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GST Compendium

A monthly guide

December 2022

Editor’s note

The classification of back-office services under the GST regime has been a contentious issue. Often businesses claim back-office services as zero-rated supplies eligible for export incentives, while the GST authorities treat them as intermediary services liable to GST.

Recently, the Punjab and Haryana High Court held that the back-office and other support services provided to an overseas entity on its own account should not be regarded as an intermediary service under the GST law. The court also clarified that the provisions related to the intermediary remain unchanged from the pre-GST to GST regime. We have analysed this ruling in this edition for the benefit of our readers.

After the expiry of the tenure of the National Anti-profiteering Authority, the central government has appointed the Competition Commission of India as the new anti-profiteering authority under the GST laws with effect from 1 December 2022.

The Directorate General of Foreign Trade has allowed the realisation of the export earnings in Indian currency to avail benefits under different export promotion schemes under the Foreign Trade Policy with effect from 9 November 2022.

On the direct tax front, the Central Board of Direct Taxes has released the draft of the common income tax return form for public comment. Further, to avoid hardship to stakeholders, the Central Board of Direct Taxes has extended the timeline for filing applications for registration by a charitable trust, research institutes, etc., in certain specified cases.

I hope you will find this edition to be an interesting read.

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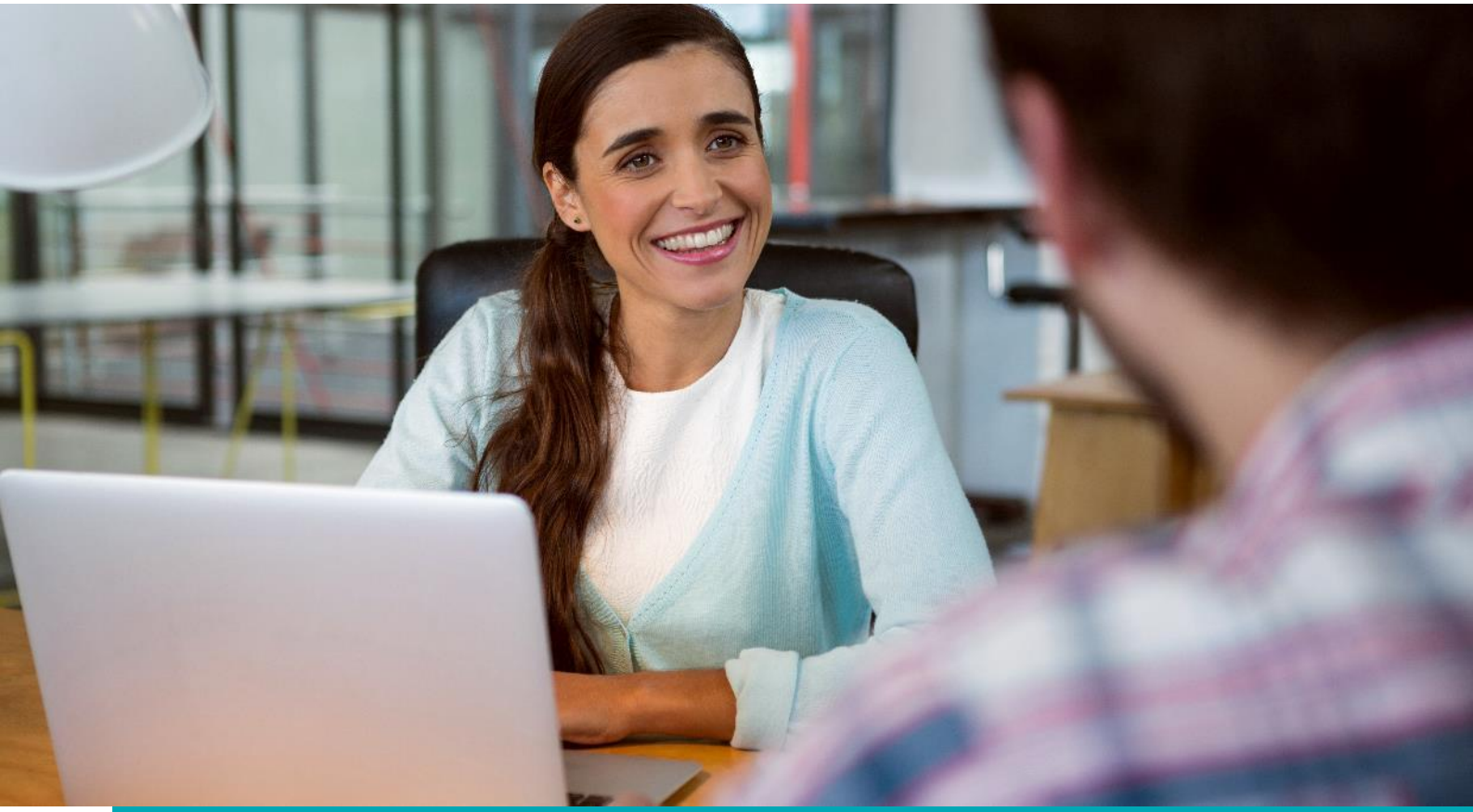
01 Important amendments/updates



A. Key updates under the GST and erstwhile indirect tax laws

CBIC decides not to file a review petition against the SC's decision in case of Mohit Minerals Private Limited

Earlier, the SC, in the case of M/s Mohit Minerals Private Limited, had dismissed the SLP filed against the order of the Gujarat HC. The Gujarat HC had struck down the levy of IGST on ocean freight charged on the transportation of goods by vessel and the same was affirmed by the apex court. The SC had held that since the Indian importer is liable to pay tax on the composite supply, which includes the supply of services as well, imposing tax on freight charges may lead to double taxation.

In pursuance of the above, the CBIC has decided not to file any review petition in the subject matter.

CBIC clarifies the applicability of revised formula for refund under IDS

Earlier, the CBIC vide Notification No. 14/2022 - Central Tax dated 5 July 2022, amended the formula prescribed under Rule 89(5) of the CGST Rules, 2017, to calculate the refund of unutilised ITC under IDS. Further, the CBIC placed restriction vide Notification No. 09/2022-Central Tax (Rate) dated 13 July 2022, w.e.f. 18 July 2022, on the refund of ITC under IDS in case of a supply of certain goods falling under Chapters 15 and 27.

In respect to the implementation of the above amendments, the CBIC has clarified the issues as below:

Issue	Clarification
What date would be considered for the applicability of the amended formula for filing the refund applications?	• The modification made in the refund formula is not clarificatory in nature. • The amended formula will be applicable prospectively w.e.f. 5 July 2022. • Accordingly, the amended formula will be applied to the refund applications filed on or after 5 July 2022. • Therefore, the refund applications filed before 5 July 2022 will be dealt in accordance with the previous formula.
Is the restriction, placed on goods covered under Chapters 15 and 27, applicable to the refund applications pending as on 18 July 2022?	• In case of specified goods falling under Chapters 15 and 27, the restriction on refund of unutilised ITC under IDS would apply prospectively. • As a result, the restriction will only apply to refund applications filed on or after 18 July 2022, and not to the refund applications filed before 18 July 2022.

Our comments

The SC had earlier directed the GST Council to reconsider the refund formula in case of IDS and take a policy decision, after considering the anomalies pointed out by the taxpayers in case of VKC Footsteps India Private Limited. In this respect, the GST Council, in its 47th council meeting, recommended an amendment in the formula for calculation of refund under IDS. The GST Council suggested to consider the ITC utilised on account of inputs and input services for payment of output tax on inverted rated supplies in the same ratio in which the ITC has been availed on inputs and input services during the said tax period.

Thereafter, the CBIC issued a notification to give effect to the above amendment in the refund formula. Now, the CBIC has clarified the applicability of the above formula, basis which it seems that the benefit of the amended formula would be available only with respect to the refund applications filed on or after 5 July 2022. However, it would result in a loss of increased refund amount on account of the amended formula for the taxpayers who have already filed their refund applications before 5 July 2022. The circular has created a distinction between the taxpayers who have filed their refund application before 5 July 2022 and on or after 5 July 2022, which does not seem to be the intention of the court.

(Circular No. 181/13/2022-GST dated 10 November 2022)

CBIC issues guidance note for verification of the transitional credits

In order to ensure uniformity in the implementation of the SC's directions, the CBIC has issued guidelines for the verification of the transitional credits availed by the applicants by filing/revising Form TRAN-1/2 (transitional forms). The CBIC has clarified that in case of no change in the filed/revised transitional form in comparison to the previously filed forms, the claim would be liable for rejection by the officer. However, in other cases, the JO shall proceed for the verification of the claim. The JO shall pass a reasoned order within 90 days from 1 December 2022. Further, the CBIC has issued a guidance note for verification of credit wherein it has suggested the list of checks in relation to the entries provided in Form TRAN-1, based on the provisions of law, the likely error and the inputs received from the field formations.

The CBIC has issued Circular No. 182/14/2022-GST dated 10 November 2022, providing the guidelines for verifying the transitional credit. With respect to the verification of transitional credit, the JO may refer to the guidance note provided in Annexure I of the circular. The guidance note includes the description of entries in Form TRAN-1 and the list of checks for verification of such entries. The indicative list of checks for verification of credit, along with the description of entries, is discussed as below:

Tables of Form TRAN-1	Relevant section of the CGST Act, 2017	Indicative list of nature of credit	Checks
Table 5(a)	Sections 140(1), 140(4)(a) and 140(9)	Details of the CENVAT credit carried forward in the return for the period ending 30 June 2017	• Credit taken against the closing balance of CENVAT credit in ER-1/2/3 or ST-3 • Credit should not include education/secondary education cess/KKC/SBC • Credit of VAT and PLA balance is not allowed as transitional credit • Filing of returns for the last six months
Table 6(a)	Section 140(2)	Detail of unavailed credit of capital goods	• Credit on capital goods not availed in any return can only be taken in this table • Credit of capital goods (second instalment) taken through Table 5(a) cannot be availed in Table 6 • Credit of entire amount on capital goods cannot be availed if same was not availed earlier
Entry 7A in Table 7(a)	Sections 140(3), 140(4)(b),140(6) and 140(7)	Credit claim by new taxpayers or taxpayers who were either not registered or were not part of the CENVAT credit chain earlier	Where credit pertains to exempted goods, provisions of Rule 6 of CCR have to be followed: **Case I -** Only exempted goods/services were being manufactured or provided: • Credit cannot flow from return • Entry in Table 5(a) should be nil • Only credit of inputs held in stock and inputs contained in semi-finished goods, which existed in stock on the transition day, fulfilling the conditions prescribed, would be available • In case the stock reported is very high, verification using VAT return or any other collateral document can be done **Case II -** Exempted and non-exempted goods/services were being manufactured/provided: • Credit in Table 5(a) would flow from the return • Rule 6(3) of CCR should be applied for credit • In case of inputs that were in stock and not attributed till the date of transition, the conditions prescribed must be satisfied to avail credit In case a new taxpayer has availed credit using CTD, such CTD issued by the manufacturer should exist and be in terms of the specified rule.

