



INDIA TRADE AND TAX SCAN

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WELCOME TO OUR TRADE AND TAX NEWSLETTER

We are pleased to present the third edition of our Trade and Taxation Newsletter, sharing important updates, key developments, and practical insights on trade and taxation, all tailored to help you stay ahead in an ever-changing regulatory environment.

We hope you find this newsletter useful and informative, and we look forward to your continued engagement.

Next to being shot at and missed, nothing is really quite as satisfying as an income tax refund. 

— F. J. Raymond, Humourist

TAX TRIVIA



PAN 2.0: Your Digital Key to Simplified Governance

Shahid Khan (Senior Partner) interviewed by Pradeep Ratnam (Senior Partner)



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contd.

I.TAX UPDATES

DIRECT TAX - Notifications & Circulars from CBDT

CBDT specifies monetary limits for waiver of interest payable under section 220(2)

Taxpayers failing to deposit tax as per notice of demand under section 156 are liable to pay simple interest of 1% per month. Section 220(2A) grants power of reduction or to waive or reduce this interest in cases of genuine hardship. CBDT has now directed that Commissioners can exercise this power in cases of interest up to Rs 50 lakh, Chief Commissioners in cases between Rs 50 lakh and 1.5 crore, and Principal Chief Commissioners in cases of over Rs. 1.5 crores.

[Circular No. 15/2024 [F. NO. 400/08/204-IT(B)], Dated 4-11-2024]

CBDT awareness campaign for disclosure of foreign assets/income in tax returns

Resident taxpayers having foreign incomes or foreign accounts or foreign assets are required to make disclosure about these in Schedule FA of their tax returns. Failure to do so can attract a penalty of Rs 10 lakh under the Black Money Act apart from consequences under Income Tax Act. As part of its awareness campaign CBDT is currently running an awareness campaign under which its sending messages to individuals who, as per information received by the Income Tax Department under Tax Treaties with different countries, may be holding foreign accounts/ assets/ incomes but may not have disclosed these in Schedule FA of their return for A.Y. 2024-25. These messages are being sent via SMS and email to resident taxpayers who have already filed their returns for the current year.

[CBDT Press Release dated 16.11.2024 for AY 2024-25]

CBDT is starting PAN 2.0 Project to provide end-to-end PAN/TAN services

The existing PAN card system set up in 2003 is proposed to be upgraded to PAN 2.0. The main objective is to merge different existing identification numbers (such as TAN) into a single identifier so as to make PAN a Common Business Identifier. Union Cabinet has approved budget of Rs 1,435 crore for the project.

Presently, PAN related services are hosted on three different portals. In the PAN 2.0 Project, all PAN/TAN related services will be hosted on a single unified portal of Income Tax Department.



WHAT'S INSIDE

- Advance Ruling Authority holds Uber's subscription model taxable under Section 9(5) of the CGST Act

EXCISE

- Big relief to telecom companies as SC allows Cenvat Credit of excise duties paid on towers and prefabricated buildings as 'goods', 'capital goods' and 'inputs'

CUSTOMS

- Re-assessment of Bills of entry not warranted without any reason to doubt the accuracy of the declared value and giving reasons, even if the importer accepts re-assessment.
- The Bombay High Court quashed a notice issued after a delay of 26 years seeking to recover Customs duty for non-submission of EODC certificate.
- Personal jewellery carried by a passenger in their baggage allowed duty-free clearance irrespective of the monetary value
- The Apex Court Supreme Court Upholds Customs Duty Exemption for Machinery Used in Alternate State Projects"

III. INTERNATIONAL TRADE BRIEF

The Portal would host end-to-end services related to PAN and TAN such as allotment, correction, online PAN validation, know your AO, Aadhar-PAN linking, verify your PAN, request for e-PAN, request for re-print of PAN card etc. It is proposed to make the system completely paperless. Personal and demographic data will be protected through enhanced security measures, including a PAN data vault system.

