



ECONOMIC  
LAWS  
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# DIRECT TAXATION



## RECENT CASE LAWS

### Allows write-off of investment in loss-incurring overseas subsidiaries as business loss

*Maneesh Pharmaceuticals Ltd (ITA no. 4024/Mum/2019 and 4027/Mum/2019) (Mumbai ITAT)*

#### SUMMARY OF THE CASE

- The taxpayer, a resident company had invested in two overseas subsidiaries in Netherlands and Brazil to further its business. These subsidiaries had accumulated losses which ultimately wiped off their respective net worth. In view of the above facts, the taxpayer wrote-off these investments as 'business loss'. The Tax Officer (TO) denied such deduction claimed by the taxpayer by relying on the decision of Ahmedabad Income Tax Appellate Tribunal (ITAT) in *APS Stare Industries Limited (86 ITD 182)*. Further, Commissioner of Income Tax (Appeals) [CIT(A)] allowed the investment write-off in Netherlands but disallowed it for the Brazilian company stating that there was no proximate direct nexus of the investment and business of the taxpayer.
- On subsequent appeal, the Mumbai ITAT reversed the addition made on account of business loss in the investment made in the Brazilian subsidiary by observing as under:
  - Such investments were made in furtherance of business objectives and with a view to earn more revenue
  - Since these investments were guided by commercial expediency to push the sales in international markets, and gain access to foreign markets, the main purpose of such investments was not to acquire manufacturing/infrastructural capacity but to boost sales and the investments;
  - Hence, such investments could not be said to be in capital field since it was meant to improve the top line of the business;
  - The ITAT *inter-alia* relied on the decision of Supreme Court in case of *Patnaik & Co. Ltd (161 ITR 365)*, Karnataka High Court (HC) in case of *ACE Designers (120 Taxmann.com 321)* to hold that loss on investments made for the furtherance of business would be an allowable business loss.

### Swiss bank deposit not taxable, information prior to April 1, 2011 not covered under Art.26 of Indo-Swiss DTAA

*Bhushan Lal Sawhney (ITA.Nos.427- 432/Del./2017 and ITA.Nos.434-439/Del./2017) (Delhi ITAT)*

#### SUMMARY OF THE CASE

- A search and seizure operation under Section 132 of Income-tax Act, 1961 (ITA) was carried-out on the taxpayer which required the taxpayer to file return of income (ROIs) under Section 153A for several years. The TO noted that taxpayer had derived income from other sources. Further, as per the information received from the competent authority under exchange of information framework of Double Tax Avoidance Agreement (DTAA) between India and France, the TO noted that the taxpayer held a foreign bank account with HSBC Bank, Switzerland. The taxpayer had not declared the foreign bank account in the ROI. In view of the above, the TO made addition of maximum outstanding balance lying in the foreign bank account for the initial year and in the subsequent years, TO made addition of the unexplained interest earned on these deposits.
- The taxpayer challenged the legality of the assessment orders issued by the TO, before ITAT. The ITAT deleted the additions made by the taxpayer on the following grounds:
  - The letter from Swiss Competent Authority addressed to the Government of India specifically mentioned that the information between the countries pertaining to a period prior to April 1, 2011 is not covered under Article 26 of the India-Switzerland DTAA.
  - The panchanama drawn at the time of search did not disclose any incriminating material.
  - Since inception, the taxpayer has denied having maintained any such bank accounts with HSBC, Switzerland and there was no incriminating material available on record to make any additions in any of the assessment years.



- In view of the above and relying on the decision of Delhi HC rulings in **Kabul Chawla (380 ITR 573)** and **Meeta Gutgutia (395 ITR 526)**, it was held that since no incriminating material was found, the assumption of jurisdiction and the search for assessment years under appeal are bad in law.

### Allows set-off of brought-forward business-loss against capital gain by overturning the SB ruling

*Nandi Steels Limited (ITA.No.103 of 2012) (Karnataka HC)*

#### SUMMARY OF THE CASE

- Taxpayer filed the ROI claiming a refund by setting-off the business loss of earlier years against capital gains arising on sale of land, building and borewell. The ROI was processed under Section 143(1) and refund was granted to the taxpayer. Subsequently, a notice under Section 148 of the ITA was issued upon the taxpayer, against which the taxpayer filed an ROI reporting the same income as reported in the original ROI filed earlier.
- On request, the TO had furnished the reason for reopening the assessment to the taxpayer stating that the taxpayer had set off the business loss of earlier years against capital gains. The taxpayer filed objections against the reasons for reopening. The TO without disposing the objections, directly passed a speaking order disallowing the loss set-off against capital gains. The CIT(A) and subsequently, the ITAT upheld the disallowance made by the TO.
- On further appeal, the Karnataka HC allowed the claim of set-off of business loss against capital gains by observing as under:
  - It is a well settled principle rule of interpretation that '**attention has to be paid to what has been said and what has not been said**'.
  - Section 72(1) of the ITA employs the expression, '**under the head profits and gains of business or profession**' whereas Section 72(1) (i) does not use the words '**under the head**'. Hence, it may be noted the legislature has consciously left it open that any income from business though classified under any other head can still be entitled to the benefit of set off.
  - Reliance is placed on the decision of Supreme Court (SC) in case of **GVK Industries (332 ITR 130)** where SC dealt with legal maxim '**expressio unius est exclusio alterius**' and held that expressive mention of one thing implies the exclusion of another thing.
  - Further, HC also placed reliance on SC ruling in **Cocanada Radhaswami Bank (57 ITR 306)** (distinguished by ITAT Special Bench) over **Express Newspapers (53 ITR 250)** (followed by ITAT Special Bench) to allow the set off of business loss against income from capital gains. HC observes that in Express Newspapers the question whether income from capital gains had the character of business income was not even considered whereas SC in Cocanada Radhaswami Bank dealt with the set off of brought forward business loss against the entire income including income from interest on securities.

### Concentrix Services ratio applied to Indo-Swiss DTAA

*Nestle SA (W.P.(C) 3243/2021) (Delhi HC)*

#### SUMMARY OF THE CASE

- The taxpayer, resident of Switzerland, filed a writ petition before Delhi HC requesting grant of benefit of lower tax deduction certificate under Section 197 of ITA. The taxpayer requested for withholding tax rate of 5% (instead of 10%) by virtue of Most-Favored-Nation (MFN) clause under the India-Switzerland DTAA.
- The Delhi HC disposed the writ petition of the taxpayer and extended the benefit of lower withholding rate to the taxpayer under the India-Switzerland DTAA by stating that the issue is covered by its earlier ruling in **Concentrix Services (W.P.(C) 9051/2020)** rendered in the context of India-Netherlands DTAA.

## National Faceless Assessment Centre (NFAC) bound to follow decision of jurisdictional HC

*Mahadev Cold Storage (ITA No.41 & 42/Agr/2021, 20&21/Agr/2021)*

### SUMMARY OF THE CASE

- The taxpayer filed ROI by claiming expenditure on account of employee's contribution to ESI and EPF. The payment of ESI and PF were delayed but were made before the due date of filing of return.
- The Ld. Assessing Officer (**CPC**) without appreciating the legal position and facts of the case disallowed such expenditure claimed by the taxpayer on account of late deposit of ESI and EPF. The taxpayer preferred an appeal before the Hon'ble CIT(A) - 1, Agra against said order. The appeal was disposed by the CIT(A), National Faceless Appeal Centre (**NFAC**), Delhi by upholding the additions made by the taxpayer. In this regard, the NFAC disregarded taxpayer's reliance on the Jurisdictional Allahabad HC ruling in the case of **Sagan Foundry (P) Ltd. (78 Taxmann 47)** and placed reliance on Gujarat HC ruling in the case of **State Road Transport Corporation (366 ITR 170)**.
- In this regard, the ITAT observed as under:
  - The above approach of NFAC was incorrect and against the scheme for creating the centralized NFAC. ITAT stated that the above action of NFAC was also against the settled 'principle of precedent' and placed reliance on Jurisdictional **K. N. Agarwal (189 ITR 769)** and other such cases wherein emphasis was laid on following the decision of jurisdictional high Court.
  - ITAT also took note of CBDT Notification No. 76 & 77 of 2020 and observed that that before passing final appellate order in appeal, it has to pass through various stages of scrutiny. Firstly, a draft order is proposed by Assessment Unit, then it is sent to a review unit (subject to tax effect) and if review unit suggest some suggestion/s than it is assigned to another AU for concurrence or modification and thereafter final appellate order is passed by NFAC.
  - In case an appeal against an order passed by NFAC lies before the ITAT bench having jurisdiction over taxpayer's TO - any appeal against such ITAT shall lie to Allahabad HC - therefore the decision rendered by HC is not only binding on the ITAT but also on NFAC despite being located in Delhi.
- Further, the ITAT also expressed its concerns by requesting the CBDT to take appropriate remedial measures at the earliest against such orders by issuing guidelines.

