VERENDRA KALRA & CO LLP
CHARTERED ACCOUNTANTS

Communiqué

Indirect Tax

August 2026

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Rulings

Land Acquisition Compensation Cannot Be Taxed Under GST

In the matter of **Lalitha S vs The Deputy Commissioner & Ors [WRIT PETITION NO. 24040 OF 2026 (LA-RES) Dated 13.08.2026], the Karnataka High Court** has held that the acquisition of land by the Government in exercise of its power of eminent domain does not amount to a "supply" within the meaning of GST law, and consequently, no GST is deductible from the compensation payable to the landowner in respect of such acquisition. The Court reasoned that eminent domain is a sovereign and constitutional power exercised by the State for a public purpose, exercised unilaterally and without the element of mutual consideration or reciprocal bargain that characterises a commercial transaction. As such, it lacks the essential character of "supply" as contemplated under GST law, which is premised on a transaction undertaken in the course or furtherance of business between two consenting parties.

The judgment draws an important distinction that will be of interest well beyond the immediate parties: not every transfer of property or payment of consideration by the Government constitutes a taxable event under GST. Where the transfer occurs pursuant to the State's sovereign function — as with compulsory acquisition, as opposed to a negotiated sale or lease arrangement — the transaction falls outside the ambit of "supply," and the compensation received cannot be treated as consideration for a taxable supply.

Nil Turnover Alone Cannot Justify Cancellation of GST Registration

In the matter of **Mapaex Consumer Healthcare Private Limited vs State of Gujarat & Ors. [R/Special Civil Application No. 8895 of 2025 Dated 20.08.2026], the Gujarat High Court** has quashed an order cancelling the petitioner's GST registration, holding that the mere filing of returns declaring 'nil' turnover cannot, without more, be treated as proof that the taxpayer has discontinued its business. The registration had been cancelled by the department solely on the premise that nil turnover reported over certain periods indicated cessation of business activity, warranting withdrawal of registration.

The Court held that a 'nil' return reflects only the turnover or tax liability declared for that period and does not, on its own, permit an inference of business closure. Nil turnover may arise from several legitimate circumstances — seasonal variation, temporary suspension of operations, or transitional gaps in business activity — none of which indicate permanent discontinuation. The Court accordingly held that cancellation of registration on this ground requires a substantive inquiry into the taxpayer's actual state of affairs, and cannot rest on the singular fact of nil returns. Given the significant consequences that follow from cancellation, including inability to issue tax invoices or avail input tax credit, the power must be exercised with due care and cannot be founded on assumption alone.

Purchaser's Duty to Verify Tax Payment Before ITC Not Diluted by Supplier Insolvency

In the case of **Shree Karni Electrovision vs UOI & ors [Writ Petition No. 4266/2023 Dated 17.08.2026], the Rajasthan High Court** has held that a purchaser's obligation under Section 16(2)(c) of the GST law — to ensure that tax charged on a supply has actually been paid to the Government by the supplier — remains unaffected even where the supplier subsequently becomes insolvent. The Court was called upon to examine whether the onset of insolvency proceedings against a supplier could be treated as a valid ground to relax or excuse the purchaser's statutory duty to verify actual tax payment before availing Input Tax Credit. Rejecting this contention, the Court held that insolvency is a subsequent event that arises independently of, and after, the transaction in question, and cannot be permitted to dilute a condition that the law places on the purchaser at the point of claiming credit.

The Court further observed that possession of a valid tax invoice, by itself, does not discharge the purchaser's obligation under Section 16(2)(c); the provision contemplates actual verification that the corresponding tax has reached the exchequer, not mere reliance on documentation issued by the supplier. Accordingly, where such payment cannot be established, the purchaser cannot resist disallowance of credit merely by pointing to circumstances — such as the supplier's insolvency — that arose subsequent to the availment of credit and were beyond the purchaser's control at that later stage. The ruling reaffirms that the burden of establishing fulfilment of this condition rests squarely on the purchaser, and that this burden does not shift or lessen on account of developments in the supplier's affairs occurring after the credit has been claimed.

Hotel Booking Facilitator Must Pay 18% GST on Full Amount

In the matter of **FeelGood Hospitality Private Limited [WBAAR 38 of 2025-26 Dated 07.08.2026], The West Bengal Appellate Authority for Advance Ruling (AAAR)** has that a hotel-booking facilitator receiving invoices from hotels in its own name, rather than in the name of the end client, cannot claim the status of a 'pure agent' under GST law. The applicant had sought to exclude hotel charges collected from clients from the value of its taxable supply, on the basis that such charges were merely passed through on the client's behalf without any markup, and that its role was confined to facilitating the booking rather than supplying accommodation in its own right.

