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ELP ECONOMIC LAWS PRACTICE ADVOCATES & SOLICITORS

ISSUE - 14

NAVIGATING GST 2.0

- THOUGHT LEADERSHIP
- GST AND OTHER TAX INCENTIVES FOR SETTING UP MANUFACTURING OPERATIONS IN INDIA
- FROM THE BENCH - KEY JUDICIAL PRONOUNCEMENTS
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INTRODUCTION

Note from Editor:

GST has completed half a decade, which is a celebration in itself, however, looking back we can find that the road hasn't been easy. It has been one full of potholes of multiple notifications, conundrums surrounding credit reversal, technical complications, etc. However, it is safe to say that the legislation is surpassing all such blocks one day at a time and holds itself quite strongly as it is today.

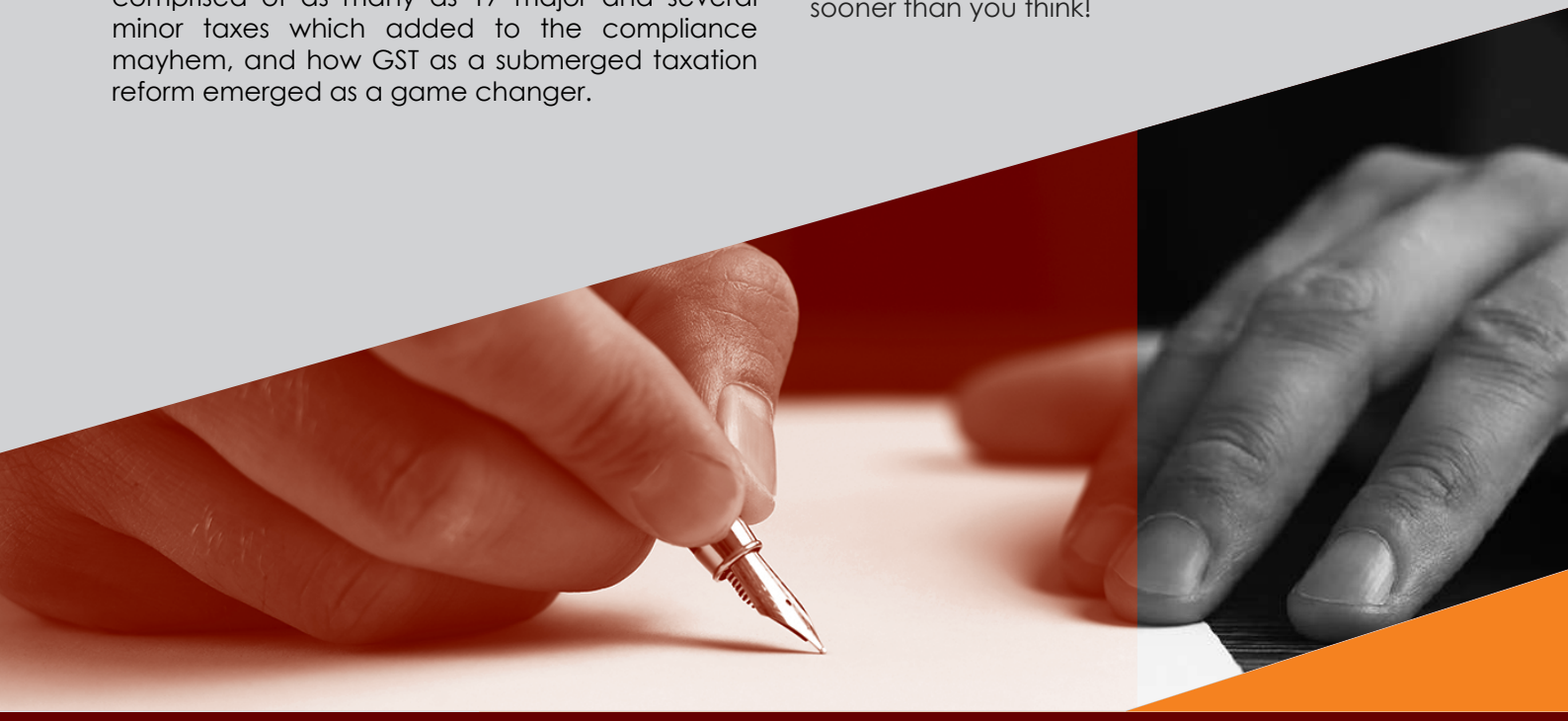
We are elated to bring to you the 14th issue of our GST Newsletter which comprises the latest progress in the indirect tax domain, and enlists the changes in policies, landmark judgments, Circulars, Notifications and much more. The **Thought Leadership** Chapter, depicts the thoughts of ELP Partner **Nishant Shah** who envisages that though GST legislation has completed 5 long years, certain items remain beyond the purview of GST till date. The author discerns the rate rationalization methods adopted by the Government and focuses on the Government's measures to ensure transparency.

Tax incentives are a key to attract investments, otherwise, all kinds of levies and impositions are more often than not, viewed as hurdles by businesses. In the **Cover Story** section titled **"GST & other tax incentives for setting up manufacturing operations in India"**, the authors shed light on how taxes and business activities are a vicious circle, how the erstwhile indigenous indirect tax regime, comprised of as many as 17 major and several minor taxes which added to the compliance mayhem, and how GST as a submerged taxation reform emerged as a game changer.

From the Bench – Key Judicial Pronouncements consists of the recent remarkable verdicts, orders, rulings and decisions of the Hon'ble Supreme Court, High Courts, AARs, Tribunals and the Appellate Authorities. The **Expert Speak** Segment covers snippets from the interview of **Mr. Amit Jain (Vice President of Accounts, Finance and Procurement at Rich Products & Solutions Private Limited)** who refers to GST as the most progressive reform under the Indirect Tax regime in India and quotes, *"Due to real time reconciliation of GST credit one of the most important observations raised during the Excise and VAT era of credit mismatch would be easily addressed ...."*

The Section **Legislature at work – Recent Amendments**, summarizes all the amendments, updates, clarifications and modifications to the provisions of the indirect tax laws by the Government. Under the Module **Allied Laws,** the Newsletter traverses across the Customs Notifications and furthermore, the Heading **Legal Classics** dwells on a remarkable judgment of the pre-GST era, the principles laid down wherein can be made applicable in the GST era as well. The Newsletter wraps up with some noteworthy quotes from GST stalwarts.

We hope the 14th issue of **'Navigating GST'** captivates you well, while we shall strive to bring to you the next quarterly edition of our Newsletter sooner than you think!



THOUGHT LEADERSHIP

The following chapter has been authored by Nishant Shah (Partner) - ELP

GST's 5-year journey, what next to expect?

The Goods and Services Tax ("GST") regime was introduced with the intention of overcoming issues of multiplicity and cascading effect of taxes owing to multiple levies under separate statutes in the erstwhile indirect tax regime. However, despite this clear intent, till date certain items remain outside the ambit of GST and there continues to be multiple rates of tax still causing multiplicity and cascading effect of taxes. The statement of the then Finance Minister Mr. Arun Jaitley indicated that going forward the Government would work on rationalizing the GST rates in a manner that only two rates of taxes remain. However, we have seen that these "rationalization" initiatives of the Government which were meant to reduce the number of tax rate brackets, have, to certain extent only resulted in increasing the rate of tax by shifting more items into the higher tax bracket. These rationalization measures have of course resulted in larger revenue collection by the Government which is evident from the numbers published month on month.

What next?

The recent GST Council meeting held on 28th and 29th June 2022, has taken certain key decisions which hint towards moving to reduced number of tax brackets. When compared globally Indian GST rates of 5%, 12%, 18% and 28% are on a higher side which can be demonstrated by comparing it with the tax rates of the following among other countries:

Country	Tax Rate
Australia	10%
Singapore	7%
Indonesia	11%
United Kingdom	Standard Rate – 20% Reduced Rate 5%
New Zealand	Standard Rate – 15% Reduced Rate – 9%
Ukraine	Standard Rate – 20% Reduced Rate 7%, 14%

Considering the global scenario and the words of erstwhile Finance Minister, while it may be difficult for India to adopt a unitary rate of GST, it seems to be moving towards a two-rate tax structure. Further, for certain demerit/sin goods/services such as tobacco, cigarettes, gambling etc. the Government may choose to continue with a higher rate of tax or may even choose to fill in the gaps by applying cess on such items. Even globally where countries have implemented GST, an additional or a higher rate of tax is applied on alcohol, cigarettes and gambling.

Focus on Exporters to continue

The focus of the Government has throughout been on increasing the exports undertaken by India. The Government has undertaken several initiatives in this regard to support the exporters and have treated them as a privileged class of taxpayers. Since the inception of GST, export of goods and services have been zero-rated and the exporters are allowed to claim refund of tax paid on exports or

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by allowing refund of input tax credit where exports are made without payment of tax. These 5 years of GST has seen, several initiatives of Government for facilitating the exporters in streamlining the refund claims as also the connected compliances. Even going forward one can expect to see more and more measures by the Government to simplify the process of claiming benefits linked to exports. The Government's continued intent to make the process seamless for exporters can also be witnessed from the recently held GST Council meeting which has agreed to take concrete measures to expeditiously dispose the IGST refund claims on exports, including new businesses engaged in exports.

Digitization

Initial structure for introduction of GST had contemplated the GST portal to be highly technology driven, entailing significant amount of digitization inter alia in having a real time matching of the supplies between the supplier and recipient. However, the big bang implementation with a rather developing digital infrastructure was too much to digest for the taxpayers. This eventually led the Government to take a step back to plan and achieve this objective in phases. In these five years we have seen the re-introduction of some of these compliances on the portal, in a modified form (in place of GSTR-2 and GSTR-3) and have seen the Government gradually proceeding towards its objective of achieving the maximum digitization of records, compliances and processes. This can be witnessed in Government making the application of refund claims fully digital, introduction of E-way Bill, GSTR-2B, E-invoicing, generation of QR Code etc. Going forward we can witness the Government introducing several new aspects slowly but steadily in a manner that would ensure smooth implementation and acceptance of the same by the taxpayers at large. Even internationally, such digitization has already been widely implemented and accepted in various countries that have implemented GST. Countries like Brazil, United Kingdom, Singapore, Australia, Indonesia, Ukraine have all implemented the e-invoicing mechanism which is mandatory in these nations. Further, almost all GST implementing nations have moved to online registration and filing of periodical returns. In fact, countries like Spain are so advanced that they have brought into force laws which require e-invoices to be generated through a specified software, through which the invoices would be reported to tax authorities on a real time basis.

Move to faceless:

We have already witnessed the move to faceless assessment in the Income Tax and Customs regimes. With the increasing digitalization of records and processes (supra) even under GST, the day to see faceless assessment may not be too far. With the increased digitization making substantial data available with the authorities, it may not be surprising to even see GST departmental audits and surveys being carried out through the faceless mode. This could be a much called for relief for businesses.

Exchange of data

Rampant sharing and exchange of information has already been initiated between various revenue wings of the Government viz. Income Tax,

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Customs, GST. Seeing the various arms of revenue departments working in tandem it appears that in the future, it may not be surprising to see an amalgamation of all these revenue departments into one single centralized portal for all businesses. While this may be a far reality, it is not an impossibility. Infact countries like Australia and Singapore already have in place a single portal dealing with their Income Tax and GST regimes.

Investigation

The one aspect of any taxing statute that will always exist and continue to be required is the investigation wing, which will have to be physically active. However, one may expect the following:

(1) Further strengthening of investigative body due to redundancy of tax authorities resulting from digitization.