Tables of Form TRAN-1	Relevant section of the CGST Act, 2017	Indicative list of nature of credit	Checks
Entry 7B in Table 7(a)	Proviso to Section 140 (3) and Rule117(4)	Credit claim by new taxpayers (e.g., traders)	• Appropriateness of the credit on stock as eligible for credit under Rule 117(4) of the CGST rules • Credit for this stock would be available after sale and after the filing of TRAN-2 • ECrL would be populated basis Form TRAN-2, and not through TRAN-1 • Details of stock or credit availment should not be declared in any other table • In case of traders, credit cannot exist in any other table
Table 7(b)	Sections 140(5), 140(7)	Transitional credit taken on such inputs or input services that were received after 1 July 2017, but taxes were paid under the pre-GST regime	• Availability of duty-paying documents • Confirmation from the taxpayers that the document was recorded in the books of accounts • Transport verification in case goods under movement are in excessive quantity • Satisfaction of conditions for availing ISD credit
Table 8	Section 140(8)	Centrally registered unit whose CENVAT credit carried forward is captured in Table 5(a) and a part/full of such credit can be distributed through Table 8	• Distribution of credit by the centralised registered units through this table • The receiving unit not required to file TRAN-1 • Confirmation from the centrally registered units that the resultant credit was reduced by the credit amount distributed through this table
Table 11	Section 142(11)(c) read with Rule 118 of CGST rules	Transition of credit with respect to the supplies on which both VAT and service tax were paid in pre-GST, but the supply is made under GST	• Service tax claimed, as credit was paid under the existing laws • Supplies made under the GST regime • Credit of VAT cannot be taken as CGST credit and vice versa
General check			• Credit claimed in TRAN-1/2 cannot be reported in Form GSTR-3B • Disputed credit carried forward cannot be utilised • Blocked credit cannot be transitioned

Key points for verification of the transitional credit

- The verification procedure will begin as soon as the form becomes available on the JO's back-office system, or as soon as the JO receives a self-certified downloaded copy of the form.
- The form filed, without any change, shall be liable for rejection.
- Where transitional credit has the component of both central and state/UT tax, the relevant JO shall refer the claim of state/UT tax to the counterpart state/UT tax officer for verification.
- In case of pending/concluded adjudication or appeal proceedings related to the transitional forms, the officer should consider the relevant facts in the notice/order, and the grounds/reasons for the inadmissibility of transitional credit.
- The CO shall submit the verification report to the counterpart JO within 10 days from the date of receipt of the request.
- In case the JO finds the transitional credit is partially or wholly inadmissible, it shall issue a notice to the applicant within a period of seven days from the receipt of report from the CO.
- The JO may seek comments of the CO with respect to the submission relating to the tax (central or state) being administered by such CO.
- The JO shall pass a reasoned order within 15 days from the date of personal hearing, after considering the facts of the case, verification report received for CO, submissions made by the applicant and comments from the CO.

- The order, specifying the amount of transitional credit allowed to be transferred to the ECrL, shall be uploaded on the common portal.
- The order must be passed within a period of 90 days from 1 December 2022, i.e., up to 28 February 2023.
- In case where the amount of admissible credit, in terms of the revised form, exceeds the amount as per the original form, the excess credit is liable to be demanded and recovered, along with interest and penalty.

Our comments

The SC directed that the jurisdictional tax officer must verify the transitional credits filed by the applicants within 90 days of closing of the opportunity for filing/revising of the forms. Such credit filed by the applicants in the transitional forms will be provisional, which shall be finalised and credited in the ECrL post verification only. Therefore, the applicants need to be cautious while filing/revising the transitional forms, to avoid any rejection or loss of credit during the verification.

Further, the guidance note issued by the CBIC shall be helpful for the tax officers, enabling them to verify the credit reported in different tables of Form TRAN-1. The suggested checks should be looked into by the taxpayers as well in order to maintain the documents ready to be provided to the authorities, if required.

(Circular No. 182/14/2022-GST dated 10 November 2022)

CG appoints the CCI as new anti-profiteering authority under GST

As per Section 171(2) of the CGST Act, 2017, the CG may constitute an authority or empower an existing authority to examine the anti-profiteering matters under GST.

In this respect, the CG, by way of a notification, has empowered the CCI as the new anti-profiteering authority w.e.f. 1 December 2022. Therefore, the CCI shall be authorised to determine whether or not the ITC availed by any registered person, or a lower tax rate, has actually led to a comparable decrease in the price of the goods or services supplied by him to the final customer.

Further, the CBIC has omitted various procedural rules in relation to the constitution of the authority, appointment, salary, terms and conditions of service of the authority, secretary of the authority, tenure of the authority, etc.

(Notification No. 23/2022-Central Tax dated 23 November 2022 and Notification No. 24/2022-Central Tax dated 23 November 2022)

CBIC clarifies the manner of processing and sanction of IGST refunds of risky exporters

The CBIC vide instruction dated 28 November 2022, prescribed the manner of processing and sanction of IGST refunds, withheld in terms of Clause (c) of Rule 96(4), transmitted to the jurisdictional GST authorities under Rule 96(5A) of the CGST rules.

- The DGRAM shall identify the exporters for whom it is necessary to verify their credentials and ITC availed before granting of refund. This shall be done based on data analysis and risk parameters.
- The DGRAM shall issue an all-India alert on such exporters on the ICES, along with the reasons.
- The IGST refunds of those exporters shall be withheld, and the information about the submitted shipping bills for which IGST scroll could not be generated due to a DGARM alert shall be transmitted to the GSTN through ICEGATE to create refund claims in Form GST RFD-01.
- The past cases where the exporter was flagged risky, which could not be processed due to pending verification or due to the receipt of a negative report, shall also be transmitted to the GSTN for generation of refund claims.
- The refund claims would be available to the jurisdictional PO on the back-office system under the category 'Any other (GST paid on export of goods)' with the note - 'Refund of IGST paid on export of goods' (Refund not processed by ICEGATE).
- The jurisdictional tax officers shall be provided with the risk parameters, along with the system-generated refund claim.
- In cases where the verification report has already been submitted to the DGARM by the jurisdictional CGST authorities, the details of the same would also be shared with the jurisdictional PO, along with the system-generated refund claim in Form GST RFD-01.
- The jurisdictional PO, on receipt of refunds, shall immediately process the refund claim in a manner like the other RFD-01 refunds.
- These refund claims, generated based on shipping bills/bills of export filed by the exporter, shall be auto acknowledged by the system. No deficiency memo can be issued against the same.
- The PO shall check the exporter's legitimacy, verify the correctness of availment and utilisation of ITC by the exporter, and exercise due diligence in processing the refund claims. The PO may also physically verify the business premise of the exporter.
- The PO shall pass a detailed speaking order, which shall be uploaded along with the refund sanction order in Form GST RFD-06 on the portal.
- The PO shall follow the timelines for processing of the refund claim.
- The PO may consider Section 54(11) of the CGST Act, 2017 to withhold refunds in case where a thorough investigation of the exporter or his suppliers is necessary to confirm the accuracy and validity of the ITCs claimed by the exporter.
- While issuing the refund sanction order, the PO shall provide feedback on the common portal and recommend whether the alert against the said exporter should be kept or deleted.
- The GSTN shall inform the DGARM about the results of the refund processing by the PO, along with its feedback on alert.

(Instruction No. 04/2022-GST dated 28 November 2022)

CBIC amends instructions of Form GSTR-9

Recently, the CBIC increased the time limits for claiming ITC and rectification of details of outward supplies, pertaining to the previous FY, till 30 November of the following FY.

Now, to give effect to the amendments, the government has made consequent changes in the instructions related to Part – V of Form GSTR-9 (Annual Return) for the FY 2021-22 (vide Notification No. 22/2022-Central Tax dated 15 November 2022).

Accordingly, the specified period for disclosing the transactions of the previous FY has been replaced from 'April 2022 to September 2022' to 'April 2022 to October 2022 filed unto 30 November 2022'.

The instruction for the specified table of Form GSTR-9 shall be read as below:

Relevant table of annual return	Description of table	Amended instruction for FY 2021-22
Tables 10 and 11	Supplies or tax declared / (reduced) through amendments (+) (net of debit and credit notes)	Declaration of details of additions/amendments or (reduction) to the supplies already declared in the returns of the previous FY but furnished in GSTR-1 of **April 2022 to October 2022 filed up to 30 November 2022**
Table 12	Reversal of ITC availed during the previous financial year	Declaration of the aggregate value of ITC reversal, which was availed in the previous FY but reversed in returns filed for the m/o **April 2022 to October 2022 filed up to 30 November 2022**
Table 13	ITC availed for the previous financial year	Declaration of ITC availment pertaining to the previous FY but availed in returns filed for the m/o **April 2022 to October 2022 filed up to 30 November 2022**

(Notification No. 22/2022-Central Tax dated 15 November 2022)

Haryana GST department constitutes the IRC to examine all refund orders

The Commissioner of State Tax - Haryana has issued an instruction for constitution of the IRC at the head office and respective range offices for review of all refund orders.

As per the instructions, the review of refund orders must be completed at least 30 days before the expiry of time limit for filing an appeal under Section 107(2). The IRC shall provide recommendations to the commissioner, along with the suggestion with respect to the available legal remedy in case where the decision/order is found to be prejudicial to the interest of Revenue.

Further, for timely completion of the review process, the refund-sanctioning authorities in districts, appellate authorities and reviewing authority are directed to mark a copy of all refund orders to the respective review cells.

