

Nangia Andersen LLP

Indirect Tax Newsletter

August 2023 _____





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01

Judgements and Rulings (Customs)



● Supreme Court- Extended period not invocable where tax position taken basis judgement that got subsequently over-ruled

Brief Facts

The demand for differential duty of excise was raised on the allegation that the assessee had incorrectly determined the assessable value of its finished goods by not including therein the monetary value of the duty benefits obtained from its customers as a result of the transfer of the advance licenses. Further, SCN was issued beyond the normal limitation period of one year prescribed in Section 11A(1) of the Central Excise Act, 1944 and it was also alleged therein that the noticee had deliberately suppressed relevant facts and had made wilful misstatements withholding material information and documents from the departmental officers.

The CESTAT had allowed the Assessee's appeal, stating that the dispute was revenue neutral as the customers could avail CENVAT credit for duties paid.

Observations

The Supreme Court reviewed the case concerning the time bar issue and referred to CESTAT's findings. Upon examining the ER-1/RT-12 return format, which the assessee filed monthly to report clearances and duties paid, the court found no separate column for declaring deemed export clearances to holders of advance licenses. As a result, the court rejected the Revenue's claim of suppression of facts, stating that there was no requirement for such separate disclosure.

Furthermore, the Supreme Court has upheld the Tribunal's findings that, during the period in dispute, the Assessee genuinely believed it was fulfilling its duty and tax liability correctly by following CESTAT's view in case of IFGL Refractories Ltd that got ultimately reversed. However, it does not imply any malicious intent on the part of the Assessee, especially considering that the belief was based on a division bench's viewpoint from the Tribunal.

The supreme court observed that neither the SCN nor the civil appeal filed by the revenue mentioned the allegation of wrongful clubbing of deemed export clearances with domestic clearances. The oral arguments supported by the adjudicating authority's findings were not sufficient to resurrect a point that was not pressed before the tribunal or included in the appeal memo before the supreme court.

The supreme court limited the present arguments to the limitation aspect of the matter, as the merits were already decided in favor of reliance by a 2-1 majority.

Decision

The Supreme Court decided the appeal on the issue of time bar, referring to CESTAT's findings. It observed that in absence of separate column in return the Assessee was not required to separately disclose the value of deemed export clearances in the monthly returns.

The Revenue's claim of suppression of facts was rejected, as there was no obligation to disclose such information. The Revenue's inconsistent arguments and failure to justify their claims led the Court to affirm the Assessee's bonafide belief in following CESTAT's view.

The Court dismissed the appeal filed by the revenue, stating that the demands were time-barred, and no opinion expressed on the merits of the matter including the aspects of revenue neutrality.

[Reliance Industries Ltd (TS-331-SC-2023-CUST)]



● **Hon'ble Bombay High Court directs for release of IGST refund along with interest since no double benefit found in the form of higher duty drawback**

Brief Facts

The assessee filed a GST return in form no. GSTR-1 for august 2017 where inadvertently mentioned incorrect invoice number and port code for an export transaction and its corresponding shipping bill.

Realizing the error, the assessee filed an amended/corrected return for january 2018 and also submitted an annexure establishing the concordance between the tax invoices and shipping bill as per department of revenue circulars.

Assessee then applied for the refund of igst amount paid on the export of insulated cables to a party in myanmar. However, the refund was denied on the grounds that the assessee had claimed a higher duty drawback on its exports. In response, the assessee filed a writ petition to challenge the denial of IGST refund.

Observations

Hon'ble High Court observed that the current situation involves the Petitioner's case being classified as a zero-rated supply under Section 16(3) of the IGST act. Consequently, Rule 96 of the CGST rules, which pertains to the refund of integrated tax paid on exported goods or services, becomes applicable.

The sole question that needs to be resolved is whether the Respondent's claim is valid, suggesting that the Petitioner availed a higher duty drawback while seeking the IGST refund. Further, it was observed that the conclusion drawn by the Respondents contradicts factual evidence as the official notification of October 31, 2016, sets a uniform duty rate of 2% for the relevant goods.

Hon'ble High Court also observed that a comparable situation was upheld by the Gujarat High Court in Awadkrupa Plastomech indicating Petitioner has a legitimate right to claim a refund of the IGST paid on the mentioned exports since there is no instance of the Petitioner seeking a dual benefit by obtaining both the IGST refund and a higher duty drawback.

Decision

Accordingly, the Hon'ble High Court allowed the appeal of Petitioner and issued a directive to the Revenue to refund the IGST paid by the assessee for the zero-rated supply. The refund to be accompanied by simple interest at an annual rate of 7%, effective from 22nd February 2018, and must be processed within a period of two weeks.

[Sunlight Cable Industries vs Commissioner of Customs (TS-290-HC (BOM)-2023-GST)]

● The authority to conduct a search does not inherently include the authority to seal. High Court orders the unsealing of the office premises

Brief Facts

The Assessee contended that the Assistant Commissioner of Customs lacked the authority and jurisdiction to seal their office premises under Section 105 of the Customs Act, 1962, without prior notice to them. They argued that they were always willing to cooperate with any investigation related to transactions with the entity, with whom they had not directly purchased goods.

The Revenue asserted that Customs Officers had the power to search the premises, and since the Assessee was not cooperating, they took the decision to seal the premises.

Observations

Hon'ble High Court opined that the power to search does not encompass the power to seal, as sealing is a significant measure that can only be exercised if explicitly authorized by law.

The Court also pointed out that sealing a business premises directly affects the right to carry on business, which is a fundamental right protected under Section 19(1)(g) of the Constitution. The legislature, by conferring search powers under Section 105 of the Customs Act, intentionally excluded the power to seal, limiting it solely to conducting searches.

Decision

Hon'ble High Court observed that it was not the case that the premises were not available for search and Customs Authorities had straightaway resorted to take a drastic action against the petitioner to seal the premises that is certainly not possible under provisions of Section 105 of the Customs Act.

Acknowledging the assessee's willingness to cooperate in the search, the High Court directed the Customs Authorities to unseal the office premises in the presence of the assessee's representatives.

[M/s. Narayan Power Solutions vs. Union of India & Anr writ petition (L) NO.19691 OF 2023]

● **CESTAT Mumbai sets aside rejection of declared value without scrutinizing manufacturer's invoice- a breach of Valuation Rules**

Brief Facts

The case involves an appeal by M/s Lakyou Beauty India ('the appellant'), challenging the decision of the first appellate authority to revise the assessable value of different types of cosmetics imported by the appellant under Rule 7 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The rejection was based on a significant gap between the declared value and the retail price marked on the goods.

The appellant also provided the manufacturer's invoice as evidence to support the declared value and cited various Tribunal decisions wherein it was held that rejecting the declared value based on the retail price in the Indian market is erroneous.

Contention of Revenue

The Revenue justified the rejection by conducting a 'first check' that revealed a gap between the intended domestic selling price and the declared value, leading to the application of Rule 12 for revising the value of the imported goods.

