

INDIRECT TAX DIGEST

15 March 2024

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GOODS & SERVICES TAX



LEGISLATIVE UPDATES

GSTN ADVISORY

GSTN Advisory ¹	GSTN has developed the functionality to integrate the Invoice Registration Portal (IRP) with the E-Way Bill systems. Accordingly, E-Invoicing along with E-Way Bill services can be accessed across all six IRPs.
GSTN Advisory ²	Tables 14A and 15A have been introduced in Form GSTR-1 to capture the amendment details of the supplies made through E-Commerce Operators (ECO) on which, ECO are liable to collect tax under Section 52 of the Central Goods and Services Tax Act, 2017 (CGST Act) or are liable to pay tax under Section 9(5) of the CGST Act. These tables are implemented on the GST portal for the tax periods starting from February 2024.

JUDICIAL UPDATES

[In Re: Kalpataru Projects International Ltd. \[TS-724-AAAR\(RAJ\)-2023-GST\]](#)

Issue

- The Taxpayer is engaged in supplying customised engineering, procurement, manufacturing, fabrication, inspection and testing, packing, shipping, deliver and unloading at site, storage and preservation, complete erection and installation, site testing, pre-commissioning and commissioning, Ready-for-Start-up, performance test run, training, demobilisation, project and construction management, interface management (Internal and External) for which, it would receive a lump sum consideration from its vendor.
- In this regard, the Taxpayer filed an application before the Authority for Advance Ruling, Rajasthan (AAR) to determine whether the aforesaid services would be classifiable under the following:
 - 'HSN 998621 -Support services to oil and gas extraction', attracting GST @ 12% as per Sl. No. 24(ii) of Notification No: 11/2017-Central Tax (Rate) dated 28 June 2017 (Rate Notification); or
 - 'HSN 998341 - Geological and geophysical consulting services' or 'HSN 998343 - Mineral exploration and evaluation', attracting GST @ 12% as per Sl. No. 21(ia) of the Rate Notification; or
 - 'HSN Code 9954 - Construction services', attracting GST @ 18% as per Sl. No. 3(xii) of the Rate Notification; or
 - 'HSN Code 9954 - Composite supply of works contract', attracting GST @ 18% as per Sl. No. 3(ii) of the Rate Notification.
- The AAR held that the activities of supply, survey, designing, installation, and commissioning of pipelines would attract GST @ 18% as per Sl. No. 3(ii) of the Rate Notification.
- Aggrieved by the above, the Taxpayer filed an appeal before the Appellate Authority for Advance Ruling, Rajasthan (AAAR).

Ratio

- The activities carried out by the Taxpayer would be appropriately classifiable under the description 'Construction Services' which are in the nature of works contract and hence, would be specifically covered under HSN Code 9954 on account of the following reasons:

¹ Dated 8 March 2024

² Dated 12 March 2024

- **HSN 998621:**
 - The services proposed to be classified under HSN 998621 should provide support to the main activity of oil and gas extraction which eventually requires an established infrastructure facility.
 - In the present case, the Taxpayer undertakes the establishment of an infrastructure facility and is obliged to satisfactory handover of the complete project along with other facilities, applicable hook-up and tie-in with the existing and proposed activities.
 - Considering that support for oil and gas extraction is distinct from the activity for the establishment of infrastructure facilities, the former cannot be confused with the latter.
 - Thus, the services under consideration cannot be classified under HSN 998621.
 - **HSN 998341 and 998343:**
 - As regards HSN 998343, it has a very narrow scope / limited coverage of mineral exploration and evaluation information which is distinct from the activities proposed to be undertaken by the Taxpayer.
 - On the other hand, HSN 998341 covers a wide range of activities including provision of advice, guidance and operational assistance concerning the location of oil and gas fields including feasibility studies. However, the Taxpayer, in the present case has not proposed to undertake any such activity. Instead, the Taxpayer has proposed to undertake the establishment/ creation/ construction of infrastructure facilities for oil and gas extraction which are quite different and distinct from the advice concerning the location of gas fields.
 - Thus, the services under consideration cannot be classified under HSN 998341 or 998343.
 - **HSN 9954:**
 - HSN 9954 inter alia includes construction services for mining and related facilities associated with mining operations. Since oil and gas exploration is also a form of mining, the services proposed to be undertaken by the Taxpayer for constructing the facilities for handling the increased production capacity are classifiable under HSN 9954.
 - Accordingly, in terms of Sl. No. 3(xii) of the Rate Notification, the services supplied by the Taxpayer are leviable to GST @ 18%.
- In light of the above, the services would be classifiable under HSN Code 9954 attracting GST @ 18% in terms of Sl. No. 3(xii) of the Rate Notification.

