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Indirect Tax

Newsletter 

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01

Advance Rulings & Judgements

Hon'ble High Court of Delhi held that Cancellation of Registration sought from date of closure of business cannot be given retrospective effect by Department and directed that the order of cancellation to be the date of closure of business.

Brief Facts

- In the given case, the petitioner was engaged in the business of trading of rubber tyres and had applied for cancellation of GST Registration w.e.f. 31.03.2022.
- A Show cause Notice (SCN) was issued by the Proper Officer calling upon the petitioner to furnish additional information in connection with his application for cancellation of GST Registration. The Petitioner claimed that the SCN was not received by him as he had subsequently shifted to Gurgaon post closure of business and hence the Petitioner did not provide the sought documents and the Proper Officer rejected the application of cancellation of GST Registration filed by the Petitioner.
- Later, a fresh SCN was issued by the Proper Officer proposing to cancel the petitioner's GST Registration on account of non-filing of tax returns for continuous period of 6 months and accordingly the GST Registration of the Petitioner was cancelled by the Proper Officer by issuing the Order with retrospective effect from 02.07.2017.

Observations

- Whether the Proper Officer can cancel GST Registration from retrospective date, even before the date of filing of application for cancellation by the Petitioner?

Decision

- The High Court of Delhi held that the Petitioner had closed the business in Delhi w.e.f. 31.03.2022, the Petitioner could not be expected to file any returns post closure of business and application of cancellation of GST Registration.
- The High Court of Delhi opined that the issue relates to the cancellation of GST Registration with retrospective effect and directed that cancellation of Petitioner's GST Registration shall take effect from 31.03.2022.

[Krishna Traders vs Commissioner of Goods and Service Tax (W.P. (C) No. 12359 of 2023 – Delhi HC) dated 20 September 2023]

Telangana High Court held that Guarantee/security to bank provided by Managing Director by providing personal properties as security and personal guarantee, is liable to GST on reverse charge basis.

Brief Facts

- The Petitioner in the instant case contended that no GST would be payable on the guarantee/ security provided to bank by the Managing Director by providing personal properties as security and personal guarantee.
- The Writ Petition was filed by the Petitioner against the Order passed by Superintendent of Central Tax which required the Petitioner to pay GST on Reverse Charge basis on the guarantee/security provided to the Bank by its Managing Director.

Observations

- Telangana High Court referred to the Point No. 6 of Notification No 13/2017 – Central Tax (Rate) dated 28.06.2017 which prescribes that the Company or any Body Corporate is liable to pay GST on Reverse Charge basis on the services provided by the Director of that Company or Body Corporate.

Decision

- The High Court of Telangana held that the Notification 13/2017 – Central Tax (Rate) specifically notified that the services provided by the Director of a company or a body corporate to the said company or said body corporate be leviable of tax on reverse charge basis and the company would become liable to pay the tax for the said services. The said notification is also not under challenge and the same still holds good and concluded that writ petition fails and is accordingly rejected.

[BST Steels Private Limited vs Superintendent of Central Tax (Writ Petition No. 21384 of 2023) dated 27 September 2023]



Hon'ble High Court of Delhi held that Summary in electronic form is required to be furnished along with Show Cause Notice (SCN).

Brief Facts

- The petitioner had filed writ petition seeking to quash the order passed by the GST Authorities as the SCN issued by the Proper Officer in Form GST DRC 01 did not contain the summary of proposed demand.

Observations

- Delhi High Court referred to the provisions of Rule 142 of Central Goods and Service Tax Rules, 2017 (CGST Rules, 2017) which required the proper Officer to serve SCN electronically under the provisions of Central Goods and Service Tax Act, 2017 (CGST Act, 2017) in Form GST DRC 01 including the Summary of amount payable thereon.

Decision

- Delhi High Court disposed the petition with the direction to the proper officer to issue a summary of the notice and demands electronically, in FORM GST DRC-01 & FORM GST DRC-02 as expeditiously as possible and preferably within a period of one week from date.

[Shubham Gupta Vs Additional/Joint Commissioner CGST [W.P.(C) No. 12457 of 2023 – Delhi HC, dated 21 September 2023]

ITC is required to be reversed when raw material purchased is already used in manufacture of finished goods which are destroyed by fire completely. ITC is also required to be reversed when raw materials procured are lost in fire accident before its use in manufacturing of finished goods and in case where destroyed finished goods can be sold as steel scrap in Open Market and Output Tax Liability on such supply of scrap is paid.

Brief Facts

- M/s. Geekay Wires Limited (Applicant) is engaged in the business of manufacture of Steel Nails and other steel products in its manufacturing unit situated at Telangana. The Applicant uses various raw materials in such manufacturing process of Steel products.
- The Applicant submitted that a major fire broke out in its factory premises and major quantities of finished goods were destroyed.
- The Applicant further submitted that the raw materials were purchased from the GST registered taxpayers are not destroyed but they were used in the manufacturing of finished goods and the finished goods are destroyed in the fire accident and these burnt finished goods can be sold only as scrap in the market and output tax liability will be paid on such supply of scrap under the GST Act.