The current 10-digit alphanumeric structure of PAN will remain unchanged. PAN numbers already allotted will also remain unchanged. The existing cardholders (around 78 crore) will be enabled to upgrade their PAN cards, which the government has said would be free of cost. Under the PAN 2.0 Project, PAN will be allotted free of cost in paperless mode with quicker processing time.

A QR code feature was introduced in PAN cards in 2017. This will be enhanced to dynamic QR code that will display latest data present in PAN database. PAN holders having an old PAN Card without QR code have an option to apply for a new card with QR code. This facility will continue in the PAN 2.0 eco-system as well.

With the upgrade PAN is expected to become a strong source of identification and information for all digital systems of specified government agencies. The unified portal being proposed under the project includes a with a "mandatory PAN data vault system". This will allow online access to eligible entities using PAN data (e.g., banks, insurance companies etc.) for verification safely. The PAN data vault will ensure protection of demographic data and provide cybersecurity.

INDIRECT TAX - Notifications and circulars from CBIC

CUSTOMS

Additional qualifiers for import declarations concerning Coking and non-Coking Coal w.e.f. December 15, 2024

The Central Board of Indirect Taxes and Customs ("CBIC") by a circular has introduced certain mandatory additional qualifiers for coking and non-coking coal. The additional qualifiers to be declared as a subcategory based on different grades is, ash percentage for coking coal and gross calorific value for non-coking coal being imported under CTH 2701.

[Circular No. 24/2024 - Customs (Tariff) dated November 20, 2024]

Clarifications regarding Customs (Import of Goods at Concessional Rate of Duty) Rules 2022 ("IGCR Rules")

CBIC clarifies that MOOWR units importing raw materials with duty deferment can also avail IGCR benefits for clearances to DTA, SEZ, or other MOOWR units, subject to conditions under both schemes.



MOOWR units supplying value-added components for mobile phone manufacturing are eligible for IGCR benefits if conditions are fulfilled.

[Circular No. 26/2024 - Customs, November 21, 2024]

Foreign food manufacturing facilities are required to register as per the Food Safety and Standards (Import) First Amendment Regulations, 2021 (“FSSAI regulations”)

Foreign food manufacturing facilities producing Milk, Milk Products, Meat, Poultry, Fish, Egg Powder, Infant Food, and Nutraceuticals must register through their competent authorities in exporting countries before exporting to India. FSSAI has launched the “ReFoM” portal, which stores information on these facilities provided by the competent authorities. Registration on the portal is an ongoing process, with regular updates based on received data.

[Instruction No. 29/2024-Customs, November 14, 2024]

CBIC clarified the classification of Clear Float Glass

CBIC clarifies that Clear Float Glass, unwired, uncoloured, non-reflective, untinted, with a thin layer on one side, is correctly classified under tariff item 7005 29 90.

[Circular No. 23/2024-Customs dated November 14, 2024]

Amendments made to the Handling of Cargo in Customs Areas Regulation, 2009 (“HCCAR”).

The CBIC has introduced the following amendments to the HCCAR:

1) Under Regulation 5(3) the value of Custodian bonds to be executed by a Customs Cargo Service providers, has been reduced to the average amount of duty involved on the imported goods and ten per cent of value of export goods likely to be stored in

the customs area during a period of 5 days, reduced from 10 days.

2) Accordingly, the CBIC by a circular laid down that the amount of insurance to be provided by the Cargo Service Providers should be equal to the average value of goods likely to be stored in the Customs Area for 5 days.

3) Sub-regulation (2) of Regulation 10 has been amended providing that the approval for appointment of AEO-LO, Customs Cargo Service Providers as custodian has been made valid, till such time their AEO authorisation is valid and not suspended or revoked.

[Notification No. 75/2024 - Customs (NT) dated November 07, 2024, read with Circular No.22/2024-Customs dated November 08, 2024]

Jajpur, Odisha designated as an Inland Container Depot

The Government of India designates Jajpur in Odisha as an Inland Container Depot, for unloading of imported goods and the loading of export goods.