The Revenue also claimed that the 'deductive value' determined under Rule 7 had allowed reasonable abatement for discounts and profit margins at different stages in the supply chain, leaving no grounds for appellant's grievance.

Observations

CESTAT observed that the appellant applied the same abatement from the local sale price of 'lipgloss'/'lipstick' to other goods in the imported consignment without providing a valid justification for treating different types of goods alike.

Furthermore, it was observed by the CESTAT that three conditions are pre-requisite in the 'deductive value' method option, viz, the sale should be to unrelated parties in India, the unit price should be derived from identical or similar imported goods sold in the highest aggregate quantity, and the sale should be in the condition as imported at the time of import presentation.

Decision

CESTAT highlighted that rejecting the declared value (as per Rule 3(3) of Customs Valuation Rules) requires giving priority to the transaction value of identical goods over substituting it with the deductive value based on local prices, even if conditions were met for each type of goods.

It further appeared that rejecting the declared value without examining the manufacturer's invoice and disregarding local sale invoices as 'transaction value' for similar goods went against Customs Valuation Rules, suggesting improper application of valuation principles.

Accordingly, CESTAT set aside the impugned order and held that the initial authority and the first appellate authority incorrectly surpassed preceding valuation methods and failed to notice the breach in Customs Valuation Rules, rendering the use of deductive value incorrect.

[Lakyou Beauty India (TS-343-CESTAT-2023-CUST)]

● **CESTAT Delhi holds that earphones CX 275s (having microphones) imported by an audio company offering is eligible for benefit of exemption Notification No. 57/2017-Cus.**

Brief Facts

The case involves an appeal by M/s Sennheiser Electronics India Private Limited ('the appellant'), challenging the orders issued by Principal Commissioner of Customs (Import) New Delhi. The appellant imported earphones of two models, CX 275s (with microphones) and CX180 (without microphones), claiming exemption under S. No. 18 of Notification No. 57/2017-Cus dated 30.06.2017 as amended by Notification No. 22/2028-Cus.

During the department's post-audit clearance, it was concluded that the appellant did not qualify for the exemption stated in the notification based on the classification of the earphones as "wired headsets" and components of cellular mobile phones, rendering them ineligible under S. No. 18 of the exemption notification. Consequently, it was observed by the department that it is necessary for the appellant to pay duty at the tariff rate of 15%.

Considering the foregoing, while the demand on CX180 was dropped, however, orders were passed confirming demand on CX 275s stating that the same is ineligible for exemption. Furthermore, in the order dated 01.06.2020, a penalty of Rs. 4,53,744/- was imposed on the appellant under section 112 of the Customs Act despite the partial dropping of the demand.

Relying on several case laws, the appellant contended that earphones qualify only as accessories (separately excluded in S. Nos. 10 and 12 of exemption notification) to mobile phones and the same are not limited to use only with mobile phones but can be used with multiple gadgets.

Contention of Revenue

On the other hand, revenue contended that any exemption notification must be strictly construed, and the term 'part of cellular mobile phone' has been used in a general sense in the said exemption notification. Therefore, any further technical interpretation to distinguish between parts and accessories is neither required nor relevant in the impugned case.

● CESTAT Delhi holds that earphones CX 275s (having microphones) imported by an audio company offering is eligible for benefit of exemption Notification No. 57/2017-Cus. (Cont.)

Observations

CESTAT observed that the earphones (CX 275s) have two speakers and an inbuilt microphone and can be used with laptops, iPads, desktops, iPods, mobile phones, and other devices. They serve the function of providing audio output through the speakers and receiving audio input through the microphone. The earphones' utility is not confined to cellular mobile phones but extends to various gadgets as long as the jack is compatible with the device's port.

It further appeared that the exemption entry (S. No. 18) applies to all goods falling under CTH 8518, except for some parts of the cellular mobile phone. The exemption notification uses different expressions, such as "parts or sub-parts or accessories to cellular mobile phone" in entry nos. 10 and 12, and "parts of cellular mobile phone" in entry no. 18. The CESTAT considered these expressions to be 'distinct and different.'

Decision

Basis the above, CESTAT rejected the revenue's argument that the word "parts" in entry no. 18 should be interpreted broadly to include earphones. The CESTAT clarified that entry No. 18 specifically excludes only certain reserved items like microphones, wired headsets, and receivers, which are parts of cellular mobile phones, from the exemption.

Referring to Hon'ble Apex Court decision in **Dilip Kumar and Company**, wherein the Apex Court did not completely rule out the possibility of liberal interpretation of an exemption notification but affirmed its previous decisions in **Collector v. Parle Exports (P) Ltd. — 1988 (38) E.L.T. 741 (S.C.)** and **Commissioner v. Hari Chand Shri Gopal — 2010 (260) E.L.T. 3 (S.C.)** that strict and liberal interpretations of the notification should be applied at different stages.

Accordingly, CESTAT set aside the impugned order and allowed both appeals with consequential relief to the appellant.

[Sennheiser Electronics India Pvt Ltd (TS-360-CESTAT-2023-CUST)]

02

Customs Updates



● Notifications, Circulars and Instructions

- Increase in rate of import duty on Liquefied Propane and Liquefied Butane

Central Government has notified to increase import duty leviable on Liquefied Propane classifiable under CTH 2711 12 00 and Liquefied Butane classifiable under CTH 2711 13 00 to 15% w.e.f. 1 July 2023.

[Notification No. 43/2023-Customs, dated 1 July 2023]

- Amendment in Notification No. 50/2017 -Customs dated, 30 June 2017 to prescribe concessional rate of Basic Customs Duty ('BCD') to the Liquefied Propane and Liquefied Butane

Central Government has inserted a new entry (S. No. 153A) in principal Notification No. 50 /2017 -Customs dated, 30th June 2017 to prescribe a concessional rate of BCD @ 2.5% on Liquefied Propane and Liquefied Butane w.e.f. 1 July 2023.

