VISION 360

JULY 2023

EDITION 33

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

TCA TAXCRAFT ADVISORS

GLS

VMGG & ASSOCIATES

tiol ONE-STOP DESTINATION FOR TAXMAN AND TAXPAYER

EDITORIAL

Vision 360: Judicial Supremacy!

Taxation has a paradigm of its own in the legal space. Not only is it one of the most dynamic laws, it also keeps taxman on its toes with ever evolving jurisprudence. Recently, the Hon'ble Supreme Court gave a jolt to the taxpayers when it upheld the Pre-import condition in the matter of Cosmo Films. The decision also came with a direction for the revenue to set out a process so as to enable the taxpayers to pay the IGST forgone and avail credit thereof, all within a period of Six weeks! Needless to say the time limit itself was miserably short for such an exercise, the revenue itself came up with its procedure only two days shy of this limit. We wouldn't be surprised if such a delay springs another slurry of petitions challenging its validity – and thus keep the taxman on its toes yet again!

Simultaneously, this past month of June, which was also the last for claiming the benefit of Amnesty scheme that the Budget 2023 had announced, faced a few technical glitches, prompting the authorities to develop a portal dedicated to applications under the amnesty schemes.

Direct tax space witnessed a crucial development in addressing divergent Advance Ruling. CBDT has now amended the rules to provide for a reference on point of difference between the Members of the Board for Advance Rulings and decision by the rule of majority. CBDT incorporates 'majority rule' to address split in advance rulings.

In the international tax space, UAE's Finance Minister released Ministerial Decisions on Business Restructuring Relief for the purpose of Federal Decree-Law. Ministry added that income from certain specific excluded activities will not be treated as qualifying income regardless of whether the income is derived from the free zone person or as part of undertaking a qualifying activity – which is indeed a welcome move.

In yet another welcome move the RBI has extended the scope of Trade Receivables Discounting systems. The system has pre-dominantly facilitated MSMEs to sell their trade receivables to financiers such as banks and non-banking financial companies at a discount, providing them with faster access to funds. Now with a wider scope of this scheme, the MSME may enjoy even better liquidity out of its trade receivables.

To sum up, it was a mix of pros and cons of the various decisions, be it judicial, legislative or administrative which we the entire team of TIOL, in association with **Taxcraft Advisors LLP, GLS Corporate Advisors LLP** and **VMGG & Associates**, are glad to publish the 33rd edition of its exclusive monthly magazine '**VISION 360**'. We hope that, as always, you will find it an informative and interesting read. We look forward to receiving your inputs, thoughts and feedback, in order to help us improve and serve you better.

Happy Reading!

P.S.: This document is designed to begin with couple of articles peeking into recent tax/regulatory issues followed by stimulating perspective of leading industry professionals. It then goes on to bring to you latest key developments, judicial and legislative, from Direct tax, Indirect tax and Regulatory space. Don't forget to check out our international desk and sparkle zone for some global and local trivia.

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ARTICLE

Action, Drama, and GST: Show Cause Notices Take Centre Stage in the Bollywood of Tax Proceedings

"The implementation of the GST in India marked a revolutionary shift in the tax landscape, introducing a technology-driven framework that streamlined processes and enhanced compliance. This transformative tax regime replaced the outdated system with a technology-driven approach, incorporating a standardized format as prescribed under the CGST Act and Rules. Within the intricate web of tax legislation, the principles of natural justice often find themselves intersecting with the rigorous enforcement of tax laws.

The legal landscape resonates with the wisdom that "in the pursuit of justice, the principles of fairness and due process serve as pillars of strength." This wisdom finds prominence in a recent judgment delivered by the Hon'ble Madras High Court in the case of **M/s. Hatsun Agro Product Limited [W.P.No.17861 of 2023 and WMP Nos.16983 & 16984 of 2023]**. This judgment sheds light on the pivotal role of a SCN in tax proceedings. It is well-established that any order passed or contemplated action without adherence to these principles violates the fundamental tenets of natural justice, rendering it void ab initio and not merely voidable

A brief history

The case at hand revolves around a dispute concerning the reversal of Input Tax Credit (ITC) under the Tamil Nadu GST Act. The Department issued notices in the form of DRC-01A and ASMT-10 to the Petitioner, pertaining to their claim of ineligible ITC. These notices sought specific information and particulars regarding the Petitioner's claim. However, without issuing a proper SCN, the Department

proceeded to issue an order determining the amount to be reversed. This determination was based on a comparative analysis of the ITC claimed by the Petitioner under GSTR-3B and GSTR-2B. Aggrieved by this, the Petitioner filed a Writ before the Madras High Court.

The Petitioner contended that they had provided the requested particulars in response to the notice, yet no appropriate action was taken. However, the Revenue argued that the petitioner failed to provide the details in the specific tabulation format as requested by the Assessing Officer. Therefore, the impugned order was passed.

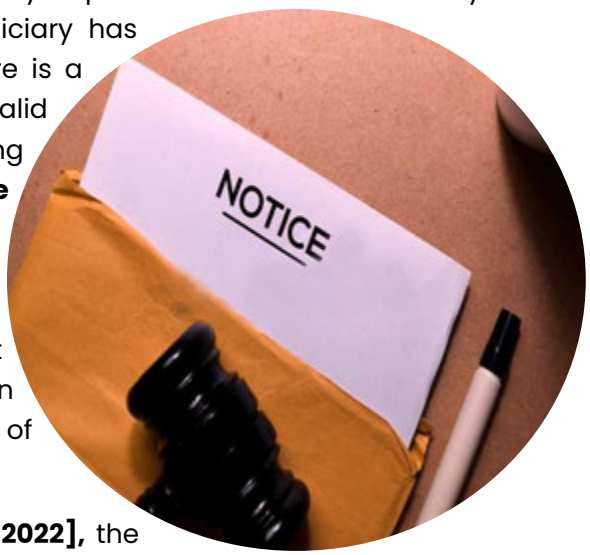
High Court's Ruling

The Hon'ble Madras High Court observed that the determination made by the Department should have been included in the SCN itself before the issuance of the impugned order. By doing so, the Petitioner would have been afforded a sufficient opportunity to respond and provide supporting details for their ITC claim. Prior to the issuance of the impugned order, the court noted that only general notices were exchanged, calling for particulars from the Petitioner. Although the Petitioner had responded to these notices, their response was deemed insufficient.