(2) Modern techniques being put to use by these agencies in view of larger investment arising from better recovery of tax into the investigative wing.

(3) The investigative wing is expected to be better informed on account of significant availability of data, not only relating to GST but also other aspects (going beyond tax) of the relevant businesses.

Conclusion

The implementation and effective execution of the above is expected to bring about better compliance, larger transparency and thereby reduced litigation. One therefore hopes that while the journey for both the tax payer and the authority would be difficult from where they are to what is contemplated, the fruits thereof on account of reduced litigation would be sweeter than expected.

GST AND OTHER TAX INCENTIVES FOR SETTING UP MANUFACTURING OPERATIONS IN INDIA

The following chapter has been authored by Adarsh Somani (Partner) - ELP

GST & other tax incentives for setting up manufacturing operations in India.

Levy and impositions, of any sort or kind, have typically been viewed as a burden on investment and economic output. Needless to say, this issue has been (and will continue to be!) the subject of many a debate.

Taxes and business activity are a vicious circle. Both co-dependent on one another. There are two perspectives to this - (a) Taxes are an outcome of the business activity; or (b) Business activity is established and organized basis a tax regime.

Indirect taxes particularly, are an essential category of taxes that take this debate to another level. As a current illustration, the repercussions of tweaking the current indirect tax regime on fantasy sports has had a massive impact on the sector – ranging from investments to impacting the financial health and growth potential of the business.

Taxation, a core tool used by administrations, can make or break businesses.

The results of the PM's vision of 'ease of doing business in India', 'provision for enabling infrastructure' and 'simplified tax regime(s)' have had a significantly positive impact on the country. Ministry of Commerce & Industry in its press release had showcased this earlier this year. Highlights include:

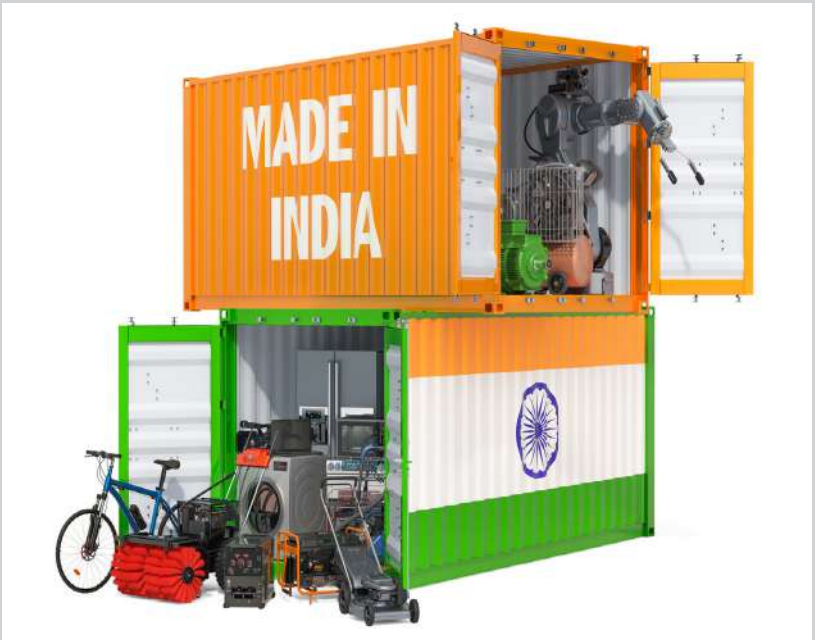
India gets the highest annual FDI inflow of USD 83.57 billion in FY21-22;

- India rapidly emerges as a preferred investment destination; FDI inflows have increased 20-fold in last 20 years;
- FDI equity inflows in Manufacturing rise by 76% in FY 2021-22;
- FDI inflows rise by 23% post-Covid;
- Karnataka emerges as the top FDI equity inflow recipient state in India;
- Top FDI equity inflows from Singapore (27%) followed by U.S.A (18%);
- Computer Software and Hardware becomes the top recipient sector of FDI Equity inflow with a share of around 25%;

A major contributor to the above is also the advent of Goods and Services Tax or GST in India.

The erstwhile indigenous indirect tax regime, comprised of as many as 17 major and several minor taxes added to the compliance mayhem. Several studies identified indirect taxes as a major source of uncertainty & impediment in attracting investments especially in the manufacturing sector. GST, introduced in July 2017, changed the way the world's largest democracy. This was a game changer for investments and rest, as they say, is history. The world is now Making in India.

Numerous other factors also worked in tandem to alleviate the Make in India program. Ranging from investment & production linked incentives,



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expedited single window clearance of proposals, favourable corporate tax propositions, infrastructure development, policy environment and many such initiatives. Like Henry Ford called out – when all factors advance, success takes care of itself.

Tax, being such a core part of doing business, it is important to understand the role of GST (both retrospectively & for the future) and its contribution to the Make in India and Invest in India initiatives.

GST PAVED THE WAY FOR MAKE IN INDIA

Manufacturing in India got more competitive with GST, as it addressed the issues of cascading of tax, inter-state tax, high logistics costs and a fragmented market. Further, increased protection from imports is also available as GST provides for appropriate countervailing duty.

The shake-up of the old taxation regime and the introduction of GST brought in a transparency and certainty which gave a fillip to both domestic and overseas investments in the country.

nightmare. These are now things of the past, thanks to the advent of GST. The old regime resulted in higher compliance costs and even higher exposure of bona fide misunderstanding of the law, thus rendering the old system highly inefficient. GST overcame this proposition of multiplicity of taxes and variance in legislations and thus, have walked the talk to deliver to key propositions.

- Uniform taxation thus improving the competitiveness of domestic manufacturing and provide a boost to the "Make in India" initiative. GST also by far is a significant contributor to improve India's ranking in the "Ease of Doing Business" index.

- The penetration of formal economy has been enabled by GST thus, improving the recorded tax-to-GDP ratio for India. This higher degree of compliance and formalization of economy, gives impetus to investors to look at Make in India favourably.

GST

- Lesser tax legislations to deal with
- One common market, without state boundaries and check posts
- Uniformity of tax rates across states = ease of doing business
- Relaxed procedural system
- Overcoming cascading effect of taxes
- Logistics and inventory costs fall
- Freeing up e-commerce mode of business, due to tax certainties

GST AND MAKE IN INDIA

Unified Market

By removing the tax barriers across states, GST has transformed the country into one unified & common market with no state barriers for trade & supply. The erstwhile inter-state mechanism was not only fragmented but also created hurdles vis-à-vis credits, logistics and paperwork and eventually just one slip could prove to be a compliance

GST also yielded an overall reduction in transportation of goods and consolidation of warehouses. These consolidations and lower costs are proving a boon for business both operationally and financially consequently resulting in higher productivity and throughput.

Business organization & constitution

GST recognizes a vide gamut of business organizations/types of natural & legal persons.

GST AND OTHER TAX INCENTIVES FOR SETTING UP MANUFACTURING OPERATIONS IN INDIA

These range from local/ foreign concepts - including without limitation - a natural individual person, a body corporate, limited liability partnership, Association of Person, Non-resident Taxable Person, casual taxable person, etc.

Depending upon a business constitution, tax implications would differ. The difference could be coverage of activities for forward charge vs. reverse charge taxation, validity period of GST registration, ability to avail input tax credit (i.e. recovery of GST paid on procurement), jurisdiction for compliances and several other legal obligations under GST regulations, assessments in advance or lag and many others. All the above ensure lesser compliances and ease of doing business.

The sentiment of business & investors, especially in the digital space, has been very clear. They do not wish to deal with complications of tax. In fact, comparatively lesser obligations in certain options,

notwithstanding some incremental tax costs involved, may be preferred.

Exports have flourished in the GST regime and exporters have benefitted

The zero-rating propositions under GST encompasses export, deemed exports and dealing with special economic zones. This enables a robust pitch for the government to position itself as a manufacturing hub for the world. While the stated policy of the government has hitherto been to export goods and services but not taxes – this was not getting completely realized in the erstwhile regime. The VAT laws only looked at physical export and not deemed exports, the excise law looked at both but with conditions. Additionally, the service tax law had what was then referred to as place of provision of services, which effectively curtailed export status for many despite the activity earning foreign exchange for India. Thus, there was a so called delineation across laws. This wide gamut of positions made doing business difficult both from an understanding as well as implementation perspective.

GST overcame this by combining some of these intentions and bringing certainty. Extension of full-fledged benefits to deemed exports like supplying under invalidation (from a foreign trade policy standpoint) or to EPCG license holder, etc. yielded desired results by unblocking of credits that were otherwise stuck. The certainty for service exports, with enhanced scope in comparison to service tax era was also welcome. Exports have flourished except if one ignores data over a small period owing to pandemic.

Although this is a good beginning, there remains scope for improvement.

Advance rulings

The advance ruling mechanism enshrined under the GST laws allows taxpayers to resolve critical matters expeditiously (including approaching the higher judicial authority).

There are limitations however. One, is that the mechanism is at state level and different states have opined differently on identical issues. While a national appellate body has been proposed, but it has not yet been implemented. Second, the quality of the rulings has been a matter of concern. Post 5 years of GST, people have started looking at this option merely as a tool to expedite dispute resolution - since reaching High Court through this route may take lesser time than through the standard adjudication and appellate process.

Periodic GST council meetings

The GST legal and procedural aspects have constantly been reviewed by the GST council,

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which has convened 47 times over a period of 5-6 years. This approximately averages to a meeting every second month. They scope legal aspects from an administrator's viewpoint, give an ear to business representations and also consider the socio-economic impact of proposals as brought to the fore by representatives of various states. The intent is therefore, forward looking and results certainly path-breaking.

While GST has delivered several promises, some developments have either tarnished the image of the entire regime or have worked counterproductive to stated objectives. Listed below are five key issues which need urgent redressal.

1. Restrictions on ITC

One of the stated objectives of the GST regime was to eliminate cascading effect of taxes.. The GST regime, however, surprised taxpayers with a rather placidly written proposition restricting input tax credit on identified procurements. Illustrations where ITC is restricted include:

- Food & beverages
- Health insurance of employees
- Club membership
- Rent-a-cab
- Travel benefit to employees
- Goods and services for construction of immovable property
- Goods destroyed or given off as gift or free sample

With some exceptional cases, majority taxpayers tend to lose ITC on the above laundry list of items as enshrined in Section 17(5) of the CGST Act, 2017 ('CGST Act'). The provision deviates from the intent of checking cascading of taxes. Any ITC denied would add to cost of outward supply of goods/ services and hence result in a cascading as the eventual supply shall again be taxable.

Whether this restriction augurs well from the perspective of constitutional validity may/may not be relevant (though there may be a reasonable degree of doubt thereto). It however certainly misses the core principle that these expenses are incurred with an objective of business or commercial expediency - including without limitation - in some cases owing to contractual obligations of business. In the regimes, where credits were not restricted with last mile identification of nature of any expense – the courts have held as under:

(i) The legislative intent is to allow CENVAT credit on all expenditure that forms part of the value of services being rendered. This principle has been approved by larger bench of CESTAT in case of **GTC Industries Limited.**

(ii) "Therefore, an output service provider can take CENVAT credit on all those input services which are so integrally connected with the providing of output service without which such provision of service would be impossible or commercially inexpedient." - CESTAT ruling in **Dell International Services**

(iii) "…. it is expenditure which goes into costing and, therefore, the credit on the same cannot be denied." – CESTAT in **Finolex Cables**

Whereas, in the new regime, credit eligibility has been expunged to suit certain administrative convenience without a viewpoint on validity of these restrictions.