(Instruction No. 01/GST-II dated 22 November 2022)

Kerala GST department issues instructions for online issuance of statutory MOV forms for detention, seizure and release of goods and conveyance

The Kerala GST authorities pursuant to the directions of the Kerala HC, in the case of Hindustan Steel and Cement, has issued Circular No. 10/2022 for online issuance of MOV forms to mitigate the problem faced by the taxpayers in filing appeal under Section 107.

- The GST authorities noticed that a person who makes payment as per Clause (a) of Section 129(1) of the SGST Act, 2017, cannot file an appeal if the online statutory order in Form GST MOV - 9 is not provided.
- Though the statutory MOV forms for detention and release of goods in transit are issued online, during the night or in technical or connection problems, the field formations may issue manual statutory forms and release the goods and vehicles without using any online procedures.
- Thus, when tax and penalties are fully paid voluntarily by the party in Form GST DRC - 03, the officers in these situations do not upload Form GST MOV-09 order on the grounds that doing so is not essential.
- In this respect, it is to be noted that Form GST MOV-09 order is required for the online appeal module to function. So, in absence of the same, taxpayers cannot file an appeal.
- However, the party cannot be prohibited for filing an appeal if such party has made a voluntary payment under the unusual circumstances of the case.
- In this regard, the option to permit manual filing of appeals was also examined. However, it may create practical issues while processing and finalising the appeal.
- Therefore, the Kerala government has laid down the below procedure:
    - Manual forms should be avoided for detention, seizure and release of goods and conveyances.
    - Final orders in Form GST MOV - 09 must always be given online in all cases of detention, seizure and release of goods and conveyances in transit, regardless of whether the party has made a voluntary payment of tax and penalty in Form GST DRC-03.
    - In all prior situations where no online final orders have been made available and the party intends to appeal, the order shall be issued electronically immediately.
    - The field formations are directed to strictly follow the due procedures prescribed as per Circular No. 41/15/2018-GST issued by the CBIC in this regard.

(Circular No. 10 /2022 Dated 10 November 2022)

Tamil Nadu issues procedures for initiation of action on non-filers of returns under the TNGST Act, 2017

In view of increasing number of defaulting taxpayers, the Tamil Nadu government has issued a circular dated 12 November 2022, clarifying the responsibilities and procedure as below, which is to be followed in respect of non-filers of returns.

Particulars	Responsibility and procedure
Assessment of non-filers of returns	• In case of non-furnishing of Form GSTR-3B on the due date, a notice in Form GSTR-3A is generated and issued electronically on the day preceding the last day of the month. The following action has to be taken after the due date of filing return till generation of Form GSTR-3A electronically: a) The PO shall remind the non-filer over phone, as well as through email, which would be sent to the authorised signatory of the defaulter. b) The territorial DC shall personally watch the filing of returns by the top 100 taxpayers. The DC will be responsible in case of any default in filing of such returns. c) The territorial JC shall monitor the return filing progress of the top registered taxpayer contributing 90% of the Revenue. • In case when the taxpayer files return within 15 days from the receipt date of Form GSTR-3A, the notice issued shall be deemed to be withdrawn. However, if default continues, the detail of defaulters is reflected in the PO's back-office login. The PO shall act u/s 62 to assess the turnover considering all the relevant information. • Thereafter, the assessment order in Form ASMT-13, along with the summary in Form DRC-07, shall be uploaded electronically. Further, in case the registered person furnishes a valid return within 30 days of service of the assessment order, the same shall be deemed to be withdrawn. • The above procedure shall be followed similarly for the assessment of non-filers of QRMP return. • The PO shall issue the assessment order with respect to the non-filers who contribute 90% of the Revenue and the top 50 taxpayers based on Revenue in the previous FY within 30 days of expiry of the time limit of Form GSTR-3A. • The PO shall initiate recovery proceedings under Sections 78 and 79 of the CGST Act, 2017, for the recovery of demand raised.
Cancellation of registration of non-filers	• In case where the default continues for a period of six months/two consecutive tax periods, even after the best of judgment orders issued u/s 62 and consequent recovery action under u/s 79, the PO shall initiate cancellation and suspend registration as provided u/s 29(2) of the TNGST Act, 2017. • For composition taxpayers, the cancellation proceedings shall be initiated beyond three months from the date of furnishing GSTR-4. • The PO shall verify the business premises of the defaulter within 15 days from the date of issue of cancellation proceedings, to verify if the business is being carried out by the cancelled taxpayer. • In this case, the PO shall report to the investigation wing for inspection through the JC (ST). • Upon receipt of report from the concerned JC, the JC (Intelligence) shall conduct inspection immediately on the place of business.

(Circular No.14/2022- TNGST dated 12 November 2022)

CBIC issues clarification on mechanism for levy of additional basic excise duty on petrol

Budget 2022-23 proposed an additional basic excise duty of INR 2 per litre on unblended motor spirit (commonly known as petrol) intended for retail sale, which would go into effect on 1 October 2022. In this regard, the CBIC announced that the levy of additional basic excise duty on petrol for retail sale had been postponed from 1 October 2022 to 1 November 2022.

In connection to above, the CBIC has notified the mechanism for levy of the additional central excise duty on petrol as under:

- The central excise duty shall be paid on motor spirit at the refinery stage.
- The refinery must provide the jurisdictional excise commissioner with a running bond equal to the differential excise duty on the quantity removed from the refinery, as well as an undertaking to pay the differential excise duty and interest as applicable.
- The payment of differential duty and applicable interest on the quantity sold as unblended from depots must be made by the 6th of the following month, based on actual quantity clearances.
- For each preceding quarter, the manufacturer/refinery must submit a reconciliation statement certified by the statutory auditor to the jurisdictional commissioner of excise by the 10th of the month.
- Short payment of differential duty to be paid along with applicable interest.
- Records to be maintained electronically at depots/terminals for checks by officers of central excise.

(Circular No. 1085/06/2022-CX dated 31 October 2022)

B. Key updates under the Customs law/FTP/SEZ law

DGFT permits realisation of export proceeds in INR for availing benefits under various export promotion schemes under the FTP

The DGFT had earlier introduced Para 2.52(d) vide Notification No. 33/2015-20 dated 16 September 2022 to permit invoicing, payment and settlements of exports and imports in INR in sync with the RBI's A.P. (DIR Series) Circular No.10 dated 11 July 2022.

In this regard, the DGFT has now notified amendments in various export promotion schemes under the FTP to allow exports benefits/incentives/fulfilment of EO under the FTP for export realisations in INR as per the RBI guidelines dated 11 July 2022.

Accordingly, the above changes for export realisation in INR have been notified in the following export promotion schemes effective from 9 November 2022:

- Para 2.46 - goods imported for export
- Para 2.53 - export proceeds realised in INR against exports to Iran
- Para 3.20 - export performance for recognition as status holders will be counted on the basis of FOB of export earnings in INR
- Para 4.21 - realisation of export proceeds in INR under AA and DFIA schemes
- Para 5.11 - realisation of export proceeds in INR under the EPCG scheme

(Public Notice No.35/2015-20 dated 9 November 2022 and Notification No. 43/2015-2020 dated 9 November 2022)

Relief in average export obligation for EPCG authorisation holders for FY 2021-22

The EPCG scheme, under the existing FTP, provides for relief to the exporters of the sectors who faced a decline in total exports by more than 5% as compared to the previous year by way of a reduction in the average EO for the year.

In pursuance to the above provision, the DGFT has directed the regional offices to re-fix the annual average EO for FY 2021-22 for the sector/group which has faced such a decline in FY 2021-22 as compared to FY 2020-21. The list of product groups that have faced a decline of more than 5% in exports has been provided in the link here.

The relief would be in the form of a proportionate reduction in the average EO and shall be properly endorsed in the license file of the office of the regional authority, along with an amendment sheet issued to the EPCG authorisation holder.

(Policy Circular No. 44/2015-2020 dated 17 November 2022)

Delhi HC stays recovery of customs duty on erroneous issuance of SEIS scrips

Tata Consultancy Services Limited ('petitioner') was issued an SCN, proposing recovery of customs duty on the ground that the SEIS scrips issued to the petitioner have been obtained inter alia through wilful misstatement. The petitioner contended that the scrips are valid and proceedings for the recovery of customs duty cannot be initiated until the SEIS scrips have either been cancelled or suspended by the DGFT.

The Delhi HC stated that prima facie, the proceedings initiated by the customs authorities against the petitioner via the impugned SCN are without jurisdiction. Therefore, the HC has issued a notice granting stay on the recovery proceedings and listed the matter for hearing on **11 April 2023.**

CBIC notifies extension of exemption from deposits in ECL under Customs Act, 1962

Section 51A of the Customs Act, 1962, prescribes the requirement for every assessee to maintain an ECL on the customs portal where any amount deposited in such ECL can be used towards payment of any duty, interest, penalty or fee or any other sum payable under any law for time being in force.

Earlier, the CBIC had exempted the following deposits from the provisions till 30 November 2022:

i. With respect to goods imported or exported in customs stations where a customs automated system is not in place;
ii. With respect to accompanied baggage;
iii. Other than those used for making payment of –
    a. any duty of customs, including cesses and surcharges levied as duties of customs
    b. integrated tax
    c. GST compensation cess
    d. interest, penalty, fees or any other amount payable under the said act, or the Customs Tariff Act, 1975

The CBIC has further extended the exemption from 30 November 2022 till **1 April 2023.**

In addition, the CBIC has further extended the exemption from deposits pertaining to all class of persons and all categories of goods from 29 November 2022 up to **31 March 2023.**

(Notification No. 99/2022-Customs (N.T.) dated 29 November 2022 and Notification No. 98 /2022-Customs (N.T.) dated 29 November 2022)

Amendment in minimum registration time for import under CIMS

Under the existing CIMS import policy, importers had a window to apply for registration no earlier than 60 days and no later than 15 days before the expected date of arrival of the import consignment.

In this regard, the DGFT has amended the CIMS's requirement for a minimum time for advance registration. The importer may apply for registration under the revised policy no earlier than the 60th day and no later than 5 days before the expected date of arrival of the import consignment.

