

CUSTOMS AND GST ALERT

NEWS UPDATE

Central Government has invited suggestions on the draft Central Excise Bill, 2024 (proposed to replace the Central Excise Act, 1944) from stakeholders by 26.06.2024, as part of a pre-legislative consultative process.

Ministry of Finance Seeks Industry Input for Union Budget 2024-25; Invites Suggestions on Tax Structure Reforms by 17.06.2024, Suggestions relating to Customs and Central Excise (for commodities outside GST) should be mailed to budget-cbec@nic.in

CASE LAW UPDATES

M/S TRADE LINKS v. UNION OF INDIA AND ORS

2024 (6) TMI 288

Kerala High Court upholds validity of sections 16(2)(c) (disallowance of input tax credit (ITC) due to non-payment of tax by supplier) and 16(4) (time limit for claiming ITC) of Central Goods and Services Tax Act, 2017 (CGST Act); however, grants relief by allowing claim of ITC to assessee who had filed Forms GSTR-3B for September (of each financial year) beyond the prescribed due date, but prior to 30 November of the relevant year.

M/S GRAZIANO TRASMISSIONI v. GOODS AND SERVICES TAX AND ORS

2024 (6) TMI 233

Allahabad High Court upholds validity of Notification No 09/2023-CT extending time limit for issuing demand orders for FY 2017-18 till 31.12.2023; holds the Notification to be validly issued pursuant to recommendations of the GST Council based on sufficient material warranting such extension; holds prescription of limitation to be a legislative function over which no party could claim a pre-existing vested right.

GEMINI EDIBLES AND FATS INDIA PVT LTD v. UNION OF INDIA AND ORS

2024 (6) TMI 142

Madras High Court holds that the exemption from Customs duties granted *vide* Notification Nos 24/2015-Cus and 25/2015-Cus on goods imported against duty credit scrips granted under the Merchandise Exports from India Scheme and Service Exports from India Scheme respectively, would not extend to Social Welfare Surcharge, since the same was levied under a different statute i.e. Finance Act, 2018.

AMEX SERVICES AND ANR v. DEPUTY COMMISSIONER, STATE TAX, ASSANSOL CHARGE AND ORS

WPA No 9391 of 2024

Calcutta High Court holds communication of discrepancies in returns by issuing Form GST ASMT-10 to be mandatory before issuance of show cause notice under section 73 of CGST Act.

VELA AGENCIES v. ASSISTANT COMMISSIONER, STATE TAX

[2024] 162 taxmann.com 419

Madras High Court holds that an adjudicating authority could not pass an order on grounds not specified in the show cause notice and issuance of a fresh show cause notice was necessary in case any modifications to the earlier grounds were required.

PIRAMAL ENTERPRISES LIMITED v. STATE OF MAHARASHTRA

2024 (6) TMI 489

Bombay High Court quashed Value Added Tax (VAT) demand on sale of pharmaceutical business by assessee as a "going concern" (slump sale), holding that the transfer did not constitute 'sale of goods' under the Maharashtra Value Added Tax Act, 2002. The High Court emphasized that the entire business was sold as a whole and should not be broken down into parts for tax purposes.

JSW STEEL LTD v. COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE

2024 (6) TMI 41

CESTAT, Bangalore Bench ruled that Countervailing Duty (CVD) and Special Addition Duty (SAD) paid after 01.07.2017 (i.e. after introduction of GST) were eligible for cash refund (i) as the CGST Act did not allow credits of these duties to be carried forward in the GST regime; and (ii) duties paid after 30.06.2017 could not be reported in pre-GST returns.

REGULATORY UPDATES

CIRCULAR NO 06/2024-CUS

Central Government has clarified that *display assembly* of a cellular mobile phone imported with integral / non-integral (but related) components which are fabricated, embedded, fitted or attached to it, shall attract a concessional Basic Customs Duty (BCD) rate of 10%. However, if components of the display assembly are imported individually, they will attract the BCD rate as applicable. Further, if the display assembly is imported with such items fabricated, embedded, fitted or attached to it, as are not related directly to the assembly, the said assembly shall not be eligible for benefit of the concessional rate, but shall instead be treated as a *general part* of cellular mobile phone attracting BCD rate as applicable.

NOTIFICATION NO 14/2024-25-FTP

Directorate General of Foreign Trade has notified that import of *Glufosinate and its salts* shall be prohibited, except where (i) CIF value is INR 1289/- per Kg or above; and (ii) the product is registered and not prohibited for import under Insecticides Act, 1968.