GST AND OTHER TAX INCENTIVES FOR SETTING UP MANUFACTURING OPERATIONS IN INDIA

It is a double whammy when a given expense is allowed as deduction in computation of income liable to tax i.e. amongst others by virtue of section 37 of the Income Tax Act, 1961. The said provision stipulates that "*where an expense is laid out or incurred wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession"*. However, it is a bit confusing that the same expenditure is restricted for ITC eligibility – this ought to be fixed on priority – allow all expenses for ITC to overcome any possible cascading effect.

2. Allow taxpayers to solely focus on their taxes, why bother them for action of others

It is better to be quirky alone than to be unhappy together. While we may not know who said this, it is certainly well said!

Unfortunately, our GST laws have taken a completely contrasting approach in setting out certain ITC eligibility conditions. The regulations provide that ITC eligibility shall depend on the vendor supplier having paid the relevant tax to the government and also filed returns in that regard. Interestingly, if the vendor is non-compliant, the ITC in the recipient's hand is denied. It is akin to chastising one for the fault of other. The recipient in most of these cases would have paid the taxes (as reflected on vendor's invoice) already to the vendor implying one's books already have a cash outflow on account of taxes. A denial of corresponding ITC would mean a double outflow from the recipient's books. The recipient is at a disadvantage as it does not have any participation in non-compliance. Further, in such a scenario, the GST authorities usually follow up with both the supplier and the recipient to seek tax payment and ITC reversals respectively. One needs to examine the constitutionality of this - – the authorities (effectively and possibly in different states) are following up on the same set of arrears and irking two taxpayers – may be one taxpayer deserves the follow up also but the other certainly does not.

Delhi High Court in the case of **Arise India Limited** held that there was a need to restrict the denial of ITC only to the selling dealers who had failed to deposit the tax collected by them and not punish *bona fide* purchasing dealers. This rings true as there cannot be a demand for bona fide actions. Similar views have recently been expressed by Orissa High Court too in case of **Sanchita Kundu**.

While loss of revenue for government is a serious issue, there ought to be a method for the recovery madness!

3. Inverted duty refunds

In Re **VKC Footsteps India Private Limited**, the Supreme Court was seized with the classic debate of whether rules (being subordinate legislation) can exceed the contours of the primary enactment/ legislation. This was focused on Section 54 (3) of the CGST Act, 2017 providing for claiming refund of "any unutilized input tax". Per contra, Rule 89(5) of the CGST Rules restricts the claim of refund only to "input goods", excluding "input services" from the purview of ITC – both provisions deal with scenario of inverted duty structure.

The Supreme Court confirmed the above approach of the law is constitutional and further added that

- There is no constitutional guarantee for right to refund but is purely statutory and hence, statute can put conditions.

- The latitude to make classification in matters of taxation by Parliament is wider than in other forms of legislation.

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- Classification between input supplies & input services is valid & non-arbitrary.

One now has to accept that the above is a precedent unless the Supreme Court decides otherwise.

The legislators and the statute can however, attempt to revive sentiment and make provisions that the taxpayers can be upbeat about. An amendment to the said provisions could go a long way in increasing popularity of both legislators as well as their approach in handling sensitive situations. An inverted duty structure is an obvious loss to the taxpayers. It ought to be corrected without distinction between whether the credit accrues due to purchase of inputs or input services as both are for doing business in India.

The 47th GST Council meeting has touched upon this aspect and one hopes that the regulators will seriously give this a relook.

4. The peculiar rate regime

GST rates provide enough food for thought - both in terms of how legislators identify segments of goods/ services & rates applicable thereto and moreover, how these rates are being enforced by field formations. One peculiar example that cannot escape attention is the categorization of certain products (cereals, pulses, meat, fish, etc.) into branded and unbranded – where both have a different rate of tax. The branded goods in this context imply identified goods when 'put up in unit container' and 'bearing a registered brand name' or 'bearing a brand name on which an actionable claim or enforceable right in a court of law is available' unless such right is voluntarily foregone.

The said language proposition has existed in indirect laws for ages with several such entries existing in the erstwhile central excise tariff too. Needless to add, that interpretational aspects have existed for long. What amounts to a unit container – simple illustrations from a pizzeria, which would put different types & sizes of the pizza in a same box – has been a long standing question.

Further concept of branding of products has its own challenges. Does a brand constitute only when something is written and marked explicitly and indicates a connection with the underlying or merely a generic color scheme and figures on a packaging which would constitute a brand. Some of these issues have led to matters with material numbers into dispute and without the administration appreciating that most of such products are run in three categories

- Unbranded: loose
- Unbranded: pre-packaged
- Branded: pre-packaged

The ground reality remains, that the authorities tend to only recognize the first and the last and the middle tier is repeatedly tagged with branded goods. This obviously hampers the whole business strategy, when enough and more trade parlance on existence of 3 categories is available. This needs a meaningful resolution.

Interestingly, as per media reports about recent GST council meeting, it is being heard that the

GST Council having agreed to replace the entry for branded goods with those 'pre-packaged & labelled'. While no formal announcement came in the 47th GST Council meeting on this front, it is hoped

GST AND OTHER TAX INCENTIVES FOR SETTING UP MANUFACTURING OPERATIONS IN INDIA

that the new proposition will soon be available and would address the concerns rather than being susceptible to interpretational challenges once again.

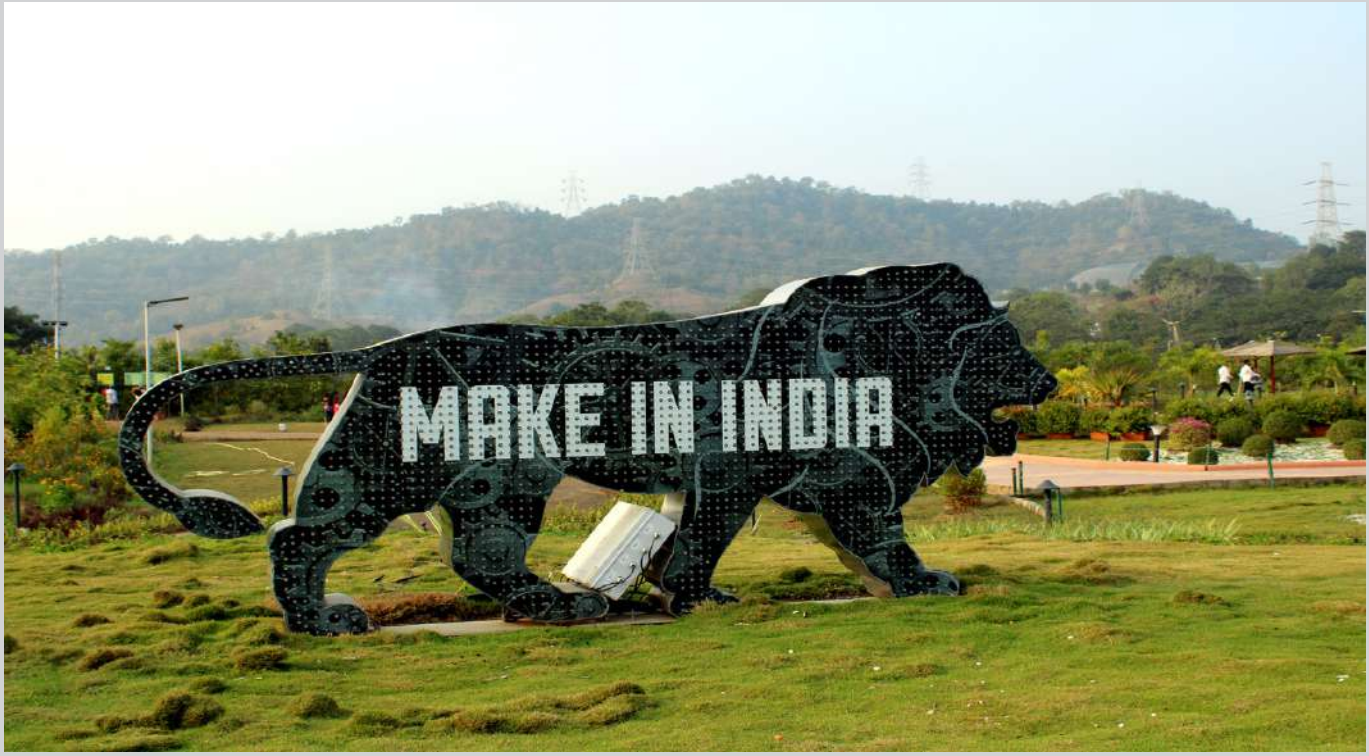
5. Period to reckon anti-profiteering

One more important facet about India's GST is the anti-profiteering measure. Any lowering of rate of tax or additional allowance of ITC ('savings event') has to be passed on to the customer. While there are several debates about the approach taken in proceedings to implement these provisions, one intriguing aspect was about the period for which anti-profiteering would be examined from the date of savings event. Reported instances suggest that while profiteering was computed for only 2.5 months in case of a leading F&B chain, in case of a multiplex business, the period was extended to 18 months and the number varies in each case. There is a formula of how the authorities lock a period in different cases but it would not be prudent to spill those beans here! The period/ method which is best suited for it to reach its preconceived objective is taken as the period of investigation/ proceedings. Needless, to add that such an approach is violative of Article 14 of the Constitution of India i.e. against the concept of equality before law.

This aspect, amongst others, is pending in the list of anti-profiteering matters before the Delhi High Court. While the court would decide the matter judiciously, whether the resolution would be expeditious or not is anyone's case. In the interim, the government has an opportunity to provide this stipulation in the law itself – that such proceedings are examined for not more than 3-6 months from the date of the savings event. While anything over 4 weeks would be yielding an effective price control by GST authorities (something they aren't constitutionally empowered for), the taxpayer may well accede to a slightly longer period too, if that means more certainty.

THE BUCK DOES NOT STOP AT ATTRACTING INVESTMENTS

While the Make in India program no doubt is a success story the case now warrants steady efforts to keep investors happy with good governance and evolving tax policies. GST is a low hanging fruit and hence, while business should volunteer improvement in compliance levels, the government should continue its reformative approach.



FROM THE BENCH - KEY JUDICIAL PRONOUNCEMENTS

The following chapter has been authored by Sweta Rajan (Partner) and Samyuktha Srinivasan (Senior Associate) - ELP

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Spotlight Case Law

1. Supreme Court in Union of India vs Mohit Minerals Pvt Ltd [TS-246-SC-2022-GST]

Other Cases

2. Karnataka High Court in V.S. Products vs. UOI [TS-178-HC(KAR)-2022-GST]
3. Madras High Court in Abi Technologies vs. The Assistant Commissioner of Customs [TS-252-HC(MAD)-2022-GST]
4. High Court of Gujarat in Munjaal Manishbhai Bhatt vs. UOI [TS-214-HC(GUJ)-2022-GST]
5. High Court of Gujarat in Swastik International vs UOI [TS-168-HC(GUJ)-2022-GST]

Union of India vs Mohit Minerals Pvt Ltd [TS-246-SC-2022-GST]

Facts:

- The issue pertained to whether an Indian importer can be made liable to pay Integrated Goods and Services Tax ("IGST") on ocean freight paid by the foreign seller to a foreign shipping line, on reverse charge basis.

