

# CUSTOMS AND GST ALERT

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## CASE LAW UPDATES

### ACME HEERGARH POWERTECH PVT LTD v. CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS AND ANR

2024 (5) TMI 480

**Delhi High Court** quashes Instruction No 13/2022-Cus which stated that the Manufacture and Other Operations in Warehouse (No.2) Regulations, 2019 (MOOWR) were inapplicable to *imported solar panels / solar modules and related accessories* declared as capital goods to generate electricity. The High Court held that the MOOWR scheme read with sections 61 and 65 of the Customs Act, 1962 applied fully to the said goods and that the said instruction, in the guise of providing a clarification, illegally sought to direct authorities to cancel previously granted licenses to importers of the said goods.

### COSYN LTD v. ASSISTANT COMMISSIONER OF STATE TAX

2024 (5) TMI 316

**Calcutta High Court**, in a first-of-its-kind decision, holds that there could be no tax demand in a situation where a supplier reports IGST with incorrect 'place of supply' but the input tax credit of the same is used to pay SGST of the 'correct place of supply', thereby setting aside the demand order.

### SHRIRAM FOOD INDUSTRY LTD v. UNION OF INDIA AND ORS

2024 (5) TMI 835

**Bombay High Court** holds Notification No 20/2023 amending export policy of *non-basmati white rice* from 'Free' to 'Prohibited' as bad in law for violating principle of legitimate expectation, insofar as it debarred exporters having commitment through Irrevocable Commercial Letter of Credits from fulfilling their pre-existing contacts.

## LOKENATH CONSTRUCTION PVT LTD v. TAX/REVENUE, GOVERNMENT OF WEST BENGAL AND ORS

2024 (5) TMI 362

**Calcutta High Court** holds that tax demand against a recipient availing input tax credit could not be sustained on the ground of non-payment of tax by the supplier without first taking any action against the said supplier, in the absence of exceptional circumstances such as (i) collusion between parties; (ii) missing supplier; (iii) closure of supplier's business; (iv) supplier lacking assets.

## BHARAT ALUMINIUM COMPANY LTD v. UNION OF INDIA AND ORS

2024 (5) TMI 258

**Chhattisgarh High Court** upholds validity of Notification No. 53/2023-CT, granting one-time amnesty to only those persons whose appeals against *tax demand orders* had been rejected on the ground of delay. High Court held that benefit of the aforesaid notification could not be availed in cases involving other kinds of orders (e.g. refund rejection orders).

## RAM AGENCIES v. ASSISTANT COMMISSIONER OF CENTRAL TAX

[2024] 162 taxmann.com 240

**Madras High Court** quashes an Order passed by a Central Tax authority against an assessee falling under jurisdiction of State Tax authorities holding that the action was not justified in the absence of any notification authorizing cross empowerment; However, grants liberty to appropriate authorities to institute fresh proceedings.

## COMMISSIONER OF CUSTOMS (PORT) v. HUMBOLDT WEDAG INDIA PVT LTD

Customs Appeal No 76774 of 2016

**CESTAT, Kolkata bench** holds that payment of royalty linked to value addition, using technology and technical knowhow provided by related foreign supplier could not be included in the transaction value of imported components, when such payment was not a condition of sale and finished products sold by the Indian importer comprised majorly of domestically procured components.

## REGULATORY UPDATES

### NOTIFICATION NO 24/2024-CUS

Central Government has (i) exempted Customs duty and Agriculture Infrastructure and Development Cess on import of *bengal gram (desi chana)* (CTH 0713 20 20) up to 31.03.2025; (ii) imposed export duty of 40% on *onions* (CTH 0703 10); and (iii) extended exemption from Customs duty and Agriculture Infrastructure and Development Cess on import of *yellow peas* (CTH 0713 10 10), subject to issuance of bill of lading on or before 31.10.2024.

#### **INSTRUCTION NO 10/2024-CUS**

Central Government has clarified that Electronic Certificates of Origin (e-COOs) issued by the Issuing Authority of the Republic of Korea shall be accepted for claiming preferential benefits under India-Korea Comprehensive Economic Partnership Agreement.

#### **INSTRUCTION NO 13/2024-CUS**

Central Government has directed producers (including importers) involved in import of *base oil / lubrication oil and other oils used as lubricants* and requiring registration from Central Pollution Control Board (CPCB) under Hazardous and Other Waste (Management and Transboundary Movement) Second Amendment Rules, 2023 to get their imported consignments released upon furnishing of undertaking setting out details of imported oils and committing to obtaining the said registration within 30 days of launch of online portal by CPCB.

#### **NOTIFICATION NO 10/2024-25 -FTP**

Export policy of *onions* (CTH 0703 10 19) has been changed from 'prohibited' to 'free', subject to a minimum export price of USD 550 per MT.

#### **NOTIFICATION NO 12/2024-25-FTP**

'Free' import policy of *yellow peas* (CTH 0713 10 10) without Minimum Export Price condition, without port restriction, and subject to registration under online Import Monitoring System, has been extended till 31.10.2024 subject to the condition that the Bill of Lading is issued on or before the said date.

#### **POLICY CIRCULAR NO 02/2024-FTP**

Directorate General of Foreign Trade has clarified that penalties prescribed under Handbook of Procedures 2023 for regularisation of *bona fide* default in fulfilment of export obligations under Advance Authorisation licenses shall apply only to licenses issued on or after 01.04.2023. Licenses issued prior to the said date shall be governed by provisions of HBP under which they were issued.

#### **TRADE NOTICE NO 03/2024-FTP**

Directorate General of Foreign Trade has clarified that conditions for import of inputs under Advance Authorisation licenses without compliance to mandatory Quality Control Orders (prescribed by Notification No 71/2023) shall apply only to licenses issued on or after 11.03.2024. Licenses issued prior to the said date shall be governed by provisions existing at the time of their issuance.

**For any clarifications, please write to:**

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