



INDIRECT TAX E-BULLETIN

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**KHAITAN
& CO**

Advocates since 1911

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01.

GOODS AND SERVICES TAX

NOTIFICATIONS AND CIRCULARS

Key GST Notifications pursuant to 43rd GST Council Meeting

Notification No. and date	Particulars
Notification No. 16/2021-CT dated 01 June 2021	Appoints 01.06.2021 as the day from which amendment of section 50 of the CGST Act, 2017 vide of section 112 of Finance Act 2021, shall come into force.
Notification No. 23/2021-CT dated 01 June 2021	Amends Notification No. 13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuing of e-invoices.
Ad Hoc Exemption Order No. 05/2021 dated 31 May 2021	Ad hoc Exemption Order No. 4/2021-Customs is amended to extend the exemption from IGST on imports of specified COVID-19 relief material donated from abroad, up to 31 August 2021.
Notification No. 32/2021-Cus dated 31 May 2021 Corresponding instructions issued under Instruction No. 09/2021-Customs dated 3 May 2021.	Exempts IGST on import of COVID-19 relief materials specified under Notification No. 27/2021-Cus dated 20 April 2021 and Notification No. 28/2021-Cus dated 24 April 2021, when imported for donation to Central or State Government or to any relief agency entity or statutory body (on recommendation of State authority), for free distribution, subject to specified conditions. Exemption is granted for imports up to 31 August 2021.
Notification No. 01/2021-Central Tax (Rate) and No. 01/2021-Integrated Tax (Rate) both	Changes CGST and IGST rates for Diethylcarbamazine from 6% and 12% to 2.5% and 5% respectively. Rate for Toy Balloons made of natural rubber latex

dated 02 June 2021.	classifiable under CTH 9530 will be taxable at 2.5% and 5% respectively.
Notification No. 02/2021-Integrated Tax (Rate) and No. 02/2021-Central Tax (Rate) both dated 02 June 2021	Amends notification No. 08/2017- Integrated Tax (Rate) and Notification No. 08/2017-CT (Rate) to notify CGST rates of services such as MRO in respect of ships, vessels, their engines, components or parts (2.5% CGST and 5% IGST). Landowner/ promoter can utilize credit of tax charged to him by developer / promoter for payment of tax on apartments supplied by land-owner promoter in respect of the project.
Notification No. 03/2021-Integrated Tax (Rate) and No. 03/2021-Central Tax (Rate) both dated 02 June 2021	Amendments made about payment liability and modalities of payment for promoters receiving developments rights or FSI or long- term lease for construction of residential apartments.

Amnesty Scheme to provide relief to tax-payers regarding late fee, compliance relaxations, reduced interest rates and simplification of Annual return for FY 2020-21

Notification No. and date	Particulars
Notification No. 17/2021-CT dated 1 June 2021	Extends the due date for FORM GSTR-1 for May 2021 by 15 days.
Notification No. 18/2021-CT dated 1 June 2021	Lowers interest rate for tax periods between March 2021 to May 2021.
Notification No. 19/2021-CT dated 1 June 2021	<ul style="list-style-type: none"> Rationalizes late fee for delayed return (FORM GSTR-3B).



Notification No. and date	Particulars
	<ul style="list-style-type: none"> Provides waiver of late fee for delayed filing of FORM GSTR-3B from July 2017 to April 2021. Provides waiver of late fees for late filing of FORM GSTR-3B for specified taxpayers and specified tax periods.
Notification No. 20/2021-CT dated 1 June 2021	Rationalizes late fee for delayed filing of FORM GSTR-1.
Notification No. 21/2021-CT dated 1 June 2021	Rationalizes late fee for delayed filing of FORM GSTR-4.
Notification No. 22/2021-CT dated 1 June 2021	Rationalizes late fee for delayed filing of FORM GSTR-7.
Notification No. 24/2021-CT dated 1 June 2021	Extends due date of compliances which fall during 15 April 2021 to 29 June 2021 till 30 June 2021.
Notification No. 25/2021-CT dated 1 June 2021	Extends due date for filing FORM GSTR-4 for financial year 2020-21 to 31 July 2021.
Notification No. 26/2021-CT dated 1 June 2021	Extend the due date for furnishing of FORM ITC-04 for Quarter ended March 2021 to 30 June 2021.
Notification No. 03/2021-Integrated Tax dated 02 June 2021	Amends Notification No.4/2019- Integrated Tax to change the place of supply for B2B MRO services in case of Shipping industry, to the location of the recipient.
Notification No. 02/2021-Integrated Tax dated 01 June 2021	Amends Notification No. 6/2017 - Integrated Tax, dated the 28 June 2017 to lower interest rate for the tax periods between March 2021 to May 2021.