[Notification No. 78/2024 - Customs (NT) dated November 12, 2024]

Chhara, Gujarat designated as a Customs port

The Government of India designates Chhara, Gujarat as an Inland Container Depot, for handling both the unloading of imported goods and the loading of export goods.

[Notification No. 81/2024 - Customs (NT) dated November 14, 2024]

Guidelines issued for identification of Low Voltage Switchgear and Controlgear falling under the Electrical Equipment Quality Control Order (EEQCO), 2020



The Ministry of Heavy Industries and Public Enterprises (“Ministry”) had on November 11, 2020, issued the EEQCO, 2020, which provides that all manufacturers of Low Voltage Switchgear and Controlgear, shall obtain the compulsory certification, ensure that the goods conform with the Indian Standards, bear the Standard Mark and all other necessary labelling requirements. The requirements under EEQCO are also applicable on imports of Low Voltage Switchgear. The Ministry vide an office memorandum dated November 01, 2024, has illustrated the general ways of identification of the Low Voltage Switchgear to be adhered to by the Customs field formations.

[Instructions No. 28/2024 - Customs dated November 12, 2024]

CBIC extends the validity of Order issued under CAVR in respect of Stainless Steel

CBIC has extended the validity of Customs CAVR Order No. 02/2023, issued under the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023, for one year until November 28, 2025. The order designates J3 grade stainless steel as ‘identified goods’ under Rule 10, requiring additional declarations.

[CAVR Review Order No. 02/2024-Customs dated November 13, 2024]

GOODS & SERVICES TAX

Deadline for filing GSTR 3B returns extended in Maharashtra, Jharkhand and Manipur

CBIC extended due date for furnishing GSTR 3B return for October 2024 till November 21, 2024, for Maharashtra and Jharkhand on account of state legislative assembly elections; and till November 30, 2024, for Manipur.

[Notification No. 26/2024–Central Tax and Notification No. 29/2024–Central Tax dated November 27, 2024]

Government further expands Authority of Principal Commissioners and Commissioners of Central Tax to adjudicate notices issued by DGGSTI

In 2022, the Government authorized Additional/Joint Commissioners in specific jurisdictions to adjudicate DGGSTI notices for enforcement actions such as arrest, demand, search, seizure, etc. Effective December 1, 2024, this power extends to additional jurisdictions across India, including Bengaluru, Delhi West, Guwahati, and Jaipur.

[Notification 27/2024- Central Tax dated November 25, 2024]

District-wise jurisdictions for state benches of GST Appellate Tribunals defined

Government has revised district-wise jurisdictions for state benches of GST Appellate Tribunal across India. Notable changes include swapping the jurisdictions of Varanasi and Prayagraj in Uttar Pradesh, and Jalandhar and Chandigarh in Punjab and Chandigarh.

[S.O. 5063(E) - Central GST (CGST) dated November 26, 2024]

CENTRAL EXCISE

CBIC rescinds six notifications pertaining to levy or exemption of SAED on petrol, diesel, and aviation turbine fuel

Effective December 2, several notifications have been issued rescinding earlier ones concerning Special Additional Excise Duty (SAED). The revised rates are ₹11 for Motor Spirit (MS) and ₹8 for High-Speed Diesel (HSD), with SAED on petroleum crude and Aviation Turbine Fuel (ATF) withdrawn. The concessional Road and Infrastructure Cess (RIC) rates on MS and HSD have also been removed. The facility of rebates on exports has been extended to petroleum products, including HS and MSD.

