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SHAPING A VIBRANT INDIA

GST Compendium

A monthly guide

July 2023

Editor's Note

The Central Board of Indirect Taxes has issued comprehensive guidelines for strengthening the verification process of registration applications under Goods and Services Tax (GST), to prevent the menace of bogus registrations. The approval process will be more precise and will emphasise applications rated as 'High Risk' by the Directorate General of Analytics and Risk Management. This initiative would further help in plugging revenue leakages by identifying fake registrations at the initial stage.

The Director General of Foreign Trade has extended the last date for the amnesty scheme for default in export obligations (EO) under the Export Promotion Capital Goods and Advance Authorisation schemes till 31 December 2023. This will help attract many more exporters to avail the benefit and clear their EO defaults.

The Government of Maharashtra has extended the Maharashtra Electronics Policy, 2016, by six months, to 30 September 2023. The policy offers investment-linked incentives to the electronics manufacturing industry in Maharashtra.

On the judicial front, the Bombay High Court (HC) has concluded the proceedings emerging from the split verdict by the Division Bench on the constitutional validity of intermediary provisions. The HC has passed the final judgement and held that the intermediary provisions are legal, valid, and constitutional.

Pursuant to the Apex Court's decision, the revenue authorities have initiated investigations on many cases involving secondment of employees, and the industry is closely watching developments in this matter.

Recently, the Chennai Bench of the Tribunal upheld the service tax demand on the salaries, bonuses, allowances, etc., paid to the expatriate employees seconded from a foreign entity, applying the ratio of the Apex Court's decision. The Tribunal held that such amounts paid by the appellant were the costs of the manpower services received by it and shall be treated as 'consideration' to levy service tax. This decision has a significant impact on global business.

In this edition, we have interviewed our expert on the new foreign trade policy.

On the direct tax front, the Central Board of Direct Taxes (CBDT) has notified the rule for the computation of 'net winnings' in the case of online gaming and issued guidelines for tax deducted at source (TDS) on such winnings.

The CBDT has also notified an enhanced exemption limit for leave encashment for non-government employees, which is INR 25 lakhs.

As far as angel tax provisions are concerned, the CBDT has notified a list of excluded non-resident investors and provided exemptions to certain specified start-ups.

I hope you will find this edition an interesting read.

Riaz Thingna

Partner, Tax
Grant Thornton Bharat LLP

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Important amendments/updates

A Key updates under the GST and erstwhile indirect tax laws

CBIC issues guidelines for processing of applications for registration

To prevent the menace of fake or bogus registrations, the CBIC has issued below mentioned guidelines to be followed by the tax officers for strengthening the process of verification of the applications for registration in a uniform manner:

i. Upon receipt of the registration application, the PO shall initiate the process of verification and scrutiny of Form GST REG-01, as well as the documents, to ensure legibility, completeness, and relevancy. The authenticity of the documents furnished as proof of address may be cross-checked from the publicly available sources, such as websites of the relevant authorities like land registry, electricity distribution companies, municipalities, and local bodies, etc.

ii. Based on data analytics and risk parameters, the DGARM is conducting a risk rating in the form of High, Medium, and Low risk for each ARN and making field formations available to the CGST in the form of Report Series 400 on the DDM portal. The PO shall pay special attention to the cases where an ARN has been assigned a high-risk rating.

iii. The PO may additionally give due consideration and special attention to the cases involving inter alia the following circumstances:

- Where any registration obtained on the PAN of the applicant has been cancelled/rejected previously;
- Where any registration obtained on the PAN of the applicant is suspended at the time of verification of a new application of registration;
- Whether the place of business of the applicant appears to be risky based on local risk parameters;
- Whether the proof of address of place(s) of business prima facie appear to be suspicious/doubtful.

iv. If the application is found to be deficient, the PO shall issue a notice to the applicant in Form GST REG-03 wherein the PO may request clarification or documents, such as complete legible copy of the documents, additional documents to confirm the address details, and documentary evidence proof. In case where the GSTIN linked to PAN is found cancelled or suspended, the PO may request explanations/reasons.

v. The applicant shall furnish a response in Form GST REG-04, which shall be examined by the PO. If the PO is satisfied with the reply, he may approve the registration, otherwise he may reject the application and inform the applicant in Form GST REG-05 with reasons.

v. Where the applicant has either failed to undergo authentication of the Aadhaar number or has not opted for the same, the PO shall immediately initiate the process for physical verification of the place of business and upload its report, along with documents on the portal in Form GST REG-30.

vi. Further, physical verification of the place of business may be conducted by the jurisdictional officers of the concerned division/Commissionerate in the following cases:

- Where registration is granted on deemed approval basis;
- Where the PO gives due attention to cases specified above in point iii;
- Where high risk rating has been assigned to an ARN in DGARM Report series 400;
- Where physical verification of the place of business was not conducted before the grant of registration;
- Where the applicant has undergone Aadhaar authentication, the PO believes that physical verification of the applicant's place of business is required to confirm the applicant's legitimacy. In absence of an online functionality for marking an application for physical verification in these cases, the concerned CPC officer may request physical verification of the place of business from the jurisdictional officers of the concerned division/Commissionerate;
- In other cases, based on various risk parameters and risk ratings as per tools available in ADVAIT/BIFA or as per reports provided by DGARM.

Our comments

The CBIC recently launched an all-India special drive from 16 May 2023 to 15 July 2023 to detect suspicious/fake registrations and conduct necessary verification to prevent revenue loss to the government. Further, in order to curb the rising cases of bogus registrations, the verification of registration applications is one of the most critical measures. The recent guidelines would further tighten the verification procedure of registration applications, assisting in the elimination of the practice of obtaining false registrations.

The process for granting approval to GST registrations will be more precise with an emphasis on 'High Risk' applicants. It is visible that the GST administration is taking a proactive approach towards tightening the verification process, mostly in an automated manner. This initiative would further help in plugging revenue leakages by identifying the fake registrations at the initial stage itself.

(Instruction No. 03/2023-GST dated 14 June 2023)

GSTN issues advisory on e-invoicing enablement status for taxpayers

The GSTN has issued the advisory mentioned below on e-invoicing enablement status for taxpayers:

- Considering the reduced threshold for e-invoicing applicability as INR 5 crore w.e.f. **1 August 2023**, the GSTN has enabled all eligible taxpayers having an AATO of INR 5 crore and above for e-invoice reporting on all six IRP portals, including NIC-IRP.
- The enablement status can be checked on the e-invoice portal at https://einvoice.gst.gov.in.
- It is recommended that taxpayers register and use the sandbox testing facility provided at the IRP portals to familiarise themselves with the invoice reporting mechanism and facilitate a smooth transition to the e-invoice system.
- It should be noted that the enablement status displayed on the e-invoice portal does not imply that taxpayers are legally required to use e-invoicing. Further, while the list of enabled GSTINs is solely based on the turnover criteria stated in GSTR-3B, taxpayers must confirm whether they meet the parameters outlined in the notification/rules. Thus, it is the legal responsibility of the taxpayer, both buyers and suppliers, to ensure compliance.
- In case a taxpayer who is otherwise not auto-enabled on the e-invoice portal, can self-enable for e-invoicing using the functionality provided on the portal.
- It is recommended that taxpayers register and use the sandbox testing facility provided at the IRP portals to familiarise themselves with the invoice reporting mechanism and facilitate a smooth transition to the e-invoice system.
- It should be noted that the enablement status displayed on the e-invoice portal does not imply that taxpayers are legally required to use e-invoicing. Further, while the list of enabled GSTINs is solely based on the turnover criteria stated in GSTR-3B, taxpayers must confirm whether they meet the parameters outlined in the notification/rules. Thus, it is the legal responsibility of the taxpayer, both buyers and suppliers, to ensure compliance.
- In case, a taxpayer who is otherwise not auto-enabled on the e-invoice portal, can self-enable for e-invoicing using the functionality provided on the portal.

(https://www.gst.gov.in/newsandupdates/read/591)

GSTN provides new facility to verify information of e-invoices through the E-Invoice Verifier app

The GSTN has provided a new functionality called the E-Invoice Verifier App. This will be a convenient solution for verification of information in e-invoice. The key features of the app are:

- **QR code verification:** The app allows the users to scan the QR code on an e-invoice and authenticate the value embedded in it.
- **User-friendly interface:** The app provides a user-friendly interface, which will help users to navigate through the app's features and functionalities.
- **Comprehensive coverage:** The app supports the verification of e-invoices reported across all six IRPs.
- **Non-login based:** Users are not required to create an account for this.

The GSTN has emphasised that this app does not require any user login or authentication process. Anyone can freely scan QR codes and view the available information.

(https://www.gst.gov.in/newsandupdates/read/588)

Mandatory two-factor authentication for e-way bill/e-invoice system for taxpayers having AATO exceeding INR 100 crore w.e.f. 15 July 2023

In a move to enhance the security of the e-way bill/e-invoice system, the NIC introduced a 2FA for logging in to the e-way bill/e-invoice system wherein in addition to the username and password, the login would be authenticated through OTP.

Earlier, this facility was optional however it will be mandatory for all the taxpayers having AATO exceeding INR 100 crore w.e.f. **15 July 2023 (**reference to the NIC latest update dated 12 June 2023).

There are three modes of generating OTP as under:

- **SMS** – OTP shall be sent on the registered mobile number.
- **Sandes app** – Sandes is a messaging app that can be installed on the registered mobile number to receive the OTP.
- **Using NIC-GST Shield app** – The NIC GST Shield is a mobile app provided by the e-way bill/e-invoice system. This app can be downloaded only from the e-way bill/e-invoice portal. The app can be installed on the registered mobile number in which OTP shall be displayed. The OTP shall get refreshed after every 30 seconds. Internet or any dependency on the mobile network is not required for generating OTP on this app.

(https://einvoice1.gst.gov.in/Documents/2FA_help.pdf)

GSTN introduces a new functionality for online compliance pertaining to liability/difference appearing in Form GSTR-1/IFF and GSTR-3B/3BQ

The GSTN has introduced a new online functionality that enables the taxpayers to explain the difference between the liability declared in GSTR-1/IFF and the liability paid in GSTR-3B/3BQ, as directed by the GST Council in its 48th Council meeting held on 17 December 2022.