In the interest of substantial justice, the court set aside the impugned assessment order, treating it as a SCN. The Petitioner was directed to appear before the Assessing Officer with all the necessary details to substantiate the reversal mentioned in the impugned order. Consequently, the writ petition was allowed by remand, ensuring that the Petitioner would have a fair opportunity to present their case and provide the required information in support of the reversal mentioned in the impugned order.

Analysis of the HC judgement

The Hon'ble Madras High Court, in its ruling, placed significant emphasis on the importance of fairness and procedural correctness. It highlighted that a proper SCN should be issued before any adverse order is passed. The court proceeded to set aside the initial assessment order, treating it as a SCN, thereby guaranteeing that the affected party has a reasonable opportunity to present their side of the story. This stance is consistent with previous judgments wherein the judiciary has underscored the significance of upholding natural justice. There is a multitude of cases where courts have stressed the need for a valid SCN and providing a fair opportunity to be heard before passing adverse orders. For instance, in the case of **RE: Skyline Automation Industries [Writ Tax No. 1512 of 2022],** the demand order passed in Form DRC-07 by the Revenue Department was quashed on the grounds that a notice in Part A of FORM GST DRC -01A was not issued. The Hon'ble Allahabad High Court held that subsequent reminders would not rectify the inherent defect in proceedings initiated against the assessee, as the initiation of proceedings itself was flawed.



Similarly, in the case of **RE: Engineering Aids [W.P. No.28124 of 2022],** the Hon'ble Madras High Court quashed the demand order passed by the Revenue Department, as the reply filed by the assessee to the SCN was not considered, despite being received by the Revenue Department. It is pertinent to note that the issuance of a SCN is a prerequisite for raising an enforceable demand. This

principle has been upheld in judgments of the Supreme Court, such as **CCE vs. Mehta & Co. [MANU/SC/0107/2011]** and **UOI vs. Madhumilan Syntex Private Limited & Anr. [MANU/SC/0550/1988].**

Even in the pre-GST era, it was an established legal principle that a demand without a SCN was not sustainable. The opportunity to present a case and provide explanations is fundamental to the principles of natural justice. In the absence of such an opportunity, any order issued without due process should be invalidated on this ground alone. There are numerous judgments from the pre-GST era that highlight the significance of procedural fairness and due process. One such case, **RE: Metal Forgings v. UOI [2002 (146) E.L.T. 241 (S.C.)],** clearly held that a SCN is a mandatory requirement for raising demands, and communications, orders, suggestions, or advice from the department cannot be considered a valid SCN. The specific SCN indicating the amount demanded and calling upon the assessee to present their objections has been deemed a necessary ingredient for confirming demands.

Likewise, in **UOI & Others v. Madhumilan Syntex Private Limited [1988 (35) E.L.T. 349 (S.C.)]** and **Gokak Patel Volkart Limited v. CCE, Belgaum - 1987 (28) E.L.T. 53 (S.C.),** the Apex Court categorically stated that any demand raised without notice or hearing is invalid, and a post facto SCN and hearing would contravene the statutory requirement. It was emphasized that prior notice is a condition precedent to issuing a demand under Section 11A of the Excises Act, and natural justice is violated if the opportunity to SCN is not afforded to the party before raising the demand. Failing to provide such an opportunity would result in prejudice to the petitioner when the order is made.

Parting Thoughts:

The ruling of the Hon'ble Madras High Court in the present case re-emphasizes the settled precedent under GST. It underscores the necessity for a fair and balanced approach, wherein a valid SCN is clear, specific, provides sufficient response time, and states the alleged provisions violated. This ruling reinforces the principles of natural justice and ensures that taxpayers are afforded a genuine opportunity to present their case in GST disputes.

The judiciary has consistently emphasized the significance of fairness and procedural correctness in GST disputes. However, it is disheartening to note that despite the well-established legal principle from the past era, there are still instances where the department neglects or overlooks the requirement of issuing a SCN. By highlighting the requirement for a valid SCN and affording taxpayers a genuine opportunity to respond, the court upholds the principles of natural justice. This ruling aligns with previous judgments that prioritize procedural fairness and adherence to proper procedures. The case sets a crucial precedent, promoting a fair and balanced approach to GST disputes, while ensuring transparency and procedural justice in the taxation system. It serves as a reminder that tax justice and natural justice are inseparable, safeguarding the rights of taxpayers throughout the process.

INDUSTRY PERSPECTIVE

Devesh Singhania

CFO India Region & APAC Industry Controller

Socomec Group

01 Do you believe that India growth story is working out and it will lead to macro-economic development in India?

After real GDP contracted in Financial Year 2020 & 2021 due to the COVID, growth bounced back strongly in financial year 2021 and 2022, supported by accommodative monetary and fiscal policies as well as a largest ever vaccination drive. In fact, in 2022, India emerged as one of the fastest growing economies in the world, despite significant challenges in the global environment. India is certainly moving towards an exponential yet sustainable growth path well fuelled by private & government consumption/investment as well as push to digitisation.

In fact, Market for UPS system is projected for an exponential growth while low voltage switchgears may see a growth at about 6%. Demand for electrical protection and control devices is increasing day by day because the current use for green technologies, power electronic systems and innovative installations is growing at a healthy CAGR.

02 The export sector is growing and there is a lot of focus on decrease in trade deficit, is your sector also witnessing opportunities for export growth?