Amendments with respect to refund related provisions

- Proviso has been added to Rule 90(3) of the CGST Rules to exclude time period between filing of claim in GST RFD 01 and date of communication of deficiencies in GST RFD 03 from the limitation period of 2 years prescribed under Section 54(1) of the CGST Act, in respect of fresh refund claim filed after rectification of deficiencies.
- Rule 90(5) of the CGST Rules has been introduced which gives the application an option to withdraw refund application by filing FORM GST RFD 01W before issuance of provisional/final refund sanction order/ payment order or refund withhold order/ notice in respect of any refund application.
- Rule 90(6) of the CGST Rules has been introduced which provides for withdrawal of refund of any amount debited from electronic credit ledger or electronic cash ledger while filing the application shall be credited back to the ledger from which such debit was made.
- Rule 92 of the CGST Rules has been amended to bring about procedural changes in Part A and Part B of Form RFD07 to be used by Revenue Authorities for withholding / adjustments / release of funds. Similar amendments have been made in Rule 96 of the CGST Rules as well.
- Rule 23(1) of the CGST Rules has been amended to align it to Section 30(1) wherein the Commissioner or Joint Commissioner or Additional Commissioner will now have powers to allow registered persons extension beyond 30 days to apply for revocation of cancellation. Corresponding changes have also been made in FORM GST REG 21. Large companies will have a waiting period of 90 days before such companies can respond to revocation.

[Notification No. 15/2021-CT dated 18 May 2021]

Relaxation in GST compliances

- Fourth proviso of Rule 26 of CGST Rules has been amended to extend time for companies to furnish FORM GSTR-3B and FORM GSTR-1 or invoice details using Invoice furnishing facility verified through e-verification code, up to 31 August 2021.
- Second Proviso to Rule 36(4) of the CGST Rules has been amended whereby FORM



GSTR-3B can be furnished for quarter ending June 2021 with cumulative adjustment of ITC for the months April, May and June 2021 complying with the capping of 5%.

- For quarterly return filers, second Proviso to rule 59(2) has been amended to extend timelines for furnishing details of monthly invoices for month of May 2021 using Invoice Furnishing Facility (IFF), electronically till 28 of June 2021.

[Notification No. 27/2021-CT dated 1 June 2021]

Key Circulars, orders and instructions

Circular No. and date	Particulars
FIN/REV-3/GST/1/08 (Pt-1) (Vol.1) dated 27 May 2021	Nagaland announced relaxations for procurement of oxygen cylinders and related items from suppliers / manufacturers possessing valid GSTIN issued by any State or Union Territory, subject to certain conditions.
Circular No. 148/04/2021-GST dated 18 May 2021	Prescribes Standard Operating Procedure (SOP) for extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act 2017 and rule 23 of the CGST Rules 2017. The circular provides guidelines for implementation of the provision for extension of time limit for applying for revocation of cancellation of registration under the said section and rule.
F.NO.FIN/RE V/GST/MISC/23/2017 dated 11 May 2021	Nagaland announced Appointment of State Nodal Authority for grant of Ad hoc Exemption as per Order No. 4/2021-Customs, dated 03 May 2021.
F.NO.FIN/RE V/GST/MISC/23/2017 dated 11 May 2021	Nagaland announced Appointment of State Nodal Authority for grant of Ad hoc Exemption as per Order No.4/2021-Customs, dated 03 May 2021.
Clarifications regarding Ad hoc	The FAQs provides the following clarifications:

Exemption Order No. 4/2021-Customs dated 3 May, 2021 (said Order) exempting IGST on imports of specified COVID-19 relief material subject to conditions last updated on 7 May 2021	<ul style="list-style-type: none"> Exemption would not apply to cases where the importer purchases the goods and intends to distribute free of cost in India. It is available when said goods are imported free of cost for the purpose of Covid relief by a State Government or, any entity, relief agency or statutory body, authorised in this regard by any State Government. Where goods are imported in one state but meant for free distribution in another state, then either of the states may authorise the agency to issue certificate of compliance. There is no prescribed procedure for certification of statement and the States / State nodal authorities are at liberty to devise their own suitable mechanism as deemed fit, for certification of statement. State nodal authority will authorize the importing entity, and the importer will produce the said authorization before Customs at time of clearance for availing the exemption. A certificate issued to a relief agency may cover goods imported under multiple consignments.
Government Order No. 155-FD of 2021 dated 5 May 2021	The Government of Jammu & Kashmir announced a Liberalized Policy on International Assistance during Covid-19 elaborating upon the Role of States/ UTs. The Order provides for certification of exemptions claimed on custom duty / IGST in respect of items Imported for Covid-19 related urgencies and Coordinates for all activities related to above with Ministry of Finance, Government of India.