[Notification No. 29/2024-Central Excise dated December 02, 2024]; [Notification No. 30/2024-Central Excise dated December 02, 2024]



CBIC also revokes exemption of Basic Excise Duty and Agricultural Infrastructure Development Cess on export of petrol, diesel, and ATF

Effective December 3, 2024, CBIC has withdrawn the notification exempting the export of Motor Spirit (MS) and High-Speed Diesel (HSD) from Basic Excise Duty (BED) and Agricultural Infrastructure Development Cess (AIDC), as well as the export of Aviation Turbine Fuel (ATF) from BED. Consequently, the levy of BED and AIDC on petrol, diesel, and ATF exports has been reinstated.

[Notification No. 31/2024- Central Excise dated December 03, 2024, read with Notification No. 8/2022-Central Excise dated June 30, 2022]

CBIC amends Central Excise Rules on Rebate and export without payment of duty for Petrol, Diesel, and ATF

CBIC has revised the Central Excise Rules, 2017, by removing the provisos in Rule 18 and Rule 19. These provisos previously excluded the export of petrol, diesel, and aviation turbine fuel (ATF) from claiming rebate of duty or exporting without payment of duty.

[Notification No. 01/2024-Central Excise (NT) dated December 03, 2024]

II. SPOTLIGHT ON JUDICIAL PRONOUNCEMENTS

DIRECT TAX - INTERNATIONAL TAX CASES

Right of UAE to tax sufficient to claim benefit of DTAA even if no tax paid in UAE

The Delhi Bench of Income Tax Appellate Tribunal has held that in a case where a tax resident of the UAE, earned capital gains on sale of mutual funds in India, the capital gains will not be taxable in India as Article 13(5) of India's Tax Treaty with the UAE allocates taxation rights over capital gains arising to tax residents of UAE to UAE. The Bench held that it is immaterial that the UAE has not exercised the right to tax capital gains and that capital gains on securities are not taxable under the domestic law of UAE.

[Saket Kanoi vs DCIT, ITA No. 3243 (DEL)/2023, A.Y. 2021-22 dated 23.10.2024]

GST not to be included in computing deemed income of NR shipping companies

Section 44B of Income Tax Act provides procedure for computing income of non-resident shipping companies from revenues in India. The Mumbai Bench of Income Tax Appellate Tribunal held that since this is a special procedure provided in the statute for computing deemed income of such companies, only the amounts specified in section 44B(2) can be included in computation. Accordingly, amount of GST cannot be included in the revenue of these companies.

[Orient Overseas Container Line v. DCIT, ITA No.3278(Mum)/2023, A.Y. 2020-21 dated 24.10.2024]

DIRECT TAX - INCOME TAX CASES

Separate satisfaction note to be recorded for each year in search cases

Supreme Court dismissed a SLP of Income Tax department and confirmed Karnataka High Court



judgment wherein the High Court had held that in search cases where the Assessing Officer invokes section 153C of Income Tax Act on the ground that records seized in a search case contains evidence against some persons other than the one in whose name the search warrant was issued, then the Assessing Officer has to record separate satisfaction note for each assessment year in each such case.

[DCIT v. Sunil Kumar Sharma, SLP (Civil) Diary No(s). 23406/2024, dated 21.10.2024]

Capital subsidy granted by NHAI to concessionaire is not for 'work' contract

In a case where NHAI had granted capital subsidy to one of its concessionaires carrying out project work on BOOT basis, Delhi High Court held that such subsidy is not payment for 'work' as referred to in section 194C of Income tax Act. Therefore, there was no requirement for NHAI to deduct TDS on such subsidy.

[CIT (TDS) v. National Highway Authority (Delhi), IT Appeal 1145/2017 dated 12.11.2024]

Tax exemption under RFCTL Acquisition Act is available only to Awards under that Act

In a case relating to capital gains arising on land acquisition under Karnataka Highways Act, the Karnataka High Court held that income tax exemption under section 96 of Right to Fair Compensation and Transparency in Land Acquisition Act, is available only to Awards or Agreements made under that Act and not in cases of land acquisitions under other Acts including Karnataka Highways Act.