NOTIFICATION NO 15/2024-25-FTP

Directorate General of Foreign Trade has extended the time period for export of *broken rice* to Senegal (5 Lakh MT) and Gambia (50,000 MT) permitted through National Cooperative Exports Limited, till 30.11.2024.

NOTIFICATION NO 16/2024-25-FTP

Directorate General of Foreign Trade has notified, for Advance Authorisation (AA) license holders, the export obligation period to be 180 days from the date of import, in respect of chemical and textile products imported without compliance with Quality Control Orders (QCO) notified by Department of Chemicals and Petro-chemicals and Ministry of Textiles respectively.

NOTIFICATION NO 17/2024-25-FTP

Directorate General of Foreign Trade has changed import policy of certain items in Chapter 71 of the ITC (HS) code (covering natural or cultured pearls, precious or semi-precious stones, and metals). Import policy of ITC (HS) codes 7113 19 12, 7113 19 13, 7113 19 14, 7113 19 15 and 7113 19 60 has been changed from "free" to "restricted". However, import of goods falling under ITC (HS) codes 7113 19 12, 7113 19 13, 7113 19 14 and 7113 19 15 are permitted under a valid INDIA-UAE CEPA (Comprehensive Economic Partnership Agreement) TRQ (Tariff Rate Quota).

PUBLIC NOTICE NO 08/2024-25-FTP

Directorate General of Foreign Trade has notified, for Export Oriented Units (EOU), a minimum value addition of 25% in case of spices where both export as well as import items pertain to Chapter 9 of ITC (HS) Code. In all other cases, the minimum value addition has been reduced to 15%.

PUBLIC NOTICE NO 09/2024-FTP

Directorate General of Foreign Trade has amended and simplified the list of documents required to be submitted by an AA license holder in support of "deemed export" transactions, while applying for export obligation discharge certificate.

PUBLIC NOTICE NO 10/2024-25-FTP

Directorate General of Foreign Trade has notified that compliance with QCOs notified by Department of Chemicals and Petro-chemicals shall also be exempted for imported goods proposed to be utilized or consumed in manufacture of export products.

POLICY CIRCULAR NO 03/2024-FTP

Directorate General of Foreign Trade has permitted AA license holders (who have received licenses on or after 01.04.2019) to file review applications by 31.12.2024 against Norms Committee decisions taken before 01.04.2023.

POLICY CIRCULAR NO 04/2024-FTP

Directorate General of Foreign Trade has relaxed the condition of furnishing *bill of export* as evidence of discharge of export obligation for supplies made to Special Economic Zone (SEZ) units / developers by AA license / Duty Free Import Authorisation (DFIA) holders. Instead, for the aforesaid purpose, the exporters may now submit (i) ARE-1 (showing AA / DFIA No / DFIA file No) attested by jurisdictional Central Excise / GST Authorities; (ii) Evidence of receipt of supplies by the recipient in SEZ; and (iii) Evidence of payment made by the SEZ unit.

TRADE NOTICE NO 05/2024-25-FTP

Since the Export Promotion Council (EPC) for medical devices has not yet been operationalized, the Directorate General of Foreign Trade has permitted Engineering Export Promotion Council of India (EEPC India) or any other relevant EPC to issue Registration-Cum-Membership Certificate (RCMC) to exporters, required for obtaining benefits under the Remission of Duties and Taxes on Export Products (RoDTEP) scheme.

For any clarifications, please write to:

Mr. Shammi Kapoor

Senior Partner

shammi@vaishlaw.com

Mr. Arnab Roy

Associate Partner

arnab@vaishlaw.com



Corporate, Tax and Business Advisory Law Firm

DELHI

1st, 9th, 11th Floor,
Mohan Dev Building, 13, Tolstoy Marg,
New Delhi, 110001 (India)
+91-11-42492525
delhi@vaishlaw.com

MUMBAI

106, Peninsula Centre,
Dr. S.S. Rao Road, Parel,
Mumbai, 400012 (India)
+91 22 42134101
mumbai@vaishlaw.com

BENGALURU

105 -106, Raheja Chambers,
#12, Museum Road,
Bengaluru, 560001 (India)
+91 80 40903588/89
bangalore@vaishlaw.com

DISCLAIMER: The material contained in this publication is solely for information and general guidance and not for advertising or soliciting. The information provided does not constitute professional advice that may be required before acting on any matter. While every care has been taken in the preparation of this publication to ensure its accuracy, Vaish Associates Advocates neither assumes responsibility for any errors, which despite all precautions, may be found herein nor accepts any liability, and disclaims all responsibility, for any kind of loss or damage arising on account of anyone acting/refraining to act by placing reliance upon the information contained in this publication.

Copyright © 2024 | Vaish Associates Advocates