Issue Involved

- Whether the Input Tax Credit (ITC) should be reversed or not in case the raw materials purchased are already used in the manufacture of finished goods and the finished goods are destroyed in the fire accident completely?
- Whether the ITC should be reversed or not in case the raw materials procured are lost in the fire accident before use in manufacture of finished goods?
- Whether the ITC should be reversed or not in case when the destroyed finished goods can be sold as steel scrap in the open market and output tax liability on such supply of scrap is paid?



Decision

- AAR held that it is a general rule of interpretation of a statute that it must be read as a whole in its context. The context here means, the statute as a whole, the previous state of the law, other statutes in pari materia, the general scope of the statute and the mischief that it was intended to remedy.
- AAR referred to the provisions of Section 17(2) along with Section 18(4) and Section 17(5)(h) of CGST Act, 2017 and concluded that the scheme of the Act becomes clear from the combined reading of three provisions that input tax credit is available to a taxable person only when such taxable person makes taxable supplies. When the taxable supplies are not made, input tax credit is not available under section 17(2) and 17(5)(h). If the input tax credit is already utilized, such credit needs to be paid back as given under section 18(4).
- Therefore the input tax credit to the extent of manufactured goods destroyed or inputs destroyed is not available to the applicant and the same needs to be paid back either through the credit available in the credit ledger or by cash.
- Scrap sold by the applicant is nothing but destroyed goods therefore in the context of above discussion sale of scrap i.e., sale of destroyed goods are not eligible for input tax credit.

[Telangana Advance Ruling No. 15/TSAAR/2023 in A.R.Com/04 of 2023, dated 2 September 2023]

02

GST Update

Integrated Goods and Services Tax (Amendment) Act, 2023 shall come into force from 01 October 2023 seeking to amend the Integrated Goods and Services Tax Act, 2017 (IGST Act, 2017)

The following amendment brought in IGST Act, 2017 by Integrated Goods and Services Tax (Amendment) Act, 2023 effective from 01 October 2023:

Relevant Section Number	Summary of amendment
2(17)	Online money gaming is excluded from the definition of Online Information and Data Access or Retrieval (OIDAR) services.
5(1)	It enables the Government to notify certain goods for different tax treatments for IGST applicability on goods imported in India
10(1)	New clause (ca) inserted to section 10(1) which provides that where the supply of goods is made to unregistered person, the place of supply shall be location as per the address of the said person recorded in the invoice and the location of the supplier where the address of the said person is not recorded in the invoice
14A	Section 14A is introduced to regulate the supply of online money gaming by overseas suppliers. The supplier shall be liable to pay integrated tax on such supply and they shall obtain a single registration under the Simplified registration scheme.

[Notification No. 02/2023 - Integrated Tax dated 29 September 2023]

IGST shall be levied on import of online supply of gaming as goods.

- CBIC has notified that supply of online money gaming as goods, on import of which IGST shall be levied on the value determined under section 15 of the Central Goods and Services Tax Act. Further provisions of section 3 of the Customs Tariff Act, 1975 shall not apply to such imports.

[Notification No. 03/2023 - Integrated Tax dated 29 September 2023]

Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of supply of online money gaming.

- CBIC notifies the Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of supply of online money gaming provided or agreed to be provided by a person located in non-taxable territory and received by a person in India.

[Notification No. 04/2023 - Integrated Tax dated 29 September 2023]

Valuation of Supply clarified in case of Online Gaming and Actionable Claims in Casinos

- CBIC has issued a notification which clarifies the valuation of supplies in case of Online Gaming and Actionable Claims in Casino
- Online Gaming : The value of supply for online gaming, including actionable claims associated with online money gaming, is determined as the total amount paid or payable to or deposited with the supplier. This payment can be made in the form of money, money's worth, or virtual digital assets on behalf of the player.
- Actionable Claims in Casinos : The value of supply of actionable claims in a casino is determined as the total amount paid or payable by or on behalf of the player. This payment can occur when purchasing tokens, chips, coins, or tickets for use in the casino or when participating in casino events, games, competitions, or activities where tokens, chips, coins, or tickets are not required.

[Notification No. 45/2023 - Central Tax dated 6 September 2023]



Appointment of Adjudication Authorities for Notice: M/s Inkuat Infrasol Pvt. Ltd

- CBIC has issued a notification appointing officers to act as the Authority for the adjudication of notice 39/PK/Inkuat/2021-22 dated 25.03.2022 issued to M/s Inkuat Infrasol Pvt. Ltd. These officers will exercise their powers and discharge the duties conferred or imposed on officers mentioned in the notification.

[Notification No. 46/2023 - Central Tax dated 18 September 2023]

CBIC notifies Special Procedure for manufacturers of Tobacco and Pan Masala Products to be effective from 1 January 2024

- CBIC has extended the date for following the special procedures applicable to manufacturers of Tobacco and Pan Masala Products to be effective from 1 January 2024

[Notification No. 47/2023 - Central Tax dated 25 September 2023]

Provisions prescribed in Central Goods and Service Tax (Amendment) Act, 2023 shall come into force from 01 October 2023.

