

INDIRECT TAX DIGEST

04 October 2024

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GOODS & SERVICES TAX



LEGISLATIVE UPDATES

NOTIFICATION

17/2024-Central Tax ¹	The effective date for implementation of the amendments proposed by the Finance (No.2) Act, 2024 has been notified. ²
18 & 19/2024-Central Tax ³	The Principal Bench of the GST Appellate Tribunal has been empowered to examine whether the input tax credits (ITC) availed by any registered person or the reduction in the tax rate have resulted in a commensurate reduction in the price of goods or services or both by that registered person. Further, CBIC has appointed 1 April 2025 as the date from which no request for the above examination shall be accepted.
26110-Goa ⁴	The qualification criteria for appointment as a Technical Member (State) in Goa state benches of the Goods and Services Tax Appellate Tribunal has been relaxed, for a period of ten years, from 'completion of 25 years of service in group A, or equivalent' to 'an officer of the Commercial Tax Department of Goa, who has completed at least twenty-five years of service in the Government, as Gazetted Officer'.

GSTN ADVISORY / UPDATE

GSTN Advisory ⁵	FAQs have been released on the Invoice Management System (IMS), a new GSTN functionality to streamline the process of invoice reconciliation for taxpayers. ⁶
GSTN Update ⁷	The GSTN announced on 24 September 2024 that per the GSTN's data retention policy, the GST return data for July and August 2017 was archived as a part of a regular process where data is archived every month, after a period of seven years. However, considering the difficulties faced by the taxpayers, the GSTN has now restored back access to archived GST return data for July and August 2017 for downloading before the scheduled archival date.

¹ Dated 27 September 2024

² Our alert on the notification can be accessed by clicking [here](#)

³ Dated 30 September 2024

⁴ Dated 19 September 2024

⁵ Dated 22 September 2024

⁶ Click here to access the FAQ's

and [here](#) to access our alert on IMS

⁷ Dated 24 and 29 September 2024

JUDICIAL UPDATES

Issuance of a single show cause notice (SCN) consolidating multiple tax periods contravenes the provisions of the GST law

[M/s Veremax Technologie Services Limited Vs The Assistant Commissioner of Central Tax, Bengaluru \[TS-602-HC\(KAR\)-2024-GST\]](#)

Issue

- Whether a single SCN consolidating multiple financial years can be issued under Section 73(10) of the Central Goods and Services Tax Act, 2017 (CGST Act)?

Ratio

- Section 73(10) of the CGST Act mandates a specific time limit from the due date for furnishing annual returns for the financial year to which the tax due pertains. Thus, the law stipulates that particular actions must be completed within a designated year, and such actions should be executed in accordance with the statutory provisions.
- Relying on the principles laid down in *State of Jammu Kashmir and Others Vs. Caltex (India) Ltd. [AIR 1966 SC 1350]* and *Titan Company Ltd. Vs. Joint Commissioner of GST [WP No. 33164 of 2023]*, the tax authorities have erred in issuing a consolidated SCN for multiple assessment years, spanning from 2017-18 to 2020-21. Accordingly, the SCNs issued by the tax authorities are fundamentally flawed. Further, the practice of issuing a single, consolidated SCN for multiple assessment years contravenes the provisions of the CGST Act.
- Accordingly, the Writ Petition filed by the Taxpayer is allowed and the Impugned SCNs are quashed.

Classification declared in the Bill of Entry cannot be rejected by the tax authorities without providing the alternate classification

[IFB Industries Ltd Vs Commissioner of Customs \(NS-V\) \[\(2024\) 22 Centax 394 \(Tri-Bom\)\]](#)

Issue

- Whether classification of goods, as declared in the Bill of Entry can be rejected by the tax authorities without providing an alternate classification?

Ratio

- The CESTAT in *Ortho Clinical Diagnostics India Pvt. Ltd. Vs. Commissioner of Customs (Import) [Final Order No. A/85710/2022]* had *inter alia* held as under:
 - The Supreme Court in *HPL Chemicals Ltd. Vs. Commissioner of Central Excise, Chandigarh [2006 (197) ELT 324 (SC)]* had held that if the tax authorities intend to classify the goods under a particular heading or subheading different from that claimed by the taxpayer, the tax authorities must adduce proper evidence and discharge the burden of proof.
 - Applying the aforesaid principle to the present case, in adjudicating the proposal to take recourse to an alternate entry, the said entry must first pass muster as an appropriate description of the impugned goods.
- The aforesaid ruling is squarely applicable to the present case and hence, the essential onus devolving on the tax authorities has not been discharged in the Impugned proceedings. As a result, the appeal filed by the Taxpayer is allowed and the Impugned Order is set aside.

Notification no. 56/2023-Central Tax issued without recommendations of the GST Council is *ultra vires* the provisions of the GST law

[Barkataki Print and Media Services Vs. Union of India \[TS-588-HC\(GAUH\)-2024-GST\]](#)

Issue

- Whether notification no. 56/2023-Central Tax (extension notification) issued under Section 168A of the CGST Act, without prior recommendation of the GST Council and deliberation on existence of 'force majeure' circumstances is *ultra vires* the provisions of the CGST Act?