## Composite rental income taxable under the head 'income from other sources'

*Microsoft India (R&D) Pvt. Ltd (ITA no. 1479/Del/2016 & 507/Del/2017) (Delhi ITAT)*

### SUMMARY OF THE CASE

- Taxpayer, a domestic company, earned rental income from letting out of building premises and a host of facilities by way of infrastructure/amenities and maintenance. The taxpayer offered such rental income to tax under the head 'income from other sources' and claimed the deduction of depreciation and other expenses under Section 57 of the ITA. However, in the earlier years, the taxpayer had treated such rental income as 'income from house property'.
- The TO treated such rental income as income from house property stating that the taxpayer itself has been consistently disclosing the above rental income as 'income from house property' in the past years and thus, the principle of consistency should be applied in the present case.
- On appeal, the ITAT remanded the matter to AO for adjudication. Against this, the taxpayer filed an appeal before the Delhi HC. The HC restored the matter back to the ITAT by stating that remand is not a power to be exercised in a routine manner and should be used sparingly, as an exception only when the facts warranted such course of action.
- At the direction of the Delhi HC, the ITAT considered the entire facts and circumstances of the case including the lease agreement which is a composite lease agreement for inbuilt infrastructural facilities including central air

conditions with ducting, DG power supply, network equipment, access control equipment, electrical equipment.

- Further, relying on the SC ruling in the case of **Sultan Brothers Pvt. Ltd. (51 ITR 353)** and Delhi HC ruling in the cases of **Jay Metal Industries Pvt. Ltd. (396 ITR 194) & Garg Dyeing & Processing Industries [(2013)212 taxmann 160]**, the ITAT held that the composite (where a building, plant & machinery & furniture are inseparably let out) rental income should be charged to tax under the head 'income from other sources' under Section 56(2)(iii) of the IT Act and would be eligible to claim under Section 57(iii) of the Act.

### Deduction of expense allowed only on crystallization of liability

*ThyssenKrupp Electrical Steel India Pvt. Ltd. (ITA no. 297/Pun/2017) (Pune ITAT)*

#### SUMMARY OF THE CASE

- The taxpayer entered into an agreement with its ultimate holding company for the use of licensed rights (i.e., corporate mark/logo) for corporate mark fee @ 0.5% of its total sales. The taxpayer entered into an agreement in June 2010 for the payment of corporate mark fee, but the agreement was effective from October 2009.
- The agreement stipulated that the corporate mark fee shall be payable by the taxpayer to the holding company from 3<sup>rd</sup> quarter of FY 2009-10. However, the taxpayer had been paying the corporate mark fee since October 2008. Since the incurring of liability coincides with its crystallization, the ITAT concluded that the liability to pay corporate mark fee crystallized only in October 2009 and not before that.
- Further, the ITAT distinguished **Exxon Mobil Lubricants (P.) Ltd. (2010) 328 ITR 17 (Del)**, where deduction of expenses was allowed even for period prior to the year that falls within the scope of agreement. The ITAT observed that the ratio of Exxon Mobil Lubricants case would only apply if the liability has crystallized i.e., even if the period of expenditure pertains prior to the date of the agreement, it should be covered by the agreement. In case of the taxpayer, period from October 2008 to September 2009 was not covered by the agreement.
- In view of the above, the ITAT held that the taxpayer would be allowed to claim expense for the corporate fee paid post October 2009, subject to fulfilment of other conditions of the ITA.

### Question of beneficial treaty-rate over DDT referred to Special Bench of ITAT

*Total Oil India Pvt. Ltd. (ITA No. 6997/Mum/2019) (Mumbai ITAT)*

#### SUMMARY OF THE CASE

- The taxpayer, a domestic company, paid dividend to its shareholders in France and paid Dividend Distribution Tax (DDT) as prescribed under Section 115-O of the IT Act. Placing reliance upon the case of **Giesecke & Devrient India Pvt Ltd Vs ACIT [(2020) 120 taxmann.com 338 (Del)]** and **Indian Oil Petronas Pvt Ltd [(2021) 127 taxmann.com 389 (Kol)]** (cumulatively referred as the 'co-ordinate bench rulings'), the taxpayer claimed that the shareholders of the company are entitled to the benefits of the India-France DTAA as the DDT paid is a 'tax on the dividend income of the shareholders'.
- The TO disagreed with the co-ordinate bench rulings and requested the ITAT to refer this issue to the special bench of ITAT.
- The ITAT, placing reliance on the case of **Paras Laminates Pvt Ltd [(1990) 186 ITR 722 (SC)]**, stated that the correctness of an earlier decision (even in case of larger bench) can be doubted if the subsequent proceedings bring light on the fallacy of the earlier decision.
- ITAT explained that the co-ordinate bench ruling of ITAT Delhi did not evaluate the case of **Godrej & Boyce Mfg Co Ltd Vs DCIT [(2017) 394 ITR 449 (SC)]** whereby the Hon'ble SC stated that DDT is the liability of the company which is discharged by the company. Further, ITAT considered the reliance placed on the case of **Tata Tea Co Ltd [(2017) 398 ITR 260 (SC)]** to be bad in law since the case deals with the constitutionality and not the interpretation of Section 115-O of the IT Act.
- Further, placing reliance on the India-Hungary DTAA, the ITAT stated that wherever the Contracting States to a tax

treaty intended to extend the treaty protection to the dividend distribution tax, it has been so specifically provided in the tax treaty itself. In the absence of such a provision in other tax treaties, it cannot be inferred as such because a protocol does not explain, but rather lays down, a treaty provision. No matter how desirable such provisions in the other tax treaties be, these provisions cannot be inferred on the basis of a rather aggressively creative process of interpretation of tax treaties.

- ITAT also placed reliance on the case of ***Volkswagen of South Africa (Pty) Ltd Vs Commissioner of South African Revenue Service (Case no. 24201/2007)*** wherein it was observed that a similar DDT, known as Secondary Tax on Companies paid on the distribution of dividends, is a tax on “a company declaring the dividends and not on dividends”. Although, the views expressed by a foreign judicial body do not bind any judicial body in India the views deserved to be examined in a fair, judicious and open-minded manner.
- In view of the above, the ITAT referred the question of ‘applicability of beneficial treaty-rate over DDT’ for the consideration of a special bench post the approval of the ITAT President.

### Deletes TP-adjustment for Intra-group-services; Services not in the nature of shareholder/stewardship activities

*Danisco India Pvt. Ltd. (ITA No.3518/DEL/2017, 7896 & 7897/DEL/2018, 5203/Del/2019) (Delhi ITAT)*

#### SUMMARY OF THE CASE

- The taxpayer availed management services from Associated Enterprises (**AEs**) which comprises of; (i) Technical Support and Assistance Services; (ii) Corporate Support Services; and (iii) Sales and Marketing Support Services, received on cost-to-cost basis, and bench-marked by applying transactional net margin method (**TNMM**).
- The TO stated that transactions are duplicative in nature and applied the benefit test. The TO benchmarked these Intra-group Services (**IGS**) at NIL by adopting comparable uncontrolled price (CUP) method. The CIT(A) allowed entire technical support services cost at TNMM to the taxpayer. The CIT(A) upheld 30% of adjustment of cost in respect of Corporate Support Services and Sales and Marketing Support Services and allowed the balance 70% to the taxpayer. Against this order, both the Revenue and taxpayer are in appeal.
- In respect of technical support services, ITAT upheld CIT(A)’s order. In respect of the other two services, ITAT noted that the taxpayer submitted all material evidence to highlight, kinds of services, how the services were received, benefits derived from such services and cost benefit analysis, etc. ITAT also noted that the evidences demonstrated the cost-benefit analysis as well as the fact that the services were not in the nature of shareholder services.
- Hence, ITAT upheld the CIT(A)’s order pertaining to 70% of the cost and deleted the ad-hoc TP adjustment of 30% of cost made by CIT(A), by placing reliance on coordinate bench ruling in its own case for one of the earlier years (which in turn relied on coordinate bench ruling in case of ***Emerson Climate Technologies (India) Limited ITA No.2182/PUN/2013***).



## NOTIFICATION/CIRCULARS/NEWS

### CBDT issues guidelines for complete scrutiny of returns for FY 2021-22

- CBDT vide Guidelines F No. 225/61 dated 10 June 2021 prescribed certain parameters for entailing a compulsory selection of returns for complete scrutiny during FY 2021-22 and for conduct of such assessment proceedings.
- The guidelines cover cases pertaining to Survey under Section 133A, search and seizure, cases in which notices under Section 142(1)/148 have been issued and cases requiring registration/approval under various sections of the Act i.e., 10(23), 12AA, etc.

### NEWS

- After the launch of new income tax portal, ITAT has released FAQs, Guidelines, List of Documents for e-filing portal on June 05, 2021. About 22 questions have been addressed in the list. Further, a separate document enlists the name and type of documents that are required for various appeals.
- Earlier in March 2021, OECD invited public comments on proposed changes to the commentaries on Article 9 and related articles as a part of ongoing work of OECD/G20 Inclusive Framework on BEPS. OECD has received comments from 20+ stakeholders. OECD has released the public comments received on proposed changes to the Commentaries on Article 9 (and related articles) of the OECD Model Tax Convention.
- G7 commits to adopt a global minimum tax rate of at least 15% for multinational corporates along with other measures to reach an equitable solution on allocation of taxing rights.
- OECD's Secretary-General appreciated the consensus reached by the G7 Finance Ministers regarding minimum level of global taxation to reform the international taxation system.