(Notification No. 41/2015-2020 dated 7 November 2022)

CBIC issues instructions on AEM and extension of standard examination orders through RMS

In August 2022, the Directorate General of Systems and Data Management launched an initial AEM for ICEGATE-registered users to file a complaint about a delay in the bill of entry clearance under faceless assessment. Given that the said AEM operates after the IGM number with date is recorded in the bill of entry (i.e., after the arrival of goods), the CBIC has directed the commissioners to ensure that no aspect lodged in the said AEM is allowed to linger and that all subsequent actions are taken as soon as the aspect is lodged in the said AEM. They should also keep track of the root cause(s) that needed to be addressed, as well as the administrative/systemic actions to be taken to achieve that resolution, to make long-term progress towards expediting customs clearances.

Furthermore, based on the feedback from the NCTC regarding the readiness for further rollout of the implementation of standard examination orders through the RMS, the CBIC has decided that from 15 November 2022, the goods under Assessment Group 5 (Chapter 84) will be covered in Part 2 of Phase 1.

(Circular No.23 / 2022-Customs dated 3 November 2022)

RoDTEP scheme expanded to include the chemicals, pharmaceuticals and articles of iron and steel sectors

The RoDTEP scheme, which was implemented from 1 January 2021, is based on the global principle that taxes and duties levied on exported products shall be either exempted or remitted to exporters. The rebate under the said scheme is provided by way of transferable electronic scrip.

With a vision to enhance the export competitiveness, the central government has sought to expand the scope of the RoDTEP scheme by including exports made from uncovered sectors, such as chemicals, pharmaceuticals and articles of iron and steel, under Chapters 28, 29,30 and 73 of the ITC(HS) schedule of items.

The expanded list shall be applicable for exports made from 15 December 2022. The expanded list of eligible export items under Appendix 4R will increase from the current 8,731 export items (8 digit tariff lines) to 10,342 export items (8 digit tariff lines).

(Press release dated 7 December 2022)

India-Australia Economic Cooperation and Trade Agreement (IndAus ECTA) comes into force from 29 December 2022

The IndAus ECTA, which was signed on 2 April 2022, has received assent from the Australian Parliament and is all set to come into force from **29 December 2022**.

Under the ECTA, Indian exporters will be provided duty-free access to over a large number of sectors, including textiles, leather, furniture and many more. The ECTA would give a big boost to several sectors of the economy, especially textiles, gems and jewellery, and pharmaceuticals. Under the ECTA, duties on 100 percent tariff lines would be eliminated by Australia. In addition, 10 lakh jobs are estimated to be created as the result of the ECTA.

02 Key judicial pronouncements

A. Key rulings under the GST and erstwhile indirect tax laws

Hiring sportspersons for appearance at events tantamount to supply of manpower services exigible to service tax – SC

Summary

The SC has held that the activity of hiring a tennis player by the appellant (an event organiser) for an appearance at a sports tournament is a supply of manpower service liable to service tax. The SC stated that the definition of manpower supply or recruitment agency service does not incorporate a requirement or condition for the existence of an employer-employee relationship between the manpower supply agency and the person whose services are provided. The SC clarified that the board circular issued on this issue deals with a situation where there exists a relationship between the employer and employee, but it does not assume that such a relationship must exist for the statutory definition to be attracted. Hence, the absence of a relationship of employment between the tennis player and FSE would not be determinative for the purposes of the statutory definition. Furthermore, the SC held that there was no ground for the imposition of the penalty, as the dispute in the present case essentially involved the interpretation of the statutory provisions and their interplay with the circular issued by the board.

Facts of the case

- International Merchandising Company (hereinafter referred to as the appellant) is engaged in providing diversified sports, entertainment, and media services. It organises events such as the Chennai Open Tennis Tournament and Lakme Fashion Week, and entered into various agreements, both domestic and international, with regard to the hiring of celebrities for appearances at the events, selling broadcasting rights, etc.
- It had entered into an agreement with FSE for the appearance of a noted tennis player at the Chennai Open Tennis Tournament.
- Upon the audit of the appellant's records, SCNs were issued raising the demand of service tax under various heads, including manpower recruitment or supply agency service under reverse charge, programme producer service, sponsorship service, and other services.
- The commissioner confirmed the demand on the ground that the consideration paid to FSE for the appearance of the tennis player for the Chennai Open Tennis Tournament is taxable under the category of 'manpower recruitment or supply agency' services. Further, it was held that any programme made by a programme producer and then offered for sale to broadcasters is a taxable activity liable for service tax.
- On further appeal, the demand was upheld by the tribunal on the ground that the services provided by FSE were in nature of supplying, recruiting and providing players for sports events organised by the appellant, which is liable to service tax under Section 65(105)(k) read with Section 65(68) of the Finance Act, 1994.
- The issue for consideration before the apex court is whether the scope of 'manpower recruitment or supply agency' includes the requirement of the existence of an employer-employee relationship between the service provider and the person whose services are provided.

SC observations and ruling (Civil Appeal Nos 3532- 3536 of 2020 dated 1 November 2022):

- **No requirement of employer-employee relationship:** The SC stated that the definition of manpower supply or recruitment agency service does not incorporate a requirement or condition for the existence of an employer-employee relationship between a manpower supply agency and the person whose services are provided. In the present case, there was undoubtedly nothing on the record to indicate that the tennis player was an employee of FSE.
- **Clarification issued by board:** The board, vide its circular dated 23 August 2007, had clarified that in cases where individuals are contractually employed by some manpower recruitment or supply agency where the agency agrees to supply the services of such individuals for consideration, an employer-employee relationship exists between the agency and such individuals and not between the individuals and the persons who use the services of such individuals. Thus, such cases are covered under the definition of 'manpower recruitment or supply agency' in Section 65(68) and are hence liable for service tax.
- **Employer-employee relationship not a determinative factor:** The board circular does not postulate that an employer-employee relationship must exist for attracting a statutory definition. Hence, the fact that there may be no relationship of employment between the tennis player and FSE would not be determinative for the purposes of the statutory definition.
- **No programme production on behalf of the appellant:** Upon assessment of the agreement between the appellant and Zee Telefilms, it is evident that the appellant licensed the right to broadcast the Chennai Open Tennis Tournament and a similar agreement was entered with Trans World International. Therefore, there is no production of the programme by either of the parties but by the appellant. Hence, the tribunal was in error and the tribunal's order to this extent needs to be reversed.
- **No invocation of extended period and imposition of penalty:** The SC held that since the issue pertains to the interpretation of the provision of Section 65(68) and Section 65(86b) of the Finance Act, 1994, the invocation of an extended period of limitation cannot be warranted. The SCN shall be confined to the normal period of limitation. Simultaneously, as the case essentially turned upon the interpretation of statutory provisions, the order for the imposition of a penalty does not hold good.

Our comments

This is a landmark judgment wherein the SC has emphasised that the absence of any employment relationship between the hired individual and the manpower supply agency would not be determinative for the purposes of the statutory definition of the supply of manpower or recruitment services as provided under the former service tax laws.

Though the above judgment was delivered in the context of service tax law, it is important to examine the impact that it will have under the GST laws.

Furthermore, it is pertinent to note that the SC set aside the penalty since the dispute in the present case essentially involved the interpretation of the statutory provisions and their connection with the board's circular.

Back-office and other support services provided on own account would not qualify to be an intermediary. Laws, related to intermediary, remain unchanged in pre-GST and GST era: Punjab and Haryana HC

Summary

The Punjab and Haryana HC ruled that the petitioner engaged in providing various BPO services, i.e., vendor data management, supply chain management, data analysis, technical IT support, developing, licensing, maintaining software, etc., to an overseas entity, cannot be regarded as an intermediary under the GST law. On perusal of the MSA, the HC noted that the overseas entity had subcontracted the petitioner to provide the above services on a principal-to-principal basis. The MSA made no mention of the petitioner being required to arrange/facilitate the main service, and such services have been provided by the petitioner on its own account. Furthermore, the petitioner would be held liable for any risk associated with the performance of services. The HC also stated that the MSA could not be treated differently at different times because the legal position regarding the scope and ambit of intermediary services under the GST regime has not changed vis-a-vis the service tax regime. As a result, the HC reversed the impugned order, which denied the petitioner's claim for a refund of unutilised ITC in connection with the aforementioned services provided to an overseas entity on the ground that it is an intermediary.

Facts of the case

- Genpact India Private Limited ('the petitioner') is a BPO service provider registered in Haryana. The petitioner is engaged in providing various backend and IT services to customers in India, as well as outside India. The petitioner renders such services to its clients remotely through the internet using its own infrastructure.
- The petitioner entered an MSA with a GI entity incorporated outside India, for providing BPO services, i.e., vendor data management, supply chain management, data analysis, technical IT support, developing, licensing, maintaining software, etc., to clients of GI located outside India on a principal-to-principal basis.
- The petitioner applied for a refund of the unutilised ITC on account of export of services under the cover of LUT without payment of IGST as per Section 16 and 54 of the CGST Act, 2017.
- However, the department partially rejected the refund claim on account of ineligible credit. On further appeal, the commissioner reviewed the application and held that such intermediary services as per Section 2(13) of the IGST Act, 2017, do not qualify to be export of services under Section 2(6) of the IGST Act. Thus, the entire refund claim was rejected. Therefore, the petitioner filed the present writ petition before the HC.

