

INDIRECT TAX WEEKLY DIGEST

01 August 2023
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GOODS & SERVICES TAX

LEGISLATIVE UPDATES

CHANGES IN GST RATE ON SERVICES NOTIFICATIONS

The following amendments have been made in the Table to Notification no:11/2017 - Central Tax (Rate), 11/2017 - Integrated Tax (Rate), 11/2017 - Union Territory Tax (Rate):

- It has been clarified that Entry no:3(ie) which inter alia stipulates the GST Rate on the construction of an apartment in an ongoing project under specified schemes in respect of which, the promoter has exercised his option to pay GST on construction at 12% would cover services included at Entry no:3(iv), (v) and (vi) as they existed prior to their omission by Notification no:03/2022 - Central Tax (Rate), 03/2022 - Integrated Tax (Rate) and 03/2022 - Union Territory Tax (Rate) dated 28 July 2022.
- The following amendments have been made in respect of the option to pay GST under forward charge by a Goods Transport Agency (GTA):
 - The time limit for exercising the option to pay GST under forward charge (Annexure - V)/reverse charge (Annexure - VI) by a GTA would begin from 1 January to 31 March of the preceding Financial Year (FY) (earlier was 15 March of the preceding FY).
 - It has been clarified that once the option to pay GST under forward charge has been exercised by a GTA, the same shall apply to all future FYs unless the GTA files a declaration in Annexure-VI to revert to paying GST under the reverse charge mechanism within the prescribed due date.

- Consequential amendments have also been made in Annexure-III to Notification no:13/2017 - Central Tax (Rate) dated 28 June 2017 to include the following declaration on the invoice:

'If we have taken registration under the CGST Act, 2017 and have exercised the option to pay tax on services of GTA in relation to transport of goods supplied by us from the Financial Year ____ under forward charge and have not reverted to reverse charge mechanism.'

- Exemption in respect of services by way of fumigation in a warehouse of agricultural produce has been withdrawn.
[Notification no:06/2023 & 08/2023 - Central Tax (Rate), 06/2023 & 08/2023 - Integrated Tax (Rate) and 06/2023 & 08/2023 - Union Territory Tax (Rate) dated 26 July 2023]

EXEMPTION FROM GST IN RESPECT OF SATELLITE LAUNCH SERVICES SUPPLIED BY PRIVATE ORGANISATIONS

Notification no:12/2017 - Central Tax (Rate), Notification no:12/2017 - Integrated Tax (Rate) and 12/2017 - Union Territory Tax (Rate) dated 28 June 2017 has been amended to exempt the supply of Satellite Launch Services supplied by private organisations.

[Notification no:07/2023-Central Tax (Rate), 07/2023 - Integrated Tax (Rate) and 07/2023 - Union Territory Tax (Rate) dated 26 July 2023]

CHANGES IN GST RATES OF CERTAIN GOODS

GST rate on the following goods have been amended as under:

SL. NO.	HSN	DESCRIPTION	EXISTING RATE	PROPOSED RATE
1.	1905	Un-fried or un-cooked snack pellets, by whatever name called, manufactured through a process of extrusion.	18%	5%
2.	2309	Fish soluble paste.	12%	5%
3.	2619	Linz -Donawitz (LD) Slag.	18%	5%
4.	5605 00 20	Imitation zari thread or yarn is known by any name in trade parlance.	12%	5%

[Notification no:09/2023 - Central Tax (Rate), 09/2023 - Integrated Tax (Rate) & 09/2023 - Union Territory Tax (Rate) dated 26 July 2023]

EXEMPTION ON SUPPLY OF GOLD, SILVER OR PLATINUM BY NOMINATED AGENCIES TO REGISTERED PERSONS

Pursuant to the implementation of the Foreign Trade Policy, 2023 (FTP) and Handbook of Procedures, 2023 (HBP), Notification no:26/2018-Central Tax (Rate) dated 31 December 2018 which inter alia exempts the supply of gold, silver or platinum falling under Chapter 71 of the First Schedule of the Customs Tariff Act, 1975 by 'Nominated Agencies' under 'Export Against Supply by Nominated Agency' Scheme has been amended to provide reference to the new FTP and HBP.

