (BIS) and comply with BIS labelling requirements unless exempted by the Ministry of Electronics and Information Technology (MeitY). Non-compliant goods must be re-exported or disposed of as scrap. Random samples of LED products and control gears will be tested for compliance, and non-compliant consignments will be destroyed or sent back at the importer's cost. These changes align with the re-notification of the 2021 Order under the BIS Act 2016.

Notification No. 13/2024-25 - DGFT, dated 20th May, 2024

Amendment in Appendix – 6B of FTP/HBP 2023 for Spices

The Director General of Foreign Trade has amended Para 10(ii) of Appendix 6B of the Foreign Trade Policy (FTP)/Handbook of Procedures (HBP) 2023. The amendment specifies that a minimum value addition of 25% is required for spices only when both the export and import items fall under Chapter 9 of the ITC(HS) Code. In all other cases, the required value addition is 15%. This change aligns Appendix 6B with the provisions of Chapter 4 of the FTP/HBP concerning value addition for spices.

Policy Notice No. 08/2024-25 - DGFT, dated 3rd June, 2024

Clarification on Para 4.17 of HBP-2023 for Review of Norms Committee Decisions

This circular addresses grievances regarding Para 4.17 of the Handbook of Procedures (HBP) 2023, which allows applicants to request a review of the Norms Committee's decisions within 12 months of their publication on the DGFT website. To ease business operations and support export promotion, it is clarified that for decisions made before 1st April 2023, Authorization holders may file review applications until 31st December 2024. No reviews will be entertained beyond this date.

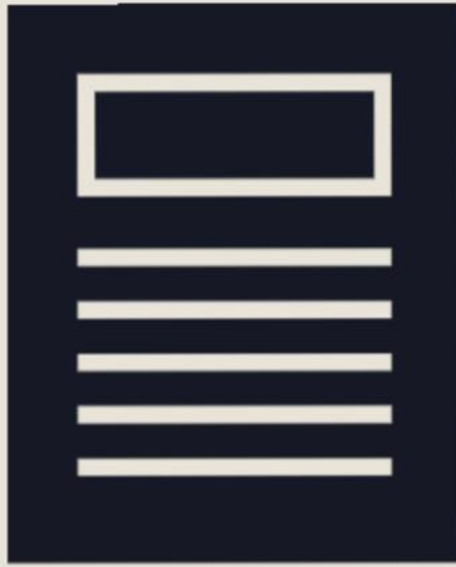
Policy Circular No. 03/2024 - DGFT, dated 30th May, 2024

Customs Notification / Circulars / Guidelines / Instructions

Relaxation of Submission Requirements for SEZ Exports under Advance Authorisation/DFIA

This circular relaxes the requirement for submitting the 'Bill of Export' as evidence of export obligation discharge for supplies made to SEZ units under Advance Authorisation or DFIA schemes, for exports made before 1st July 2017. Instead, exporters can now provide the following documents: (a) ARE-1 form attested by jurisdictional Central Excise/GST authorities, (b) evidence of receipt of supplies by the SEZ recipient, and (c) evidence of payment from the SEZ unit to the exporter. This change addresses industry hardships and promotes ease of doing business.

Policy Circular No. 04/2024 - DGFT, dated 3rd June, 2024



DA NEWS

Driven by Quality, Powered by Ideation

Goods and Services Tax

- SC asks Centre to not use "threat and coercion" in GST recovery operations
- Bringing natural gas under GST will lead to faster adoption: Oil secy
- After 7-year wait, GST Appellate Tribunal may finally be operational soon
- Bad news for hybrid car buyers, good for EV sector: GST Council may not give tax relief for hybrid cars in next meeting
- Not necessary to make arrest in all GST cases, says SC

Customs and other

- India actively pursuing customs mutual recognition agreements with nations: CBIC chief
- India And Bhutan Collaborate To Enhance Trade And Customs Cooperation
- Bizman held for evading ₹12cr duty
- Soni Razdan alerts netizens of a 'huge scam' involving customs: 'They say you have ordered illegal drugs, intimidate you for money'

DA Updates and Articles for the month of May 2024

DA - Indirect Tax Fortnightly Update – May 2024

[https://dardaadvisors.com/wp-content/uploads/2024/05/DA-Indirect-Tax-Fortnightly-Update May-2024-F.pdf](https://dardaadvisors.com/wp-content/uploads/2024/05/DA-Indirect-Tax-Fortnightly-Update-May-2024-F.pdf)



DA Updates and Articles for the month of May 2024

DA Newsflash (GST): Guidelines for Initiation of Recovery Proceedings Before Three Months from the Date of Service of Demand Order

<https://www.linkedin.com/pulse/da-newsflash-gst-guidelines-initiation-recovery-proceedings-9hzrc/?trackingId=ABo6FcLw5qANrusb8Ka%3D%3D>



DA Tax Alert

DA TAX ALERT INDIRECT TAX

AN E-TAX ALERT FROM
DARDA ADVISORS LLP

DA Newsflash (GST): Guidelines for Initiation of Recovery Proceedings Before Three Months from the Date of Service of Demand Order

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DA Updates and Articles for the month of May 2024

✈ Exciting Mentorship Opportunity for Vineet Suman Darda at JITO Incubation Cohort 9! ✈

<https://www.linkedin.com/feed/update/urn:li:activity:7201897418383126528>

॥ वैदे श्री ऋषभं वैरं ॥

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 **INTERACTIVE WORKSHOPS** |  **PANEL DISCUSSIONS** |  **NETWORKING OPPORTUNITIES** |  **MENTORSHIP**

TOPIC *“Startup Schemes & Funds”*



MENTOR
Mr. Vineet Suman Darda
Co Founder, Darda Advisors



 **May 31** |  **04:00 PM** |  **Online**

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