Our products are used in critical power consumptions sectors such as Data centre, Health care, Metro and Airports. These segments have seen tremendous potential for export growth with cost competitiveness in India. From a macro economic stand point as well, India's share of global exports has increased from 1.2 per cent in 2021-22 to approximately 1.8 per cent in 2022-23. Considering the government initiatives such as recent foreign trade agreements and preferential trade agreements and our potential to do low-cost quality manufacturing, the exports in our sector shall witness strong growth.

Devesh Singhania
CFO India Region & APAC Industry Controller — Socomec Group

03 What will be the future of automation in tax compliances? Will it increase efficiency or simply be an alternative to the manual work-force?

The future of tax compliance automation in India holds significant potential for transforming the way businesses manage their tax obligations. As the economy evolves into the digital age, businesses are adapting accordingly. Gone are the days when a company's customer base was limited by geography; now, any business can easily sell its goods or services online, reaching customers worldwide.

For example, in GST, e-invoicing and e-way bills require automation tools to generate and manage them efficiently. This automation will undoubtedly facilitate tasks such as digital tax filing, real-time data integration, and cloud-based solutions. However, adopting this automation presents challenges due to the complexity and diversity of tax regulations and processes. It requires a comprehensive approach that involves careful planning, collaboration with technology providers, engagement of tax experts, and on-going monitoring and updates to keep up with regulatory changes.

04 Government has undertaken major Changes in the tax system by introducing E-Waybill, E-Invoicing, Faceless Assessment etc. How do you see these changes in bringing transparency and efficiency in the tax system?

The implementation of the e-invoicing system has proven to be a valuable tool in addressing tax leakages and fraud associated with fake invoices. By closely monitoring B2B transactions and verifying ITC claims, the system has significantly enhanced transparency, discipline, governance and strengthened efforts to curb tax evasion. However, it is important to acknowledge that this increased scrutiny and compliance comes with their own set of challenges, potentially adding to the burden faced by taxpayers. Consequently, the compliance burden for industries has unsurprisingly increased as they are now required to reconcile e-invoicing data with their books of accounts. In the case of e-way bills, they provide transparency regarding the movement of goods.

05 The tax space is fast evolving over the last few years. What has been the impact of such changes on the economy and the service industry? Do you believe that such changes are aligned with overall long-term growth objectives?

Tax space has a certainly evolved and have left its footprint on service industry. By now it is well accepted that tax changes can directly affect the service industry's demand and revenue. Higher taxes on specific services might reduce demand, while lower taxes could stimulate demand and increase revenue for service providers.

Additionally, changes in tax laws can also alter the business environment by influencing investment

decisions, business structures, and location choices. It also has an impact on the administrative efforts and resources caused by additional compliance, which can impact operational efficiency and profitability.

To sum up, impact of tax changes on the economy and service industry can vary based on specific circumstances, and it calls for a comprehensive analysis of aforesaid factors to determine the alignment of tax changes with long-term growth objectives.

06 Is your company or Industry facing some continuing tax litigations, do you believe tax authorities need to change their outlook?

We have been facing some tax litigation linked to interpretation and jurisprudence issues and I firmly believe that government needs more commitments to work towards simplifying the tax laws and minimize ambiguity around interpretation. We all welcomed GST as a simplification move which turned out to be true to a large extent, though there still exists lot of pre and post implementation challenges. On Direct tax front, we expect improvement on speed of assessments as long pending assessment exposes risk and disturbs the healthy investment climate.

07 Government is slowly moving towards self-sustainable model by withdrawing incentives offered to industry. While on other hand, PLI schemes are being introduced, what is your view on this. Does your sector need some fiscal support from Government?

What I believe that, industry needs incentives when there are significant initial capital expenditure requirements for infrastructure or technology development. For instance, recently there is a lot of thrust on semi-conductor manufacturing in India, thus government has allocated sizeable funds towards PLI scheme for that sector. Our products are catering to energy sector which is of a prime importance currently and hence we believe, if government creates an appropriate eco-system to support energy and renewable sector, we will in turn get the necessary growth impetus. We put a lot of emphasis on value engineering to improve product quality and cost saving.

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DIRECT TAX
From the Judiciary

ITAT holds seconded employees' salary reimbursed to EY-US, not FTS

Ernst & Young U.S. LLP

ITA No. 2332/DEL/2022

The Assessee was incorporated under the laws of the USA and provided professional services in the field of assurance, tax, advisory, etc. to its global clients including India for which it received payments of INR 50.99 Crores on account of reimbursement of salary paid to the employees seconded by the Assessee to EY India member firms. During the year under consideration, the Assessee had offered its income to tax as per Section 115A of the IT Act read with the provisions of the India-USA Tax Treaty.

Proceedings were initiated to tax salary paid to seconded employees amounting to INR 50. 99 Crores, as FTS as per the treaty provisions.

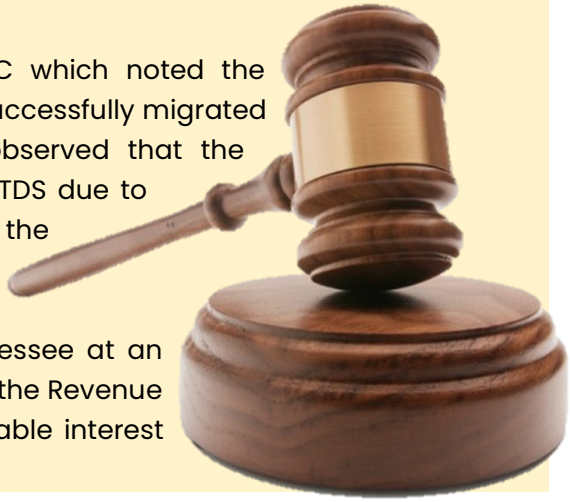
The ITAT observed that the payments received by the Assessee on account of reimbursement of salary paid to seconded employees was not liable to tax as FTS, as it could not be subjected to tax twice – firstly in the hands of the seconded employees working in India and secondly again in the hands of the Assessee.

