



HELPING CLIENTS KEEP MORE OF WHAT THEY EARN

GST, Customs and DGFT Updates

From 06.05.2021 to 19.05.2021

GSTiDEA

Knowledge Portal on Goods & Services Tax

GST

Relief measure undertaken to provide benefit to the taxpayer

- 1. Exclusion of time period between filing of refund application and receiving deficiency memo from the limitation period of 2years as specified under Section 54 of CGST Act 2017**
 - A relief has been given to the taxpayer by excluding the deficiency period in respect of any fresh refund claim filed by the applicant after rectification of the deficiencies.

- 2. Facility provided to taxpayer for allowing withdrawal of refund application**
 - Taxpayer can now withdraw the refund application by filing an application in Form GST RFD-01W at any point of time before issuance of provisional refund sanction order in Form GST RFD-04 or final refund sanction order in Form GST RFD-06 or payment order in Form GST RFD-05 or refund withhold order in Form GST RFD-07 or notice in FORM GST RFD-08.
 - On submission of application for withdrawal of refund in FORM GST RFD-01W, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in FORM GST RFD-01, shall be credited back to the ledger from which such debit was made.

- 3. Extension of period for revocation of cancellation of registration**
 - A separate SOP has also been issued by CBIC in this regard. We have discussed the same in details in the upcoming slide.

Relief measure undertaken to provide benefit to the taxpayer

4. Order Sanctioning Refund

- Earlier the order for withholding of refund was issued in Part B of Form GST RFD-07. However as per the amendment in CGST Act now the order for withholding of refund shall be passed in Part A of Form GST RFD-07.
- Earlier it was mentioned that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, then order giving details of the adjustment shall be issued in Part A of FORM GST RFD-07. However post amendment this proviso as been removed.
- A new proviso has been inserted² wherein the proper officer or the Commissioner has been given the power to pass an order for release of withheld refund in Part B of FORM GST RFD- 07 if the officer is satisfied that the refund is no longer liable to be withheld.
- Similarly in case of refund of IGST paid on goods or service exported outside India.³ The withholding Order shall be passed in Part A of FORM GST RFD-07 and the release order for refund withheld by the officer shall be passed in Part B of Form GST RFD-07.
- Therefore, changes has been made in Part A and Part B of form RFD-07 wherein earlier Part A was for order for adjustment of refund amount with any govt. due pending and Part B was order to withhold refund. However, now **Part A has been amended to include both adjustment and withhold order** and **Part B has been changed to order to release refund withheld earlier.**

1. Notification No., 15/2021 – Central tax dated May 18th, 2021

2. Rule 92 (2) of CGST Rules 2017.

3 Rule 96 (7) of CGST Rules 2017

Relief measure undertaken to provide benefit to the taxpayer

5. Changes in blocking of e-way bill for inward supply of a registered person

- CBIC has inserted Rule 138E in the CGST Rules which restricts generation of E-way bill by the taxpayer if the returns for a consecutive period of two months has not been furnished. Similarly, in case of composition taxpayers have not furnished the statement in FORM GST CMP-08 for two consecutive quarters.
- This rule has been made was amended dated 18th May 2021, wherein now the e-way bill cannot be generated in respect of any outward movement of goods of a registered person. Earlier under this Rule both Supplier and Recipient was covered. However, now it was modified allowing relief to tax payer.
- In regard to the above provision we have given a small illustration to explain the above transaction.
- Earlier If A supply goods to B and B was a defaulter then not was not able to generate –way bill for the transaction.
- However, after the amendment if A supply goods to B and B is defaulter, then A can generate the –e-way bill and ensure the movement of goods. So the transaction will not be hampered at this stage.
- Thus it can be said that now the blocking of e-way bill is applicable only on the Outward transaction made by the supplier.
- Hence relief is given to the recipient of service in this regard.

1. Notification No., 15/2021 – Central tax dated May 18th, 2021

2. Notification No 36/2019 – Central Tax dated 200th August 2020 effective from 21st November 2019 Rule 92 (2) of CGST Rules 2017.