[CIT (TDS) vs Tushira Industries, Writ Appeal NO.100568/2023 dated 29.10.2024]

Advance annual maintenance fee is not current liability but income

In a case where the assessee had recorded fees received in respect of annual maintenance contracts in

its books as current liability, Madras High Court held that, since the assessee was following mercantile system of accountancy it would be bound to recognize amounts received in advance as income and it could not treat same as a current liability to postpone imminent tax liability merely because service is to be provided in future.

[CIT v. Johnson Lifts (P.) Ltd. T.C. Appeal No. 54/2015 dated 29.10.2024]

TDS deducted but not deposited by deductor cannot be demanded from employees

Bombay High Court held that in view of statutory bar in section 205 of Income Tax Act, the Assessing Officer cannot issue demand notice to petitioners (employees) for payment of tax and interest on delayed amounts when the TDS amount was deducted by their employer from their salaries but was not deposited by him in government account.

[Neenad Ashok Kadam v. AO Writ Petition (L.) No. 31647/2024 dated 18.10.2024]

Trusts providing vocational education are eligible for registration

In the case of a society running a private Industrial Training Institute providing, vocational training, Punjab & Haryana High Court held that though vocational training lacks imparting of systematised education still such vocational training will come within the definition of 'education' used in section 2(15) of the Income Tax Act and the society will be eligible for registration under Sections 12A and 12AA as engaged in public charitable activity.

[CIT (Exemptions) vs. Unique Educational Society - ITA No. 54/2020 (O&M) dated 17.09.2024]



In IBC cases liabilities of period prior to approval of resolution plan cannot be pressed

Gujarat High Court held that in cases where resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016, liabilities of all stakeholders including Government/ Statutory Authorities pertaining to period prior to the approval of resolution plan get extinguished on approval of the resolution plan. Therefore, proceedings relating to period prior to approval of resolution plan can neither be initiated nor continued after the approval of resolution plan. For the same reason tax dues relating to period prior to approval of resolution plan cannot be recovered.

[Jyoti Power Corporation (P.) Ltd. v. PCIT, Special Civil Application No. 4057/2022]; [GSL Nova Petrochemicals Ltd. v. NFAC, Special Civil Application No. 10925/2022]

Section 54 exemption allowed even if new house was incomplete

In a case of capital gains arising on sale of residential property, the Bangalore Bench of Income tax Tribunal held that deduction under section 54 of Income Tax Act should be allowed in respect of amount utilised by the assessee out of sale consideration towards construction of new house even where construction of the new house was not complete.

[DCIT v. Bagalur Krishnaiah Shetty Vijay Shanker- IT Appeal No. 1174 (Bang)/2024]

BLACK MONEY ACT

Prosecution under Black Money Act is not dependent on completion of assessment

Delhi High Court held that an offence under section 51(3) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 stands completed as soon as the conditions required in that section are fulfilled, if proved. Therefore, prosecution under section 51 cannot be made dependent upon completion of assessment.

[Sanjay Bhandari v. ITO, CrI. M.C. 805/2020 dated 08.11.2024]

INDIRECT TAX - GOODS AND SERVICES TAX

Conflicting views by HCs on extension of time limit under Section 73(10) for 2017-18, 2018-19 and 2019-20

The High Courts of Karnataka, Allahabad, Kerala, and Patna have upheld the validity of Notification Nos. 9/2023-Central Tax and 56/2023-Central Tax, which extend the time limit for passing assessment orders under Section 73(10) for 2017-18 to 2019-20. However, the Gauhati High Court has quashed the notification, and the Madras High Court has stayed the operation of orders passed under these extensions. These divergent rulings by various High Courts create further uncertainty for taxpayers.

[Barhonia Engicon vs. The State of Bihar & Ors. TS-780-HC(PAT)-2024-GST]; [Sahaj Construction v. Union of India & Ors. TS-726-HC(KAR)-2024-GST]

Non-reversal of IGST credit wrongly availed as CGST/SGST upheld

In a recent ruling, the Kerala High Court upheld the non-reversal of IGST credit where the assessee had mistakenly reported IGST credit under CGST/SGST in its GSTR-3A returns. The Court observed that the error was inadvertent and technical, without any wrongful credit availment, thus not warranting proceedings under Section 73. It emphasized that if the tax is duly paid and the issue is merely a reporting error, no action under Section 73 is justified.