HC holds successor company entitled to refund of tax-credit migrated pursuant to merger

Virtusa Consulting Services Pvt. Ltd

Writ Petition No.6638 of 2023

Consequent to the NCLT approved merger of Polaris Consulting & Services Limited ('Polaris' or 'merged Company') with the Assessee. The Assessee requested the Revenue for credit of taxes paid by the merged company. However, the Revenue did not grant the refund of credit of advance tax and TDS sought by the Assessee.



Aggrieved, the Assessee preferred a writ petition before the HC which noted the Revenue's submission that the credit of advance tax and TDS was successfully migrated from the merged company to the successor company and observed that the Assessee was entitled to the refund of credit of advance tax and TDS due to migration of credit from the merged company, i.e. Polaris to the successor company i.e. the Assessee and since the basic grievance of the Assessee had been redressed, the SC holding that the consequential refund was required to be remitted to the Assessee at an early date with applicable interest in accordance with law, directed the Revenue to release the refund owed to the Assessee along with the applicable interest within a period of 8 weeks and disposed of the writ petition.

DIRECT TAX
From the Legislature

NOTIFICATIONS

CBDT amends Rule 44E of IT Rules and notifies various 'Advance Rulings' application forms

Notification No. 37/2023 dated June 12, 2023

CBDT amends Rule 44E of the IT Rules and notifies new Forms for obtaining Advance Rulings from the Board for Advance Rulings viz. Form Nos. 34C, 34D, 34DA, 34E and 34EA.

Further, CBDT eliminates the mandatory digital signing requirement for Advance Ruling applications. Under the amended rule, Applicants now have the option to submit advance ruling applications either by signing them manually or digitally and now also have the option to submit their applications via registered email addresses without the need for digital signatures.

In addition to the above, the Authority for Advance Rulings has been replaced by the Board for Advance Rulings.

CBDT incorporates 'majority rule' to address split in advance rulings

Notification No. 38/2023 dated June 12, 2023

CBDT amends the e-Advance Rulings Scheme, 2022 to provide for a reference on point of difference between the Members of the Board for Advance Rulings and decision by the rule of majority. CBDT incorporates 'majority rule' to address split in advance rulings

By insertion of Clause (v) in Para 6(C) of the Scheme, CBDT provides that in case the Members differ in opinion on any point or points, then Board shall make a reference to Principal CCIT (International Taxation), who shall nominate one Member from any other Board and such point or points shall be decided according to the opinion of the majority of the Members.

CBDT notifies 348 as Cost Inflation Index for FY 2023-24

Notification No. 39/2023 dated June 12, 2023

CBDT notifies 348 as Cost Inflation Index for FY 2023-24. The notification is effective from April 1, 2024, and shall, accordingly, apply to AY 2024-25 and subsequent AYs.

CBDT notifies JCIT(A)/ Addl. CIT(A) under jurisdictional CCITs pursuant to e-Appeals Scheme

Notification No. 40/2023 & Notification No. 41/2023 dated June 14, 2023

CBDT notifies JCIT(A)/ Addl. CIT(A) under jurisdictional CCITs pursuant to e-Appeals Scheme

CBDT provides that JCIT(A)/ Addl. CIT(A) shall be subordinate to the CCITs within whose jurisdiction they perform their functions. However, the notification shall not have the effect of:

- requiring any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner, or
- interfering with the discretion of the CIT(A) or Addl. CIT(A) or JCIT(A).

Further, pursuant to the e-Appeals Scheme, 2023, CBDT exercises powers under Section 120 of the IT Act and notifies 100 JCIT(A)/ Addl. CIT(A) countrywide under regional PCCITs and jurisdictional CCITs.

CBDT introduces Form 10-IEA and amends IT Rules for new tax regime

Notification No. 43/2023 dated June 21, 2023

CBDT notifies amendments in Rule 2BB of the IT Rules (Allowances) and Rule 3 of the IT Rules (Perquisites) in the light of the new tax regime under Section 115BAC of the IT Act.

Further, CBDT also amends Rule 5 of the IT Rules (Depreciation) to restrict depreciation to 40% of the block of assets for the persons whose income is chargeable to tax under sub-section (1A) Section 115BAC of the IT Act or 115BAE of the IT Act (applicable to manufacturing co-operative societies).

In addition to the above, CBDT also introduces Rule 21AGA to the IT Rules and Form 10-IEA (applicable AY 2024-25 onwards) to re-enter into or withdraw from the new tax regime for the persons having income from business or profession. The Rule also provides that the persons not having income from business or profession can opt for the new regime through the return of income furnished under Section 139(1) of the IT Act and that the DGIT (Systems) is required to inter-alia specify the digital procedure for furnishing of Form 10-IEA.

CBDT amends IT Rules to Incorporate Finance Act, 2023 amendments related to trusts, funds and institutions

Notification No. 45/2023 dated June 23, 2023

CBDT has amended Rules 2C, 11AA and 17A of the IT Rules along with the Forms 10A, 10AB, 10AC, 10AD, 10B and 10BB, pertaining to educational and charitable entities.

The changes are in line with the amendment of Finance Act, 2023 to combine the provisional and regular registration / approval in certain cases and shall come into force with effect from October 1, 2023.

CIRCULARS

CBDT revises monetary limits for condoning delay in claiming refunds or loss carry forward

Circular No. 7/2023 dated May 31, 2023

CBDT revises monetary limits for condoning delay in filing return of income claiming refund or carry forward of losses and set-off under Section 119(2)(b) of the IT Act by partially modifying its earlier Circular No.9/2015 dated June 9, 2015. The limits are as follows:

- Principal CITs/CITs - less than INR 50 Lakhs for any one AY
- Chief CITs – exceeds INR 50 Lakhs to INR 2 Crores
- Principal Chief CITs - exceeds INR 2 Crores to INR 3 Crores
- CBDT - exceeds INR 3 Crores

The revised monetary limits shall apply with respect to applications/claims filed on or after June 1, 2023. The other guidelines prescribed in the earlier circular of 2015 shall remain unchanged.

