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EDITORIAL



Friends,

The country is dealing with a very challenging situation due to second wave of COVID-19 Pandemic which is more devastating in many ways than the one before. We need to be self-disciplined and follow all the Covid safety protocols.

The government is also contributing their best to facilitate the trade and industry through facilitation measures.

CBIC HAS THROUGHOUT BEEN IN THE FOREFRONT OF FIGHT AGAINST COVID-19 PANDEMIC AND THE FOLLOWING MEASURES PUT IN PLACE RECENTLY:

- 24x7 Customs functioning
- Single window helpdesk,
- nodal officers at all locations
- relaxing requirement of submission of bond and replacing it with undertaking
- exemption from Customs duty and IGST on specified COVID-19 material donated from abroad
- expeditious Customs clearance for all COVID-19 related imports made by Red Cross Society
- special refund and drawback disposal drive from 15.05.2021 to 31.05.2021

SPECIAL REFUND AND DRAWBACK DISPOSAL DRIVE FROM 15.05.2021 TO 31.05.2021

As a measure of trade facilitation, the CBIC has decided that there is a need to focus on timely disposal of all pending refund/duty drawback claims in order to provide immediate relief to the business entities, especially MSMEs, in these difficult times. Accordingly, it is hereby instructed by CBIC that there shall be a "Special Refund

and Drawback Disposal Drive" with the objective of priority processing and disposal of all pending refund and drawback claims. This Special Drive shall be in place from 15th May 2021 to 31st May 2021. It is expected that during this period all refund and drawback claims that are pending as on 14th May 2021 shall be disposed.

EXEMPTION FROM GST WILL LEAD TO INCREASE IN PRICE- F.M.

The Hon'ble Finance Minister Nirmala Sitharaman on May 9, tweeted that reducing or exempting Goods and Services Tax (GST) rates on domestically produced or commercially imported items essential in the fight against COVID-19, will lead to manufacturers unable to avail of input tax credit (ITC), which in turn could lead to higher prices for customers.

Tweet by Hon'ble Finance Minister:

"If full exemption from GST is given, vaccine manufacturers would not be able to offset their input taxes and would pass them on to the end consumer/citizen by increasing the price," Sitharaman said.

IMPORTERS ARE CLAIMING TOO MUCH DISCREPANCY ON THE GST RATE DEPENDING ON WHO IS IMPORTING OXYGEN CONCENTRATORS.

In terms of the FAQs issued to clarify various points arising out of Ad hoc Exemption Order No. 4/2021-Customs dated 3-5-2021, exemption granted to various goods meant for Covid-19 relief when imported free of cost will not be available if such goods are bought from overseas parties and imported into India even if they are intended for free distribution. The notifications cover items like Covid-19 vaccine, Remdesivir injection, oxygen concentrator, medical oxygen, oxygen canister, ISO containers for shipping oxygen and oxygen cylinders.

Only non-profit organisations registered under the Foreign Contribution (Regulation) Act (FCRA) are exempt from the IGST when importing oxygen concentrators.

EDITORIAL

Those gifted or imported by individuals for personal use attract 12% IGST, which was recently lowered down from 28% by the government.

As many Indians and companies decided to import oxygen concentrators amidst the domestic shortage due to Covid pandemic in the country, they were faced with Integrated Goods and Services Tax and customs duty. Currently, imported oxygen concentrators attract 12% IGST. Several importers have dragged the government to court for levying taxes on the import of oxygen concentrators and claimed that doing so breaches a constitutional right of every Indian.

FACILITY TO ACCEPT UNDERTAKING FOR BOND EXTENDED TILL JUNE 30 2021

Taking cognizance of the difficulties listed by the trade and industry and the importance of facilitating the Customs clearance process, the CBIC has decided to restore the facility of acceptance of an undertaking in lieu of bond by Customs formations till June 30, 2021.

The importers or exporters' availability of this facility shall ensure that the undertaking should be furnished in lieu of the bonds is duly replaced with a proper bond by July 15, 2021.

The terms and conditions underlined in Circular No. 17/2020 dated April 3, 2020 as amended by Circular No. 21/2020-Cus., dated April 21, 2020 remain the same, some of which are as follows:

- Custom field formations may accept the request for submission of an undertaking from the importer or exporter instead of a bond.
- Content of this undertaking should, to the extent possible, be the same as the content of the prescribed bond.
- The undertaking should duly be signed by the IEC holder concerned on their business's letterhead.
- Proper bond in the prescribed format on a notarized stamp paper etc., shall be submitted on or before July 15, 2021.
- The security, where required, shall be furnished.