- The present appeal was filed against the decision of the Division Bench of the Gujarat High Court, which had held that levy of IGST on ocean freight was unconstitutional.
- The principal challenge before the High Court lay against Notification No. 10/2017 dated 28.06.2017 ("Impugned Notification"), which categorised the recipient of services of supply of goods in a non-taxable territory by vessel to include an importer under Section 2(26) of the Customs Act, 1962. The assessee-respondent alleged that the Impugned Notification creates an element of double taxation as ocean freight is included in the CIF value of goods, on which customs duty is already paid.
- The appellants urged the following, inter alia:
  - The CIF transaction and IGST on ocean freight are two independent transactions, and thus constitute two independent levies. They do not form a composite supply.
  - There is sufficient territorial nexus for the transaction to be taxed as the importer is the beneficial owner of the goods at the time of clearance in the Indian port, and thus the deemed recipient.
  - Recommendations of the GST Council, which stated that IGST ought to be levied in cases of foreign shipping lines in order to level the playing field with Indian shipping lines, are binding on the legislature and can be overridden in exceptional circumstances.

Judgement:

- GST Council recommendations only have a persuasive value and have an intent of ensuring harmony and uniformity between the constituent units.
- The Impugned Notification, in stipulating that the importer is the recipient in this case, is only clarificatory in nature and not ultra vires Section 5(3) and 5(4) of the IGST Act. The argument of

FROM THE BENCH - KEY JUDICIAL PRONOUNCEMENTS

Assessee Respondents that the importer cannot be validly termed as a taxable person must fail on a reading of the impugned notifications alongside Sections 2(107) and 24 of the CGST Act.

- Thus, import of goods by a CIF contract constitutes an 'inter-state supply' and the importer of the goods would be a recipient of shipping services.

- However, the transaction is a composite supply and in terms of Section 8 of CGST Act, only the principal supply, import of goods, is to be taxed in this case. Imposing a levy on the 'service aspect' of the transaction would amount to a violation of the principle of 'composite supply' enshrined under Section 2(30) read with Section 8 of the CGST Act.

- While different aspects of a transaction can be taxed through separate provisions, the 'aspect theory' does not allow the value of goods to be included in services.

- Therefore, the Impugned notifications though validly issued under Section 5(3) and 5(4) of the IGST Act, are in violation of Section 8 of the CGST Act and the overall scheme of the GST legislation.

ELP comments:

This decision has been much awaited and brings all disputes on the issue of taxability of ocean freight to rest. As regards importers who have been paying IGST on reverse charge basis and cannot claim credit on the same, the moot question that remains is whether they can claim refunds or if limitation would apply. A clarification on this aspect from Ministry would go a long way in avoiding multiplicity of proceedings.

V.S. Products vs. UOI [TS-178-HC(KAR)-2022-GST]

Facts of the case:

- The assessee is a proprietary firm engaged in the manufacture of tobacco and tobacco products.

- Pursuant to introduction of GST in 2017, Central Excise Duty was first exempted for tobacco and tobacco products and then once again levied under Notification No. 2/2019-CE dated 06.07.2019. Therefore, effectively Central Excise Duty and GST were both payable.

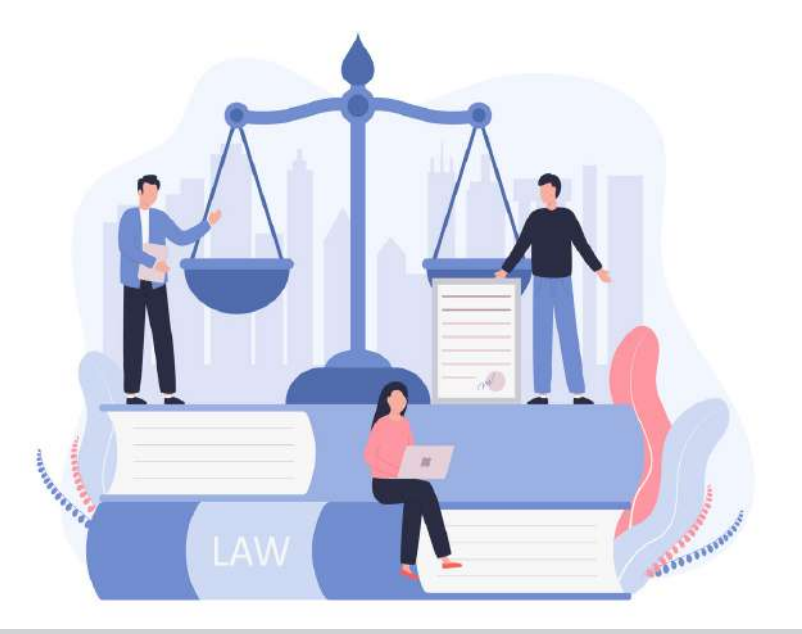
- The assessee sought to challenge the following:

  - Repeal and savings provision in Section 174 of the CGST Act insofar as it seeks to save the operation of the CE Act qua tobacco and tobacco products.

  - Levy of Excise Duty under the CE Act by way of Notification No. 2/2019.

  - Section 136 of Finance Act, 2001 which provides for levy and collection of National Calamity Contingency Duty ("NCCD").

- The single judge of the Karnataka High Court held that levy of GST pursuant to Article 246-A of the Constitution does not abrogate the power to levy Excise Duty under Article 246-A. The legal taxable event under CGST Act would be supply, while excise duty is leviable on manufacture. Though incidence is on a single subject, they pertain to different legal aspects. Further, NCCD is a surcharge, and is in the nature of duty of excise. Therefore, levy of



FROM THE BENCH - KEY JUDICIAL PRONOUNCEMENTS

basic excise duty and NCCD on tobacco and tobacco products is not violative of Article 14 of the Constitution of India.

- An appeal was filed against the order of the single judge.

Judgement:

- Articles 246 and 246-A coexist in the constitutional framework and do not overlap.
- Article 246-A is a "unique" and "independent power" because it contains the source of power as well as the field of legislation, giving it concurrent taxing authority. Article 246A neither overrides nor restricts the operation of Article 246.
- Article 246-A states that Central Excise Duty and GST are levied under separate sources of authority and fields of law and do not in any way conflict with one another. It further states that Article 246-A neither modifies nor restricts the operation of Article 246 read with Entry 84 (i.e., the levy of excise duty on tobacco under Article 246 is independent of the levy of GST under Article 246A).

- Relying on various precedents and the "aspect doctrine", held that excise duty is levied on a separate aspect of manufacture of tobacco, whereas GST is levied on the supply of tobacco and tobacco products. The manufacture and supply of goods are two separate operations in the supply chain.
- Further, cess may be levied as an increment to existing tax, and this is in accordance with Article 271. Thus, tobacco and tobacco products may be subject to NCCD, basic excise duty, and GST at the same time. Validity of Section 174 of GST Act and Section 136 of the Finance Act were upheld.

ELP comments:

This decision clarifies the disparateness of Article 246 and Article 246-A of the Constitution, and notes that since excise duty, NCCD and GST have different sources of power and are levied on different aspects of the same underlying value, it will not amount to double taxation. This decision, in line with ***Mohit Minerals (supra)***, and opens doors for the Revenue to explore different avenues to tax a single transaction, especially if the same is in line with public policy (as is the case with tobacco products).

Munjaal Manishbhai Bhatt vs. UOI [TS-214-HC(GUJ)-2022-GST]

Facts:

- The issue pertained to the validity of Entry 3(if) read with Para 2 of Notification No. 11/2017 – CT (Rate) dated 28.06.2017, as per which, for construction contracts which includes sale of land, the deduction for such undivided share of land is deemed to be 1/3rd the total consideration charged for the transaction.
- The petitioner alleged that though there is a separate and identifiable value of land as per the booking agreement, only 1/3rd the total transaction amount is deducted as an abatement, and this is *ultra vires* Sections 7 and 9 of the GST Acts as it amounts to an imposition of GST on land, which is not a supply.

FROM THE BENCH - KEY JUDICIAL PRONOUNCEMENTS

Judgement:

- "Supply" under Section 7 of the CGST Act extends to supply of goods or services, and supply of land is a supply of neither goods nor services.

- In terms of ***Larsen and Toubro Ltd. v. State of Karnataka (2014) 1 SCC 708***, only the construction that was undertaken after entering into an agreement with the purchaser is considered as a 'works contract'. Therefore, only the value addition after entering into the agreement is chargeable to tax as a works contract. This has also been recognised by the GST Council in their 14th Meeting.

- Thus, the legislative intent is to impose tax on construction activity which is undertaken pursuant to a contract with the recipient, even if such construction is on developed land.

- Where such an agreement provides the actual value ascertained towards transfer of land, mandatory application of deeming 1/3rd of the agreement value towards land would be *ultra vires* the GST Act.

- Since the deeming fiction is uniformly applied irrespective of the size of the plot of land and construction therein, same leads to arbitrary and discriminatory consequences which are clearly violative of Article 14 of the Constitution.

- If it is found that the declared value of land is not the correct value, then a mechanism for valuation similar to Rule 2A of the Service Tax (Determination of Value) Rules, 2006 can be applied, and the value can be derived by applying the cost-plus profit method or a reasonable value method.

- Para 2 of the Notification ought to be read down to the effect that the deeming fiction of 1/3rd of the agreement value will only be available at the option of the taxable persons in cases where the actual value of land or the undivided share in land is not ascertainable.

ELP Comments

This decision is especially beneficial in cities where the value of land is on the higher side and could boost the real estate sector. However, the matter may attain finality only when the Apex Court has had a chance to deliberate on the issue.

Abi Technologies vs. The Assistant Commissioner of Customs [TS-252-HC(MAD)-2022-GST]

Facts:

- The petitioner had correctly declared details of exports in Form GSTR-1. However, an error was committed in form GSTR-3B, and the exports were classified as outward taxable supplies instead of zero-rated supplies for three months.

- The petitioner filed refund claims relying on Circular no. 45/19/2018-GST which was issued in the context of similar errors made on supplies made to, and by, SEZ. The petitioner claimed that the clarification therein would apply to exports made from domestic tariff areas as well.

- The Revenue argued that the petitioner ought to have fulfilled his responsibility of filing valid returns, and the Department was not in a position to process the refund claim due to the inaccurate data on the portal.

Judgement:

- Relying on the decision of the Hon'ble Supreme Court in ***Commissioner of Sales Tax, U.P. v. Auriya Chamber of Commerce [1986 (25) ELT 867]***, it was held that procedures in Rule 96 of

FROM THE BENCH - KEY JUDICIAL PRONOUNCEMENTS

the CGST Rules cannot be applied so strictly to deny legitimate export incentives that are available otherwise.

- The Revenue was directed to validate if there were exports and tax payment data directly from the Assessee and its counterparts in the customs department to sanction the refund claim.

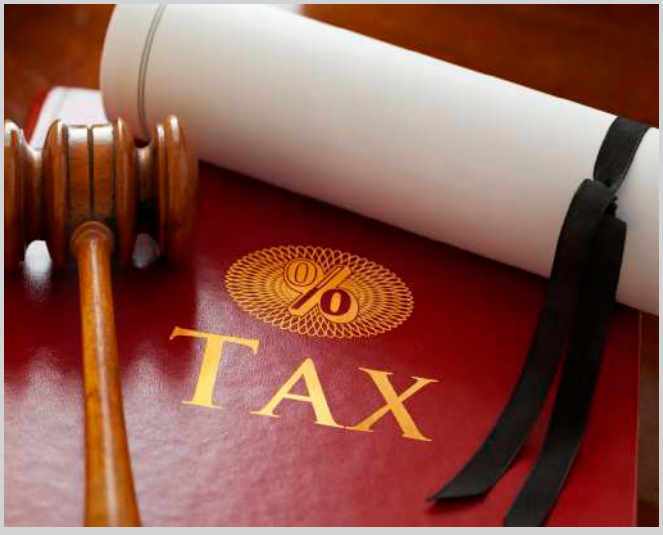
ELP comments:

This decision recognises that substantive law indeed will prevail over procedural law, even in the present times where all filings are digitised on the portal. This is a welcome decision to all assessees.