[Rejimon Padickapparambil Alex vs Union of India & Ors TS-781-HC(KER)-2024-GST]

ITC allowed on demo cars pursuant to clarification issued by Board

The Punjab & Haryana High Court has allowed ITC on demo vehicles even where the vehicles are capitalized



in the books of account by the authorized dealers and set aside the orders of the AAR and AAAR on basis of the CBIC circular.

[BMW India v. Haryana Appellate Authority for Advance Ruling TS-748-HC(P&H)-2024-GST) & Circular No. 231/25-HGST/2024/GST-II]

Gujarat High Court holds that Notification amending Rule 89(5) applicable retrospectively

In a recent judgment, the Gujarat High Court set aside the rejection of a refund claim for accumulated ITC under the inverted duty structure, where the application was filed before the amendment to Rule 89(5) via Notification No. 14/2022-Central Tax dated 05.07.2022. While a Circular clarified that the Notification applies prospectively, the Court held that the amendment to Rule 89(5) is curative and clarificatory, making it applicable retrospectively to refund or rectification applications filed within the two-year limit prescribed under Section 54(1) of the Act.

[Ascent Meditech Ltd. V. Union of India TS-750-HC(GUJ)-2024-GST]

Advance Ruling Authority holds Uber's subscription model taxable under Section 9(5) of the CGST Act

Uber India sought an Advance Ruling on the taxability of a new subscription-based business model, where it would provide technology services by connecting drivers with riders through an online platform. The Authority ruled that Uber remains liable for tax under Section 9(5) of the CGST Act. It noted that Section 9(5) applies when an electronic commerce operator provides notified services through its platform. Since Uber satisfies these conditions, it will continue to be liable to pay GST as an e-commerce operator under the subscription-based model.

[IN RE: M/s Uber India Systems Pvt Ltd. 2024 (11) TMI 330 - AUTHORITY FOR ADVANCE RULING, KARNATAKA]

EXCISE

Big relief to telecom companies as SC allows Cenvat Credit of excise duties paid on towers and prefabricated buildings as 'goods', 'capital goods' and 'inputs'

The Supreme Court, addressing conflicting judgments by the Delhi and Bombay High Courts, held that mobile towers and pre-fabricated buildings (PFBs) qualify as 'goods' and allowed Cenvat credit on excise duty paid for them as 'capital goods' and 'inputs.' The Court applied principles such as annexation intention, functionality, permanency, and marketability tests to reach its conclusion.

The Court observed that towers and PFBs are assembled on-site from CKD or SKD components and, once installed, can be dismantled and relocated without altering their nature. This capability for relocation and resale demonstrated compliance with the marketability and permanency tests. The affixation of towers to the earth or buildings was determined to be for stability and operational purposes, not for permanent beneficial enjoyment, thereby meeting the functionality and intention tests. The Court referenced prior rulings, including Solid and Correct Engineering, Triveni Engineering, and Sirpur Paper Mills.

The Court also considered whether towers and PFBs qualify as accessories to antennas and BTS (Base Transceiver Stations) and, therefore, as 'capital goods' for telecommunication services. It concluded that towers and PFBs, essential for elevating antennas and ensuring effective signal transmission, serve as components/accessories of BTS and qualify as 'capital goods,' making excise duty on them eligible for credit.

The alternate argument that towers and PFBs are 'inputs' was upheld, recognizing their integral role in transmitting radio signals, the core output service of telecom providers. This decision provides significant relief to telecom companies and holds potential benefits under the GST regime.