- The following amendment brought in CGST Act, 2017 by Central Goods and Service Tax (Amendment) Act, 2023 effective from 01 October 2023:

Relevant Section Number of CGST Act, 2017	Summary of Amendment
2(80A) & (80B)	<p>The Act introduces definitions for “online gaming” and “online money gaming.”</p> <p>'Online gaming' encompasses games offered on the internet or electronic networks and includes online money gaming.</p> <p>'Online money gaming' refers to gaming where players pay or deposit money or digital assets with the anticipation of winning money or digital assets, regardless of the outcome’s basis in skill or chance.</p>
2(102A)	<p>The Act introduces the concept of “specified actionable claim.” It pertains to actionable claims connected to activities such as betting, casinos, gambling, horse racing, lottery, and online money gaming.</p>

Proviso to 2(105)	The Act inserts a proviso in the definition of "supplier" to provide clarity regarding "supplier" in case of supply of "specified actionable claim"
2(117A)	The Act adopts the definition of "virtual digital asset" as specified in the Income-tax Act, 1961.
24	The Act insert a new clause in section 24 of the Act, to provide for mandatory registration of the person for supplying online money gaming, from a place outside India to a person in India.
Schedule III	The Act substitute "specified actionable claim" in paragraph 6 of Schedule III of the Act, for the present entries "lottery, betting and gambling", so as to provide clarity regarding taxability of actionable claims involved in or by way of casinos, horse racing and online gaming

[Notification No. 48/2023 - Central Tax dated 29 September 2023]



CBIC notifies the Valuation of supplies for Online Gaming and Actionable Claims in Casino

- CBIC notifies the valuation of supplies for Online Gaming (Money and other than Money) and Actionable Claims in Casino under the provisions of Section 15(5) of CGST Act, 2017.
- The valuation mechanism prescribed under sub-section 1 to 4 of Section 15 will not apply to such supplies.

[Notification No. 49/2023 - Central Tax dated 29 September 2023]

GST payable in case of advances received in respect of supply of Actionable Claims

- CBIC has issued a notification to amend the Notification No. 66/2017 – Central Tax dated 15.11.2017 which provides for an exemption on advance received in case of supply of goods.
- After this amendment, the registered person making supply of actionable claims will be liable to pay tax on such advance amount received by them.

[Notification No. 50/2023 - Central Tax dated 29 September 2023]

Amendment of CGST Rules, 2017 in respect of Online Gaming

- CBIC has issued a notification amending following Rules of CGST Rules, 2017
 - Rule 8(1) of CGST Rules, 2017 is amended to include a person supplying online money gaming from a place outside India to a person in India referred to in Section 14A of the IGST Act in the list of persons who need not declare its Permanent Account Number, State/Union Territory as required in Part A of Form GST REG 01.
 - Rule 14 of CGST Rules, 2017 is amended to include the person supplying online money gaming from a place outside India to a person in India shall apply for registration in Form GST REG 10 on the common portal.
 - In the said rules, after Rule 31A, Rule 31B, which deals with the valuation of supply in connection with online gaming, including online money gaming, and Rule 31C, which deals with the valuation of supply in connection with casinos, shall be inserted.
 - Proviso to Rule 46(f) of CGST Rules, 2017 is amended to include that in case of supply of online gaming to unregistered person, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the state of the recipient and the same shall be deemed to be the address on record of the recipient.
 - Rule 64 of CGST Rules, 2017 has been substituted to prescribe Form GSTR 5A to be filed on or before the 20th day of succeeding month by persons providing online information and data base access or retrieval services and by persons supplying online money gaming from a place outside India to a person in India.
 - Second proviso to Rule 87(3) of CGST Rules, 2017 has been amended to include the person supplying online money gaming from a place outside India to a person in India as referred to in Section 14A of the IGST Act, may make the deposit under sub-rule (2) through international money transfer through Society for Worldwide Interbank Financial Telecommunication payment network.

- Necessary amendments made to Form GST REG 10 in connection with application for registration of person supplying online money gaming from a place outside India to a person in India and Form GSTR 5A in connection with Details of supplies of online money gaming by a person located outside India to a person in India.

[Notification No. 51/2023 - Central Tax dated 29 September 2023]

GST rate of 28% on betting, casinos, gambling, horse racing, lottery and online money gaming

- CBIC notifies that ‘specified actionable claims’ meaning betting, casinos, gambling, horse racing, lottery and online money gaming would be taxable at GST rate of 28%.

[Notification No. 11/2023 - Central Tax (Rate) dated 29 September 2023 and Notification No. 14/2023 - Integrated Tax (Rate) dated 29 September 2023]

No GST payable on Ocean Freight in CIF Contracts.

- CBIC has omitted the words “including services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India” in Entry No. 9(ii) of Notification No. 8/2017 – Integrated Tax (Rate) dated 28.06.2017.

[Notification No. 11/2023 - Integrated Tax (Rate) dated 29 September 2023]

Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by Government/ Trust/Person located in Non-taxable Territory now exempted.

- Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by Government/ Trust/Person located in Non-taxable Territory now exempted.

[Notification No. 12/2023 - Integrated Tax (Rate) dated 29 September 2023]

No GST payable on Ocean Freight in CIF Contracts under Reverse Charge Mechanism.

