

CUSTOMS AND GST ALERT



NEWS UPDATES

- A new “RCM Liability / ITC Statement” has been introduced on the GST portal for tracking claim of reverse charge input tax credit vis-à-vis payment of reverse charge liability. As an one-time exercise, taxpayers would need to declare the opening balance of *reverse charge GST paid but input tax credit not availed*, as of the date post filing of Form GSTR-3B of July 2024, on or before 31.10.2024.
- With effect from 01.09.2024 (*i.e.* tax period August 2024 onwards), the GST portal shall not allow filing of Form GSTR-1 unless valid bank account details are updated in registration particulars, as per rule 10A of Central Goods and Services Tax Rules, 2017.
- With effect from 01.10.2024, a new “Invoice Management System” is proposed to be introduced on the GST portal to enable taxpayers to match their records / invoices vis-à-vis those issued by their suppliers, for availing correct Input Tax Credit (ITC).
- Goods and Services Tax Network has notified that Form GSTR-2B for a particular month shall be generated only if the taxpayer has filed Form GSTR-3B for the previous month.

CASE LAW UPDATES

Goods and Services Tax

K-9 ENTERPRISES v. STATE OF KARNATAKA & ANR

Writ Appeal No 100425 OF 2023

Karnataka High Court holds that, despite absence of any such stipulation in the Central Goods and Services Tax Act, 2017 (CGST Act), a pre-decisional hearing was required to be granted before blocking ITC available in an assessee's electronic credit ledger; directs the concerned officer to conduct an independent analysis and arrive at a subjective satisfaction based on objective material regarding the necessity of blocking ITC, without being influenced by findings communicated by an officer from another State.

ABERDARE TECHNOLOGIES PVT LTD & ANR v. CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS & ORS

2024 (8) TMI 142

Bombay High Court directs reopening of GST portal for enabling the petitioner-assessee to rectify errors in Forms GSTR-1 and GSTR-3B (even beyond the statutorily prescribed period), where such errors resulted in no loss to the revenue.

M/S VIJAY TRADING COMPANY v. ADDITIONAL COMMISSIONER GRADE-2 AND ANR

2024 (8) TMI 1039

Allahabad High Court holds that where excess stock was found at an assessee's premises during inspection / search, proceedings for confiscation could not be initiated and the only recourse available to the GST authorities was issuance of a show cause notice for non-payment / short-payment of tax under sections 73 / 74 of the CGST Act.

Customs

V. GIRINATH v. ASSISTANT COMMISSIONER OF CUSTOMS, COIMBATORE

2024 (8) TMI 484

Madras High Court holds that adjudication proceedings and criminal prosecution proceedings under the Customs Act, 1962 could be launched simultaneously; also holds that if exoneration in adjudication proceedings is on technical grounds, by giving benefit of doubt, or on different facts (*i.e.* not on merits), the same shall have no bearing on the criminal proceedings; however, if exoneration is on merits and the criminal prosecution is based on the same facts, such prosecution shall not continue.

M/S HINDUSTAN EQUIPMENTS PVT LTD v. COMMISSIONER OF CGST & CENTRAL EXCISE, INDORE

2024 (6) TMI 245

CESTAT, New Delhi Bench allows cash refund of Countervailing Duty (CVD) and Special Additional Duty (SAD) paid in the GST regime for regularising default in fulfilment of export obligation (EO) under Export Promotion Capital Goods (EPCG) scheme in respect of imports undertaken in the pre-GST regime; applies *doctrine of necessity* by observing that ITC of such duties was not available in the GST regime.

COMMISSIONER OF CUSTOMS (PREVENTIVE) JAIPUR v. M/S ACME AKLERA POWER TECHNOLOGY PVT LTD

Customs Appeal No 50848 of 2024

CESTAT, New Delhi Bench holds that once goods “intended for use” in a particular project were imported and warehoused without payment of duties under the Manufacturing and Other Operations in Warehouse Regulations, 2019, but such goods could not be so used due to subsequent change in project specifications, they could be ex-bonded on payment of applicable duties *without interest*.

Central Excise

COMMISSIONER APPEALS – CGST & CENTRAL EXCISE RAJKOT v. M/S RELIANCE INDUSTRIES LTD, UNIT OF RSEZ JAMNAGAR

Excise Appeal No 10070 of 2024

CESTAT, Ahmedabad Bench holds that levy of Special Additional Excise Duty (SAED) and Additional Duty of Excise (AED) did not apply to goods manufactured and exported by a Special Economic Zone (SEZ) unit, since (i) such duties were essentially “duties of excise”; and such goods were excluded from the charging section of the Central Excise Act, 1944.