Circular No. 6146/CT dated 5 May 2021 issued by Odisha Government	Encourages and facilitates import of COVID-19 related relief materials like drugs/ medicines/ vaccines/ oxygen concentrators/ equipment's etc. donated from aboard for free distribution in Odisha. This includes setting up of help desks, appointment of Nodal officers and ensuring that the goods mentioned above are distributed free of cost with the help of appointed functionaries.
Ad hoc Exemption Order No. 4/2021- Customs dated 03 May 2021	Exempts IGST on imports of specified COVID-19 relief material donated from abroad as specified in the Notification No. 27/2021-Customs, dated the 20 April 2021 and Notification No. 28/2021-Customs, dated the 24 April 2021 up to 30 June 2021
Circular No.150/06/20 21-GST Dated 17 June 2021	Services by way of construction of road inter alia covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities). Entry 23A of Exemption Notification No 12/2017 does not apply to construction services.
Circular No.152/06/20 21-GST Dated 17 June 2021	Works contract service provided by way of construction such as of rope way would fall under entry at Sl. No. 3(xii) of notification 11/2017-(CTR) and attract GST at the rate of 18%.
Circular No.151/06/20 21-GST Dated 17 June 2021	CBEC has issued clarification stating that GST on examination fee, entrance fee, online examination, etc. charged by Central or State Board (such as NBE/ DNB/ FNB) would be exempted under Notification No 12/2017-CT(R). However, services such as accreditation to an institution or to a profession (accreditation fee or

	registration fee such as fee for FMGE screening test) would be subject to GST at the rate of 18%.
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CASE LAWS | SUPREME COURT & HIGH COURTS

GST on import of oxygen concentrators and oxygen cylinders

Supreme Court admitted revenue's appeal against order of Delhi High Court which struck down levy of IGST on oxygen concentrators, imported for personal use as unconstitutional. The apex court noted that arguable questions are raised which merit stay of the operation of the impugned judgment and order of the Delhi High Court. Union of India argued that the judgment of the High Court impedes with public policy. Issues concerning classification of concentrators were also highlighted.

[Ministry of Finance (Department of Revenue), Government of India vs Gurcharan Singh - Special Leave to Appeal (C) No.7226/2021]

Delhi High Court, while allowing the writ petition held that IGST on import of Oxygen Concentrators, as gift, for personal use is unconstitutional

[Gurcharan Singh vs Ministry of Finance - WP(C) 5149/2021].

Khaitan & Co. is arguing an identical matter before the Bombay High Court where notice has been issued to the Respondents

[Monica Daryanani vs UOI & Ors. WP (L) No. 11549 of 2021].

Khaitan & Co. is also arguing a similar matter in respect of import of oxygen cylinders, for distribution to State Governments, free of Cost. Complying with the directions issued by Hon'ble Delhi High Court, GST Council and the Central Government exempted IGST on import of such oxygen cylinders when imported for distribution to the State Governments free of Cost. Delhi Government, in the present case is contemplating granting refund / reimbursement of IGST paid on procurement of oxygen cylinders prior to institution of the petition.

[Order dated 31 May 2021 issued in the case of International Cargo Terminals and Rail Infrastructure Pvt Ltd vs Union of India and Ors. [WP(C) 5568/2021]



DGAP prevented from enforcing coercive measures

The Delhi Court while entertaining a writ petition against order confirming profiteering amount under Section 171 of the CGST Act, instructed Directorate General of Antiprofitteering (DGAP) and the National Antiprofitteering Authority (NAA) not to subject petitioner to any coercive action in the interim. High Court observed that two out of the three entities against whom DGAP and NAA alleged/confirmed profiteering have passed on a substantial profiteered amount to their customers and one remaining entity will pass on profiteered amount before next hearing.