[NRB Bearings Ltd. Vs. Commissioner of State Tax \[\(2024\) 15 Centax 444 \(Bom.\)\]](#)

Issue

- Whether the Taxpayer can be permitted to rectify *bonafide* errors to alter/amend invoices pertaining to FY 2017-18 (in Form GSTR-1) in December 2019?

Ratio

- In *M/s Star Engineers (I) Pvt. Ltd. Vs. Union of India & Ors. [TS-654-HC(BOM)-2023-GST]*, the Bombay High Court had observed that where there was a bonafide error in filing GST returns, and when there was no loss of revenue caused to the Government Exchequer, the technicalities on any legitimate rectification cannot lead to the Tax Authorities penalising an assessee for inadvertent errors, resulting in a cascading effect.
- The above ruling is squarely applicable to the present case. Accordingly, the Taxpayer was permitted to rectify Form GSTR-1 for FY 2017-18.

[Hawkins Cookers Ltd. Vs. State of U.P. \[TS-66-HC\(ALL\)-2024-GST\]](#)

Issue

- Whether the Tax Authorities can impose a penalty under Section 129 of the CGST Act, on the ground that the place of supply/address of the recipient was incorrectly mentioned in the E-Way Bill?

Ratio

- Where a penalty is imposed by the Tax Authorities under Section 129 of the CGST Act, there must exist an intention to evade tax which may be presumed where there is wholesome disregard of the provisions of the GST law.
- However, when most of the documents are accompanied during the transportation of goods, and there are some typographical and/or clerical errors, the presumption to evade tax does not arise. In such cases, it is upon the Tax Authorities to demonstrate the existence of an intention to evade tax.
- In the present case, the goods were accompanied by the relevant invoices, bilty documents and E-Way Bills. Further, even the incorrect address in the E-Way Bill was that of the recipient's principal place of business which was automatically populated by the E-Way Bill system and was not changed.
- Considering the above, mere failure to change the automatically populated place of supply cannot result in the imposition of harsh penalties on the Taxpayer. Hence, the penalty imposed on the Taxpayer was set aside.