The Authority examined this claim against the conditions prescribed for a pure agent under the GST valuation rules, and held that one of the essential conditions for qualifying as such is that the recipient of the underlying supply must be clearly identifiable through documentation, including invoices raised in the client's name, so as to establish that the third-party supply was procured on the client's account and not on the facilitator's own account. As the hotels had invoiced the applicant directly, and not the client availing the accommodation, the applicant was found to be procuring accommodation on its own account rather than acting purely as a facilitator, notwithstanding the absence of any markup on the amount passed on. The Authority further observed that the absence of a markup, while relevant, is not by itself determinative of pure agent status, since the documentary trail of the transaction must independently establish that the facilitator acted solely as a conduit and that the client, and not the facilitator, was the true recipient of the hotel service. In the absence of such a documentary link, the transaction between the applicant and the hotel was treated as a supply received by the applicant in its own capacity, which the applicant then on-supplied to its client as part of a composite arrangement.

Unutilized ITC Refund Must Reach Taxpayer in Cash Where Business Discontinued

In the case of **Vossloh Cogifer Turnouts India Pvt. Ltd. Vs State Of U.P [WRIT TAX No. - 1014 of 2026 Dated 10.08.2026], the Allahabad High Court** has held that where a taxpayer's business has closed down or its GST registration has been discontinued, any refund arising in respect of unutilised input tax credit must be paid in cash and cannot be re-credited to the taxpayer's Electronic Credit Ledger (ECrL). The issue arose in a case where the department, while processing a refund claim, sought to re-credit the eligible amount to the taxpayer's ECrL rather than disbursing it as a cash refund, following the procedure typically adopted where credit is restored for future utilisation against output tax liability.

The Court held that re-crediting an amount to the Electronic Credit Ledger presupposes that the taxpayer continues to be an active, operational entity capable of utilising such credit against future tax liability in the ordinary course of business. Where the business itself has ceased to exist, or the registration has been cancelled or surrendered, this underlying premise no longer holds, and crediting the amount to a ledger that the taxpayer can no longer meaningfully access or utilise would render the refund illusory rather than an effective remedy. In such circumstances, the Court held, the only meaningful and legally sound mode of granting refund is disbursement in cash, ensuring that the taxpayer actually receives the benefit of the credit to which it is entitled.

Source: Ruling

No GST Exemption for Maintenance Services on Government Housing Units, Taxable Under SAC 999423

In the matter of **Jay Kay Trans [Advance Ruling No. 48/ARA/2026 Dated 27.07.2026], The Tamil Nadu Appellate Authority for Advance Ruling (AAAR)** has held that services relating to the upkeep and maintenance of housing units belonging to the Tamil Nadu Urban Habitat Development Board (TNUHDB) are classifiable under Service Accounting Code (SAC) 999423, and that no GST exemption is available in respect of such services. The applicant had contended that since the units belonged to a government body and formed part of a public housing scheme, the maintenance services provided in connection with them should qualify for exemption on that basis.

The Authority rejected this contention, holding that mere association with a government body does not automatically extend exemption to ancillary services such as upkeep and maintenance, unless the specific service is independently covered by an exemption notification. On examining the nature of the service, it was found to squarely fall within SAC 999423, which covers general upkeep and maintenance services, with no corresponding exemption entry available to exclude it from the tax net. Accordingly, the applicant was held liable to charge and pay GST on the maintenance charges collected at the rate applicable to this classification.

Strict Compliance with 'Port of Export' Condition Necessary for Concessional Rate

In the case of **Time Technoplast Ltd .vs Union of India & Ors [PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 25801/2026 Dated 07.08.2026], the Supreme Court** has dismissed a Special Leave Petition filed by a supplier of HDPE drums, who had challenged the denial of a concessional rate of tax on its supplies. The concessional rate was available only where the goods were supplied to a designated "port of export," a condition meant to ensure that the benefit is limited to supplies that genuinely form part of the export process, rather than being extended to supplies made in the domestic market more generally. In this case, the authorities found that the supplier's goods had not actually been supplied to a port of export as required, and denied the concessional rate on this basis.

The supplier's challenge to this finding was rejected by the lower forums, and the Supreme Court, by declining to entertain the SLP, has allowed this denial to stand. The dismissal makes clear that where a concessional rate is subject to a specific condition, such as delivery to a particular category of destination, that condition must be factually and demonstrably satisfied before the benefit can be claimed; it is not enough for the supplier to merely intend or believe that the goods form part of an export supply chain. The burden lies squarely on the supplier to produce documentation and evidence establishing that the condition has genuinely been met, and where such evidence is lacking or contradicts the claim, the concession can be denied notwithstanding the supplier's contention that the goods were, in substance, meant for export.

