

DA TAX ALERT INDIRECT TAX

AN E-TAX ALERT FROM
Darda Advisors LLP

September 2024

Issue: 52

**GST COMPLIANCE
CALENDER**

**GOODS AND
SERVICE TAX**

**CUSTOMS AND
OTHER**

DA NEWS

PREFACE

We are pleased to present to you the Fifty-Second 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 August 2024.

During the month of August 2024, there were certain changes under Goods and Service Tax, Customs and other; key judgments and rulings such as HC Orders Refund of IGST on Ocean Freight Following Supreme Court Ruling and CESTAT Upholds Cash Refund of CVD and SAD Post-GST Implementation Due to Non-fulfillment of EO under EPCG Scheme

In the Fifty-Second 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 August 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

September
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

HC Quashes GST Demand for One-Day Delay in Filing GSTR-3B, Cites Fairness and GST Council Recommendations

DA Insights:

The ruling emphasizes that procedural delays, especially minor ones like a single-day delay in filing returns, should be given due consideration, especially in light of recent legislative relaxations and GST Council recommendations.

Issue:

The case concerns a one-day delay in filing the GSTR-3B return for September 2020, which led to a demand for tax and interest, along with the proposal to reverse Input Tax Credit (ITC) under Section 73(1) of the CGST Act.

Legal Provisions:

Section 73(1) & 16(4) of the CGST Act

Observation and Comments:

The Madras High Court acknowledged that the delay in filing the GSTR-3B return was a single day and occurred due to the challenges posed by the COVID-19 pandemic. The court observed that the GST Council, in its 53rd meeting, had recommended an extension of the deadline for availing Input Tax Credit (ITC) for the financial years 2017-18 to 2020-21, with a retrospective application from July 1, 2017. Given this context, the court held that the petitioner's minor delay in filing the return should be viewed leniently, especially since the ITC deadline had been relaxed through a proposed amendment.

The court found that the respondent's refusal to condone the one-day delay and the proposal to reverse ITC under Section 73(1) of the CGST Act was overly harsh and detrimental to the petitioner's interests. The court emphasized that the objective of tax law is not to penalize minor

procedural lapses but to ensure compliance with substantive provisions in a fair manner.

Therefore, the show cause notice issued by the respondent was quashed, and the demand for tax and interest, along with the proposed ITC reversal, was set aside.

The court's judgment reflects a balanced approach, recognizing both the procedural requirements of the GST law and the need for fairness in their application, particularly when legislative recommendations support a more flexible interpretation.

Ohm Sakthi Blue Metals vs. The Superintendent of GST & Central Excise [TS-517-HC(MAD)-2024-GST]

HC Quashes Penalty for Minor Clerical Error in E-Way Bill, Emphasizes Fair Application of GST Provisions

DA Insights:

This judgment highlights the courts' focus on fairness by preventing unjust penalties for minor clerical errors in GST compliance, reinforcing the principle of promoting compliance over punitive measures.

Issue:

The case revolved around the imposition of a penalty under Section 129(5) of the GST Act for a discrepancy between the PIN code in the Tax Invoice and the E-Way Bill. The petitioner, Jindal Pipes Ltd., challenged the penalty imposed by the Deputy State Tax Officer, claiming it was due to a minor clerical error that should not result in a heavy financial burden.

Legal Provisions:

Section 129(5) of GST Act & Circular No. 64/38/2018-GST dated 14.09.2018

Observation and Comments:

The Madras High Court (Madurai Bench) acknowledged that the discrepancy was limited to the PIN code on the Tax Invoice and the E-Way Bill, caused by a minor clerical error. The court noted that the GST Council's Circular No. 64/38/2018-GST explicitly states that errors in PIN codes should not result in penalties if the error does not increase the validity period of the E-Way Bill. The court emphasized that the discrepancy occurred due to the use of a VAT-registered address, which did not affect the legality or delivery of the consignment.

Even though the petition was filed after the penalty was paid, the court found that the imposition of such a penalty for a technical,

venial breach was unjust. The court stressed that the philosophy of GST enactments is to ensure compliance with the law rather than impose unjust tax burdens on assesseees for minor procedural errors. Consequently, the court quashed the penalty order and directed the respondent either to refund the penalty amount of Rs. 8,74,036/- or allow the petitioner to take credit in their Electronic Cash Register for future tax liabilities.