Key features of the functionality:

- The functionality compares the two returns for each period and intimates the taxpayer in Part A of Form DRC-01B (Intimation) if the declared liability in GSTR-1/IFF exceeds the paid liability in GSTR-3B/3BQ by more than the predefined limit or the percentage difference exceeds the configurable threshold.
- Upon receipt of the intimation, the taxpayers must file a detailed reply in Part B of Form DRC-01B and provide a clarification through reason in an automated dropdown. If the reason is not included in the dropdown, taxpayers should provide details regarding the discrepancy.
- If a taxpayer fails to file a response to an intimation for any tax period, he would be unable to file his Form GSTR-1/IFF for the subsequent period. Hence, it is important to ensure the timely filing of Form DRC-01B Part B to avoid any interruptions in the filing of GSTR-1/IFF.
- Form DRC-01B is applicable to various types of taxpayers, including regular taxpayers (including SEZ units and SEZ developers), casual taxpayers, and taxpayers who have opted in or opted out of the composition scheme.
- For quarterly filers (QRMP), Form DRC-01B will be generated after filing the quarterly GSTR-3B. However, for monthly filers, Form DRC-01B will be generated on a monthly basis after filing the monthly GSTR-3B. Therefore, Form DRC-01B Part B can be filed either on a monthly or quarterly basis, depending on the frequency of filing GSTR-3B.
- The taxpayer can navigate the intimation on the GST portal following the below path - **Services > Returns > Return Compliance > Liability Mismatch DRC-01B.**

https://www.gst.gov.in/newsandupdates/read/592

Kerala SGST department issues instructions on allocation of adjudication of SCNs

In order to ensure the distribution of cases among the officials and ensure speedy disposal, the Kerala SGST department has issued a circular providing instructions on the allocation of the adjudication of SCNs.

The adjudication of SCNs issued u/s 73 and 74 of the CGST Act, having a pecuniary limit up to INR 5 crore (above INR 50 lakhs), shall be transferred to the Jurisdictional Deputy Commissioner, Taxpayer Services. In addition, for speedy disposal, the Joint Commissioner of Taxpayer Services shall also allocate adjudication files to the Deputy Commissioner (Adjudication) by issuing a formal order. An intimation regarding such allocation shall also be sent to the concerned taxpayers.

(Circular No. 11/2023 dated 25 May 2023)

B Key updates under the Customs/FTP/SEZ laws

CBIC issues circular for implementation of SC's judgement in the matter of imposition of a pre-import condition on imports under AA

Recently, in the case of Cosmos Films Limited, the SC upheld the requirement of the 'pre-import condition' incorporated in the FTP 2015-2020 and HBP 2015-2020 to claim exemption of the IGST and Compensation Cess on inputs imported for the manufacture of export goods, based on the AA scheme.

Further, the SC directed the Revenue to permit a claim of refund or input credit (whichever was applicable and/or wherever customs duty was paid). For doing so, the assessee shall approach the jurisdictional commissioner and apply with documentary evidence within six weeks from the date of the judgement. The claim for refund/credit shall be examined on their merits on a case-by-case basis. The SC further directed that the Revenue shall issue a circular regarding the appropriate procedure to be followed.

Pursuant to the above, the CBIC has prescribed the procedure that can be followed for the imports, which could not meet the pre-import condition and are required to pay the IGST and Compensation Cess to that extent at the POI.

Key aspects for consideration:

- The importer may approach the assessment group at the POI with relevant details for payment of tax, cess, and interest. Such payment shall be made through the electronic challan generated in the Customs EDI system.
- The assessment group shall cancel the OOC and indicate the reasons in remarks. The BE shall be assessed again, so as to charge the tax and cess in accordance with the above judgement.
- Post the completion of payment, the POI shall make a notional OOC for the BE to enable the transmission to the GSTN portal. This procedure can be applied once to a BE.
- Accordingly, the input credit with respect to such assessed BE shall be enabled to be available, subject to the eligibility and conditions for taking the ITC under the GST law.
- In case such ITC is utilised for the payment of the IGST on outward zero-rated supplies, then the benefit of refund of such IGST paid may be available to the said registered person as per the relevant provisions under the GST law.

(Circular No. 16/2023 – Customs dated 7 June 2023)

DGFT extends last date to apply for one-time settlement of default in export obligation under Amnesty Scheme for Advance and EPCG authorisation holders

The DGFT, vide Public Notice No. 02/2023 dated 1 April 2023, had notified the 'Amnesty scheme for one-time settlement of default in export obligation by advance and EPCG authorisation holders.'

The defaulters interested in availing the scheme were required to file an online application by 30 June 2023. Further, the payment of exempted customs duties and interest is required to be made by **30 September 2023** for availing the scheme.

The DGFT has extended the last date to apply under the Amnesty Scheme for EO default till **31 December 2023**. Further, the last date for payment of customs duty, along with interest, has also been extended till **31 March 2024**.

(Public Notice No. 20/2023 dated 30 June 2023)

DGFT issues clarifications on the procedure for applying for one-time settlement of default in export obligation under the amnesty scheme for AA and EPCG authorisation holders

Pursuant to an announcement by the government, the DGFT had notified the Amnesty Scheme for one-time settlement of default in EO under the AA and EPCG scheme. The defaulters interested in availing the scheme are required to file an application before 30 June 2023.

The DGFT had also issued a policy circular outlining the procedure to be followed for applying for one-time settlement under the Amnesty Scheme. Considering problems faced by some exporters in filing applications in the EODC module of the DGFT website, the DGFT has clarified that an online form in manual mode has been developed in a standalone website**:** **https://www.amnestyscheme.in.**

This facility can be used by exporters under the following circumstances –

- Where data of authorisation/license is not available in the online database of the EODC module,
- There is a persistent problem in filing the online application.

(Policy Circular No. 02/ 2023-24 dated 23 June 2023)

CBIC notifies mandatory additional qualifiers in import/export declarations for certain products effective from 1 July 2023

The CBIC had mandated that the importers shall voluntarily declare the complete description of imported goods and provide certain additional parameters for imported items, such as scientific names, IUPAC names, brand names, etc., as applicable, to aid in reducing queries and improving the efficiency of assessment.

The matter was reviewed in consultation with the department of Chemicals and Petrochemicals, Ministry of AYUSH, and the DGFT, and it was noted that more complete details of the products in import/export declarations can be provided to improve the efficiency.

In this regard, the CBIC has notified mandatory additional qualifiers to be mentioned in import/export declarations in respect of certain products effective from 1 July 2023 as under:

- **Additional qualifiers in respect of imports:** The declaration of the IUPAC name and CAS number of the constituent chemicals, for imports under the Chapters 28, 29, 32, 38 and 39 of the Customs Tariff Act.
- **Additional qualifiers in respect of exports:** The declaration of the name of the medicinal plant for exports of parts of plants under Chapter 12, name of the formulation, for exports of formulations of different streams of medicine under Chapter 30 and declaration of the surface material that comes into contact with the chemical, for exports of various products under Chapter 84.

These additional qualifiers shall be mandatory for imports as well as exports under the said chapters for all BE and shipping bills, filed on or after 1 July 2023.

(Circular No. 15/2023-Customs dated 07 June 2023)

Government of Maharashtra extends the Maharashtra Electronics Policy, 2016, till 30 September 2023

The Government of Maharashtra has recently extended the MEP through a resolution dated 1 June 2023. This policy was introduced with the objective to offer investment-linked incentives to the electronics manufacturing industry in Maharashtra.

The extension is effective from 1 April 2023 and will be in place for a period of six months, ending on **30 September 2023**, or until the new policy on the subject is implemented, whichever occurs earlier.

Key features of the scheme:

- **Applicability**: The policy is applicable to the electronics manufacturing industry in Maharashtra.
- **Eligibility**: Auto approval under the MEP if there is an approval for investment under the SPECS. If not, an application needs to be made to the technical committee established as per the MEP.
- **Quantum of incentive**: While there are many incentives, the IPS is a key incentive under the policy. The IPS is in nature of reimbursement of the SGST on eligible products. The overall incentive under the policy shall be up to 100% of eligible FCI, subject to guidelines.
- **Unit categorisation**: Basis the quantum of investment, the units are classified as MSME / Large / Mega, and basis the *taluka*, the units are classified into different categories, such as A/B/C/D.
- **New unit / expansion unit**: The policy is applicable for both new and expansion units, subject to fulfilling the required criteria.
- **FCI**: It includes land, building, plant and machinery, development cost, and royalties, subject to guidelines.

For companies manufacturing electronic products, which are planning to invest or have already invested (subject to policy guidelines) in Maharashtra, this extension provides a good opportunity for making the application within the extended timelines.

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Key judicial pronouncements

A Key rulings under the GST and erstwhile indirect tax laws

i. Key rulings under the erstwhile indirect tax laws

SC delivers split verdict w.r.t. arbitrary withdrawal of sales tax exemption

Summary

The division bench of the SC has rendered a split verdict on the question of an appellant being entitled to a sales tax exemption pursuant to an amendment to the WBST Act, which withdrew the exemption. Justice M.R. Shah held that it is a settled position of law that no one can claim the exemption as a matter of right. Contrary to this, Justice Murari stated that the law cannot take away anything conferred by it in an arbitrary manner. Further, the amendment introduced in law in the present case did not demonstrate that it was for the advancement of public interest. He further stated that the mere claim of change of policy is not sufficient to discharge the burden of proof vested in the government. Therefore, the SC held that the benefit of exemption should be available to the appellant for the period promised by the Revenue.

Facts of the case

- M/s. K.B. Tea Product Pvt. Ltd. (the appellant) had set up new small scale industrial units for the purpose of carrying on the business of 'manufacturing blended tea' and enjoyed the benefit of exemption from the payment of sales tax.
- As per the provisions of the West Bengal Incentive Scheme 1999, the new industrial units were given an exemption from the payment of sales tax for a specified period.
- The appellant also obtained an eligibility certificate from the Sales Tax department for a period of seven years from the date of the first sale of the manufactured product.
- Later, the definition of 'manufacture' was amended by the West Bengal Finance Act, 2001, whereby the words 'blending of tea' was omitted. Consequently, the exemption from the payment of sales tax, which was granted to the appellants, came to be stopped, and even the eligibility certificate was required to be modified. Consequently, the exemption was withdrawn, and the appellants ceased to be the manufacturers.
- The aforesaid action/order was challenged before the Tribunal first, and thereafter, before the HC. The Tribunal dismissed the application, which has been confirmed by the HC by the impugned judgement and order.
- Aggrieved by the order passed by the HC, the appellants filed an appeal before the SC.