GSTIN Reporting Error Causing No Revenue Loss; Permits Rectification of GSTR-1/3B

In the case of **Ashutosh Bandyopadhay vs UOI & Ors [W.P.(C) No.379 of 2023 Dated 27.07.2026], the Tripura High Court** has allowed rectification of GSTR-1 and GSTR-3B returns in a case where the taxpayer had mistakenly reported certain invoices against the wrong GSTIN, holding that such an error, once shown to be genuine and revenue-neutral, does not warrant denial of correction. Because of this mistake, the corresponding Input Tax Credit got reflected against the wrong recipient's account, leaving the actual intended recipient unable to avail credit that was rightfully theirs. The department had opposed the rectification, relying on the expiry of the time limit prescribed for amending returns, without disputing that the transaction itself was genuine or that tax had actually been paid on it.

The Court held that where tax on the underlying transaction has been correctly paid and the only mistake lies in misreporting the recipient's GSTIN, the error causes no loss of revenue to the government — it simply misdirects which party is entitled to claim the credit. In such a situation, insisting on strict adherence to procedural timelines, without any corresponding benefit to the exchequer, was held to defeat the very purpose of GST law, which is meant to enable smooth flow of credit rather than block it over correctable, bona fide errors. The Court accordingly permitted the taxpayer to rectify its returns so that the credit could be reflected correctly in the hands of the intended recipient.

Source: Ruling

Enhanced Pre-Deposit Under Section 107(6) Cannot Apply Retrospectively to Older Show Cause Notices

In the matter of Gaurav Jain & Anr. vs Joint Commissioner (Appeals-II) CGST Delhi Zone [W.P.(C) 8414/2026 Dated 31.07.2026] the Delhi High Court has held that the enhanced 10% pre-deposit requirement, applicable specifically to appeals against penalty-only orders under the newly inserted proviso to Section 107(6) of the GST law, cannot be applied to cases where the show cause notice was issued before this proviso came into force. The taxpayer had challenged the appellate authority's demand for 10% pre-deposit as a condition for hearing its appeal, arguing that since the proceedings originated from a notice issued prior to the amendment, the enhanced requirement should not apply to it.

The Court agreed, holding that a change in law that alters the conditions for filing an appeal, especially one affecting how much pre-deposit a taxpayer must pay to be heard, cannot ordinarily be applied to proceedings that had already begun under the earlier, unamended provision, unless the law specifically says it applies retrospectively. Since the show cause notice in this case was issued before the new proviso was introduced, the Court held that the taxpayer's appeal rights, including the applicable pre-deposit, must be governed by the law as it stood when the proceedings first began. The appellate authority was accordingly directed to entertain the appeal without insisting on the higher, 10% pre-deposit meant for penalty-only orders under the amended provision.

Orders Based on Fabricated AI-Generated Citations Cannot Stand

In the matter of **Faiz Enterprise vs State Tax Officer [R/SPECIAL CIVIL APPLICATION NO.10123 of 2026 Dated 20.08.2026], the High Court** has quashed orders that were found to have relied on case laws generated using Artificial Intelligence tools, holding that citations which do not correspond to any genuine, verifiable judicial precedent cannot form the basis of a valid order. The issue came to light when it was noticed that certain case citations relied upon in the impugned orders either did not exist at all or did not support the proposition for which they were cited, indicating that the citations had likely been generated through an AI tool without any human verification of their authenticity or accuracy. The Court expressed serious concern over this practice, observing that reliance on unverified, AI-generated legal citations strikes at the very foundation of judicial and quasi-judicial decision-making, which must be based on real precedent and reasoned application of law, and not on content that may be entirely fabricated or fictitious in nature. Since the orders in question rested on such unreliable citations, the Court held that they could not be sustained and accordingly quashed them, granting liberty for the matter to be reconsidered afresh in accordance with law.

Going further, the Court laid down specific directions on the use of AI tools in judicial and quasi-judicial proceedings, mandating that any case law or legal proposition sourced with the assistance of AI must be independently verified against authentic, official sources before being relied upon in any order. The Court made clear that any future breach of this requirement, resulting in orders being founded on fabricated or unverified AI-generated content, would be treated seriously and could attract contempt proceedings against the concerned authority or individual responsible. The ruling serves as a significant caution for all quasi-judicial authorities and legal practitioners increasingly relying on AI tools for research, underscoring that convenience cannot come at the cost of accuracy, and that the final responsibility for verifying the authenticity of any citation used in an order continues to rest with the person passing it.