- CBIC has omitted Entry No. 10 of Notification No 10/2017 – Integrated Tax (Rate) dated 28.07.2017 which specified GST payable on Ocean Freight in CIF Contracts under Reverse Charge Mechanism.

[Notification No. 13/2023 - Integrated Tax (Rate) dated 29 September 2023]

03

Judgements and Rulings (Customs)

Bombay High Court – The Circular prescribing time-limit for amending shipping bill deemed ultra-vires and in conflict with the Statute

Brief Facts

The petitioners are merchant exporters who had imported goods under advance authorization for manufacturing final products for export purposes. To avail the benefits of the advance authorization, they were required to export the goods by 31st March 2021. However, the export undertaken on 25th May 2021.

On 23rd September 2021, the Director General of Foreign Trade issued a notification extending the export obligation Period for specific Advance and EPCG Authorizations. The extension applied to cases where the original or previously extended export obligation period had lapsed between 1st August 2020 to 31st July 2021. Consequently, the new extended deadline for fulfilling export obligations was set at 31st December 2021.

Considering the above extension, the petitioners submitted letters on 18th October 2021 and 25th October 2021, respectively, requesting revenue to amend their shipping bills in accordance with Section 149 of the Customs Act, 1962('Custom Act').

Conversely, their requests were denied by the revenue citing Circular No. 36/2010 Customs dated 23rd September 2010, specifically referring to paragraph 3(a) of the said Circular which stipulated that requests for the conversion of shipping bills must be made within three months from the date of the Let Export Order dated 25th May 2021. Accordingly, petition has been filed under article 226 of the Indian Constitution challenging an order that rejected the amendment of shipping bills.

Observations

The High Court opined that, prior to the amendment of Section 149 by the Finance Act, 23 of 2019, which took effect before 1st August 2019, there was no legal authority or power granted to the Central Government to establish any time limits, restrictions, or conditions for amending documents as Section 149 would later specify. It was during the period when the provision remained unchanged, prior to the 2019 amendment that the relevant Circular was issued.

The High Court stated that the Central Government could only exercise power if granted by Section 149 itself, which is the sole provision in the Customs Act governing document amendments. Therefore, the Circular, particularly in prescribing time limits, was deemed illegal and in violation of Section 149.

The Court highlighted that none of the revenue's contentions could validate the impugned Circular. Even the amendment in Section 149 in the year 2019 did not provide retrospective validity to the Circular, as it lacked authority under the original Section 149 and was incompatible with the subsequent changes brought by the Amendment Act, 2019.

Decision

The Court decided the case relying on a previous Gujarat High Court decision in the case of **Mahalaxmi Rubitech Ltd.**, which had found the Circular, particularly paragraph 3(a), to be ultra vires of Article 14 of the Constitution of India and Section 149 of the Customs Act, 1962, post the amendment in 2019.

The High Court explicated that the revenue should have been aware of the settled legal position, considering that the Customs Act applies nationally as a Central Act.

Lastly, the Court rejected the revenue's argument that the 2019 Amendment Act provided validity to the Circular without following the prescribed procedure outlined in Section 149.

[Colossustex Pvt Ltd [TS-456-HC-2023(BOM)-CUST]

Delhi High Court dismisses 14-year-old Show Cause Notice (SCN) due to the expiration of the time limit under the unamended Section 28(9).

Brief Facts

The petitioner, an exporter of readymade garments and leather goods under the Drawback Scheme, was alleged of fraudulent exports to Russian entities to gain export incentives, including drawback. This led to a search of their premises, and during the investigation, the director voluntarily paid INR 35 lakhs as duty drawback. Subsequently, an SCN was issued in April 2009, proposing duty, interest, penalty, and fines. Due to various delays and restructuring, the proceedings were stagnant from April 2009 to July 2016.

The SCN was later placed in the Call Book in February 2017 and retrieved in January 2023. A hearing date was fixed for March 20, 2023, while the assessee requested additional documents for reference.

Revenue argued that the SCN delay was justified due to its complexity and the need for extra time under Section 28(9) of the Customs Act, emphasizing a broad interpretation of the word "possible." The SCN was shelved in July 2016 and resumed in January 2023, deemed reasonable by Revenue. However, the assessee invoked the Mangali Implex case to challenge the department's reliance on amended Section 28(11) for actions before April 8, 2011.

Observations

The High Court observed that the impugned show cause notice remained unadjudicated for over 8 years from April 30, 2009, to July 21, 2016, with no valid reason for the delay. Communication regarding Required Undertaking Documents (RUDs) does not justify this delay.

Further, it was noticed by the Court that petitioners were unaware that the notice was placed in the Call Book, and it was entirely feasible to adjudicate it before February 6, 2017. Also, it was observed that the petitions are covered by the ratio of the decision of this Court in **Nanu Ram Goyal v. Commissioner of CGST and Central Excise, Delhi & Ors.** and Section 28(9) of the Customs Act specifies that the time for adjudication has passed, as confirmed in the recent **Swatch Group India Pvt. Ltd. & Ors. v. Union of India & Ors.** decision, rendering it impossible to adjudicate the notice.

Decision

Considering the above findings, the High Court allowed the writ petitions.