[M/S Bharti Airtel Ltd. Vs. The Commissioner of Central Excise, Pune, reported in 2024 (11) TMI 1042 - SUPREME COURT]



CUSTOMS

Re-assessment of Bills of entry not warranted without any reason to doubt the accuracy of the declared value and giving reasons, even if the importer accepts re-assessment.

The Delhi High Court quashed a CESTAT order, emphasizing that reassessment of a Bill of Entry requires a foundational reasonable doubt about the accuracy of the importer's declaration. The Court clarified that reassessment is a two-step process: first, the proper officer must have a reasonable basis, supported by independent and cogent evidence, to doubt the declared value; second, the officer must provide written reasons for the doubt and offer the importer an opportunity to respond. Mere conjecture or reliance solely on NIDB data is insufficient for reassessment.

The Court also addressed the issue of waiver or concession by the importer, affirming that the right to challenge the proper officer's decision, including the formation of their opinion and its merits, is statutorily protected. It clarified that the proper officer remains obligated to issue a speaking order, detailing reasons for rejecting and reassessing the declared value, as mandated by law.

Furthermore, the Court held that rejection of declared value cannot rely exclusively on NIDB data, as it does not constitute independent evidence. The decision reinforces the need for procedural fairness and adherence to statutory requirements in reassessment processes, ensuring that importers are given a fair opportunity to represent their case.

[Niraj Silk Mills Judgment dated November 27, 2024, reported in 2024 (11) TMI 1361]

The Bombay High Court quashed a notice issued after a delay of 26 years seeking to recover Customs duty for non-submission of EODC certificate.

The Bombay High Court quashed a Show Cause notice issued after 26 years under Section 143 of Customs

Act, 1962, seeking to recover Customs duty for non-submission of Export Obligation Discharge Certificate dated September 23, 1986. The High Court held that even though there is no time limit provided under Section 143 for recover of duty foregone, "there is nothing reasonable in seeking to make recoveries after 26 years. Not even an attempt is made to explain this inordinate delay."

[Mahindra and Mahindra Ltd - November 19, 2024]

Personal jewellery carried by a passenger in their baggage allowed duty free clearance irrespective of the monetary value

The Delhi High Court, interpreting the definitions of "jewellery" and "personal effects" under the Baggage Rules, 2016, held that personal jewellery not acquired during an overseas trip qualifies as a "used personal effect" and can be cleared duty-free in India. The Court further ruled that since used personal effects are permitted for import under Rules 3 and 4 of the Baggage Rules, regardless of their monetary value, the import of "personal jewellery" by passengers in their baggage is also exempt from any monetary limits prescribed under these rules.

[Saba Simran Vs. Union of India & Ors. - 2024(12) TMI 19 – Delhi High Court]

The Apex Court Supreme Court Upholds Customs Duty Exemption for Machinery Used in Alternate State Projects"

Notification No. 21/2002-Cus dated March 1, 2002, provided Customs duty exemption on specified machinery and equipment imported for road construction projects undertaken by the state or government. A key condition for availing this exemption was furnishing an undertaking at the time of import that the goods would be used exclusively for road construction and not transferred for five years. In this case, the importer could not deploy the goods for the intended project as the site was unavailable and instead used them for constructing a "rail over bridge" for another state project.



The CESTAT ruled that the pre-import and post-import conditions of the Notification are distinct. It held that utilizing the imported goods in other state projects rather than leaving them idle complies with the post-import condition. Since the goods met the eligibility criteria at import, there was no breach of the pre-import condition or the exemption terms.

The Supreme Court upheld the CESTAT's findings, agreeing that the use of the goods for a related purpose did not violate the exemption conditions. It dismissed the Customs department's appeal, affirming that the exemption was valid as the intended use aligned with the Notification's intent.