Ratio

- The Supreme Court in *Union of India and Anr. Vs. Mohit Minerals Pvt. Ltd. [2022 (10) SCC 700]* had *inter alia* observed that merely because a few recommendations of the GST Council are binding on the Government, it cannot be argued that all recommendations are binding. However, the aforesaid ruling does not lay down the principle that since some recommendations are not binding, there is no requirement of recommendation by the GST Council.
- The power to be exercised by the Government under Section 168A of the CGST Act is a delegated power to issue a notification. Thus, when the Government is exercising its power to notify delegated legislation to give effect to the uniform taxation system, the recommendations are binding. Thus, irrespective of whether the recommendations of the GST Council are binding or not, it cannot be concluded that the powers under Section 168A of the CGST Act could be exercised without any recommendations.

- It is undisputed that the extension notification was issued without any recommendations from the GST Council. Further, the natural corollary thereof is that the GST Council had no occasion to consider the existence of force majeure in as much as the extension notification was never placed before the GST Council.
- In view of the above, the extension notification is *ultra vires* the provisions of the CGST Act and hence, the same is unsustainable in law. Accordingly, the extension notification and the consequent Impugned Orders passed under Section 73(9) of the CGST Act are set aside and quashed.
- The tax authorities had *inter alia* contended that under Section 168A, both the Central and the State Governments are empowered to issue retrospective notifications and hence, the above ruling should not prejudice their rights. Considering the above, it was noted that the above ruling shall not prejudice both the Central Government and the State Government to take such steps in the manner provided under the law.

CUSTOMS



LEGISLATIVE UPDATES

NOTIFICATION

N/N 62/2024-Customs ⁸ and Circular 18/2024-Customs ⁹	Effective 19 September 2024, the scope of chapter heading 9802 “laboratory chemicals” provided in Chapter Note 3 of Chapter 98 of the First Schedule to the Customs Tariff Act, 1975 has been amended. Consequently, to classify goods under chapter heading 9802, the goods have to be imported and intended only for own use (i.e., for purposes other than trading, further sale, etc.)
16/2024-Customs (ADD) ¹⁰	Effective 27 September 2024, Anti-Dumping Duty (ADD) has been imposed on import of ‘Anodized Aluminium Frames for Solar Panels/Modules’ falling under HSN 7610 9010, 7610 9030, 7616 9990, originating in or exported from China PR.
17/2024-Customs (ADD) ¹¹	Effective 27 September 2024, ADD has been imposed on import of ‘Isobutylene-Isoprene Rubber’ falling under HSN 4002 3100, originating in or exported from China PR, Russia, Saudi Arabia, Singapore and the United States of America.
44/2024-Customs ¹²	Effective 27 September 2024, Notification no. 27/2011-Customs ¹³ is to notify the effective export duty rate of 10% on ‘Rice in the Husk (paddy or rough’-HSN 1006 1090; ‘Husked (brown) Rice’-HSN 1006 2000 and ‘Rice, parboiled’-HSN 1006 3010. Further, export duty is not leviable on ‘Semi-milled or wholly-milled rice, whether or not polished or glazed (other than Parboiled rice and Basmati rice)’-HSN 1006 3090.

⁸ Dated 19 September 2024
⁹ Dated 23 September 2024
¹⁰ Dated 27 September 2024

¹¹ Dated 27 September 2024
¹² Dated 27 September 2024
¹³ Dated 1 March 2011

FOREIGN TRADE POLICY



LEGISLATIVE UPDATES

NOTIFICATION

30/2024-25 ¹⁴	Effective 18 September 2024, in addition to the existing two ports (LCS Jaigaon (INJIGB) and LCS Chamurchi (INCHMB)), import of 17,000 Metric Tonnes of Fresh (green) Areca nut without Minimum Import Price (MIP) condition from Bhutan shall also be allowed through LCS Hatisar (INHT5B) and LCS Darranga (INDRGB).
31/2024-25 ¹⁵	Effective 28 September 2024, the export policy of Non-Basmati White rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other) under HS Code 1006 3090 is amended from ' Prohibited ' to ' Free ', subject to Minimum Export Price of USD 490/tonne.
32/2024-25 ¹⁶	<p>Vide Notification no:70/2023 dated 8 March 2023, the benefit under the Remission of Duties and Taxes on Exported Products (RoDTEP) scheme was extended to export of products manufactured by Domestic Tariff Area (DTA) units, Advance Authorisation (except deemed exports) holders (AA holders), Export Oriented Units (EOUs) and Special Economic Zone (SEZ) units. Further, the rate of RoDTEP for the export of products by DTA units and AA/EOU/SEZ units have been provided in Appendix 4R and 4RE respectively and the validity of RoDTEP scheme was extended till 30 September 2024. The aforesaid notification has been amended as under:</p> <ul style="list-style-type: none"> ▪ RoDTEP scheme has been extended for exports made by DTA units till 30 September 2025 and AA/EOU/SEZ units till 31 December 2024. ▪ Effective 10 October 2024, the revised rates for claim of RoDTEP benefits as provided in Appendix 4R and 4RE have been notified. ▪ For exports made between 1 October 2024 and 9 October 2024, the existing rates provided in the above notification will continue to apply.