Swastik International vs UOI [TS-168-HC(GUJ)-2022-GST]

Facts:

- The petitioner was engaged in exports of food products and spices. During the months of July and August 2017, several exports were made upon payment of IGST.



- However, it was found that the Customs Broker had inadvertently failed to mention taxable value and IGST while furnishing the shipping bills, and further inadvertently claimed drawback at a higher rate of 1% of the value instead of 0.15%.

- The petitioner requested for a certificate of amendment from the Department towards these shipping bills, and in the parallel, made a representation to claim refund of the IGST paid.

- The Department rejected the refund claim of IGST by relying on Circular No. 37/2018 – Customs dated 09.10.2018, stating that once the exporter had availed an amount of drawback at a higher rate in place of an IGST refund, then refund of IGST would not be granted. Further, the EDI system would not permit amendment of shipping bills once the LEO has been granted.

- The petitioner filed various representations clarifying that a higher rate of drawback was availed inadvertently, and that the drawback amount has been corrected in the account of the Department. The petitioner then filed the present writ.

Judgment:

- It is evident in the Shipping Bills that the assessee intended to avail refunds available under the Mercantile Scheme but could not do so due to an inadvertent mistake of the customs broker.

- The assessee has also placed on record, valid Forms GSTR-1 and GSTR-3B which reflects payment of IGST along with the Shipping Bills. In terms of Rule 96 of the CGST Rules, the Shipping Bill filed by an exporter is a deemed application for IGST refund.

- Both the reasons for withholding refund of IGST paid is erroneous and fallacious in view of the decision in ***Amit Cotton Industries Vs. Principal Commissioner of Customs (2019 (29) G.S.T.L. 200 (Guj.))***, wherein has been held that the circular explains the provision of drawback but does not pertain to IGST refund.

- Goods being exported out of India, are to be undisputedly treated as 'zero rated supplies' and ought to be granted a refund of IGST along with interest @ 9% from the date of raising of shipping bills till date of realisation of the refund.

ELP Comments:

This decision along with the ***Amit Cotton Industries decision (Supra)*** have recognised that a circular cannot run contrary to statutory provisions.

EXPERT SPEAKS

Mr. Amit Jain - Vice President (Accounts, Finance and Procurement), Rich Products & Solutions Private Limited.

Interview conducted by Niraj Hande (Principal Associate) - ELP

- Its been 5 years since the introduction of GST. How has your organisation dealt with the transition from the erstwhile Central Excise / VAT regime to GST regime.

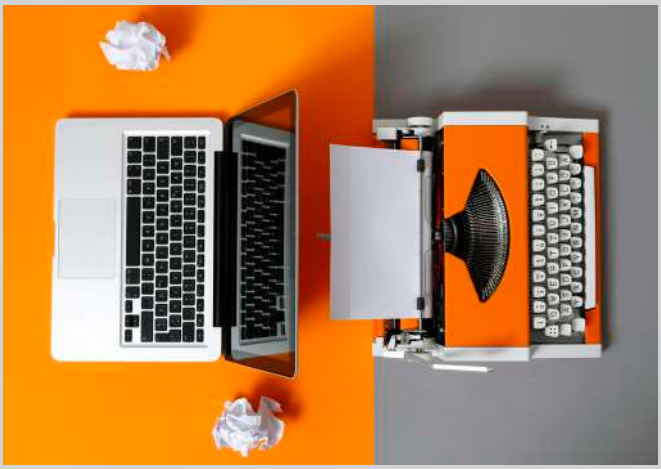
Implementation of GST was the most progressive reform undertaken in indirect taxes in India. It is a multi-stage destination based tax imposed on every value addition. It has been very eventful 5 years since the GST was implemented in 2017 and stabilized over time. The transition from old regime of multiple taxes like Excise, VAT, service tax, etc to single goods and service tax has been smooth and very helpful for the industry. In addition, GST has a positive impact on Manufacturing sector by removing cascading effect of taxes leading to reduction of cost. Historically Manufacturing companies were paying Central excise plus VAT on the same product leading to higher taxes upto (12.5% Excise and 12.5% VAT = 25%) vis a vis GST is around 12% to 18%. There was a burden of filing multiple return and assessment by various tax authorities. With the implementation of GST, there has been the ease in undertaking compliances because of the automation of tax compliances. Also, the process of assessments is expected to become smoother. The automation combined with the e-invoicing/e-way facility has not only positively impacted compliance management but has helped company to have a real time visibility of credit entitlement and avoiding assessment query which was done post multiple years.

- How much weightage do you give to tax and more so GST considerations while undertaking business decisions?

GST has brought whole of India under one tax regime with uniformity in laws, rates and process. Further, GST eliminates the cascading effect of tax and the process of availing input tax credit is easy and seamless. GST has started playing a pivotal role in the way in which we do business. While onboarding any vendor there is a complete review of GST Compliance done by the Vendor and onboarding is done basis positive compliance report of the vendor. While preparing business plan, forecast and strategy utmost important is given to GST rate and the credit percentage input output GST ratio as it is one of the most important tax levied by the entity.

- In your view, has the orientation of tax authorities undergone a change with the introduction of GST regime.

GST is a fully digitized tax compliance system. All the processes can be initiated online – from registration to filing. With the availability of analytics on past submissions and trends, tax authorities can easily monitor compliance and plug leakages. Tax authorities should have lot of comfort with



companies complying with all requirements and filing returns regularly. Due to real time reconciliation of GST credit one of the most important observation raised during Excise and VAT era of credit mismatch would be easily address leading to assessment to be smoother.

- What are the key pain-points which are being faced by the manner in which GST has been implemented in India. What is your wish-list from the GST Council (other than specific exemptions).

(1) Bringing electricity and petroleum under ambit of GST (2) Rationalization of rates – maybe 2-3 slabs encompassing all products / services 3) Finalisation of assessment within 2 to 3 years of the end of financial year.

LEGISLATURE AT WORK - RECENT AMENDMENTS

The following chapter has been authored by Sonam Bhandari (Associate Director) and Gaurav Rawat (Principal Associate) - ELP

CONTENTS

LEGISLATIVE UPDATES		
Sr. No	**Notification/Circular No/Particulars**	**Summary**
1	**GST Collections**	▪ The Gross GST collections in the month of March 2022 was ~ INR 1.42 lakh crore; witnessing a 15% growth YoY. ▪ The Gross GST collections in the month of April 2022 was ~ INR 1.67 lakh crore; witnessing a 20% growth YoY. The gross GST collection for April 2022 was at an all time high; approximately INR 25000 crore more than the highest collection recorded in the month of March 2022 ▪ The Gross GST collections in the month of May 2022 was ~ INR 1.4 lakh crore. The collections in May, which typically reflect collections in relation to supplies in the first month of the financial year are low. However, there was still a growth of 44% YoY
2	**Notification No. 05/2022 – Central Tax dated 17th May, 2022**	The due date for furnishing of Form GSTR-3B for the month of April, 2022 was extended till 24th May, 2022. The extension was linked to difficulties faced by taxpayers in filing of returns on account of a technical glitch on the GST portal
3	**Notification No. 06/2022 – Central Tax dated 17th May, 2022**	For similar reasons as above, the due date for payment of tax for taxpayers under the quarterly return filing scheme, for the month of April, 2022 was extended till 27th May, 2022
4	**Notification No. 07/2022 – Central Tax dated 26th May, 2022**	As background, taxpayers who've opted for payment of tax under the composition scheme are required to file an annual return in Form GSTR-4 by 30th April of the following financial year. Vide the said Notification, late fee for delay in furnishing of Form GSTR-4 for FY 21-22 has been waived for the period from 1st May, 2022 to 30th June, 2022
5	**Notification No. 08/2022 – Central Tax dated 7th June, 2022**	Owing to technical glitches on the GST portal, an exemption from payment of interest has been provided for specified e-commerce operators for delayed payment of tax collected at source for the month of December, 2020. The exemption has been prescribed for those who had deposited the tax collected at source in the electronic cash ledger but could not file Form GSTR-8 and relatedly debit the corresponding amount from the electronic cash ledger
6	**Circular No. 8/2022 dated 4th April, 2022 (Kerala GST Authorities)**	The said Circular clarifies that timelines for initiation of proceedings / executing of compliances by taxpayers would continue to be governed only by the statutory mechanism and time limit provided / extensions granted under the statute itself and the SC's order shall not apply to the same Furthermore, the extension of timelines granted by Hon'ble Supreme Court in light of the pandemic, would be applicable only in respect of any appeal which is required to be filed before the Joint Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various Courts against any quasi-judicial order

LEGISLATURE AT WORK - RECENT AMENDMENTS

7	**Circular No. GST/2021-22/35 dated 20th April, 2022 (Uttar Pradesh GST Authorities)**	UP State GST Authorities *vide* the said circular have issued the following clarifications: (i) In reference to the amendment made under the GST law on delinking of date of issuance of debit note with date of issuance of the underlying invoice for the purpose of availing input tax credit ('ITC'), the following aspects are clarified: ▪ For availment of input tax credit on or after 1st January, 2021 - on debit notes issued prior to or on or after 1st January, 2021: The eligibility for availment of ITC would be governed by the amended provision ▪ For input tax credit availed before 1st January, 2021 - on debit notes issued prior to 1st January, 2021: Eligibility to be governed by provisions existent before 1st January, 2021 (ii) No obligation for carrying a physical copy of tax invoice during movement of goods, where invoice has been generated electronically; (iii) The restriction on refund of accumulated input tax credit on supplies subjected to export duty would not apply to supplies subject to NIL rate of export duty
8	**Instruction No 1/2022-23 [GST Investigation]**	An explicit clarification has been issued by CBIC, that under no circumstances would any recovery of tax be initiated by the officer during the course of search or inspection or investigation. It has been clarified that recovery of liability can only be made in pursuant to an Order passed by the adjudicating authority or where liability otherwise becomes payable under any provision of CGST Act and rules made thereunder. The Instruction further mentions that there is no bar on taxpayers for making any voluntary payments basis their ascertainment of liability owing to non-payment / short payment of taxes before or at any stage of such proceeding
9	**Instruction No. 367/ GST-2 dated 24th May 2022 (Haryana GST Authorities)**	Explicit instructions have been issued by authorities regarding processing of registration applications in Form GST REG 1. The Instruction clarifies that, the GST Act does not mandate physical appearance/personal statements of applicants seeking fresh GST registration The Instruction also recognized that given the need to weed out bogus/ fake firms set-up for passing fake ITC, all registration applications are necessarily required to be processed as per Rule 25 of the CGST Rules and physical verification of the business premises may be conducted in case of doubt/suspicion
10	**Instruction No. 03/2022-GST dated 14th June 2022**	The Instruction prescribed the detailed procedure to be followed by field formations for sanctioning, post audit and review of refund in order to ensure uniformity.