SOPs for extension of time limit to apply for revocation of cancellation of GST Registration



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- CBIC has issued Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration.
- These guidelines shall be followed till the time an independent functionality for extension of time limit for applying in FORM GST REG-21 is developed on the GSTN portal.
- Earlier **30 days time limit** from the date of service of the cancellation order was provided to the registered taxpayer for applying for revocation of GST registration in form GST REG-21 . Now vide amendment to CGST Act 2017, the same has been extended to 90 days from the date of receipt of order on the consent of the Additional or Joint Commissioner & Commissioner as the case may be.
- A similar provision was there in Section 30 of the CGST Act which deals with revocation of cancellation of GST registration. Consequently, changes have also been made in Rule 23 and Form GST REG-21 of the Central Goods and Services Tax Rules, 2017.
- In case the registered person applies for revocation of cancellation beyond 30 days, but within 90 days from the date of service of the cancellation order, a procedure has been specified for handling such cases and the same is covered in detail in the next slide.

Procedure for extension of time-line for revocation of cancellation of GST Registration



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Application made within 60/90days from date service of the cancellation order

- In this case a request letter needs to be filed with the proper officer either through letter or e-mail, for extension of time limit to apply for revocation of cancellation of registration by providing the grounds on which such extension is sought.
- The proper officer shall forward the request to the jurisdictional Joint/Additional Commissioner for decision on the request for extension of time limit.
- The Joint/Additional Commissioner, on examination of the request may extend the time limit to apply for revocation of cancellation of registration. In case the request is accepted, the extension of the time limit shall be communicated to the proper officer.
- However, in case the concerned Joint/Additional Commissioner, is not satisfied with the grounds, an opportunity of personal hearing may be granted to the person before taking decision. In case of rejection of the request for the extension of time limit, the reasons for rejection may be communicated to the person concerned.
- On receipt of the decision of the Joint/Additional Commissioner, the proper officer shall process the application for revocation of cancellation of registration.
- It was clearly mentioned that the said circular shall cease to have effect once the independent functionality for extension of time limit for applying in FORM GST REG-21 is developed on the GSTN portal.

Miscellaneous Update

Date for Generation of GSTR 2B extended

- Generation of auto-drafted statement containing the details of input tax credit in FORM GSTR-2B for counter-party recipients as being specified in Rules.¹
- As per Rules Form GSTR-2B shall be made available to the recipients after the due date of filing GSTR-1/IFF by the suppliers.
- CBIC vide notification² extend the due date of GSTR-1 and IFF for April 2021, to 26th and 28th May 2021, respectively. Consequently, GSTR-2B for April 2021 will be generated after the Due dates, on 29th May 2021.
- Taxpayers willing to file form GSTR-3B for April 2021 before GSTR-2B generation may do so on self-assessment basis.
- Cumulative limit under Rule-36(4) for ITC claimed in periods April & May 2021 was prescribed by CIBC vide notification.³

Extension Of The Due Date Of Filing Revocation Application For Cancellation ⁴

- In view of, the timeline for filing the 'Application for Revocation of Cancellation' has been extended for those applicants, for whom the due date to file the same falls between 15 April to 30th May, 2021. Now, they can file the said application till 31st May, 2021

1. Rule 60(7) of CGST Rules

2. Notification No. 12/2021-CT and 13/2021-CT, both dated 1st May 2021

3. Notification No. 13/2021-CT dated May 1st, 2021

4. Notification No. 14/2021 dated May 1st, 2021

Writ Petition: Calcutta High Court Judgment

Court quashed the proceedings initiated by the West Bengal GST authorities by considering the fact that the matter is already pending before CGST authority

❑ **Facts-**

- The present Petition filed on the matter that as the proper officer of CGST has initiated any proceeding on a subject matter, wherein a similar proceeding was pending with the CGST authority.
- It was argued that no proceeding shall be initiated by the proper officer under the Act on the same subject matter as per Clause (b) of sub-section (2) of Section 6 of WBGST Act.
- The Petitioner relied on the provision of Section 6(2)(b) of the WBGST ACT wherein it is mentioned that “where a proper officer under Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under that Act on the same subject matter”.
- Further, relying on a notification dated 05.10.2018 issued by CBIC, it was further argued that if an officer of the Central tax authority initiates intelligence based enforcement action against a taxpayer administratively assigned to State tax authority, the officers of the Central tax authority would not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions.