[Notification No. 44/2023-Customs, dated 1 July 2023]

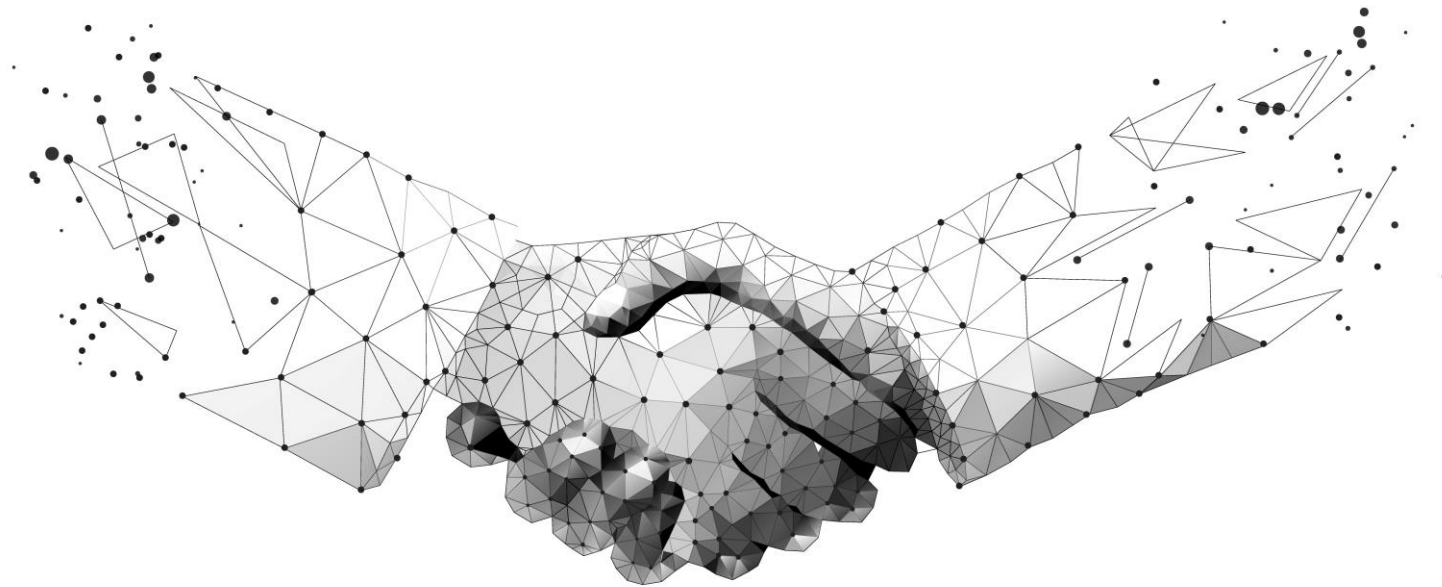
- **Amendment in Notification No. 11/2021 -Customs dated, 1 February 2021 in order to prescribe Agriculture Infrastructure and Development Cess ('AIDC') rate for liquified Propane and liquified Butane**

Central Government *via* the said notification has amended the Principal Notification No. 11/2021 -Customs dated, 1 February 2021 to introduce a new entry as S. No. 10AA which sets a 15% rate of AIDC on Liquefied Propane and Liquefied Butane which are classified under tariff items 2711 12 00 and 2711 13 00 respectively.

The notification includes two provisos wherein, the first proviso states that S. No. 10AA, which sets the 15% AIDC rate on Liquefied Propane and Liquefied Butane will not apply to imports by Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited, or Bharat Petroleum Corporation Limited meant for supply to household domestic consumers or Non-Domestic Exempted Category (NDEC) customers.

Similarly, the second proviso excludes the application of S. No. 10B to imports of Liquefied Petroleum Gas by the above mentioned entities for supply to household domestic consumers or NDEC customers.

[Notification No. 45/2023-Customs, dated 1 July 2023]



- Government seeks to amend certain notifications as per recommendations of the 50th GST Council Meeting

In 50th meeting of the GST Council, it was recommended to exempt IGST on medicines and inclusion of Banks in the list of specified banks for which IGST exemption is available on imports of gold, silver or platinum.

In light of recommendation of the GST Council, Government of India has issued Notification No. 46/2023 – Customs dated 26 July 2023 to amend the principal Notification No. 50/2017-Customs dated June 28, 2017 to implement the recommendations of the 50th GST Council meeting.

Relevant Serial No.	Summary of amendment
Against Sr. No. 167A, in Column (5), for the entry, the entry “Nil” shall be substituted Against Sr. No. 607B, in column (5), for the entry, the entry “Nil” shall be substituted	Exemption from IGST granted on medicines and Food for Special Medical Purposes (FSMP) used in treating rare diseases mentioned in S. No. 167A, in column (5) when imported by Centres of Excellence for Rare Diseases or any person or institution on the recommendation of any of the listed Centres of Excellence.
Against S. No. 607, after clause (c), new entry in clause (d) inserted	Exemption of IGST on Dinutuximab (Quarziba) medicine (newly inserted entry) used in treatment of Cancer when imported for personal use.
Substitution of entry no. 359A	Inclusion of RBL Bank and ICBC bank in the list of specified banks for which IGST exemption is available on imports of gold, silver or platinum and update the list of banks /entities eligible for such IGST exemption as per Annexure 4B (HBP) of Foreign Trade Policy 2023.

- **Foreign Trade Policy related Amendment: -**

Pursuant to the above, in view of New Foreign Trade Policy, Notification No. 45/2017-Customs & Notification No. 47/2017-Customs, dated 30 June 2017 has been amended to give exemption to goods from the custom duty and the integrated tax, compensation cess leviable thereon when re-imported into India, under RoDTEP and RoSCTL Schemes subject to conditions.

[Notification No. 46/2023-Customs, dated 26 July 2023]

- **Instructions**

- **Instruction issued under India-Japan Comprehensive Economic Partnership Agreement ('CEPA') in relation to use of different versions of HS Code in Certificate of Origin ('CoO') and Bill of Entry ('BOE')**

Central Government *via* this instruction has clarified that at the time of custom clearance of imports under Indian-Japan CEPA, the HS Code (2007 version) mentioned in CoO issued needs to be correlated with the HS code (2022 version) mentioned in the BOE.

[Instruction No. 19/2023-Customs dated 4 July 2023]

- **Instruction issued with respect to updated list of points of entries for import of food**

Government of India has clarified that, FSSAI has provided updated list of Points of Entries ('PoEs') for import of food wherein 99 PoEs are manned by Customs Officials as authorised Officers while 62 PoEs are manned by FSSAI officials.

[Instruction No. 20/2023-Customs dated 5 July 2023]

- **Instruction issued with respect to amendment made in the import policy condition of Cigarette Lighter covered under CTH 9613**

Instruction has been issued with reference to DGFT Notification no. 15/2023 dated 29.06.2023 *vide* which Import Policy of cigarette lighters under ITC (HS) Codes 9613 1000 and 9613 2000 was revised from "Free" to "Prohibited" with a condition that import shall be free in case CIF value is Rs. 20/- or above per lighter.

In this regard, CBIC has requested the concerned Principal Chief Commissioners/ Chief Commissioners to sensitise the officers under their respective jurisdictions by issue of suitable standing order/ public notice.

[Instruction No. 21/2023-Customs dated 5 July 2023]

- **Standard Operating Procedure ('SOP') for stepping up of Preventive Vigilance Mechanism to prevent flow of suspicious cash, illicit liquor, drugs/ narcotics, freebies and smuggled goods during elections**

The Election Commission of India ('ECI') has highlighted the need for a coordinated election expenditure monitoring mechanism. This mechanism should track the legal expenses incurred by candidates and political parties during elections. Further, ECI emphasizes the importance of coordination and information sharing among CBIC field formations and other relevant agencies to ensure fair elections.

Vide this instruction an SOP has been prescribed to be followed by formations of CBIC to ensure conduct of free and fair elections.