CUSTOMS



LEGISLATIVE UPDATES

NOTIFICATION

02/2024 (ADD) ³	Notification no: 14/2019-Customs (ADD) inter alia imposes, Anti-Dumping Duty on 'Acetone' (HSN code 2914 11 00) originating or exported from Singapore when produced by M/s Mitsui Phenols Singapore Pte. Ltd. (Producer). Owing to the change in the Producer's name to M/s INEOS Phenol Singapore Pte. Ltd., corresponding amendments have been made to reflect the new name in the above notification.
13/2024-Customs ⁴	With effect from 7 March 2024, the effective rate of Basic Customs Duty and IGST on 'Meat and edible offal, of ducks, frozen' (HSN Code 0207 42 00 and 0207 45 00) has been prescribed to be 5% and Nil, respectively, subject to prescribed conditions.
14/2024-Customs ⁵	Import of gold under HSN Code 7108 by the Reserve Bank of India (RBI) has been exempted from the levy of customs duty and Agriculture Infrastructure and Development Cess.
15/2024-Customs ⁶	Effective 1 April 2024, the standard rate of basic customs duty of goods falling under HSN codes 9022 3000 and 9022 9090 has been increased from 10% to 15%.
16/2024-Customs ⁷	Effective 1 April 2024, the effective rate of Basic Customs Duty and IGST on various goods for use in the manufacture of X-ray machines for medical, surgical, dental, or veterinary use (HSN Code 9022 2900 or 9022 9090) has been amended.
20/2024-Customs (NT) ⁸	Notification No. 24/2023-Customs (NT) <i>inter alia</i> provides the manner of issuance of duty credit scrips under the Remission of Duties and Taxes on Exported Products scheme (RoDTEP scheme). Considering that the RoDTEP scheme was inter alia extended to Advance Authorisation (AA) holders (except deemed exports), Export Oriented Units (EOU) and Special Economic Zone (SEZ) units, corresponding amendments have been made to the aforesaid notification to stipulate the manner of issuance of duty credit scrips to AA holders and EOUs.
1/2024-Customs (CVD) ⁹	<i>Vide</i> Notification No. 1/2019-Customs (CVD), Countervailing Duty was imposed on import of 'New/Unused pneumatic radial tyres with or without tubes and/or flap of rubber (including tubeless tyres), having nominal rim dia above 16" used in busses and lorries/trucks' when imported from or originating in China. The aforesaid levy has now been extended till 23 July 2024 (earlier 23 June 2024).

³ Dated 28 February 2024

⁴ Dated 6 March 2024

⁵ Dated 12 March 2024

⁶ Dated 12 March 2024

⁷ Dated 12 March 2024

⁸ Dated 11 March 2024

⁹ Dated 11 March 2024

FOREIGN TRADE POLICY



LEGISLATIVE UPDATES

NOTIFICATION

62/2023 ¹⁰	Para 2.39 of the Foreign Trade Policy, 2023 (FTP) has been amended to permit Merchanting Trade carried out within one specific foreign country , subject to compliance with RBI guidelines, except for goods listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendices, or under Special Chemicals, Organism, Materials, Equipment and Technologies (SCOMET) list.
63/2023 ¹¹	Export of 50,000 MT of onions (under HS code 0703 10 19) to Bangladesh through National Cooperative Exports Limited (NCEL) is permitted.
64/2023 ¹²	Export quantities for Non-Basmati White Rice falling under HSN Code 1006 3090 (Tanzania (Zanzibar) - 30,000 MT) and Broken Rice falling under HSN Code 1006 4000 (Djibouti - 30,000 MT and Guinea Bissau - 50,000 MT) for exports through NCEL have been notified.
65/2023 ¹³	Export of 14,400 MT of onions (under HS code 0703 10 19), with a quantity ceiling of 3,600 MT quarterly are permitted to be exported to the United Arab Emirates (UAE) through NCEL.
66/2023 ¹⁴	The policy for the import of Premium Duck Meat falls under ITC (HS) codes 0207 4200 and 0207 4500 as per DAHD OM No. L-110109(3)/1/2016-Trade dated 22 February 2024 and Notification no: 13/2024 dated 6 March 2024 for supply to Hotels and Restaurants shall be 'Restricted' whereas the other imports shall be 'Free'.
67/2023 ¹⁵	The quantities for permissible export of onions through NCEL under HS code 0703 1019 to Bhutan (550 MT), Bahrain (3,000 MT) and Mauritius (1,200 MT) have been notified.
68/2023 ¹⁶ read with Public Notice 49/2023 ¹⁷	<p>The revised permissible quantities for import of Raw Petroleum Coke (RPC) (for manufacturing of Calcined Petroleum Coke (CPC)) and CPC for the Aluminium Industry, from FY 2024-25 and onwards have been notified, subject to specified conditions.</p> <p>The procedure for the allocation of quantities for the import of CPC (for use in the Aluminium industry) and RPC (CPC manufacturing industry) for the year 2024-25 has been prescribed.</p>
70/2023 ¹⁸ read with 74/2023 ¹⁹	<p>Effective 11 March 2024, the benefit of the RoDTEP scheme has been extended to exports made by AA holders (except Deemed Exports) and EOUs, other than 166 products covered under 166 Tariff lines (as notified in Notification no:74/2023). The benefit on exports of these tariff lines will be available only with effect from 1 April 2024 due to requisite technical enablement at the Customs Automated System (ICEGATE). Further, the benefit under the RoDTEP scheme would also be extended to SEZ units once IT integration of SEZs with ICEGATE is completed. Lastly, the RoDTEP rates on 25 HS codes have also been revised.</p> <p>In addition to the above, the validity of the RoDTEP scheme is now extended till 30 September 2024 from 30 June 2024.</p>

