



HELPING CLIENTS KEEP MORE OF WHAT THEY EARN

GST, Customs and DGFT Updates

From 17.03.2021 to 07.04.2021

GSTiDEA

Knowledge Portal on Goods & Services Tax

GST

Miscellaneous Updates

HSN Code/ Service Accounting Code mandatory on invoices:-

- With effect from 1st April person having turnover of more than 5crore in proceeding financial year, require to furnish 6 digits HSN Code or SAC (Service Accounting Code) on the invoices.
- A taxpayer having turnover of upto 5crore require to mandatorily furnish 4 digits HSN Code on B2B invoice. Earlier, the requirement was 4 digits and 2 digits respectively.
- HSN Code for goods at 6 digits are universally common. Therefore, common HSN Code apply to Customs and GST. Further, HSN search facility is also available on the GST portal.

Miscellaneous Updates

B2C QR code compliance exemption extended till 30th June 2021

- CBIC issued new Notification No. 06/2021 on 30th March 2021 which amended Notification No. 89/2020 .
- The Dynamic QR Code in the invoice by a registered person, whose aggregate turnover in a financial year exceeds Rs.500 crore extended to 1st July 2021.
- The earlier date was 1st April now it is substituted from 1st July.

E-Way Bill limit increases to Rs. 1 lakh in Rajasthan:-

- From 1st April , 2021 Rajasthan Govt. increases E-Way Bill limit to Rs. 1 lakh .
- If the movement commences and terminates within the State of Rajasthan without crossing the boundaries of the State of Rajasthan.
- It is further provided that new limit will apply to any goods except all type of Tobacco and its product i.e. Chewing Tobacco, Khaini, Cigarettes, Sidi etc. and Pan Masala.

1 Notification No 06/2021-Central Tax dated 30.03.2021

2 Notification No F.17(131-Pt.-II) ACCT/GST/2017/6672 – dated the 30st March, 2021

Miscellaneous Updates

New/Unique Series Of Invoices:-

New/Unique series of invoice - As per Rule 46(b) of the CGST Rules, new/unique series of invoices to be raised for FY 2021-22, so that there is no duplication or repetition of invoices with preceding FY, applicable from 01st April, 2021.

Renewal of LUT:-

- Every registered exporter who desires to export the goods or services without the IGST shall apply for renewal of LUT at the end of financial year, for the next FY 2021-22 in order to continue making the exports without the payment of IGST.
- An exporter is required to furnish a bond or LUT to the jurisdictional Commissioner before effecting zero-rated supplies.

Writ Petition: Madras High Court Judgment

No opportunity of personal hearing was afforded to the petitioner - on this sole ground, impugned order is quashed¹

□ Facts :-

- The petitioner was filing returns under the Tamilnadu VAT, 2006 and under the GST regime also. The petitioner's registration was cancelled due to non filing of return. The petitioner also remitted the GST dues together with late fee.
- The petitioner received notice dated 29.10.2019 in which certain defects have been pointed out. The defect includes sales omission and purchase omission also. It was also proposed to levy tax on service charges paid and discount paid. For the reasons best known to the petitioner
- No reply was submitted by the petitioner, thereafter, the impugned order came to be passed levying tax and penalty on the petitioner.

□ Held:-

- Order impugned in this writ petition has to be quashed on the simple ground that no personal hearing was granted.
- Nowhere in the notice it was mentioned that an opportunity of Personal Hearing was afforded to the petitioner. On this sole ground, the order impugned in this writ petition is quashed, directing the respondent to pass a fresh order in accordance with the Law.

1. *VECTRA COMPUTER SOLUTIONS vs. The Commissioner of Commercial Taxes, Chennai(2021-TIOL-760-HC-MAD-GST)*

Writ Petition: Bombay High Court Judgment

Sec. 83 has to be strictly interpreted - It does not provide for delegation or authorization Provisional attachment of bank account carried out by Joint Commissioner is without jurisdiction¹

❑ Facts :-

- Petitioner seeks quashing of provisional attachment order dated 19.06.2020 issued by respondent no.3 (Joint Commissioner of State tax) attaching the bank account of the petitioner maintained with ICICI Bank.
- Though the provisional attachment order mentioned that proceedings have been launched against the petitioner under section 67 of the MGST Act.
- It is contended that no notice of proceedings under section 67 of the MGST Act has been served upon the petitioner; besides, no such proceedings were pending
- Aggrieved, petitioner submitted detailed representation before the Joint Commissioner on 01.07.2020, but as there was no response to the said representation, the present petition was filed.

❑ Held:-

- Under section 83 of the MGST Act, it is the Commissioner who has the competence to carry out provisional attachment of property including bank account subject to fulfilment of the preconditions of section 83.
- The word 'Commissioner' is a defined expression under section 2(24) of the MGST Act meaning a Commissioner of State Tax appointed under section 3 which includes Principal Commissioner or Chief Commissioner of State Tax appointed under section 3. The impugned provisional attachment has been carried out by respondent no.3 i.e. Joint Commissioner of State Tax.