Directorate (Systems) provides 21 days for Assessees to respond to intimation under Section 245(1) of the IT Act

Directorate of Income-tax (Systems) Instruction No. 1/2023 dated May 31, 2023

Section 245(1) of the IT Act empowers AO/CIT/Principal CIT/ Chief CCIT/ Principal Chief CIT to set off the refundable amount, wholly or in part, against the sum payable by such person after giving an intimation in writing to such person of the action proposed to be taken.

In line with Instruction No.06/2022 dated November 28, 2022 issued by the Directorate (Systems), the Directorate of Income-tax (Systems), issues an Instruction to provide a 21 days' time limit to the Assessees to respond to Section 245(1) intimations issued by the CPC which come into effect immediately.

CBDT clears air on deferment of appeal filing vis-à-vis prescribed monetary limits

Circular No. 8/2023 dated May 31, 2023

CBDT addresses the concerns on monetary limits and exceptions applicable thereto in respect of cases falling under Section 158AB of the IT Act (inserted by Finance Act, 2022 for deferment of appeal filing on identical questions of law pending before SC or HCs).

CBDT clarifies that the references to collegiums constituted under Section 158AB of the IT Act for deciding the deferral of appeals would take into account the extant monetary limits prescribed earlier through Circular No. 17/2019 dated August 8, 2019 read along with the exceptions made by CBDT's letter dated August 20, 2018, OM dated. September 16, 2019, and exceptions as provided in the present Circular's Para 6 which are:

- In respect of deferring the appeal filing, while adhering to the guidelines as prescribed in the Circular, it is to be ensured that when judicial finality is achieved in Revenue's favour in the 'other case', appeal in the 'relevant case' should be contested on merits subsequent to the decision in the 'other case' irrespective of the extant monetary limits;
- If the judicial outcome in the 'other case' is in Revenue's favour but not accepted by the Revenue then the appeal may be contested on merits in the 'other case' irrespective of the extant monetary limits, to arrive at judicial finality.

The Circular came into effect from May 31, 2023

CBDT reduces AO's time of response on refund intimation to 21 days

Instruction No. 1/2023 dated June 13, 2023

CBDT reduces the time granted to the AO for responding to CPC on intimation under Section 245(1) of the IT Act to 21 days from 45 days in order to further minimise the delay in adjustment or grant of refunds.

The period of 45 days was granted to the AOs as per Instruction No. 12/2013 dated September 9, 2013, which was pursuant to the directions issued by Delhi HC on its Own Motion to streamline the issuance or adjustment of refunds.

This Instruction comes into effect from June 13, 2023.

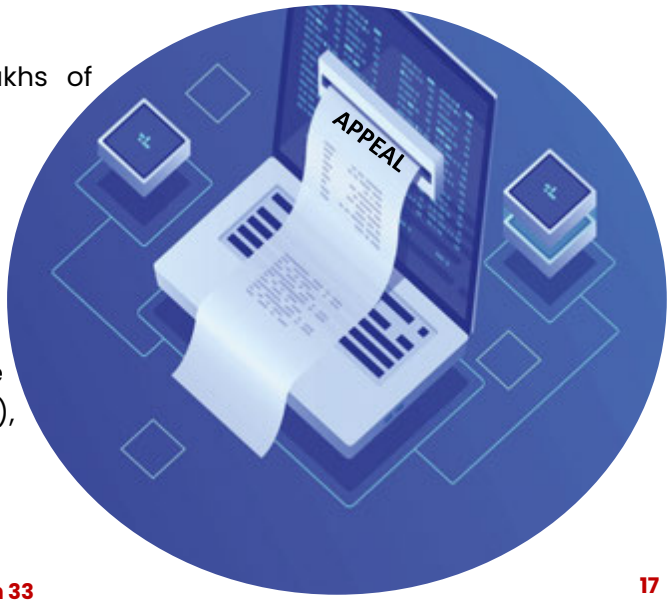
CBDT specifies scope of e-Appeals Scheme, 2023

Office Order dated June 16, 2023

CBDT vide Notification No. 33/2023 dated May 29, 2023, had earlier notified the e-Appeals Scheme, 2023.

Now, the CBDT expands the scope of e-Appeals Scheme, 2023 to inter-alia exclude the appeals arising from:

- assessment or penalty orders with over INR 10 Lakhs of disputed demand;
- faceless assessments or faceless penalty;
- post-search assessments;
- international tax cases.



Apart from the exclusions, the Scheme shall cover all the appeals covered under Section 246 and/ or clauses (a), (b), (c), (ha), (hb) or (q) of Section 246A (1) of the IT Act.

CBDT extends the deadline for the submission of certain TDS/TCS returns statements for Q1 of FY 2023-24 to September 30, 2023

Circular No. 9/2023 dated June 28, 2023

CBDT extends the time limits for the following:

- Submission of TDS statement for first quarter of FY 2023-24 required to be furnished in Form No. 26Q or Form No. 27Q on or before July 31, 2023, to September 30, 2023;
- Submission of TCS statement for first quarter of FY 2023-24 required to be furnished in Form No. 27EQ on or before July 15, 2023, to September 30, 2023.

TRANSFER PRICING
From the Judiciary

ITAT upholds guarantee fee at 'Nil' sans commercial justification, deletes 'Nil' ALP for IGS

Bosch Rexroth (India) Ltd.

