

## NEWS UPDATES

- The 55<sup>th</sup> GST Council meeting was held on 21.12.2024. Major recommendations made by the GST Council included introduction of GST exemption on gene therapy, introduction of GST exemption on contributions by general insurance companies from third-party motor vehicle premiums for Motor Vehicle Accident Fund, clarification regarding non-applicability of GST on transaction of vouchers, simplification of provisions related to vouchers, clarification regarding non-applicability of GST on 'penal charges' levied and collected by banks from borrowers, and reduction of pre-deposit for filing an appeal against an order involving only penalty amount. As of the date of publication of this newsletter, four circulars have been issued by the Central Government to operationalize some of the above recommendations, and the same have been covered below.
- Generation of e-way bills has now been restricted to documents dated within 180 days from the date of such generation.
- Extension of e-way bills has now been limited to 360 days from the original date of their generation.
- Form GST SPL-02, notified for filing applications 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, has now been made available on the GSTN portal.

## CASE LAW UPDATES

### GMR POCHANPALLI EXPREESWAYS LTD v. ADDITIONAL DIRECTOR

2024 (11) TMI 371

**Telangana High Court** upholds validity of Circular No 150/06/2021-GST which clarified that services of *construction of roads against consideration by way of annuity (deferred payments)* were not covered under the exemption granted to *services by way of access to road or bridge, whether the consideration is in the form of tolls or annuity.*

### DALMIA CEMENT (BHARAT) LTD v. UNION OF INDIA AND ORS

2024 (11) TMI 1055

**Orissa High Court** holds that where Customs duty on imported goods is debited in the duty credit scrip furnished by the importer, thereby “exempting” the goods from such Customs duty, the importer shall not be liable to pay Social Welfare Surcharge, since the same is calculated as a percentage of the Customs duty itself, which in the above case, would be *nil*.

### TVL. SRP COMMUNICATIONS v. STATE TAX OFFICER (INTELLIGENCE) AND ANR

2024 (9) TMI 601

**Madras High Court** holds that an assessee shall be entitled to the benefit of input tax credit (ITC) reflecting in its Form GSTR-2A but not claimed by it due to non-filing of returns, where the GST department seeks to impose tax demand based on best judgement assessment; reiterates the principle that *once tax is demanded, benefit of ITC must be granted.*

### DHARNIA MOTORS v. UNION OF INDIA AND ORS

2024 (12) TMI 266

**Rajasthan High Court** holds that pre-GST ITC of Central Excise Duty in respect of inputs held in stock by a person not possessing a Central Excise registration could not be transitioned into the GST regime merely by filing Form GST TRAN-3 without filing Form GST TRAN-1; further holds the time limit specified in rule 117 of the Central Goods and Services Tax Rules, 2017 to be mandatory and not directory.

## REGULATORY UPDATES

### Goods and Services Tax

#### **CIRCULAR NO 240/34/2024**

Central Government has clarified that electronic commerce operators (ECOs) required to pay tax in respect of specified supplies supplied through their platform are not required to reverse ITC to the extent of such specified supplies; such ECOs are required to pay the aforementioned tax liability only through their electronic cash ledger; and ITC on inputs and input services used to facilitate such supplies may be utilized for discharging tax liability in respect of services supplied by them on their own account.

#### **CIRCULAR NO 241/35/2024**

Central Government has clarified that where the sale contract between the supplier and recipient is on Ex-Works basis, goods are to be delivered by the supplier to the transporter on behalf of the recipient at the supplier's place of business, and the property in goods stands transferred to the recipient at the time of such handing over, the goods shall be construed to have been "received" by the said recipient at such time and ITC thereon shall be immediately allowed (despite physical receipt of goods at a later date).

#### **CIRCULAR NO 242/36/2024**

Central Government has clarified that all suppliers of online services to unregistered recipients, irrespective of the value of supply, are required to mention the recipient's State name on their tax invoices, and determine the "place of supply" accordingly.

#### **CIRCULAR NO 243/37/2024**

Central Government has clarified that (i) transaction in vouchers (including pure trading thereof) is neither a "supply of goods" nor a "supply of services"; (ii) commission / fee earned by distributor / sub-distributor, acting as an agent of the voucher issuer for distribution of vouchers, is liable to GST; (iii) service fee / service charge / affiliate charge towards supply of additional

services (advertisement, co-branding, customization services, technology support services, customer support services, etc) by distributor / sub-distributor to the voucher issuer is liable to GST; and (iv) amount attributable to unredeemed vouchers (breakage) is not liable to GST.