Issues before SC

- Whether the appellants have a vested right in claiming exemption from the payment of sales tax under the WBST Act, as the vested right was accrued upon the appellants before the amendment was made under Section 2(17) of the WBST Act.
- Whether the doctrine of legitimate expectation is applicable in the present case since the appellants had set up their industrial units based on the allurement of a tax holiday granted by the government.

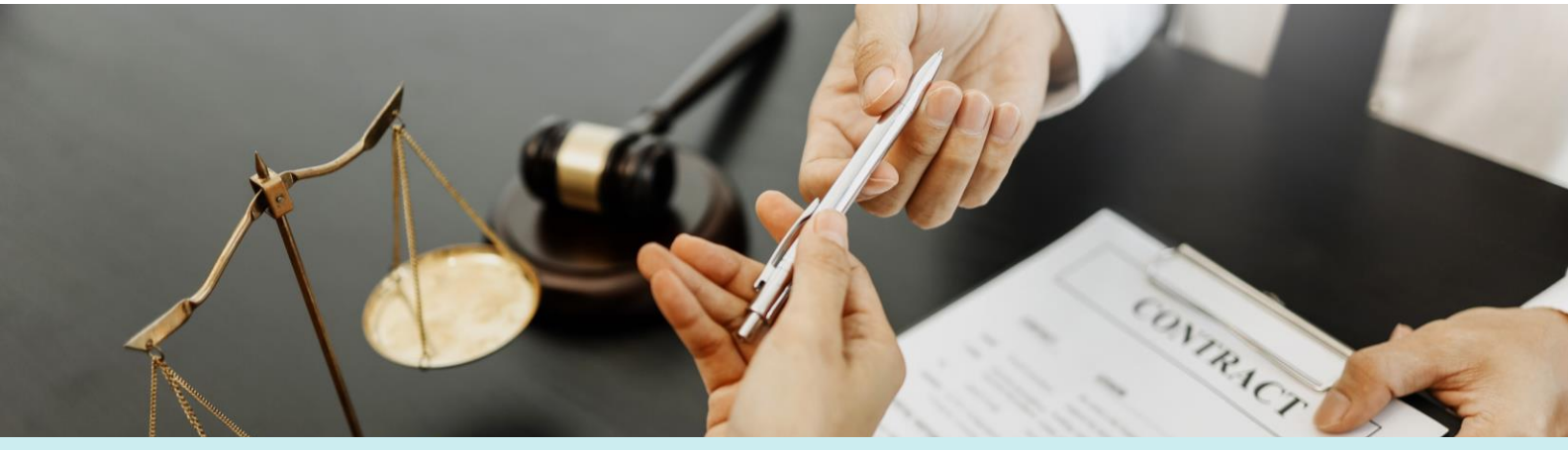
SC observations and ruling [Civil Appeal No.2297/2011, Order dated 12 May 2023]

A. Observations and opinion of Justice M.R. Shah:

- **Exemption cannot be claimed as a matter of right:** Exemption is always on the fulfilment of the conditions for availing the exemption and the same can be withdrawn by the state. To grant the exemption and/or to continue and/or withdraw the exemption is always within the domain of the state government and it falls within the policy decision. As per the settled position of law, unless withdrawal is found to be so arbitrary, the court would be reluctant to interfere with such a policy decision.
- **Not a case of 'vested right' but a case of 'existing right':** The HC has rightly held that this is not a case of 'vested right' but a case of 'existing right'. There cannot be any promissory estoppel against the statute as per the settled position of law.
- **Exemption subject to satisfaction of conditions:** The word 'manufacture' is very relevant and is a condition *sine qua non* to be satisfied for claiming exemption. Therefore, if a dealer ceased to be the manufacturer, he shall not be entitled to the benefit of exemption. Accordingly, pursuant to the impugned amendment by which 'tea blending' is excluded from the definition of 'manufacture', the assessee shall not be entitled for the exemption from the payment of sales tax.

B. Observations and opinion of Justice Krishna Murari:

- **Doctrine of legitimate expectation:** The doctrine of legitimate expectation, which flows from the doctrine of rule of law, and which stipulated that it is based on the idea of fairness and consistency in the decision-making processes of public authorities. When a legitimate expectation of a specific outcome is created by a public authority, then it is required to consider such expectation created by it when making a decision that affects the interests of the individual or the group concerned. If they fail to do so, the individual or group has a right to challenge the decision and seek a remedy. The SC drew reference from the case of M.P.Oil Extraction & Anr., wherein it had been held that this doctrine operates in the sphere of public law, and as such, is a substantive and enforceable right depending on the facts and circumstances of the case.
- **Every action of state should be guided by non-arbitrariness:** The SC drew reference from the case of Food Corporation of India vs. Kamdhenu Cattle Feed Industries, wherein it had been held that the duty of public authorities is to act in a reasonable manner, which entitles every person to have a legitimate expectation; it is imperative to ensure non-arbitrariness of state action.
- **Limitation of doctrine of legitimate expectation:** The SC drew reference from the case of MRF Ltd. Kottayam, wherein it had been held that public interest takes precedence over a legitimate expectation. Also, in other cases, it was held that this doctrine is rendered defunct in cases where the said expectation is rescinded by the public authority by way of a change in public policy due to public interest, and it was held that no right can be claimed on the basis of legitimate expectation when the said expectation is contrary to statutory provisions enforced in the public interest.
- **Principles for application of legitimate expectations:** The expectation must be reasonable and based on a clear representation. The representation must be made by an authorised person, and it must be legitimate. The public interest must be demonstrated. The public interest must supersede a change in policy. The expectation must be based on a legitimate interest. The expectation must be protected.
- **SC allowed the civil appeals:** As no appropriate justification was provided by the government for the enactment of the amendment, the government must precisely show what the change of policy is, and why such a change of law is in furtherance of public policy and the public good. Accordingly, the Justice issued a direction to extend the benefits of the original amendment to the appellant, till the expiry of such a benefit as per the original amendment.



Our comments

The doctrine of legitimate expectation arises when a public authority makes a promise or acts in a manner that leads an individual or group to expect a particular outcome. The present case is also based on the legitimate expectation that the assessee had set up a unit under the assumption that the state authority would hold true to its promise, act in a fair manner and continue to grant the exemption. The said exemption was then withdrawn without any appropriate justification.

In the case of Navjyoti Coop. Group Housing Society, the SC elucidated that the presence of legitimate expectations can have different outcomes and one such outcome is that the authority should not fail 'legitimate expectation' unless there is some justifiable public policy reason for the same.

In the present case also, the SC has reiterated the principle that the doctrine of legitimate expectation cannot be invoked only when the changes/amendment is carried out in public interest.

This ruling may be relevant for businesses that have availed benefits/exemptions under the various state-specific industrial policies, but the same were subsequently rescinded or withdrawn. However, considering the divergent opinions by the division bench, it would be interesting to wait and watch for the larger bench's view.

Service tax demand upheld on salary, bonus and allowances paid to employees seconded from foreign entity, relying on SC's decision - CESTAT

Summary

The CESTAT Chennai bench has upheld the service tax liability on the salary paid to expatriate employees seconded from a foreign entity on the ground that it constitutes consideration for the manpower services received from the foreign entity. The CESTAT relied upon the landmark ruling by the SC in the case of the Northern Operating System Private Limited (NOS decision) and observed that the facts in the present case are similar to that of the NOS decision. The CESTAT observed that in terms of the agreement between the parties, it was clear that the appellant had to pay the salary, bonus, allowances, etc., to the secondees working for it in India. Therefore, as the term 'consideration' includes any amount payable for the taxable services provided or to be provided, the CESTAT stated that the salary, bonus, allowances, etc., paid by the appellant were the cost of such manpower services received by it.

While the CESTAT upheld the demand for the normal period, along with interest, it set aside the demand for the extended period on the basis that the case does not involve suppression of facts and it was a revenue-neutral situation.

Facts of the case

- Renault Nissan Automotive India Pvt. Ltd (the appellant) was engaged in providing business auxiliary services.
- The appellant had entered into a secondment agreement with Nissan Motor Company Ltd (NMC) to hire expatriate foreign workers. The appellant had also signed separate employment contracts with the foreign expatriates.
- The appellant treated the secondees as its own employees and TDS was deducted on the salary paid to them, and Form 16 was issued. The appellant had also accounted for expenditure in its financial statements as personnel expenses.
- The salary paid to the seconded employees was based on a split formula, i.e., a part was paid by the appellant, and the other part was paid by the NMC in the form of social security obligations and employees' retirement benefit plans. The part paid by the NMC was reimbursed by the appellant.
- The adjudicating authority issued SCNs to demand service tax under the RCM on the transaction as manpower supply services for the FYs 2008–09 to 2013–14.
- The appellant had contended that the employees have employment visa, therefore there exists an employer-employee relationship between the appellant and the seconded employees.
- The appellant was discharging the service tax liability on the reimbursement of social security charges, under the RCM.
- The commissioner upheld the service tax demand, along with interest, on the ground that the amount paid towards the salary and perks of the expats are to be considered as part of the consideration for the supply of manpower service, which will be included in the assessable value.
- Aggrieved, the appellant filed the appeal (Service Tax Appeal No. 41736 of 2019) before the CESTAT.

Issue before CESTAT

- Whether the salary and other benefits provided to the secondees by the appellant are includible as part of the assessable value within the meaning of Section 67 of the Finance Act.