Punjab and Haryana HC observations and ruling [CWP-6048-2021 (O&M dated 11 November 2022)]:

- **Services were provided on own account:** The MSA between the petitioner and GI is on a principal-to-principal basis and there is no separate agreement of the company with any of the customers of the parent entity. Nothing has been brought on record to show that the petitioner has a direct contract with the customers of GI. Further, there is nothing on record to show that the petitioner is liaisoning or acting as an 'intermediary' between GI and its customers. Thus, it can be concluded that the services rendered by the petitioner is the main service and not of the intermediary.
- **No major change in the definition of 'intermediary services':** The HC observed that under the service tax regime, the intermediary was defined under Rule 2(f) of Place of Provision of Service Rules, 2012. Further, under the GST regime, the same has been defined under Section 2(13) of the IGST Act. Also, it was noted that the board, vide its circular dated 20 September 2021, has clarified that the above definition under GST was borrowed from service tax.
- **Different view for different period is not valid in law:** The HC relied on the judgment of the SC in case of Bharat Sanchar Nigam Ltd and M/s Radhasoami Satsang Soami and held that the principle of consistency shall be applied and the earlier view that the petitioner is not an intermediary shall prevail.
- **Sub-contracting for a service is not an 'intermediary service':** The petitioner is providing the services that have been sub-contracted to it by GI. As a sub-contractor, it is receiving fee/charges from the main contractor, i.e., GI, for its services. The main contractor, i.e., GI, is in turn receiving commission from its clients for the main services that are rendered by the petitioner pursuant to the arrangement of sub-contracting. Further, the board has clarified that sub-contracting in not an intermediary service.
- **Impugned order rejecting refund set aside:** Hence, allowing the writ, the HC set aside the order holding the petitioner to be an 'intermediary' under Section 2 (13) of the IGST Act. Further, the HC restored the order-in-original granting refund in favour of the petitioner and directed that the benefit of this order shall ensure to the petitioner for the grant of subsequent refunds as well.

Our comments

The taxability of 'intermediary services' has been a matter of extensive litigation since the inception of the GST regime. To mitigate these ambiguities/litigations, the board had clarified that subcontracting shall be excluded from the scope of intermediary.

The present ruling is in line with the board's clarification. Further, the HC has stated that there has been no change in the definition of the term 'intermediary' under the GST regime vis-a-vis the service tax regime. Thus, it implies that all of the previous regime's decisions and clarifications would be squarely applicable under the GST regime as well.

Thus, this is a welcome ruling and should settle the issue with respect to the taxability of BPO services, back-office operation services, vendor management, technical IT support, supply chain management, data analysis, etc., provided on own account. In addition, the ruling should also help clear working capital blockages due to the pendency of huge refund claims for businesses in a similar industry.

Delhi HC quashes the instructions prohibiting ISDs from transitioning CENVAT credit

Summary

The Delhi HC quashed the instructions dated 5 July 2018 issued by the department and allowed the ISD to avail the unutilised balance of the CENVAT credit in the GST regime. The HC further restrained the Revenue authorities from enforcing the recovery of accumulated credit transitioned by the petitioner concerning its ISD registration.

Facts of the case

- Hero MotoCorp Ltd. ('the petitioner') is registered as an ISD. The petitioner received a communication from the Revenue wherein the petitioner's request for allowing credit of unutilised ISD was rejected.
- The petitioner challenged the instruction dated 5 July 2018, which prohibits ISDs from transitioning the accumulated unutilised CENVAT credit.
- The petitioner relied on the rulings of the Bombay HC in the case of Unichem Laboratories Limited, Colgate Palmolive (I) Limited, and the Gujarat HC in the case of Bodal Chemicals Limited.

Delhi HC observations and ruling [WP (c) 2032/2019 dated 10 October 2022]:

- **No recovery of accumulated transitional credit:** The HC noted that post examining the judgments, the Revenue was of the view that the writ petition can be allowed. Accordingly, the HC passed the order. Further, the HC quashed the instructions dated 5 July 2018. The HC also restrained the Revenue authorities from enforcing the recovery of accumulated credit transitioned by the petitioner concerning its ISD registration.

Our comments

The provisions of availing pre-GST credit by ISDs as transitional credit under the GST regime have been a litigative issue. As per Section 140 of the CGST Act, the credit received by an ISD under the pre-GST regime is eligible for distribution as credit under GST within the time and manner provided, even if the invoices for such services are received on or after the appointed day. However, the department issued instructions prohibiting ISDs from transitioning the accumulated unutilised CENVAT credit, resulting in some taxpayers facing demand and recovery proceedings from the department for transitioning such credit in Form GST TRAN-1.

The Delhi HC, in the present ruling, has quashed the instruction issued by the department. This is a welcome ruling and may set precedence in similar matters.

Final GST audit report to be issued by the department after considering reply of the assessee – Orissa HC

Summary

The petitioner challenged the draft audit report and the final audit report issued by the proper officer under Section 65(6) of the OGST Act, 2017, on the ground that the petitioner was not granted any opportunity to file its reply. The Orissa HC noticed that the procedural requirement was not adhered to in the present case. Therefore, the HC set aside the final audit report issued by the department. Further, the HC instructed that the commissioner, by reasoned order, will extend the time for finishing the audit by a maximum additional period of six months.

Facts of the case

- M/s. Simon India Ltd ('the petitioner') challenged the draft audit report and the final audit report issued under Section 65(6) of the OGST Act, on the ground that the petitioner was not granted any opportunity to file its reply in accordance with Rule 101(4) of the OGST Rules, 2017.
- The audit exercise commenced on 8 October 2021, but the three-month period commenced on 22 March 2022 when it was reported that the petitioner had submitted the requested documents.
- The authorities, who were aware that the three-month limit had probably already passed, issued both the final audit report and the draft audit report on the same day.
- The issue before the HC is whether the draft audit report and final audit report can be issued without seeking reply of the petitioner.
- The petitioner further contended that as per Section 65(4) of the CGST Act, 2017, the audit shall be completed within three months from the date of commencement, i.e., the date on which all the documents and records are made available by the taxpayer.
- However, in the present case, the audit report was issued after the expiry of three months from the date of commencement of the audit.

Orissa HC observations and ruling [CWP-6048-2021 (W.P.(C) No. 26443 of 2022 dated 9 November 2022):

- **Invalidated the final audit report:** The HC noted that it is obvious from a plain reading of Section 65(4), Section 65(6) and Rule 101(4) that the procedural requirement was not adhered to in the present case. The petitioner would have been provided with 30 days' time to file a reply to the draft audit report. Thus, the Orissa HC invalidated the final audit report issued under Section 65(6) of the OGST Act.
- **Extended time limit to complete the audit:** The HC noted that the original three-month deadline will be crossed on 21 December 2022, if the petitioner is given a chance to submit a response to the draft audit report at this point before the authorities issue the final audit report. However, the entire exercise would be pointless if it was finished by that time. Therefore, the HC gave the following instructions with the caveat that the commissioner, by reasoned order, will extend the time for finishing the audit by a maximum additional period of six months. The petitioner would file its reply to the draft audit report maximum by 28 November 2022. Thereafter, the department shall issue the final audit report by not later than 21 December 2022.

Our comments

As per Rule 101(4) of the OGST rules, the registered person, after being informed, may respond to the discrepancies noticed by the proper officer during the audit. The proper officer will finalise the audit after considering the reply furnished by the registered person. However, if the department issues the final audit report without providing any opportunity to the assessee to file a reply, such report should be considered invalid. Since the timelines and audit procedure are prescribed under the GST law, the same should be strictly followed by the department to prevent unnecessary harassment on the taxpayers. The present ruling shall be helpful for the taxpayers and may set precedence in similar matters.

Date of filing application on the GST common portal is to be treated as the date of filing refund claim, not the date of physical submission of the documents – Gujarat HC

Summary

The petitioner filed an online refund application under Section 54 of the CGST Act, 2017, in respect to the zero-rated supply. The respondent partially rejected the refund on the ground that it was time-barred since the petitioner submitted the physical documents after the expiry of the due date of filing refund. In this respect, the Gujarat HC relied on the circular and held that the date of filing of the refund application on the online portal would be considered as the date of filing the refund claim. The HC further stated that the circular cannot have an overriding operation to the detriment of the assessee who had filed the application on the portal within time.

Facts of the case

- M/s Chromotolab and Biotech Solutions ('the petitioner') is engaged in the business of trading and clearance of finished excisable goods, which are mainly used by pharmaceutical companies.
- The petitioner supplied finished goods to pharmaceutical companies located in SEZ units as zero-rated supply under Section 16 of the IGST Act, 2017. In respect to the same, the petitioner filed an online refund application under Section 54 of the CGST Act, 2017, within the prescribed period. The petitioner was served with a notice rejecting the refund on the ground of bar of limitation.
- The petitioner claimed that no proper notice was issued to him, and that the notice was issued after a one-year gap without raising any questions or pointing out any deficiencies. The petitioner provided an undertaking not to initiate an appeal against the rejection of the refund claim and requested re-credit for the amount claimed. Further, the respondent acknowledged the delay in re-crediting the amount in the ECrL due to a technical difficulty but did not dispute the eligibility for recredit.
- The petitioner, who had been following up with the respondents for the last one year, had not received any response or re-credit. Thus, the petitioner filed the present writ petition before this court.
- The respondent submitted that the petitioner submitted the physical documents after the expiry of the due date of filing refund. As a result, the respondent partially rejected the refund claim and did not allow re-credit.
- The question before the HC is which date would be considered to calculate the period of two years for filing refund.

Gujarat HC observations and ruling [R/Special Civil Application No. 16308 of 2020 dated 21 October 2022]:

- **Circular cannot override operation detriment to petitioner:** The HC noted that as per the circular, the refund claim application is required to be filed by the supplier on the common portal and the printout of the said form shall be submitted to the jurisdictional officer, along with the necessary documents. Further, the circular provided for the procedure of filing application and the filing of a physical application with documents. The HC held that the circular cannot have an overriding operation to the detriment of the assessee, who filed the refund application in the common portal, which was acknowledged. Thus, the date of application filed on the common portal should be considered to check if the refund application was filed within two years.
- **Procedure specified under circular cannot delimit the statutory provisions:** The HC relied on rulings of the apex court in the case of Ratan Melting & Wire Industries and J.K Laxmi Cement Ltd. wherein it had been held that the circular contrary to statutory provisions cannot operate. Further, the division bench of this court in case of Ayana Pharma Ltd. recognised the mode of electronic filing. Accordingly, the HC held that the date of filing of the application by the petitioner on the common portal would be considered as the date of filing a claim for refund. Further, the procedure evolved in the circular cannot operate as a delimiting condition on the applicability of statutory provisions. Therefore, the present petition was allowed.

Our comments

Earlier, the apex court, in the case of Ratan Melting and Wire Industries, held that circulars cannot prevail over the statute. Further, circulars are issued only to clarify the statutory provision and they cannot alter or prevail over the statutory provision. Even in the case of J.K. Lakshmi Cement Limited, the SC had held that the circular cannot alter the statutory provisions to the detriment to the assessee. A similar view was taken by the Madras HC in the case of Precot Meridian Limited.