# INDIRECT TAXATION



## RECENT CASE LAWS

### Input tax credit (ITC) to be allowed on inputs inherently lost in manufacturing process

*In re: ARS Steels & Alloy International Pvt. Ltd. vs. the State Tax Officer [TS-287-HC(MAD)-2021-GST]*

#### FACTS OF THE CASE

- The Petitioner is engaged in the manufacture of MS Billets, Ingots and TMT/CTD bars – which attract GST. MS scrap is an input in the manufacture of MS Billets and the later, in turn, constitutes an input for manufacture of TMT/CTD bars. During the manufacturing process, there is a loss of small portion of the inputs due to inherent manufacturing process.
- In this regard, Petitioner challenged the assessment orders issued for the periods 2017-18, 2018-19 and 2019-20 by the State Tax Officer to the extent the said orders directed the Petitioner for making a proportionate reversal of Input Tax Credit (ITC) claimed in relation to the loss arising from manufacturing process by referring to the provisions of Section 17(5)(h) of the CGST Act.

#### JUDGEMENT

- Section 17(1) to (4) of the CGST Act provides for entitlement of ITC to the assessee and whereas, Section 17(5) of the CGST Act provides the list of blocked credits. The Impugned assessment orders rejected a portion of ITC by invoking the provisions of Section 17(5)(h) of the CGST Act which restricts the availment of credit in respect of “goods lost, stolen, destroyed, written off or disposed by way of gift or free samples.”
- The Hon’ble High Court observed that the aforesaid provision indicates loss of inputs that are quantifiable and involve external factors or compulsions. A loss that is occasioned by consumption in the process of manufacture is one which is inherent to the process of manufacture itself and therefore, cannot be equated to any of the instances specified in Section 17(5)(h) of the CGST Act.
- Accordingly, Hon’ble Madras High Court ruled that the petitioner is not required to reverse ITC on material losses incurred during the manufacturing process.

### Chhattisgarh High Court admits Writ petition challenging the order which denied ITC due to GSTR 2A-3B mismatch

*Bharat Aluminium Company Limited Vs. Union of India & Ors [TS-286-HC(CHAT)-2021-GST]*

#### FACTS OF THE CASE

- The Petitioner was denied ITC on the basis of non-matching of ITC availed in Form GSTR-3B with the details furnished by suppliers in Form GSTR-2A for the period F.Y 2018-19.

#### INTERIM ORDER

- The Petitioner contended that prior to insertion of Section 16 (2)(aa) *vide* Finance Act 2021 [which will be effective prospectively from a date that is yet to be notified by the Government], CGST Act had no provision which empowers the Authorities to deny credit basis non - matching of forms GSTR 3B & 2A.
- The Petitioner also contested that Section 43A of the CGST Act read with Rule 36(4) of the CGST Rules seek to restrict portion of ITC not appearing in Form GSTR-2A. However, the said restriction is applicable only to ITC availed after October 9, 2019. Accordingly, the assessee submitted that the action of Authorities is in teeth of GST Council **Press Release dated May 4, 2018** (which was released to 27<sup>th</sup> GST Council Meeting stating that there shall not be automatic reversal of credit from buyer on non-payment of GST by the seller) and **CBIC Circular No. 59/33/2018-GST dated September 4, 2018** (which was subsequently amended) which made it clear that refund of unutilized ITC cannot be denied when the same does not match with Form GSTR 2A.
- The Petitioner further relied on the decision of Madras High Court in the case of D.Y. Beathel Enterprises wherein it was ruled that ITC cannot be denied to the recipient on account of any shortcoming on supplier’s part.

- Hearing the aforesaid submissions, Court granted stay on recovery and restrained the Revenue to take coercive steps on the Petitioner.

### No grounds for rejecting appeal during covid times, if certified order copy is not enclosed

*In re: Shree Udyog vs. Commissioner of State Tax, Odisha [TS-284-HC(ORI)-2021-GST]*

#### FACTS OF THE CASE

- The last date for filing of the appeal of the Petitioner was November 17, 2020. However, the Petitioner filed the said appeal electronically on November 13, 2020 accompanied with a downloaded copy of the Impugned Order.
- In terms of Rule 108(3) of the CGST Rules, 2017, the Petitioner is required to submit a certified copy of the order within 7 days of filing of appeal. The date of filing of appeal would be considered as the date of issue of the provisional acknowledgement. However, if the certified copy is not submitted within 7 days of date of filing of appeal, the date for filing appeal would be considered as the date of submission of certified copy.
- The Petitioner furnished a certified copy of the order on March 9, 2021 which extends to beyond 3 months and therefore, the Appellate Authority dismissed the appeal on the grounds that the same has not been filed within the time limit and delay could not be condoned.
- Accordingly, the present writ petition was filed on the grounds whether the Appellate Authority under CGST Act, 2017 was justified in dismissing the appeal on the ground that the appeal was not presented within the time prescribed under law (i.e. only on the grounds due to non-submission of certified copy of order appealed against).

#### JUDGEMENT

- The Petitioner submitted that at the time of filling of an appeal, the same was not accompanied by the certified copy since the lawyer who had filed the appeal was in self quarantine.
- In this regard, Hon'ble High Court acknowledged the explanation offered for the delay in furnishing such certified copy to the Authority and also stated that Section 107(4) of CGST Act does not restrict the authorities from condoning a delay.
- The Hon'ble High Court held that this is a case of substantial compliance, and the interests of justice ought not to be constrained by a hyper technical view of the requirement i.e. a certified copy of the order appealed against should be submitted within one week of the filing of the appeal. During Covid times when there is a restricted functioning of Courts and Tribunals in general, a more liberal approach is warranted in matters of condonation of delay, which cannot be said to be extraordinary.
- Accordingly, Hon'ble High Court set aside the order rejecting the appeal on the grounds of delay and restored the matter back to the Additional Commissioner of State Tax (Appeal). The Appellate Authority will proceed to decide the appeal on merits and endeavor to dispose it of by a reasoned order in accordance with law.

### Refund of IGST paid on ocean freight allowed beyond limitation period prescribed under GST law

*M/s. Comsol Energy Private Limited v. State Of Gujarat [2021 (6) TMI 827-Gujarat High Court]*

#### FACTS OF THE CASE

- The Hon'ble High Court in the Petitioner's own case for an earlier period (*connected with Mohit Minerals (Pvt) Ltd. vs. Union of India and others (Special Civil Application No.726 of 2018)*) declared that Notification No.8/2017 – Integrated Tax (Rate) dated June 28, 2017 and the Entry No.10 of the Notification No.10/2017 – Integrated Tax (Rate) dated June 28, 2017 is ultra vires as it lacks legislative competency. Accordingly, the levy of the Integrated Goods and Services Tax (IGST) under the reverse charge mechanism (RCM) on Ocean Freight - for the service provided by a person located in a non-taxable territory for transporting goods in a vessel from a place outside India to the customs frontier of India - was held unconstitutional.

- After the above decision was passed, the Petitioner filed refund claims of the IGST paid on the Ocean Freight under the RCM. However, upon filing of the claims, the Department issued a Deficiency Memo to the Petitioner on the premises that the said refund claims were not filed within the statutory time limit as provided under Section 54 of the Central Goods and Service Tax Act, 2017 (**CGST Act**) in as much as Section 54 of CGST Act does not provide a separate category for claiming refund of such amount.
- In view thereof, the Petitioner filed the instant writ petition before the Hon'ble High Court challenging the abovementioned Deficiency Memo by *inter-alia* invoking Article 265 of the Constitution of India. The Petitioner asserted that the amount of IGST collected by the Central Government is without authority of law, therefore, it is not bound by the limitation prescribed under any special law for claiming the refund of the excess duty or duty collected illegally. Moreover, it was asserted that Section 54 of CGST Act, is applicable only for claiming refund of any tax paid under the provisions of the CGST Act and/or the State GST Act (Gujarat) is not applicable in the present case. This is because the amount was collected by the Revenue without the authority of law and thus cannot be considered as tax collected by them. In view thereof, it was submitted that the Petitioner is entitled to the refund of the amount so collected erroneously by the Department.

#### JUDGEMENT

- The Hon'ble High Court took note of the decisions viz. ***Binani Cement Ltd. vs. Union of India, 2013 (288) ELT 193 (Guj)*** and ***Joshi Technology International vs. Union of India, 2016 (339) ELT 21 (Guj)***, wherein it was observed that the statutory time limit provided under Section 17 (1) of the Limitation Act, 1963, is the appropriate provision for claiming the refund of the amount paid to the Revenue under mistake of law. Accordingly, provisions under statutes viz. Customs Act or Central Excise Act etc. cannot be made applicable to refund claim of duty, paid and collected, either unlawfully or under mistake of law.
- The Hon'ble High Court referred to decision in ***3E Infotech Ltd. vs. CESTAT, reported in 2018 (18) GSTL 410 (Mad.)***, wherein service tax paid under mistake of law was ordered to be returned to the assessee irrespective of the period covered under the refund application. It observed that the refusal to return the same would go against the mandate of Article 265 of the Constitution of India.
- The Hon'ble High Court further took note of the relief granted by itself in a similar matter of ***Gokul Agro Resources Ltd. vs. Union of India (Special Civil Application No.1758 of 2020, decided on 26.02.2020)***, wherein it gave directions to the Department to consider the refund applications in accordance with the law laid down in ***Mohit Minerals (supra)***, without raising any technical issue. Similarly, decision of ***Bharat Oman Refineries Ltd. vs. Union of India (Special Civil Application No.8881 of 2020, decided on 18.8.2020)*** was referred, wherein the Department was directed by the Hon'ble High Court to sanction the refund of the IGST paid by the assessee pursuant to the Entry No.10 of the Notification No.10/2017-IGST dated June 28, 2017 declared to be ultra vires in the case of ***Mohit Minerals (supra)***.
- In view thereof, the Deficiency Memo issued to the Petitioner were quashed by the Hon'ble High Court, and the Department was further directed to process the refund claims along with simple interest at the rate of 6% per annum.