Appellant's contentions

- The appellant had furnished documents such as employment visa, TDS certificates and provident fund registration, which proved that the expats were on the payroll of the appellant. This was not the case in the NOS decision.
- The expatriates had to carry out the assigned work as per the instructions of the NMC but under the guidance, direction, and supervision of the appellant. During the entire period of secondment, the secondees were under the complete control of the appellant.
- Even if the portion of the demand order was to be accepted, the arrangement between the NMC and the appellant would only result in dual employment, meaning thereby that both would become joint employers for the expatriates, in which event the cost of such employees would be shared by the joint employers. Hence, there would be no service provider-recipient relationship between the appellant and NMC.
- Other than the reimbursement of the social security amount, the appellant did not pay any other amount to the NMC. The demand on such reimbursements was contrary to the decision in the case of M/s. Intercontinental Consultants and Technocrats Private Limited, which held that reimbursements were not taxable prior to the amendment in definition of 'consideration'.
- The appellant had disclosed the amounts paid to the secondees as salary under the head 'salaries, wages and bonus'. Hence, there was no service provider-service recipient relationship between the appellant and the NMC.
- The appellant had complied with the principle laid down in the case of the NOS decision by discharging the service tax on the reimbursement of social security charges paid under the RCM; hence the ratio of the said judgement was in favour of the appellant.

Chennai CESTAT observations and ruling [Final Order No. 40436/2023 dated 15 June 2023]

- **Consideration paid towards service received:** The term 'consideration' under Section 67 of the Finance Act includes any amount payable for the taxable services provided or to be provided. As per the terms of the agreement between the parties, the CESTAT observed that the appellant had to pay the salary, bonus, allowances, etc., to the secondees working for it in India. Therefore, the salary, bonus, allowances, etc., paid by the appellant were the cost of such manpower services received by it and shall be treated as 'consideration' for the purpose of levying service tax under the RCM.
- **Service tax is leviable on services of seconded employees:** The CESTAT referred to the decision of the SC in the case of the NOS and held that the terms and conditions and the scope of the secondment agreement in the present case were identical to that of the facts of that case. Therefore, the appellant is required to pay applicable service tax.

- **Manpower recruitment or supply agency terms include 'recruitment' as well as 'supply' of manpower:** The CESTAT referred to the decision of the SC in the case of International Merchandising Company, LLC, wherein, it was held that the definition of 'manpower recruitment' or 'supply agency' is wide enough to include 'recruitment' as well as 'supply of manpower', and the expression 'supply' is of a wider connotation than recruitment.
- **Revenue-neutral situation:** The CESTAT referred to the decision of the SC in the case of Pragathi Concrete Products, wherein it has been held that when a unit of the taxpayer therein was audited several times during the period and there were also physical inspections by the department as well, there could not be any case of suppression, and held that it is the case of a revenue-neutral situation, and that by suppressing the same, the appellant/assessee could not have achieved any benefit.
- **Invocation of the extended period of limitation is unjustified:** The whole of the activities were within the knowledge of the Revenue/officials of the department; hence, there was no scope to allege suppression of any facts. The demand pertaining to the extended period of limitation was set aside based on the NOS decision and on the basis that it was a revenue-neutral situation

Our comments

Pursuant to the SC's decision in the case of Northern Operating Systems Pvt Ltd., investigations have been initiated on secondment transactions, and the industry is closely monitoring any developments in this matter.

This is a significant decision on the taxability of secondment arrangements where the CESTAT has applied the ratio of the SC's decision and upheld the service tax demand on the salary paid to expatriate employees seconded from a foreign entity. However, it is important to note that the appellant in this case had already discharged service tax on the reimbursement of social security contribution. Hence, the CESTAT has discussed only the applicability of service tax on the salary payments made to the secondees. The CESTAT observed that the appellant had to pay the salary, bonus, allowances, etc., to the secondees working for it in India. Therefore, it has been held that the salary, bonus, allowances, etc., paid by the appellant were the cost of such manpower services received by it and shall be treated as 'consideration' for the purpose of levying service tax under the RCM.

Relying on the SC's decision earlier, the Bangalore bench of the CESTAT, in the case of Dell International, had upheld the taxability on similar secondment arrangements. However, there was no discussion on the valuation or inclusion of reimbursements to constitute consideration. In the case of M/s. Boeing India Defense Pvt. Ltd., the Delhi Bench of the CESTAT had held that the costs incurred towards other facilities of accommodation, hotel stay, education, etc., were not includible in the gross value for the levy of service tax.

It is also pertinent to note that on a similar matter, the Division Bench of the SC has issued a notice in the case of M/s Komatsu India Pvt. Ltd, and has tagged the case, along with the case of M/s. Nortel Networks India Pvt. Ltd. The final verdict is awaited.

CENVAT credit on cross-charged expenses cannot be denied even if service provider is not an ISD - CESTAT

Summary

In the present case, the group company incurred various expenses for its other affiliates and subsequently cross-charged the entire expenses on a monthly basis after charging applicable service tax. The department denied credit in the hands of the receiving entity (the appellant) on the ground that there is no underlying service being performed. The CESTAT has allowed the appellant to avail CENVAT credit of service tax paid in respect of such services and held that the services provided by the group company qualified as 'business support services' and has close nexus with the business of the appellant. Moreover, such services were essential for the day-to-day operations of the appellant and fell within the ambit of 'input services'.

Facts of the case

- M/s. Aditya Birla Management Corporation Private Limited (ABMCPL) provides BSS, such as consultancy, human resources, legal advice, management, logistics, infrastructural support, business strategic planning, research & development, auditing, electronic data processing, traveling, entertainment etc., to group companies, which allows specialisation and enables them to achieve economies of scale.
- ABMCPL had issued tax invoices at the end of each month, charging the total cost on the group companies in the agreed upon ratio and collected service tax under the head of BSS. Such service tax was duly deposited to the government, as evident from the periodical returns.
- SCNs were issued upon Hindalco Industries Limited (the appellant) to deny the CENVAT credit availed, on the grounds that ABMCPL was not an ISD to distribute the service tax paid on BSS provided to the group companies.
- Vide the order-in-original (impugned order), the CENVAT credit was denied, and interest and penalty were imposed.
- Aggrieved by the impugned order, the appellant preferred an appeal before the CESTAT.

Submissions of the appellant

- Primarily, it was stated that the services provided by ABMCPL was in the nature of BSS.
- Further, such services provided by ABMCPL are used in relation to manufacture of final products by the appellant and squarely falls within the scope of 'input services' as defined in Rule 2(l) of the CCR.
- In absence of such services, it would not be possible for the appellant to perform their business activities. Therefore, if ABMCPL does not provide the same, the appellants will have to procure them and pay higher prices for the same.
- Since such services are classifiable as BSS and qualify as 'input services', the appellant shall be eligible to avail CENVAT credit of the same.
- The appellant contended that the CENVAT credit was denied solely because of the methodology adopted by ABMCPL to ascertain the value of services. The department had assumed that ABMCPL did not provide any services to the appellant, rather it was merely allocating expenses incurred on behalf of the appellant.

Kolkata CESTAT observations and order [Excise Appeal No. 70098/2013, Order dated 9 June 2023]

- **Services provided by ABMCPL falls within the ambit of 'Business Support Services':** The CESTAT asserted that in terms of Section 65(104c) of the Finance Act, providing operational or administrative assistance, infrastructural support service, managing distribution and logistics services qualifies as 'Business Support Service'. In this regard, reliance was placed on the board circular and the TRU's letter, which categorically clarified the scope of BSS. Admittedly, for providing such services, service tax was also duly discharged by ABMCPL under the category of BSS.
- **Methodology adopted for determining value of service cannot change nature of BSS:** The CESTAT observed that the manner in which value of services was determined would not change the nature of BSS. Notably, the value of taxable services comprises of the gross amount charged for providing such services. Therefore, irrespective of whether ABMCPL only recovered expenses incurred or charged profit does not affect the nature of BSS. In this backdrop, the CESTAT affirmed that albeit ABMCPL merely apportioned expense incurred by it to provide BSS, it represents the value of taxable services of BSS.
- **Services of ABMCPL has nexus with appellant's business:** The services provided by ABMCPL has close nexus with the business of the appellant. Moreover, such services were significant for the day-to-day operations of the appellant, and essentially qualify as 'input services'. In this backdrop, the CESTAT held that the CENVAT credit of service tax paid shall be available to the appellant.

Our comments

On a similar issue recently, the CESTAT Ahmedabad, in the case of Transpek Silox Industry Ltd, had held that the failure to take ISD registration would not disentitle from the CENVAT credit.

The above ruling may help the businesses under the GST regime, considering the notices being issued where ITC is denied in the hands of the recipient on the ground that the supplier is not an ISD.

ii. Key rulings under the GST laws

Division Bench of Bombay HC upholds constitutional validity of IGST provisions w.r.t intermediary service in case of Dharmendra M. Jani

In the case of Dharmendra M. Jani, earlier, the Bombay HC (Division Bench) had a difference of opinion on the constitutional validity of provisions with respect to intermediary service (i.e., Section 13(8)(b) and Section 8(2) of the IGST Act. Therefore, the matter was referred for opinion to the third judge.

Recently, the third judge upheld the validity of provisions with respect to the intermediary under the IGST Act. Accordingly, it has been held that the said provisions are legal, valid, and constitutional. Further, the judge stated that the operation of these provisions is confined in their operation to the provisions of the IGST Act only, and the same cannot be made applicable for the levy of tax on services under the CGST and MGST Acts.

Pursuant to the above, the Bombay HC (Division Bench) has upheld the constitutional validity of the relevant provisions with respect to an intermediary. The Division Bench has ruled that the provisions of Sections 13(8)(b) and 8(2) of the IGST Act are legal, valid, and constitutional and, accordingly, dismissed the writ petition.

It is relevant to note that the final ruling does not refer to another part of the conclusion of the third judge, i.e., the operation of Sections 13(8)(b) and 8(2) of the IGST Act is restricted only to the provisions of the IGST Act and cannot be applied to the CGST Act/MGST Act.

ITC availed by recipient cannot be rejected solely because supplier's registration was cancelled retrospectively – Calcutta HC

Summary

The Calcutta HC ruled that the petitioner's ITC cannot be denied only because the registration of the supplier of the petitioner was cancelled retrospectively. The HC observed that the petitioner had checked the government portal to ensure that the supplier was a registered taxable person and paid the amount for purchased articles and tax to the supplier through the bank, not in cash. The HC further stated that without appropriately verifying the relevant documents supporting the claim, the Revenue cannot argue that the petitioner failed to comply with any statutory obligation. Therefore, the HC directed the Revenue to re-examine the matter, considering the petitioner's supporting evidence.