In view of the above, the Gujarat HC, in the present ruling, emphasised that the circular stipulates the procedure of filing a refund application and the filing of a physical application with documents. Further, the procedure specified in the circular cannot operate as a delimiting condition on the applicability of statutory provisions.

B. Key rulings under the customs law/FTP/SEZ law

Incentive cannot be claimed by exporters as a matter of right – SC

Summary

The SC has upheld the Bombay HC order denying the benefit of an additional license on the export of 'processed iron-ore' during the period April 1990 to March 1991, as the same was in the list of ineligible items as per the new Exim Policy 1990-93. The SC observed that if the new Exim Policy 1990-93 is held to be applicable, under which there shall be no benefit of an additional license on the export of 'Minerals and iron ore', the appellant cannot be permitted to claim the benefit of an additional license under the old Exim policy, which was not in existence. The DGFT is free to change the Exim policy and consider the grant of incentives on a regular basis. Granting the benefit of an incentive is a policy decision that can be changed and/or withdrawn at any time, and no exporter can claim the incentive as a matter of right. Thus, the doctrine of promissory estoppel shall not be applicable to such a policy decision with respect to incentive. The appellant cannot be allowed the benefit of an additional license on the ground that some others might have been granted such benefits de hors the scheme, which otherwise the appellant is not entitled to under the scheme.

Facts of the case

- Chowgule and Company Limited ('the appellant') is a recognised trading house engaged in the export of processed iron ore. The appellant entered into a contract for the export of processed iron ore, which was not an ineligible item in Appendix 12 under the Exim Policy 1988-91.
- The appellant exported the processed iron ore and realised NFE for the year 1990-91 during the new Exim Policy 1990-93. Subsequently, the appellant applied for the grant of an additional license against the FOB value of export of processed iron ore.
- The application of the appellant was rejected on the ground that the item 'iron ore processed' exported by appellant is included in Appendix 12 of the Exim Policy 1990-93 and is not eligible for additional license. Further, an appeal filed before the Additional Director General of Foreign Trade was rejected for the reason that the application is time barred.
- Then, the appellant filed a writ petition before the HC wherein the HC held that the appellant shall not be entitled to the benefit of an additional license upon subsequent change/withdrawal of the policy in 1992-93.The appellant submits that the elements attracting the principle of promissory estoppel are present in the current case and accordingly it shall be entitled to the benefit of the grant of an additional license.
- Therefore, the appellant preferred the present appeal before the SC against the Bombay HC's order, denying the benefit of an additional license on the export of processed iron ore during the period April 1990 to March 1991.

SC observations and ruling (Civil Appeal No. 8225 of 2009 dated 15 September 2022, order dated 4 November 2022):

- **Export of iron ore made under new Exim Policy 1990-93:** The SC observed that the appellant had exported 'processed iron ore' during April 1990 to March 1991. Thus, it was exported under the new Exim Policy 1990-93 wherein the export of 'Minerals and iron ore' is included in the list of ineligible items whereby the appellant has been denied the benefit of an additional license.
- **No challenge to the new Exim Policy 1990-93:** The SC noted that the appellant had never challenged the new Exim Policy 1990-93. Thus, by operation of the new Exim Policy 1990-93, there shall not be the benefit of an additional license. Therefore, in the absence of any challenge to the new Exim Policy 1990-93 under which on export of 'Minerals and iron ore' there shall not be the benefit of an additional license, the new Exim Policy 1990-93 shall be applicable.
- **Principle of promissory estoppel is applicable in case of policy decision granting incentive:** The DGFT has the liberty to change the Exim policy from time to time, and the grant of benefit of incentive is a policy decision that may vary or can even be withdrawn. The exporter cannot claim benefit as a matter of right. The SC viewed that merely because some other exporters are granted the benefit wrongly, the appellant cannot be permitted for the grant of similar benefits.
- **No benefit can be granted just because others have been granted de hors the scheme:** There cannot be any negative discrimination that may perpetuate the illegality. The appellant cannot be allowed the benefit of an additional license on the ground that some others might have been granted such benefits de hors the scheme, which otherwise the appellant is not entitled to under the scheme.
- **HC directed to enquire on benefit granted to other assessees:** The SC noted that even the HC in its order had directed to hold an enquiry regarding how others were granted the benefit. Thus, once it is held that the appellant is not entitled to the benefit of an additional license on the export of 'Minerals and iron ore', the matter ends there and the appellant cannot be allowed such benefit, which otherwise the appellant is held not entitled to.

Our comments

Recently, in the case of Augustan Textile Colours Limited, the SC had observed that the equitable principle of promissory estoppel cannot be invoked for enforcing promises beyond the provisions of law.

Even in the present case, the SC has reiterated that the DGFT is free to change the Exim policy and consider which items will have an incentive from time to time. Therefore, exporters cannot claim such an incentive as a right.

Furthermore, the SC has stated that the Bombay HC had directed to hold an enquiry as to how the other assessees were granted the benefit.

Therefore, the present ruling is likely to open a pandora's box and taxpayers in similar business are likely to come under the Revenue's scanner.

Bombay HC grants refund of IGST paid on capital goods imported under EPCG scheme for July 2017 to October 2017

Summary

The Bombay HC has granted a refund of the IGST paid on capital goods imported under the EPCG scheme, along with interest, for the period 1 July 2017 to 12 October 2017. The HC noted that the intention of the CG, while framing the EPCG scheme under the FTP 2015-20, was to permit import at zero customs duty. However, with the introduction of GST in July 2017, amendments were made in the exemption notification, which did not include exemption from additional duty of customs in respect of goods imported under the EPCG scheme. Upon realisation of such an error, the initial notification was amended to exempt the imports under the EPCG scheme effective from October 2017. In this regard, the HC opined that the exclusion of exemption was on account of a lack of attention. Therefore, the HC held that the amendment shall be treated as clarificatory or corrective in nature to provide benefit to importers who had imported capital goods during the period July 2017 to October 2017.

Facts of the case

- Sanathan Textile Private Limited ('the petitioner') had imported capital goods under the EPCG scheme under the FTP whereby such import is exempted from payment of additional duty under Section 3 of the Customs Tariff Act.
- When the GST regime came into force, Section 3 of the Customs Tariff Act came to be amended by the insertion of Sub Section (7) and Sub Section (9), which provided for the levy of IGST and compensation cess. Corresponding amendment was made in Notification No. 16/2015-Customs vide Notification No. 26/2017-Customs dated 29 June 2017. In Notification No.26/2017, the import under the EPCG scheme, which was exempted from additional duty under Sub Section (7) and Sub Section (9) of Section 3 of the Customs Tariff Act, was not included. However, within a short time thereafter, the notification dated 13 October 2017 was issued to amend Notification No.16/2015-Cus to include exemption for imports under the EPCG scheme.
- During this period, i.e., from 1 July 2017 when Notification No. 16/2015-Cus came into effect to when the fresh amendment dated 13 October 2017 came into effect, the petitioner had paid IGST on the capital goods imported.
- Therefore, the petitioner filed the present writ before the Bombay HC praying to direct the Revenue to re-assess the impugned bills of entry by considering the exemption to IGST inserted vide Notification No.79/2017-Customs dated 13 October 2017 to have a retrospective effect and grant the refund of duties/taxes paid by the petitioner.

Bombay HC observations and ruling (WP No. 157 of 2019 dated 14 November 2022):

- **Import of capital goods at zero customs duty under EPCG scheme:** The intention of the CG while framing the EPCG scheme was to permit import at zero customs duty. Accordingly, by Notification No. 16/2015-Cus dated 1 April 2015, goods covered by valid authorisation issued under the EPCG scheme in terms of Chapter 5 of the FTP were exempted from the whole of the additional duty leviable under Section 3 of the Customs Tariff Act.
- **GST Council's decision to provide relief to exporters:** Considering the working capital blockage issue and difficulties being faced by the exporters post-GST, the GST Council decided to grant exemption from IGST, cess, etc., under Section 6 of the IGST Act, 2017, read with Section 25 of the Customs Act, 1962, to the import of goods for exporters availing the scheme of advance authorisation/export promotion capital goods/100% export-oriented units up to 31 March 2018 and to continue the existing monitoring scheme for exports.
- **Amendment is clarificatory in nature:** The HC viewed that the exclusion of exemption was on account of inadvertence. However, upon realisation of such an error, the initial notification was amended to exempt the imports under the EPCG scheme. Therefore, the HC observed that the amendment shall be treated as clarificatory or curative in nature, otherwise the importers who had imported capital goods during the period July 2017 to October 2017 would be excluded from the benefit of exemption.
- **Entitlement to refund of IGST paid:** The HC held that since the amendment is clarificatory in nature, the petitioner will be consequently entitled to the refund of the IGST paid on the import of such capital goods during the period July 2017 to October 2017. Accordingly, the HC has directed the authorities to process the refund, along with interest if any.

Our comments

The SC, in the case of Tata Cummins Ltd., had held that an exemption from payment of tax under an enactment is an exemption from tax liability. Therefore, the exemption notifications have to be read liberally, keeping in mind the objects envisaged by the industrial policy and not in a strict sense as in the case of exemptions from tax liability under the taxing statute.

Drawing an analogy from the SC's ruling, the Gujarat HC, in the case of Prince Spintex Pvt. Ltd., had held that the exemption notification has to be read in the context of the EPCG policy, keeping in mind the object envisaged by the policy. Therefore, the HC held that the petitioner would continue to enjoy exemption from the payment of additional duty of customs even during the period 1 July 2017 to 13 October 2017 and granted the refund of IGST paid, along with interest.

The above ruling was also followed by the Gujarat HC in the case of Radhyesham Spinning Pvt. Ltd.

The present ruling by the Bombay HC is in line with the above rulings and should provide relief to taxpayers on similar issues.