Writ Petition: Calcutta High Court Judgment

□ Held:-

- The Court quashed the proceedings initiated by the West Bengal GST authorities by considering the fact that the matter is already pending before the CGST authorities.
- The Court while staying the summons and further proceedings by the State department held that the summons that have been issued by the State GST is, prima facie, in violation of Section 6(2)(b) of the WBGST Act.

Writ Petition: Gujarat High Court Judgment



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Freezing of bank account without giving notice on the grounds that petitioner involved in voluminous transaction with third party

❑ Facts:-

- The petitioner herein is the proprietor of the Firm. It is acting as commission agent at Agricultural Produce Market Committee, Gondal with its valid license No.
- The petitioner was involved in voluminous transactions of several parties and he follows the law while conducting his business. He came to realize that the Central Bank of India on 20.08.2020 froze his current account.
- Without availing any opportunity, he straightway received the attachment order and realized that from the Office of the Principal Commissioner of Central GST, Mumbai, such order of freezing had happened and since then, he has not been allowed to operate the account.
- Petitioner approached the respondent no.2 at Mumbai with the similar request of de-freezing the account as also to provide the reasons of such attachment for freezing of his account. He was orally conveyed that because of voluminous transactions with the third party, which is involved in violation of the provisions of the CGST Act, his account has been frizzed.
- Hence the present petition is filed.

Writ Petition: Gujarat High Court Judgment

Freezing of bank account without giving notice on the grounds that petitioner involved in voluminous transaction with third party

□ Held:-

- Even for safeguarding the government revenue, provisional attachment of bank account is not permitted against the third party.
- Only upon the conditions provided under **Section 83 being fulfilled, the powers are to be exercised - In the instant case also, there are no proceedings against the present petitioner.**
- There is no reason, therefore, to invoke section 83 against the writ applicant - **Since the proceedings are initiated by the authorities in connection with the third parties,** invocation of powers under Section 83 are not available with the respondents.
- The impugned order of provisional attachment of bank account is quashed and set aside without addressing the issue concerning **Section 79** of the Act which the Petitioner wishes to challenge before the appropriate forum.
- Writ petition succeeds and is allowed. The attachment is ordered to be lifted and the petitioner is permitted to operate his bank account.

Writ Petition: Telangana High Court Judgment



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GST –Best judgement assessment does not mean multiplying 3 times the monthly average SGST and adopting it as a basis for assessing the petitioner to tax for the month for which return not filed:

□ Facts:-

- The petitioner did not file GSTR-3B return for the month of Nov 2018 for which notice has been issued on 29-01-2019.
- Warning the petitioner submits that if it did not file return within 15 days tax liability would be assessed under Sec 62 of the Act based on material available along with interest and penalty.
- Petitioner didn't comply, judgement came from respondent that whatever the monthly SGST tax liability should be three times. Therefore petitioner turnover under SGST, CGST and IGST are 3 times the monthly average and the Tax for the above tax period and 100% penalty has also been levied without indicating the provision under which it is imposed
- On the following matter present petition is filed.

Writ Petition: Telangana High Court Judgment



HELPING CLIENTS KEEP MORE OF WHAT THEY EARN

GST –Best judgement assessment does not mean multiplying 3 times the monthly average SGST and adopting it as a basis for assessing the petitioner to tax for the month for which return not filed:

□ **Held:-**

- Revenue Counsel is unable to point out what is the principal followed by the respondent in doing best judgement in the manner i.e. multiplying 3 times the monthly average SGST, and adopting it as a basis for assessing the petitioner to tax for the month of NOV, 2018 also could not indicate under which provision of law 100% penalty is levied on the petitioner.
- Impugned order appears to be prima facie arbitrary and contrary to the provisions of Telangana GST . The matter is remitted back to the first respondent for fresh consideration .
- The first respondent shall issue a notice to the petitioner indicating the method of assessment under the best judgement assessment provision; grant a personal hearing to the petitioner and pass a reasoned order both with regard to levy of tax but also with regard to interest and penalty afresh. Hence the writ petition is allowed.