1. *PRAFUL NANJI SATRA vs. 1. STATE OF MAHARASHTRA, 2. COMMISSIONER OF STATE TAX, Mumbai, 3. JOINT COMMISSIONER OF STATE TAX, Mumbai (2021-TIOL-782-HC-MUM-GST)*

Writ Petition: Bombay High Court Judgment

❑ **Held:-**

- The record does not disclose any authorization by the Commissioner to the Joint Commissioner to carry out provisional attachment.

- **The relevant extract is reproduced below-**

“Since the impugned attachment of bank account has been found to be without jurisdiction, availability of alternative remedy in the form of filing objection under rule 159(5) of the MGST Rules would be no bar to the petitioner from seeking relief under writ jurisdiction. Even here also it is doubtful whether the Joint Commissioner to whom the representation dated 01.07.2020 was addressed could have at all exercised power under rule 159(5) of the MGST Rules when the authority to do so is the Commissioner”

- Section 83 does not provide for such delegation or authorization. Attachment of property including bank account of a person, even if provisional, is a serious intrusion into the private space of a person. Therefore, section 83 of the MGST Act has to be strictly interpreted.
- The impugned attachment of bank account has been found to be without jurisdiction. Impugned provisional attachment order dated 19.06.2020 cannot be sustained. The same was hereby set aside and quashed. Consequently, respondents are directed to forthwith withdraw the provisional attachment of bank account of the petitioner

Writ Petition: Delhi High Court Judgment

GST - Proceedings u/s 74 were initiated only after the date the attachment order was issued u/s 83 of the Act, 2017, the necessary jurisdictional elements were not present - order invalid¹

❑ **Facts :-**

- In the given case, writ petition is directed against the order dated 19.05.2020 directed provisional attachment of the petitioner's bank account in exercise of powers under Section 83 of the Central Goods and Services Tax, 2017 and order dated 10.07.2020 that concerns the adjudication of the objections filed by the petitioner under Rule 159(5) of the Central Goods and Services Tax Rules, 2017 , passed by the Commissioner of Central Tax, GST, Delhi East.
- The Respondent indicated that SCN u/s 74 was issued after the date when the proceedings were initiated

❑ **Held:-**

- Pre-requisite for exercise of powers of provisional attachment under Section 83 of the Act is the pendency of the proceedings under the provisions, i.e., Sections 62, 63, 64, 67, 73 or 74 of the Act.
- Record shows that proceedings under Section 74 were initiated only after 10.11.2020 - Given these circumstances, it is clear that on the date when order dated 19.05.2020 was issued, the necessary jurisdictional elements were not present.
- Therefore, the said order is not valid in the eyes of law - The order dated 19.05.2020 is quashed - Resultantly, the other order, which is, dated 10.07.2020 shall also stand quashed

1. GLOBAL ENTERPRISES vs. COMMISSIONER OF CENTRAL CGST EAST DELHI & ANR (2021-TIOL-716-HC-DEL-GST)

Writ Petition: Karnataka High Court Judgment

Proceedings u/s 129 followed with simultaneous action u/s130 - Since prima facie the order is passed without affording any opportunity, the same is not sustainable and hence is set aside¹

❑ **Facts :-**

- Grievance of the petitioner is that the respondent-authorities having commenced proceedings under Section 129 (detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act) have simultaneously proceeded to initiate proceedings under Section 130 (specific situations or causes leading to the confiscation of goods/conveyances.) and has issued notice for confiscation on 21.09.2020
- That the respondent-authorities without conducting fair and proper enquiry and without giving adequate notices to all stake holders and aggrieved persons has passed impugned ex parte confiscation order on 12.01.2021
- Present petitioner, who is the transporter, had preferred an appeal but the Appellate Authority in gross violation of principles of natural justice has hurriedly passed the impugned endorsement.

1. M/s SREELAKSHMI TRANSPORT Vs 1. THE JOINT COMMISSIONER OF COMMERCIAL TAXES APPEALS , 2. THE COMMERCIAL TAX OFFICER, 3. THE DEPUTY COMMISSIONER OF COMMERCIAL TAXES(2021-TIOL-396-HC-AHM-GST)

Writ Petition: Karnataka High Court Judgment

❑ Held:-

- Since prima facie the order under challenge is passed without affording any opportunity to the petitioner, the impugned order/endorsement issued by the 1st respondent as per Annexure-T is not sustainable and the same is set aside
- The matter stands remitted back to the 1st respondent to hear afresh by affording opportunity to the present petitioner herein
- As the transporter has deposited the entire penalty, tax and fine before the competent authority the Appellate Authority shall be directed to consider the application filed by the petitioner seeking release of goods and vehicle
- 1st respondent authority is directed to first hear the petitioner on application filed seeking release of goods as well as vehicle & the appellate authority - shall pass appropriate orders on the application and thereafter proceed to hear the main matter.