Foreign Trade Policy

PHOENIX INDUSTRIES LTD v. UNION OF INDIA & ORS

2024 (8) TMI 965

Bombay High Court holds that insistence on submission of “bill of export” for supplies made to SEZ units as proof of discharge of EO at the time of redemption of Advance Authorisation licenses was unjustified, if other documents such as Form ARE-1, evidence of receipt of goods by SEZ unit, and evidence of payment received from SEZ unit were submitted.

REGULATORY UPDATES

Goods and Services Tax

CIRCULAR NO 230/24/2024-GST

Central Government has clarified that (i) advertising companies involved in supply of advertising services, including resale of media space, to foreign clients on principal-to-principal basis do not qualify as “intermediaries”; (ii) so long as the agreement has been entered with, invoice has been issued upon, and payment has been received from, the foreign client, the “recipient” of advertising services shall be the foreign client and not any representative based in India or the target audience of the advertisements; and (iii) the “place of supply” of such services shall be

the location of the “recipient” (*i.e.* the foreign client) and the transaction would qualify as an “export”, subject to fulfilment of other conditions. However, Central Government has also clarified that advertising companies may also function as “agents” of foreign clients in engaging with media owners, in which case they shall qualify as “intermediaries” and the “place of supply” of such “facilitation services” shall be the location of the “supplier” (*i.e.* the advertising company).

CIRCULAR NO 231/25/2024-GST

Central Government has clarified that (i) ITC on demo vehicles used by authorized dealers to provide trial run and demonstrate features of the vehicle to potential buyers shall be allowed; (ii) ITC on demo vehicles used for transportation of staff / employees / management, etc. shall not be allowed; (iii) ITC on demo vehicles used by authorized dealers who are not directly involved in purchase and sales of vehicles, are merely agents / marketing services providers of the vehicle manufacturer, and who purchase demo vehicles solely for this purpose, shall not be allowed (even if the demo vehicles are sold in future); and (iv) ITC on demo vehicles referred in (i) above shall be allowed even if the demo vehicles are capitalized in books of account, subject to the condition that depreciation under the Income-Tax Act, 1961 is not claimed, and proportionate ITC is reversed if the demo vehicles are sold within five years of purchase.

CIRCULAR NO 232/26/2024-GST

Central Government has clarified that the “place of supply” of data hosting services encompassing all aspects like rent, software and hardware infrastructure, power, net connectivity, security, human resource, etc. supplied by data hosting service providers to foreign cloud computing service providers shall be the location of the “recipient” (*i.e.* the cloud computing service provider) and the transaction would qualify as an “export”, subject to fulfilment of other conditions.

CIRCULAR NO 233/27/2024-GST

Central Government has clarified that in cases where imports by Export Oriented Undertakings (EOU), Software Technology Park (STP) units, Electronic Hardware Technology Park (EHTP) units

were made without payment of IGST and compensation cess, such imports were used for export of goods or services on payment of IGST, and refund of such IGST was received, then then the IGST refund so received shall not be considered to be in contravention of rule 96(10) of the Central Goods and Services Tax Rules, 2017 if IGST and compensation cess on imports are paid with interest and the relevant Bills of Entry are reassessed by the relevant Customs authorities.

Customs

NOTIFICATION NO. 42/2024-CUS

Central Government has revoked customs duty / IGST exemption on import of art works (statuary, pictures, memorials of a public character, antiquities) for exhibition in a museum, art gallery or to be put up in public places, with effect from 07.09.2024.

NOTIFICATION NO 55/2024-CUS (NT)

Central Government has reduced the All-Industry Rates (AIR) of Duty Drawback on articles of jewellery and parts thereof, made of gold and silver, and other articles made of silver.

NOTIFICATION NO 57/2024-CUS (NT) AND CIRCULAR NO 12/2024-CUS

Central Government has notified phase-wise implementation of the new procedure for filing cargo declaration under the Sea Cargo Manifest and Transshipment Regulations, 2018 starting from 10.09.2024 till 30.11.2024. As of the notified effective dates, filing cargo declarations in the new format shall become mandatory. However, stakeholders have been advised to start filing in the new format on a parallel basis, failing which cargo clearance times for the concerned consignments may be negatively impacted after the notified effective dates.

NOTIFICATION NO 60/2024-CUS (NT)

Central Government has amended the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 to specifically provide for exclusion of Duty Drawback, Remission of Duties and Taxes on Exported Products (RoDTEP) and Rebate of State and Central Taxes and

Levies (RoSCTL) schemes and to provide that Courier Export Manifest (CEM) shall be filed in all cases of courier exports, except where the export is under Duty Drawback, RoDTEP or RoSCTL schemes (such shipments shall be covered by Export General Manifest (EGM)).