Similar amendments have been made to Notification no:26/2018 - Integrated Tax (Rate) and 26/2018 - Union Territory Tax (Rate) dated 31 December 2018.

[Notification no:10/2023 - Central Tax (Rate), 10/2023 - Integrated Tax (Rate) & 10/2023 - Union Territory Tax (Rate) dated 26 July 2023]

CHANGES IN GST COMPENSATION CESS (CESS) RATES

Notification no:1/2017-Compensation Cess dated 28 June 2017 which inter alia stipulates the rate of Cess to be levied on the supply of specified goods is amended as under:

- The applicable Cess rates in respect of pan masala, tobacco products, etc. would depend on whether or not the product bears 'declared retail sale price'. The term 'declared retail sale price' has now been defined to mean the retail sale price which is required to be declared in compliance with the provisions of the Legal Metrology Act, 2009 or the rules made thereunder or under any other law for the time being in force.
- While the Cess rates for the products having declared retail sale price has not undergone any change, the applicable Cess rates in respect of such products not having declared retail sale price have been amended as under:

HSN CODE	DESCRIPTION OF GOODS NOT HAVING DECLARED RETAIL SALE PRICE ¹	EXISTING RATE	NEW RATE
2106 90 20	Pan Masala.	60%	60%
2401	Unmanufactured tobacco (without lime tube)- bearing a brand name.	0.36R per unit	71%
2401	Unmanufactured tobacco (without lime tube)- bearing a brand name.	0.36R per unit	65%
2401 3000	Tobacco refuse, bearing a brand name.	0.32R per unit	61%
2403 11 10	'Hookah' or 'gudaku' tobacco bearing a brand name.	0.36R per unit	72%
2403 11 10	Tobacco used for smoking 'hookah' or 'chilam' commonly known as 'hookah' tobacco or 'gudaku', not bearing a brand name.	0.12R per unit	17%

¹There have been various modifications in the existing tariff entries as well as insertion of new tariff entries. The description captured in this table merely summarises the applicable GST Compensation Cess rates on products not having a declared retail sale price (for ease of reference) and is not a replication of the tariff entries mentioned in the rate notification.

HSN CODE	DESCRIPTION OF GOODS NOT HAVING DECLARED RETAIL SALE PRICE ¹	EXISTING RATE	NEW RATE
2403 11 90	Other water pipe smoking tobacco, not bearing a brand name.	0.08R per unit	11%
2403 19 10	Smoking mixtures for pipes and cigarettes.	0.69R per unit	290%
2403 19 90	Other smoking tobacco bearing a brand name.	0.28R per unit	49%
2403 19 90	Other smoking tobacco, not bearing a brand name.	0.08R per unit	11%
2403 91 00	'Homogenised' or 'reconstituted' tobacco, bearing a brand name.	0.36R per unit	72%
2403 99 10	Chewing tobacco (without lime tube).	0.56R per unit	160%
2403 99 10	Chewing tobacco (with lime tube).	0.56R per unit	142%
2403 99 10	Filter khaini.	0.56R per unit	160%
2403 99 20	Preparations containing chewing tobacco.	0.36R per unit	72%
2403 99 30	Jarda scented tobacco.	0.56R per unit	160%
2403 99 40	Snuff.	0.36R per unit	72%
2403 99 50	Preparations containing snuff.	0.36R per unit	72%
2403 99 60	Tobacco extracts and essence, bearing a brand name.	0.36R per unit	72%
2403 99 60	Tobacco extracts and essence, not bearing a brand name.	0.36R per unit	65%
2403 99 70	Cut tobacco.	0.14R per unit	20%
2403 99 90	Pan masala containing tobacco 'Gutkha'.	0.61R per unit	204%
2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name.	0.43R per unit	96%
2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name.	0.43R per unit	89%

- Motor vehicles known as utility vehicles, including Sports Utility Vehicle (SUV), Multi Utility Vehicle (MUV), Multi-Purpose Vehicle (MPV), Cross-Over Utility Vehicle (XUV), with engine capacity exceeding 1500cc, length exceeding 4000mm and ground clearance (in unladen condition) of 170 mm and above would attract Cess @ 22%.