Writ Petition: Allahabad High Court Judgment

The refund application was filed asserting that the said sum was erroneously deposited as service tax on certain contract which were exempted from service tax by virtue of Mega Exemption Notification No. 25/2012-ST for the period September, 2012 to August, 2014¹

❑ **Facts:-**

- The refund application was filed asserting that the said sum was erroneously deposited as service tax on certain contract which were exempted from service tax by virtue of Mega Exemption Notification No. 25/2012-ST for the period September, 2012 to August, 2014.
- Same was denied by Adjudicating authority - On appeal, the Commissioner (A), however, had simply ignored the said plea while rejecting the refund claim being time barred i.e. having been filed beyond time limit specified under Section 11B of Central Excise Act, 1944
- In appeal, the Tribunal had conveniently by-passed the said issue - The appellant have filed the appeal, mainly, on the ground that their refund claim was not time barred, as they had deposited Service Tax on activities which were exempted under the Mega Exemption and as such, the time limitation specified under Section 11B was not applicable

❑ **Held:-**

- The amount which they had paid, was not Service Tax but was in the nature of deposit - There is no adjudication on the issue that, in case, the exemption sought by appellant under the Mega Exemption Scheme is allowed, the limitation for refund claim under Section 11B of the Act would not come into play.
- Accordingly the matter has been remanded to the Commissioner (A)

1. M/s CHOUBAY AND COMPANY (AGENCIES) vs. COMMISSIONER GST, C&E AND ANOTHER(2021-TIOL-732-HC-ALL-CX)

Writ Petition: Delhi High Court Judgment

Delayed remittance of refund - Petitioners to be granted simple interest @7% from the date when the shipping bills were filed till the date of actual refund¹

❑ Facts-

- Regarding IGST Refund, whether the petitioner should be paid any interest for delayed remittance of refund.

❑ Held-

- A detailed order dated 26.11.2019, was passed wherein in effect, the Court agreed with the submission of the petitioners, subject to respondent no. 2 verifying as to whether duty drawback/CENVAT credit had been availed of by the petitioners, with regard to Central Excise and Service Tax component.
- In the affidavit, it is mentioned that none of the petitioners have availed of CENVAT credit relating to central excise; that none of the petitioners have availed of CENVAT credit relating to service tax component.
- Bench directs that in view of the decision in a previous case², while granting refund to the petitioners, the petitioners will be granted interest at the rate of 7% simple, from the date, when the shipping bills were filed by them, till the date of actual refund, which, in this case, ought not to go beyond 26.04.2021

1. TMA INTERNATIONAL PVT LTD AND ORS vs. UOI(2021-TIOL-801-HC-DEL-GST)
2. M/s Amit Cotton Industries (2019-TIOL-1443-HC-AHM-GST)

Writ Petition: Calcutta High Court Judgment

When a proceeding has been initiated by Central authorities, the State cannot step into the same - Summons issued by State GST is, prima facie, in violation of s.6(2)(b), hence stayed¹

❑ **Facts:-**

- Petitioners have challenged the vires of Rule 86A of the CGST Rules/WBGST Rules and Section 16(2)(c) of the CGST Act/WBGST Act; also challenge the blocking of the electronic credit ledger that was done on December 8, 2020
- Petitioners further challenge the actions initiated by the State GST authorities with respect to summons issued on October 19, 2020 by arguing that when a proceeding has been initiated by the Central authorities, the State cannot step into the same [Sub-Section 2(b) of Section 6 of the West Bengal GST Act refers].

❑ **Held:-**

- Bench is of the view that the summons that have been issued on October 19, 2020 by the State GST is, prima facie, in violation of Section 6(2)(b) of the WBGST Act.
- Accordingly, Bench directs stay of the above summons and any proceedings thereunder.
- Affidavits-in-opposition is to be filed within four weeks; reply thereto, may be filed within two weeks thereafter.