[Instruction No. 22/2023-Customs dated 6 July 2023]

- **Instruction issued with respect to Board Instruction no. 16/2023 dated 17.05.2023 on release of the import consignments of notified EEE items, and letter from Central Pollution Control Board (CPCB) dated 30.06.2023**

Vide above letter dated 30.06.2023, CPCB has informed that interim arrangement of release of imported consignments of producers of all the notified EEE items (106 EEEs items) may be extended to only those producers who have submitted their application for registration on the EPA Portal of CPCB. The imported consignment may be released if the producer submits an acknowledgement from the CPCB's EPR Portal that they have applied at the EPA Portal. This interim arrangement shall continue till 31.08.2023

In this regard *vide* this instruction, concerned officers and trade has been requested to sensitize on the above communication and take appropriate action in their respective jurisdiction.

[Instruction No. 23/2023-Customs dated 14 July 2023]

- **Instruction issued with respect to Suspension of Licence of Customs Broker**

Instruction has been issued by CBIC regarding suspension of Customs Broker licenses stating that authority to suspend licenses should be used in specific situations and such powers should not be imposed routinely or mechanically.

Further, the Commissioner must carefully assess each case's necessity for immediate suspension, providing reasons for such decisions, especially concerning small Customs Brokers to avoid disruptive effects on their operations.

[Instruction No. 24/2023-Customs dated 18 July 2023]

- **Instruction issued with respect to standardizing the documentary requirements for AD code and bank account registration**

The instruction addresses the circular vide 32/2020- Customs dated 06.07.2020, which introduced online registration of the Authorised Dealer (AD) Code on ICEGATE. Simplification of this process was further achieved by making one port's AD code registration automatically valid at all customs locations, as per DG Systems Advisory No. 10/2022 of 14.06.2022.

For IGST refund/Drawback, exporters could register their bank account on ICEGATE for each port. Delays in AD code approval and bank account registration led to examination and consultation with field formations and Systems Directorate.

The solution involves minimizing and standardizing documentation, relying on two digitally signed e-Sanchit uploaded documents: Bank's Authorization Letter with exporter details and a cancelled cheque/bank statement. This eliminates physical interactions, and applications processed before 2 PM or next working day.

[Instruction No. 25/2023-Customs dated 28 July 2023]

03

Foreign Trade Policy Updates



● Notifications and Circular

- Amendment in import policy condition for potatoes

Government of India has amended the Import Policy condition under ITC(HS) 07019000. As per revised policy condition, import of Potatoes from Bhutan is permitted freely, without any license upto 30 June 2024.

[Notification No. 16/2023, dated 3 July 2023]

- Amendment in import policy condition for Areca nuts

Central Government has amended the Import Policy condition under ITC(HS) 08028010. As per revised policy condition, import of 17,000 Metric Tonnes of Fresh (green) Areca nut without a Minimum Import Price (MIP) condition from Bhutan shall also be allowed through LCS Chamurchi (INCHMB) subject to valid port-specific registration certificate issued by DGFT.

[Notification No. 17/2023, dated 3 July 2023]

- **Revision of General Notes regarding Import Policy of Food Import Entry points**

The general notes regarding import policy schedule-i (import policy, ITC (HS), 2022) have been amended to update relevant details regarding food import entry points in sync with the pertinent FSSAI notifications.

[Notification No. 18/2023, dated 10 July 2023]

- **Amendment in import policy and policy condition of Gold**

The import policy for ITC(HS) codes 71131911, 71131919, and 71141910 has been changed from 'Free' to 'Restricted' under the revised policy condition, effective immediately. However, the import under HS code 71131911 will still be allowed without the need for an import license, provided it falls under the valid India-UAE CEPA TRQ.

[Notification No. 19/2023, dated 12 July 2023]

- **Amendment in Export Policy of Non-basmati rice under HS Code 1006 30 90**

The export policy for Non-basmati white rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other) classified under HS code 1006 30 90 has been amended by the Central Government from 'Free' to 'Prohibited'.

[Notification No. 20/2023, dated 26 July 2023]

- **Amendment in Export Policy of De-Oiled Rice Bran**

Central Government has amended the Export policy of De-Oiled Rice Bran from 'Free' to 'Prohibited' with immediate effect upto 30 November 2023.

[Notification No. 21/2023, dated 28 July 2023]

- **Circular issued regarding clarification on import of Gold by SEZ units**

DGFT has acknowledged concerns raised by SEZ units regarding import restrictions on Gold (HS codes 71131911, 71131919, and 71141910). Pointing out Rule 27(1) of SEZ Rules, 2006, it has been clarified that imports under these codes by SEZ units to remain unaffected by the recent Gold import restrictions.

[Policy Circular No. 03/2023-24, dated 14 July 2023]

● Public Notices

- Revisions in relation to the India-Australia Economic Cooperation and Trade Agreement ('Ind-Aus ECTA')

The DGFT has amended HBP 2023 in relation to ITC (HS) codes for Cotton under Ind-Aus ECTA wherein Tariff Rate Quota ('TRQ') has been revised in-sync with Notification no. 38/2023-Customs dated 23 May 2023 issued by the Ministry of Finance.

Accordingly, TRQ for cotton under Ind-Aus ECTA will be applicable to ITC (HS) codes 52010024 and 52010025, replacing the previous ITC (HS) code 52010020.

[Public Notice No. 21/2023, dated 10 July 2023]

- Condonation of delay in submission of Installation Certificate under EPCG Scheme

With a view to enhance ease of doing business, the DGFT has allowed relaxation for submitting installation certificates under the EPCG Scheme until 31 December 2023. Authorization holders can now regularize the same by paying a late fee of Rs. 10,000/- per authorization along with applicable composition fee and subject to fulfilment of certain conditions.

[Public Notice No. 22/2023, dated 13 July 2023]

● Trade Notices

- **Granting export quota for broken rice based on humanitarian and food security grounds, in response to requests from foreign governments.**

An extension has been made to Trade Notice No. 08/2023 dated 20 June 2023, along with Trade Notice No. 12/2023 dated 30 June 2023, allowing applicants to submit their export license requests for broken rice to Senegal, Gambia, and Indonesia until 6 July 2023.

Applicants who make mis-declarations or fail to export the allocated quota within the specified time period will be blacklisted for the next two financial years alongwith actions under the amended provisions of the FT (D&R) Act, 1992.

[Trade Notice No. 13/2023, dated 3 July 2023]

- **Revised guidelines for Skill Development and Mentorship Requirements for Status Holders as per Paragraph 1.30 of FTP 2023**

Trade and Industry stakeholders are advised to review Para 1.30 (b) of FTP 2023, regarding the Skill Development and Mentorship Obligations for Status Holders wherein it was specified that a model training program, lasting at least 6 weeks would be put up in public domain for guidance.

The Directorate is introducing an industry-led curriculum for Skilling and Mentorship as an attachment to this Trade Notice, designed to assist Status Holders. Trade and Industry members are requested to strictly follow the program's detailed guidelines and objectives.