[Notification no:3/2023-Compensation Cess (Rate) dated 26 July 2023]

¹There have been various modifications in the existing tariff entries as well as insertion of new tariff entries. The description captured in this table merely summarises the applicable GST Compensation Cess rates on products not having a declared retail sale price (for ease of reference) and is not a replication of the tariff entries mentioned in the rate notification.

GSTN ADVISORY

GEOCODING FUNCTIONALITY IS NOW LIVE FOR ALL STATES AND UNION TERRITORIES

- GSTN has implemented the functionality for geocoding the principal place of business address for all States and Union territories. The said functionality converts an address or description of a location into geographic coordinates to ensure the accuracy of address details and streamlines the address location and verification process.
- All new addresses registered post March 2022 are now automatically geocoded at the time of registration itself, thus ensuring accurate and standardised address data.
- Taxpayers can access and use the geocoding functionality as follows:
 - Navigate to the FO portal □ Go to the Services/Registration tab.
 - System-generated geocoded addresses will be displayed, which can be accepted or updated. If a geocoded address is unavailable, Taxpayers can directly update the geocoded address.
 - The geocoded address details will be saved under the 'Place of Business' tab on the GST portal. To view the same, Taxpayers can navigate through My Profile □ Place of Business tab under the heading 'Principal Geocoded'.
 - Once submitted, the geocoding link will not be visible on the portal, and no revisions in the address will be allowed. However, the address appearing on the registration certificate can be changed through the core amendment process. The geocoding functionality would not impact the previously saved record.
 - The functionality is available for normal composition, SEZ units, SEZ developers, Input Service Distributors (ISD), and casual taxpayers who are active, cancelled, or suspended.

[GSTN Advisory dated 7 July 2023]

E-INVOICE EXEMPTION DECLARATION FUNCTIONALITY IS NOW AVAILABLE

- The e-Invoice Exemption Declaration functionality has been made available on the GST portal for taxpayers who are by default enabled but exempted from e-invoicing under the Central Goods and Services Tax Rules, 2017 (CGST Rules).
- It is to be noted that the use of this facility is voluntary and will not alter the taxpayer's e-Invoice enablement status.
- Taxpayers must determine their exemption eligibility based on the Notifications issued from time to time in respect of e-invoicing.
- This facility to report exemption declaration is purely for business facilitation purposes.

[GSTN Advisory dated 24 July 2023]

JUDICIAL UPDATES

FRESH GST REFUND APPLICATION IS NOT REQUIRED AFTER SUCCESSFUL APPEAL

Facts of the case

- M/s. Advance Systems (Taxpayer) had applied for a refund of Input Tax Credit (ITC) in respect of exports made under a Letter of Undertaking (LUT) from January 2021 to September 2021 under Section 54(3)(i) of the Central Goods and Service Tax Act, 2017 (CGST Act). However, the Tax Authorities did not process the refund within the stipulated period of 60 days under Section 54(7) of the CGST Act.
- Subsequently, the Tax Authorities issued a Show Cause Notice (SCN) seeking to deny the Taxpayer's refund claim. Against this, the Taxpayer requested additional time to respond to the SCN. However, the same was rejected by the Tax Authorities and the SCN was confirmed vide 2 Orders-in-Original.
- Subsequently, the Taxpayer filed an appeal against the aforesaid order before the Appellate Authority, which was partially allowed. Despite the above, the Tax Authorities did not process the refund as directed by the Appellate Authority.
- Subsequently, the Taxpayer once again filed a refund claim based on the orders of the Appellate Authority. However, the Tax Authorities issued a deficiency memo to the Taxpayer alleging that the refund application was deficient because it was not accompanied by an undertaking stipulating that the Taxpayer would refund the sanctioned amount along with interest, in case it is found that the requirements of Section 16(2)(c) of the CGST Act read with Section 42(2) of the CGST Act were not complied with.
- Aggrieved by the above, the Taxpayer filed a Writ Petition before the Hon'ble Delhi High Court.