ALLIED LAWS

The following chapter has been authored by Niraj Hande (Principal Associate) and Milan Soni (Associate) - ELP

Customs Tariff Notifications

Notification no. 21/2022-Customs dt. 13.04.2022 - Seeks to exempt raw Cotton from Basic Customs Duty ("BCD") and Agriculture Infrastructure and Development Cess ("AIDC") for a specified period.

The Central Board of Indirect Taxes and Customs ('CBIC' or 'Board') has issued Notification No. 21/2022 – Customs dated 13.04.2022 *vide* which Cotton (not carded or combed) has been exempted from the levy of BCD and AIDC for the period from 14th April, 2022 to 30th September, 2022. This exemption would benefit the textile chain- yarn, fabric, garments and made ups and provide relief to textile industry and consumers.

Notification no. 22/2022-Customs dt. 30.04.2022 - Seeks to give effect to the first tranche of India UAE CEPA

Notification No. 22/2022 – Customs dated 30.04.2022 has exempted specified goods from the levy of customs duty and Agriculture Infrastructure and Development Cess (AIDC) for when imported into India from The United Arab Emirates. This notification is in line with the Tariff Commitment's of India under the India-UAE Comprehensive Economic Partnership Agreement ("CEPA").

Notification no. 23/2022-Customs dt. 30.04.2022 - Seeks to amend the various Customs Tariff notifications in order to align the HS Codes of the said notifications with the Finance Act, 2022, w.e.f. 01.05.2022

The Central Board of Indirect Taxes and Customs ('CBIC' or 'Board') vide Notification No. 23/2022 – Customs dated 30.04.2022 amends various notifications to align the HS codes of the said notifications with the Finance Act, 2022, w.e.f. 01.05.2022.

Notification no. 24/2022-Customs dt. 30.04.2022 - Seeks to amend the notification No. 11/2018 Customs to align the HS Codes with the Finance Act, 2022, w.e.f. 01.05.2022

Notification No. 24/2022 – Customs dated 30.04.2022 has amended various notifications to align the HS codes of the said notifications with the Finance Act, 2022, w.e.f. 01.05.2022.

Notification no. 25/2022-Customs dt. 21.05.2022 - Seeks to amend Notification No. 18/2019-Customs reducing Road and Infrastructure Cess (RIC) on Petrol and Diesel.

Notification No. 25/2022 – Customs dated 21.05.2022 has reduced additional customs duty on Motor spirit commonly known as petrol from INR 13 to INR 5 and High-speed diesel oil to INR 8 and INR 2 respectively. This notification shall come into force with effect from the 22nd of May,2022

Notification no. 26/2022-Customs dt. 21.05.2022 - Seeks to further amend notification No. 50/2017-Customs dated 30th June 2017.

Notification No. 26/2022 – Customs dated 21.05.2022 has made additional entries and certain substitutions in the exemption Notification No. 50 /2017 –Customs dated 30.06.2017 to exempt the duty of customs and integrated tax leviable thereon.

Notification no. 27/2022-Customs dt. 21.05.2022 - Seeks to further amend notification No. 11/2021-Customs dated 1st February 2021 to reduce duty on Anthracite/Coking Coal

Notification No. 27/2022 – Customs dated 21.05.2022 has exempted Anthracite/Coking Coal from so much of AIDC leviable thereon as is in excess of the amount calculated at the standard rate specified in the corresponding entry in the said Table. This notification shall come into effect on the 22nd day of May, 2022.

Sl. No.	Chapter or heading or subheading or tariff item of the First Schedule	Description of goods	Rate
10A	2701	(a)Anthracite/ Pulverized Coal Injection (PCI) coal (b) Coking coal	Nil

ALLIED LAWS

Notification no. 28/2022-Customs dt. 21.05.2022 - Seeks to amend Second Schedule of the Customs Tariff Act, 1975 to increase and levy Export duty.

Notification No. 28/2022 Customs dated 21.05.2022 levies or increases export duty on certain articles. This notification shall come into effect on the 22nd day of May 2022.

Notification no. 29/2022-Customs dt. 21.05.2022 - Seeks to amend notification No. 27/2011 dated 1st March 2011 to increase export duty on certain goods.

Notification No. 29/2022 Customs dated 21.05.2022 makes amendments in the Notification No. 27/2011 dated 1st March 2011 in relation to export duty on certain articles. This notification shall come into effect on the 22nd day of May 2022.

Notification no. 30/2022-Customs dt. 24.05.2022 - Seeks to provide global Tariff Rate Quota (TRQ) of 20 LMT per FY to Crude Sunflower Oil and Crude Soyabean Oil for 2 years exempting from whole of BCD and AIDC

Notification No. 30/2022 – Customs dated 24.05.2022 exempts Crude Sunflower Oil and Crude Soyabean Oil specified in the Table below when imported into India from whole of the BCD and AIDC, for such quantity of total imports of such goods in a financial year, as specified in below ['Tariff Rate Quota (TRQ) quantity'], subject to specified conditions. This notification shall come into effect on the 25 May 2022 up to 31.03.2024.

Sl. No.	Sub-heading or tariff item	Description of goods	Tariff Rate Quota (TRQ) quantity per financial year
1	1507 10 00	Crude Soya-bean oil, whether or not degummed	20,00,000 MT
2	1512 11 10	Crude Sunflower seed oil	20,00,000 MT

Customs Non-Tariff Notifications

Notification no. 35/2022-Customs (N.T.) dated 26.04.2022 - Amendment in the notification No. 12/97-Customs (N.T.) dated the 2nd of April 1997

The Central Board of Indirect Taxes and Customs ('CBIC' or 'Board') vide Notification No. 35/2022-Customs (N.T.) dated 25.04.2022 amends notification No. 12/97-Customs (N.T.) dated 02.04.1997 to appoint Balli in the State of Goa as Inland Container Depots for unloading of imported goods and loading of export goods.

Notification no. 39/2022-Customs (N.T.) dated 30.04.2022 - Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and the United Arab Emirates) Rules, 2022

The Central Board of Indirect Taxes and Customs ('CBIC' or 'Board') vide Notification No. 39/2022-Customs (N.T.) dated 30.04.2022 has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and the United Arab Emirates) Rules, 2022 which come into force on the 1st of May 2022. These rules lay down the value addition norms and compliances required, as have been decided under the India-UAE CEPA.

Notification no. 44/2022-Customs (N.T.) dated 20.05.2022 - Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Amendment Rules, 2022

ALLIED LAWS

The Central Board of Indirect Taxes and Customs ('CBIC' or 'Board') vide Notification No. 44/2022-Customs (N.T.) dated 20.05.2022 makes rules to further amend the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Rules, 2011.

Such rules are called the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between the Republic of India and Japan) Amendment Rules, 2022.

Customs Anti-dumping Notifications

Revoking the levy of Anti-dumping Duty on various imports:

The Central Government has revoked the levy of Anti-Dumping Duty on imports of:

- Amoxycillin also known as Amoxycillin Trihydrate originating in or exported from China PR and imported into India **[Notification No. 13/2022-Customs (ADD) dated 11-05-2022]**

- Hydrogen Peroxide imported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand - 20/2022 **[Notification No. 20/2022-Customs (ADD) dated 07-06-2022]**

Initiation of levy of Anti-dumping Duty on various imports:

The Central Government has initiated levy of Anti-Dumping Duty on imports of:

- "N,N-Dicyclohexyl Carbodiimide (DCC)"/ originating in or exported from China PR for a period of 5 years [**Notification No. 12/2022-Customs (ADD) dated 28-04-2022]**

- PU Leather originating in or exported from China PR [**Notification No. 14/2022-Customs (ADD) dated 20-05-2022]**

- Ceramic Tableware and kitchenware, excluding knives and toilet items' originating in or exported from China PR for a period of five years. [**Notification No. 16/2022-Customs (ADD) dated 24-05-2022]**

- Decor Paper" originating in or exported from China PR – Amendment in the Notification No. 77/2021- Customs(ADD) dated 27.12.2021 [**Notification No. 15/2022-Customs (ADD) dated 24-05-2022]**

Extension of levy of Anti-dumping Duty on various imports

The Central Government has extended levy of Anti-Dumping Duty on imports of:

- "Styrene Butadiene Rubber" originating in or exported from European Union, Korea RP and Thailand, imposed vide Notification No. 43/2017-Customs (ADD) dated 30th August 2017, till 31st October, 2022. [**Notification No. 17/2022-Customs (ADD) dated 30-05-2022]**

- Jute products originating in or exported from Nepal and Bangladesh [**Notification No. 18/2022-Customs (ADD) dated 31-05-2022]**

- Toluene Di-isocyanate (TDI) originating in or exported from China PR, Japan and Korea RP,by amending notification No. 3/2018-Customs (ADD) dated 23-01-2018. [**Notification No. 19/2022-Customs (ADD) dated 03-06-2022]**

- New/unused pneumatic radial tyres with or without tubes and/or flap of rubber (including tubeless tyres) having normal rim dia code above 16 used in buses and lorries/trucks [**Notification No. 21/2022-Customs (ADD) dated 08-06-2022]**

ALLIED LAWS

DGFT Circular

Policy Circular No. 39/2015-20 dated 07.06.2022 - Relaxation in provision of submission of 'Bill of Export' as an evidence of export obligation discharge for supplies made to SEZ units in case of Advance Authorisation.

The Directorate General of Foreign Trade ('DGFT') vide Policy Circular No. 39/2015-20 DGFT dated 07.06.2022 has relaxed the condition of requirement of submission of 'Bill of Export' in case of exports made to SEZ units under Advance Authorisation, for all such supplies made prior to 01.04.2015.

Accordingly, for the purpose of discharge of export obligation under Advance Authorisations, in case of supplies made to SEZ units prior to 01.04.2015, the exporters can submit corroborative evidence in lieu of 'Bill of Exports' such as:

a. ARE- 1 form duly attested by jurisdictional Central Excise/GST Authorities of AA holder.

b. Evidence of receipt of the supplies by the recipient in the SEZ

c. Evidence of payment made by the SEZ unit to the AA holder

DGFT Notifications

DGFT Notifications in relation to Amendment in the import policy conditions:

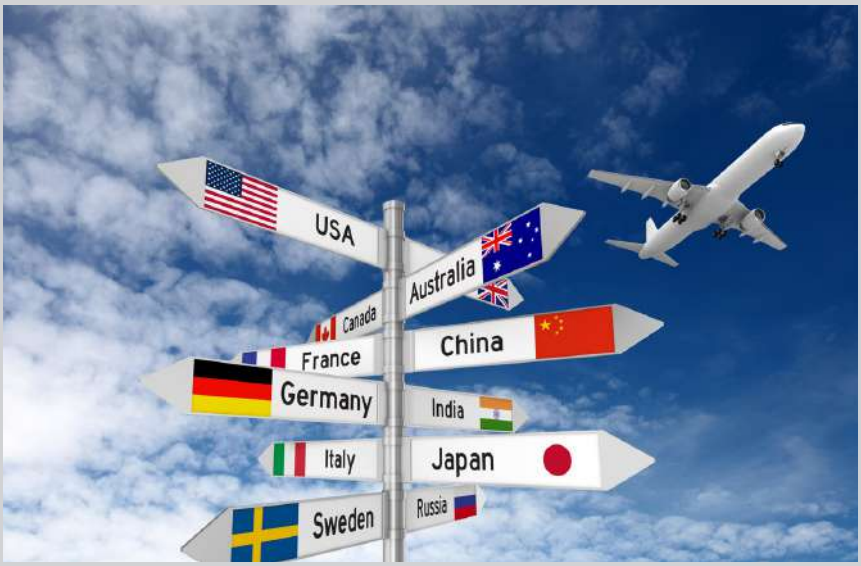
Notification No. 66/2015-20 dated 01.04.2022 - Amendments to Foreign Trade Policy 2015-2020 - Extension of Integrated Good and Service Tax (IGST) and Compensation cess exemption under Advance Authorisation, EPCG and EOU scheme up to 30.06.2022

Notification No. 66/2015-20 DGFT dated 01.04.2022 makes the following amendment in Foreign Trade Policy 2015-2020:

i. Exemption from Integrated Tax and compensation cess under Advance Authorization under Para 4.14 of FTP 2015 -20 is extended up to 30.06.2022.

ii. Exemption from Integrated Tax and Compensation cess under EPCG scheme under Para 5.01 (a) of FTP 2015-20 is extended up to 30.06.2022.

iii. Exemption from Integrated Tax and Compensation cess under EOU scheme under Para 6.01(d)(ii) of FTP 2015-20 is extended up to 30.06.2022.