1. RAJ METAL INDUSTRIES AND ANR V/S UOI (2021-TIOL-744-HC-KOL-GST)

Since voucher is only an instrument of consideration and not goods or services, the same is not classifiable separately but only the supply associated with the voucher is classifiable¹

❑ **Facts :-**

- Appellant is in the business of manufacturing and trading of Jewellery products and as part of sales promotion, the appellant introduced the facility of “Gift Vouchers/Gift Cards”
- Appellant had sought to know as to whether issuance of these pre-paid instruments are classifiable as goods and taxable and if so, the time and value of supply of goods and determination of liability to pay tax for their pre-paid instruments.
- AAR had held that the gift voucher/gift card is an instrument squarely covered under the definition of 'payment instrument' under the Payment and Settlement Act, 2007; supply of such vouchers qualifies as CGST Act.
- Being Aggrieved, Appeal was filed before AAAR

❑ **Held:-**

- Voucher per se- is neither a goods not a service - It is a means for payment of consideration
- The supply of underlying goods or service, therefore, gets taxed only at the time of issue of voucher and not at the time of actual availing of service or time of redeeming the voucher - The same is true in the case of the gold voucher presently under our consideration

1. M/s KALYAN JEWELLERS INDIA LTD(2021-TIOL-12-AAAR-GST)

Appellate Authority of Advance Rulings : AAAR Tamil Nadu

❑ Held:-

- Since the gold voucher clearly indicates that the voucher can be redeemed for gold jewellery at a known rate of tax, gold voucher also falls under this category - Therefore, it is our view that the gold voucher (representing the underlying future supply of gold jewellery) would be taxable at the time of issue of the voucher.
- Regarding classification of voucher, since voucher is only an instrument of consideration and not goods or services, the same is not classifiable separately but only the supply associated with the voucher is classifiable according to the nature of the goods or services supplied in exchange of the voucher earlier issued to the customer.
- The time of supply of the gift vouchers / gift cards by the applicant to the customers shall be the date of issue of such vouchers and the applicable rate of tax is that applicable to that of the goods

Customs

Bill of Entry Regulation Amendment

CBIC notified the **Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Amendment Regulations, 2021** which is come into force form 29.03.2021¹.

For the benefits of the international trade CBIC had revised the documentation days for the importers. Following Changes laid down in the captioned regulation –

Sr. No.	Particulars	Then	Now
1.	Timeline to file the Bill of Entry in Customs Port (other than inland container depot and air freight station)	BoEs are required to be filed next day following the day (excluding holidays) on which the vessel arrives at Customs Station.	BoEs are required to file preceding the day preceding the day (including holidays) on which the vessel carrying the goods arrives at the customs port
2.	In Case of Goods imported from (i) Bangladesh (ii) Maldives (iii) Myanmar (iv) Pakistan (v) Sri Lanka Time line to file BoEs in Customs Port	BoEs are required to be filed next day following the day (excluding holidays) on which the vessel arrives at Customs Station.	BoEs are required to file by the end of the day (including holidays) on which the vessel carrying the goods arrives at the customs port

1. Notification No. 34/2021 and 35/2021– Customs (NT) d.t 29.03.2021

Bill of Entry Regulation Amendment contd.

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Sr. No.	Particulars	Then	Now
3.	Timeline to file the Bill of Entry in Customs Airport.	BoEs are required to be filed next day following the day (excluding holidays) on which the vessel arrives at Customs Station.	BoEs are required to file by the end of the day (including holidays) on which the aircraft carrying the goods arrives at the customs airport.
4.	Timeline to file the Bill of Entry in inland container depot or air freight station.	BoEs are required to be filed next day following the day (excluding holidays) on which the vessel arrives at Customs Station.	BoEs are required to file by the end of the day (including holidays) on which the vehicle or train carrying the goods arrives at the inland container depot or air freight station
5.	Timeline to file the Bill of Entry in land customs station,	BoEs are required to be filed next day following the day (excluding holidays) on which the vessel arrives at Customs Station.	BoEs are required to file by the end of the day (including holidays) on which the vehicle or train carrying the goods arrives at the inland container depot or air freight Station.

If BoEs were not filed in the amended timelines then importers were liable to charges not exceeding actual duty paid against the BoEs.

The Central Board of Indirect Taxes and Customs (CBIC) notified the Customs (Verification of Identity and Compliance) Regulations, 2021, which will be applicable to Importers, Exporters, and Customs Brokers who are newly engaging in import or export activity¹.

Highlights of the Regulation :

- ✓ As per the new Regulations, the Commissioner of Customs may select any person, who may have engaged in import or export activity or availed or claimed the benefits mentioned in sub-clause (a) to (f) of clause (i) of sub-section (3) of section 99B of the Act or engaged as a Customs Broker in such activity or in availing or claiming such benefits prior to the commencement of these regulations, these regulations shall apply to such person
- ✓ These regulations shall not apply to the Central Government, State Governments, and Public Sector Undertakings.
- ✓ The person selected for verification shall furnish the various documents or information namely document of incorporation, a document evidencing the appointment of authorized signatories, if applicable, PAN, GSTIN, and bank statement, Income Tax Return, etc. evidencing financial standing of the person on the Common Portal within 15 days of such intimation of selection.
- ✓ Proper officer will have to prepare verification report within 30 days, it may be extended to 60 days also.
- ✓ The Commissioner of Customs have a power to penalize any person if the person fails to comply the provisions of the regulation.