Contentions by the Taxpayer

- The deficiency memo issued by the Tax Authorities merely stated that 'supporting documents attached are incomplete' even though the Taxpayer had furnished a copy of the orders passed by the Appellate Authority.

Contentions by the Tax Authorities

- The refund application was deficient because it was not accompanied by an undertaking stipulating that the Taxpayer would refund the sanctioned amount along with interest if it is found that the requirements of Section 16(2)(c) read with Section 42(2) of the CGST Act were not complied with.
- As per Circular no:111/30/2019-GST dated 3 October 2019 (Circular dated 3 October 2019), a person whose refund claim has been affirmed by the Appellate Authority must submit a fresh application in Form GST RFD-01.
- The aforesaid refund application must be accompanied by all relevant documents, including the undertaking and declaration.

- Further, the Tax Authorities intend to review the orders passed by the Appellate Authority and hence, have not sanctioned the refund allowed by the Appellate Authority.

Observation and ruling by the Hon'ble High Court

- The Taxpayer is not required to make repeated refund applications after it has prevailed in its appeal before the Appellate Authority. The appellate proceedings are in continuation of the refund claim, and therefore, the orders passed by the Appellate Authority must be implemented.
- The Tax Authorities cannot raise any deficiency memo after the Taxpayer had succeeded in the Appellate proceedings. Accordingly, the question of raising a deficiency memo or once again requiring the Taxpayer to furnish any undertaking would not arise, which was already done at the initial stage.
- Once the Taxpayer has made a claim for a refund, the same must be processed per the law. If the refund is rejected for any reason and the said party prevails before the appellate authority, the Tax Authorities to desist from processing the claims on any technical grounds. The Circular dated 3 October 2019 provides a convenient procedure for moving the concerned Tax Authorities & must be construed as such.
- While the Taxpayer may file a fresh refund application, the Tax Authorities cannot raise further deficiency memos.
- Moreover, a refund cannot be withheld merely on the ground that the Tax Authorities want to review the orders passed by the Appellate Authority.
- In view of the above, the Hon'ble High Court allowed the Writ Petition and directed the Tax Authorities to sanction the refund claimed by the Taxpayer. However, the Tax Authorities are open to pursuing any remedies against the orders passed by the Appellate Authority.

[M/s. Advance Systems Vs. Commissioner of Central Excise and CGST, [TS-312-HC(DEL)-2023-GST], dated 7 July 2023]

INTEREST ON LOANS OFFERED TO CREDIT CARD HOLDERS IS NOT LEVIABLE TO GST

Facts of the case

- Mr. Ramesh Kumar Patodia (Cardholder) is a holder of a credit card issued by Citi Bank (Bank). As a credit card holder, the Bank offered a loan to the Cardholder, payable in 12 Equated Monthly Instalments (EMIs).
- The Cardholder applied for the loan offered by the Bank and had entered into an agreement borrowing the loan amount, which was advanced through a cheque. The EMIs payable on the aforesaid loan (comprising of principal and interest amounts) were reflected in the Cardholder's credit card statement.
- Subsequently, the entire loan amount was repaid by the Cardholder to the Bank along with interest. Further, on such interest amounts, the Bank had charged IGST to the Cardholder, which was duly paid.
- Aggrieved by the imposition of GST on interest on a loan, the Cardholder filed a Writ Petition before the Hon'ble Calcutta High Court seeking a declaration that the

transaction inter se between the Cardholder and the Bank would be exempt from the levy of GST.