**Goods imported violating FTDR/DGFT Notification restricting import of certain “Prohibited goods” liable to absolute confiscation.**

*UOI & Ors. v. Raj Grow Impex LLP and Ors. [2021 (4) TMI 778- Supreme Court]*

**FACTS OF THE CASE**

- The present issue arose due to issuance of various notifications issued by the Central Government under the Foreign Trade (Development and Regulation) Act, 1992 (**FTDR Act**) and the consequential trade notices issued by the Directorate General of Foreign Trade (**DGFT**), making provisions for restricting the import of certain beans, peas and pulses. The validity of the said notifications and trade notices was challenged in different High Courts by way of writ petitions wherein interim order staying the said Notifications were passed. Accordingly, the importers effected various imports on the strength of the said interim orders.
- However, all such cases pending before different High Courts were transferred vide transfer petition to Hon’ble Supreme Court in **Union of India and Ors. v. Agricas LLP** . The Hon’ble Supreme Court vide Order dated August 26, 2020, in the said transfer petition, upheld the validity of these notifications and trade notices, thereby, holding imports made by importers under the cover of interim orders of High Court to be improper being in contravention to the said notifications and trade notices.
- Immediately after the Hon’ble Supreme Court’s decision, the importers namely M/s. Raj Grow Impex LLP and M/s. Harihar Collections (**importers**), wrote to Additional Commissioner of Customs, Group-I, Mumbai, (**Adjudicating Authority**) requesting for waiver of show cause notices and for urgent personal hearing. Taking cognizance of the same, the Adjudicating Authority while ordering confiscation of goods in question, gave an option to the importers to redeem them on payment of fine in lieu of confiscation. In view thereof, certain consignments were released.
- However, owing to DGFT’s objection to such release of goods, Mumbai Port Trust was thereafter directed to not release any further consignments. Such stoppage of release of consignments was challenged by importers before the Hon’ble High Court. Vide the order dated October 15, 2020, the Hon’ble High Court stated that the appeal in instant matter lies before the Commissioner (Appeals) under its *suo motu* revisional powers by virtue of Section 129D(2) of the Customs Act, 1962 (**Customs Act**). Thereafter the Hon’ble High Court, under its modification order dated December 9, 2020 also, ordered release of goods with respect to remaining Bills of Entry which were not part of its earlier order.
- As per the directions of Hon’ble High Court, the Department preferred an appeal against the aforesaid Orders passed by Adjudicating Authority before Commissioner (Appeals) which was allowed by ordering absolute confiscation of the goods in question and enhancing the amount of penalty. The said order of Commissioner (Appeals) was further challenged by the importers before the Hon’ble High Court for it being contrary to the High Court’s own decision in Order dated October 15, 2020 and for being in contempt of its order dated December 9, 2020. The Hon’ble High Court vide Order dated January 5, 2021 stayed the operation of Order of Commissioner (Appeals) and directed the authorities to follow its Order dated October 15, 2020 read with modification order dated 09.12.2020. However, contempt proceedings were set aside.
- Aggrieved by the above orders including Stay Order passed by the Hon’ble High Court; and with a view that the goods in question could not be released as they are liable to absolute confiscation, the present set of appeals were filed by Union of India and the authorities of Customs Department before the Hon’ble Supreme Court. This challenged the legality and validity of the said orders passed by Hon’ble High Court and whether the goods in question are liable to confiscation or can be released on redemption fine as held by Adjudicating Authority. Moreover, Intervention applications moved by two more importers who imported goods under the cover of the interim orders of the High Court were also attached in the said appeals.
- The instant appeals were filed on the ground that directions by Hon’ble High Court for release of goods were not compatible with the purpose of adjudication by the Commissioner (Appeals). It was also held that the subject

goods, being covered by Section 3(2) of the FTDR Act and having been imported without license as also in excess of the cap of 1.5 lakh MTs, became prohibited goods under Section 11 of the Customs Act by virtue of the deeming fiction in Section 3(3) of the FTDR Act. It was further contended that in view of the purpose of notifications and the observations of Hon'ble Supreme Court in *Agricas*, such prohibited goods were liable to be confiscated absolutely and could not have been released to mingle in the Indian market. Reliance was placed on various decisions including *Garg Woollen Mills, (1999) 9 SCC 175* to support the contention that the subject goods deserve to be confiscated absolutely.

- On the other hand, importers asserted that the said notifications placed quantitative restrictions, hence, they could not have been treated as absolutely prohibited goods and that in *Commissioner of Customs v. Atul Automations, (2019) 3 SCC 539*, the goods imported without authorization were held to be restricted goods and the same principle applies to the subject goods when they have been imported without import license. Relying upon *Hargovind Das K. Joshi v. Collector of Customs, (1987) 2 SCC 230*, it was further stated that even if the subject goods are to be treated as prohibited, discretion was nevertheless available with the Adjudicating Authority to allow their redemption on payment of fine and such discretion has rightly been exercised by Adjudicating Authority in its order. Regarding re-export of the subject goods, it was submitted that it is not a feasible option as the demand and supply of the pulses is dynamic in nature and the release of the subject goods will not be adverse to the economy. Miscellaneous/Incidental prayers for invocation of equity by the importers, for keeping issues open for statutory appeal, and grant of interim relief were also made.

#### JUDGEMENT

- The Hon'ble Supreme Court held that the order passed by the High Court on October 15, 2020 suffers from the shortcomings as it omitted to take into account of the relevant facts as also the material factors concerning the imports in question, including the reasons for issuance of the notifications, which were to safeguard the agriculture market economy of India.
- The Hon'ble Supreme Court further held that the Sub-section (3) of Section 3 of the FTDR Act applies to the goods in question having been imported in contravention of the notifications and trade notices; and being of import beyond the permissible quantity i.e. beyond 1.5 lakhs MTS, and without license, thereby are 'prohibited goods' for the purpose of the Customs Act. Once it is clear that the goods in question are improperly imported and fall in the category of 'prohibited goods', the provisions contained in Chapter XIV of the Customs Act come into operation and the subject goods are liable to confiscation apart from other consequences.
- The Hon'ble Supreme Court distinguished the decision in *Atul Automations (supra)* relied upon by the importers, highlighting the adverse impact of excessive quantity of imports of present goods in question on the agricultural market as opposed to facts in *Atul Automations (supra)* where the import was not likely to affect the domestic market economy - the goods were permitted to be imported (albeit with authorization) for the reason that they were not manufactured in the country. In the present case, the underlying feature for restricting the imports by quantum has been the availability of excessive stocks and adverse impact on the price obtainable by the farmers of the country, thus not a prohibition simpliciter. The cascading effect of improper imports in the previous year under the cover of interim orders was amply noticed by Hon'ble Supreme Court in *Agricas*. The Hon'ble Supreme Court also held that, the imports were not *bona fide* and were made by the importers only for their personal gains.
- The Hon'ble Supreme Court took a note of Section 125 of the Customs Act which obligates the release of confiscated goods (i.e., other than prohibited goods) against redemption fine, although, without making any compulsion as regards the prohibited goods, thereby leaving it to the discretion of the Adjudicating Authority that it may give an option for payment of fine in lieu of confiscation. However, it was further observed that the discretion, in cases involving adverse impact on national economy, cannot be exercised only with reference to the hardship suggested by the importers, who effected such imports only for personal gains, thereby in breach of law, lacking *bona fide*. In the present case, evidently, the Adjudicating Authority's orders were not passed in a proper

exercise of discretion as it did not even consider whether other alternative of absolute confiscation was available to it in its discretion as per the first part of Section 125(1) of the Customs Act and proceeded solely with a view to give the option of payment of fine in lieu of confiscation.

- Accordingly, the Hon'ble Supreme Court set aside the order passed by the Adjudicating Authority and affirmed the order-in-appeal passed by Commissioner (Appeals). It held that the only proper exercise of discretion would be of absolute confiscation along with levy of penalty and prohibiting these goods from entering Indian markets. However, it stated that an option for re-export may be given to the importers on payment of redemption fine and upon discharging other statutory obligations. In view thereof, and in continuity with the interim order dated 18.03.2021 in the instant appeals, the Hon'ble Supreme Court allowed the instant appeals. The goods in question were held to be liable to absolute confiscation but with a relaxation of allowing re-export, on payment of the necessary redemption fine and subject to the importer discharging other statutory obligations. The importers being responsible for the improper imports as also for the present litigation, apart from other consequences, were saddled with heavier costs.

### **Bail application of Chartered Accountant dismissed in fake ITC availment case**

*Abhishek Singhal v. Union Of India and Ors. [TS-231-HC(RAJ)-2021-GST]*

#### FACTS OF THE CASE

- The present matter pertains to bail application filed under Section 439 of Code of Criminal Procedure, 1973 (**Cr. P.C.**) by the Petitioner, a chartered accountant. The Petitioner was arrested for the offence(s) under Section 132(1) (b)/(c)/(f), 4R/20, 132(1)(i) of Central Goods and Services Act, 2017 (**CGST Act**) on the allegation of availment of ITC wrongfully to the tune of INR 6,36,32,492 by creating 38 fake firms.
- In view thereof, the Petitioner filed the bail application asserting that that the petitioner is falsely implicated and that he is a chartered accountant by profession and not liable for the offences committed by co-accused persons. Moreover, it was submitted that bail be granted to him as the co-accused persons have already been released on bail by a co-ordinate Bench of Hon'ble High Court. However, Department while opposing the bail submitted that the co-accused persons did not create any fake invoices or availed or passed on any input tax credit, therefore, Petitioner is the main accused who has been absconding.