CIRCULAR

16/2024-Customs ¹⁷	Circular No. 11/2024-Customs ¹⁸ <i>inter alia</i> pertaining to implementation of automation in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 will be implemented in respect of Export Oriented Units with effect from 25 September 2024.
17/2024-Customs ¹⁹	Circular no. 07/2024 dated 25 June 2024 has <i>inter alia</i> prescribed the automated system of ascertaining and publishing of exchange rates, upon which the existing system of notifying exchange rates through a notification would be dispensed with. The Circular has been amended to <i>inter alia</i> provide that the exchange rate would be published on the prescribed due dates (i.e., 1st or 3rd Thursday) even if it falls on a holiday.

¹⁴ Dated 18 September 2024
¹⁵ Dated 28 September 2024
¹⁶ Dated 30 September 2024

¹⁷ Dated 17 September 2024
¹⁸ Dated 5 August 2024
¹⁹ Dated 18 September 2024

19/2024-Customs ²⁰	To facilitate ease of doing business in respect of Customs Bonded warehouses, CBIC has introduced a Warehouse Module on ICEGATE to enable online filing of applications for obtaining a Warehouse License, online submission and processing of requests for transfer of warehoused goods to another person and/or another warehouse and uploading of Monthly returns for the Customs Bonded Warehouse. User manuals ²¹ for the same have been issued by the Directorate General of Systems. In this regard, CBIC has issued a Circular providing an overview of the aforesaid processes.
Policy Circular 07/2024-25 ²²	Notification Nos. 23, 26 and 38/2023 dated 3 August 2023, 4 August 2023 and 19 October 2023 respectively <i>inter alia</i> restricted import of specified IT hardware. Further, the procedure for implementation of these notifications was prescribed by Policy Circular No. 06/2023-24 dated 19 October 2023. The above circular has been modified to provided that the importers are allowed to apply for Import Authorisations which will be valid up to 31 December 2024. Further, the existing Import Authorisations issued till 30 September 2024 will continue to be valid till 31 December 2024. Importers would be required to apply for fresh authorisations from 1 January 2025, subject to detailed guidance to be issued by DGFT.

TRADE NOTICE / CIRCULAR / PUBLIC NOTICE

Public Notice 24/2024-25 ²³	Effective 20 September 2024, with a view to enhance ease of doing business and reduce the compliance burden, the requirement for reporting Export Obligation fulfilment under the Export Promotion Capital Goods scheme has been amended.
Public Notice 25/2024-25 ²⁴	The Tariff Rate Quota for export of 5,841 Metric Tonne Sugar to the EU for the year 2024-25 (October 2024 to September 2025) has been notified.

SPECIAL ECONOMIC ZONE



LEGISLATIVE UPDATES

INSTRUCTION

117 ²⁵	The Department of Commerce (SEZ Section) has issued detailed guidelines providing for the operational framework of the Free Trade Warehousing Zones and Warehousing units in Special Economic Zones.
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²⁰ Dated 30 September 2024

²¹ Click below to access User Manuals on Digitisation of Customs Bonded Warehouse
[Warehouse licensing](#) - [Warehouse transfer](#) - [Monthly Returns](#)

²² Dated 24 September 2024

²³ Dated 20 September 2024
²⁴ Dated 27 September 2024

²⁵ Dated 24 September 2024

CENTRAL EXCISE/ SERVICE TAX/ VALUE ADDED TAX



LEGISLATIVE UPDATES

NOTIFICATION

<p>Memo No. 10948 (Excise-Haryana)²⁶</p>	<p>Instructions for conducting inquiry have been issued, instructing <i>inter alia</i> that procedural framework must be strictly followed, the inquiry officer shall be personally responsible for the inquiry process and delegation to subordinates is prohibited, and to maintain confidentiality regarding the outcome of the inquiry, to ensure that inquiries are conducted with utmost fairness, transparency, and in adherence to the principles of natural justice</p>
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INDIRECT TAX NEWS FLASH



<p>The Hindu (24 & 27 September 2024)</p>	<ul style="list-style-type: none"> ▪ GST Council sets up GoM on compensation cess; panel to submit report by December 31 ▪ Most GST notices due to data mismatches, CBIC to deploy tech to address pain points
<p>Economic Times (28 September 2024)</p>	<ul style="list-style-type: none"> ▪ GST bodies get power to waive off certain penalties ▪ How GST 2.0 can transform the MSME sector
<p>Business Standard (29 and 30 September 2024)</p>	<ul style="list-style-type: none"> ▪ Gujarat High Court quashes GST orders on cotton seed oil cakes ▪ Mechanism to control GST fraud in ITC claims expected in November
<p>The New Indian Express (26 September 2024)</p>	<ul style="list-style-type: none"> ▪ GST rate rationalisation: Tax tweaks for over 100 items discussed, next meeting on Oct 20

²⁶ Dated 20 September 2024

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