[Gala International Pvt Ltd vs Additional Director General, Directorate of Revenue Intelligence, Delhi & ORS (TS-497-HC-2023(DEL)-CUST)]

Bangalore CESTAT rejects the re-assessment appeal filed by IBM India with respect to import of software under Section 149 of the Customs Act, 1962.

Brief Facts

M/s. IBM India Pvt. Ltd., imported software “SPO” for 5691 XXX CATIA Hybrid Design dated 27.11.2009 indicating the value of the software as US\$ 21,49,953.610. These goods were later sold to M/s Tata Technologies Ltd. Pune. Later on, the appellant realized that they had erroneously declared value of imported software to be ₹10,27,30,275/- as against ₹1,91,24,415/- and filed an appeal to reassess their goods and seek refund of the excess duty paid by them.

The Learned counsel on behalf of the appellant submitted that they had placed the purchase order on IBM India and IBM India in turn placed a purchase order on IBM USA quoting the incorrect value on the basis of which the commercial invoice was issued by the supplier and accordingly, excess duty was paid by the appellant at the time of import.

The appellant realized their mistake and communicated the same to the supplier and accordingly, the overseas supplier amended the purchase order. The appellant argued that there was a clerical error committed by them where higher value was declared which resulted in excess payment of customs duty and hence, they are willing to reopen the assessment and rectify the clerical error. Therefore, they filed an appeal under section 149 and section 154 of the Customs Act, 1961, so that they can claim refund of the excess duty paid by them.

Observations

The Commissioner (Appeals) observed that the appellant being registered as an Accredited Client Programme (ACP) and the imports made by such importers are normally facilitated through Risk Management System (RMS) wherein the goods were cleared without examination based on the transaction value declared in the Bill of Entry.

Later on, after clearance of the goods, the appellant claims that they paid excess duty not because there was an error either in the Bill of Entry or in the invoice but because of the revised purchase order and revised invoice generated at a later date by the supplier on the request of the appellant.

The Commissioner (Appeals) also observed that section 149 allows amendment of a Bill of Entry post the clearance of the goods on the basis of documentary evidences which were in existence at the time the goods were cleared for home consumption whereas section 154 deals with the clerical mistakes. There were no documents existed at the time of assessment and the documents which were produced for amendment were not available at the time of assessment.

Decision

CESTAT emphasised that there were no evidences produced till date regarding how the revised transactions are reflected in the supplier's and the Assessee's books of accounts. Therefore, the idea of treating the change in value as a simple amendment under Section 14 read with Section 149 is not valid. Consequently, it was held that the Commissioner (A) made the correct decision in rejecting these modifications and disallowing the reassessment of the imported goods.

[IBM India (P) Ltd vs Commissioner of Customs (CESTAT Bangalore) TS-466-CESTAT-2023-CUST]

04

Notifications and Circulars

Notifications - Tariff

Amendment in Principal Notification No. 50/2017 dated 30 June 2017

Central Government has issued following notifications to amend certain entries of Principal Notification No. 50/2017- Customs dated 30 June 2017.

Notification Number and Date	Relevant Serial Number	Summary of amendment
Notification No. 52/2023-Customs, dated 5th September, 2023	Sr. No. 460 shall be substituted with new entries in Notification No. 50/2017-Customs dated 30 th June 2017	<p><i>Vide</i> this amendment, benefit of customs duty exemption provided to various category of textile machineries and their components in respect of below categories subject to conditions:</p> <ul style="list-style-type: none">• shuttleless rapier looms (above 650 metres per minute),• shuttleless waterjet looms (above 800 metres per minute),• shuttleless airjet looms (above 1000 metres per minute),• Parts and components for use in manufacturing of shuttleless looms <p>The benefits outlined are valid until 31st March 2025. Beyond this date, the exemptions cease to be effective.</p>

<p>Notification No. 53/2023-Customs, dated 5th September, 2023</p>	<p>Sr. No. 21F, 24AA and 32B and the entries relating thereto omitted by amending Notification No. 50/2017-Customs dated 30 June 2017</p>	<p><i>Vide</i> this amendment items namely Mosur, Almonds shelled and Apples originating in or exported from United States of America, are omitted and thereby benefit of concessional rate of BCD is withdrawn</p> <p>This notification shall come into force from 6th September 2023.</p>
<p>Notification No. 54/2023-Customs, dated 14th September, 2023</p>	<p>Against Sr. No. 597, in column (3), provisos shall be substituted in Notification No. 50/2017-Customs dated 30th June 2017</p>	<p><i>Vide</i> this amendment benefit of concessional rate of BCD for following items shall cease to have effect after 30th September 2023:</p> <ul style="list-style-type: none"> • Goods required for iron ore pellet plants/projects and iron ore beneficiation plants/projects • Goods required for barge mounted power plants <p><i>Vide</i> this amendment benefit of concessional rate of BCD for following projects has been extended up to 30th September 2025</p> <p>Goods required for:</p> <ul style="list-style-type: none"> • Coal mining projects -BCD rate @Nil • Power generation projects including gas turbine power projects (excluding captive power plants set up by projects engaged in activities other than in power generation)- BCD rate @ 5% • Power transmission, sub-transmission, or distribution projects- BCD rate @5%

Against Sr. No. 598, 600, 601, 602, 603- in column (3), for the figure, “2023”, the figure, “2025” shall be substituted.