ESIC EXTENDS DATE FOR FILING OF ESI CONTRIBUTION FOR THE MONTH OF APRIL, 2021

In line with the relief measures being extended by Government to business entities and workers, Employees' State Insurance Corporation (ESIC) has relaxed the provision as entered in Regulation 31 of ESI (General) Regulations, 1950 and allowed filing of ESI contribution for the month of April, 2021 upto 15th June, 2021 instead of 15th May, 2021.

We urge you all to take good care of yourself and your families during these challenging times.

We do hope that this bulletin adds value to your professional sphere.

Just to reiterate that we remain available over telecom or e-mail.

Truly Yours

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TAX CALENDAR

Due date	LATE FEE WAIVED TILL	Form/Retu rn/Challan	Reporting Period	Description
20 th May 2021	04 th June 2021	GSTR-3B	April 2021	Due Date for furnishing Summary of Outward & Inward Supplies for taxpayers whose aggregate turnover is more than Rs. 5 Crores
20 th May 2021	19 th June 2021	GSTR-3B	April 2021	Due Date for furnishing Summary of Outward & Inward Supplies for taxpayers whose aggregate turnover is upto Rs. 5 Crores (Monthly)
20 th April 2021	20 th May 2021	GSTR-3B	March 2021	Due Date for furnishing Summary of Outward & Inward Supplies for taxpayers whose aggregate turnover is upto Rs. 5 Crores (Monthly)
20 th May 2021		GSTR-5	April 2021	Due Date for furnishing summary of inward and outward supplies for Non-Resident Foreign Taxpayers
20 th May 2021		GSTR-5A	April 2021	Due Date for furnishing summary of inward and outward supplies for Non-Resident OIDAR Service Providers
22 nd May 2021		GSTR-3B	Jan-March 2021	Due Date for furnishing Summary of Outward & Inward Supplies for taxpayers whose aggregate turnover is below Rs. 5 Crores (Quarterly)*

*States- Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union Territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep

INCOME TAX

NOTIFICATIONS

CBDT NOTIFIES CASH PAYMENT RECEIVED DURING COVID PERIOD BY ANY MEDICAL INSTITUTIONS

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Notification No. 56/2021 dated 07.05.2021** notified that any Cash payment against medical treatment in Hospitals, Dispensaries, Nursing Homes, Covid Care Centres or similar other medical facilities providing Covid treatment to patients for the purpose of Section 269 ST of the Income-tax Act, 1961 for payment received in cash during **01.04.2021 to 31.05.2021**, on obtaining the PAN or AADHAAR of the patient and the payer and the relationship between the patient.

[For further details please refer the notification]

CBDT NOTIFIES 'MINISTRY OF ECONOMY AND FINANCE OF REPUBLIC OF KOREA' AS SOVEREIGN WEALTH FUND

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Notification No. 63/2021 dated 13.05.2021** has notified 'Ministry of Economy and Finance of Republic of Korea' as sovereign wealth fund under sub-clause (vi) of clause (b) of the Explanation 1 to clause (23FE) of section 10 of the Income-tax Act, 1961.

[For further details please refer the notification]

CBDT NOTIFIES 'PUBLIC SECTOR PENSION INVESTMENT BOARD' AS PENSION FUND

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Notification**

No. 64/2021 dated 13.05.2021 has notified 'Public Sector Pension Investment Board' as Pension fund.

[For further details please refer the notification]

CBDT NOTIFIES 'GOVERNMENT EMPLOYEES SUPERANNUATION BOARD' AS PENSION FUND

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Notification No. 65/2021 dated 13.05.2021** has notified 'Government Employees Superannuation Board' as pension fund for the purposes of the clause 10(23FE) of the Income Tax Act, 1961 in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 subject to the fulfillment of the certain conditions.

[For further details please refer the notification]

CBDT NOTIFIES 'OMERS ADMINISTRATION CORPORATION' AS PENSION FUND

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Notification No. 66/2021 dated 13.05.2021** has notified 'OMERS Administration Corporation' as pension fund. for the purposes of the clause 10(23FE) of the Income Tax Act, 1961 in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 subject to the fulfillment of the certain conditions.

[For further details please refer the notification]

GST

CASE LAW

M/S AGARWAL INDUSTRIES PVT LTD VS THE DEPUTY ASSISTANT COMMISSIONER (ST) (IV)-2021 [ANDHRA PRADESH HIGH COURT]

Brief: Detention of goods under section 129(1) of the CGST Act – mismatch in invoice number mentioned in tax invoice with e-way bill – clerical error in e-way bill – payment of tax prior to filing the writ petition challenging collection of tax and penalty.