- Vide* order dated 24 June 2022 (Impugned Order), the single-judge bench of the Hon'ble High Court had dismissed the aforesaid Writ Petition holding that interest involved in credit card services is not exempt from the levy of GST in terms of Sl. No. 28 of Notification no:9/2017 -Integrated Tax (Rate) dated 28 June 2017 (Exemption Notification).
- Aggrieved by the above, the Cardholder filed an appeal before the Division Bench of the Hon'ble High Court.

Contentions by the Cardholder

- Sl. No. 28 of the Exemption Notification exempts certain categories of services except interest levied in respect of credit card services. Accordingly, interest on credit card services would be leviable to GST.
- While the possession of the credit card of the Bank entitled the Cardholder to be offered a loan, the advancement of the loan by the Bank had nothing to do with the credit card or the service which the Bank supplies in relation to it.
- The Cardholder and the Bank had entered into an independent agreement for the loan and hence, the interest charged on the loan was not on account of the loan advanced by use of credit card. As a result, interest charged on loan is not leviable to GST in the present case.
- Merely for payment of EMIs, the instalment amount was reflected in the credit card statement. However, there was a reference to a distinct Loan Reference number.
- Even under the erstwhile Service tax law viz., Finance Act, 1994 (Finance Act), the definition of banking and other financial services under Section 65(12) of the Finance Act was not specifically included.
- On a perusal of the definition of 'credit card services' under Section 65(33A) of the Finance Act, it can be construed that such services cover the specified type of services provided by the Bank for which, the bank/issuer charges annual fees or interest in case of deferred payment by the cardholder. Such services can be called 'card services' and only such services would be leviable to GST.
- The loan sanctioned to the Cardholder has nothing to do with the card service as the loan was advanced by cheque, without the use of a card. Only payment of EMIs made is based on credit card statements.

Contentions by the Bank

- The Bank had entered into a contract with the Cardholder wherein it was provided that the Bank would levy IGST on interest charged on the loan. The same was duly accepted by the Cardholder.
- The Cardholder was granted a loan as he holds a credit card. Hence, granting of loan was a part of the credit card services rendered by the Bank to the Cardholder.

Observations and Ruling of the Hon'ble High Court

- While both the members of the Division Bench had concurrently agreed to the view holding that interest on the loan would not be leviable to GST, separate observations were noted by the respective members.

- **Observations of Justice I. P. Mukerji:**
 - The terms on which the loan was granted to (and accepted by) the Cardholder, inter alia stated that the loan was available only to the Bank's credit card holders and interest on such loans was leviable to GST.
 - To constitute a credit card service, the service should be between the issuer of the card and the cardholder, and such service should have some nexus with the holding, operation or use of such card including the transactions made with it.
 - If the loan was advanced to the Cardholder through the use of the card, then one could have understood that the service was related to the card. However, in the present case, the loan amount was advanced by a cheque or draft issued by the bank and not by charging the Cardholder's card.
 - Credit card statement indicating payment of EMIs (principal and interest component) was only a statement of account and the loan transaction must be taken as an altogether separate transaction having no relationship between the Cardholder and the Bank arising out of issue, holding or operation of credit card.
 - Accordingly, the transaction in question cannot be treated as 'credit card services' and hence, GST is not leviable on interest charged in respect of such loan.