Writ Petition: Delhi High Court Judgment



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GST – Draconian step - In their zeal to protect interest of revenue , respondent cannot attach any and every property including bank accounts of person other than taxable person.

❑ Facts:-

- Petition is directed against the orders passed by the respondent whereby several bank accounts of the petitioner have been provisionally attached - Petitioner was acting as a director on the Board of Directors of the company. Petitioner is also a shareholder in the said company and owns approximately 14.33 % equity shares.
- Based on the above information received, that the company Milkfood Ltd. was availing Input Tax Credit against fake/ineligible invoices, commenced investigation, under Section 67 of the Act and consequently the orders of attachment of bank accounts
- Petitioner submits that the proceeding initiated against the petitioner u/s 83 of the Act is without jurisdiction, as the petitioner does not fall within the ambit of the definition of a 'taxable person'; the taxable person being the company and not the petitioner.

GST – Draconian step - In their zeal to protect interest of revenue , respondent cannot attach any and every property including bank accounts of person other than taxable person.

❑ **Held:-**

- According to Subsection(1) of Section 83 of the Act in no uncertain terms states that provisional attachment can be ordered only qua property, including bank account, belonging to the taxable person.
- As per Section 2(107) of the Act “Taxable person” means that person who can be a taxable person, who is registered or liable to be registered as per the Act. It is not even the case of the respondent that the petitioner is either registered or was liable to be registered in terms of the provisions of Section 2(107) of the Act. Therefore, the proceedings must fail on this score alone.
- Even if it is assumed for the moment that since investigations are on against the taxable person and, therefore, proceedings are pending under Section 67 of the Act, there is nothing placed on record to show that there was material available with the respondent, linking the petitioner to purported fake invoices.
- In other words, in the absence of such material, the impugned action concerning provisional attachment of the petitioner's bank accounts, was unsustainable. In the zeal to protect the interest of the revenue, the respondent cannot attach any and every property, including bank accounts of persons, other than the taxable person.

AAAR

Appellate Authority of Advance Rulings : AAAR

GST- Applicant seeks to know as to whether they are eligible to claim refund of excess tax payment made:-

❑ Facts:-

- Applicant is a public sector undertaking engaged in manufacturing of products to meet the needs of mining, construction, power, irrigation, fertilizer, cement, steel etc. Applicant is also one of the leading manufacturers of rail and metro coaches.
- Applicant has sought advance ruling on the following questions viz.
- They seek a ruling as to whether the supplies made by Cost Centres C [Delivery and receipt of indigenous manufacturing], D [Commissioning and Acceptance of trains/ cars in Depot], E [Taking over of unit/train for revenue services] and G [Supply of Unit Exchange spares, mandatory spares and consumable spares and special tools testing and diagnostic equipment] are independent supplies of goods and services or composite supply of principal supply of goods.
- Applicant also put a query that in case the whole activity is considered as the composite supply with principal supply then would the applicant be eligible to claim refund of excess tax payment made by them.

GST- Applicant seeks to know as to whether they are eligible to claim refund of excess tax payment made

❑ Held:-

- It is clear that the supplies made in one of cost centre is of goods some of are related to services and one related to spares. Thus supply by Cost centre would form a composite supply as the supply involves supply of intermediate car and also integration , commissioning etc. supply by Cost Centre C to G would only make it a composite supply and the supply of intermediate cars being the principal supply.
- Supply of cost centre would form a composite supply as it is naturally bundled supply with the supply of intermediate cars and the entire supply would amount to composite supply of intermediate cars would be the principal supply.
- Held that supplies made in cost centre would be treated as principal supply thus Section 8 and Section 12 is applicable to the issues related to the time of supply.
- Query related to eligibility to claim refund of excess tax payment- authority observes that this query is outside the scope of Section 97(2) of the Act and therefore declines to answer this question.

GST- Promotional products / materials & marketing items used by the Appellant can be considered as 'input' however GST paid cannot be availed as ITC in view of the provision of Sec 17(2) and 17(5)(h)

❑ **Fact:-**

- Here Applicant is engaged in manufacture, distribution and marketing of Knitted and Woven Garments under the brand name of "Jockey", Swim-wears and Swimming Equipment's under the brand name of "SPEEDO". The applicant also gets the said garments manufactured from their job workers .