Facts of the case

- M/s. Gargo Traders (the petitioner) had claimed ITC against purchases made from Global Bitumen (the supplier). The petitioner had filed a tax invoice cum challan, reflecting the purchase from the supplier, and duly made the payment through the bank.
- The petitioner was aggrieved by the impugned order issued by the authorities for not allowing the ITC benefit on purchases made from the supplier and imposed a penalty and interest.
- Therefore, the petitioner filed the present writ application, challenging the order passed by the Joint Commissioner wherein the petitioner's appeal was rejected, and the order passed by the adjudicating authority was upheld.

Submissions of the petitioner

- The petitioner submitted the invoice cum challan, debit note, e-way bill, and transportation bill evidencing the supply, and bank statement evidencing the payment. Therefore, it was clear that the petitioner had purchased the goods from the supplier and had paid the amount from its bank account.
- The petitioner placed reliance on the judgement in the case of LGW Industries Limited and the Delhi HC judgement in the case of Balaji Exim in support of its contention.

Submissions of the respondents

- The respondents, upon inquiry, noted that the supplier, from whom the petitioner made purchases, was 'fake and non-existing', and even the bank account of the supplier was opened basis the fake documentation. Further, the ITC claim of the petitioner was not supported by any relevant documents.
- The respondent submitted that the petitioner did not verify the genuineness and identity of the supplier beforehand, owing to which such a claim was rejected. Further, the supplier's registration was cancelled retrospectively, which included the period in which the transaction took place.

Calcutta HC observations and ruling [WPA 1009 of 2022, Order dated 12 June 2023]

- **Petitioner's contention taken into consideration:** Taking note of the petitioner's contention that the transaction was genuine and valid, the HC observed that the petitioner had duly verified the validity and identity of the supplier. Notably, the supplier was a registered taxable person as per the government portal. Further, the petitioner paid for the purchases, including the applicable tax, through its bank, not in cash.
- **Revenue cannot reject petitioner's claim without considering the documents relied upon**: The HC noted that the authorities dismissed the petitioner's claim without verifying the documents relied on. In this respect, the HC opined that without proper verification, it could not be contended that the petitioner had failed to comply with any statutory obligation. The HC, in view of the judgement in the case of LGW Industries Limited, decided to quash the impugned order. Furthermore, the HC directed the respondent to re-examine the matter, considering the requisite documents supporting the claim.

Our comments

As is trite, a buyer/recipient cannot be put in jeopardy when it has duly complied with the law and has no way to ascertain and secure its supplier's compliances. However, the GST authorities have started knocking at the doors of the bonafide recipients, challenging their ITC in cases where the supplier's registration has been cancelled retrospectively.

In this respect, in the case of LGW Industries Limited and Sanchita Kundu, the Calcutta HC had held that the benefit of ITC cannot be denied only because of the cancellation of the supplier's registration, subject to the genuineness of the transaction. The present ruling aligns with the rulings mentioned above and shall set precedence in similar matters. Further, rather than conducting a post facto activity, this ruling encourages recipients to do a comprehensive verification before engaging in a transaction with a supplier and to keep robust documentation to verify the validity of credit.

GST authorities are empowered to initiate search and seizure operation against assessee operating as SEZ unit – Gujarat HC

Summary

The Gujarat HC dismissed writ petitions challenging the jurisdiction of GST authorities to initiate search and seizure proceedings against an assessee operating in a SEZ unit. According to Section 22 of the SEZ Act, any officer or agency authorised by the CG has the authority to conduct search, seizure, investigation, or inspection within any SEZ unit without any prior intimation or approval from the development officer. Further, the HC cited that the supply of goods and/or services to and from the SEZ unit shall be treated as inter-state supply under GST. The HC emphasised that the Development Commissioner, SEZ, had already been informed before the search and seizure by the departmental officer while initiating proceedings, and therefore, the assessee's contention is unacceptable. The HC further ruled that the present case was not fit to exercise extraordinary equitable jurisdiction and, therefore, dismissed the petition.

Facts of the case

- RHC Global Exports Private Limited (the petitioner) is a SEZ unit in SURSEZ, administered under the control of the development commissioner.
- The petitioner's unit is to be treated as foreign territory for its business operations, and as such, is a 'tax-neutral' or 'revenue-neutral' entity in terms of levy and collection of customs duties, GST, and other indirect taxes.
- The petitioner also obtained GST registration, indicating the tax entity as a 'SEZ unit'. Further, the petitioner is filing NIL returns and only declares the value of imports and exports from its SEZ unit.
- The state GST authorities conducted a search operation at the petitioner's premises. During the search operation, it was found that the petitioner had availed bogus ITC from fictitious firms.

Petitioner's contentions

- The petitioner contended that the state tax officers do not have the jurisdiction to initiate search and seizure, or investigation or inspection proceedings, in a SEZ unit.
- According to the petitioner, the supplies made to a SEZ unit are zero-rated supplies and are not subject to GST provisions. Therefore, proceedings initiated by the Revenue lack authority and jurisdiction.
- The proceedings initiated against the petitioners lack any 'due process' doctrine; therefore, an inquiry without jurisdiction deserves to be dismissed.

Revenue's contentions

- The Revenue argued that Section 22 of the SEZ Act allows authorised officers or agencies to conduct search, seizure, and investigation in SEZs without the development officer's prior intimation or approval.
- Further, Section 6 of the GGST Act, authorises officers of central tax as proper officers in certain circumstances. Accordingly, the Revenue asserted that the authorities have the power to carry out proceedings in SEZs, as the CG has authorised them through a notification dated 5 August 2016. Therefore, the petitioner's argument that there is no jurisdiction with the Revenue authorities is unfounded.
- The Revenue argued that the functions of proper officers under the CGST Act also apply to officers under the GGST Act through cross-empowerment, as stated in the circular dated 5 July 2017.

Gujarat HC observations and ruling [Civil Application No. 5980 of 2023, order dated 6 June 2023]

- **Powers of authorised officers under SEZ Act:** The HC noted that as per Section 22 of the SEZ Act any officer or agency authorised by the CG has the authority to carry out search, seizure, investigation, or inspection within any SEZ unit, without any prior intimation or approval from the development officer.
- **Powers of authorised officer under GST Act:** The HC stated that as per Section 6 of the GGST Act, the officers authorised by the CG are empowered to carry out proceedings in a SEZ. Accordingly, it cannot be said that the officers were acting without the authority of law or jurisdiction.
- **SEZ units are not exempt from investigation:** The HC stated that as per Section 7 of the IGST Act, the supply of goods and/or services to and from a SEZ unit should be treated as inter-state supply under GST. Therefore, the petitioner believes incorrectly that once a business is conducted through and within a SEZ, it is outside the jurisdiction of the authority of officers. According to the HC, accepting the assessee's contention would defeat the purpose of the Act, and apart from this, there appears to be no visible inconsistency in the SEZ Act or GST Act. Hence, SEZ units are not exempted from any investigation or inspection under GST.
- **Extraordinary equitable jurisdiction cannot be exercised:** The HC did not find the present case relevant enough to allow the petitioner to invoke extraordinary jurisdiction. In this regard, the HC referred to the Essar Steel Limited judgement, wherein the provisions of the SEZ Act are analysed to some extent. Accordingly, the HC held that the petition deserves to be dismissed.
- **Disadvantage by petitioner leads to imposing cost:** The HC noted that by filing a writ petition, the petitioner intended to impede and delay the legal proceedings, which appears to be an abuse of the legal process. The HC further stated that following the issuance of the notice, the petitioner did not cooperate with the officers, which is unacceptable. As a result, the HC decided to impose costs on the petitioner.

Our comments

This is a significant judgement that will have far-reaching consequences for taxpayers registered in the SEZ area, as more assessees are anticipated to come under the Revenue's scanner.

Further, this ruling confirms the power of GST authorities to probe SEZ units. It would aid the Revenue officers in enforcing the GST law to ensure that tax evasion is minimised in the SEZ area. It will be interesting to watch out for further developments in this regard.

B Key rulings under the Customs/FTP/SEZ laws

Transfer of goods from SEZ/FTWZ to DTA cannot be considered as 're-import' for availing exemption - Customs AAR

Summary

The CAAR has held that the transfer of goods from the DTA to FTWZ, or FTWZ to DTA, is neither covered under the term 'procure' nor 'import' under the SEZ laws. Therefore, such transfer/supply of goods cannot be treated as 're-import' for the application of procedures and conditions as applicable in case of the normal re-import of goods from outside India. Under the SEZ law, the words 'import' and 'procure' have been assigned different meanings. It is also important to note that the activity of bringing goods from a unit or developer in SEZ to DTA is not covered under the definition of the term 'import' under the SEZ law. So, the AAR ruled that the applicant will not be eligible to avail exemption under the relevant notification.

Facts of the case

- Baker Hughes Oilfield Services India Private Limited (the applicant) is engaged in providing mining services to oil and gas exploration and production companies across India.
- The applicant will be importing equipment for oil and gas exploration projects from outside India at a concessional rate of tax as mentioned under S.No. 404 of the Notification No. 50/2017, and upon completion of the contract will export the said equipment. However, if the equipment will be required for other projects, the applicant will export the equipment to a logistics service provider located in SEZ or FTWZ. Subsequently, whenever the applicant will require a new contract, it will re-import the equipment into the DTA under the said notification upon payment of the concessional duty.
- The applicant submitted that the re-import of equipment from FTWZ to DTA would be exempted under S.No. 5 of Notification No. 45/2017- Customs dated 30 June 2017, and Circular No.21/2019 dated 24 July 2019, issued by the CBIC.
- The applicant sought an advance ruling on the issue of whether the applicant is eligible to claim exemption from the payment of custom duty, IGST and Compensation Cess on the re-import of equipment from SEZ/FTWZ into DTA in view of the aforementioned entry, considering the fact that the equipment is the same that was brought from the DTA earlier and entered into SEZ/FTWZ.
- The applicant submitted that it is not a 100% EOU or FTWZ unit. The applicant submitted that once the equipment have been brought in FTWZ without availing any drawback, or incentives are subsequently re-imported in the same form into the DTA, even under the SEZ laws the said transaction has to be treated as re-import. Accordingly, the applicant is not liable for discharging any customs duties or the IGST in view of the aforementioned entry.