CIRCULAR NO 11/2024-CUS AND CIRCULAR NO 13/2024-CUS

Central Government has decided to implement the automation procedures notified in the *Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022* in respect of Export Oriented Units (EOUs) from 17.09.2024. Consequently, EOUs have been directed to obtain IGCR Identification Number at the ICEGATE portal and register their IGCR bond for filing bills of entry with IGCR benefits.

CIRCULAR NO 15/2024-CUS

Central Government has notified that customs clearance and processing of export related payments in respect of Duty Drawback, RoDTEP and RoSCTL schemes in respect of courier exports shall now be made through the Indian Customs EDI System (ICES) portal, and prescribed modalities in this regard.

INSTRUCTION NO 20/2024-CUS

Central Government has directed that implicating Customs Brokers as co-noticees in a routine manner, in matters involving interpretation of statutes, must be avoided unless the element of abetment of Customs Brokers in the investigation is established by the investigating authority; Further, the element of abetment should be clearly elaborated in the Show Cause Notice issued under the Customs Act, 1962.

Foreign Trade Policy

NOTIFICATION NO 24/2024-25-FTP

Directorate General of Foreign Trade has permitted export of 2,00,000 MTs of *Non-Basmati White Rice* (CTH 1006 30 90) to Malaysia through National Cooperatives Export Limited.

NOTIFICATION NO 25/2024-25-FTP

Directorate General of Foreign Trade has released an updated version of the Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) list, which can be accessed [here](#). The updates to the SCOMET list shall come into force from 02.10.2024.

NOTIFICATION NO 27/2024-25-FTP

Directorate General of Foreign Trade has permitted import of Raw Pet Coke and Calcined Pet Coke to cater to the domestic needs of other industries, apart from the aluminium industry.

NOTIFICATION NO 28/2024-25-FTP

Directorate General of Foreign Trade has removed the Minimum Export Price (MEP) condition for export of onions, with effect from 13.09.2024.

NOTIFICATION NO 29/2024-25-FTP

Directorate General of Foreign Trade has extended the '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, till 31.12.2024 subject to the condition that the Bill of Lading is issued on or before the said date

TRADE NOTICE NO 14/2024-25-FTP

Directorate General of Foreign Trade has formulated draft modalities for operation of E-Commerce Export Hubs (ECEHs), which can be accessed [here](#). Detailed proposals for setting up ECEH have been invited for examination, support and handholding, based on which further details including software requirements to facilitate seamless and expeditious export clearances, shall be finalised. Proposals may be submitted to ecommerce-dgft@gov.in and afaque.moin@gov.in

TRADE NOTICE NO 16/2024-25-FTP

Directorate General of Foreign Trade has further extended the Interest Equalization Scheme (IES) for Pre and Post Shipment Rupee Export Credit for Micro, Small and Medium Enterprise (MSME) manufacturing exporters till 30.09.2024.

TRADE NOTICE NO 15/2024-2025-FTP AND PUBLIC NOTICE NO 23/2024-25-FTP

Directorate General of Foreign Trade had amended the Standard Input Output Norms (SION) and wastage permissible for export of gold / silver / platinum jewellery, with effect from 27.05.2024. However, pursuant to representations from the industry, the aforesaid amendment has been kept in abeyance till 31.10.2024, pending notification of revised wastage norms. The (draft) revised wastage norms have now been released and can be accessed [here](#).

PUBLIC NOTICE NO 18/2024-FTP

Directorate General of Foreign Trade has simplified provisions pertaining to regularization of *bona fide* default in fulfilment of EO in cases where Advance Authorisation was issued for import of drugs from unregistered sources with pre import condition; removed the requirement of re-exporting unutilised quantity of drugs to the *same foreign supplier*, and permitted exports under *any shipping bills* (as opposed to free shipping bills) under the same authorisation after expiry of EO period using unutilized quantity of drugs, in lieu of furnishing destruction certificate.

PUBLIC NOTICE NO 19/2024-FTP

Directorate General of Foreign Trade has revised EO periods for certain inputs with pre-import condition under the Advance Authorization scheme.

PUBLIC NOTICE NO 22/2024-FTP

Director General of Foreign Trade has notified a quantitative ceiling of 8606 Metric Tonnes Raw Value (MTRV) for export of *raw cane sugar* to USA for the period 01.10.2024 to 30.09.2025.

For any clarifications, please write to:

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