[Trade Notice No. 14/2023, dated 12 July 2023]

- **Launching a searchable database for Ad-hoc Norms set under Para 4.07 of HBP**

The DGFT has introduced a user-friendly and easily searchable database for Ad-hoc Norms as per Para 4.07 of HBP. This tool, available on the DGFT website (<https://dgft.gov.in>) which allows searches using Export Item Description, ITC (HS) code, Import Item Description, and Technical Characteristics.

This enhancement is designed to improve the efficiency and simplicity of the advance authorization and Norms Fixation process, benefiting all stakeholders involved.

[Trade Notice No. 15/2023, dated 17 July 2023]

- **The process of allocating export quota for broken rice on humanitarian and food security grounds, in response to requests from foreign governments.**

Amendment made to extend the last date for submission of application for obtaining a license to export broken rice to Senegal, Gambia, and Indonesia until 27 July 2023.

[Trade Notice No. 16/2023, dated 20 July 2023]

04

GST Update



● **Goods Transport Agency (GTA) opting to pay tax under forward charge mechanism for FY 2023-24 will remain in effect for future financial years until the GTA files a declaration in Annexure VI to revert under reverse charge mechanism.**

- If GTA have exercised its option to pay tax under Forward Charge Mechanism for a particular financial year by filing Annexure-V, that option will remain in effect for future financial years until the GTA files a declaration in Annexure VI to revert under reverse charge mechanism. The Form in Annexure VI is provided in the notification.
- The last date to exercise the option for any financial year shall be exercised on or after 1st January of the preceding Financial Year but not later than 31st March of the preceding Financial Year. Earlier, the option could be exercised on or before 15th March of the preceding Financial Year.
- GTA would no longer be required to file declaration every year to exercise its option for paying tax under Forward Charge.

[Notification No. 06/2023 - Central Tax (Rate) dated 26 July 2023 and Notification No. 08/2023 - Central Tax (Rate) dated 26 July 2023]

● **GST Exemption extended to Satellite Launch Services supplied by private sector organizations.**

- CBIC has issued a notification whereby GST exemption on satellite launch services supplied by ISRO, Antrix Corporation Limited and New Space India Limited (NSIL) has been extended to such services supplied by organizations in private sector to encourage start ups based on the recommendations of the 50th GST Council Meeting.

[Notification No. 07/2023 - Central Tax (Rate) dated 26 July 2023]

● **Extended the due date for filing form GSTR 1 for the registered persons whose principle place of business is in Manipur**

- CBIC has extended the due date for filing of Form GSTR 1 for registered persons whose principle place of business is in the state of Manipur for tax period April, May and June 2023.
- Earlier, the due date was 30 June 2023 for filing of GSTR 1 for tax period April and May 2023, but the same has now been extended to 31 July 2023 for the tax period April, May and June 2023.

[Notification No. 18/2023 - Central Tax dated 17 July 2023]

● **Extended the due date for filing monthly Form GSTR 3B for the registered persons whose principle place of business is in Manipur**

- CBIC has extended the due date for filing of Form GSTR 3B for registered persons whose principle place of business is in the state of Manipur for tax period April, May and June 2023.
- Earlier, the due date was 30 June 2023 for filing of GSTR 3B for tax period April and May 2023, but the same has now been extended to 31 July 2023 for the tax period April, May and June 2023.

[Notification No. 19/2023 - Central Tax dated 17 July 2023]

● **Extended the due date for filing quarterly Form GSTR 3B for the registered persons whose principle place of business is in Manipur**

- CBIC has extended the due date for filing of Form GSTR 3B for quarter ending on 30 June 2023 till 31 July 2023 for registered persons whose principle place of business is in the state of Manipur,

[Notification No. 20/2023 - Central Tax dated 17 July 2023]

● **Extended the due date for filing Form GSTR 7 for the registered persons whose principle place of business is in Manipur**

- CBIC has extended the due date for filing Form GSTR 7 for registered persons whose principle place of business is in the state of Manipur for the tax period April, May and June 2023.
- Earlier, the due date was 30 June 2023 for filing of GSTR 7 for tax period April and May 2023, but the same has now been extended till 31 July 2023 for the tax period April, May and June 2023.

[Notification No. 21/2023 - Central Tax dated 17 July 2023]

● **Extended the due date of amnesty scheme for filing of GSTR 4**

- CBIC has extended the amnesty scheme for waiving off the late fees payable for delayed filing of Form GSTR 4 for the period July 2017 to March 2022, if GSTR 4 is filed by the registered person between 01 April 2023 to 31 August 2023.

[Notification No. 22/2023 - Central Tax dated 17 July 2023]

● **Extended Application Deadline for Revocation of cancellation of registration**

- CBIC has issued a notification extending the application deadline for revocation of cancellation of GST registration to 31 August 2023, from the earlier deadline of 30 June 2023. This applies to registered persons whose registration has been cancelled on or before 31 December 2022.
- This extension provides a larger time window for businesses to reestablish their GST registrations and an opportunity to correct their registration status.

[Notification No. 23/2023 - Central Tax dated 17 July 2023]

● **Extended Amnesty Scheme for Deemed withdrawal of GST assessment orders.**

- CBIC has issued a notification announcing an extension to the amnesty scheme for deemed withdrawal of assessment orders issued under Section 62 of the CGST Act, 2017 from 30 June 2023 to 31 August 2023.
- Hence, if the registered person furnishes the return along with applicable interest and late fees on or before 31 August 2023, then the assessment orders issued under Section 62 of the CGST Act, 2017 shall be deemed to be withdrawn.

[Notification No. 24/2023 - Central Tax dated 17 July 2023]

● **Extended Amnesty Scheme for GSTR-9 non-filers.**

- CBIC has issued a notification announcing an extension to the amnesty scheme for GSTR 9 non-filers from 30 June 2023 to 31 August 2023.
- The amnesty scheme applies to GSTR 9 for FY 2017-18 to FY 2021-22 and the maximum late fees payable would be ten thousand rupees.

[Notification No. 25/2023 - Central Tax dated 17 July 2023]

● **Extended Amnesty Scheme for GSTR-10 non-filers.**

- CBIC has issued a notification announcing an extension to the amnesty scheme for GSTR 10 non-filers from 30 June 2023 to 31 August 2023. The GSTR-10 form, also known as the final return, needs to be filed by registered persons whose registration has been surrendered or cancelled.
- The maximum late fees payable would be five hundred rupees if the GSTR-10 has been filed between 1 April 2023 to 31 August 2023.