Customs AAR observations and ruling [CAAR/Del/Baker Hughes/09/2023 dated 28 April 2023]

- **Establish re-import and export to FTWZ:** The CAAR took note of the comments by the commissioner that in order to avail an exemption under Notification No. 45/2017-Cus, the applicant will have to establish whether the equipment was re-imported and whether such reimported equipment have been exported by the FTWZ/SEZ unit.
- **Concept of 'export' in relation to imported equipment unwarranted:** The AAR observed that the applicant has introduced the concept of 'export' in relation to such imported equipment in order to link it with Notification No. 45/2017-Cus. which is not warranted but unnecessary, as the same appears to have been done to confuse the issue for claiming undue exemption from the payment of duties/taxes. Further, there is no doubt that for the availment of exemption vide Notification No. 45/2017-Customs, goods must be first exported, and such exemption is not applicable to goods that have been warehoused, as in the current case.
- **Transfer of goods from FTWZ to DTA or DTA to FTWZ is not import:** The use of the words 'imported', 'exported' and 'procured' - in Section 7 of the SEZ Act - lead to the inference that different meanings have been assigned to these words under the SEZ law, and these words are not to be used inter-changeably. In the present case, goods shall be first imported in a DTA, which after usage by the applicant, gets transferred/warehoused to/in FTWZ by the importer of the goods, i.e., the applicant. As such, this activity is covered under the term 'export', as defined in the SEZ laws. However, when these goods are transferred from FTWZ to DTA or DTA to FTWZ, such transfer of goods is not 'import' under the SEZ laws.
- **Exemption not available:** As per the dictionary meaning of the word, 'procure' is 'to obtain something'. But when the goods are being warehoused in FTWZ, these are not procured by a unit or a developer. Therefore, when the transfer of goods from DTA to FTWZ or FTWZ to DTA is neither covered under the term 'procure' nor 'import', such transfer/supply of goods cannot be treated as 're-import' for the application of procedures and conditions as applicable in case of the normal re-import of goods from outside India. Therefore, the activity of transfer of goods from FTWZ to DTA cannot be termed as 'import/re-import', and thus not covered under Section 7 of the SEZ Act. Hence, no exemption from duties/taxes is admissible.

Our comments

Rule 48 of the SEZ rules inter-alia states that where goods procured from the DTA by a unit are supplied back to the DTA as it is or without substantial processing, such goods shall be treated as re-imported goods and will be subject to such procedure and conditions as applicable in the case of normal re-import of goods from outside India.

Therefore, the AAR held that in the present case, since the goods were not procured, the activity of transferring goods from FTWZ to DTA is not 'import' under the SEZ laws.

On a similar issue earlier, the Tamil Nadu AAR, under the GST law, in the case of the Bank of Nova Scotia, had held that the applicant is not liable to pay the IGST at the time of removal of goods from the FTWZ to DTA, in addition to the duties payable under the CTA, on the removal of goods from the FTWZ unit.

Even though the advance rulings are applicable only to the applicant, an inference can be drawn in similar cases.

3

Decoding advance rulings under GST

No reversal of ITC required on post-supply discount if the supplier has not reduced outward liability – Andhra Pradesh AAR

Summary

The Andhra Pradesh AAR held that the applicant is entitled to avail the full ITC paid on the original tax invoice issued by the supplier despite the subsequent issuance of commercial/ financial credit note for partial invoice amount. The AAR opined that the credit notes issued were only for accounting purposes to accommodate the 'after-sales discount' offered to the applicant. The AAR noted that in the absence of a prior agreement and without any nexus with the respective invoice as mandated under Section 15(3)(b) of the CGST Act, such discount cannot be reduced from the transaction value. Accordingly, the AAR held that the applicant is not required to reverse the ITC proportionately to the extent of a financial/ commercial credit note, as it is in the form of a post-supply discount that has not affected the transaction value between the supplier and the applicant.

Facts of the case

- M/s Vedmutha Electricals India Private Limited (Applicant) is engaged in the supply of various electrical items.
- The applicant had purchased electrical items from M/s Gold Medal Electricals Private Limited (Supplier) against tax invoices and duly paid the GST on the taxable value so determined.
- The applicant received various incentives in the nature of 'after-sale discounts' from the supplier, such as turnover discount, quantity discount, cash discount, additional scheme discounts, three months regular scheme discounts, etc. To accommodate such discounts, the supplier had raised financial / commercial credit notes without GST, which was duly accounted for by the applicant and disclosed by distributors in their respective ITRs.
- The supplier does not reduce its output tax liability relating to such financial/ commercial credit notes, as the same is not permitted in terms of Section 15 of the CGST Act. The same has been affirmed by the supplier in his affidavit.
- In this backdrop, the applicant sought clarification on the eligibility to avail full credit of GST charged as per the original tax invoice, when subsequently, a financial credit note has been issued for the partial amount.

Andhra Pradesh AAR observations and ruling [AAR No. 05/AP/GST2023, Ruling dated 26 May 2023]

- **After-sales discount not to be reduced from the transaction value:** The AAR observed that in terms of Section 15(3)(b) of the CGST Act, the after-sales discount shall not form a part of the transaction value when such discount is established in terms of the agreement entered at the time or before the time of effecting the supply and is specifically linked to relevant invoices. In the present case, the supplier had issued the credit note without GST only for accounting purposes and the after-sales discount offered to the applicant does not fulfil the conditions prescribed under Section 15(3)(b). Accordingly, such discount shall not be permitted to be reduced from the transaction value.
- **No corresponding ITC reversal:** The AAR opined that there was neither any adjustment in the price of the goods supplied, nor any adjustment in the outward liability paid in the financial/ commercial credit note. Therefore, the corresponding reduction in ITC is also not warranted, as there is no reduction of outward liability at the end of the supplier. The AAR held that the post-supply discount will not affect the transaction value between the supplier and the applicant. Therefore, the applicant is eligible to take full ITC of the GST charged in the tax invoice and not required to reverse the ITC to the extent of the financial/ commercial credit note.
- **Financial credit note shall not be misused to transfer ITC fraudulently:** The AAR ruled that the financial credit note shall not be used as a conduit to transfer the ITC fraudulently. Where the invoice is raised for a higher value to transfer credit, which is subsequently reduced through a financial credit note without altering the credit, such misutilisation shall be liable to penalties under Section 132(b) of the CGST Act..

Our comments

Valuation rules under GST provides for adjustment of pre-agreed discount which are given after the supply. Where the prescribed conditions are not met, the contracting parties settle their account via issuance of credit note without reducing GST tax liability.

In this respect, the CBIC, vide Circular No. 92/11/2019-GST dated 7 March 2019, clarified that financial / commercial credit note(s) can be issued by the supplier even if the above-mentioned conditions are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties. Further, the secondary discounts shall not be excluded while determining the value of the supply, as such discounts are not known at the time of the supply.

In the present case, the AAR has relied on the above-mentioned provisions and held that the post-supply discounts provided by the supplier do not necessitate the ITC reversal of the recipient since the entire GST amount is paid to the government. This is a welcoming ruling and shall provide relief to the businesses in resolving disputes involving financial / commercial credit notes.

Treatment of substance use disorder patients does not fall within the scope of healthcare services and is ineligible for exemption under GST – Rajasthan AAR

Summary

The Rajasthan AAR observed that the treatment of SUD patients by the applicant falls under the ambit of supply. The AAR remarked that in the present case, the applicant is providing medicines to outdoor patients, which are not available in the market. However, there is no evidence to support that the medicines form part of the counselling services provided by the physiatrist. Therefore, the AAR held that the supplies being made by the applicant are not composite supply.

The AAR further observed that the SUD, and mental health services have been traditionally separated from mainstream healthcare services. Hence, the supply of services by the treatment of SUD out-patients does not fall within the scope of healthcare services and is ineligible for exemption under GST.

Facts of the case

- M/s Sanjeevani Psychiatric Clinic (the applicant) is a clinical establishment providing medical services as a single specialty under the allopathy system of medicine.
- The applicant is providing treatment for patients suffering from SUD, which is defined as a mental disorder that affects a person's brain and behaviour, leading to an inability to control the use of legal or illegal drugs, alcohol, or medications, and, in the most severe cases, addiction.
- The applicant is involved in providing outpatient facility by following a chronological procedure of treatment that includes pre-examination activities such as registration, psychiatric examination of the patient including counselling and medication prescription, and post-examination activities such as dispensing medicines by the psychiatrist. The fee is collected at the end of the procedure, i.e., upon dispensation of the medicines.
- The applicant has sought an advance ruling to seek clarity on whether the supply of services by the treatment of outpatients suffering from SUD is exempt under GST.

Applicant's submissions

- The chronological treatment procedure is within the scope of supply and would be subject to GST.
- The procedure, which concluded with the dispensation of medicines, is altogether a supply of service and not a composite supply. To support this claim, the applicant stated that a composite supply comprises of a natural bundle of two or more taxable supplies, one of which is a principal supply, and the other(s) are ancillary or incidental. However, in the present case, all steps are integral and could not be categorised as predominant to other; therefore, it would not qualify as a composite supply.
- The applicant submitted that as a part of the government restriction, the prescribed medicines are supplied only to specified clinical establishments. Even the dispensation is strictly monitored and controlled by the government. Further, the supply of medicines cannot be treated as independent, as it cannot be severed or bifurcated from the procedure.
- The procedure, being an integrated treatment process, is a provision of healthcare services by the clinical establishment and shall be eligible for exemption under GST.

Rajasthan AAR observations and ruling [Advance Ruling No. RAJ/AAR/2023-24/01, Ruling dated 25 April 2023]

- **Supply of both services and goods:** The AAR observed that the applicant provides treatment solely to out-door SUD patients, and medicines are being provided only as per the requirement of the patient. Thus, the applicant is involved in the supply of services as well as of goods.
- **Supply of medicine to out-patients is not a composite supply:** The AAR observed that supply of medicine to in-patients may be a part of the composite supply of healthcare services and is not separately taxable. However, in the present case, the AAR found no substantial evidence to establish that the supply of medicine would form a part of the counselling services provided by the psychiatrist. Hence, supplies made by the applicant are not composite supply.