[Nirala Projects Pvt Ltd vs Union of India & Ors. - WP(C) 9931/2020 & CM APPL 31620/2020]

Ruling on attachment proceedings

The Madras High Court allowed the writ petition challenging attachment order issued under Section 83 of the CGST Act. The Court held that attachment proceedings cannot be at the cost of rights protected under Article 19(1)(g) of the Constitution to practise any profession, or to carry on any occupation, trade or business. The Court observed that petitioner discharged 27% of the proposed and estimated tax dues and a mechanism is available under Sections 73 and 74 of the Act for proper adjudication, determination of the tax liability. Accordingly, the Court held that there is no need to attach bank accounts of the petitioner. The Court also directed the DGCI to complete the investigation and issue appropriate show cause notice as expeditiously as possible, to protect the interest of the Revenue.

[Sri Marg Human Resources Pvt Ltd vs The Principal Additional Director General, DGCI, Chennai Zonal Unit - WP No 11284 of 2021 and WMP No 11936 of 2021]

Parliament alone can make laws for levying GST on inter-state trade or commerce

The High Court of Tripura held that the State legislature cannot frame laws taxing inter-State sale of electricity in light of Entry 54 of the State List in 7th Schedule of the Constitution. The High Court took a view that Entry 54 of the State List confines the powers of the State legislature to only six specified items. A central legislation in the form of the IGST Act levies tax on supply of goods in course of inter-State trade or commerce and would bring within its sweep supply of electricity. The State Legislature providing for duty on inter-

State sale of electricity would thus encroach an occupied field. The Court further observed that levy of tax on interstate sale of electricity is beyond the state legislature. Accordingly, section 4(4)(d) of the Tripura Electricity Duty Act 2019 was held unconstitutional and ultra vires the Constitution. It was further ordered that duty collected on inter-state sale of electricity an effectively is illegal and liable to be refunded.

[ONGC Tripura Power Company Ltd vs State of Tripura - WP(C) No.14/2021]

Interest on delayed refund

The Madras High Court ordered payment of interest at 9% on delayed refund payable till date of remission of refund amount. Court concluded that petitioner has complied with the requirements of sub-clauses (a) and (b) of Sub-Rule (1) of rule 96 of CGST Rules, 2017. Hence, it is incumbent on the respondents to refund the IGST as claimed by the petitioner.

[Modern India Products vs Assistant Commissioner of Customs WP (MD)No 9796 of 2020]

Ad-interim bail fake input tax credit case

The Supreme Court granted ad-interim bail to the petitioners in a case involving alleged availment of Input Tax Credit on fake invoices. Bail was granted on the condition of furnishing security of four crores within four months. It was clarified that in case the above conditions are not complied with, the order granting facility of ad-interim bail shall stand recalled and the petitioner will have to surrender himself before the concerned authorities.

[Mohit Bathla vs Commissioner of Central Goods and Service Tax - Special Leave to Appeal (Crl.) No(s) 3668/2021]

Ad Hoc method of assessment in absence of GSTR-3B is arbitrary

The Telangana High Court set aside assessment order confirming liability by multiplying the average monthly SGST tax paid by three times to determine liability in the absence of FORM GSTR-3B returns. The court held the assessment to be arbitrary and contrary to the provisions of the TGST Act. The Court also held that the levying of 100% penalty in such a case is not justified in law. The assessment was remanded back to the respondent for fresh consideration.



[*Golden Mesh Industries vs Assistant Commissioner (State Tax)* - WP No. 7789 of 2021]

Applicant cannot be made liable for an error in the GSTN

The Madras High Court held that the petitioner cannot be allowed to suffer denial of refund due to error in the software of GSTN when he is otherwise eligible for refund. Refund was denied on account of a technical glitch. Error having occurred due to auto-population, the Court held refund rejection to be unfair. Refund claims got auto populated under the head of SGST when refund was claimed for CGST and IGST. Court held that the petitioner is eligible for refunds under the other two heads basis manual application filed.

[*Mehar Tex vs Commissioner of Central GST And Central Excise, Madurai* - WP (MD) Nos 22996, 22999 & 23001 of 2019 and WMP (MD) Nos 19733, 19736 & 19739 of 2019]

Violation of Natural Justice when adverse order passed despite request for hearing

The Court set aside adverse order in the presence of written objections filed by the petitioner even when specific objection to show cause notice was absent. Court held that an opportunity of hearing must be granted where a request is received in writing from the person chargeable with tax or penalty or where any adverse decision is contemplated against such person as per sub-section (4) of section 75 of the CGST Act.