[Notification No. 26/2023 - Central Tax dated 17 July 2023]

● **Provisions for Zero Rated Supply as per Section 16 of IGST Act, 2017 amended w.e.f. 01 October 2023.**

- As per amended Section 16(3) of IGST Act, 2017, if the sale proceeds for zero-rated supply of goods made by registered taxpayer is not received within 30 days after the time limit prescribed under the Foreign Exchange Management Act, 1999, then the registered taxpayer is liable to deposit the refund so claimed and received as per Section 54 of CGST Act, 2017 along with the applicable interest as per Section 50 of CGST Act, 2017.
- Vide this notification, the Government also reserves the right to notify:
 - the class of persons who may make such zero-rated supplies on payment of Integrated Tax and claim the refund of such tax paid.
 - the class of goods or services which may be exported on payment of integrated Tax and the supplier of such goods or services may claim the refund of such tax paid.

[Notification No. 27/2023 - Central Tax dated 31 July 2023]

● Section 137 to 162 of Finance Act, 2023 notified.

- CBIC has issued a notification to appoint the effective date for sections 137 to 162 of Finance Act, 2023.
- Sections 137 to 162 (except sections 149 to 154) of the Finance Act, 2023, will come into force effective from 1 October 2023. Additionally, sections 149 to 154 of the same Act will come into force effective from 1 August 2023.
- Same is summarized below:

Section Reference No. of Finance Act, 2023	Section Reference No. of IGST/CGST Act, 2017	Act	Amendment made	Effective From
137	10	CGST Act, 2017	<ul style="list-style-type: none"> • Any Registered person engaged in making a supply of goods through an electronic commerce operator is now allowed to opt for the composition scheme, subject to certain conditions. 	01-10-2023
138	16	CGST Act, 2017	<ul style="list-style-type: none"> • ITC availed without payment to the supplier within 180 days can now be reversed through ITC and need not be added to Output tax liability. • The respective change in the corresponding rule 37 had already been carried out vide Notification No 19/2022 – Central Tax dated 28.09.2022. 	01-10-2023

139	17	CGST Act, 2017	<ul style="list-style-type: none"> For the purpose of ITC reversal, value of exempted supply shall now include supply of goods which are kept in custom bonded warehouse before clearance for Home Consumption. ITC in relation to CSR activities shall be ineligible 	01-10-2023
140	23	CGST Act, 2017	<ul style="list-style-type: none"> Section 23 provides for exemption from registration under the GST law. The government may, by notification, specify the category of persons who may be exempted from obtaining registration under this Act. 	01-10-2023
141	30	CGST Act, 2017	<ul style="list-style-type: none"> It has been amended to change the time limit for application for revocation of cancellation of registration in such manner and time and subject to certain conditions and restriction as may be prescribed. Proviso prescribing the extension of time limit for application for revocation of cancellation of registration by Additional Commissioner/Joint Commissioner and Commissioner shall be omitted. 	01-10-2023
142, 143, 144, 145	37, 39, 44, 52	CGST Act, 2017	<ul style="list-style-type: none"> Registered person shall not be allowed to file GSTR 1, GSTR 3 B, GSTR 9 & 9 C, GSTR 8 for the tax period after the expiry of 3 years from the due date of filing the afore said returns 	01-10-2023
146	54	CGST Act, 2017	<p>Removal of the concept of provisional ITC from refund provisions</p> <ul style="list-style-type: none"> During the introduction of GST, there was a concept of provisional ITC. The concept of provisional ITC was scrapped through Finance Act 2022. To rationalize this, the provisional refund provisions allowing 90% of claimable refunds have been modified to exclude the concept of provisional ITC. 	01-10-2023

			It has now been brought under the Act that Refund shall be eligible only for ITC which is matched with GSTR 2A/ 2B.	
147	56	CGST Act, 2017	<ul style="list-style-type: none"> • It has been clarified that manner of computation of Interest on delayed refund from department beyond 60 days would be prescribed separately in the rules 	01-10-2023
148	62	CGST Act, 2017	<ul style="list-style-type: none"> • Assessment Order deemed to be withdrawn if the registered person furnishes a valid return within 60 days of the service of the assessment order. • Proviso has been added to provide additional time limit of 60 days to file valid return along with payment of additional late fees of Rs. 100 for each day beyond the 60 days of service of assessment order & in case the valid return is furnished within the given time limit, then the Assessment Order shall be deemed to be withdrawn. However, the liability to pay interest and late fee payable on account of delayed filing shall be applicable. 	01-10-2023
149	109	CGST Act, 2017	<ul style="list-style-type: none"> • It prescribes Constitution of Appellate Tribunal and Benches 	01-08-2023
150	110	CGST Act, 2017	<ul style="list-style-type: none"> • It prescribes Manner of appointment, Qualifications, Conditions of services of President and Members of Appellate Tribunal 	01-08-2023
151	114	CGST Act, 2017	<ul style="list-style-type: none"> • It prescribes President shall exercise financial and administrative powers over the Appellate Tribunals in a manner as may be prescribed. 	01-08-2023

152	117	CGST Act, 2017	<ul style="list-style-type: none"> • It prescribes that appeal can be filed in High Court, if any person is aggrieved by any order passed by State benches of Appellate Tribunal 	01-08-2023
153	118	CGST Act, 2017	<ul style="list-style-type: none"> • It prescribes that appeal can be filed in Supreme Court, if any person is aggrieved by any order passed by Principal Bench of Appellate Tribunal 	01-08-2023
154	119	CGST Act, 2017	<ul style="list-style-type: none"> • It prescribes the changes of constitution of Appellate Tribunal in the given section 	01-08-2023
155	122	CGST Act, 2017	<ul style="list-style-type: none"> • Electronic Commerce Operators shall be liable to penalty of INR 10,000 or amount of tax involved whichever is higher with respect to below mentioned transactions: <ol style="list-style-type: none"> a) Supply of goods/services through it by an unregistered person other than a person exempted from registration. b) An inter-state supply through it by a person who is not eligible to make inter-state supply. c) if he fails to furnish correct details in GSTR 8 of supply effected through it by a person exempted from obtaining registration under this Act. 	01-10-2023

156	132	CGST Act, 2017	<ul style="list-style-type: none"> • Offences in relation to obstructing or preventing any officer, tampering/destroying any material evidence and failure to supply the required information have now been decriminalized. • Minimum threshold limit for launching prosecution is now raised to 2 crores except in case of fake invoicing. 	01-10-2023
157	138	CGST Act, 2017	<ul style="list-style-type: none"> • The minimum and maximum threshold limit for compounding of offences is now revised to 25 per cent and 100 per cent of tax involved respectively. 	01-10-2023
158	158A	CGST Act, 2017	<ul style="list-style-type: none"> • Section 158A is introduced to provide for the manner and conditions for sharing of the information furnished by the registered person in his application for registration or in his return filed or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be provided by rules, on the common portal with such other systems, as may be notified. 	01-10-2023
159	Schedule III	CGST Act, 2017	<ul style="list-style-type: none"> • It has been clarified that High Sea sales and supply of warehoused goods before clearance for home consumption would be part of Schedule III i.e., (Activities not to be treated as supply of services or goods) retrospectively from 01 July 2017. • No refund shall be granted for such tax collected earlier. 	01-10-2023