[Jindal Pipes Limited vs The Deputy State Tax Officer \(Int\)/TS-519-HC\(MAD\)-2024-GST](#)

High Court Voids ITC Demand Order for Procedural Irregularities

DA Insights:

This ruling underscores the necessity of providing a clear rationale and procedural fairness in tax demand orders, emphasizing the importance of personal hearings and adherence to procedural timelines.

Issue:

The issue concerns the legality of a demand order for Rs. 2.73 Crores due to alleged excess Input Tax Credit (ITC) availed, and the legality of extending the time limit for passing such orders.

Legal Provisions:

Section 73(9), 73(10) & 168A of the CGST Act, 2017

Observation and Comments:

The Delhi High Court scrutinized the impugned order and found that it failed to meet the requisite standards of procedural fairness and reasoned decision-making. Specifically, the Court observed that the order did not provide any substantive reasons for rejecting the petitioner's response to the Show Cause Notice, which is a fundamental requirement for such adjudications.

The Court noted that the Reminder Notice, issued on 08.12.2023, erroneously indicated that personal hearings were not applicable, which effectively denied the petitioner an opportunity to present their case. This procedural lapse rendered the order unreasoned and invalid, as it did not reflect a fair hearing process or detailed consideration of the petitioner's submissions.

Additionally, the High Court addressed the issue of the extended time limit under

Notification No. 9/2023-Central Tax dated 31.03.2023, which extended the period for passing orders under Section 73(9) of the CGST Act. The Court clarified that while it was not necessary to delve into the legality of this notification at this stage, it preserved the petitioner's right to challenge it in the future if needed.

Consequently, the Court set aside the demand order dated 26.12.2023 and remanded the matter to the tax authorities for reconsideration, ensuring that the reassessment complies with principles of procedural fairness and reasoned decision-making. The Court's decision emphasized the necessity of adhering to due process and providing clear explanations for decisions impacting taxpayers.

[Lakshman Pran Data Enterprises Vs. The Commissioner of DGST, Delhi & Anr.](#)

[24-HCIDEL-2024-GST](#)

High Court Orders Refund of IGST on Ocean Freight Following Supreme Court Ruling

DA Insights:

The principle that taxpayers are entitled to refunds when a tax levy is declared invalid. It underscores the necessity for tax authorities to comply with judicial pronouncements and refund amounts collected under invalid tax provisions.

Issue:

Whether the assessee is entitled to a refund of IGST paid on ocean freight services, given that the levy of such tax was struck down by the Supreme Court.

Legal Provisions:

Section 16 of the CGST Act, 2017

Observation and Comments:

The Madras High Court disposed of the writ petition in favor of the assessee, Viterra India Pvt. Ltd., based on the Supreme Court's ruling in Mohit Minerals. The Court observed that the levy of IGST on ocean freight services, as per Notification Nos. 8/2017-IT(Rate) and 10/2017-IT(Rate), was invalidated by the Supreme Court. This ruling affirmed the Gujarat High Court's decision that such levies were ultra vires Section 8 of the CGST Act and Section 5(3) of the IGST Act, thus, not permissible under law.

The Court noted that despite the clear judicial pronouncement, the respondents had rejected the petitioner's rectification application and failed to process the refund. The High Court directed the respondents to refund the amount of Rs. 13,147 along with appropriate interest for

July 2019, acknowledging that the tax collection on invalid grounds necessitates a refund. The Court also highlighted that the denial of a refund based on the invalidation of tax law contravenes the principles of justice and fair administrative practice.

Additionally, the Court left the matter of interest calculation open for further adjudication between the parties, ensuring that the refund process is completed in line with judicial precedents and statutory requirements. This judgment reinforces the obligation of tax authorities to adhere to legal standards and provides a clear directive for the timely and accurate processing of refunds in cases of invalid tax levies.

[Viterra India Pvt. Ltd. vs. UOI & Ors. \[TS-525-HC\(MAD\)-2024-GST\]](#)

HC Rules IGST Refund with Higher Duty Drawback as Double Benefit, Orders Refund Adjustment

DA Insights:

This ruling reiterates that claiming both a higher rate of duty drawback and IGST refunds amounts to double benefits, which is disallowed under GST law. It also highlights the importance of selecting the correct column for duty drawback during export processes.

Issue:

Whether the assessee, who availed a higher rate of duty drawback on exports, can also claim a refund of IGST paid on zero-rated supplies, or if this would amount to receiving double benefits.