[*Ocean Sparkle Limited vs Assistant Commissioner (ST)* - WP No. 9162 of 2021]

Violation of Natural Justice when order and SCN issued on the same day

The High Court of Tripura held that final demand order suffers from the from grossest possible violation of principles of natural justice since the order was passed on the same date on which the show cause notice required the petitioner to appear before the authority. Court concluded that order was issued before an opportunity could be afforded to the assessee to respond to the notice. Demand order was quashed and set aside by the Court.

[*Rimi Sales Agency vs Union Of India* - WP(C) No.1185 of 2018]

02.

LEGACY TAXES (CENTRAL EXCISE / SERVICE TAX / VAT / CST)

CASE LAWS | SUPREME COURT & HIGH COURTS

Interest has to be paid to the assessee under Section 11BB of the Central Excise Act 1944 if refund is not granted within three months from the date of application

The services of the Petitioner qualified as 'export as service' and accordingly, the Petitioner filed multiple refund applications for refund of the accumulated input tax credit under Rule 5 of the CENVAT Credit Rules, 2004.

Some refund applications were accepted and sanctioned by the adjudicating authority whereas some were sanctioned by the appellate authority on appeal. In every case, the refund was ultimately sanctioned and refunded after a period of three months from the date of lodging the applications. The Petitioner accordingly claimed interest on the delayed sanctioning of refund as per Section 11BB of the Central Excise Act, 1944.

The lower authorities denied the same on the ground that the delay was unintentional. The Petitioner preferred a writ petition. The Hon'ble Bombay High Court after analyzing the statutory provisions held that if refund is sanctioned after a period of three months from the date of application, then the assessee is entitled to interest as a matter of right. It is a statutory mandate and the same has to be followed and the fact that the delay was unintentional as claimed by the Department is immaterial. Accordingly, the writ petition was allowed.

[*Qualcomm India Pvt Ltd v Union of India & Ors*, 2021 - VIL - 407 - BOM - ST]

HC sets aside show cause notices on account of adjudication pending for more than a decade



The Petitioner was involved in the manufacture of menthol crystal and peppermint oil, terpinenes etc. On an investigation conducted by the Department, it was alleged that the Petitioner was fraudulently availing CENVAT credit on the strength of fake invoices. There was no real procurement of goods. Accordingly, three show cause notices were issued in 2010.

Although multiple hearing dates were fixed, the hearing could not materialize. On account of the pending adjudication, the Petitioner preferred the writ petition. It was contended Section 11A provided that in case of fraud or collusion, the adjudication should be completed within 1 year whereas in the present case, it was pending for a decade.

The High Court took note of the submissions and also relied on the earlier decision in the case of *M/s GPI Textiles Limited v Union of India & Ors, 2021 - VIL - 398 - P&H - CE* to hold that the action of the Department in keeping the adjudication pending for such a long period is arbitrary and impermissible in law. Accordingly, the show cause notices were set aside.

[M/s Swati Menthol & Allied Chemicals Ltd. & Anr. v Commissioner, GST & Central Excise Commissionerate, Chandigarh & Ors, 2021 - VIL - 410 - P&H - CE]

Sale of food at take-away /parcel is not taxable service

Madras High Court held that sale of food at the take-away counter or by parcel is not a service liable to service tax under the section 65B(44) of the Finance Act, 1994. The court held that not all services rendered by restaurants in the sale of food and drink are taxable, but would encompass a gamut of services including arrangements for seating, décor, music and dance, both live and otherwise, the services of Maître D'Or, hostesses, liveried waiters and the use of fine crockery and cutlery, among others. The provision of the aforesaid niceties are critical to the determination as to whether the establishment in question would attract liability to service tax.

In the case of take-away or food parcels, the aforesaid attributes are conspicuous by their absence, and therefore, tantamount to the sale of food and drink and not service.

[Anjappar Chettinad vs Joint Commissioner of Service Tax - 2021-TIOL-1270-HC-MAD-ST]

CASE LAWS | CESTAT

Recovery of preferential location charges are naturally bundled with the service of construction of residential complex and has to be taxed as a part of it. Cannot be taxed as a differential rate

The Appellant was involved in the construction of residential complex. It discharged service tax on the same after availing abatement as per Notification No. 26 / 2012 - ST dated 20 June 2012. In addition to the recovery of the consideration for the construction service, the Appellant also recovered preferential location charges from the customers on a case to case basis.