#### JUDGEMENT

- The Hon'ble High Court took the cognizance of the Department's submission and the fact that the Petitioner failed to appear before the Department while notices were issued to him and that he remained absconding for about one year even after filing of complaint before the Trial court. It was further held that the Petitioner, a chartered accountant, is master mind of the crime who created 38 fake firms and availed ITC wrongfully to the tune of INR 6,36,32,492. In view thereof bail application was dismissed by Hon'ble High Court as no case was made out to release the Petitioner on bail under Section 439 Cr.P.C.

### **Bail granted to Chartered Accountant arrested on account of bogus ITC availment**

*Bhagwan Sahay Gupta vs. UOI [TS-234-HC(RAJ)-2021-GST]*

#### FACTS OF THE CASE

- The present matter pertains to bail application filed under Section 439 of Code of Criminal Procedure, 1973 (**Cr. P.C.**) by the Petitioner, a chartered accountant. The Petitioner was arrested for the offence(s) under Section 132(1)(i) (iv) read with Sub-Section (5) of Central Goods and Services Act, 2017 (**CGST Act**) on the allegation of registration of 11 fake firms for availing ITC to the tune of INR 146 crores. It was further alleged that the petitioner charged around INR 3,500 per GST return instead of charging INR 1500 per GST return. However, no allegation regarding receipt of any amount or any percentage with regard to the wrong ITC was made.

- In view thereof, the Petitioner filed the bail application asserting that that the petitioner, a Chartered Accountant, created the firms on the basis of documents provided by the co-accused. However, Department while opposing the bail submitted that the petitioner was aware as he was filing GST returns of non-existent firms.

#### JUDGEMENT

- The Hon'ble High Court took the cognizance of the submissions of the Petitioner and the fact that the Petitioner has remained in custody for a period of one year and five months and is also having a child. In view thereof, allowing the application, the Hon'ble High Court directed that Petitioner be released on bail by furnishing a personal bond of INR 1,00,000 together with two sureties of INR 50,000 each to the satisfaction of the Trial Court with the stipulation that he shall appear before that Court.

### **Bail granted to 68 year old assessee accused of ITC fraud in absence of apprehension of running or tampering/influencing the witness**

*Kewal Chand Jain vs. UOI [TS-232-HC(RAJ)-2021-GST]*

#### FACTS OF THE CASE

- The present matter pertains to bail application filed under Section 439 of Code of Criminal Procedure, 1973 ( Cr. P. C.) by the Petitioner, a chartered accountant. The Petitioner was arrested for the offence(s) under Sections 132 (1)(B) & (C) read with 132(1)(I) of Central Goods and Services Act, 2017 (CGST Act).
- In view thereof, the Petitioner filed the bail application asserting that that the petitioner has been falsely implicated in this matter and the challan has been filed before the competent court of jurisdiction. Moreover, the petitioner has already deposited INR 1.54 crores under protest against demand of INR 9.32 crores to show his *bona fide* and same is duly confirmed by the Department.

#### JUDGEMENT

- The Hon'ble High Court considered the material on record and took notice of the fact that i) no apprehension of running away or tempering or influencing the witnesses in any manner has been shown by the Petitioner; ii) challan has already been presented in the court and trial is not proceeding due to ongoing Covid-19 problem. It was further observed that the petitioner has already deposited INR 1.53 crores under protest to show his *bona fide* and is not required for any custodial interrogation/investigation. In view thereof, the Hon'ble High Court granted regular bail to the Petitioner, subject to satisfaction of the trial Court.

### **Ad hoc valuation rule in the case of totalisator is ultra vires the CGST Act**

*Bangalore Turf Club Limited and Mysore Race Club Limited v. State of Karnataka [2021 (6) TMI - 230 Karnataka High Court]*

#### FACTS OF THE CASE

- The Petitioners have a race club wherein the Petitioners conduct horse racing and facilitate betting by the punters (a person who wants to place his bets on the horse). A punter has two options, one is to place bets through a totalisator operated by the Petitioner and the other is to place bets with book makers licensed by the Petitioners. Where the punter places his bets through the totalisator operated by the Petitioners, a specified amount is retained by Petitioners as commission and the balance amount collected by the totalisator is distributed among the winners based on the winning horse and bet amount. Where the punter places bets through the licensed book makers, the bet amount and the betting on individual horses are decided by the book makers.
- Prior to the introduction of GST, the Petitioners were treated as service providers under Chapter-V of the Finance Act, 1994 and service tax was levied on the petitioners' commission alone.
- Under GST, supply of actionable claims, viz. lottery, betting and gambling is treated as supply of goods in terms of Section 7 of the CGST Act. Further, as per Rule 31A (3) of the Central Goods and Services Tax Rules, 2017 (**CGST Rules**) introduced vide Notification No. 3/2018-Central Tax dated January 23, 2018, value of supply of actionable

claim in the form of chance to win in betting, gambling or horse racing in a race club is prescribed as 100% of the face value of the bet or the amount paid into the totalizator.

- The Petitioner has filed the present Writ Petition challenging Rule 31A (3) of the CGST Rules as *ultra vires* the Constitution of India and the provisions of the CGST Act.

#### JUDGEMENT

- The Hon'ble High Court in its judgement dated June 2, 2021, following the decision of the Hon'ble Apex Court in ***Dr. K. R. Lakshmanan v. State of Tamil Nadu and Another [(1996) 2 SCC 226]*** held that a totalizator does not indulge in betting. The Petitioners hold the amount received in the totalizator for a brief period in its fiduciary capacity. Once the race is over the money is distributed to the winners of the stake. It is for a certain period between input of money by the participants and the output of money to the winners of stake during the race the Petitioners hold that money in its fiduciary capacity for which the consideration that the Petitioners receive is the commission.
- It is the bookmakers who indulge in betting and receiving consideration depending on the outcome of the race, irrespective of the result. In contrast, the consideration in terms of Section 2(31) of the CGST Act that the Petitioners receive for supply of such service of the totalizator is only the commission. Therefore, there is no supply of actionable claim of betting by the Petitioners in terms of Section 7 of the CGST Act.
- Resultantly, Rule 31A (3) insofar as it declares that the value of actionable claim in the form of chance to win in a horse race of a race club to be 100% of the amount paid to the totalizator is beyond the scope of the CGST Act.
- It was also held that the decision of the Hon'ble Apex Court in *Skill Lotto Solutions Private Limited v. Union of India and Others [2020 (12) TMI 140 - Supreme Court]* will be inapplicable to the present set of facts since the said decision is limited to the constitutionality of levy of GST on supply of lottery and valuation of the same.

#### **Expiry of time limit of E-way bill on account of genuine reasons**

*Satyam Shivam Papers Private Limited v. Assistant Commissioner of State Tax and Others [2021 (6) TMI - 378  
Telangana High Court]*

#### FACTS OF THE CASE

- The Petitioner dispatched goods on January 4, 2020 under the cover of tax invoice and E-way bill (**EWB**). Petitioner could not deliver the goods on the said day because of traffic and roadblocks owing to political protests. The following day, viz. January 5, 2020 being a Sunday, an attempt was made by the driver of the conveyance to deliver the goods to the buyer on January 6, 2020. On the said date, the conveyance and goods were detained at 12.35 pm by the State GST authorities under Section 129 of the CGST Act on account of expiry of time limit of EWB.
- The Petitioner has filed the present Writ Petition challenging the order of detention and consequent order in Form GST MOV-09 passed by the Department.

#### JUDGEMENT

- The Hon'ble High Court in its judgement dated June 2, 2021, held that the detention under Section 129 of the CGST Act is plainly arbitrary and illegal and violates Article 14 of the Constitution of India, because the delay occurred due to genuine hardships faced by the Petitioner and the same are not denied by the Department.
- Because of non-extension of the validity of the EWB, no presumption can be drawn that there was an intention to evade tax.
- There has been a blatant abuse of power by the Department in the present case. Consequently, order in Form GST MOV-09 was set aside and Writ Petition was allowed with cost.



## Constitutional validity of place of supply rule applicable to intermediaries

*Dharmendra M Jani v. Union of India and Others [2021 (6) TMI - 383 Bombay High Court]*

### FACTS OF THE CASE

- The Petitioner is a proprietor who is engaged in providing intermediary services to customers located outside India and receives payment in foreign exchange.
- As per Section 13(8)(b) of the IGST Act, place of supply of services provided by intermediary service provider to a service recipient located outside India is the location of the supplier. Accordingly, intermediary services provided to foreign customers is not treated as export of service under Section 2(6) of the IGST Act as one of essential conditions of export of service is that the place of supply must be outside India. On the other hand, as per Section 8(2) of the IGST Act, it is treated as an intra-State supply leviable to CGST and SGST.
- The Petitioner has filed the present Writ Petition challenging Section 13(8)(b) of the IGST Act as *ultra vires* the provisions of the CGST Act/IGST Act and inconsistent with Articles 245, 246A, 269A and 286 of the Constitution of India.