Legal Provisions:

Section 54 of the CGST Act, Rule 96(4) of the CGST Rules & Sections 74, 75, 75A, and 76 of the Customs Act

Observation and Comments:

The Bombay High Court, while addressing the case, referred to the Gujarat HC decision in Awadkrupa Plastomech and held that granting an IGST refund in addition to a higher rate of drawback would amount to double benefit, as Central Excise and Service Tax have been subsumed under GST. The Court observed that the assessee voluntarily selected Column "A" in the shipping bill to claim a higher rate of duty drawback (9%) instead of the lower rate (1.9%) as per Column "B". This demonstrated that the higher rate was chosen consciously and not due to any mistake.

The Court rejected the assessee's argument that IGST refunds could not be denied based on the drawback rate, emphasizing that the higher duty drawback already includes the excise and service tax components, which are now subsumed

under GST. Thus, allowing both the higher drawback and IGST refund would lead to a double benefit. The High Court directed the Revenue to grant the IGST refund after deducting the differential amount of duty drawback, with an interest rate of 7% p.a. from the date of the shipping bill until the actual refund.

[Kunal Housewares Private Limited vs UOI & Ors \[TS-526-HC\(BOM\)-2024-GST\]](#)

GST Not Applicable on Shareholding Activities, HC Clarifies Exemptions on Overseas Loan Transactions

DA Insights:

The judgment provides clarity on the non-applicability of GST to shareholding activities and highlights exemptions applicable to interest/discount transactions involving overseas loans. It reinforces the principle that securities do not constitute taxable goods or services under GST.

Issue:

Whether GST can be levied on the activity of holding shares in a subsidiary and on interest/discounts related to loans and advances provided by an overseas entity.

light of the relevant exemptions.

Legal Provisions:

Notification No. 09/2017 & Entry 27 of Notification No. 12/2017-Central Tax (Rate)

Observation and Comments:

The Karnataka High Court held that shares are classified as 'securities' and are neither goods nor services. Thus, GST cannot be levied on the continuous holding of equity shares by the Assessee in its subsidiary. The Court relied on the Yonex India Private Limited judgment and Circular No. 218/12/2014, which clearly stated that such shareholding activities do not attract GST.

In relation to the interest/discounts on loans and advances provided by an overseas entity, the Court remanded this issue for reconsideration. It directed that the assessment must be conducted in light of Notification No. 09/2017, which provides an exemption when the consideration is represented as interest or discount, without any processing fees. The Court ordered reassessment of this aspect in

AO Smith India Water Products Private Limited vs State of Karnataka & Ors [TS-535-HC(KAR)-2024-GST]

High Court Sets Aside Tax Demand Due to Mismatch in GST Returns and Lack of Proper Communication

DA Insights:

The importance of ensuring proper communication in tax disputes and providing assessees with adequate opportunities to contest demands, particularly when mismatches arise due to procedural differences.

Issue:

The validity of a tax demand arising from a mismatch between GSTR-3B, GSTR-9/9C, and Form 26AS, where the Assessee was not given a reasonable opportunity to contest the demand.

Legal Provisions:

Section 73 of the CGST Act, 2017

Observation and Comments:

The Madras High Court observed that the tax demand resulted from a mismatch between the Assessee's GSTR-3B and GSTR-9/9C returns and Form 26AS. The Assessee argued that the mismatch occurred because Form 26AS includes pre-GST transactions (April to June 2017), while GST returns only cover the period from July 2017 onward.

The Court noted that the Assessee had not been properly informed of the tax proceedings, as the show cause notice and related communications were uploaded only on the GST portal and not communicated via other modes. Hence, the Court directed a reconsideration of the case, allowing the Assessee to remit 10% of the disputed tax amount, submit a detailed reply, and receive a personal hearing. The Court set aside the impugned order and lifted the bank attachment.

[Gayathri Construction \[TS-536-HC\(MAD\)-2024-GST\]](#)

GSTN Portal Changes

Advisory for Furnishing Bank Account Details before Filing GSTR-1/IFF (Notification No. 38/2023 – Central Tax)

As per Rule 10A of the CGST Rules, 2017, taxpayers must provide valid bank account details within 30 days of registration or before filing GSTR-1/IFF, whichever is earlier. Despite prior advisories, the rule will be enforced starting September 1, 2024. From the August 2024 tax period onwards, taxpayers without bank account details in their GST registration will be unable to file GSTR-1/IFF. Taxpayers are advised to update their bank account details via the GST Portal under Services > Registration > Amendment of Registration Non-Core Fields. Failure to do so will prevent return filing.