IT(TP)A No. 850/Ahd/2015

The Assessee had borrowed INR 100 Crores from its group company viz. Bosch Ltd., Bangalore at 11% rate of interest. One of the Assessee's AE acted as guarantor for the subject borrowing and charged guarantee fee of 0.75% per annum against the guarantee provided. The Assessee had also availed services of payment template charges and infrastructure consultancy charges from various AEs that belonged to its group companies. The TPO found that the Assessee did not receive any distinct benefit in form of reduction in the interest rate and thus, services for guarantee had been not rendered by the AE. Further, the transaction sought to be propagated by the Assessee as comparable by adopting CUP method was not comparable. Further, the TPO held that template and infrastructure consultancy charges were only in the nature of stewardship and supervisory and not giving any benefit directly to the Assessee.

Therefore, the TPO proposed an upward adjustment with regards to the guarantee fees paid by the Assessee and determined the ALP of the intra-group services provided to the Assessee at 'Nil' and proposed a TP adjustment. The DRP upheld TPO's stand for guarantee fees and allowed intra-group services. Both the Assessee and the TPO approached the ITAT. With regard to guarantee fees, the ITAT noted that the Assessee availed a loan from one of its AE and with another AE acting as a guarantor for a guarantee fee @0.75%. However, the said transaction did not necessitate service of guarantee as the Assessee was a debt-free company with sufficient reserves and no lender would ask any guarantee fee on giving loans to the Assessee. Further, the ITAT rejected the Assessee's comparables under CUP for benchmarking guarantee fees stating that while the comparable transaction shown by the Assessee was a short term loan transaction, the actual transaction of borrowing of INR 100 Crores was long term borrowings.

With regards to the intra-group services of template and infrastructure consultancy charges paid for purchase of customised software, the ITAT upheld the findings of the DRP that cost of acquisition of software could not be treated at 'Nil' and that the TPO had erred in treating the same as supervisory services.

ITAT upholds LIBOR for benchmarking interest on loan & outstanding receivables

Broadways Overseas Ltd.

ITA No. 477/Asr/2015

During the course of the assessment proceedings, the TPO observed that the rate of interest on loan given in foreign currency was benchmarked against the expected return from investment from bonds. Thereby, the TPO proposed a transfer pricing adjustment for the interest rate to be benchmarked against LIBOR as the loan had been advanced to the US AE in USD.

The TPO also proposed transfer pricing adjustment on interest on outstanding receivables after treating the outstanding receivables in the account of the AE as an international transaction being the interest on excess period of credit on receivables allowed by the Assessee whereas the outstanding receivables beyond the normal credit period was not an international transaction per se and had not arisen out of loan transaction but the credits in the account of the AE had arisen out of export sale made by the Assessee to the AE and therefore, receivables arising from such transactions were undoubtedly inextricably connected. The CIT(A) upheld TPO's stand that LIBOR rate should have been applied as interest on loan advanced to AE in US and deleted the TP adjustments pertaining to interest on receivable for excess period granted to AE in US.

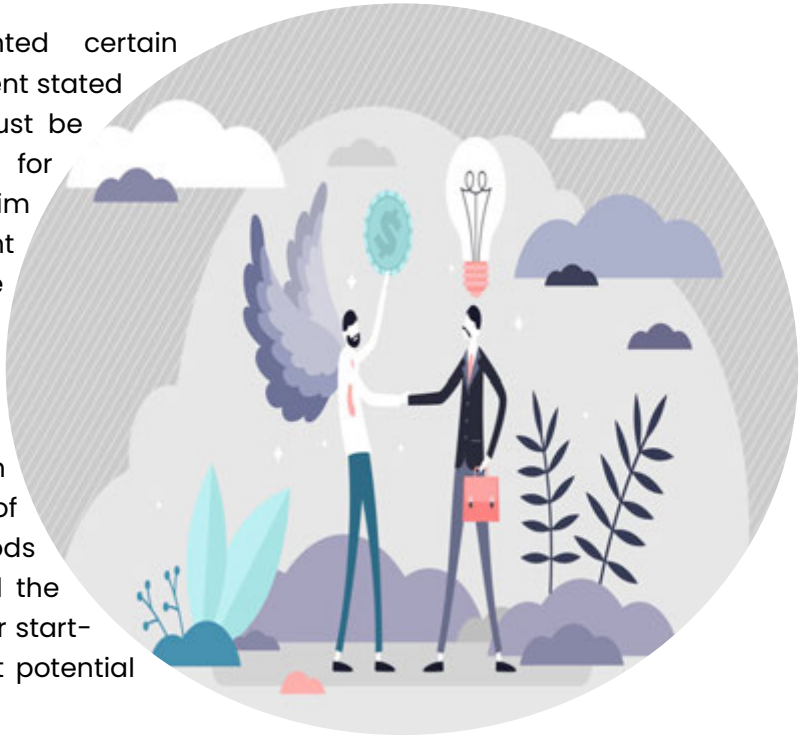
Aggrieved, the TPO approached the ITAT which with regards to interest on loans advanced placing reliance on the Delhi HC ruling in Cotton Naturals (I) Pvt. Ltd [2013-TII-34-ITAT-DEL-TP] and the Assessee's own case for previous years, wherein the TPO had used LIBOR and no adjustment was made on this count, applied the principle of consistency and upheld the CIT(A)'s deletion of the TP-addition. Further, with regard to the interest on outstanding receivables, the ITAT observed that the Assessee had earned very high net profit as compared to comparables and if the pricing/profitability of the Assessee was more than the working capital adjusted margin of the comparables, then additional imputation of interest on the outstanding receivables was not warranted. Thus, upholding the deletion of TP-adjustments qua interest on loan and outstanding receivables, the ITAT disposed of the appeal.

ARTICLE

Angel Tax Reforms: Unleashing the potential of start up investments

"Make in India" initiative and a brigade of "New Ideas" from younger minds has catapulted India on the Global Start-up chart and 'investment' continues to be the most prominent indicator for their sustainability. By large foreign fund, venture capitalists and angel investors have been looked upon for such investments.