## Customs

### **NOTIFICATION NO 49/2024**

Central Government has extended the Basic Customs Duty and Agricultural Infrastructure and Development Cess exemptions on import of *yellow peas* till 28.02.2025, subject to the condition that the Bill of Lading is issued on or before the said date.

### **NOTIFICATION NO 50/2024**

Central Government has notified the fourth tranche of tariff concessions under the India-Australia Economic Cooperation and Trade Agreement.

### **NOTIFICATION NO 86/2024-(NT)**

Central Government has notified that the manufacturing process resulting in generation and supply of electricity from goods imported for solar power generation projects shall not be permitted to be undertaken in a warehouse.

### **CIRCULAR NO 27/2024**

Central Government has enabled electronic collection of voluntary self-initiated post import / export payments on the ICEGATE e-Payment platform, replacing the existing TR-6 payments done manually.

### **CIRCULAR NO 01/2025**

Central Government has rolled out Automated Out of Charge (Auto-OOC) facility for AEO T2 and T3 certified entities in cases where (i) there is no requirement of verification of compulsory compliance requirements (CCR); (ii) the bill of entry is not selected for examination, scanning or

any Partner Government Agency related No-objection requirement; (iii) where assessment is complete; and (iv) authentication through OTP is complete for duty deferment.

## Foreign Trade Policy

### **NOTIFICATION NO 43/2024-25**

Directorate General of Foreign Trade has extended the 'free' import policy of *yellow peas* without Minimum Export Price condition, without port restriction, and subject to registration under online Import Monitoring System, till 28.02.2025, subject to the condition that the Bill of Lading is issued on or before the said date.

### **NOTIFICATION NO 44/2024-25 AND TRADE NOTICE NO 25/2024-25**

Directorate General of Foreign Trade has restricted the import of *low ash metallurgical coke having ash content below 18%, excluding coke fines / coke breeze and ultra-low phosphorous metallurgical coke with phosphorous content up to 0.030% with size up to 30 mm with 5% size tolerance for use in ferroalloy manufacturing* and imposed country-wise quantitative restrictions on import for the period 01.01.2025 to 30.06.2025. Applications for seeking import authorisation for the period 01.01.2025 to 12.01.2025 can now be filed on the [DGFT website](#).

### **NOTIFICATION NO 45/2024-25**

Directorate General of Foreign Trade has extended the policy condition specifying Minimum Export Price of USD 2,000/- FOB per MT in respect of *natural honey* up to 31.12.2025.

### **NOTIFICATION NO 46/2024-25**

Directorate General of Foreign Trade has imposed a policy condition specifying Minimum Import Price of INR 20,108/- per MT in respect of *Disodium Carbonate (Soda Ash)* up to 30.06.2025.

### **NOTIFICATION NO 47/2024-25 AND PUBLIC NOTICE NO 37/2024-25**

Directorate General of Foreign Trade has introduced provisions in the Foreign Trade Policy (FTP) (i) allowing the Central Government to consult stakeholders such as exporters / importers / industry experts to seek their views, suggestions, comments or feedback with regard to formulation, incorporation of specific provision(s) or amendments in the FTP; and (ii) providing a mechanism to inform reasons for not accepting such views, suggestions, comments or feedback.

### **POLICY CIRCULAR NO 10/2024-25**

Directorate General of Foreign Trade has notified that the amendment in the Export Promotion Capital Goods (EPCG) scheme to the effect that in case of third-party exports, proceeds received from the third-party exporter's account to the EPCG authorisation holder's account only shall be counted towards fulfilment of export obligation (instead of full realised value of shipping bill), shall apply to third-party exports made against EPCG Authorisations issued on or after 05.12.2017 only.

### **TRADE NOTICE NO 24/2024-25**

Directorate General of Foreign Trade has extended the launch of the enhanced version of the Preferential Certificate of Origin (eCoO) system – eCoO 2.0 to 17.01.2025. It has also been reiterated that electronic filing of Non-Preferential Certificates of Origin (CoO) on the eCoO 2.0 Platform has now been made mandatory.

### **TRADE NOTICE NO 26/2024-25**

Directorate General of Foreign Trade has notified a Standard Operating Procedure for obtaining export authorizations and streamlining the process for export of *seeds and planting materials* categorised as 'restricted'.

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

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