Introduction of RCM Liability/ITC Statement

A new "RCM Liability/ITC Statement" has been introduced on the GST Portal to assist taxpayers in accurately reporting Reverse Charge Mechanism (RCM) transactions. It captures RCM liabilities from Table 3.1(d) and ITC claims from Tables 4A(2) and 4A(3) of GSTR-3B. This statement applies from the August 2024 tax period for monthly filers and the July-September 2024 period for quarterly filers. Taxpayers must also report their RCM ITC opening balance, considering the July 2024 return period for monthly filers and April-June 2024 for quarterly filers. The deadline to declare the opening balance is 31st October 2024, with amendments allowed until 30th November 2024.

Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants in Dadra and Nagar Haveli, Daman and Diu, and Chandigarh

As of August 24, 2024, new procedures for GST registration have been introduced in Dadra and Nagar Haveli, Daman and Diu, and Chandigarh. Applicants will undergo Biometric-based Aadhaar Authentication and document verification, facilitated through a new functionality on the GST portal. After submitting Form GST REG-01, applicants will receive an email with either a link for OTP-based Aadhaar Authentication or a link to book an appointment at a GST Suvidha Kendra (GSK). For appointments, applicants must bring the appointment confirmation email, Aadhaar and PAN cards, and original documents. The biometric and document verification will be conducted at the GSK, and applicants must schedule their appointments within the allowed period as per the email instructions.

Advisory on Reporting of Supplies to Unregistered Dealers in GSTR-1/GSTR-5 (Sep 3, 2024)

As per Notification No. 12/2024 – Central Tax dated July 10, 2024, the threshold limit for reporting invoice-wise details of inter-state taxable outward supplies to unregistered dealers has been reduced from ₹2.5 lakh to ₹1 lakh. This change is applicable for reporting in Table 5 of Form GSTR-1 and Table 6 of GSTR-5. The functionality to implement this is under development on the GST portal. Until the portal is updated, taxpayers should continue reporting supplies exceeding ₹2.5 lakh in the respective tables of GSTR-1 and GSTR-5.

GST Collection

Rs 1,74,962 crore gross GST revenue collected for August 2024

GST Gross and Net Collections (Amount in crores) – August 2024						
GST Collections	Monthly			YTD		
	Aug 2023	Aug 2024	% Growth	Aug 2023	Aug 2024	% Growth
A	B	C	D = C/B-1	E	F	G = F/E-1
A.1. Domestic						
CGST	28,328	30,862		1,55,965	1,72,130	
SGST	35,794	38,411		1,94,949	2,13,219	
IGST	39,701	44,593		2,19,426	2,50,999	
CESS	10,679	11,120		54,046	58,691	
Gross Domestic Revenue	1,14,503	1,24,986	9.2%	6,24,385	6,95,038	11.3%
A.2. Imports						
IGST	43,550	49,028		2,00,568	2,13,783	
CESS	1,016	948		4,842	5,034	
Gross Import Revenue	44,566	49,976	12.1%	2,05,411	2,18,817	6.5%
A.3. Gross GST Revenue(A.1+A.2)						
CGST	28,328	30,862		1,55,965	1,72,130	
SGST	35,794	38,411		1,94,949	2,13,219	
IGST	83,251	93,621		4,19,994	4,64,782	
CESS	11,695	12,068		58,888	63,725	
Total Gross GST Revenue	1,59,069	1,74,962	10.0%	8,29,796	9,13,855	10.1%

CESTAT Quashes Interest Demand on Customs Duty for Solar Modules Not Used Due to Project Changes

DA Insights:

The distinction between "intended use" and "actual use," reaffirming that delays in usage due to changes in project specifics do not warrant interest charges. It highlights the need for practical considerations in enforcing customs regulations.

Issue:

Whether interest can be levied on customs duty for solar modules that were imported, stored in a bonded warehouse, but not used in the project due to changes in module mounting structures and space constraints.