Vide this amendment benefit of concessional rate of BCD for following items has been extended up to 30th September 2025 with immediate effect: -

Goods required for:

- Setting up of any mega power Project, thermal power plant and a hydel power plant of different capacities specified in entry no. 598- BCD rate @ Nil
- Project for LNG Regasification plant -BCD rate @5%
- and aerial passenger ropeway project - BCD rate @5%
- All goods cited in tariff heading no. 9801- BCD rate @5%
- Setting up of any nuclear power project specified in entry no. 602- BCD rate @ Nil
- Water supply projects specified in entry no. 603- BCD rate @ Nil

The above notification to come into force with immediate effect.

Amendments in Notification No. 11/2022-Customs and Notification No. 12/2022-Customs in order to prescribe benefit of concessional rate of BCD to smart watches and parts of hearable devices

Central Government *vide* this notification made amendments in following Principal Notifications: -

Sr. No.	Notification Number and Date	Relevant Serial Number	Summary of amendment
1	Notification No. 11/2022-Customs, dated the 1 st February, 2022	<p>Against serial number 9 -</p> <p>i. in column (2), entry “8544” is replaced with entry “85”;</p> <p>ii. in column (3), in the Explanation, after the word “connector”, the words “or wireless charging cable containing static converter and coil,” shall be inserted.</p>	<p>Charging cable for wrist wearable devices (smart watches) falling under Chapter 85 will attract following rate of Customs duty subject to condition specified in the notification:</p> <p>Nil / 5% / 10% / 15%.</p>
2	Notification No. 12/2022-Customs, dated the 1 st February, 2022	<p>Against Sr. No. 7, in column (2), for the entry, the entry “39, 40, 42, 73, 74, 85” shall be substituted</p>	<p>Goods falling under Chapter 39, 40, 42, 73, 74, 85 which are specified in Sr. No. 7 of the notification (i.e., parts, components and accessories of hearable devices) will attract customs duty at Nil / 5% / 10%/ 15% subject to condition specified in the notification.</p>

[Notification No. 55/2023-Customs, dated 14 September 2023]

Amendment in Notification No. 19/2019- Customs dated 06 July 2019 in order to prescribe exemption to AK- 203 rifle production and components thereof.

Vide this notification following goods falling under Chapter 49,73,84, 85, 90 or 93 when imported by Ministry of Defence or Government of India or the defence forces, for Defence Forces will be exempted from BCD and IGST subject to conditions till 30 June 2024:

- Parts, sub-parts, inputs for use in manufacture of AK- 203 rifle;
- Machinery, Fixtures, Gauges, Tools, and Jigs for goods mentioned at (a) above
- Technical documentation in respect of goods mentioned at (a) and (b)

[Notification No. 56/2023-Customs, dated 15 September 2023]

Amendment in Notification No. 55/2022-Customs, dated 31 October 2022 in order to prescribe export duty exemption to “Bangalore Rose Onion”

Central Government has amended Principal Notification to introduce new entry and extended export duty exemption to “Bangalore Rose Onion” which is classified under tariff item 0703 10 11 subject to conditions, with immediate effect.

[Notification No. 57/2023-Customs dated 29 September 2023]

Notifications – Non - Tariff

Amendment in notification no. 18/2023 Customs (N.T) dated 30 March 2023 to extend date for exempting the deposits from all of the provisions of section 51A

The Central Government vide this notification has extended the exemption for certain deposits into the Electronic Cash Ledger ('ECL') from all the provisions of Section 51A from 30 September 2023 to 30 November 2023.

(Notification No. 69/2023 Custom (N.T), dated 27 September 2023)

Amendment in notification no. 19/2022 Customs (N.T) dated 30 March 2022 to exempts the deposits from all of the provisions of section 51A except the goods imported or exported in International Courier Terminals.

The Central Government has extended the effective date of the said notification to 1st December 2023.

(Notification No. 70/2023 Custom (N.T), dated 27 September 2023)

Amendments in Tariff Notification No. 36/2001-Customs (N.T.), in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

Central Government has amended Principal Notification No. 36/2001 -Customs (N.T) dated, 3rd August 2001 to update the tariff values (in US dollars per metric ton) for goods falling under Chapter 15, 74, 71, and 98.

(Notification No. 71/2023 Custom (N.T), dated 29 September 2023)

Amendments in First Schedule to the Customs Tariff Act, 1975 with effect from the 1 October, 2023.

Central Government has inserted a new supplementary note and tariff entry of “Spirits for Industrial Use” provided in chapter 22 with standard rate of 150%.

Further, Government has introduced a replacement for Chapter Heading 98 and the same is now designated as "Project imports; laboratory chemicals; passengers' baggage; personal importations by air or post; ship stores; actionable claims."

Additionally, a new chapter note has been introduced in Chapter Heading 98 regarding 'Online Money Gaming' and "Specified actionable claim," with their meanings aligning with clauses (80B) and (102A) of section 2 of the Central Goods and Service Tax Act, 2017 (12 of 2017). Additionally, a new tariff entry, denoted as "9807," has been incorporated for "Specified actionable claim," which encompasses actionable claims stemming from betting, casinos, gambling, horse racing, lottery, and online money gaming with Nil rate.