- **Treatment of SUD is different from mainstream healthcare service:** The AAR observed that the treatment of SUD patients is a service in the nature of prevention and the treatment of substance misuse and substance use disorders. The AAR noted that substance misuse, being a social or criminal problem, is not considered as a responsibility of healthcare systems. Further, the substance use disorders, and mental health services have been traditionally separated from mainstream healthcare services.
- **SUD is outside the ambit of healthcare services:** The AAR held that the supply of services by the treatment of SUD patients as out-patients does not fit under the healthcare services. Hence, it is not eligible for exemption under GST.

Our comments

Recently, the Rajasthan AAR, in the case of Innovations Medi research Private Limited, considered the treatment of cancer in-patients under the ambit of healthcare services and considered the supply, including medicines and consumables, as composite supply, and therefore, allowed the exemption benefit.

Even in the present case, the AAR followed the trite position in holding that the supply of medicine to in-patients by hospitals is a composite supply of healthcare services where the supply of medicines is not separately taxable.

However, the contentious issue in the present case is the differential treatment of SUD from mainstream healthcare services, which makes them ineligible for exemption under GST.

This ruling may have wide ramifications for the dynamic healthcare sector, which is working towards providing the treatment of medical illness/ disorders/ addictions, including SUD, as part of healthcare services.

Considering the current scenario, it will be interesting to watch out for further developments in this regard.

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Expert's column

Foreign Trade Policy 2023

Contributed by

Praveen Kashyap
Executive Director, Tax,
Grant Thornton Bharat LLP

What is the significance of introducing the FTP 2023?

Effective from 1 April 2023, the FTP 2023 aims to enhance exports and promote a business-friendly environment. By 2030, the primary objective is to achieve a target of USD 2 trillion in exports of goods and services. This ambitious goal is underpinned by four fundamental pillars: encouraging remission, facilitating collaborative export promotion, streamlining business procedures, and prioritising emerging areas.

The FTP 2023 implements various new initiatives to facilitate a conducive environment for exporters. One such scheme is the one-time Amnesty Scheme, which allows exporters to resolve pending authorisations and commence afresh. In addition, the policy promotes the recognition of new towns through the Towns of Export Excellence Scheme and acknowledges exporters through the Status Holder Scheme. It also streamlines the popular AA and EPCG schemes and facilitates merchanting trade from India.

Enhancing the ease of doing business for exporters is the key focus of FTP 2023. It emphasises process re-engineering and automation, utilising automated IT systems with risk management mechanisms for approvals. The policy establishes implementation mechanisms in a paperless, online environment. Furthermore, it reduces fees and introduces IT-based schemes to enhance access to export benefits, particularly for MSMEs and other stakeholders.

The promotion of exports at the district level and the development of a robust grassroots trade ecosystem are significant objectives of the FTP 2023.

The major focus of the policy is towards the e-commerce industry and promoting courier consignments. Why have these two areas been kept under consideration and how is it expected from the large e-commerce giants to take such an initiative to a different level?

E-commerce exports present a promising opportunity that necessitates specific policy interventions distinct from traditional offline trade. Estimated projections indicate that e-commerce exports could reach a substantial value of USD 200 to USD 300 billion by 2030. FTP 2023 provides a clear vision and roadmap for establishing e-commerce hubs and implementing essential components such as payment reconciliation, book-keeping, returns policy, and export entitlements. As an initial step, the FTP raises the consignment wise cap for e-commerce exports via courier services from INR 5 lakh to INR 10 lakh. The integration of courier and postal exports with ICEGATE offers exporters the ability to claim benefits outlined in the FTP.

Moreover, comprehensive outreach and training initiatives will be undertaken to enhance the capabilities of artisans, weavers, garment manufacturers, gems and jewellery designers, enabling their seamless integration into e-commerce platforms and facilitating increased export volumes.

Can you enlighten us on the Amnesty Scheme introduced and its probable benefits?

The FTP 2023 also introduces an Amnesty Scheme, providing relief to exporters who have been unable to meet their export obligations under the EPCG and AA, enabling them to regularise their status.

Exporters who have been unable to fulfill their EO against the EPCG and AAs will now have the opportunity to get relief. The amnesty scheme allows for a one-time settlement of defaults in export obligations by the AA and EPCG authorisation holders. This means that authorisation holders with pending cases of default in export obligation for the mentioned authorisations can regularise their status by paying all customs duties that were initially exempted, proportionate to the extent of the unfulfilled export obligation. The maximum interest payable under this scheme is limited to 100% of the exempted duties. However, no interest is payable on the portion of the additional customs duty and special additional customs duty.

It is important to note that the amnesty scheme does not apply to cases under investigation for fraud or diversion. It is only applicable to cases where default in export obligations has occurred due to genuine reasons, such as changes in market conditions or unforeseen circumstances.

The amnesty scheme will be available for a limited period, up to **30 September 2023**. Therefore, eligible exporters who wish to take advantage of this opportunity should act promptly.

The one-time Amnesty Scheme provided under FTP 2023 offers significant relief to exporters who have been unable to fulfill their EO under the EPCG and AAs. It allows for a one-time settlement of default in export obligations and is available for a limited period. Eligible exporters should make use of this scheme before the deadline to benefit from this much-needed relief.

What possible improvements have been made in the SCOMET policy under the scheme?

India is giving increased importance to its 'export control' regime, particularly as its integration with countries following the export control regulation strengthens. There is a greater outreach and understanding of SCOMET among stakeholders, and efforts are being made to enhance the robustness of the policy regime to effectively implement international treaties and agreements entered into by India.

The development of a robust export control system in India would grant Indian exporters access to dual-use high-end goods and technologies, while also facilitating the export of controlled items and technologies under SCOMET from India. SCOMET is a key focus area of FTP 2023, and the policy for the export of dual-use items under SCOMET has been consolidated to simplify the compliance procedures.

Recent policy changes have introduced general authorisations for certain SCOMET items, aiming to streamline the licensing process. In line with FTP 2023, India emphasises its commitments to export control regulations to effectively manage the trade of sensitive items. In addition, there is a specific focus on simplifying policies for exporting high-end goods and technologies such as UAV/drones and cryogenic tanks.

Why has a shift been made from incentives to remission in the scheme?

India is a signatory under the ASCM established by the WTO. The ASCM aims to regulate the use of subsidies in international trade.

These subsidies, often referred to as 'prohibited subsidies', are deemed trade-distorting and can subject to harm the industries in other WTO member countries.

Because of the GNP criteria, India would need to align its trade policies with the agreement and refrain from providing prohibited export subsidies. In this case, shifting from incentives to remission, which involves refunding or exempting taxes or duties on exports, would be a way to comply with the ASCM.

Remission of expenses on exports, through refunding or exemption mechanisms, allows the government to support exporters while avoiding direct trade-distorting subsidies. By remitting the expenses on exports instead of providing incentives, India would be adhering to its commitments under the ASCM and promoting fair trade practices.

Has the policy been able to improve the operational efficiency of the export businesses?

The FTP also emphasis on improving import procedures, lowering customs duties, and eliminating trade barriers to ease the importation of vital inputs, raw materials, and capital goods. This enables businesses to obtain necessary resources at competitive prices, leading to enhanced production efficiency and increased competitiveness.

FTP initiatives are strategically crafted to simplify and accelerate trade processes, thereby reducing administrative obstacles and paperwork. These measures encompass actions such as digitising trade documentation, standardising customs procedures, and establishing efficient logistics infrastructure. By enhancing trade facilitation, these efforts result in reduced transaction costs and improved overall competitiveness.

Also contributed by Alisha Garg, Trainee, Tax

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Issues on your mind

How to use the E-Invoice Verifier app developed by the GSTN?

The steps mentioned below can be followed to use the app effectively:

i. Download and install: Search for the 'E-Invoice QR Code Verifier' on the Play Store (for android) or the App Store (for ios). Download and install the app on your mobile device free of charge.

ii. QR code verification: Utilise the app to scan the QR codes on your e-invoices. The app will authenticate the information embedded in the code and one can compare it with the information printed on the invoice.

Will the E-Invoice Verifier app be available for both taxpayers and tax officers?

Yes, the app is designed to cater to the needs of both taxpayers and tax officers. It can be used by anyone who wishes to verify e-invoices QR codes. It provides a convenient tool for tax officers to verify the authenticity of e-invoices during their tax administration duties.

What types of e-invoices can be verified using the E-Invoice Verifier app?

The app can verify e-invoices that have embedded QR codes signed by IRPs conforming to the e-invoice standards as per the GST Act and rules.

What fields does the E-Invoice Verifier app verify when scanning the QR code?

The app verifies the following fields:

- Supplier GSTIN
- Recipient GSTIN
- Document number
- Document type
- Document date
- Total invoice value
- No. of line items
- Main HSN
- IRN
- IRN generation date
- Issued by

What is NSWS and its objectives?

The NSWS will provide 'end-to-end' facilitation and support for investors, including pre-investment advisory, information related to land banks and facilitate clearances at the centre and state levels. The NSWS portal will also facilitate ministries and states for clearances of investor requests.

Objective of the NSWS:

The NSWS will enable investors/entrepreneur/businesses to identify and obtain all clearances needed to start a new business operation in India through a single online portal. This will eliminate the need for investors to visit multiple IT platforms and offices to gather information and obtain clearances from different stakeholders. The NSWS will further help investors track status of their applications, respond to clarifications, and obtain the approvals through a single dashboard.

- To provide a single window interface for obtaining licenses, approvals and permits needed to establish a business in India (pre-operations and pre-establishment stage approvals / licenses).
- To provide a uniform and seamless experience to the investor. To achieve this, ICEGATE is now integrated with the NSWS portal. ICEGATE has developed a dedicated dashboard for field customs officers through which the officer will be able to perform the following functions:
  - Receive, review and process approval applications, including attached documents, payments, etc.
  - Convey clarifications and decisions to investor, including further information, rejections, approvals, etc.
  - Provision to download license /approval request as a PDF, and the ability to share and download reports.
  - Provision to review and respond to queries and grievances raised by the investor.