### JUDGEMENT

- The Writ Petition was heard by a two-judge bench of the Hon'ble Bombay High Court consisting of Justice Ujjal Bhuyan and Justice Abhay Ahuja.
- Justice Abhay Ahuja has posted the matter to June 16, 2021, for pronouncing his separate opinion.
- Justice Ujjal Bhayan in his judgement dated June 9, 2021, has held that Section 13(8)(b) of the IGST Act is *ultra vires* the said Act besides being unconstitutional for violating Articles 245, 246A, 269A and 286 of the Constitution of India.
- There is an express bar under Article 286(1) of the Constitution of India that no law of a State shall impose or authorize imposition of a tax on the supply of goods or services or both where such supply takes place in the course of export out of the territory of India. The expression "export" has not been defined in the Constitution and therefore, reference must be made to the usage of the said expression in the common parlance. Services provided by an intermediary to a customer located outside India constitutes export of service in common parlance. Hence, it is an export except for the deeming fiction created under Section 13(8)(b) of the IGST Act which makes it contrary to Article 286A of the Constitution of India.
- Article 245(1) of the Constitution of India empowers Parliament to enact law for the whole or any part of the territory of India. Such a law may have extra-territorial operation in order to subserve the object and that object must be related to something in India. It is inconceivable that a law can be made by Parliament in India which has no relationship with anything in India. The extra-territorial effect given by way of Section 13(8)(b) of the IGST Act (by taxing a transaction consumed outside India) has no real connection or nexus with the taxing regime in India introduced by the GST system and hence, it is contrary to Article 245 of the Constitution of India.
- Articles 246A and 269A of the Constitution were inserted by way of the Constitution (101<sup>st</sup> Amendment) Act, 2016. While Article 246A deals with special provision with respect to GST, Article 269A provides for levy and collection of GST in the course of inter-state trade or commerce. From a careful and conjoint reading of the two Articles, it is quite evident that the Constitution has only empowered Parliament to frame law for levy and collection of GST in the course of inter-state trade or commerce. Thus, the Constitution does not empower imposition of tax on export of services out of the territory of India by treating the same as a local supply. Section 13(8)(b) read with Section 8(2) of the IGST Act has created a deeming diction to treat an export transaction as local supply and hence, it is violative of Articles 246A and 269A of the Constitution of India.
- Section 9 of the CGST Act which is the charging Section provides for levy and collection of CGST on all intra-state supplies. Likewise, Section 5 of the IGST Act which is the charging Section which provides for levy of IGST on all

inter-state supplies. Thus, it is apparent that section 9 of the CGST Act cannot be invoked to levy tax on cross-border transactions i.e., export of services. This runs contrary to the scheme of the CGST Act as well as the IGST Act besides being beyond the charging sections of both the Acts.

- Section 13(8)(b) of the IGST Act runs completely counter to the very fundamental principle on which GST is based i.e., it is a destination-based consumption tax.

### Goods sold in DTA similar to those exported - quashes exemption denial under FTP

*M/s BR Steel Products Pvt Ltd Vs CCE [2021-TIOL-317-CESTAT-MUM]*

#### FACTS OF THE CASE

- The Appellant is an Export Oriented Unit (**EOU**) engaged in the manufacture and export of ceramic colors/pigments falling under tariff item 32071040. The appellants have cleared goods in Domestic Tariff Area (**DTA**) in terms of Para 6.8 of the Foreign Trade Policy (**FTP**) and availing exemption contained under Notification No. 23/2003-CE dated March 31, 2003 (**Notification**). The FTP read with the Notification requires that the items cleared in the DTA must be similar to the goods exported.
- It was alleged by the Department that the items cleared in DTA by the Appellant were not similar to the goods exported and there was violation of the provisions of Para 6.8 of FTP [DTA Sale of Finished Products/Rejects/Waste/Scrap/Remnants and By-products] and thus the exemption contained in the Notification cited above was wrongly availed.
- It is the case of the Appellant that the manufacturing activities are similar for the goods either exported or cleared in DTA and the only difference between the goods cleared for exports is that they are more in concentrate form when compared to the goods cleared in DTA. Consequentially, the goods exported are costlier than the goods cleared in DTA.
- The issue to be decided by the Tribunal is whether the ceramic colors cleared by the Appellant for export as well as DTA are similar, thereby whether benefit of Notification cited herein above can be extended to the impugned goods.

#### JUDGEMENT

- The Tribunal took into account that manufacturing activity was same for both type of colors and envisaged that similarity of goods is established beyond reasonable doubt by test report. Also, emphasized that the only difference in goods is that of concentrated or diluted however, both are named ceramic colors and the test reports indicate that they have similar composition.
- The Tribunal highlighted that the Department didn't bring forth any change in circumstances or quality of goods exported and cleared in DTA by the Appellant and held that Department has wrongly tried to differentiate between the goods on the basis of physical characteristics or the price of the same.
- The Tribunal citing various precedents such as **Meghmani Industries, [2010 (261) ELT 411 (T)]** observed that similarity does not mean being identical and opines that there is not even an iota of doubt that goods cleared by the Appellant are nothing but the goods similar to goods exported well within the meaning assigned to same in para 6.8 of FTP.

## RECENT ADVANCE RULING

### Whether 'Track Assembly' for car-seat movement, is a motor-vehicle accessory or a part of seat?

*In re: M/s Daebu Automotive Seat India Pvt. Ltd [[TS-278-AAR(TN)-2021-GST], Tamil Nadu]*

#### FACTS OF THE CASE

- The Applicant is engaged in the business of manufacture of seat components and accessories which is in turn used in the manufacture of seat of four wheelers. Thereafter, the said assembly is supplied to car manufacturers. In this regard, the Appellant sought advance ruling with respect to classification of track assembly manufactured by the Applicant i.e. whether the goods would qualify as parts of seat or parts of motor vehicle.

#### ADVANCE RULING

- The Authority for Advance Ruling (**AAR**) observed that Chapter Heading 9401 covers "seats including seats of a kind used for a motor vehicle" and "parts" of such seats. In other words, it includes only those items which constitute a specific part of a seat like backs, bottoms, arm rest etc. and it does not cover the items which are basically fitted under a seat on the floor of the motor vehicle. However, CH 8708 covers parts and accessories of motor vehicles covered under CTH 8701 to 8705 and excludes 'Vehicle seats' specifically covered under CTH 9401.
- The Authority observed that the track assembly is fitted to the floor of the car, and it enables the forward and backward movement of the seat. The seat is manufactured and is complete before fixing it on the said assembly and therefore, it cannot be termed as 'Parts of seat'. Accordingly, AAR held that the seat and track assembly are two individual and independent products, manufactured separately which are fixed together to make the seat movable and comfortable for the driver and the front co-passenger. Thus, the track assembly which only improves the efficiency and convenience of the seat does not fall in the nature of 'Parts of Vehicle seats' and would not get classified under CTH 9401.
- Thereafter, the Authorities analyzed whether the goods are classifiable under CTH 8708. In this regard, the Authority *inter alia* ruled that the 'Track assembly' is an accessory to the motor vehicle and is covered under CTH 8708- 'Parts and accessories of Motor vehicles' subject to the fulfilment of the conditions specified therein with respect to the HSN *viz*:
  - 'Track assemblies' are identified as being suitable for use solely or principally with the motor vehicles as the track assembly are manufactured and supplied to seat manufacturers for further supply to the motor vehicle manufacturers;
  - The said goods are not excluded under Section Note 2 to Section XVII, and
  - Track assembly is not a 'Part of vehicle seat' which is not specifically mentioned elsewhere in the nomenclature
- On fulfilment of the conditions, Authorities held that the 'Track Assembly' manufactured and supplied by the Appellant is classifiable under CTH 8708 of the First Schedule to the Customs Tariff Act, 1975 as applicable to GST as per Explanation (iii) to Notification 1/2017-Central Tax (Rate) dated June 28, 2017 and would attract GST at 28%.

**Sub-contractor entitled for concessional rate benefit where the supplies by the main contractor is provided to Government entity**

*In re: URC Construction Private Limited [TS-282-AAR(OD)-2021-GST]*

**FACTS OF THE CASE**

- The Applicant has been awarded a contract by M/s NBCC, an executive agency on behalf of M/s Steel Authority of India Ltd. (SAIL), for construction of ISPAT post graduate medical institute and super specialty hospital in Odisha on design, engineering, procurement and construction (EPC) basis.
- The Applicant sought advance ruling on whether supply of service by Applicant, being a subcontractor to SAIL is eligible for concessional rate of GST in terms of Sr.no. 3 (ix) of the Notification no. 11/2017 -CT dated June 28, 2017 (**Exemption Notification**). The said entry provides for concessional rate to the sub-contractor when the transaction pertains to a composite supply of works contract which is predominantly for use as an educational institution, clinical establishment etc. and the services are provided to Central Government, State Government, Union Territory, a local authority, Governmental authority or Government entity.

**ADVANCE RULING**

- AAR observed that the scope of work includes supply of all goods and services required for completion of contract and the said contract is for construction of an immovable property wherein transfer of property in goods is involved in the execution of contract which falls within the scope of the definition of works contract. Since the scope of work includes construction of medical institute [covered under the definition of clinical establishment], it cannot be said to be used for “commerce, industry, or any other business or profession”. Thus, the pre-requisite for claiming exemption stands fulfilled.
- Another aspect needs to be analyzed whether SAIL qualifies as Central Government, State Government, Union Territory, a local authority, Governmental authority or a Government entity. In this regard, it was stated that the construction of a medical institute is undertaken on account of the Central Government’s initiative and it is a Government funded project. Further, SAIL is being set up by an act of Parliament and established by the Government with 90% or more participation. Thus, it was ruled that SAIL qualifies as a ‘Government Entity’ for the purpose of GST.
- Therefore, on fulfilment of all pre-requisite conditions of exemption notification, AAR held that supply of works contract service as sub-contractor to SAIL for construction of ISPAT Post Graduate Medical Institute and Super Speciality Hospital would merit entitlement for concessional rate of 12% GST in terms of exemption Notification.