Legal Provisions:

Section 61(2) of the Customs Act, 1962 & Section 65 of the Customs Act, 1962

Observation and Comments:

The CESTAT New Delhi quashed the interest demand on customs duty for 48,742 solar modules that were imported by ACME Aklera Power Technology Pvt. Ltd. and stored in a bonded warehouse but not used in the intended solar power projects. The Revenue had demanded interest under Section 61(2) of the Customs Act, amounting to Rs 2.88 Crores, on the grounds that these modules should have been immediately ex-bonded if not used. However, the Commissioner (Appeals) reversed this order, finding that these modules were still intended for use in the project, and thus should not attract interest.

The CESTAT agreed with the Commissioner (Appeals) that the term "intended for use"

differs from "actual use," and it is not required that modules be immediately ex-bonded if their use is delayed due to unforeseen changes in project design. The Tribunal rejected the Revenue's plea, clarifying that the delay in ex-bonding was due to practical difficulties and not an indication of non-intent. Thus, the interest demand was incorrectly levied and was rightly reversed by the Commissioner (Appeals).

[Commissioner of Customs \(Preventive\) Jaipur v/s M/s. ACME Aklera Power Technology Pvt. Ltd. \[TS-348-CESTAT-2024-CUST \]](#)

CESTAT Overturns Interest, Confiscation, and Penalties on Imported Goods Under Advance Authorization Scheme

DA Insights:

CESTAT emphasized that statutory provisions must exist for imposing financial levies such as interest, fines, and penalties. In the absence of such provisions under the Customs Tariff Act for IGST, these levies are unjustifiable. The Tribunal reaffirmed that judicial decisions take precedence over administrative circulars.

Issue:

Whether the imposition of interest, confiscation of goods, redemption fine, and penalty on goods imported under the Advance Authorization (AA) scheme for pre-import condition violations is justified in the absence of specific statutory provisions.

suppression of facts, and the authorities had sufficient knowledge of the pre-import conditions.

Legal Provisions:

Sections 3(7) and 3(12) of the Customs Tariff Act, 1975

Observation and Comments:

CESTAT Ahmedabad quashed the orders imposing interest, confiscation of goods, redemption fine, and penalty, finding that these demands lacked statutory support under the relevant sections of the Customs Tariff Act. The Tribunal highlighted that there is no specific provision for recovering interest or imposing fines and penalties in the context of IGST, making such demands unsustainable. Furthermore, CESTAT noted that the case had become revenue neutral as the IGST was paid and credited, thus negating the need for further orders. The extended period of limitation was deemed inapplicable as there was no

[Chiripal Poly Films Ltd vs Commissioner of Customs \[TS-310-CESTAT-2024-CUST\]](#)

CESTAT Allows Refund of Excess Customs Duty Due to Recalculated Export Weight

DA Insights:

CESTAT stressed that export duty should align with the actual export quantity post-weight verification. Refunds of excess duty are valid if recalculations are necessary due to moisture content or similar factors affecting export weight.

Issue:

Whether the assessee is entitled to a refund of excess customs duty paid due to a recalculation of the FOB value based on the actual export weight after eliminating moisture content.

Legal Provisions:

Customs Act, 1962 (pertaining to export duty and refund claims)

Observation and Comments:

CESTAT Ahmedabad overturned the Commissioner (Appeals) order rejecting the refund claim by the assessee. The assessee had paid customs duty based on the export of 55,000 wet metric tonnes of Metallurgical Grade Gibbsite, but after verifying the moisture content at the discharge port, the actual export quantity was recalculated at 54,600 metric tonnes. This variation led to an excess customs duty payment for 400 metric tonnes. The Tribunal remanded the case back to the Adjudicating Authority to verify whether the price variation and customs duty payment aligned with statutory provisions or if the assessment was provisional. The CESTAT also referred to a similar judgment in the M/s ORE case, where export duty was allowed to be recalculated based on the actual content of the goods.

Messrs Rawmin Mining And Industrial Pvt Ltd v/s C.C – Jamnagar (Prev) [TS-371-CESTAT-2024-CUST]

CESTAT Rules Misclassification of Jackets as Genuine Error, Sets Aside Penalty

DA Insights:

The decision highlights that misclassification errors, without evidence of intent to deceive or suppress facts, do not justify the invocation of Section 28(4). Penalties should be proportional and only applied when there is clear malintent.

Issue:

Whether Section 28(4) of the Customs Act, 1962, which deals with recovery of duties in cases of collusion, wilful misstatement, or suppression of facts, can be invoked in a case of mere misclassification of imported jackets by Benetton India.