OUR COMMENTS: In the present case, Andhra Pradesh High Court held that there is error in one digit in the invoice number in the E-Way Bill and the original Invoice – detention of goods in the instant case is contrary to CBIC Circular dated 14.09.2018. When there is a mistake in typing a numerical in the E-way bill, while all other contents, namely, the seller and the place of delivery, are consistent, imposition of tax and penalty is not proper. The petitioner has paid the entire tax amount pursuant to the notice issued and thereafter filed the present Writ Petition. The argument of the Department that the petitioner is estopped from challenging the same, after paying the tax and penalty, cannot be accepted. The action of the authorities in collecting the tax either on the spot or later, can always be challenged subsequently by questioning the jurisdiction or their authority to collect tax - having regard to the Circular dated 14.09.2018, prohibiting imposition of penalty, when there is an error in one or two digits of the document number mentioned in the e-way bill, the Respondents made an error in collecting the tax and penalty from the petitioner. The Respondents are directed to refund the

tax and penalty to the petitioner. Hence, the writ petition is allowed.

[In favour of the petitioner]

FEMA

CIRCULAR

SPONSOR CONTRIBUTION TO AN AIF SET UP IN
OVERSEAS JURISDICTION, INCLUDING IFSCS

OUR COMMENTS: The Ministry of Finance, Government of India, Reserve Bank of India vide Circular No. 04/RBI/2021-22 dated 12.05.2021 has provided that in attention of AD Category - I banks is invited to paragraph A.3.(e) and B.6 of Master Direction No.15 dated January 1, 2016, on "Direct Investment by Residents in Joint Venture (JV) / Wholly Owned Subsidiary (WOS) Abroad", as amended from time to time and Regulation 7 of the Notification FEMA 120/2004-RB, pertaining to provisions for an Indian Party (IP) making investment/ financial commitment in an entity engaged in the financial services sector.

Any sponsor contribution from a sponsor IP to an Alternative Investment Fund (AIF) set up in an overseas jurisdiction, including International Financial Services Centres (IFSCs) in India, as per the laws of the host jurisdiction, will be treated as Overseas Direct Investment (ODI). Accordingly, IP, as defined in regulation 2(k) of the Notification *ibid.* can set up AIF in overseas jurisdictions, including IFSCs, under the automatic route provided it complies with Regulation 7 of the Notification FEMA 120/2004-RB.

All the other provisions under the Notification *ibid.* shall remain unchanged. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

The Master Direction No. 15 dated January 01, 2016, is being updated to reflect the changes.

The directions contained in this circular have been issued under section 10 (4) and 11(1) of the FEMA and are

without prejudice to permissions/approvals, if any, required under any other law.

[For further details please refer the Circular]

CUSTOMS

NOTIFICATION/CASE LAW

TARIFF NOTIFICATION IN RESPECT OF FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, ARECA NUT, GOLD AND SILVER

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs vide Notification No. 47/2021-Customs dated 13.05.2021 has notified tariff in respect of fixation of tariff value of edible oils, brass scrap, areca nut, gold and silver.

[For further details please refer the notification]

GUDURU CHANDRA SEKHAR VS UNION OF INDIA, CBIC, COMMISSIONER OF CUSTOMS AND CENTRAL TAX (APPEALS), ADD COC, ADD DIRECTOR, SUPERINTENDENT (APPEALS)-2021 [ANDHRA PRADESH HIGH COURT]

Brief: Confiscation - Smuggling - Gold Bars - rejection also on the ground of non-compliance of the provisions of Section 129-E of the Act - order passed under the Act by an officer of the Customs, lower in rank than the Principal Commissioner of Customs or Commissioner of Customs, to file appeal before the Commissioner (Appeals)

OUR COMMENTS: In the Present case, Andhra Pradesh High Court held that in the instant case, though the petitioner herein initially filed appeal on 17.08.2020, before the third respondent, it is clear from Form-CAI that the appellant undertook to pay the mandatory pre-deposit of 7.5% of the disputed amount but did not make any deposit to the said effect. Obviously, on the ground that the petitioner herein failed to comply with

the above referred mandatory requirement of pre-deposit, the third respondent-appellate authority, by way of the order, dated 03.11.2020, rejected the appeal filed by the petitioner on the sole ground of non-compliance of the provisions of Section 129-E of the Act. It is also not in controversy that once again on 03.12.2020, by complying with the said mandatory requirement, as stipulated under Section 129-E of the Act, petitioner herein preferred the appeal.

The filing of appeal in the instant case would not be regarded as filing of appeals repeatedly since the earlier order came to be passed by the third respondent not on merits but only on the sole ground of failure on the part of the petitioner herein to comply with the mandatory requirement of law but not on merits. In the considered opinion of this Court, the said order, dated 03.11.2020, by any stretch of imagination, cannot be regarded as the order on merits but is only an order refusing to entertain the appeal. Therefore, the contention of the learned Senior Standing Counsel that the petitioner herein is required to be relegated to the alternative remedy of appeal to the CESTAT cannot be sustained and is, accordingly, rejected.