- An applicant had sought advance ruling and considering that the promotional products / Materials and Marketing Items used by the Applicant in promoting their brand and marketing their products can be considered as "inputs" and GST paid on the same can be availed as input tax credit in terms of section 16 of the CGST Act, 2017

GST- Promotional products / materials & marketing items used by the Appellant can be considered as 'input' however GST paid cannot be availed as ITC in view of the provision of Sec 17(2) and 17(5)(h)

□ **Held:-**

- AAAR finds from the copies of the agreements furnished by the Appellant that there is a contractual obligation on the part of the Appellant to provide their EBO/franchisees and distributors promotional materials.
- The purpose of providing the EBO/franchisees and distributors with these promotional items is to enhance the sales of their products. Thus, AAAR has no hesitation in concluding that these promotional items are indeed used in the course or furtherance of the Appellant's business.
- Section 17(2) provides that input tax credit shall be allowed only when the goods and services or both are used for business purposes or for making a taxable supply (including zero-rated supply). When the goods or services or both are used towards making an exempt supply, then input tax credit is not allowed. As per Section 2(47) of the CGST Act, the term 'exempt supply' also includes non-taxable supply.
- In view of the above provisions, we hold that the GST paid on the procurement of promotional items supplied to the EBOs/franchisees and distributors free of charge will not be eligible for input tax credit since the said supply is a non-taxable supply

Customs

Anti-dumping Duty (ADD)

Tariff Head	Subject Goods/Country	Then	Now
7304	‘Seamless tubes, pipes and hollow profiles of iron, alloy or non-alloy steel (other than cast iron and stainless steel), whether hot finished or cold drawn or cold rolled of an external diameter not exceeding 355.6 mm or 14” OD”originating in or exported from Peoples’ Republic of China¹	Leviale by notification no. 07/2017-Customs (ADD), dated the 17th February, 2017. ADD was leviale till 17.02.2021.	Review in for levy of ADD started on 19.02.2021. Now ADD will be leviale on gooods as per notification no. 07/2017 – Customs(ADD) up to 31.10.2021.

1. Notification No. 29/2021 -Customs (ADD)

Acceptance of Undertaking in lieu of Bond

CBIC to facilitate Customs Clearance has announced to accept undertaking in lieu of Bond.

CBIC vide Circular No. 09/2021 dated 08.05.21 had restored the facility for furnishing Undertaking instead of Bond under circular no. 17/2020 dated 03.04.202. In year 2020 due to outbreak of Covid Pandemic CBIC had provided relaxation to the industry of trade for furnishing Bond under **Section 143AA of Customs Act, 1962.**

In the current scenario various representation has been made before the CBIC to restore the facility again. CBIC vide the captioned circular has restored the facility to furnish bond under Section 143AA. Now trade and industry can submit undertaking in lieu of Bonds till 30.06.2021 and can replace the undertakings against Bonds till 15.07.2021.

Undertakings may be submitted by following trade notices issued earlier.

Changes introduced in Import of Goods at Concessional Rate of Duty (IGCR) Rules



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Changes Introduced in IGCR Rules via Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2021.

CBIC made an effort towards creating an enabling environment for the promoting manufacturing by domestic industry to make them competitive globally and also make them self-reliant in furtherance of the goal of Atmanirbhar Bharat. Central Government has made changes in IGCR Rules to promote the trade and industry, following changes were made –

1. Job Work

- The facility of carrying out job work under the ambit of IGCR has been introduced.
- Job Work option can be used by any manufacturer having capacity of 100% or NIL and can outsourced all the manufacturing material via imports. Job Work option is not provided to sectors like gold, articles of jewellery and other precious metals or stones.

2. Import and clearance of capital goods

- Option is also given to the trade and industry to import Capital Goods at a concessional rate for a specified purpose and after having put such capital goods to use for the said purpose, clear the same after payment of the differential duty and interest, at a depreciated value, with permission from the jurisdictional Customs Officer.