1. Notification No. 41/2021 – Customs (NT) d.t. 05.04.2021

Extension of Exemption in EPCG/AA/EOU Scheme

1. Extension of Exemption from IGST and Compensation Cess for EOU/EHTP/STPs/BTPs

CBIC vide Notification No. 19/2021-Cus dated 30-03-2021 extended the exemption for payment of IGST and Compensation Cess for import of goods from 31.03.2021 to **31.03.2022**.

2. Extension of Exemption from IGST and Compensation Cess under Advance Authorisation and EPCG Scheme

CBIC vide Notification No. 23/2021-Cus dated 31-03-2021 extended the exemption for payment of IGST and Compensation Cess for import of goods from 31.03.2021 to **31.03.2022**.

Anti-dumping Duty (ADD)

Tariff Head	Subject Goods/Country	Then	Now
7019 90 10, 7019 90 90, 7019 19 00, 7019 39 00 and 7019 59 00	Faced Glass Wool in Rolls originating in or exported from China PR¹	-	Anti Dumping Duty will be leviable from 18.03.2021 till 5 years unless revoked or superseded earlier.
8477 51 00	Tyre Curing Presses also known as Tyre Vulcanisers or Rubber Processing Machineries for tyres, excluding Six Day Light Curing Press for curing bi-cycle tyres originated in or exported from China PR .	Anti dumping duty was leviable up to 29.03.2021 for the mentioned product.	Anti Dumping Duty on the subject goods now being extended up to 30.09.2021.

1. Notification No. 14/2021 -Customs (ADD) dated 18.03.2021
2. Notification No. 15/2021 -Customs (ADD) dated 26.03.2021

Anti-dumping Duty (ADD) contd.

Tariff Head	Subject Goods/Country	Then	Now
2905 16 20	2-Ethyl Hexanol (2EH) originating in or exported from the European Union, Indonesia, Korea RP, Malaysia, Saudi Arabia, Chinese Taipei and United States of America¹	Anti dumping duty was leviable on the subject goods up to 29.03.2021.	CBIC rescinds Anti Dumping Duty on the subject goods which was leviable up to 29.03.2021 on 26.03.2021 .
2905 16 20	2-Ethyl Hexanol originating in or exported from European Union, Indonesia, Korea RP, Malaysia, Taiwan and United States of America ² .	Earlier Anti dumping duty leviable on the subject good from notification No. 10/2016 dated 29.03.2016. Investigation done for the extension of the ADD.	Anti Dumping Duty will be leviable from 26.03.2021 till 5 years unless revoked or superseded earlier.

1. Notification No. 16/2021 -Customs (ADD) dated 26.03.2021
2. Notification No. 17/2021 -Customs (ADD) dated 26.03.2021

Anti-dumping Duty (ADD) contd.

Tariff Head	Subject Goods/Country	Then	Now
3907 61 90 or 3907 69 90	Polyethylene Terephthalate resin having an intrinsic viscosity of 0.72 decilitres per gram or higher originating in or exported from China PR ¹	Final finding published on 20.12.2020.	Anti Dumping Duty will be leviable from 27.03.2021 till 5 years unless revoked or superseded earlier.
2905 16 20	Melamine originating in or exported from China PR ² .	Earlier Anti dumping duty leviable on the subject good up to 31.03.2021.	In continuation to Anti Dumping Duty now it is extended till 30.09.2021 unless revoked or superseded earlier.
3907 20	Flexible Slabstock Polyol of molecular weight 3000-4000 originating in, or exported from the Saudi Arabia and United Arab Emirates .	Final finding published on 01.09.2020.	Anti Dumping Duty will be leviable from 05.04.2021 till 5 years unless revoked or superseded earlier.

1. Notification No. 18/2021 -Customs (ADD) dated 27.03.2021

2. Notification No. 19/2021 -Customs (ADD) dated 31.03.2021

1. Common Portal for Customs

CBIC officially notified electronic common portal for facilitating **registration, filing of bills of entry, shipping bills**, other documents and forms prescribed under the Customs Act 1962 or under any other law for the time being in force or the rules or regulations made thereunder, payment of duty and other specified work stated in law.

2. Supplementing Bill of details under Bill of Entry in ICEGATE

Now the importers were liable to provide details of Bill of Lading in BoEs under ICEGATE where Bill of Entry not presented in specified timelines.

3. Exemption on import of goods from Japan.

Notification No.69/2011 dated 29.07.2011 amended to by Notification No. 20/2021 – Customs dated 30.03.2021 to provide deeper exemption on goods imported from Japan.

4. India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA)

CBIC vide Notification No. 25/2021-Cus,dated 31-03-2021 notified implementation of India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (CECPA).