[Commissioner of Customs (Imports) Mumbai Vs. Ircon International Ltd. & Ors. – 2024 (10) TMI 164]

III. INTERNATIONAL TRADE BRIEF

- The U.S. President-elect has proposed raising tariffs on three major trading partners—China, Mexico, and Canada. Additionally, similar measures are being considered for BRICS countries if they transition to alternative currencies for transactions, replacing the dollar.
 - India-EU to initiate 10th round of talks soon for finalizing Free Trade Agreement. Key issues pertaining to labour standards, deforestation rules and carbon tax will be on agenda.
 - Requirement of compulsory registration under Chip Imports Monitoring System (CHIMS) in terms of Policy Condition No. 08 of Chapter 85 of ITC (HS), 2022, Schedule-1(Import Policy) has been discontinued, with immediate effect. [Notification No. 41/2024-25 dated November 29, 2024.]
 - The RoDTEP scheme extended for exports made from DTA Units till September 30, 2025, and AA/EOU/SEZ Units till December 31, 2024. Additionally, revised rates in Appendix 4R and Appendix 4RE also notified for implementation with effect from October 10, 2024.
- [Notification No. 32/2024-25 dated September 30, 2024]
- DGFT notifies new SION for export product Clobetasol Propionate under Chemical & Allied Product Group. Public Notice No. 33/2024-25 dated November 14, 2024
 - Para 4.71 of the Handbook of Procedures 2023, amended to include additional port of export as 'Amritsar Airport' for exports under schemes of gold/silver/platinum jewellery and articles thereof, for ease of doing business [Public Notice No. 32/2024-25 dated November 13, 2024]
 - To streamline the Export Control and Facilitation process and provide enhanced clarity for all stakeholders, DGFT proposed updated draft schedule II to notify a harmonized Schedule-II (Export Policy) based on 8-digit ITC (HS) codes, in line with the latest tariff codes notified under the Finance Act 2024, replacing the description-based Export Policy. Comments to be sent by November 27, 2024. Trade Notice No. 22/2024-25 dated November 14, 2024.
 - The DGFT amended ITC (HS) 2022, (Schedule-I) Import Policy to align with the Finance Act, 2024 dated August 16, 2024. The amended policy has come into effect immediately. [Notification No. 40 /2024-25 dated November 26, 2024.]
 - Anti-dumping investigation concerning imports of "Mono Ethylene Glycol (MEG)" originating in or exported from Kuwait, Saudi Arabia and USA has been terminated by the Designated Authority on the request of Domestic Industry. It is pertinent to note that despite getting favourable decisions from the Courts, to set aside previous final finding by which no duty was recommended, the Applicant domestic industry has requested termination on the ground that data collected in the investigation is 4 years old and does not reflect current market situation. [Notification No. F. No. 6/8/2021-DGTR dated November 27, 2024.]



- The DGTR recommends Anti-dumping duty in the range of 565-677 USD/ MT on import of Textured Tempered Glass from China PR, Vietnam. [Notification No. 24/2024-Customs (ADD) dated November 11, 2024.]
- The DGTR recommends extension of countervailing duties imposed at 20% pursuant to sunset review concerning imports of "Saccharin" originating in or exported from China PR for further 5 years. [Case No. CVD-SSR-14/2023 dated November 27, 2024.]

Duties imposed or extended by the Ministry of Finance on import of following products:

Type of Duty	Product	Country/s	Customs Notification No. & Date	Range of duties
Anti-Dumping	Welded Stainless-Steel Pipes and Tubes	Thailand and Vietnam	No. 23/2024-Customs (ADD) dated November 4, 2024	Nil to 307.79 USD/MT
Anti-Dumping	Epichlorohydrin	China PR, Korea RP and Thailand	No. 24/2024-Customs (ADD) dated November 11, 2024	Nil to 557 USD/MT

Our Team



Shahid Khan
Former member CBDT,
Senior Partner & Head - Direct Tax
shahid.khan@kochhar.com



Reena Asthana Khair
Senior Partner - Head Indirect Tax &
International Trade
reena.khair@kochhar.com



Shampa Bhattacharya
Partner - Indirect Tax
shampa.bhattacharya@kochhar.com