The Revenue was of the view that the recovery of the preferential location charges should be taxed at the normal rate and cannot be abated. The Hon'ble CESTAT relied on the provisions of Section 66F(3) of the Finance Act, 1994 to hold that when one service is naturally bundled with another, the whole transaction shall partake the character of the service which is dominant in nature. It was held that preferential location charges can be recovered only when the construction of residential service is provided. Further, recovery of preferential location charges is not separately indicated in the sale deeds. Accordingly, held that preferential location charges also form part of the consideration recovered for construction service and cannot be taxed separately.

[Shreno Ltd & v CCE & ST, Vadodara; 2021 - VIL - 208 - AHM - ST]

Credit of duty paid on tower, tower materials, tower shelters etc. used for providing telecommunication services upheld

The Appellant was involved in the provision of telecommunication services. For the said purpose, it procured tower materials, shelters etc. and claimed CENVAT credit of the same. The lower authorities denied the availment of credit on the ground that these goods are used to erect towers which are an immovable property.

CESTAT relied on the judgment of Hon'ble Delhi High Court in the case of *Vodafone Mobile Services Ltd. v Commissioner of Service Tax, 2018-VIL-506-DEL-CE*, to hold that the towers



which are erected is fixed without nuts and bolts and cannot be said to be permanently attached to the earth. It therefore does not qualify as an immovable property.

Accordingly, it was held that the tower shelters etc. qualify as 'inputs' under CENVAT Credit Rules, 2004 and credit of the same can be availed. The orders of the lower authority were set aside.

[Bharti Hexaxom v Commissioner of Central Excise and Customs, Central Goods and Service Tax, Jaipur-I, 2021 - VIL - 212 - CESTAT - DEL - CE]

03. CUSTOMS

NOTIFICATIONS & CIRCULARS

Customs duty exemption on import of Amphotericin B

As a part of covid relief measures, the Government has exempted import of Amphotericin B, used as anti-fungal medicine.

[Notification No. 31/2021 - Customs dated 31 May 2021]

CASE LAWS | SUPREME COURT & HIGH COURTS

Notice for provisionally released goods under Section 110A

Bombay High Court observed that rigor of law of issuance of notice within six months of the seizure of goods under section 110 of the Customs Act would not be applicable when the seized goods are provisionally released under section 110A. However, for such goods, notice under Section 124 cannot be indefinitely deferred or delayed. As seizure of goods in contemplation of confiscation is a drastic measure, the court directed expeditious adjudication of case after issuance of requisite notice.

[Mbility Services vs Principal Commissioner of Customs 2021-TIOL-1169-HC-MUM-CUS]

Suit against customs officers for malicious prosecution

Section 155(2) of the Customs Act provides that no proceeding other than a suit shall be commenced against the Central Government or

any officer of the Government or a local authority for anything purporting to be done in pursuance of this Act without giving the Central Government or such officer a month's previous notice in writing of the intended proceeding and of the cause thereof, or after the expiration of three months from the accrual of such cause.

Delhi High Court has held that period of limitation of three months, as also the requirement of a notice under section 155(2) of the Customs Act, would not be applicable for a suit for malicious prosecution. The period of limitation for filing such a civil suit would be governed by the provisions of The Limitation Act, 1963 i.e., within one year from the date of acquitted or when the prosecution is otherwise terminated.

[Directorate Of Revenue Intelligence vs Puspha L. Tolani 2021-TIOL-1230-HC-DEL-CUS]

04. TRADE PROTECTION MEASURES

NOTIFICATIONS FOR LEVY OR EXTENTION OF EXISTING LEVY

Anti-dumping duty

Products	Country of origin / Country of export	Period / Notification
1,1,1,2-Tetrafluoroethane or R-134a	China	Extended up to 10 January 2022 Notification No 30/2021-Customs (ADD) dated 24 May 2021
Seamless tubes, pipes & 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	China	Extended up to 31 October 2021 Notification No 29/2021-Customs (ADD) dated 7 May 2021



Toluene Di-Isocyanate (TDI) having isomer content in the ratio of 80:20	European Union, Saudi Arabia, Chinese Taipei and United Arab Emirates	Up to December 2025 <i>Notification No. 28/2021-Customs (ADD) dated 27 April 2021</i>
1-phenyl-3-methyl-5-pyrazolone	China	Up to June 2025 <i>Notification No. 26/2021-Customs (ADD) dated 27 April 2021</i>

[Case No ADD-(OI)-11/2020]

The Designated Authority has recommended imposition of countervailing duty on *Fibre board of wood or other ligneous materials whether or not bonded with resins or other organic substances* originating or exported from Indonesia, Malaysia, Sri Lanka, Thailand and Vietnam for a period of five years.