The appeal filed by the petitioner herein on the file of the third respondent on 03.12.2020 stands restored to file for consideration of the same by the third respondent, strictly in accordance with law, on merits after giving opportunity of being heard to the petitioner before passing appropriate orders. Hence, Petition is allowed.

[In favour of the Petitioner]

DGFT

NOTIFICATION/TRADE NOTICE

AMENDMENT IN IMPORT POLICY OF INTEGRATED CIRCUITS AND INCORPORATION OF POLICY CONDITION

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs vide **Notification No. 05/2015-2020 dated 10.05.2021** has amended Import policy of item of Electronic Integrated Circuits shall be subject to Chip Imports Monitoring System (CHIMS) with effect from 01.08.2021.

The condition under CHIMS is stated hereunder:

i.) The Chip Imports Monitoring System (CHIMS) shall require importers to submit advance information in an online system for import of items and obtain an automatic Registration Number by paying registration fee of ₹ 1 per thousand subject to minimum of ₹ 100/ and maximum of Rs. ₹ 500 on CIF value.

ii.) The importer can apply for registration not earlier than 60th day before the expected date of arrival of import consignment and can apply till the date of arrival of the import consignment . The Automatic Registration Number shall remain valid for a period of 75 days. Importer shall have to enter the Registration Number and expiry date of Registration in the Bill of Entry to enable Customs for clearance of consignment.

The facility of online testing of CHIMS, without payment of registration fee, will be available on www.imports.gov.in with effect from 01.05.2021 on trial basis. The CHIMS will be effective from 01.08.2021, i.e., Bill of Entry on or after 01.08.2021 for items as listed in this Notification shall be governed by CHIMS.

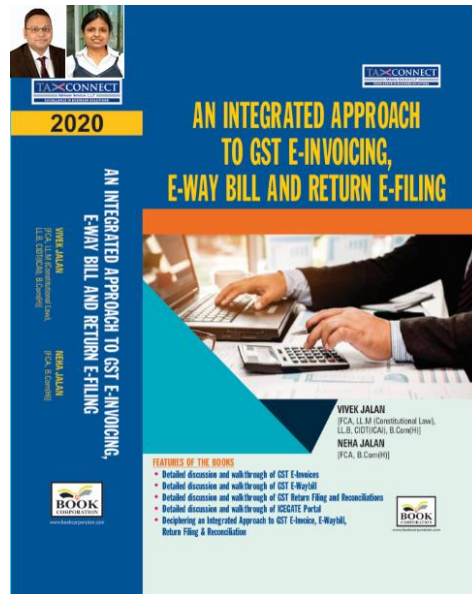
Accordingly, the facility of online Registration for CHIMS will be available with effect from 01.08.2021.

[For further details please refer the notification]

ISSUANCE OF EXPORT AUTHORISATION FOR RESTRICTED ITEMS (NON-SCOMET) FROM NEW ONLINE RESTRICTED EXPORTS IT MODULE W.E.F. 17.05.2021

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs vide **Trade Notice No. 03/2021-22 dated 10.05.2021** has introduced a new online module for filing of electronic, paperless applications for export authorizations with effect from 17.05.2021. All applicants seeking export authorization for restricted items may apply online by navigating to the DGFT website (<https://www.dgft.gov.in>) → Services → Export Management Systems → License for Restricted Exports. Accordingly, applications for issuance as well as for amendment/re-validation of export authorization will need to be submitted online as per the above link and export authorizations for restricted items (Non-SCOMET) will continue to be issued from DGFT HQ, Udyog Bhawan, New Delhi through new module with effect from 17.05.2021. It may further be noted that all pending applications will be migrated to this new system and will be processed at DGFT(HQ).

[For further details please refer the notification]

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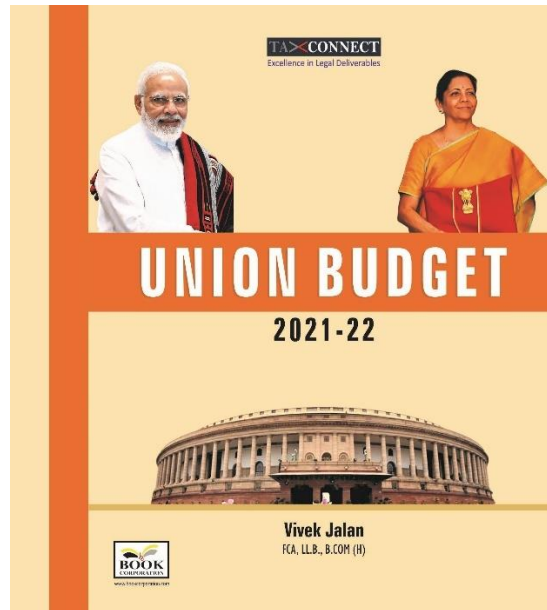
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 - c. Excise
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