

# CUSTOMS AND GST ALERT

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## NEWS UPDATES

- The Invoice Management System (IMS) has been activated on the GSTN portal with effect from 14.10.2024, to enable taxpayers to match their records / invoices vis-à-vis those issued by their suppliers, for availing correct Input Tax Credit (ITC). The first Form GSTR-2B would be generated for the return period October 2024 on 14.11.2024, based on actions taken on the IMS.
- GSTN has proposed to implement a “hard lock” on the auto-populated liability figures in Form GSTR-3B based on figures declared in Form GSTR-1/1A, from January 2025. Any changes to the auto-populated figure post filing of Form GSTR-1 must be made by filing Form GSTR-1A (so that they can be incorporated in Form GSTR-3B). “Hard locking” of ITC figures is also proposed to be implemented in future.

## CASE LAW UPDATES

### Goods and Services Tax

#### M/S VEREMAX TECHNOLOGIE SERVICES LIMITED v. ASSISTANT COMMISSIONER OF CENTRAL TAX, BENGALURU

2024 (9) TMI 1347

**Karnataka High Court** holds that the practice of issuing a single, consolidated show cause notice for multiple years contravened the provisions of the Central Goods and Services Tax Act,

2017 (CGST Act) and established legal precedents, and was therefore fundamentally flawed; accordingly, quashes a single show cause notice issued for four years.

### **DEEPAK SINGHAL v. UNION OF INDIA AND ORS**

2024 (9) TMI 828

**Madhya Pradesh High Court** holds that GST Authorities could not bypass procedure prescribed under the CGST Act for launching prosecution by invoking penal provisions under the Indian Penal Code, 1860, when the alleged offence was offence covered under the penal provisions contained in the CGST Act; terms such action as an “abuse of process of law” and quashes the impugned First Information Report (FIR) and subsequent proceedings.

### **BLA COKE PRIVATE LIMITED v. UNION OF INDIA & ORS**

2024 (10) TMI 492

**Gujarat High Court** holds that an importer would not be liable to pay IGST (GST) on reverse charge basis on the value of ocean freight, equally in respect of sales contracts entered on Cost Insurance Freight (CIF) or Free on Board (FOB) basis, since the said importer is liable to pay IGST (Customs duty) on the value of goods including the component of ocean freight, and also since the notification imposing GST liability on reverse charge basis was struck down by the Supreme Court.

### **M/S ETHOS LIMITED v. ADDITIONAL COMMISSIONER, CGST AUDIT AND ANR**

2024 (9) TMI 1298

**Punjab and Haryana High Court** holds that the jurisdictional proper officer has the power to issue show cause notice even in respect of an assessee’s business conducted outside the state, despite the assessee possessing separate GST registrations at such places outside the state.

### **M/S HALLMARK v. JAMMU AND KASHMIR GOODS AND SERVICES TAX DEPARTMENT, JAMMU-1 AND ANR**

2024 (9) TMI 1582

**Jammu & Kashmir and Ladakh High Court** holds that where a refund application originally filed within limitation was rejected consequent to issuance of a deficiency memo and a second refund application was filed, the second application shall be treated to be *in continuation to the proceedings related to the first application*, and the date of the first application shall be considered for limitation purposes.

## **REGULATORY UPDATES**

### Goods and Services Tax

#### **CIRCULAR NO 237/31/2024**

Central Government has notified the following procedure to be followed in various scenarios for giving effect to the amendments extending time limit for availing ITC for FY 2017-18 to FY 2020-21:

<b>Scenario</b>	<b>Action to be taken</b>
Where investigation / other proceedings have been initiated but no demand notice has been issued	Tax authorities shall take cognizance of the extended time limits and proceed accordingly.
Where demand notice has been issued but no order has been passed	Tax authorities shall take cognizance of the extended time limits and pass appropriate orders.
Where order has been passed and appeal has been filed but no order has been passed in appeal	Appellate Authorities shall take cognizance of the extended time limits and pass appropriate orders.
Where order has been passed and Revisional Authority has initiated proceedings but no order has been passed by the Revisional Authority	Revisional Authority shall take cognizance of the extended time limits and pass appropriate orders.
Where order has been passed but no appeal has been filed, or where order has	Assessee is required to file a rectification application, based on which benefit of the

Scenario	Action to be taken
been passed in first appeal but no further appeal has been filed	extended time limit shall be granted by the adjudicating / appellate authority, wherever applicable.

