

CUSTOMS AND GST ALERT



NEWS UPDATES

- Central Government has mandated all departmental quasi-judicial / appellate authorities to conduct personal hearing in proceedings pertaining to GST, Customs, Central Excise and Service Tax laws through video conferencing mode, with effect from 05.11.2024. Physical hearings may be conducted by way of exception, only upon specific request of party and after recording reasons for the same in writing.
- Starting early next year, GSTN shall restrict filing of returns after three years from their due dates, in compliance with amendments made by Finance Act, 2023.
- With effect from 01.04.2025, GSTN shall impose a time limit of 30 days for reporting old invoices on the e-invoice portal for assessees with turnover more than INR 10 crores. This restriction shall apply to all document types for which an Invoice Reference Number is required to be generated (including invoices / credit notes / debit notes).
- Form GST DRC-03A has been introduced on the GSTN portal to enable assessees to adjust payments made *vide* Form GST DRC-03 against outstanding tax liabilities appearing in the Electronic Liability Register.
- Forms SPL-01 and SPL-02, notified for availing benefit of waiver of interest and penalty upon payment of full tax for demands pertaining to FY 2017-18 to FY 2019-20, are expected to be introduced on the GSTN portal tentatively from the first week of January 2025.

CASE LAW UPDATES

Goods and Services Tax

COMMISSIONER OF CUSTOMS v. CANON INDIA PVT LTD

2024 (11) TMI 391

Supreme Court has (i) affirmed that officers of Directorate of Revenue Intelligence (DRI) were “proper officers” for issuance of show cause notices (SCN) under the Customs Act, 1962; (ii) rejected challenge to retrospective applicability of validation clause inserted in 2011, granting DRI officers the power of assessment and issuance of SCNs; (iii) rejected challenge to validation clause inserted in 2022, validating past actions of DRI; and (iv) provided directions for restoration of matters where jurisdiction of DRI was challenged, to respective adjudication / appellate forums.

COMMISSIONER OF GST AND CENTRAL EXCISE v. CITIBANK N.A.

2024 (10) TMI 1549

Supreme Court holds that where service tax was paid on the entire Merchant Discount Rate (MDR) by the acquiring bank, no service tax was required to be paid separately by the issuing bank on the interchange fee, forming part of MDR.

SANCE LABORATORIES PRIVATE LIMITED AND ORS v. UNION OF INDIA AND ORS

2024 (11) TMI 188

Kerala High Court declares Rule 96(10) of the Central Goods and Services Tax Rules, 2017 (*which restricted assessee availing benefit of certain duty exemption schemes on import of goods from undertaking export on payment of IGST and claiming refund thereof*) to be *ultra vires* section 16 of the Integrated Goods and Services Tax Act, 2017; quashes orders and SCNs issued based on the said rule and directs that no proceedings for recovery of IGST already refunded shall be undertaken by GST authorities.

LAKHWINDER SINGH STONE CRUSHER v. UNION OF INDIA AND ORS

2024 (11) TMI 376

Himachal Pradesh High Court, relying on the recent judgement of the Supreme Court (nine judge bench) in *Mineral Area Development Authority and Anr. v. Steel Authority of India and Anr.*, etc, 2024 (7) TMI 1390, observes that ‘royalty’ paid by a mineral concession holder for mining concession granted by the State Government was not a ‘tax’, and GST was leviable on such royalty.

METAL ONE CORPORATION INDIA PVT LTD v. UNION OF INDIA AND ORS

2024 (10) TMI 1534

Delhi High Court quashes orders and SCNs imposing GST on the purported ‘services’ of secondment of employees by foreign companies to their related Indian companies, since no invoices were issued in respect of such ‘services’; relies on Circular No. 210/4/2024-GST notifying the value of such services to be ‘Nil’ (where full input tax credit is available), thus resulting in no tax liability.

IN RE: PAYLINE TECHNOLOGY PVT LTD

2024 (10) TMI 1489

Appellate Authority for Advance Ruling, Uttar Pradesh holds that (i) supply of gift cards / coupons / vouchers / prepaid vouchers are taxable as supply of goods; (ii) GST is applicable on commission / discount earned in trading of vouchers; (iii) time of supply thereof shall be the time when vouchers are sold or traded; and (iv) value of supply shall be the margin between buying and selling price of vouchers.