(Notification No. 72/2023 Custom (N.T), dated 30 September 2023)

Notification- Anti Dumping Duty

Imposition of Anti-Dumping duty on imports of “Flat base steel wheels “originating in and exported from China PR for a period of 5 years.

The Government of India has extended the time limit for imposition of Anti-Dumping duty on Flat Base Steel Wheels from China PR/ any country other than China PR based on the findings provided in Notification No. 7/02/2023- DGTR dated 12th June 2023 for five more years to prevent the entry of these goods at dumped prices and maintain fair competition in the Indian market.

(Notification No. 09/2023 Custom (ADD), dated 11 September 2023)



Customs Circular

Clarification with respect to implementation of Ex-Bond Shipping Bill on ICES

The Central Government has implemented a new format for the Ex-Bond Shipping Bill (SB) on the Indian Customs Electronic System (ICES). The new format is intended for the processing of exports of goods from bonded warehouses.

It has been clarified that, this type of shipping bill can only be used for export of warehoused goods, and not for other goods. It is also not meant for the export of goods resulting from manufacturing or other operations under section 65 in a bonded warehouse. However, if the goods imported in a warehouse where permission has been granted under section 65, are exported as such then the abovementioned ex-bond SB can be filed.

Importantly, no incentive such as Drawback, RoDTEP/RoSCTL benefit, advance authorisation/EPCG etc. shall be available for such cargo and the said shipping bill would be a free shipping bill.

[Circular No. 22/2023-Customs 19 September 2023]

Clarification issued regarding mandatory additional qualifiers, declarations in respect of import/export in chapter headings 28, 29, 32, heading 3808 and chapter 39

The Central Government has modified para (4.1) and (4.2) of Circular No. 15/2023-Cus, dated June 7, 2023, to seek additional mandatory information for commodities imported under Chapters 28, 29, 32, Heading 3808 and Chapter 39, at the time of submitting import declarations for products as follows:

- Chemical Category:
 - Bulk and Basic Chemicals;
 - Formulations and Mixture or
 - Proprietary component, R & D or Others

Further, it is required that additional qualifiers be included in declarations for imports falling under the specified chapters for bills of entry filed on or after 15 October 2023.

(Circular No. 23/2023 Customs, dated 30 September 2023)

Central Government issues Circular regarding execution of Section 16(4) of the IGST Act concerning limitations on exporting specific goods with IGST payment and their inclusion in the refund process

To ensure that no unwarranted advantages are gained through the export of notified goods in compliance with the provisions outlined in section 16(4) of the IGST Act, 2017 the Central Board Indirect Taxes & Customs ('CBIC') has requested the jurisdictional officer dealing with manual Shipping Bills in Non-EDI ports, as well as EDI ports, or overseeing exports via postal services/courier be made aware of the necessity to prevent the export of the specified goods by paying IGST such as certain forms of Pan-masala, tobacco etc.

(Circular No. 24/2023 Customs, dated 30 September 2023)



Customs Instruction

Instruction issued with respect to Streamlining of Customs Post Clearance Audit (PCA) Work.

The Central Government vide this instruction has made amendments to the Instruction No. 02/2021-Customs dated 16.02.2021 regarding streamlining of Customs Post Clearance Audit (PCA) work

[Instruction No. 27/2023-Customs dated 6 September 2023]

Customs Order

Order under Rule 5 of the Customs Rules, 2023 for Linear Alkyl Benzene (LAB).

Central Board of Indirect Taxes and Customs has issued an Order under Rule 5 of the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023, which specifies Linear Alkyl Benzene falling under HS Code 38170011 as identified goods under Rule 10 of the said rules with further specifications:

- Importer to use Unique Quantity Code of Kilogram (Kg) to declare the value in bill of entry.
- Importer shall produce documents related to Test Certificate of the product, Manufacturer's Invoice, Purchase Order or Contract and manufacturing process from the manufacturer along with the bill of entry.

- At the time of assessment, the proper officer shall also check compliance with the Linear Alkyl Benzene (Quality Control) Order, 2022.

The Order shall be effective from 26th September 2023 till 25th September 2024.

[CAVR Order No. 01/2023-Cutoms dated 18 September, 2023]



05

Foreign Trade Policy Updates

Notifications

Amendment in Export Policy of Food Supplements containing botanicals

The Central Government has amended the Export Policy condition under Schedule 2 of ITC(HS) Export Policy, 2018. As per the revised policy condition, export of Food Supplements containing botanicals under ITC HS code 1302 and 2106 intended for human or animal consumption to European Union and United Kingdom will require issuance of official certificate by EIC/EIA or SHEFIXIL. SHEFIXIL is allowed to issue an official certificate for a period of three months from the date of issuance of the said notification.

[Notification No. 31/2023, dated 11 September, 2023]

Approval of Export of Non-Basmati White Rice to UAE through NCEL

The Government of India approves export of 75,000 MT of Non-Basmati White Rice (under HS Code 1006 30 90) to UAE through National Cooperative Export Limited ('NCEL').