Legal Provisions:

Section 28(4) of the Customs Act, 1962

Observation and Comments:

CESTAT Delhi set aside the demand and penalty imposed on Benetton India under Section 28(4) of the Customs Act, 1962. The Tribunal found no evidence of collusion, wilful misstatement, or suppression of facts. The misclassification of jackets under incorrect HSN codes was deemed a genuine error. The assessee accepted the correct classification after the Customs department's guidance and paid the differential duty. CESTAT emphasized that the case involved an interpretational error of the Tariff entries, not a deliberate attempt to evade duty. The Tribunal referred to a previous similar case where it was concluded that Section 28(4) could not be applied in cases of simple misclassification.

[Benetton India Private Limited v/s Additional Commissioner, Customs \[TS-309-CESTAT-2024-CUST\]](#)

CESTAT Rules No Intent to Evade Duty in Fly Ash Exemption Case, Quashes Extended Limitation Demand

DA Insights:

This ruling reinforces the principle that mere procedural lapses or technical missteps, without clear intent to deceive or suppress, do not justify the invocation of an extended limitation period for raising tax demands. Proper disclosure through statutory filings is key.

Issue:

Whether the extended period of limitation under the Customs Act could be invoked to demand excise duty and impose penalties for alleged misapplication of the exemption under Notification No. 06/2002-CE, due to insufficient use of fly ash in the manufacture of AC Pressure Pipes.

Legal Provisions:

Section 11A of the Central Excise Act & Notification No. 06/2002-CE

Observation and Comments:

CESTAT Delhi quashed the Show Cause Notice (SCN) issued beyond the normal period of limitation, holding that the Revenue failed to establish any intent by the assessee to evade duty. The SCN had raised allegations regarding the insufficient use of fly ash in the manufacture of AC Pressure Pipes, claiming misuse of the exemption provided under Notification No. 06/2002-CE. However, CESTAT emphasized that the Revenue could not point out any discrepancies in the statutory forms (Form-A, Form-B, Form D-3) filed by the assessee during the disputed period (2003-2006). Since the details of raw materials, including fly ash, were regularly disclosed, there was no suppression of facts.

The Tribunal reiterated that for the extended limitation period to apply, deliberate suppression

of facts with intent to evade duty must be proven, which was not the case here.

[Kanoria Energy & Infrastructure Ltd. v/s Commissioner of CGST & CE \[TS-367-CESTAT-2024-EXC\]](#)

CESTAT Upholds Cash Refund of CVD and SAD Post-GST Implementation Due to Non-fulfillment of EO under EPCG Scheme

DA Insights:

This ruling affirms that cash refunds for duties paid under the old regime are warranted when CENVAT credit is not available under GST, especially in cases involving the fulfillment of export obligations.

Issue:

Whether the Assessee is entitled to a cash refund of CVD (Countervailing Duty) and SAD (Special Additional Duty) paid post-GST implementation due to failure in meeting export obligations (EO) under the EPCG Scheme, as the CENVAT Credit for these duties is no longer available under the GST regime.

Legal Provisions:

Section 142(3) of the CGST Act

Observation and Comments:

CESTAT Delhi allowed the refund of CVD and SAD paid by Hindustan Equipments Private Limited post-July 1, 2017 for imports made prior to GST implementation, which arose due to failure to meet export obligations under the EPCG Scheme. The Assessee had paid these duties in 2021 after failing to meet the EO and could not claim CENVAT credit since GST had already replaced the old regime. CESTAT, relying on prior judgments (e.g., M/s Mithila Drugs Pvt Ltd and New Age Laminators Pvt Ltd), ruled that the cash refund of CVD and SAD is justified, as CENVAT credit for these duties is no longer admissible under GST. The Tribunal also invoked the 'Doctrine of Necessity' to support its decision, stating that denying the refund would result in an unjust outcome since the credit cannot be availed in the current tax structure.

Hindustan Equipments Private Limited v/s Commissioner of CGST & Central Excise [TS-345-CESTAT-2024-EXC]

Customs Notification / Circulars / Guidelines / Instructions

Implementation of Automation in Customs Rules for EOUs

The CBIC has referred to Circular No. 11/2024-Customs, effective from 1st September 2024, regarding the automation of Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 for EOUs. In response to concerns raised by EOUs regarding registration, IIN generation, and bond submission delays, the implementation has been postponed to 17th September 2024. Field formations are instructed to issue necessary public notices for guidance. Any issues in implementing this circular should be reported to the Board.