- **Agreeing to the aforesaid observations, Justice Biswaroop Chowdhury held as under:**

- As regards the Bank's contentions that the Cardholder had accepted the terms and conditions, it was observed that it is well-settled principle that mere acceptance of a condition prohibited by law does not make the said condition enforceable in law.
 - Although credit card services fall outside the purview of the Exemption Notification, there is no exclusion in respect of loans granted to a credit card holder.
 - Loan is a matter of necessity and not luxury. Given that granting a loan is a welfare scheme, a rigid view causing hardship to the borrower should not be taken unless it is expressly provided by the statute. When two views are available in case of a loan dispute, one which favours the borrower should be accepted.
 - The Exemption Notification would apply to interest on all transactions coming under the category of loan. The interpretation to exclude therefrom the loans given to credit card holders or other borrowers goes against the letter and spirit for which loan schemes are made and will be violative of Articles 14 & 21 of the Constitution of India.
 - Since the Bank granted the loan to the Cardholder repayable with interest, it is to be treated as a loan simpliciter and cannot be equated with a credit card.
- In view of the above, the Impugned Order is set aside, and the Bank and the Tax Authorities are directed to immediately refund the GST paid by the Bank in respect of the loan transaction in a time-bound manner.

[Ramesh Kumar Patodia Vs. Citi Bank N.A. and Ors. [TS-347-HC(CAL)-2023-GST], dated 25 July 2023]

SETTLEMENT OF MUTUAL DEBTS THROUGH BOOK ADJUSTMENT IS A VALID MODE FOR PAYMENT OF CONSIDERATION

Facts of the case

- M/s. Paragon Polymer Products Pvt. Ltd. (Taxpayer) is inter alia engaged in the manufacture and sale of footwear.
- The Taxpayer outsources a portion of its manufacturing activities to its vendors for which it supplies raw materials to the vendors under tax invoice (Supply I).
- Subsequently, the vendors undertake the manufacturing activity and supply the finished goods to the Taxpayer under tax invoice (Supply II).
- The payment for the aforesaid supply is made by the Taxpayer to the vendors through book adjustment (i.e., by netting off the amounts receivable from the vendors for Supply I and the amounts payable to the vendors for Supply II), and only the net amount is paid through bank transfer.
- In light of the aforesaid background, the Taxpayer has approached the Authority for Advance Ruling (AAR), Kerala to determine the eligibility to avail ITC in respect of goods purchased from the vendors (i.e., Supply II) when a part of the payment for the same is settled through book-adjustment against the debt created on Supply I.

Contentions by the Taxpayer

- As per the second proviso to Section 16(2) of the CGST Act, a recipient availing ITC on inward supplies (other than supplies attracting GST liability under the reverse charge mechanism) is mandated to make payment for the value of supply and GST thereon to its vendor within 180 days from the date of invoice, failing which, the amount of ITC availed by such recipient would be added to his output tax liability along with interest.
- Apart from the aforesaid proviso, no other provision stipulates that availment of ITC is dependent on the payment to be made to the vendors. Moreover, the aforesaid proviso does not prescribe/restrict the mode in which the payment must be made.
- Section 2(31) of the CGST Act which defines that the term 'consideration' casts the definition so wide that almost no form of payment is excluded from its ambit. The definition includes within its ambit, any payment made or to be made, whether in money or otherwise and also includes the monetary value of any act of forbearance.
- Applying the above, accepting a reduction in debt liability or a book debt (asset) may be treated as a valid 'consideration'.
- Para 42 of the Indian Accounting Standard 32 provides that a financial asset and a financial liability shall be offset, and the net amount shall be presented in the Balance Sheet when an entity:
 - Has a legally enforceable right to set off the recognised amounts; and
 - Intends to either settle such asset and liability on a net basis or realise the asset and the liability simultaneously.

- Reliance was placed on *Senco Gold Ltd.* [TS-310-AAR-2019-NT].

Observations and Ruling of the AAR

- On perusal of the second proviso to Section 16(2) of the CGST Act, it is clear that no ITC is admissible unless the recipient pays consideration to the supplier for the supply received.
- The definition of 'consideration' includes, in relation to the supply of goods or services, any payment made or to be made, whether in money or otherwise, and also the monetary value of any act or forbearance. Accordingly, the aforesaid definition covers any form of payment within its ambit. Therefore, acceptance of a reduction in debt liability as a valid form of payment can be treated as a valid 'consideration' for a supply.