160	2	IGST Act, 2017	<ul style="list-style-type: none"> • Section 2(16) of IGST Act, 2017 has been amended to change the definition of Non-taxable Online Recipient. • Accordingly, “non-taxable online recipient” means any unregistered person receiving online information and database access or retrieval services located in taxable territory. • In this, “unregistered person” includes a person registered solely in terms of section 24 (vi) of the CGST Act, 2017. 	01-10-2023
161, 162	12, 13	IGST Act, 2017	<ul style="list-style-type: none"> • Place of supply in case of transportation of goods (including by mail or courier) in case of destination of goods being outside India would now be the location of recipient, if supply is made to registered person and location of goods handed over for transport, if supply is made to unregistered person. 	01-10-2023

[Notification No. 28/2023 - Central Tax dated 31 July 2023]

● **Special Procedure for manual filing of Appeals for Transitional credits as per Circular No. 182/14/2022-GST.**

- A special procedure provided for manual filing of appeals against orders for transitional credits passed under section 73 or 74 of the CGST Act, 2017.
- The procedure applies in accordance with Circular No. 182/14/2022-GST, dated 10 November 2022, as directed by the Hon'ble Supreme Court in the Union of India v/s Filco Trade Centre Pvt. Ltd. case.
- The appeal must be made in duplicate using the prescribed Form and presented manually before the Appellate Authority within the specified time. The appellant is not required to deposit any amount as a pre-condition for filing the appeal. The appeal must be accompanied by relevant documents, including a self-certified copy of the order. Format of doing manual appeal provided with notification as Annexure 1.
- Upon receipt of the appeal meeting all requirements, the Appellate Authority will issue an acknowledgement with an appeal number, and the appeal will be treated as filed. The Appellate Authority will also issue a summary of the order along with its decision.

[Notification No. 29/2023 - Central Tax dated 31 July 2023]

● **Special Procedure for Registered Manufacturers of certain goods.**

- CBIC has issued a notification providing a special procedure for manufacturers engaged in the production of Pan masala and Guthka/Tobacco and other related products vide Notification No. 30/2023– Central Tax, dated 31 July 2023.
- This notification outlines requirements related to packing machines, records maintenance, and monthly statements.

[Notification No. 30/2023 - Central Tax dated 31 July 2023]

● **Amendment to Notification No. 27/2022 – Central Tax**

- CBIC has issued a notification amending the Notification No. 27/2022 – Central Tax dated 26 December 2022, which specifies that the provisions of Rule 8(4A) of CGST Rules, 2017 shall not be applicable to all the States and Union Territories except the State of Gujarat and Puducherry.
- Now, the said rule would not be applicable to the State of Puducherry.

[Notification No. 31/2023 - Central Tax dated 31 July 2023]

● **Exemption to file Annual Return in Form GSTR-9 for FY 2022-23**

Exemption granted to the registered person whose aggregate turnover in the financial year 2022-23 is up to Rs. 2 crores, from filing annual return in Form GSTR-9 for the said financial year.

[Notification No. 32/2023 - Central Tax dated 31 July 2023]

● **Account Aggregator for Info Sharing under CGST Act, 2017**

- CBIC has issued a notification empowering 'Account Aggregators,' which are non-financial banking companies operating under the policy guidelines of the Reserve Bank of India, to facilitate information sharing on the common portal based on consent. This move is expected to improve data accuracy, compliance, and ease of access for taxpayers and tax authorities.

[Notification No. 33/2023 - Central Tax dated 31 July 2023]

● **Exemption from Mandatory GST Registration for E-Commerce Operators**

- CBIC has issued a notification waiving the mandatory GST registration requirement for persons supplying goods through Electronic Commerce Operators (ECOs). This move aims to ease the compliance burden for small suppliers and promote ease of doing business in the e-commerce sector.
- Under this notification, persons making supplies of goods through ECOs, who have an aggregate turnover within the specified limit as per Section 22(1) of CGST Act, 2017, are exempted from GST registration.
- To avail this exemption, certain conditions need to be met, such as no inter-state supply of goods, limited operations within one state or union territory, and possession of a Permanent Account Number (PAN) issued under the Income Tax Act, 1961. Such persons must declare their PAN and other details on the common portal for validation and enrolment.

[Notification No. 34/2023 - Central Tax dated 31 July 2023]

● **Appointment of Adjudicating Authority for M/s BSH Household Appliances Pvt Ltd.**

- CBIC has issued a notification appointing adjudicating authorities to handle show cause notices in favor of or against M/s BSH Household Appliances Manufacturing Pvt Ltd under the CGST Act, 2017 and IGST Act, 2017.
- The notification designates officers mentioned in the table to act as the Authority for the adjudication of show cause notices against M/s BSH Household Appliances Pvt Ltd.
- It specifies the notice numbers, dates, and addresses of the company, along with the names of the respective adjudicating authorities.
- The authorities will have the power to discharge the duties conferred upon them for the purpose of adjudication.

[Notification No. 35/2023 - Central Tax dated 31 July 2023]

● **Clarification issued regarding charging of interest under section 50(3) of the CGST Act, 2017 in case of wrong availment of IGST credit and reversal thereof.**

- Interest under section 50(3) of the CGST Act, 2017 would be applicable only when ITC is wrongly availed and utilized. Rule 88B (3) of CGST Rules, 2017 states the manner of calculating interest on the amount of ITC wrongly availed and utilized.
- The above is calculated as follows: -
 - $\text{ITC wrongly utilized} = \text{Amount of ITC wrongly availed} (-) \text{Balance available in the electronic credit ledger}$
- It has been clarified that in case of wrong availment of IGST credit, interest will be applicable when the balance of IGST, CGST and SGST all put together is less than the wrongly availed IGST credit.
- The Compensation cess in electronic credit ledger cannot be considered for computation of interest under rule 88B (3) of CGST Rules, 2017 in case of wrongly availed and utilized IGST, CGST or SGST credit.

[Circular No. 192/04/2023 - GST dated 17 July 2023]

● Clarification issued to deal with difference in ITC availed in 3B viz-a-viz available in 2A for the period April 2019 to March 2021

- Rule 36(4) of CGST Rules, 2017 allowed additional credit to the tune of 20%, 10% and 5%, as the case may be, during the period from 09.10.2019 to 31.12.2019, 01.01.2020 to 31.12.2020 and 01.01.2021 to 31.12.2021 respectively, in respect of invoices/supplies that were not reported by the concerned suppliers in their FORM GSTR-1 or IFF, leading to discrepancies between the amount of ITC availed by the registered persons in their returns in FORM GSTR-3B and the amount as available in their FORM GSTR-2A.
- Circular No. 183/15/2022 dated 27th December 2022 was issued for dealing with ITC difference between GSTR 3B & GSTR 2A for FY 2017-18 & FY 2018-19.
- It has now been clarified that the guidelines provided in the Circular No. 183/15/2022 dated 27 December 2022 shall be applicable to the period 01.04.2019 to 31.12.2021, however the circular restricts the allowable ITC to the extent of the percentage provided in Rule 36(4) as amended from time to time.
- These instructions will apply only to the ongoing proceedings for the period 01.04.2019 to 31.12.2021 and not to the completed proceedings.