¹⁰ Dated 29 February 2024

¹¹ Dated 1 March 2024

¹² Dated 1 March 2024

¹³ Dated 1 March 2024

¹⁴ Dated 6 March 2024

¹⁵ Dated 6 March 2024

¹⁶ Dated 7 March 2024

¹⁷ Dated 11 March 2024

¹⁸ Dated 8 March 2024

¹⁹ Dated 11 March 2024

71/2023 read with Public Notice 50/2023 Dated 11 March 2024 ²⁰	Para 2.03A of the FTP has been inserted which inter alia stipulates provisions for exempting inputs imported by AA holders, EOU and SEZ units from the mandatory Quality Control Orders.
72/2023 ²¹	The policy for the export of Human Biological Samples under Chapter 30 of ITC HS (Schedule 2 of the Export Policy) is amended to the extent that the export of items which contain Human Biological materials/samples/products under Chapter 30 is 'Free', subject to NOC from the Central Drugs Standard Control Organisation or Indian Council of Medical Research, Department of Health Research.
73/2023 Dated 11 March 2024 ²²	The policy conditions for the export of Chitin, Chitosan, Chitosan Salts, Chitosan Salts (Chitosan Hydrochloride, Chitosan Acetate, Chitosan Lactate) and Chitosan Derivatives (Chitosan Succinimide) to European Union countries under ITC HS Code 3913 9090 has been notified.

PUBLIC NOTICE

45/2023 ²³	Amendment of Standard Input Output Norms (SION) appearing under C-831 for export of Stainless-Steel Seamless Tubes/Pipes (Cold Finished).
46/2023 ²⁴	The timelines and procedures for registration of import of Yellow Peas (ITC (HS) Code 07131010) under the Import Monitoring System (YP-IMS) arriving at the Indian Port after 31 March 2024 are amended.
48/2023 ²⁵	Menthol covered under ITC(HS) codes 29061100, 30039021, 33012590 and 33012400 stands suspended from SION/Ad hoc norms. Accordingly, no AA and/or Duty-Free Import Authorisation shall be issued in respect of such goods. ²⁷

FREE TRADE AGREEMENTS

Press Release - 2013169 ²⁶	India and the European Free Trade Association (comprising of Switzerland, Iceland, Norway and Liechtenstein) have signed a Trade and Economic Partnership Agreement.
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CENTRAL EXCISE / SERVICE TAX / VALUE ADDED TAX / SEZ



LEGISLATIVE UPDATES

NOTIFICATION

08/2024 - Central Excise ²⁸	Effective 1 March 2024, the applicable rate of Special Additional Excise duty on production of Petroleum Crude has been increased from INR 3,300 to INR 4,600 per tonne.
09/2024 - Central Excise ²⁹	Effective 1 March 2024, the applicable rate of Special Additional Excise duty on export of High-Speed Diesel oil has been reduced from INR 1.5 per litre to NIL.
S.O. 940(E) ³⁰	In respect of a unit requiring recognition, registration, license or authorisation by the International Finance Services Centre Authority (IFSCA), various amendments have been made to the Special Economic Zones Act, 2005 and the Special Economic Zones Rules, 2006 to assign specified functions and powers to the 'Administrator (IFSCA)'.
No.F.16(752)VA T/Tax/CCT/202 3-24/944 (Rajasthan) ³¹	The procedure for Amnesty Scheme-2024 for disposal of outstanding demand or disputed amounts has been notified in the state of Rajasthan.