[Notification No. 32/2023, dated 25 September, 2023]

Extension of RoDTEP Scheme for Exports made from 1 October 2023

The Central Government has extended RoDTEP Scheme for exports made from 1st October 2023 and shall be applicable till 30th June 2024

[Notification No. 33/2023, dated 26 September, 2023]

Public Notices

De-listing of Agencies Authorized to Issue Certificate of Origin

The Director General of Foreign Trade ('DGFT') has delisted 29 agencies with immediate effect from Appendix 2E of the Foreign Trade Policy, 2023 who have failed to initiate their processes of on-boarding on e-CoO platform for electronic issuance of Certificate of Origin (Non-preferential). Henceforth, these 29 chambers/ agencies shall not be authorized to issue the same.

[Public Notice No. 31/2023, dated 20 September, 2023]

Trade Notices

Monthly workshops on Cross-border E-commerce

Attention is drawn to Para 9.07 of Foreign Trade Policy 2023, wherein handholding and outreach to promote E-Commerce Exports is mandated. In addition to increasing awareness on e-Commerce related rules and processes, actions for capacity building and skill development for promotion of E-Commerce exports is also mandated. In this regard, monthly workshops on E-Commerce Exports are proposed.

Pre-shipment and Post-shipment Export Credit and Packing Credit in Foreign Currency (PCFC) for E-Commerce Exports –reg.

The Government of India has clarified that the 'Master Circular-Rupee / Foreign Currency Export Credit and Customer Service to Exporters' provides a comprehensive framework for Pre-shipment and Post-shipment export credit, including Packing Credit in Foreign Currency (PCFC), accessible to all eligible exporters that does not preclude E-Commerce Exporters. Banking institutions are encouraged to provide these credits to E-Commerce exporters according to RBI guidelines.

[Trade Notice No. 26/2023-24, dated 4th September 2023]

Clarification regarding pre-import condition under Advance Authorisation Scheme

The Ministry of Commerce and Industry provides clarification regarding the essential pre-import conditions under Advance Authorisation Scheme. The Trade Notice explains the various issues faced by the Regional Authorities in determining the treatment to be given to Export-Import scenarios in respect of Advance Authorizations issued in the period between 13/10/2017 to 09/01/2019.



In view of above, the DGFT clarified the issue raised as under:

S. No.	Issue Raised	Clarification
1.	In case Advance Authorizations under which exports have been made in the period October 13, 2017 to 09/01/2019 and the import is made on or after 10/01/2019, whether pre- import condition will be considered to have been violated.	Pre-import condition will not be considered to have been violated.
2.	If Advance Authorizations were issued on or prior to 09/01/2019 and imports were made on or after 10/01/2019, whether pre-import condition will be applicable.	Pre-import condition will not be applicable.
3.	If against an Advance Authorization, imports were partly made up to and including 09/01/2019 and remaining imports were made on or after 10/01/2019, whether imports made on or after 10/01/2019 will be subject to pre- import condition.	In such a scenario, the imports made on or after 10/01/2019 will not be subject to pre-import
4.	In case of imports made under Advance Authorisation on payment of IGST and Compensation Cess, whether pre-import condition will be applicable.	In such a scenario, the imports will not be subject to pre-import condition irrespective of date of import.

[Trade Notice No. 27/2023, dated 25 September, 2023]

06

Compliance Calendar



S. No.	Compliance Category	Compliance Description	Frequency	Due Date	Due Date falling in October 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 September 2023- 11 October 2023
1	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 September 2023- 20 October 2023
3	QRMP Scheme Form GSTR- 1 (Quarterly Return)	<ul style="list-style-type: none"> Details of outward supplies filed by registered person under QRMP Scheme 	Quarterly	13 th of the succeeding quarter	<ul style="list-style-type: none"> For Tax Period July - September 2023 – 13 October 2023

	Form GSTR- 3B (Quarterly Return)	<ul style="list-style-type: none"> Registered person having turnover less than INR 5 crores in the previous FY and registered in prescribed 14 States/ UT* 	Quarterly	22 nd of the succeeding quarter	<ul style="list-style-type: none"> For Tax Period July - September 2023 – 22 October 2023
	Form GSTR- 3B (Quarterly Return)	<ul style="list-style-type: none"> Registered person having turnover less than INR 5 crores in the previous FY and registered in prescribed 22 States/ UT** 	Quarterly	24 th of the succeeding quarter	<ul style="list-style-type: none"> For Tax Period July - September 2023 – 24 October 2023
4	Form GSTR-6 (Return for Input Service distributor)	<ul style="list-style-type: none"> Return for input service distributor 	Monthly	13 th of the succeeding month	For Tax Period September 2023-13 October 2023
5	Form GSTR-7 (Return for Tax Deducted at Source)	<ul style="list-style-type: none"> Return filed by individuals who deduct tax at source. 	Monthly	10 th of the succeeding month	For Tax Period September 2023-10 October 2023
6	Form GSTR-8 (Statement of Tax collection at source)	<ul style="list-style-type: none"> Return to be filed by e-commerce operators who are required to collect tax at source under GST. 	Monthly	10 th of the succeeding month	For Tax Period September 2023-10 October 2023

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