The Central Government has reiterated that no refund of tax already paid or ITC already reversed shall be available, where such tax had been paid or ITC had been reversed on the ground of delayed availment, despite such ITC now being available under the extended time limits.

### **CIRCULAR NO 238/32/2024**

Central Government has notified the modalities for operationalising provisions granting benefit of waiver of interest and penalty for demands pertaining to FY 2017-18 to FY 2019-20, including time limits for filing applications, withdrawal of existing appeals / writ petitions / special leave petitions, payment of tax through Form GST DRC-03, and has also provided clarifications on various issues.

## Customs

### **INSTRUCTION NO 21/2024**

Central Government has reiterated that where benefit under India-UAE Comprehensive Economic Partnership Agreement (CEPA) was not claimed or extended at the time of import, the importer may claim such benefit upon subsequent submission of a valid Certificate of Origin (COO) within the stipulated time frame. It has further been reiterated that minor discrepancies do not render a COO invalid, provided the certificate corresponds to the products under import and such minor errors do not affect the authenticity of the COO, the accuracy of the information contained therein, or cast a doubt on the originating status of the product.

### **INSTRUCTION NO 22/2024**

Central Government has clarified that, pursuant to a bilateral agreement, the health certificate issued by the Bhutan Food and Drug Authority accompanying a food consignment imported from

a Bhutanese manufacturer, shall be accepted as proof of compliance with the requirements set by Food Safety and Standards Authority of India (FSSAI). Such health certificate would need to be uploaded along with the bill of entry, for smooth grant of no-objection certificate (NOC) and out-of-charge.

#### **INSTRUCTION NO 23/2024**

Central Government has clarified that (i) information being sought regarding the originating status of a product imported under a Free Trade Agreement (FTA) and the process of verification must be consistent with such FTA; (ii) Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR) does not obligate the importer to provide commercially confidential information pertaining to the exporter / third-party; (iii) CAROTAR does not require an issuing authority or a seller to use a specific or same currency for declaring value in COO and invoice respectively; (iv) if the relevant FTA does not allow for outright denial of preferential benefit without causing a verification in accordance with provisions laid down in such FTA, provisions of the FTA shall prevail over CAROTAR; (v) in cases where non-compliance of origin criteria is established, a speaking order must be passed following the principles of natural justice and also the specific obligations in this regard stated in the relevant FTA; (vi) merely pointing out that the value addition is artificially inflated by wrongfully adding certain ineligible elements (e.g. freight) may not be sufficient to deny preferential benefit, unless it is demonstrated that the value addition calculated as per the formula prescribed in the relevant FTA does not meet the threshold percentage point when such elements are removed.

### **Foreign Trade Policy**

#### **NOTIFICATION NO 36/2024-25**

Directorate General of Foreign Trade has notified that import of *Parts of pocket lighters, gas fuelled, non-refillable or refillable lighters (cigarette lighters)* under CTH 9613 90 00 shall be 'restricted' with effect from 13.10.2024.

#### **POLICY CIRCULAR NO 08/2024-25**

Directorate General of Foreign Trade has clarified that the requirement of obtaining NOC from Drug Controller and Narcotics Commissioner of India shall not apply to procurement of *Acetic Anhydride* by an Advance Authorisation holder from a Special Economic Zone (SEZ) unit against Certificate of Supplies, provided the same is manufactured by an SEZ unit.

#### **TRADE NOTICE NO 21/2024-25**

Directorate General of Foreign Trade has notified that *Appendix 4H certificate*, which accounts for the consumption and stock of duty-free imported or domestically sourced raw materials and components under the Advance Authorization and Duty-Free Import Authorization schemes, has now been implemented online, and the same can be e-filled by exporters, forwarded to the relevant certifying authorities and e-signed by such authorities.

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