Notification No. 4/2015-20 dated 11.05.2022 - Alignment of Appendix 4R with the Finance Act, 2021 with effect from 01.01.2022

Notification No. 4/2015-20 DGFT dated 11.05.2022 notifies new RoDTEP schedule (Appendix 4R) for implementation with effect from 01.01.2022 after aligning the earlier schedule with the Customs tariff Schedule as per Finance Act, 2021.

This new Appendix 4R containing the eligible RoDTEP export items, rates and per unit value caps, wherever applicable is available at the DGFT portal www.dgft.gov.in under the link 'Regulatory Updates >RoDTEP'.

Notification No. 12/2015-20 dated 01.06.2022 - Alignment of Appendix 4R with the Finance Act, 2022 with effect from 01.05.2022 - eligible RoDTEP export items, rates and per unit value caps, wherever applicable is available

ALLIED LAWS

Notification No. 12/2015-20 DGFT dated 01.06.2022 notifies an Appendix 4R containing the eligible RoDTEP export items, rates and per unit value caps, wherever applicable. The same is available at the DGFT portal www.dgft.gov.in under the link 'Regulatory Updates > RoDTEP' and is aligned with the Finance Act, 2022 and shall he effective from 01.05.2022.

DGFT Public Notices

Public Notice No. 01/2015-20 dated 04.04.2022 - Implementation of the Track and Trace system for export of Pharmaceuticals and drug consignments along with maintaining the Parent-Child relationship in the levels of packaging and their movement in supply chain - Extension of date of implementation regarding.

Public Notice No.01/2015-20 dated 04.04.2022 extends the date for implementation of Track and Trace system for export of drug formulations with

respect to maintaining the Parent-Child relationship in packaging levels and its uploading on Central Portal up to 31.3.2023 for both SSI and non-SSI manufactured drugs.

Public Notice No. 03/2015-2020 dated 13th April, 2022 New provisions prescribed for filing of request for extension of Export obligation ('EO') period:

- Request for extension of EO period of first block to be submitted within 6 months of expiry of EO period. Possible consideration by RA for applications received within 6 years from the date of authorization, with a late fee of INR 10,000 per authorization. Beyond a period of 6 years, RA could still consider a request for extension with an additional fee of INR 5,000 per year per authorization
- Composition fee to remain the same – at 2% of duty saved amount proportionate to unfulfilled portion of EO pertaining to the block
- Where an extension is not granted, duty would be payable with 6 months of expiry of EO period

Annual report on fulfillment of EO was earlier required to be submitted by 30th April of every year. The said period has been extended to 30th June of every year with a late fee of INR 5000 for each financial year, in cases of delay

Additional fee for enhancement of duty saved amount upto 10% would be required to be paid at the time of application for EODC vis-à-vis the earlier prescribed one month period

Earlier RA's could consider request for extension of EO period only on requests received upto a period of 180 days from the expiry of original EO period. However, vide the said Notification requests made beyond 8 years also allowed to be regularized, for extension of EO period from 6 years to 8 years

Average EO period going forward is required to be maintained on an overall basis

Public Notice No. 04/2015-20 dated 20.04.2022 - Applications for allocation of Tariff Rate Quota (TRQ) under India - Mauritius CECPA for the for the financial year 2022-23

Public Notice No.04/2015-20 dated 20.04.2022 provides that the online applications for allocation of Tariff Rate Quota (TRQ) under India-Mauritius CECPA for the current financial year 2022-23 which will be considered by the DGFT on First Come, First Served basis, with no end date.

Public Notice No. 05/2015-20 dated 29.04.2022 - Amendment of Appendix 2B [List of Agencies Authorised to issue Certificate of Origin (Preferential)] of Foreign Trade Policy, 2015-2020.

Public Notice No.05/2015-20 dated 29.04.2022 amends Appendix 2B [List of Agencies Authorised to issue Certificate of Origin (CoO) (Preferential)] of the FTP by including the list of authorised agencies allowed to issue CoO for India-UAE Comprehensive Economic Partnership Agreement (CEPA)

ALLIED LAWS

Public Notice No. 07/2015-20 dated 06.05.2022 - Allocation of additional quantity of 2051 MT for export of raw sugar to USA under Tariff Rate Quota (TRQ) for the US Fiscal Year 2022.

Public Notice No.07/2015-20 dated 06.05.2022 allocates an additional quantity of **2051 MT** raw sugar for export under Tariff Rate Quota (TRQ) to USA for the US fiscal year 2022 (October 1 2021 to September 30, 2022). With this additional allocation, quantity for export of sugar to USA under TRQ for the fiscal year 2022 would be as under: -

Public Notice No. & Date	Quantity of sugar allocated MT
Quantity allocated under Public Notice No. 28/2015-20 dated 14. 10.2021	8424
Additional Quantity Allocated	2051
Total Quantity Allocated	10475

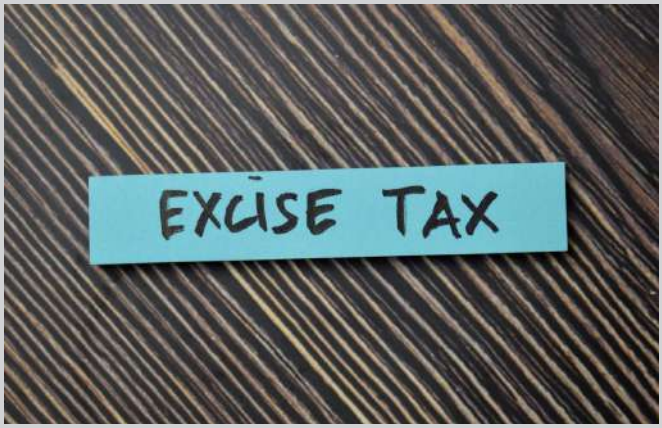
Public Notice No. 08/2015-20 dated 19.05.2022 - Amendment of Last date of Application as mentioned under Public Notice 06/2015-20 dated 01.05.2022

Public Notice No.08/2015-20 dated 19.05.2022 extends the last date for submission of online applications for allocation of Tariff Rate Quota (TRQ) under India-UAE CEPA first two quarters of FY 2022-23 (01 May 2022 to 30 Sep 2022) till 31.05.2022.

Public Notice No. 11/ 2015 -20 dated 7th June, 2022

In reference to application for redemption against Advance Authorization for deemed exports, the following documents are required to be filed:

- A copy of the invoice or a statement of invoices duly signed by the unit receiving the material certifying the item of supply, its quantity, value and date of such supply
- In case of supply of items which are non-excisable or supply of excisable items to a unit producing non excisable product(s), a project authority certificate (PAC) certifying quantity, value and date of supply would be acceptable in lieu of excise/GST certification
- In respect of supplies to EOU/EHTP/ STP/ BTP, a copy of CT-3/ ARE-3 duly signed by the jurisdictional excise/GST authorities certifying



the item of supply, its quantity, value and date of such supply can be furnished in lieu of the excise/GST attested invoice (s) or statement of invoices

- For supplies by the Intermediate supplier to the port directly for export by the ultimate exporter, (holder of Advance Authorisation or DFIA), copy of the shipping bill with the name of domestic supplier as Intermediate supplier endorsed on it along with the file No., Authorisation No. of the ultimate exporter and the intermediate supplier shall be required to be furnished

The changes are essentially to align the procedure post implementation of GST and promote ease of doing business

Public Notice No. 13/ 2015-20 dated 09.06.2022

Public Notice No. 13/ 2015-20 dated 0.06.2022 Time limit for filing of annual returns under EPCG Scheme for FY 2022-23 extended up to 30th September 2022. Specific clarification on late fee of INR 5000 being applicable on non-filing of returns for FY 2022-23 onwards.

DGFT Trade Notices

Trade Notice No. 01/2022-23 dated 11.04.2022 - Re-operationalisation of Scrip Transfer Recording Module – reg

Trade Notice No. 01/2022-23 dated 11.04.2022 re-operationalises the IT module which was put in place through Trade Notice No. 42 dated 11.01.2019 and Trade Notice No. 03 dated 03.04.2019 with additional features/limitations.

ALLIED LAWS

Trade Notice No. 02/2022-23 dated 22.04.2022 - DGFT Helpdesk support now available on 24x7 basis- reg

Trade Notice No. 02/2022-23 dated 22.04.2022 provides that services of DGFT Helpdesk will now be available on a 24x7 basis. Stakeholders have been provided channels such as calls, raising a ticket and writing an email to flag any issues, suggestions or feedback on matters related to DGFT.

Trade Notice No. 03/2022-23 dated 26.04.2022 - Issuance and electronic Verification of Pre-Shipment Inspection Certificate (PSIC)

Trade Notice No. 03/2022-23 dated 26.04.2022 proposes a new online module for filing of application for recognition as Pre-Shipment Inspection Agency (PSIA), electronic issuance of Pre-shipment Inspection Certificates (PSICs) and electronic verification of authenticity of the PSICs with effect from 01.05.2022.

The DGFT prescribes the online process and further provides that it shall not be mandatory in the initial period of go-live and the PSIAs as well as the importers are provided time till 30.06.2022 to onboard and familiarise with the said online process.

All PSICs will be mandatorily generated online through the DGFT Website w.e.f. 01.07.2022. PSICs dated on or after 01.07.2022 not generated using the DGFT online systems may not be accepted by the Indian Customs Authorities.

Trade Notice No. 04/2022-23 dated 27.04.2022 - Extension of Date for Mandatory electronic filing of Non-Preferential Certificate of Origin (CoO) through the Common Digital Platform to 1st August 2022 -reg

Trade Notice No. 04/2022-23 dated 27.04.2022 provides that transition period for mandatory filing of applications for Non-Preferential Certificate of Origin through the e-CoO Platform has been further extended till 01st August 2022.

Exporters and NP CoO Issuing Agencies would have the option to use the online system, the same shall not be mandatory till 01st August 2022. The existing systems of processing non-preferential CoO applications in manual/paper mode is being allowed.

Further, it provides that issuing agencies who do not use the Online System for issue of non-preferential CoOs after 1st August 2022 will invite penal action and can be subject to 'de-listing' as an authorised agency.