[Circular No. 193/05/2023 - GST dated 17 July 2023]

● Clarification issued for applicability of TCS in case of multiple E-commerce Operators ('ECO')

- The collection of TCS & section 52 compliances is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.
- Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with section 52.
- Where the Supplier-side ECO is himself the supplier of the said supply, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the supply being made through it.

[Circular No. 194/06/2023 – GST dated 17 July 2023]

● Clarification issued for taxability of Warranty Replacement by Manufacturers

- If warranty replacement is done without consideration, then no further GST is chargeable on such replacement of parts and/ or repair service during warranty period by the manufacturer or distributor.
- If any additional consideration is charged by the manufacturer or the distributor, then GST will be payable on such supply with respect to such additional consideration.
- The manufacturer or the distributor is not required to reverse the ITC in respect of such replacement of parts or supply of repair services as part of warranty as the same is included in the original supply hence there is no exemption or free supply.
- Where the manufacturer replaces the stock of distributor, no GST is applicable on such replacement of stock & no reversal of ITC.
- Replacement is done under warranty from stock already held, which is supplied by manufacturer and a credit note is issued for the same, distributor reverses ITC then the manufacturer shall adjust such credit note.

[Circular No. 195/07/2023 – GST dated 17 July 2023]

● Clarification issued for Taxability of shares held in a subsidiary company by the holding company.

- CBIC has clarified that the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company merely because there is a SAC entry '997171' mentioning *"the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest"*, unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of CGST Act, 2017.
- Therefore, the activity of holding of shares of subsidiary company by the holding company cannot be taxed under GST unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of CGST Act, 2017.

[Circular No. 194/06/2023 – GST dated 17 July 2023]

● Clarification on refund related issues.

- CBIC has clarified that the refund of accumulated ITC under Section 54(3) of the CGST Act shall be restricted to the ITC available as per the invoices reflected in FORM GSTR-2B w.e.f. 01.01.2022.
- Value of zero-rated/ export supply of goods, as calculated as per amended definition of “Turnover of zero-rated supply of goods”, needs to be taken into consideration while calculating “turnover in a state or a union territory”, and accordingly, in “adjusted total turnover” for the purpose of sub-rule (4) of Rule 89 of CGST Rules, 2017.
- It is clarified that exporters are entitled to claim a refund of unutilized ITC and refund of the IGST & interest paid upon actual export of goods or realization of payment for export of services, even if it is beyond the prescribed time frame.

[Circular No. 197/09/2023 – GST dated 17 July 2023]

● Clarification issued for Issuance of E-invoice to entities which are registered solely for the purpose of deduction of tax at source u/s 51 of CGST Act.

- The circular clarifies that Government Departments, establishments, agencies, local authorities, and PSUs registered solely for the purpose of tax deduction at source under Section 51 of the CGST Act are considered registered persons under the GST law.
- As a result, registered persons whose turnover exceeds the prescribed threshold for e-invoicing must issue e-invoices for supplies made to these entities.
- This clarification ensures uniformity in implementing e-invoicing requirements for transactions with Government Departments and related entities.

[Circular No. 198/10/2023 – GST dated 17 July 2023]

● Clarification issued for Taxability of services provided between distinct persons.

- It is clarified that under the existing law the mechanism of ISD is not mandatory for distributing the common ITC received by Head Office (HO) on behalf of its Branch Office (BO) from Third Party Vendors. Therefore, there are 2 options available to the HO –
 - HO can distribute ITC to BOs in respect of those common input services, which are attributable to the said BO or have been provided to the said BO, through the ISD mechanism by getting itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act, 2017.
 - HO can issue tax invoices under section 31 of CGST Act to the concerned BOs, only if the said services are attributable to or have been provided to the concerned BOs. The BOs can then avail such distributed ITC from HO subject to the provisions of section 16 and 17 of CGST Act, 2017.
- As per the press release, the law shall be amended to make the mechanism of ISD mandatory prospectively.
- For Internally generated services, it is clarified that as per the second proviso to rule 28 of CGST Rules, read with sub-section (4) of section 15 of CGST Act, where the BO is eligible for full ITC, the value of supply shall be the open market value.
 - The value in the invoice issued by HO to BO shall be deemed to be the open market value of the goods or services, irrespective of the fact whether cost of any component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.
 - However, if HO has not issued a tax invoice to the BO, the value of such services may be deemed to be declared as Nil by HO to BO.
- In respect of internally generated services provided by the HO to BOs where full ITC is not available to the concerned BO. Such transactions are not governed by second proviso of rule 28 hence it is clarified that it is not mandatorily required to be included the cost of salary of employees of the HO, while computing the taxable value of the supply of such services.

[Circular No. 199/11/2023 – GST dated 17 July 2023]

05

Compliance Calendar



S. No.	Compliance Category	Compliance Description	Frequency	Due Date	Due Date falling in August 2023
1	Form GSTR-1 (Details of outward supplies)	Registered person having aggregate turnover more than INR 5 crores and registered person having aggregate turnover up to INR 5 crores who have not opted for Quarterly Returns Monthly Payment ('QRMP') Scheme	Monthly	11 th day of succeeding month	For Tax Period July 2023 - 11 August 2023
2	Form GSTR-3B (Monthly return)	Registered person having aggregate turnover more than INR 5 crores and registered person having aggregate turnover up to INR 5 crores who have not opted for Quarterly Returns Monthly Payment ('QRMP') Scheme	Monthly	20 th day of succeeding month	For Tax Period July 2023 - 20 August 2023
3	QRMP Scheme				
	Invoice furnishing facility ('IFF')	Optional facility to furnish the details of outward supplies under QRMP Scheme	Monthly	1 st day to 13 th day of succeeding month	For Tax Period July 2023 –1 to 13 August 2023
	Form GST PMT-06 (Monthly payment of tax)	Payment of tax in each of the first two months of the quarter under QRMP Scheme	Monthly	25 th of the succeeding month	For Tax Period July 2023 –25 August 2023

S. No.	Compliance Category	Compliance Description	Frequency	Due Date	Due Date falling in August 2023
4	Form GSTR-6 (Return for Input Service distributor)	Return for input service distributor	Monthly	13 th of succeeding month	For Tax Period July 2023 - 13 August 2023
5	Form GSTR-7 (Return Return for Tax Deducted at Source)	Return filed by individuals who deduct tax at source.	Monthly	10 th of succeeding month	For Tax Period July 2023 - 10 August 2023
6	Form GSTR-8 (Statement of Tax collection at source)	Return to be filed by e-commerce operators who are required to collect tax at source under GST.	Monthly	10 th of succeeding month	For Tax Period July 2023- 10 August 2023

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