Interest and penalty cannot be levied on delayed payment of customs surcharge, CVD and SAD – Bombay HC

Summary

The Bombay HC has held that the interest and penalty on short/delayed payment cannot be levied on customs surcharge, additional duty of customs (CVD) and SAD, as there was no power under the customs law to impose interest or penalty on the said duties. The HC analysed that the provisions of the Customs Tariff Act, 1975, do not provide for or include interest and penalties, and the same is included under Section 28AB of the Customs Act, 1962. Accordingly, the HC opined that merely because there is a mechanism for assessment and collection of tax and penalty under the Customs Act, 1962, it does not mean the same can be borrowed even under the Customs Tariff Act, 1975. Further, the HC clarified that when penalty is an additional tax, the constitution requires a clear authority of law for imposition thereof. Therefore, the HC quashed the order of the Settlement Commission after concluding that it violated legal provisions.

Facts of the case

- Mahindra and Mahindra Limited ('the petitioner') filed four applications before the Settlement Commission.
- SCNs were issued by the Settlement Commission, alleging that the petitioner had not declared the entire amount in relation to import with an intent to evade the payment of customs duty.
- Subsequently, the Settlement Commission held that the duty demanded is payable, along with interest at 10% of customs duty, but partially waived the penalty.
- The petitioner submitted that interest shall be charged on delayed payment of tax only when the statute levying the tax contains a substantive provision regarding the same.
- Accordingly, the petitioner was of the view that the Settlement Commission cannot levy interest and penalty since there are no substantive provisions regarding delayed payment of differential duty.
- Aggrieved by the order of the Settlement Commission, the petitioner filed the present writ petition before the HC.

Bombay HC observations and ruling (WP No.1848 of 2009 dated 15 September 2022. Order dated 4 October 2022):

- **Penalty partakes the character of additional tax:** The HC observed that when a statute levies a tax, it does so by inserting a charging section and then proceeds to provide the machinery to make the liability effective. Subsequently, the statue provides the mechanism for recovery and collection of tax, including penal provisions meant to deal with defaulters. Therefore, penalty is not a continuation of assessment proceedings and there must be a charging section to create liability.
- **Constitution requires clear authority of law for imposition of penalty:** The HC observed that the charging sections for imposition of surcharge, CVD and SAD are Section 90(1) of the Finance Act, 2000, Section 3(1) and Section 3A(1) of the Customs Tariff Act, 1975, respectively. Irrespective of the fact that the Customs Act, 1962, provides for penalty and interest, the same cannot be treated as applicable for interest or penalty under the Customs Tariff Act, 1975. Accordingly, there is no room for presumption in cases of referential legislation.
- **Legislature does not intend to include interest and penalties on CVD and SAD:** The HC viewed that the intention of legislature is clear with respect to the inclusion of interest and penalty only with regard to anti-dumping duty and not for CVD and SAD. There is no substantive provision under Section 3 or Section 3A of the Customs Tariff Act, 1975, or Section 90 of the Finance Act, 2000, requiring payment of penalty or interest.
- **Provisions under Customs Act, 1962 cannot be borrowed:** The HC observed that Section 28 of Customs Act, 1962, provides for recovery of dues and Section 28AB provides for interest on delayed payment of duty. The authorities cannot levy interest beyond the provisions of Customs Act, 1962. Thus, Section 28AB cannot be borrowed for imposing interest on surcharge, CVD or SAD.
- **Settlement Commission's order quashed and set aside:** The HC stated that the authorities cannot include interest in the settlement arrived at by it on the ground that the petitioner has derived financial benefits by not paying the correct rate of duty when it was due. So, the HC held that the order of the commission to the extent of requiring the petitioner to pay interest at the rate of 10% against the four SCNs and penalty is liable to be quashed and set aside.

Our comments

In the case of J.K. Synthetics Ltd., the SC ruled that interest can be levied and charged on late tax payments only if the statute that levies and charges the tax makes a substantive provision in this regard. In the absence of substantive provision requiring the payment of interest, the authorities may not charge interest on tax for the purpose of collecting and enforcing payment.

In the case of Khemka and Co (Agencies) Pvt. Ltd., the SC held that a penalty is in addition to tax and statutory liability. Hence, there must be a specific provision to levy a penalty.

The current Bombay HC ruling is consistent with the preceding rulings and should be beneficial to importers facing similar challenges. Furthermore, taxpayers who previously paid interest and penalties on CVD, SAD and surcharge may be eligible for a refund.

However, given the Revenue implications, the ruling is likely to be challenged before the SC.

03 Decoding advance rulings

Determination of place of supply linked with the liability to pay tax is within the AAR's jurisdiction – Karnataka AAAR

Summary

The Karnataka AAAR set aside the order passed by the AAR and remanded the case to the AAR for fresh consideration. The AAAR held that Section 97(2) of the CGST Act, 2017 includes the determination of POS in its scope if it is linked to the determination of liability to pay tax and the authority has jurisdiction to pass a ruling on the POS issue. The AAAR legally observed that an appeal cannot be filed before it against the ruling rejected by the AAR on the issue of taxability. Further, the AAAR stated that the word 'modifying' as appearing u/s 101(1) does not include providing an answer to an unanswered question, and the same is supported by the fact that decisions made in accordance with the orders issued u/s 98(4) are only subject to appeal before the AAAR.

Facts of the case

- Myntra Designs Private Limited ('the appellant') owns an e-commerce portal through which it is engaged in the business of selling fashion and lifestyle products.
- The appellant provides space on its web portal for a consideration for advertisements by a foreign entity (Lenzing Singapore Pte Ltd. [LSPL]).
- The appellant submitted that the space is provided to a non-resident foreign company and the consideration received is in convertible foreign exchange. Thus, the above transaction falls under the ambit of export of services as per Section 2(6) of the IGST Act, 2017.

- The appellant filed an application before the AAR to seek clarity on taxability of transaction and its classification and the rate of tax.
- The AAR held that the services provided by the appellant are classifiable under SAC 998365, taxable @18%. But with respect to the question on taxability, the AAR restrained from giving a ruling, considering the question involves the determination of POS, which is outside its jurisdiction.
- Thus, the aggrieved appellant filed the present appeal based only on the limited argument that the AAR's decision to decline to rule on the question of taxability due to a lack of jurisdiction was erroneous and unjust in law.

AAAR observations and ruling [KAR/AAAR/06/2022 dated 21 November 2022]:

- **Determination of POS is within the scope:** The AAAR relied on the HC judgment in case of Sutherland Mortgage Services Inc., wherein it had been held that although the determination of POS is not a subject matter under the clauses (a) to (g) of Section 97(2) of the CGST Act, 2017, it would come within the ambit of the larger issue of 'determination of liability to pay tax on any goods or services or both' as enumerated u/s 97(2)(e). In view of the above, the AAAR opined that Clause (e) covers the determination of place of supply if it is linked with the liability to pay tax, and in such cases, the authority has the jurisdiction to pass a ruling on the issue of place of supply.
- **Appellate authority cannot pass an original ruling:** The AAAR stated that as per the provisions, the appellate authority can pass an original ruling only when the matter is referred to it u/s 98(5). Further, an appeal cannot be filed in case where the application was rejected by the AAR u/s 98(2). Only an order passed under Section 98(4) of the CGST Act, 2017, is appealable. Further, the AAAR can only either modify or confirm the orders passed by the lower authority. Accordingly, the AAAR, in the instant case, legally observed that an appeal cannot be filed before us against the rejection of ruling on the issue of taxability. Thus, the AAAR has no authority to decide the points on merits in absence of any ruling by the lower authority.
- **'Modifying' does not include unanswered question:** The AAAR held that the word 'modifying' used in Section 101(1) implies changing or correcting the decision of the AAR. The exclusion of addressing the unanswered question from the word 'modifying' is supported by the fact that only decisions made in accordance with orders issued pursuant to Section 98(4) are subject to appeal.
- **Power to remand back matter:** The AAAR observed that as per Section 101(1) of the CGST Act, 2017, there is no mechanism for an order of remand for a fresh decision. The intention of the legislature is that the appellate authority should settle the question itself. Since the AAR in this case improperly dismissed the taxability issue without passing a decision, the case is not appealable under the law. However, as per the AAAR, the lower authority's decision to not respond to the taxability question based on jurisdiction was wrong. Thus, the AAAR, in the interest of justice, remanded the case to the AAR to pronounce a ruling on taxability after considering the POS provisions.

Our comments

Under GST, there has been a dispute over the question of whether the AAR has the authority to decide the issue involving the determination of the place of supply.

Earlier, the Kerala HC, in case of Sutherland Mortgage Services Inc., had observed that the AAR had adopted a highly hyper-technical view that it does not have jurisdiction simply because the issue related to the determination of place of supply is not expressly listed in Section 97(2) of the CGST Act. The HC had held that although the clauses (a) to (g) of Section 97(2) of the CGST Act do not expressly list this issue, this issue would also fall under the larger issue of determination of liability to pay tax on any goods or services or both. The above decision of the Kerala HC has not been appealed against by the department and has been subsequently referred by various AARs and AAARs. In the present case, the Karnataka AAAR has also placed reliance on the above ruling.

However, contrary to the above, in the case of Panbase Resources Private Limited, the Maharashtra AAR had held that the determination of the question involving the place of supply is outside its jurisdiction. The Maharashtra AAR relied on multiple rulings passed in case of NES Global Specialist Engineering Services Private Limited, Micro Instrument, Sabre Travel Network India Private Limited, Asahi Kasei Private Limited, Segoma Imaging Technologies India Private Limited, and found that the AAR is not allowed to answer this question.

As per the GST provisions, both the AARs and AAARs are constituted under the respective State / Union Territory Act and not the Central Act. It means that the ruling given by the AAR and the AAAR will be applicable only within the jurisdiction of the concerned state or union territory. Thus, questions on the determination of the place of supply cannot be raised with the AAR or AAAR. Further, in reference to Section 109(4) of the CGST Act, the national bench or regional benches of the appellate tribunal shall have the jurisdiction to hear appeals against the orders passed by the appellate authority or the revisional authority in the cases where one of the issues involved relates to the place of supply. Though this authority has not been constituted by the government as on date, it can be understood that the issues involving the place of supply shall be heard by the Goods and Services Tax Appellate Tribunal.

04 Expert's column

Intermediaries' services and decision of Punjab and Haryana HC – Final destination or midway?

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Right from its introduction in 2012, the classification of intermediary services has been a bone of contention. Earlier, it was under the service tax regime (pre-GST), which is continuing even now under the GST regime.

Major disputes under both regimes were related to the export of services. It is because under both eras, intermediary services, irrespective of the location of the service recipient, would not qualify for the export/zero-rating and other export incentives.