Trade Notice No. 05/2022-23 dated 29.04.2022 - Electronic filing and Issuance of Preferential Certificate of Origin (CoO) for India's Exports under India-UAE Comprehensive Economic Partnership Agreement (India-UAE CEPA) w.e.f. 01st May 2022

Trade Notice No. 05/2022-23 dated 29.04.2022 provides that the electronic platform for Preferential Certificate of Origin (CoO) is being expanded further to facilitate electronic application of Preferential Certificates of Origin under the India-UAE Comprehensive Economic Partnership Agreement. The Preferential Certificate of Origin for Exports to UAE under India-UAE CECPA shall be issued from the CoO e-platform with effect from 01st May 2022. It also provides for the certain instructions and procedures in this regard.

Trade Notice No. 12/2022-23 dated 30.05.2022 - Uploading of e-BRC by 15.07.2022 for shipping bills on which RoSCTL scrip has been availed from DGFT RAs.

Trade Notice No. 12/2022-23 dated 30.05.2022 provides that all exporting firms, who have been issued scrips under RoSCTL for exports / shipping bills upto 31.12.2020, are requested to get the relevant e-BRCs uploaded in the DGFT server by their AD banks latest by 15.07.2022, failing which action as per para 4.96 of HBP, as notified vide PN 58 dated 29.01.2020 would be initiated by the jurisdictional RAs.

LEGAL CLASSICS

The following chapter has been authored by Jitendra Motwani (Partner), Rinkey Jassuja (Associate Partner) and Alifya Vora (Associate) - ELP

Commissioner of Customs, Central Excise & Service Tax- Bangalore (Adjudication) Etc. V. M/S Northern Operating Systems Pvt Ltd. (Order dated 19.05.2022 in Civil Appeal No. 2289-2293 of 2021)

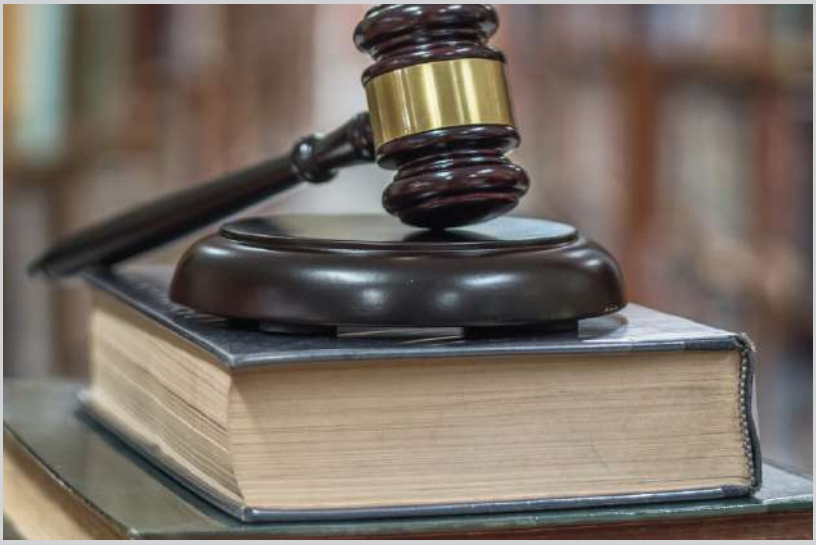
In an increasing globalized world, secondment of employees across group companies is becoming commonplace. Such secondment allows companies to leverage its talent pool. In a typical secondment arrangement, an employee is deputed by one entity to its affiliated/group entity, while remaining on the payroll of the deputing entity. Such an employee works under the control and supervision of the affiliated/group entity. However, the salary of such an entity is paid by the deputing entity and is subsequently reimbursed by the affiliated/group entity.

Ever since the introduction of the service tax regime, the consideration which flows from the employer to an employee in course of a contract of employment has been kept outside the purview of tax. However, the Revenue has alleged that in a secondment arrangement the deputing entity is providing service of "manpower recruitment and supply services" to its affiliated/group entity. This dispute has been conclusively put to rest by the decision of the Hon'ble Supreme Court in the case of **Commissioner of Customs, Central Excise & Service Tax- Bangalore (Adjudication) Etc. V. M/S Northern Operating Systems Pvt Ltd. (Order dated 19.05.2022 in Civil Appeal No. 2289-2293 of 2021) ("Northern Operating Systems").**
In this case the moot issue before the Hon'ble Supreme Court was whether the deputing entity is providing manpower services through seconded employees. The Hon'ble Supreme Court answered the said question in affirmative and in favour of the Revenue.

While dealing with the aforementioned issues the Hon'ble Court also dealt with certain key concepts like- contract for services and contract of service, and the doctrine of substance over form. The principles laid down by the Hon'ble Supreme Court in this case, may be relevant under the GST regime as well.

Decision in the case of Northern Operating Systems

The assesee in the instant case, i.e. Northern Operating Systems (**NOS**) was engaged in the provision of general back office and operational support services to its overseas group entity i.e. Northern Trust Company (**NTC**). In order to provide the said services, it received managerial and technical support from its overseas group entity i.e. Northern Trust Management Ltd ("**NTMS**") in form of expert seconded employees. The said arrangement was governed by a Master Service agreement entered between NTC and NOS and a



Secondment agreement between NTMS and NOS. The Secondment Agreement *inter alia* provided that during the period of secondment, NOS has the control over the seconded employee. It further provided that the seconded employee remains on the payroll of NTMS, however the costs related to the same is reimbursed to it by NOS. The said Secondment Agreement also specified that NOS is responsible for the work of the seconded employee and NTMS is absolved of any liability.

LEGAL CLASSICS

In the aforementioned factual background, the Hon'ble Supreme Court discussed the prevailing jurisprudence with respect to the contract for services and contract of services. After discussing the same, it held that there is no single determinative factor which the courts give primacy to, while deciding whether an arrangement is contract for services and contract of services instead it is based on the facts and circumstances of the case. The courts have consistently applied the "substance over form test" for the same. Applying the said test in the facts of NOS's case, the Hon'ble Apex Court held that an overall effect of the agreements clearly points to the fact that the overseas company has a pool of highly skilled employees, who are entitled to a certain salary structure. These employees having regard to their expertise and specialization are seconded to the municipal entity for use of their skills. Upon cessation of the terms of secondment they return to their overseas employer or are deployed on some other secondment. The letter of understanding between

NOS and the seconded employee nowhere states that the latter would be treated as former's employees. Thus, while the control and the right to ask them to return, if their functioning is not desired if with NOS, the fact remains that their overseas employer in relation to its business, deploys them to NOS, on secondment. The terms of employment even during the secondment are in accord with the policy of the overseas company who is their employer.

Further, the Hon'ble Court rejected the argument that there is no flow of consideration between NTMS and NOS, even if it is held that there is a service provided, on the ground that the quid pro quo for secondment agreement is implicit in the overall scheme of things being the economic benefit derived by NOS by securing specific jobs or assignments from the overseas group companies. The argument of revenue neutrality was also rejected by the Hon'ble Court. However, the Hon'ble Court held that extended period of limitation is not invokable and only demand for normal period of limitation would be payable by NOS.

Implications of the said judgment

A major set-back for the assessee from the said judgment would be that, when the demand for normal period of limitation is upheld, even though the said demand is payable under reverse charge, of which under usual circumstances the assessee could have claimed cenvat credit, in view of the transition provisions under Section 142(7)(a) of the Central Goods and Services Act, 2017 ('CGST Act'), the tax so paid after the order of the Hon'ble Supreme Court will **not be** admissible as input tax credit under the GST regime. Accordingly, the said payment of tax will become a cost to the company.

The Hon'ble Supreme Court has disregarded the argument of revenue neutrality, which has been the very basis in catena of judgments passed by the Tribunal and other lower authorities to set aside the demands in similar cases. The said finding may have a huge impact in pending litigations where the argument of revenue neutrality has been pleaded by the assessee. Though, an argument would still be available that, the Hon'ble Supreme Court has not examined the said issue in detail as limited questions of law were raised before it and various other Rulings of Supreme Court on Revenue Neutrality will be available to an assessee.

Applicability under the GST regime

As per Section 7(2)(a) of the CGST Act, 2017, all the activities and transactions specified under Schedule III shall not be treated as supply of goods or services.

LEGAL CLASSICS

Entry 1 of the said Schedule covers services by an employee to the employer in the course of or in relation to the contract of employment. In other words, services by an employee to an employer is not treated as supply and accordingly, is not leviable to GST. Thus, contract for services is leviable to GST whereas contract of services is covered by the Entry 1 of Schedule III and it not excluded. Accordingly, the question of whether secondment of employees amounts to contract of services or contract for services remains relevant.

The Hon'ble Supreme Court has in Northern Operating Systems (Supra) has held overruled the Ruling on the issue which held the field in the past. This would necessitate the taxpayers to re-look at the tax position taken by them basis the earlier ruling. The only ray of hope can be that the Hon'ble Apex Court has in its judgement itself admitted that its determination is based upon the facts and circumstances of the case. Accordingly, an attempt to distinguish the said case can be made relying upon differently worded contractual clauses and on arrangement for payment of consideration.

This judgement has also re-emphasized the "substance over form" doctrine, the application of this doctrine has been relatively untested in the indirect tax regime. It would be interesting to see, how the courts apply this doctrine going forward.

QUOTABLE QUOTES

Compiled by: Virangana Wadhawan (Principal Associate), Raghav Khandelwal (Associate) - ELP

Finance Minister (FM) Nirmala Sitharaman stated that "the union will push for the inclusion of jet fuel in the GST 47th council meeting, since it is a critical input for the struggling aviation industry. The government's stance on jet fuel will be debated at the upcoming 47th council meeting under the GST"

"Oil is at $90, the rupee is at 75 to a dollar and, therefore, the civil aviation sector has become chronically ill. Your kind support (in bringing ATF into GST) in this process will be extremely helpful," - **Ajay Singh, SpiceJet Founder**

"Online skill-based gaming industry has made a case for retaining the service under the 18% GST slab instead of putting it into the highest 28% tax rate category, saying the move will badly hit the $2.2-billion sector. The increase in taxation would not only have a catastrophic impact on the industry but also encourage offshore operators who would circumvent Indian tax jurisdiction by hosting games in some other country," **Games24x7's - Co-Chief Executive Officer Trivikraman Thampy.**

"With a view towards enhancing compliance through effective and standardised scrutiny of GST returns, the board has been working towards automating the scrutiny process. Scrutiny of returns is our focus this year and we will be using technology such as AI to assess risk parameters in a better way," - **Vivek Johri, Chairman, CBIC**

"Businesses must ensure the GST data are reconciled before submission" - **MS Mani, Partner, Deloitte India**

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Given the increasing focus of tax administrations on Transfer Pricing, https://www.taxsutra.com/tp was launched in October 2011, as India's first exclusive portal on TP. Apart from a comprehensive database of over 6000 Indian TP cases, the portal offers several new editorial features including Case Tracker, International Rulings, APA Space, TP Talk, Expert Corner, TP Personalities and 'Around the World.'

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Taxsutra has also championed various niche events and workshops.

Taxsutra also runs popular websites on GST (www.taxsutra.com/gst), launched in 2017 with a highly interactive Mobile App as well and portals on indirect taxes (www.idt.taxsutra.com), corporate law (www.lawstreetindia.com) and accounting (www.greentick.taxsutra.com).

About ELP

Since its inception 18 years ago, Economic Laws Practice (ELP) has continually evolved to optimally respond to changing market dynamics and emerging client requirements. The firm today boasts a strength of 54 partners and more than 200 professionals (who include chartered accountants, cost accountants, economists and company secretaries other than lawyers), across six (6) offices in the country and has been recognised as one of the fastest growing law firms in the country.

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