[Circular No. 13/2024 - Customs, dated 4th Sep, 2024](#)

Draft Modalities for Pilot Launch of E-Commerce Export Hubs (ECEH)

The DGFT has issued Trade Notice No. 14/2024-25-DGFT regarding the pilot launch of E-Commerce Export Hubs (ECEH) under the Foreign Trade Policy 2023. These hubs aim to streamline cross-border e-commerce by centralizing infrastructure for export activities. Draft modalities for ECEHs include procedures for goods movement, pre-screening, and customs clearance, with features such as electronic document validation and integrated customs processes.

[Trade Notice No. 14/2024-25 - DGFT, dated 22nd Aug, 2024](#)

Extension of Interest Equalization Scheme (IES) for Pre and Post Shipment Rupee Export Credit

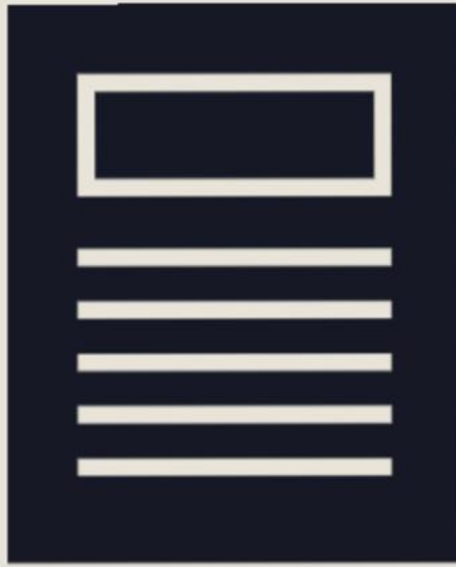
The DGFT has extended the Interest Equalization Scheme (IES) for Pre and Post Shipment Rupee Export Credit by one month, now valid until 30th September 2024. Originally set to expire on 31st August 2024, this extension applies to MSME manufacturing exporters and maintains the current terms and conditions. The scheme provides interest rate subventions on export credits to enhance exporters' global competitiveness. Stakeholders are advised to refer to RBI guidelines for detailed instructions on implementation and compliance.

[Trade Notice No. 16/2024-25 - DGFT, dated 31st Aug, 2024](#)

Amendment to Appendix 3 (SCOMET Items) of ITC (HS) Classification

The Government of India has issued Notification No. 25/2024-DGFT, effective September 2, 2024, which amends Appendix 3 (SCOMET Items) of Schedule 2 of the ITC (HS) Classification of Export and Import Items, 2018. Authorized under the Foreign Trade (Development and Regulation) Act, 1992 and the Foreign Trade Policy 2023, this update revises the list of SCOMET (Special Chemicals, Organisms, Materials, Equipment, and Technologies) items. The updated Appendix will be available on the DGFT's web portal under "Regulatory Updates" and will take effect 30 days from the notification date, providing time for industry adaptation. This amendment continues from prior updates, including those from 2017 to 2023.

[Notification No. 25/2024 - DGFT, dated 2nd Sep, 2024](#)



DA NEWS

Driven by Quality, Powered by Ideation

Goods and Services Tax

- GST return filing changes: New thresholds and liability rules to take effect from September
- GSTN to launch invoice management system from Oct 1
- GST Council likely to consider relief for industries including IT, foreign airlines
- GST Council to meet on Sept 9; compensation roadmap may stretch into FY26
- GST on insurance premiums: Karnataka in favour of exemption on products used by working class

Customs and other

- E-governance journey in CBIC: Moving towards development outcomes
- EOU's B-17 bond serves purpose of continuity bond under IGCR Rules
- US Customs Detains Indian Solar Panels

DA Updates and Articles for the month of August 2024

DA - Indirect Tax Fortnightly Update - August 2024

Link: <https://dardaadvisors.com/wp-content/uploads/2024/08/DA-Indirect-Tax-Fortnightly-Update-August-2024-F.pdf>

DA Update (FTP) - Penalty not leviable for non fulfillment of Export Obligation = SC

Link: <https://www.linkedin.com/feed/update/urn:li:activity:723453005873907488>

DA Update (FTP): EOUs need to apply for IGCRS Rules, 2022 for clearance of goods [W.E.F September 01, 2024]

Link: <https://www.linkedin.com/feed/update/urn:li:activity:7234854827069952000>

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