[Case No CVD 06/2019]

Sunset Review

Sunset review investigation for continuation of anti-dumping duty on *Uncoated copier paper* originating or exported from Indonesia, Singapore and Thailand has been initiated.

[Case No AD (SSR)-8/2021]

Sunset review investigation for continuation of anti-dumping duty on *Axle for trailers* originating or exported from China has been initiated.

[Case No AD (SSR)-7/2021]

Conclusion of Investigation

Pursuant to conclusion of investigation, the Central Government has decided not to impose any anti-dumping duty on import of *Newsprint in rolls or sheets, excluding glazed newsprint* originating in or exported from Australia, Canada, European Union, Hong Kong, Russia, Singapore and United Arab Emirates.

[F No CBIC-190354/30/2021-TO(TRU-I)-CBEC]

Pursuant to conclusion of investigation, the Central Government has decided not to impose any anti-dumping duty on import of *Viscose Spun Yarn* originating in or exported from China, Indonesia and Vietnam.

[F No 354/154/2020-TRU]

Pursuant to conclusion of investigation, the Central Government has decided not to impose any anti-dumping duty on import of *Phenol* originating in or exported from Thailand.

[F No 354/121/2020-TRU]

Pursuant to conclusion of investigation, the Central Government has decided not to impose any anti-dumping duty on import of *Nonyl Phenol* originating in or exported from Chinese Taipei.

[F No 354/117/2007-TRU]

BY INDIA - INITIATION, PROVISIONAL, FINAL INCLUDING REVIEW

Initiation

Anti-dumping investigation on imports of *Soda Ash* originating or exported from United Arab Emirates and Russia has been initiated.

[Case No AD-(OI)-05/2021]

Anti-dumping investigation on imports of *Solar cells whether or not assembled into modules or panels* originating or exported from China, Thailand and Vietnam has been initiated.

[Case No AD-(OI)-48/2020]

Recommendation

The Designated Authority has recommended continuation of anti-dumping duty on *Methyl Acetoacetate* originating or exported from China for a further period of five years.

[Case No SSR-21/2020]

The Designated Authority has recommended imposition of anti-dumping duty on *Acrylonitrile Butadiene Rubber (NBR)* originating or exported from China, European Union, Japan and Russia.

[Case No ADD-(OI)-15/2020]

The Designated Authority has recommended imposition of anti-dumping duty on *Phthalic Anhydride (PAN)* originating or exported from China, Indonesia, Korea and Thailand.



05.

FOREIGN TRADE POLICY AND SPECIAL ECONOMIC ZONES

NOTIFICATIONS / CIRCULARS / PUBLIC NOTICES PERTAINING TO FTP & SEZ

Amendment in the Import policy of Integrated Circuits

Import policy of Integrated Circuits (ICs) for HS Codes 85423100, 85423900, 85423200, 85429000, and 85423300, of Chapter 85 of ITC (HS), 2017, Schedule - I (Import Policy) shall be subject to Chip Imports Monitoring System (CHIMS) with effect from August 01, 2021.

Under the CHIMS, importers shall be required to submit advance information in an online system for import of items and obtain an automatic registration number by paying registration fee of INR 1 per thousand subject to minimum of INR 100/ and maximum of INR 500 on CIF value.

[Notification No. 05/2015-2020 dated 10 May 2021]

Amendment in Import policy of Tur/Pigeon Peas, Moong & Urad

Revision in Import policy for Tur /Pigeon Peas (Cajanus Cajan); Moong [Beans of the SPP Vigna Radiata (L.) Wilczek] and Urad [Beans of the SPP Vigna Mungo (L.) Hepper] from "Restricted" to "Free" for the period up to 31 October 2021. Further, import consignments of these items with Bill of Lading issued on or before 31 October 2021 shall not be allowed by Customs beyond 30 November 2021.

