

GOODS & SERVICES TAX (GST)



OTHER INDIRECT TAXES (including legacy issues)



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NOTIFICATIONS AND CIRCULARS

- **Notification No. 27/2018-Central Tax dated 13.06.2018 seeks to specify goods which may be disposed of by the proper officer after its seizure.**



The notification grants power to the proper officer to dispose of any seized goods having regard to the perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space or any other relevant considerations of the said goods.

The goods notified include the following:

- i. Salt and hygroscopic substances
- ii. Raw (wet and salted) hides and skins
- iii. Newspapers and periodicals
- iv. Menthol, Camphor, Saffron
- v. Re-fills for ball-point pens
- vi. Lighter fuel, including lighters with gas, not having arrangement for refilling
- vii. Cells, batteries and rechargeable batteries
- viii. Petroleum Products
- ix. Dangerous drugs and psychotropic substances
- x. Bulk drugs and chemicals falling under Section VI of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)

- xi. Pharmaceutical products falling within Chapter 30 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)
- xii. Fireworks
- xiii. Red Sander
- xiv. Sandalwood
- xv. All taxable goods falling within Chapters 1 to 24 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)
- xvi. All unclaimed/abandoned goods which are liable to rapid depreciation in value on account of fast change in technology or new models etc. Any goods seized by the proper officer under section 67 of the said Act, which are to be provisionally released under sub-section (6) of section 67 of the said Act, but provisional release has not been taken by the concerned person within a period of one month from the date of execution of the bond for provisional release

- **Notification No. 12/2018-Central Tax (Rate) dated 29.06.2018 Seeks to exempt payment of tax under section 9(4) of the CGST Act, 2017 till 30.09.2018.**



The Revenue Department has decided to keep on hold the GST provisions relating to reverse charge mechanism u/s 9(4) of the

CGST Act, 2017, Tax Collected at Source (TCS) and Tax deducted at Source (TDS) u/s/ 51 of the CGST Act, 2017 for another three months till September 30th, 2018.

The RCM u/s 9(4) pertains to the applicability of GST under RCM for inward supplies from Unregistered Dealers amounting to an aggregate value of INR 5000/- and above per day. The same had been a bone of contention with the traders from the implementation of GST and thus, was deferred by the GST Council. As no decision on the same has been taken on the continuity/amendment in the relevant section, the provision has been further deferred till 30.09.2018.

Similar notifications of even date were passed under the IGST Act, 2017 and the UTGST Act, 2017

- **Circular No. 48/22/2018-GST dated 14.06.2018 was issued by CBIC giving clarifications on certain issues under GST as detailed below:**

- i. It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision. In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies. Therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply



- ii. Subject to the provisions of section 17(5) of the CGST Act, if event management services, hotel, accommodation services, consumables etc. are received by a SEZ developer or a SEZ unit for authorised operations, as endorsed by the specified officer of the Zone, the benefit of zero rated supply shall be available in such cases to the supplier.

- iii. Notification No. 5/2017-Central Tax (Rate) dated 28.06.2017 specifies the goods in respect of which refund of unutilized input tax credit (ITC) on account



of inverted duty structure under section 54(3) of the CGST Act shall not be allowed where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies of such goods. However, in case of fabric processors, the output supply is the supply of job work services and not of goods (fabrics). Hence, it is clarified that the fabric processors shall be eligible for refund of unutilized ITC on account of inverted duty structure under section 54(3) of the CGST Act even if the goods (fabrics) supplied to them are covered under notification No. 5/2017-Central Tax (Rate) dated 28.06.2017.

CUSTOMS

NOTIFICATIONS AND CIRCULARS

- **Notification No. 32/2018-Cus (ADD) dated 01.06.2018 seeks to rescind Anti-Dumping Duty on imports of the Digital Offset Printing Plates originating in or exported from China PR imposed vide Notification No. 51/2012- Customs (ADD), dated the 3rd December, 2012.**



In the matter of review of anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, the Designated Authority in its final findings, published vide notification No. F. No. 15/24/2016/DGAD, dated the 23rd April, 2018 published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 23rd April, 2018, has concluded that:

- (i) The financial and economic parameters of Domestic Industry (both volume and price) are stable and not evidencing deterioration requiring continuous of Antidumping Duty.
- (ii) The 'MOU' signed by the Domestic Industry with the user association/user industry have led to mitigation of likely injury due to unfair trade.
- (iii) The prices agreed under MOU and actually realized by Domestic Industry during Period of Injury and post Period of Injury do not establish price underselling.