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Important developments under direct taxes

CBDT notifies rule for computation of 'net winnings' in case of online gaming and issues guidelines for TDS on such winnings

The Finance Act, 2023, inserted a separate Section 194BA under the IT Act for levying TDS on winnings from online gaming. For removing difficulties regarding the applicability of provisions of this section, CBDT has now issued guidelines on the following:

a) Manner of computation of 'net winnings' if a single user has multiple wallets.

b) Whether borrowed money deposited into the user account will be considered as taxable or non-taxable.

c) Treatment of bonus, referral bonus, incentives, etc.

d) Point at which the amount is considered to be withdrawn.

e) Relaxation of compliance in relation to insignificant withdrawals.

f) Manner in which these provisions operate if net winnings are in kind.

g) Valuation of net winnings in kind.

h) Applicability of these guidelines during the interim period (1 April to 22 May 2023) and relaxation of penal provisions during this period.

In this regard, the CBDT also notified Rule 133 of the IT Rules (w.e.f. 22 May 2023) in order to prescribe the computation mechanism of 'net winnings' in online gaming for the purpose of Section 115BBJ (TDS on net winnings from online gaming) and 194BA of the IT Act.

(Notification No. 28 of 2023 dated 22 May 2023 and Circular no. 5 of 2023 dated 22 May 2023)

CBDT notifies list of excluded non-resident investors for angle tax provisions

The Finance Act, 2023, expanded the scope of angel tax provisions to include consideration received from non-residents for the issue of shares. In this regard, based on inputs received from stakeholders, the CBDT has specified that these provisions would not apply to the following non-resident investors:

1. Government and government-related investors, such as central banks, sovereign wealth funds, international or multilateral organisations or agencies, including entities controlled by the government or where direct or indirect ownership of the government is 75% or more.
2. A bank or entity engaged in the insurance business and subject to applicable regulations in its country of establishment / incorporation / residence.
3. Following entities that are residents of specified countries / territories and subject to the applicable regulations in their country of establishment / incorporation / residence:
   - Entities registered with SEBI as Category - I foreign portfolio investors.
   - Endowment funds associated with a university, hospitals or charities.
   - Pension funds established under the law of the specified country / territory.
   - Certain broad-based pooled investment vehicles or fund (where the number of investors is more than 50, other than hedge fund or a fund that employs diverse or complex trading strategies).

For this purpose, the CBDT has specified 17 countries, which *inter alia* includes Australia, Austria, Canada, France, Germany, the USA, the UK, New Zealand, etc.

(Notification No. 29 dated 24 May 2023)

CBDT notifies limit for leave encashment exemption for non-government employees

Section 10(10AA)(ii) of the IT Act provides for exemption for leave encashment received by a non-government employee at the time of retirement, whether on superannuation or otherwise.

In the Budget Speech 2023, the Finance Minister had referred to an enhanced threshold for this exemption, i.e., enhancement from INR 3 lakh to INR 25 lakhs. However, no notification was issued in this regard. The CBDT has now issued a notification to enhance the maximum limit of leave encashment exemption to INR 25 lakhs.

Further, the CBDT has clarified that if any employee receives leave encashment from more than one employer in the same FY, the aggregate amount would be restricted to INR 25 lakhs. Also, exemption claimed in subsequent FYs is to be reduced by the exemption claimed in earlier FYs and the total exemption must not exceed INR 25 lakh.

[Notification No. 31 of 2023 dated 24 May 2023 and press release dated 25 May 2023]

CBDT notification exempts certain specified start-ups from angel tax provisions

Earlier, the CBDT, vide Notification No. GSR 127(E) dated 19 February 2019, had notified that the provisions of Section 56(2)(viib) of the IT Act, would not apply to certain start-ups, which *inter alia* fulfill the following conditions:

- Obtain approval from DPIIT.
- Its aggregate of the paid-up share capital and share premium does not exceed INR 25 crore.
- Such a start-up should not invest in certain prescribed assets for 7 years from the end of the year in which shares are issued at premium.

For this purpose, an entity shall be considered as a start-up:

- Up to a period of 10 years from the date of incorporation / registration, if incorporated as a private company, partnership firm or LLP in India.
- If it is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.
- Its turnover does not exceed INR 100 crore in any FY since incorporation / registration.

Since the scope of Section 56(2)(viib) of the IT Act has been expanded vide the Finance Act, 2023 (i.e., to include investment by non-residents), the CBDT has now clarified that angel tax provisions would not apply to start-ups that fulfill the conditions specified by the CBDT in its earlier notification.

[Notification No. 30 dated 24 May 2023]

CBDT notifies that Section 56(2)(x) would not apply to shares received from public companies in case of strategic disinvestments

The provisions of Section 56(2)(x) of the IT Act provide that if a person receives any sum of money or property from any other person, during the PY, without consideration or inadequate consideration, it will be taxable as income from other sources.

In this regard, the CBDT has amended Rule 11UAC(4) of the IT Rules to provide that for AY 2023-2024 onwards, Section 56(2)(x) of the IT Act would not apply in case of the receipt of equity shares of a public sector company by a person from a public sector company on account of strategic disinvestment.

(Notification No. 35 of 2023 dated 31 May 2023)

CBDT provides the scope of e-Appeal Scheme, 2023

The CBDT had, vide notification dated 29 May 2023, notified the e-Appeal Scheme, 2023. Subsequently, it specified that the e-Appeal Scheme, 2023, would not apply to the following cases:

1. Appeals against assessment orders passed before 13 August 2020 under Section 143(3) or 144 of the IT Act, wherein the disputed demand is more than INR 10 lakh.
2. Appeals related to:
    - Assessment orders passed for cases pertaining to the jurisdiction of CIT (Central).
    - Assessments completed in case of search (under Section 132 of the IT Act) or requisition (under Section 132A of the IT Act).
    - Assessments completed in pursuance of action under Section 133A of the IT Act (survey).
    - Assessments where addition / variation in income is made on the basis of seized / impounded material.
3. Appeals for cases pertaining to the jurisdiction of CIT (International Taxation).
4. Penalty appeals, wherein penalty orders were passed before 12 January 2021 for cases referred in point no.1 above, wherein the disputed demand is more than INR 10 lakh.
5. Penalty appeals relating to the cases referred in point no. 2 and 3 above.
6. Appeals against assessment orders (passed on or after 12 September 2019) under the e-Assessment Scheme, 2019, or the Faceless Assessment Scheme, 2019, or under Section 144B of the IT Act.
7. Appeal against penalty orders passed on or after 12 January 2021 under the Faceless Penalty Scheme, 2021.

The CBDT has further clarified the meaning of 'disputed demand' (which includes applicable interest, surcharge and cess) in various scenarios, such as cases where the return of income is filed / not filed, penalty order, etc.

(Notification No. 33 of 2023 dated 29 May 2023 and order dated 16 June 2023)

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Glossary

AA	Advance Authorisation
AAR	Authority for Advance Ruling
AATO	Annual Aggregate Annual Turnover
ADVAIT	Advanced Analytics in Indirect Taxation
ARN	Application Reference Number
ASCM	Agreement on Subsidies and Countervailing Measures
BE	Bill of Entry
BIFA	Business Intelligence and Fraud Analytics
BSS	Business Support Services
CAAR	Customs Authority for Advance Ruling
CAS	Chemical Abstracts Service
CBDT	Central Board of Direct Taxes
CBIC	Central Board of Indirect Taxes and Customs
CCR	CENVAT Credit Rules, 2004
CESTAT	Customs, Excise and Service Tax Appellate Tribunal
CG	Central Government
CGST	Central Goods and Services Tax
CGST Act	The Central Goods and Services Tax Act, 2017
CIT	Commissioner of Income-tax
CPC	Centralised Processing Centre
CTA	The Customs Tariff Act, 1975
DDM	Directorate of Data Management
DGARM	Directorate General of Analytics and Risk Management
DGFT	Directorate General of Foreign Trade
DPIIT	Department for Promotion of Industry and Internal Trade
DTA	Domestic Tariff Area
EDI	Electronic Data Interchange
EO	Export Obligation
EODC	Export Obligation Discharge Certificate
EPCG	Export Promotion Capital Goods Scheme
FCI	Fixed Capital Investment
Finance Act	The Finance Act, 1994
FTP	Foreign Trade Policy
FTWZ	Free Trade Warehousing Zone
FY	Financial Year
GNP	Gross National product
GST	Goods and Services Tax

GSTIN	Goods and Services Tax Identification Number
GSTN	Goods and Services Tax Network
GSTR	Goods and Service Tax Return
HBP	Handbook of Procedures
HC	High Court
ICEGATE	Indian Customs Electronic Data Interchange Gateway
IFF	Invoice Furnishing Facility
IGST Act	The Integrated Goods and Services Tax Act, 2017
IGST	Integrated Goods and Services Tax
INR	Indian Rupee
IPS	Industrial Promotion Subsidy
IRP	Invoice Registration Portal
ISD	Input Service Distributor
IT	Information Technology
IT Act	The Income Tax Act, 1961
ITC	Input Tax Credit
ITR	Income Tax Returns
IT Rules	The Income Tax Rules, 1962
IUPAC	International Union of Pure and Applied Chemistry
LLP	Limited Liability Partnership
MEP	Maharashtra Electronics Policy, 2016
MGST	Maharashtra Goods and Services Act, 2017
MSME	Micro, Small and Medium Enterprises
NIC	National Informatics Centre
NSWS	National Single Window System
OOC	Out-of-charge
OTP	One Time Password
PAN	Permanent Account Number
PCBA	Printed Circuit Board Assembly
PLI	Production-Linked Incentive
PO	Proper Officer
POI	Port of Import
QR	Quick Response
SC	Supreme Court
SCN	Show Cause Notice
SCOMET	Special Chemicals, Organisms, Materials, Equipment, and Technologies
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SEZ Act	The Special Economic Zones Act, 2005
SEZ Rules	The Special Economic Zone Rules, 2006
SPECS	Scheme for Promotion of Electronic Components and Semi-Conductors
SUD	Substance Use Disorder
SURSEZ	Surat Special Economic Zone
TDS	Tax Deducted at Source
UAV	Unmanned Aerial Vehicles
USFF	Ultra-Small Form Factor
VAT	Value Added Tax
WTO	World Trade Organisation
2FA	Two Factor Authentication

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