[Notification in F No. 14/1/2021-EP(Agri-III) dated 15 May 2021]

Issuance of Export Authorisation for Restricted items (Non-SCOMET)

As part of IT Revamp, DGFT has introduced a new online module for filing of electronic, paperless applications for export authorizations with effect from 17.05.2021.

[Trade Notice No. 03/2021-2022 dated 10th May 2021]

Extension of validity of Registration cum Membership Certificate (RCMC)

Due to COVID-19 pandemic, Regional Authorities (RAs) of DGFT shall not insist on valid RCMC (in cases where the same has expired on or before 31 March, 2021) from the applicants for any incentive/authorizations till 30 September, 2021.

[Trade Notice No. 04/2021-2022 dated 10th May 2021]

Introduction of an online e-EPCG Committee module

An online e-EPCG Committee module on the DGFT website is being introduced for receiving applications for seeking relaxation in policy procedure in terms of para 2.58 of FTP 2015-20.

[Trade Notice No. 05/2021-2022 dated 19th May 2021]

Mandatory online recording of information about transfer of DFIA Scrips and Paperless issuance of DFIA Scrips

In order to enable electronic, paperless transactions and facilitate trade, the recording of transferability of DFIA is being made online. In this regard, a facility has been created on DGFT website to record the information about transfer of DFIA scrips.

[Trade Notice No. 06/2021-2022 dated 25th May 2021]

DGFT IEC services affected due to non-availability of PAN Validation Services

The following DGFT services wherein CBDT PAN validation services are being consumed in the DGFT IT systems shall not be available from 1st June 2021 to 6th June 2021:

- i. Application for a new IEC
- ii. Application for Amendments/Modification in an IEC
- iii. One-time linking of Aadhaar for e-sign purposes

[Trade Notice No. 07/2021-2022 dated 26th May 2021]



Revised Policy for Used/Worn Clothing and Plastic recycling units in SEZs / EOUs

Revised Policy guidelines issued for regulating Used/Worn Clothing and Plastic recycling units in SEZs/EOUs

[Order-Instruction bearing No. K-43014(16)/9/2020-SEZ dated 27th May 2021]

CASE LAWS | CESTAT

EOU manufacturers and exporters allowed DTA clearances of identical / similar products while achieving positive NFE and fulfilling export obligation

The department alleged that goods cleared in DTA, in excess of the permitted 90% of the FOB value of the exports is in contravention of Para 6.8[a] of the Foreign Trade Policy and condition (2) of the notification number 23/2003-CE dated 31 March 2003. The appellants contended that the items manufactured, exported and cleared in DTA by them are similar and the department has misread the provisions of Policy in finding that DTA sales limit of 90% would apply to each product separately, whereas the word used is products. Disregarding the department's contention, the CESTAT Mumbai held that the issue doesn't pertain to interpretation of a Notification but interpretation of Provisions of the Policy, as there was no allegation that export obligation has not been fulfilled and positive NFE was not achieved. Scheme places reliance on of the value of exports and not the quantities. Therefore, positive NFE being achieved, the appellants were found within their rights to avail the facility of DTA clearance in terms of Para 6.8 of FTP.

[Axiom Cordages Ltd. Vs. Commissioner of Central Excise, Thane II 2021-TIOL-289-CESTAT-MUM]

06.

OTHER REGULATORY LAWS

FOOD SAFETY AND STANDARDS

FSSAI issued orders for enabling food businesses to migrate from state license to central license without changing the license number

Considering the problems faced by the food businesses in migrating from the state license to the central license due to change in registration number (requiring the license holder to update packaging materials), the Food Safety and Standards Authority have prescribed procedure for migration without change in registration number.

[Order No. 15(31)2020 /FoSCoS/RCD/FSSAI dated 31 May 2021]

Food businesses mandated to mention FSSAI License/Registration Number on receipts, invoices, bills, etc.

FSSAI has mandated declaration of 14-digit FSSAI License or Registration number on cash receipts, invoices, cash memos, bills, etc. Certain documents such as GST E-way bills or other government documents which are system generated are exempted from this requirement.

This requirement shall be effective from 1 October 2021

[Order No. 15(31) 2020/FoSCoS/RCD/FSSAI dated 8 June 2021]

Articles under compulsory standard marks by Bureau of Indian Standards (BIS)

Click [Here](#) For Complete list of goods / article under compulsory standard marks by BIS.



We hope the e-Bulletin enables you to assess internal practices and procedures in view of recent legal developments and emerging industry trends in the indirect tax landscape.

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