It was only a matter time that a statutory framework would develop around such investments. Notably, the Finance Act, 2012 introduced Section 56(2)(viib) in the IT act which taxes any investment, received by any unlisted Indian company, valued above the FMV by treating it as income. The investment in excess of fair value is characterised as 'Income from other sources' and the tax imposed on it is known as Angel Tax since it largely affects angel investors investing in start-ups. Angel tax essentially derives its genesis from section 56(2) (viib) of the Income Tax Act. The introduction of this tax in the amendment has received much criticism from investors, entrepreneurs, and industry analysts.



However, the Indian Government implemented certain relaxations in the 2019 Union budget. the government stated that, to avail these relaxations, the company must be recognized as 'Start-up' by the Department for Promotion of Industry and Internal Trade to claim income tax exemption and the aggregate amount of paid-up share capital and share premium of the company after issuance or proposed issuance of shares should not exceed, INR 25 cr.

Apropos the valuation methods for start-ups, the Income Tax Act in India provides Rule 11UA, which outlines the methods for determining the FMV of unquoted equity shares. The two primary methods mentioned in Rule 11UA are the DCF method and the NAV method. The DCF method is often preferred for start-ups as they may have limited tangible assets but potential future cash flows.

But concerns of regulatory authorities that some start-ups or investors may attempt to evade taxes through manipulative practices in their valuations. They aim to curb such practices through scrutiny and enforcement measures. It is also useful to remember that valuations are subjective. Mistakes in valuations may occur due to various factors, including subjective judgment, inaccurate projections, or limited market comparable. There is no one correct way. Some of the world's biggest success stories have been made on the back of venture capitalists taking a bet on valuations of start-ups that may not conform to either of the methods. Many start-ups fail, but those that succeed often disrupt the status quo for the better. This tax has posed challenges for start-ups and investors; particularly those receiving foreign funding as valuations and underlying methods have always been subject to challenge by tax and regulatory authorities. It sometime results into a stumbling block for a start-ups and they are effectively blocked from

receiving funding even if both the investor and investee are convinced of the soundness of the investment and are willing to take risks.

To further boost the start-up ecosystem, the Finance Act, 2023 amended the angel-tax provisions, with effect from tax year 2023-24, to extend it to issue of shares by a unlisted company to non-resident (NR) investors. It also extended the exemption from angel tax to investments Venture capital funds.

Also, recently, CBDT announced draft valuation rules for overseas investments into start-ups under the 'angel tax' regime, providing foreign investors greater flexibility in determining the fair market value under Rule 11 UA for unquoted equity shares by introducing are five more methods for valuation by a merchant banker.

These methods includes book value or net asset value method, valuation by a merchant banker using DCF, and valuation at which a venture capital fund/specified fund has invested in a Venture Capital Undertaking. Additionally, a 10% leeway or safe harbour provision is introduced, allowing a 10% deviation from the valuation determined under the above methods. This provision provides some flexibility and tolerance in valuations, allowing for a slightly higher valuation without attracting tax implications.

In addition to this, CBDT via notification excluded certain classes of investors from the ambit of the angel tax levy. These includes VC funds registered with Sebi as Category-I FPI, Endowment Funds, Pension Funds and broad-based pooled investment vehicles, which are residents of 21 specified nations, including the US, UK, Australia, Germany, Spain, and others But not including Mauritius and Singapore.

To streamline the valuation of FMV, Tax authorities are now examining if a criterion similar to that of FEMA can be introduced under the tax law, which, if provided, would give relief from angel tax. As per FEMA, Foreign exchange laws set a minimum floor, FMV for FDI, whereas under Section 56(2)(vii)(b), tax authorities treat FMV as a ceiling — any amount beyond that is taxed.

Indeed, recognizing the significance of foreign investments and the need to promote a conducive investment environment, the Indian government has been taking steps to address the concerns related to Angel Tax. The introduction of reforms and investor-friendly measures is crucial to attract and retain foreign investors. One of such initiative is establishment of Gujarat International Fin-Tec City which is being developed as a global financial and IT Services hub on the lines of globally benchmarked financial centres. The Gift City has been promoted as an alternative to jurisdictions like Singapore, Mauritius, the Netherlands and the UAE, which have accounted for almost 60 per cent of the FDI in India since 2000. However, the $102 million FDI number from Gift City is far from impressive, even if one considers only two years since the guidelines for relocation of offshore funds were put in place.

Simplifying and reducing compliance burdens related to valuation, documentation, and reporting can help ease the administrative burden on start-ups and investors. By addressing these concerns, India can create an environment that attracts foreign investments, encourages entrepreneurship, and supports the growth of start-ups. This, in turn, can drive innovation, create job opportunities, and contribute to the overall economic development of the country.

HC: Petitioner not liable for supplier's inadvertent mistake

Agrawal and Brothers

Writ Petition No. 14297 of 2020 [Madhya Pradesh High Court]

The Petitioner had purchased scrap via on e-auction, from the Respondent. However, due to an inadvertent mistake by the Respondent, the GST amount was deposited in the wrong GSTIN, resulting in the invoice not being reflected in the Petitioner's GSTR-2A, resulting in demand notice to the Petitioner for wrongful availment of credit. To avoid cancellation of GST registration, the Petitioner deposited tax and interest amount under protest.

In view of the settled law that no one can be made to suffer for the fault of another, the HC held that since the Petitioner had to pay the GST to the department with interest in order to avoid their cancellation of GST registration, the Petitioner was entitled to seek refund from the Respondent for such payment. Accordingly, the writ was allowed.

Author's Notes:

In the GST regime, the implementation of Rule 36(4) has led to multiple demand cases and litigation. Despite Circular no. 183/15/2022 allowing credit in mismatch cases with a CA certificate or vendor declaration depending on quantum, its validity is likely to be questioned due to an additional condition lacking a solid legal basis. This highlights the importance of clarity and consistency in GST provisions and their interpretation. It is crucial for the tax department to ensure that GST provisions and circulars align with the law, promoting a fair and transparent environment for taxpayers and reducing litigation.