²⁰ Dated 11 March 2024

²¹ Dated 11 March 2024

²² Dated 11 March 2024

²³ Dated 28 February 2024

²⁴ Dated 6 March 2024

²⁵ Dated 7 March 2024

²⁶ Dated 10 March 2024

²⁷ The key highlights of the Agreement can be accessed by clicking [here](#). Further, the text of Agreement can be accessed by clicking [here](#).

²⁸ Dated 29 February 2024

²⁹ Dated 29 February 2024

³⁰ Dated 28 February 2024

³¹ Dated 29 February 2024

12/P.A.8/2005/S.29- A/C.A.74/1956 /S.9/P.A.8/200 2/S.25/P.A.5/2 017/S.174/Amd (1)/2024 (Punjab) ³²	The Amnesty Scheme for one-time settlement for recovery of outstanding dues under the pre-GST regime was notified <i>vide</i> Notification dated 9 November 2023. The said notification has been amended to <i>inter alia</i> provide that the scheme shall be applicable only to the cases where the assessment has been made till 31 March 2024 and where the total demand is not more than INR 10mn (for all laws other than the Central Sales Tax Act, 1956 (CST Act)). In the case of the CST Act, the Net Demand should not exceed INR 10mn. Further, the application for claiming the benefit under the aforesaid scheme shall not be entertained after 30 June 2024.
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CIRCULAR / TRADE CIRCULAR / INSTRUCTION / ORDER

Trade Circular No. 6 of 2023- 24 (Goa) ³³	In accordance with the Goa Amnesty Scheme, arrears of tax up to INR 10,000 have been waived. Accordingly, the Tax Authorities have <i>suo motu</i> prepared the list of eligible dealers (registered/unregistered) who are eligible to avail the aforesaid benefit and have issued the Certificate of Settlement under the aforesaid scheme. Eligible dealers who have not received the aforesaid certificate or are unable to download the same can file an application in this regard to the jurisdictional tax authorities, latest by 7 March 2024.
CCT's Ref. No.A(1)/5/202 (Telangana) ³⁴	Alcoholic liquor for human consumption is notified as a sensitive commodity, for which an advance e-way bill shall be generated for its inter-state movements.
F.No.3(543)/GS T/POLICY/2024 /1312-18 (Delhi) ³⁵	Delhi Goods and Services Tax Authority has issued an instruction in respect of the rectification of the assessment order under section 161 of the CGST Act ³⁶ .
1326-ET-II- 24/1079 ³⁷	In relation to the Haryana Amnesty Scheme, the sequence for adjustment of deposits made prior to the date (i.e., 1 January 2024) towards tax, interest and penalties has been notified.

INDIRECT TAX
NEWS FLASH

The Hindu- Business Line (1 March 2024)	<ul style="list-style-type: none"> ▪ GST mop-up surges 12.5% to ₹1.68-lakh crore on better consumption, compliance
Times of India (10 & 12 March 2024)	<ul style="list-style-type: none"> ▪ Cheaper Swiss watches, chocolates: How India-EFTA trade pact will benefit Indians ▪ PM Modi talks to UK's Rishi Sunak about free trade agreement
Economic Times (8 and 11 March 2024)	<ul style="list-style-type: none"> ▪ Govt extends export benefits under RoDTEP scheme to SEZ units ▪ India's \$100 bn trade pact with EFTA has a lot for Indians wanting to work in Europe
Financial Express (5 March 2024)	<ul style="list-style-type: none"> ▪ India Gaming Summit 2024 Highlights: 'Responsible Gaming'
Mint (28 February 2024)	<ul style="list-style-type: none"> ▪ GST on corporate guarantees: Experts await more clarity

³² Dated 10 March 2024³³ Dated 29 February 2024³⁴ Dated 29 February 2024³⁵ Dated 1 March 2024³⁶ *Pari materia* to section 161 of the Delhi Goods and Services Tax Act, 2017.³⁷ Dated 28 February 2024

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