- On a perusal of Explanation 2 to Section 12(2), Section 12(3)(b), Explanation (ii) to Section 13(2) and Section 13(3)(a) of the CGST Act, it can be construed that the entry in the books of accounts of the supplier/recipient is recognised as a mode of payment under the GST law.
- In view of the above, it is evident that settlement of mutual debts through book adjustment by the Taxpayer is a valid mode of payment of consideration for the receipt of goods/services and satisfies the requirement of the second proviso to Section 16(2) of the CGST Act.
- Accordingly, ITC would be available to the Taxpayer in cases where the consideration is paid to the vendors by way of book adjustment, subject to the other conditions and restrictions provided under Sections 16, 17 and 18 of the CGST Act and the rules made thereunder.

[AAR - Kerala, M/s. Paragon Polymer Products Pvt. Ltd., [TS-318-AAR(KER)-2023-GST], dated 20 July 2023]

SALES TAX

LEGISLATIVE UPDATES

DESIGNATION OF M/S. ALLIANCE AIR AVIATION LTD. AS A 'DESIGNATED INDIAN CARRIER'

- Section 5(5) of the Central Sales Tax Act, 1956 (CST Act) stipulates that the purchase of aviation turbine fuel by a 'designated Indian carrier' for its international flights shall

be deemed to take place during export of goods outside the territory of India.

- M/s. Alliance Air Aviation Ltd. has now been notified as a 'designated Indian carrier' under Section 5(5) of CST Act. [Notification no:S.O. 3252(E) dated 20 July 2023]

CUSTOMS

LEGISLATIVE UPDATES

AMENDMENTS IN CERTAIN CUSTOMS NOTIFICATIONS

The following amendments have been made in the following notifications:

- Notification no:45/2017 - Customs and 47/2017 - Customs dated 30 June 2017, inter alia providing for exemption from Basic Customs Duty (BCD), Integrated Goods and Services Tax (IGST) and Compensation Cess leviable on re-import of goods exported under duty drawback, a rebate of duty or under bond in excess of specified amounts:
 - The aforesaid exemption has been extended to goods exported under the Remission of Duties and Taxes on Exported Products (RoDTEP) and Rebate of State and Central Taxes and Levies (RoSCTL) Scheme. However, the aforesaid exemption would inter alia be restricted to the amount of RoDTEP/RoSCTL, as the case maybe, allowed at the time of export.
 - The definition of the term 'Nominated Agencies' is amended to remove the following entities:

- Metals and Minerals Corporation Limited
- State Trading Corporation
- Project and Equipment Corporation of India Ltd.
- STCL Ltd.
- Four Star Export House from Gems & Jewellery sector and Five Star Export House from any sector as may be recognised as nominated agencies by the Regional Authority in terms of the FTP.
- Additionally, the list of 'Nominated Agencies' now refers to 'The Handicraft and Handlooms Exports Corporation of India Ltd.' instead of 'Handicraft and Handloom Export Corporation'.
- Consequential amendments such as reference to the FTP and meaning of 'RoDTEP' and 'RoSCTL' have been made.
- Notification no:47/2017 - Customs dated 30 June 2017, inter alia providing for exemption from BCD and additional customs duty on re-import of exported goods under the Fourth Schedule to the Central Excise Act, 1944 exported under duty drawback, a rebate of duty or under bond:

- The aforesaid exemption has been extended to goods exported under the Remission of Duties and Taxes on Exported Products (RoDTEP) and Rebate of State and Central Taxes and Levies (RoSCTL) Scheme. However, the aforesaid exemption would inter alia be restricted to the amount of RoDTEP/RoSCTL, as the case maybe, allowed at the time of export.
 - Consequential amendments such as reference to the FTP & meaning of 'RoDTEP' and 'RoSCTL' have been made.
 - Notification no:50/2017 - Customs dated 30 June 2017, inter alia, providing for effective rates of BCD and IGST for goods imported into India:
 - Exemption from IGST has been provided on the import of Drugs, Medicines, or Food for Special Medical Purposes (FSMP) used for the treatment of rare diseases, subject to certain conditions.
 - Exemption from BCD and IGST has been provided on import of the medicine 'Dinutuximab (Quarziba)' used in the treatment of cancer, subject to specified conditions.
 - List of specified banks and other entities (who are eligible to import gold/silver/platinum without payment of duties) has been revamped into the following three classes:
 - Banks listed under List 34A are eligible for exemption on import of gold or silver or both;
 - Banks listed under List 34B are eligible for exemption on the import of gold;
 - Entities listed under List 34C are eligible for exemption on import of gold/silver/platinum.
- [Notification no:46/2023 - Customs dated 26 July 2023]*

FOREIGN TRADE POLICY (FTP)

LEGISLATIVE UPDATES

NOTIFICATION

AMENDMENT IN EXPORT POLICY OF NON-BASMATI WHITE RICE

The Export Policy of Non-basmati white rice (Semi milled or wholly milled rice, whether or not polished or glazed: Other) under the HSN 1006 30 90 is revised from 'Free' to 'Prohibited'. However, the export of Non-basmati white rice is subject to the following conditions:

- If the following activities have commenced before the issuance of this Notification:
 - Loading of non-basmati white rice consignments.
 - Shipping bills have been filed, and vessels have been already docked or arrived and anchored in Indian ports and their rotation numbers are allocated. The approval of loading on such vessels will be issued only after confirmation by the concerned Port Authorities.
 - Non-basmati rice consignments have been handed over to Customs and are registered on their systems / where the consignment has entered into the Customs Station for exportation and is registered on the electronic systems of the concerned custodian of the Customs Station with verifiable date evidence and time stamped prior to 20 July 2023. The period of export shall be up to 31 August 2023.
- Export will be allowed based on the permission granted by the Government of India to other countries to meet their food security needs based on the request of their governments.

[Notification no:20/2023 dated 20 July 2023]

TRADE NOTICE

EXTENSION OF DUE DATE FOR SUBMISSION OF APPLICATION FOR OBTAINING LICENSE FOR EXPORT OF RICE

Pursuant to the Order of the Hon'ble Delhi High Court dated 26 July 2023 in **tAsfive Agro Pvt. Ltd. & Ors. Vs. Union of India & Ors. [W.P.(C) 8625/2023 & CM APPL 32737/2023]**, the Trade Notice no:08/2023 dated 20 June 2023 read with Trade Notice no:16/2023² dated 20 July 2023, Trade Notice no:12/2023 dated 30 June 2023³ and Trade Notice no:13/2023 dated 3 July 2023 which stipulates the procedure for allocation of quota for export of broken rice to Senegal, Gambia and Indonesia based on humanitarian and food security grounds has been amended to extend the due date for submission of application for obtaining license for the export of broken rice to the aforesaid countries till 11 August 2023.

[Trade Notice no:19/2023 dated 28 July 2023]

²Our summary of this Trade Notice can be accessed here.

³Our summary of this Trade Notice can be accessed here.

NEWS FLASH

“Choco in chikki to attract 18% GST”

<https://timesofindia.indiatimes.com/business/india-business/choco-in-chikki-to-attract-18-gst/articleshow/102028049.cms>

[Source: *The Times of India*, 22 July 2023]

“GST Council to meet on August 2 to discuss 28% tax on online gaming”

<https://economictimes.indiatimes.com/tech/technology/gst-council-to-meet-on-august-2-to-discuss-28-tax-on-online-gaming/articleshow/102147671.cms?from=mdr>

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