1. Notification No. 33/2021 – Customs (NT) d.t 29.03.2021
2. Notification No. 36/2021 – Customs (NT) d.t 29.03.2021

Writ Petition: High Court Judgment

Communication of final order on available details of assessee if fulfilled the condition of Section 153 of Customs Act, 1962 also fulfilled¹

Facts :-

Petitioner has been asked to pay a sum of Rs. 9.88 lacs towards duty of Drawback amount - Interest and penalty was imposed by order in Original since petitioner has not challenge the said order. Customs Authority freezes the petitioner Bank account for the mentioned sum payment. The petitioner filed a writ before the Hon'ble High Court of Madras challenging the Customs Authority enforcement as the Order-in-Original has not been communicated to petitioner.

Customs authority had submitted that a proper communication has been given under Section 153 of the Customs Act, 1962 however such communication is being returned as petitioner was not available in the provided details.

Held:-

- The Hon'ble High Court observed that the Customs has served proper communication and the updated details of petitioner was not available with Customs.
- The Hon'ble High Court on the request of the petitioner counsel it was held that 10% of asked amount will be retained by Customs and it will be adjusted toward pre-deposit for further appeal by the petitioner.
- The petitioner shall file an appeal within a period of sixty days therefrom

1. M/s SREE KRISHNA ENTERPRISES Vs CC.

Writ Petition: High Court Judgment

Notice not Served for the Confiscation of the goods imported and passed order in original for payment of differential duty and penalty, the same is quashed as a notice in writing is necessary for confiscation as per Section 124 of Customs Act, 1962 ¹

Facts :-

- Petitioner had imported goods under a bill of entry and presented proper certification for value and classification of goods from concerned authority.
- Customs however issued objection on the same and issued Order-in-Original stating to pay the differential amount and penalty and on the ground of low value declared in the BoE and confiscated the goods without serving a proper ground for confiscation as per Section 124 of the Customs Act, 1962. Petitioner filed writ before the High Court of Bombay for quashing the order-in original.

Held:-

- The Hon'ble High Court of Bombay passed judgement on 03.11.2020 for clearing the goods on presentation of Bank Guarantee. High Court observed that the petitioner has not been given a proper chance to present its case however a personal hearing was done in Virtual mode.
- It was held that the goods were confiscated without giving a proper notice to the petitioner under Section 124 and Natural Justice under Article 226 of the Constitution of India has been violated.
- Hon'ble High Court allowed the Appeal quashing the order-in-original mandating respondent to proceed the matter freshly.

1. SYSKA LED LIGHTS PVT LTD Vs UNION OF INDIA AND OTHERS

Special Leave Petition: Supreme Court Judgment

Once Goods entered into territory of India and Bill of Entry generated at a lower rate further notification cannot be applicable on the same with higher rate of duty¹

Facts :-

- Respondent was engaged in import of "Dry Fruits" from Pakistan for sale in domestic market. It's one of such consignments of goods from Pakistan had entered the territory of India and the bill of entry with prescribed rate of duty was electronically generated before notification enhancing the duty @ 200% was issued in late evening on the same date.

Held:-

- The Hon'ble Supreme Court of India disposed off the petition file by the revenue as per the decision of the three-Judge Bench of the Hon'ble Supreme Court in **Union of India vs G S Chatha Rice Mills**.
- In the captioned judgement it is upheld by the Supreme Court that the rate of duty which was applicable was crystallized at the time and on the date of the presentation of the bills of entry in terms of the provisions of Section 15 read with Regulation 4(2) of the Regulations of 2018.

1. UNION OF INDIA & ORS Vs M/s S S OVERSEAS & ANR

Special Leave Petition accepted by the Hon'ble Supreme Court



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Rate of duty will be calculated on the day on which goods were imported or when the goods were debonded from warehouse?¹

Facts :-

- Respondent had imported goods and stored the same in a warehouse on clearing the goods Customs demanded different duty i.e. duty on the day of importation of goods rather than duty on the day of debonding from the unit.
- Hon'ble Hyderabad CESTAT in the present case passed an order upholding that the importer is liable to pay duty on the date debonding rather than on the day of import of goods in its decision (*SAHUWALA HIGH PRESSURE CYLINDERS PVT LTD Vs. COMMISSIONER OF CUSTOMS AND SERVICE TAX*).
- It was also held that the appellant is liable to pay duty for indigenously procured capital goods at the rate of duty prevailing on the date of debonding and no interest is payable by the appellant.
- Revenue filed an a writ before the Hon'ble Supreme Court challenging the order of Hon'ble CESTAT.

Held:-

- The Hon'ble Supreme Court of India issued notice to the concerned parties returnable within 12 weeks.

1. COMMISSIONER OF CUSTOMS AND SERVICE TAX, VISAKHAPATNAM Vs SAHUWALA HIGH PRESSURE CYLINDER PVT LTD

DGFT

Extension of FTP and HBP till 30.09.2021

DGFT had extended Foreign Trade Policy 2015-20 and Hand Book of Procedure 2015-20 till 30.09.2020 by Notification No. 60/2015-2020 and Public Notice No. 48/2015-2020 dated 31.03.2021 respectively.