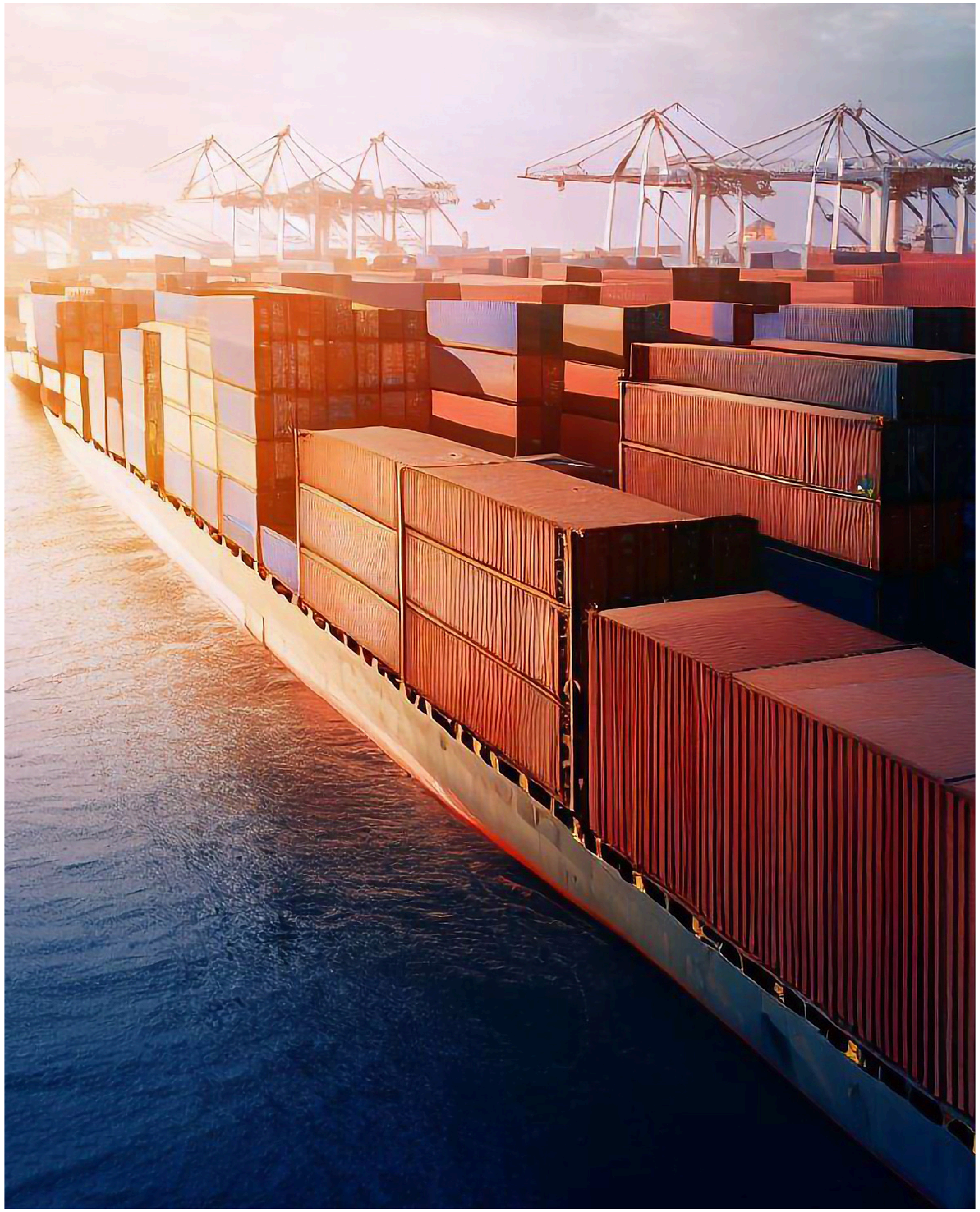
Customs

New Duty Relief for Raw Sugar Imports Under TRQ Scheme

With sugar demand typically climbing ahead of the festive season, the government has moved to shore up domestic supply through a targeted duty exemption on imports. Notification No. 30/2026-Customs, dated 21 August 2026, exempts 10 lakh Metric Tonnes of raw sugar falling under Tariff Heading 1701 from the whole of the customs duty leviable under the First Schedule to the Customs Tariff Act, 1975, where such sugar is imported under the Tariff Rate Quota (TRQ) Scheme on Open General Licence. The exemption remains available for imports effected up to 31st October, 2026, with the benefit operating strictly within this notified quota — imports beyond the 10 lakh MT ceiling, or effected after the cut-off date, fall outside the exemption and attract duty at the standard rate.

TRQ authorisation is allotted by the Directorate General of Foreign Trade and transmitted electronically to the Indian Customs EDI System, with imports against the allotted quota permitted only once the corresponding quantity is debited in that system. This is worth flagging for clients engaged in raw sugar import or refining, particularly those holding Advance Authorisations under SION E52, since a related DGFT notification allows a one-time conversion to this TRQ Scheme, subject to specified conditions. Given the capped quantity and fixed window, timely application for allocation will matter for businesses looking to secure entitlement.

Source: https://taxinformation.cbic.gov.in/view-pdf/1010743/ENG/Notifications



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