A perusal of the details reveals that most disputes are about whether services provided by BPO industries, e.g., outsourcing of customer-related services, ITES, marketing support, etc., are covered under intermediary services. The exporters are claiming these services are recipient-based services and eligible for export-related benefits, whereas the department is classifying these services as intermediary services liable to the standard rate of service tax/GST.

It is essential to mention that under the service tax regime, there used to be a definition of services and taxable events up to 2012. The classification of services was a bit easy, at least for the services covered by the definitions mentioned above.

Reference to these definitions continued even after the amendment of the statute in 2012, by which these definitions were removed from the service tax law.

As discussed above, despite the availability of the tool of interpretation (in the form of the definition of services), it would be incorrect to say that there was any less litigation, under the service tax regime, on the issue of an intermediary. However, in the erstwhile regime, this issue was less perilous as there was no service tax if the recipient was located outside India. But in GST laws, the issue has far-reaching impact, as any denial of export would immediately attract GST liability.

However, with the passage of time, the department came out with various clarifications to get the issue settled. In the meantime, disputes reached significantly higher judicial forums such as CESTAT, advance ruling authorities (at the national level), and HCs. At all judicial forums, the decisions had one common observation that irrespective of the nature of services, if the transaction is on a principal-to-principal basis, the services would not qualify to be classified as intermediary services.

As things started getting settled, the introduction of the GST prompted the authorities to unlearn the experience gained under the service tax regime and re-invent the wheel. It resulted in a new series of litigation on account of classifying the BPO, ITES and marketing services as intermediaries.

CBIC's attempt to clear the mist

In an attempt to clear the mist, the CBIC issued a circular, No. 159/5/2021-GST dated 20 September 2021 ('the Circular'). The Circular was intended to remove ambiguity around classifying various services as intermediaries. The Circular clarified that to qualify for any service as an intermediary, the following elements are mandatory:

i. There has to be a minimum of three parties
ii. There needs to be existence of two distinct supplies, i.e., main supply and ancillary supply
iii. The service provider has the character of a third party, e.g., an agent, broker, etc.
iv. The supplier should not be providing the services on its own account

The Circular further clarified that sub-contracting services would not be classified as an intermediary.

The Circular was expected to settle the issue once and for all. However, the basic issue as to what would constitute the provision of services on its own account or on a principal-to-principal basis remained unanswered.

Though the Circular also clarified that broadly there is no change in the scope of intermediary services under the services tax and the GST regime, the GST authorities chose to ignore this for obvious reasons.

Decision of Punjab and Haryana HC

In this process, a big relief came from the Punjab and Haryana HC. In this ruling, it was held that the services of BPO, i.e., vendor data management, supply chain management, data analysis, technical IT support, developing, licensing, maintaining software, etc., to an overseas entity cannot be regarded as an intermediary under the GST laws.

In this case, as per the MSA, the overseas entity had subcontracted the petitioner to provide certain services on a principal-to-principal basis. The MSA did not mention that the petitioner must arrange/facilitate the leading service. Furthermore, it was also mentioned that such services would be provided by the petitioner on its account. Moreover, the petitioner would be held liable for any risk associated with the performance of services.

The HC also stated that the legal position regarding the scope and ambit of intermediary services under the GST regime has not changed vis-a-vis the service tax regime.

Road ahead

At this juncture, the reaction of the department has to be seen. Approaching the SC against this order would be counterproductive and add to the existing mountain of litigation.

Alternatively, the department may come out with a circular accepting this judgment in toto with an instruction to field formation to give effect to this decision. Hopefully, that will settle this issue once and for all.

05 Issues on your mind

What is CCV under paperless customs?

The introduction of a CCV has delinked duty payment, and it allows the importer to self-register the imported goods and paves the way for the customs officer to conclude necessary compliance verifications and conditionally clear the bill of entry in the system. The importer may thereafter make the duty payment, receive OOC electronically and proceed to take the goods out of customs control.

What is machine-based automated clearance system under paperless customs?

The ICES automatically gives clearance to imported goods when all the compliances are fulfilled/satisfied. This also allows the compliance verification, such as examination of goods, to be completed even before customs duties are paid. The facility of machine-based release results in a substantial reduction in time and cost of customs clearance.

Can we upload export e-invoice details with foreign currency?

All invoices to be registered on the e-invoice portal should contain the values in INR. However, there are some optional fields in the schema in which a foreign currency may be included.

What are the features of ICEGATE 2.0?

The Directorate General of Systems has launched ICEGATE 2.0 w.e.f. 16 November 2022 in a phased manner. Users will continue to use the existing features of ICEGATE 1.0 and additional features under ICEGATE 2.0 till the complete rollout of the latter.

The following features are being introduced in Phase-I of ICEGATE 2.0 w.e.f. 16 November 2022:

- **Bilingual:** The ICEAGTE 2.0 website is a complete bilingual website that has been designed to provide contemporary user interface for an enhanced user experience.
- **Personalised dashboard:** A new feature 'widget' is also being provided to show important information, such as message filing status, details of tickets, refunds, and duty payments, etc., in the dashboard without going for enquiries. The registered users will be provided access to the personalised dashboard in a phased manner between 16 November 2022 and 29 December 2022 depending on the staggered rollout of ICEGATE 2.0 Phase-I at various locations.
- **Customised notifications:** A customised notifications facility is being provided to the registered users to choose the events for which they want to receive notifications.
- **Chatbot:** A chatbot, 'Vaani', is being provided to assist users 24*7 with services such as document status enquiry and locating relevant content without requiring them to connect to the ICEGATE helpdesk.
- **Webforms:** In addition to the existing offline filling, a new online/offline filing utility is being provided. Registered users can file their documents themselves using web forms on ICEGATE. This facility will be available to the registered users post login.

06 Important developments in direct taxes

CBDT releases draft of the common ITR form for public comments

Currently, every year, taxpayers are required to select the tax return form applicable in their case based on their 'status' for tax purposes and their income streams for that year. Further, taxpayers are required to go through all the schedules irrespective of their applicability.

In order to make the return filing process efficient and to reduce hardships faced by the taxpayers, the CBDT has (vide F.Note No. 370133/16/2022-TPL dated 1 November 2022) released the draft common ITR form (merging all the existing ITRs except ITR-7). The CBDT also released a step-by-step approach for filing the ITR. Further, the CBDT has requested stakeholders to provide comments on the common ITR form by 15 December 2022.

The key features of the draft common ITR form are:

- Taxpayers will not be required to see the schedules that do not apply to them.
- It will facilitate reconciliation of third-party data available with the income tax department vis-a-vis the data to be reported in the ITR.

Taxpayers filing the existing ITR-1 (for residents having total income up to INR 50 lakh and not carrying out any business or profession) or ITR-4 (for resident individuals, HUFs and firms [other than LLP] having total income from business and profession up to INR 50 lakh) have been given an option to use either these forms or the proposed common ITR form.

Condonation of delay in filing application for registration/provisional registration/approval/intimation by charitable trust, research institutes, etc. (Form No. 10A)

Considering the impact of the COVID-19 pandemic, the CBDT vide Circular No. 12/2021 dated 25 June 2021 had extended the due date of filing Form No. 10A from 30 June 2021 to 31 August 2021. Further, taking into account the difficulties faced in e-filing of the said form, this timeline was extended to 31 March 2022 (vide Circular No. 16/2021 dated 29 August 2021).

However, based on representations from stakeholders, who were unable to furnish the said form by 31 March 2022, the CBDT vide Circular No. 22/2022 dated 1 November 2022 further extended the timeline for filing Form No.10A to 25 November 2022 for such cases.

07 Glossary

AA	Advance Authorisation
AAR	Authority for Advance Ruling
AAAR	Appellate Authority for Advance Ruling
AEM	Anonymised Escalation Mechanism
BPO	Business Process outsourcing
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CCI	Competition commission of India
CCR	CENVAT Credit Rules, 2004
CCV	Customs Compliance Verification
CENVAT	Central value added tax
CG	Central Government
CGST	Central Goods and Service Tax
CIMS	Coal Import Monitoring System
CO	Counterpart officer
CTD	Credit transfer document
CVD	Countervailing duty
DC	Deputy commissioner
DFIA	Duty-Free Import Authorisation
DGFT	Directorate General of Foreign Trade
DGRAM	Directorate General of Analytics and Risk Management
ECL	Electronic Cash Ledger
ECrL	Electronic Credit Ledger
EO	Export Obligation
FOB	Free on Board
EPCG	Export Promotion Capital Goods
FSE	First serve entertainment
FTP	Foreign Trade Policy
EXIM	Export Import
FY	Financial Year
GI	Genpact International
GST	Goods and Service Tax
GSTN	Goods and Service Tax Network
HC	High Court
HUF	Hindu Undivided Family
ICES	Indian Customs EDI system
ICEGATE	Indian Customs Electronic Gateway
IDS	Inverted duty structure
IGM	Import General Manifest
IGST	Integrated Goods and Services Tax
INR	Indian Rupee
IRC	Internal Review cell
ISD	Input Service distributor
ITC	Input Tax Credit
ITES	Information Technology enabled services
ITC(HS)	Indian Trade Clarification based on Harmonised System of Coding
ITR	Income tax return
JC	Joint commissioner
JO	Jurisdictional officer
KKC	Krishi Kalyan Cess
LLP	Limited Liability Partnership
LUT	Letter of undertaking
MSA	Master Service Agreement
NCTC	National Customs Targeting Centre
NFE	Net foreign exchange
OGST	Orissa Goods & service tax
OOC	Out of Charge
PLA	Personal ledger account
PO	Proper officer
POS	Place of Supply
QRMP	Quarterly Returns with Monthly Payment
RBI	Reserve Bank of India
RMS	Risk Management System
RoDTEP	Remission of Duties and Taxes on Exported Products
SAD	Special additional duty
SBC	Swachh Bharath cess
SC	Supreme Court
SCN	Show Cause Notice
SEIS	Service Export From India
SEZ	Special Economic zone
SGST	State Goods & Services Tax Act
SLP	Special Leave Petition
TNGST	Tamil Nadu GST
UT	Union Territory
VAT	Value Added Tax
WP	Writ Petition

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