Highlights of Extension –

- ✓ GST & Compensation Cess Exemption has been extended under Advance Authorisation Scheme, EPCG Scheme and EOU/EHTP/STPs/BTPs from 31.03.2021 to 30.09.2021. Notification No. **19/2021-Cus** Dated 30.03.2021 issued by CBIC for exemption of IGST & Compensation cess upto 01.04.2022 is notified for EOUs, Notification No. **23/2021-Cus** dated 31.03.2021 issued for IGST & Compensation cess for AA and EPCG scheme till 01.04.2022.
- ✓ Status Certificate validity has been extended till 30.09.2021.
- ✓ Norms Ratified by Norms committee in relation to any Advance Authorisation, now it will be valid 3 years or up to 30.09.2021.

DGFT New Module for Restricted Items

As per earlier announcement of DGFT wherein it was provided that a new module will be available for the Import Authorisation for Restricted Item. DGFT vide trade Notice No. 47/2020-21 dated 23.03.2021 launched the online module effective from 22.03.2021¹.

Earlier for Import Authorisation of Restricted Items applications were required to be submitted manually and the Authorisation were issued directly from DGFT HQ. Now the New Online Module will provide the following services from 18.03.2021 –

- ✓ The application will be fully electronic and paperless.
- ✓ Authorisation will be issued online.
- ✓ For revalidation or amendment of the authorisation users can apply electronically.

In case of application filed before 22.03.2021 DGFT will suitably migrate in online module and will provide electronic authorisation.

1. Trade Notice No. 47/2020-21 dated 23.03.21

Clarification for Electronic filing of Non-Preferential Certificate of Origin (CoO)



HELPING CLIENTS KEEP MORE OF WHAT THEY EARN

DGFT had earlier announced via Trade Notice No. 42/2020-2021 for electronic filing of Non-Preferential Certificates of Origin using e-CoO platform, with a objective to provide an electronic, contact-less single window for the CoO related processes.

Following Clarification given on Electronic filing of Non-Preferential Certificate of Origin (CoO) through the Common Digital Platform for India's Exports –

1. Applications for Non-Preferential Certificate of Origin may also be submitted through e-CoO platform w.e.f. **15th April 2021** manual application will also be acceptable till **31 July 2021** by following the existing procedure until any further order.
2. e-CoO system will generate 3 set of CoO leaves i.e. electronic, Original and duplicate. The electronic copy shall bear the image sign and seal of the issuing agency, other 2 copies will not bear any signatures. However, exporter may choose to take prints of these remaining copies duly signed in wet-ink by the issuing officer along with the stamp of the issuing office.
3. The authenticity of the online CoO(NP) issued shall be verifiable through QR code displayed on the certificate or through certificate number.
4. For the purpose of electronic filing of application a class III DSC shall be required by the exporter.

Import of Calcined Pet Coke and Raw Pet Coke

Procedure to Import Calcined Pet Coke (0.5 Million MT) and Raw Pet Coke (1.4 Million MT) for Aluminium Industry and Calcined Pet Coke Manufacturing Industry respectively notified for the F.Y 2021-2022.

As per Hon'ble Supreme Court Order dated 09.10.2018 in writ petition no. 13029/1985, wherein it was ordered that for the import of raw material for use as Calcined Pet Coke in Aluminium Industry cannot exceed 0.5 million MT per annum and import of Raw Pet Coke for CPC manufacturing Industry cannot exceed 1.4 million MT per annum.

DGFT following the order of the Hon'ble Supreme Court notified the application process in quota system for import of the captioned materials.

Following mandates issued for the application :

1. Import of materials will be subject to guidelines issued by Ministry of Environment Forest and Climate Change as per OM No. Q-18011/54/2018-CPA.
2. Import of captioned material will be allowed to all industrial units in the concerned industry.
3. Units have to submit State Pollution Control Board (SPCB)/Pollution Control Committee (PCC) Certificate indicating capacity of the unit as on 09.10.2018.
4. A valid consent certificate in the name of unit indicating the quantity permitted for import and its usage on monthly and early basis from SPCB/PCC.
5. A complete online application must be submitted on or before 15.04.2021 with certificates mentioned in points 3 and 4 above.
6. A report will have to be submit before concerned RA in every 30 days for import of materials.

Closure of Advance Authorisation - Online

DGFT had revamped its IT infrastructure to provide a paperless and contact less electronic channel for Advance Authorisation holder and EPCG scheme wherein one can manage entire life-cycle of Advance Authorisation including its issuance, amendments and closure.