**Facilitating/Arranging sales for overseas supplier not 'export' but constitutes an 'Intermediary' service**

*In re: Teretex Trading Private Limited [TS-295-AAR(WB)-2021-GST]*

**FACTS OF THE CASE**

- The Applicant located in India procures purchase orders for supply of goods from the buyers located in India. He then connects such prospective buyers with the supplier of goods who are located outside the country. The supplier of goods thereafter dispatches the goods directly to the buyer.
- The value of supply of services in the form of commission is determined at the rate normally prevalent in the market which is generally 1% or 2% depending on the volume of trade and the Applicant can neither change the nature/value of supply of goods nor he holds the title of the goods at any point of time during the entire transaction.
- Further, the value of supply of services as provided by the Applicant is claimed to be based on an agreed percentage which is separately identifiable. The applicant undertakes the aforesaid business activities without

assuming any obligation either on behalf of the supplier or on behalf of the recipient of the goods meaning thereby, he doesn't supply such goods on his own account.

#### ADVANCE RULING

- The Applicant provides services by way of arranging or facilitating sales of goods for various overseas suppliers which is not undertaken on his own account. Hence, the Applicant satisfies two key conditions to be an intermediary as defined in Section 2(13) of the IGST Act.
- Accordingly, it was ruled that the underlying transaction cannot be considered as an 'export of service' and Applicant is an 'intermediary' in terms of Section 2 (13) of the IGST Act. It was further ruled that the place of supply would be determined under Section 13(8) of IGST Act which shall be the location of the supplier of services i.e. West Bengal. Thus, the supply shall be treated as an intra-State supply in terms of Section 2(8) of the IGST Act and shall attract CGST and SGST.

#### **Absent contract, TDS applicable on 'invoice' if supply value exceeds threshold of INR 2.5 lakhs**

*In re: M/s Udupi Nirmiti Kendra [2021-TIOL-139-AAR-GST]*

#### FACTS OF THE CASE

- The Applicant is a trust and is involved in executing civil works contract. They have sought advance ruling in respect of the following questions:
  - Interpretation of the term "a contract" for Tax Deducted at Source (**TDS**) applicability under Section 51 of the CGST Act
  - In the absence of any contract, or contract of continuous supply, whether TDS provisions under Section 51 is applicable for every supply of goods and services? Or whether the single tax invoice shall be considered as "a contract" or aggregate value of purchase from a vendor for the whole year be considered as a contract.

#### ADVANCE RULING

- The AAR notes that in terms of Section 51 dealing with TDS, deduction is required to be made by specific persons if total value of supply under a 'contract' exceeds INR 2.5 lakhs, hence, for determining the TDS liability, supply under a contract is the only criteria.
- As regards meaning of "supply under a contract", there is no precondition that the agreement to supply should always be in writing and the same is governed under the Contract Act, 1972 and all contracts covered under the Sale of Goods Act, 1930 are also contracts under the GST Acts. The AAR while analyzing when the term 'invoice' could be considered as 'contract' or only 'part of contract', elucidates that an invoice, as a commercial document, which is representative of a transaction, could fully cover a contract or part of the contract.
- Elaborates that in case, the contract is for continuous supply of goods or services, then part supplies under the contract are covered in an invoice and in such cases, invoice would not be equated to the contract. The set of invoices issued for all the supplies made as a consequence of the contract of supply would summate to the contract and not the individual invoice. Thus, holds that where the value of a single invoice exceeds INR 2.5 lakhs, TDS provisions u/s 51 shall be applicable, however, if value of supply in single invoice is less than said threshold, TDS provisions is inapplicable on that single transaction or invoice. Further held that if it is a part of supply and part of continuous supply as per purchase order (**PO**), then TDS provisions shall apply if total value of supply as mentioned in PO is more than INR 2.5 lakhs.



## Whether society promoted and monitored by State Government is a 'government entity'?

*In re: M/s Bellary Nirmiti Kendra [2021 (6) TMI 385- AAR, KARNATAKA]*

### FACTS OF THE CASE

- The Applicant is a society which is promoted, monitored, overseen and guided by Karnataka Rajya Nirmana Kendra (**KARNIK**). KARNIK is also a society setup by the Government of Karnataka.
- The Applicant sought advance ruling on whether supply of service by Applicant to the Government is exempt in terms of entry 9C of the Notification No. 12/2017- Central Tax (Rate) dated June 28, 2017 (**Exemption Notification**) which exempts supply of service by a Government entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.

### ADVANCE RULING

- The AAR *inter alia* held that in order to constitute a government entity as defined under the Exemption Notification, it must be a body set up by an Act of Parliament or State Legislature or it must be established by any Government. Moreover, the body should have been set up or established, as the case may be, to carry out a function entrusted by the Government or local authority. Further, the body should have more than 90% participation of the Government or local authority by way of equity or control.
- The applicant has not established that it has been set up by the Government. Mere control of the Government would not make an association a government entity. Hence, the exemption will not apply in the case of the Applicant.

## NOTIFICATION/CIRCULARS

S. No.	Reference	Particulars
1.	<b>Notification No 28/2021 - Central Tax dated June 30, 2021</b>	<ul style="list-style-type: none"> <li>Penalty for non-compliance of GST Invoice QR code provisions in respect of B2C invoices between the period from December 1, 2020 to September 30, 2021 has been waived off.</li> </ul>
2.	<b>Circular No. 156/12/2021- GST dated June 21, 2021</b>	<ul style="list-style-type: none"> <li>Person who has obtained UIN is not a registered person as per CGST Act, therefore, any invoice issued to such person shall be considered as B2C supply and is required to comply with requirement of dynamic QR code.</li> <li>No requirement of mentioning bank account and IFSC details in Dynamic QR code as UPI ID is already linked to payee's bank account.</li> <li>If payment is collected by any other person who is authorized on behalf of the supplier, then UPI ID of such person is to be provided instead of suppliers UPI ID.</li> <li>Dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier. Notably, where place of supply is outside India, service qualifies as export of services and QR code is required under e-invoicing provisions.</li> <li>Linkage of unique order ID/sales reference number with the invoice. Cross reference of such payment along with unique order ID/sales reference number is also provided on the invoice.</li> <li>If part payment for any supply has already been received from the customer, then the dynamic QR code may provide only the remaining amount payable by the customer against 'invoice value'. Details of total invoice value and all cross references should be provided on the invoice.</li> </ul>
3.	<b>Circular No. 149/05/2021- GST dated June 17, 2021</b>	<ul style="list-style-type: none"> <li>Supply of food in 'Anganwadi' and schools is exempt in terms of Entry no. 66 of Notification No. 12/2017-C.T.(Rate) as 'Anganwadi' is covered under the definition of 'educational institution', irrespective of its funding from government grants or corporate donations.</li> </ul>
4.	<b>Circular No. 150/05/2021- GST dated June 17, 2021</b>	<ul style="list-style-type: none"> <li>Activity of construction of road where consideration is received in deferred payment (annuity) is not covered under entry 23A of notification No. 12/2017-CT(R) which solely covers construction of road services (falling under heading 9954). Therefore, GST is applicable on any deferred payment which is paid for construction of roads by way of instalments (annuities).</li> </ul>
5.	<b>Circular No. 151/05/2021- GST dated June 17, 2021</b>	<ul style="list-style-type: none"> <li>GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution. However, GST at 18% would be applicable to other services provided by such boards, such as accreditation to an institution or to a professional to authorize them to provide their respective services.</li> </ul>
6.	<b>Circular No. 152/05/2021- GST dated June 17, 2021</b>	<ul style="list-style-type: none"> <li>It has been clarified that works contract service provided by way of construction such as of ropeway shall fall under entry at s. No. 3(xii) of notification 11/2017-(CTR) and attract GST at the rate of 18% and not 12%</li> </ul>