REGULATORY UPDATES

Goods and Services Tax

CORRIGENDUM TO CIRCULAR NO 237/31/2024

Central Government has issued a corrigendum clarifying that, pursuant to retrospective extension of time limits for availing input tax credit by Finance (No 2) Act, 2024, where appeals

are decided in favour of assessees based on such extension, there shall be no restriction on claiming refund of pre-deposit paid by such assessees.

CORRIGENDUM TO NOTIFICATION NO 09/2024-CT(R)

Central Government has issued a corrigendum clarifying that, GST shall be payable on reverse charge basis on services of renting of any *immovable* property other than residential dwelling, provided by an unregistered person to a registered person.

Customs

NOTIFICATION NO 70/2024-(NT)

Central Government has exempted customs duties on import of *Simply Sawn Diamonds* for the period 01.07.2017 to 01.02.2022.

NOTIFICATION NO 46/2024

Central Government has exempted export duty on *rice in the husk (paddy or rough), husked (brown) rice* and *parboiled rice*, with effect from 22.10.2024.

CIRCULAR NO 21/2024

Central Government has directed disclosure of certain additional qualifiers / identifiers pertaining to method of production at the time of filing import / export declarations for *synthetic or reconstructed diamonds*.

INSTRUCTION NO 24/2024

Central Government has notified that applications for Equipment Type Approval (ETA) for wireless equipment devices, which have been license-exempt through various Notifications, shall be granted through the SARAL Sanchar portal on a self-declaration basis. Further, it has been directed that ETA Holders must obtain a No Objection Certificate or other clearances from the Directorate General of Foreign Trade before importing the equipment.

INSTRUCTION NO 25/2024

Central Government has revised the list of *high end and high value used / refurbished Medical Equipment other than critical care medical equipment*, allowed to be imported by actual user or by Original Equipment Manufacturer (OEM), Indian Subsidiary of OEM, or trader on behalf of actual user, for reuse, upon obtaining permission from Ministry of Environment, Forest and Climate Change.

INSTRUCTION NO 27/2024

Central Government has notified guidelines for maintaining ease of doing business while undertaking investigation into Customs related tax evasion. These guidelines *inter alia* entail (i) initiation of investigation only upon Commissioner's approval; (ii) investigation to be concluded within one year; (iii) homework to be done before initiating investigation; and (iv) due process to be followed in summons proceedings.

Foreign Trade Policy

NOTIFICATION NO 37/2024-25

Directorate General of Foreign Trade has lifted the requirement of Minimum Export Price for export of *Non-Basmati White Rice*, with effect from 23.10.2024.

NOTIFICATION NO 38/2024-25

Directorate General of Foreign Trade has notified that export of *sesamum seeds* to the United States of America shall be permitted from 16.11.2024, only upon furnishing an export certification obtained from India Oilseeds & Produce Export Promotion Council (IOPEPC), which shall be issued upon furnishing a certificate of analysis from a National Accreditation Board for Testing and Calibration Laboratories (NABL) accredited laboratory.

NOTIFICATION NO 39/2024-25

Directorate General of Foreign Trade has amended the Remission of Duties and Taxes on Exported Products (RoDTEP) schedule with effect from 01.10.2024, to align it with the amended first schedule to the Customs Tariff Act, 1975.

PUBLIC NOTICE NO 27/2024-25

Directorate General of Foreign Trade has notified that exporters claiming aggregate annual RODTEP benefits of more than INR 1 crore shall be required to e-file an Annual RODTEP Return (ARR). ARR for RoDTEP claims filed in a particular financial year would be required to be filed on or before 31st March of the next financial year.

PUBLIC NOTICE NO 29/2024-25 AND PUBLIC NOTICE NO 30/2024-25

Amendments to the Standard Input Output Norms (SION) and wastage permissible for export of gold / silver / platinum jewellery, introduced with effect from 27.05.2024, have been kept in abeyance till 31.12.2024. Revised SION and wastage permissible for export of jewellery have now been notified, which shall be effective from 01.01.2025.

PUBLIC NOTICE NO 31/2024-25

Directorate General of Foreign Trade has notified that compliance with Quality Control Orders notified by Ministry of Heavy Industries shall be exempted for imported goods proposed to be utilized or consumed in manufacture of export products.

For any clarifications, please write to:

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