Closure of Authorisation and its Process

For closure of Advance Authorisation (AA) it is clarified that the authorisation holder are required to make online submissions for fulfilment of export obligation as per Para 4.46 of HBP 2015-2020. For closure of AA following steps can be followed to proceed i.e. DGFT Website > Services > Advance Authorisation > Closure of AA. For Closure of AA other related documents will be fetch directly from repositories i.e. EDI shipping bills and e-BRC. For documents not available following remedy provided –

1. **For Non-EDI BoEs and Non-EDI Shipping Bills** – Exporters are required to upload the details of the non-EDI BoEs and Shipping Bills in the respective online repositories.
2. **For CA/CE/CS Certificates** – Digital platform to fetch the CA/CE/CS digitally signed certificates is provided in CA/CE/CS repositories, however exporters have an option to upload the certificate directly to the repositories.
3. **TR Challan and/or Bank Guarantee/Letter of Undertaking/Corporate Guarantee** – These documents are required to be submit physically at the receipt counter of RA.
4. Physical Documents required by RA – In case of genuine difficulty faced by exporter RA may approve to submit the documents physically, however an online application is still required to be filed by the exporter in DGFT website.

New Monitoring System for Aluminium and Copper Items

Non Ferrous Metal Import Monitoring System (NFMIMS)

Government is monitoring the import of Steel and Coal by **Steel Import Monitoring System (SIMS)** and **Coal Import Monitoring System (CIMS)** respectively, wherein all the importers are required to get registration for import of items of steel and coal on a registration fee of Rs 1 per thousand subject to a minimum of Rs.500/- and a maximum of Rs 1 Lakh on aggregate CIF value of imports.

Now, The Government is expanding its monitoring scope to the **Copper and Aluminium and articles thereof (covered under Chapter 74 and 76 of Customs Tariff)** by introducing Non Ferrous Metal Import Monitoring System (NFMIMS). DGFT has issued **Notification No. 61/2015-2020 dated 31.03.2021**, specifying the HSN code under Chapter 74 and 76 of customs tariff which will be mandatory require registration under NFMIMS from **12.04.2021**.

Fees for Registration

Registration fee will be same as mentioned in SIMS and CIMS for the **Copper and Aluminium and articles registration**.

Process for Registration

From 12.04.2021 online application is required to be file under DGFT Import management system for registration.

Miscellaneous Updates

1. The date of implementation of Track and Trace system for export of drug formulation with respect to maintaining the parent child relationship in packaging levels and its uploading on Central Portal has been extended to 01.04.2022 from 01.04.2021.
2. List of agencies authorised to issue preferential certificate of origin is notified by the DGFT under India – Maritius CECPA (Comprehensive Economic Co-operation and Partnership Agreement).
3. Electronic filing and Issuance of Preferential Certificate of Origin (CoO) for India's Exports under India-Mauritius Comprehensive Economic Cooperation and Partnership Agreement (IMCECPA) can now be accessible from e-CoO platform from 01.04.2021.

Writ Petition: High Court Judgment

MEIS reward declaration is mandatory to claim MEIS benefit as per Para 3.14 of HBP 2015-20 when exports were done from non-EDI port¹

Facts :-

- Petitioner had exported goods in initial time of [FTP 2015-20](#) i.e. in between 01.04.2015 to 31.05.2015 from non-EDI port wherein they have not provided declaration for MEIS reward whether they intend to claim or not.
- The petitioner were got MEIS scrips for the exports under the period but the same was surrendered due to the clarification requirement from DGFT HQ i.e. whether non-EDI shipping bills are eligible for MEIS reward or not.
- The petitioner filed writ before the Hon'ble High Court of Gujarat to revoke the suspension of the MEIS scrips issued as per the [FTP 2015-20](#) and only suspended due to declaration was not given in this regard.

Held:-

- The Hon'ble High Court of Gujarat held that there is no dispute that the writ-applicant is eligible to claim the benefits under the MEIS since it has admittedly exported the notified goods to the notified countries as per the scheme of the MEIS.

1. ORIENTAL CARBON AND CHEMICALS LTD Vs UNION OF INDIA

Writ Petition: High Court Judgment

- It was accepted that the only lapse is with regard to the inadvertent non-mention of the declaration of intent as per Clause 3.14 of the Handbook of Procedures during the period between 1.4.2015 and 31.3.2015, i.e. during the initial period of the FTP, 2015-20, wherein it was not confirmed that the declaration is required or not.
- The writ-applicant's shipping bills were non-EDI only because the Mundra Port was not an EDI port.
- This lapse being a technical or a procedural lapse, the writ applicant should not be denied substantive benefits, as held by this Court in the case of **Bombardier Transportation India Pvt. Ltd**
- Finally it was upheld that “it would be extremely unfair and unjust not to extend the benefits of the MEIS to the writ applicant on the ground that it had exported goods from a non-EDI port.”
- Petition is allowed and respondent is mandated to take steps within Eight weeks from the order.

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