3. More Exemption for end-use under the ambit of IGCR Rules via

- At present there are certain exemption given via Notification No. 50/2017-Customs, dated 30.06.2017 which are being administered without the need to follow the procedure set out under the said IGCR Rules, 2017. Now Govt. will more exemption under IGCR rules.

Changes introduced Import of Goods at Concessional Rate of Duty (IGCR) Rules



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4. Procedure to be followed by Importers

All the importers utilizing the facility given under IGCR Rules require to comply with its compliance procedure as stated in rules and notifications, a summary has been given hereunder –

- An importer who intends to avail the benefits of IGCR Rules have to give a prior information to its Jurisdictional Customs Officer for Import of such goods will all the inputs, outputs, manufacturing details and premise details.
- Importer is require to furnish a continuity bond to cover all the imports for which importer has intended to avail ICGR Rules.
- Importers are require to provide an information to the jurisdictional officer for the estimated imports having value and quantity and exemption details.
- Intimation letter also be required to shared with the Customs Officer from where the goods imported.
- After import if the manufacturer sent goods to the Job Workers then a information letter shall be require to submit before the Jurisdictional Officer with the details of Job Workers and details of goods by 5th of every month.
- Importers are required to maintain such accounts which can give details of all the imports, clearances and usage of imported goods and shall require to file quarterly return.

Special Refund and Drawback Disposal Drive



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CBIC to help trade and industry in the 2nd wave of Covid, has decided that timely disposal of all pending refund/duty drawback claims in order to provide immediate relief to the business entities, especially MSMEs, in these difficult times.

CBIC like last year has initiated “**Special Refund and Drawback Disposal Drive**” with the objective of priority processing and disposal of all pending refund and drawback claims. This Special Drive shall be in place from **15th May 2021 to 31st May 2021**. It is expected that during this period all refund and drawback claims that are pending as on 14th May 2021 shall be disposed.

The Principal Chief Commissioners/ Chief Commissioners shall monitor the performance on this front closely on a daily basis and guide the officers for resolving any error.

DGFT

DGFT e-EPCG Committee Module

In process of IT Revamp Policy of DGFT, now it has introduced an online module for accepting application of Exporters/Importers for seeking relaxation under Policy/Procedure in terms of para 2.58 of [FTP 2015-2020](#).

Now Exporters/Importers for seeking relaxation under Policy/Procedure in terms of para 2.58 can apply for relaxation before EPCG Committee via its online module. No Manual submissions are required and all the process will be take place online only.

Decision of the Committee will also be given online in its e-module. Anyone can use this module by following these steps –

Login in DGFT Portal – Services – EPCG – Apply for EPCG Committee.

DGFT e-Module for Non Scomet Items

Trade Notice No. 50 dated 15.03.2019 vide which a new module for filing online applications for 'Restricted' Items (Non-SCOMET) to DGFT (HQ) was made operational from 19.03.2019.

As part of IT Revamp of its exporter/importer related services, DGFT has introduced a new online module for filing of electronic, paperless applications for export authorizations with effect from 17.05.2021. All applicants seeking export authorization for restricted items may apply online by navigating to the DGFT website (<https://www.dgft.gov.in>) -> Services -> Export Management Systems -> License for Restricted Exports

Accordingly, applications for issuance as well as for amendment/re-validation of export authorization will need to be submitted online as per the above link and export authorizations 2 for restricted items(Non-SCOMET) will continue to be issued from DGFT HQ, Udyog Bhawan, New Delhi through new module with effect from **17.05.2021**. It may further be noted that all pending applications will be migrated to this new system and will be processed at DGFT(HQ).

Officers are instructed to follow the proper guidelines for clearance of refund and if necessary it is allowed to issue a deficiency and accept necessary documents via mail and proceed its refund according to law.

Miscellaneous

1. **CHIP Import Monitoring System (CHIMS)** will be effective from 01.08.2021 for HSN 8542. The system will be same as CIMS/SIMS and fees structure will also be same for import of goods.
2. RCMC Certificates expired by 31.03.2021 will now be effective till **30.09.2021** for DGFT as per Trade Notice No. 04/2021-22 dated 10.05.21.

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