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7.	<b>Circular No. 153/05/2021- GST dated June 17, 2021</b>	<ul style="list-style-type: none"> <li>It has been clarified that supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under S. No. 3 A of Notification No. 12/2017- C.T (R) as the value of goods supplied in such a composite supply (goods used for fortification, packing material etc.) exceeds 25%. The applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service.</li> </ul>																																								
8.	<b>Circular No. 154/05/2021- GST dated June 17, 2021</b>	<ul style="list-style-type: none"> <li>Service supplied by State Government to their undertakings or PSUs by way of guaranteeing loans taken by them is specifically exempt under entry No. 34A of Notification no. 12/2017-C.T(R)</li> </ul>																																								
9.	<b>Circular No. 155/05/2021- GST dated June 17, 2021</b>	<ul style="list-style-type: none"> <li>GST rate on laterals/parts of Sprinklers or Drip Irrigation System which is used solely or principally with sprinklers or drip irrigation system are classifiable under heading 8424 and would attract GST at 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, shall attract GST as applicable to the respective heading.</li> </ul>																																								
10.	<b>Notification No 4/2021 - Central Tax (Rate) dated June 14, 2021</b>	<ul style="list-style-type: none"> <li>Rate of GST on works contract pertaining to a structure meant for funeral, burial or cremation of deceased reduced to 5% during the period June 14, 2021, to September 30, 2021.</li> </ul>																																								
11.	<b>Notification No 5/2021 - Central Tax (Rate) dated June 14, 2021</b>	<ul style="list-style-type: none"> <li>Concessional rate of GST notified on the following items up to September 30, 2021:</li> </ul> <table border="1"> <thead> <tr> <th>Description</th> <th>Rate</th> </tr> </thead> <tbody> <tr> <td>Medical Grade Oxygen</td> <td>5%</td> </tr> <tr> <td>Tocilizumab</td> <td>Nil</td> </tr> <tr> <td>Amphotericin B</td> <td>Nil</td> </tr> <tr> <td>Remdesvir</td> <td>5%</td> </tr> <tr> <td>Heparin (anti-coagulant)</td> <td>5%</td> </tr> <tr> <td>Covid-19 testing kits</td> <td>5%</td> </tr> <tr> <td>Inflammatory Diagnostic (marker) kits and blood gas reagents.</td> <td>5%</td> </tr> <tr> <td>Hand Sanitizer</td> <td>5%</td> </tr> <tr> <td>Helmets for use with non-invasive ventilation</td> <td>5%</td> </tr> <tr> <td>Gas/Electric/other furnaces for crematorium</td> <td>5%</td> </tr> <tr> <td>Pulse Oximeter</td> <td>5%</td> </tr> <tr> <td>High flow nasal canula device</td> <td>5%</td> </tr> <tr> <td>Oxygen Concentrator/generator</td> <td>5%</td> </tr> <tr> <td>Ventilators</td> <td>5%</td> </tr> <tr> <td>BiPAP Machine</td> <td>5%</td> </tr> <tr> <td>Non-invasive ventilation nasal or oronasal masks for ICU ventilators</td> <td>5%</td> </tr> <tr> <td>Canula for use with ventilators</td> <td>5%</td> </tr> <tr> <td>Temperature check equipment</td> <td>5%</td> </tr> <tr> <td>Ambulance</td> <td>12%</td> </tr> </tbody> </table>	Description	Rate	Medical Grade Oxygen	5%	Tocilizumab	Nil	Amphotericin B	Nil	Remdesvir	5%	Heparin (anti-coagulant)	5%	Covid-19 testing kits	5%	Inflammatory Diagnostic (marker) kits and blood gas reagents.	5%	Hand Sanitizer	5%	Helmets for use with non-invasive ventilation	5%	Gas/Electric/other furnaces for crematorium	5%	Pulse Oximeter	5%	High flow nasal canula device	5%	Oxygen Concentrator/generator	5%	Ventilators	5%	BiPAP Machine	5%	Non-invasive ventilation nasal or oronasal masks for ICU ventilators	5%	Canula for use with ventilators	5%	Temperature check equipment	5%	Ambulance	12%
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12.	<b>Public Notice No. 6/2015- 2020 dated June 14, 2021</b>	<ul style="list-style-type: none"> <li>Appendix 2T of FTP is amended to withdraw powers from Cashew Export Promotion Council (CEPC) of India in relation to issuance/renewal of Registration cum Membership Certificate (RCMC) for Cashew Kernels, Cashewnut Shell Liquid and Kardanol. Agricultural and Processed Food Products Export Development Authority (APEDA) is now authorized to issue RCMCs for such products. RCMCs already issued by CEPC shall remain valid for rest of their validity period.</li> </ul>																																								

S. No.	Reference	Particulars						
13.	Notification No 2/2021 - Central Tax (Rate) dated June 2, 2021	<ul style="list-style-type: none"> <li>Amending Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017 (<b>Service Rate Notification</b>) to provide that the landowner-promoter shall be eligible to utilize the credit of tax charged to him by the developer promoter for payment of tax on apartments supplied by the landowner-promoter in such project.</li> <li>Amending Service Rate Notification to provide that maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts will be subject to GST at the rate of 5% (earlier rate was 18%).</li> </ul>						
14.	Notification No 3/2021 - Central Tax (Rate) dated June 2, 2021	<ul style="list-style-type: none"> <li>Amends the time of supply for payment of GST on consideration paid by developer promoter to landowner. Earlier, time of supply got triggered on the date of issuance of completion certificate for the project, or on its first occupation, whichever is earlier.</li> <li>With effect from June 2, 2021, tax to be paid in a tax period not later than the tax period in which date of issuance of completion certificate for the project, or on its first occupation, whichever is earlier, falls.</li> </ul>						
15.	Notification No. 03/2021-Integrated Tax dated June 2, 2021	<ul style="list-style-type: none"> <li>In exercise of power under Section 13(13) of the IGST Act, it has been notified that place of supply for B2B maintenance, repair, or overhaul (<b>MRO</b>) services in case of shipping industry will be the location of the recipient. This will make the MRO services provided to foreign shipping companies export of service under GST.</li> <li>Earlier, in terms of Section 13(3) of the IGST Act, place of supply of MRO was the location where services were provided, i.e. in India which denied export benefits to the MRO service providers.</li> </ul>						
16.	Notification No. 16/2021 – Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Notified with effect from July 1<sup>st</sup>, 2017, the proviso to Section 50(1) of the CGST Act which provides that interest payable upon late furnishing of returns shall be restricted to the tax paid in cash. Originally the proviso was inserted with effect from September 1, 2020.</li> </ul>						
17.	Notification No 17/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Extends the due date for furnishing FORM GSTR-1 for May 2021 by monthly return filers by 15 days to June 26, 2021.</li> </ul>						
18.	Notification No 18/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Provide relief to the taxpayer by lowering of interest rate on delay in filling FORM GSTR-3B for a specified time for tax periods from March, 2021 to May, 2021.</li> </ul> <table border="1" data-bbox="694 1456 1396 1713"> <thead> <tr> <th>Class of registered person</th> <th>Interest (first fifteen days from due date)</th> <th>Interest (thereafter)</th> </tr> </thead> <tbody> <tr> <td>Taxpayer having Aggregate turnover &gt; 5 crores in the preceding financial year</td> <td>9%</td> <td>18%</td> </tr> </tbody> </table>	Class of registered person	Interest (first fifteen days from due date)	Interest (thereafter)	Taxpayer having Aggregate turnover > 5 crores in the preceding financial year	9%	18%
Class of registered person	Interest (first fifteen days from due date)	Interest (thereafter)						
Taxpayer having Aggregate turnover > 5 crores in the preceding financial year	9%	18%						
19.	Notification No 19/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Waived the late fee payable for delay in furnishing Form GSTR 3B for 15 days from the due date of furnishing of return for the tax period March 2021, April 2021 &amp; May 2021 (registered persons having aggregate turnover &gt; 5 crore).</li> <li>Late fee for non-furnishing of Form GSTR-3B for the period July 2017 to April 2021 is capped at INR 1000/return, if the return is filed before August 31, 2021.</li> <li>If tax liability is NIL, late fee for non-furnishing of Form GSTR-3B for the period July 2017 to April 2021 is capped at INR 500/return, if</li> </ul>						

S. No.	Reference	Particulars
		the return is filed before August 31, 2021.
20.	Notification No 20/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Rationalize the maximum late fee for delay in furnishing in FORM GSTR-1 for the tax period June 2021 onwards for the taxpayer having:               <ul style="list-style-type: none"> <li>(a) NIL turnover – INR 500/return</li> <li>(b) Upto INR 1.5 crore – INR 2000/return</li> <li>(c) INR 1.5 crore to INR 5 crore – INR 5000/return</li> </ul> </li> </ul>
21.	Notification No 21/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Maximum late fee for failure to furnish Form GSTR 4 (annual return for composition taxpayer) capped at (a) INR 500/return where tax payable is Nil and (b) INR 2000/return in other cases.</li> </ul>
22.	Notification No 22/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Late fee for failure to furnish Form GSTR 7 (<b>TDS return</b>) for June 2021 onwards reduced to INR 50/day with the capping of INR 2000/return.</li> </ul>
23.	Notification No 23/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Excludes government department and local authority from the requirement of issuance of e-invoice.</li> </ul>
24.	Notification No 24/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Amends Notification No 14/2021-Central Tax dated May 1, 2021, to extend the time period of specified compliances falling between April 15, 2021, to June 29, 2021 to June 30, 2021 (previously it was till May 30, 2021).</li> </ul>
25.	Notification No 25/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Extends the due date for filling Form GSTR 4 for financial year 2020-21 to July 31, 2021 (previously it was May 31, 2021).</li> </ul>
26.	Notification No 26/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Extends the due date for furnishing of FORM ITC-04 (job work return) for quarter ending March, 2021 to June 30, 2021 (previously it was May 31, 2021).</li> </ul>
27.	Notification No 27/2021 - Central Tax dated June 1, 2021	<ul style="list-style-type: none"> <li>Extends the facility for furnishing the GST returns by companies through electronic verification code to August 2021 (previously it was till May 2021).</li> <li>Cumulative application of Rule 36(4) of the CGST Rules for availing input tax credit for the tax periods April to June 2021, in the return for the month of June, 2021.</li> </ul>

We hope you have enjoyed reading this update. For further information please write to us at [insights@elp-in.com](mailto:insights@elp-in.com) or connect with our authors:

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