- (iv) The price trends of cooperating exporters and the import trend do not indicate a likelihood of recurrence of injury to Domestic Industry if Anti-Dumping Duty is withdrawn.
- (v) Non-realization of full prices in accordance with the provisions of the MoU by the petitioner is the primary reason for non-mitigation of injury that has been noted on account of product underselling for UV-CTP plates due to leakages emanating from mis-declaration of product description during custom clearance;

and has concluded that continuance of Anti-Dumping duty is not warranted on any of the three categories of product and has recommended discontinuance of existing Anti-Dumping Duty on imports of the 'Digital Offset Printing Plates' originating in or exported from China PR in accordance with clause (b) of Rule 14 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.

- **Notification No. 33/2018-Cus (ADD) dated 01.06.2018 seeks to revise anti-dumping duty on imports of Hydrogen Peroxide originating in or exported from Bangladesh, Taiwan, Korea RP, Indonesia, Pakistan and Thailand by amending the notification No. 28/2017-Customs (ADD) dated 14th June, 2017.**



In the matter of review of anti-dumping duty on imports of the subject goods, originating in or exported from the subject countries, in pursuance of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) order No. 58470-58474/2017 dated the 20th December, 2017, the designated authority in its final findings, published vide notification No. 14/3/2015-DGAD, the dated 17th April, 2018, in the Gazette of India, has re-determined the Non-Injurious Price (NIP) and recommended the revised anti-dumping duty on import of 'subject goods' originating in or exported from 'subject countries' and imported into India.

EXCISE LAWS

NOTIFICATIONS AND CIRCULARS

- **Circular No. 1065/4/2018-CX was issued by CBIC on June 08th, 2018 giving clarification on "Place of Removal" under Section 4 of the Central Excise Act, 1944 and other issues.**

As per the above-mentioned circular it has been decided by the Board that Circular no. 988/12/2014-CX dated 20.10.2014

shall stand rescinded from the date of issue of this circular. Further, clause (c) of para 8.1 and para 8.2 of the circular no. 97/8/2007-CX dated 23.08.2007 are also omitted from the date of issue of this circular. Further, for the said circular, reliance was laid on the following judgements of the Hon'ble Supreme Court case:

- (i) *CCE vs M/s Roofit Industries Ltd 2015(319) ELT 221(SC)*,
- (ii) *CCE vs Ispat Industries Ltd 2015(324) ELT670 (SC)*,
- (iii) *CCE, Mumbai-III vs Emco Ltd 2015(322) ELT 394(SC)* and
- (iv) *CCE & ST vs. Ultra Tech Cement Ltd dated 1.2.2018 in Civil Appeal No. 11261 of 2016.*



As regards determination of 'place of removal', in general the principle laid by Hon'ble Supreme Court in the case of *CCE vs Ispat Industries Ltd 2015(324) ELT670 (SC)* may be applied. Apex Court, in this case has upheld the principle laid down in *M/s Escorts JCB (Supra)* to the extent that 'place of removal' is required to be determined with reference to 'point of sale' with the condition that place of removal (premises) is to be referred with reference to the premises of the manufacturer.

Exception to the above rule is there in in the case of FOR destination sale such as *M/s Emco Ltd* and *M/s Roofit Industries* where the ownership, risk in transit, remained with the seller till goods are accepted by buyer on delivery and till such time of

delivery, seller alone remained the owner of goods retaining right of disposal, benefit has been extended by the Apex Court on the basis of facts of the cases.

The Apex Court in the case of CCE &ST vs. Ultra Tech Cement Ltd dated 1.2.2018 in Civil Appeal No. 11261 of 2016 on the issue of CENVAT Credit on Goods Transport Agency Service availed for transport of goods from the 'place of removal' to the buyer's premises held that CENVAT Credit on Goods Transport Agency service availed for transport of goods from the place of removal to buyer's premises was not admissible for the relevant period.

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