Jharkhand HC invalidates recovery notice citing failure to issue proper SCN

Shree Ram Agrotech

W.P. (T) No. 163 of 2023

The Petitioner had challenged a recovery notice issued u/s. 79 of the CGST Act, based on a summary order in Form GST DRC-07. The Court observed that no SCN in accordance with the provisions of the CGST law had been served on the Petitioner accordingly, reliance on Form GST DRC-01 was inadequate as it did not specify the alleged violations or provide an opportunity for the Petitioner to rebut the allegations. The court emphasized that a summary order cannot substitute a proper SCN and further noted that no detailed adjudication order had been issued as required by the GST Act. Consequently, the court quashed the summary order, appellate order, and recovery notice, allowing the writ application.

Authors' Notes:

*The Bombay HC in **RE: Royal Oil Field Private Limited [2006 (194) ELT 385 Bom]** had held that a notice which does not disclose the material based on which the consequent adverse action is proposed to be taken, is vague and unsustainable. Accordingly, when the SCN, which is the foundation on which the department has to build up its case, is not issued it is constituted as bad in law and cannot be*

sustained. Similarly, the Jharkhand HC ruling also underscores the importance of adherence to procedural fairness and the necessity of a well-structured SCN in any legal proceedings.

As a settled position of law, there is an implicit requirement of observance of the principles of natural justice that the notice must be expressed in such a manner that reasons can be spelt out from the same. Under the GST regime, it is often seen that the Revenue authorities issue summary notices without making concrete allegations and proceed to raise demands. In a recent judgement by the Gujarat HC in ***RE: Vinayak Metal [2022-TIOL-607-HC-AHM-GST],*** *it was held that notices and orders, which are not decipherable, are non-speaking and therefore, liable to be quashed.*

Erstwhile Regime

Supreme Court: Assessee Liable to Pay Service Tax on Value of Services Rendered in 'Works Contract Service'

Interarch Building Products Private Limited

2023-TIOL-49-SC-ST

The Respondent was engaged in the manufacture, supply, and erection of prefabricated/pre-engineered steel buildings and parts. The department alleged that the Respondent wrongly classified their services of works contracts and availed inadmissible CENVAT credit. Aggrieved the Respondent had previously filed an Appeal before the Tribunal, wherein Tribunal ruled in favor of the Respondent, setting aside the original order. Aggrieved, by the said decision the Revenue Department filed an Appeal before the Apex Court.

The Supreme Court clarified that the value of services in works contracts must be determined as per Rule 2A of the Service Tax (Determination of Value) Rules, excluding VAT or sales tax on goods. The court emphasized that taxpayers cannot pay service tax on the full value of works contracts or avail CENVAT credit on the procurement of goods. They must determine the value of the service portion in accordance with Rule 2A. The Apex Court referred to past precedents and affirmed that taxpayers are liable to pay sales tax on the goods and service tax on the value of services provided in works contracts. The matter was remitted back to the CESTAT for re-computation of the demand in accordance with Rule 2A.

Authors' Notes:

In a landmark decision, the Supreme Court settled the contentious issue of tax liability on works contracts. The court unequivocally stated service tax must be paid on the service component of works contracts and sales tax must be paid on the items transferred. This ruling brings much-needed clarity to the taxation landscape, ensuring a fair and transparent system. This decision brings much-needed clarity and establishes a clear legal position, offering guidance to taxpayers and paving the way for smoother compliance. By clarifying the tax treatment of works contracts, the Supreme Court's ruling will undoubtedly have a significant impact on the taxation landscape, reducing confusion and potential disputes.

GOODS & SERVICES TAX
From the Legislature

Sr No	Notification/ Circular	Summary
1.	Advisory dated June 08, 2023	**GSTN issued advisory on E-Invoice Verifier App** The GSTN has introduced the E-Invoice Verifier App to simplify e-invoice verification. The E-Invoice Verifier App enables users to effortlessly scan the QR code on an e-invoice and authenticate the embedded value within the code. With a user-friendly interface and comprehensive coverage across all IRPs, the app operates on a non-login basis, ensuring convenience and privacy. The app can be downloaded from the Google Play Store.
2.	Instruction No. 03/2023-GST dated June 14, 2023	**CBIC issues guidelines for processing GST registration applications** To address the issue of fake registrations under GST, CBIC had previously issued guidelines for field verifications of the place of business in the form of a Special All -India Drive against fake registrations. In view of the above, CBIC has now issued guidelines to strengthen the process of scrutiny and verification of applications for registration. The procedure, inter alia, includes: • Scrutiny and verification of registration applications by proper officers, ensuring completeness and relevance of documents. • Risk rating assigned to applications based on data analytics, with emphasis on high-risk cases; • Checking previous GST registrations on the same PAN for cancellations, suspensions, or rejections; • Thorough examination of the applicant's place of business and proof of address for potential risks or suspicious details; • Timely processing of applications, including physical verification, is ensured to avoid deemed approvals; • Cases where physical verification was not conducted are communicated to the jurisdictional Commissionerate for verification within 15 days; • Physical verification may also be conducted based on risk parameters to verify the authenticity of registrations; • Issuance of electronic notices for deficiencies or clarifications, with requests for legible documents and additional proofs if needed.

HC: Findings of the licensing authority is binding on the Customs authorities

Kalinga Commercial Corporation Limited

C.S.T.A. No. 4 OF 2019

The Appellant was involved in mining activities and had imported capital goods under the EPCG Scheme. The Revenue alleged that the appellant violated the 'Actual User Condition' by using the imported capital equipment at a location other than the one declared to the licensing authority. It was alleged that the equipment was diverted to other mines instead of being used in the specified mines mentioned in the license. However, the ADGFT found no misuse and held that the appellant complied with the condition. Despite this finding, the Tribunal imposed duty and interest on the Appellant. Aggrieved the Appellant filed an appeal before the Karnataka HC.

The court observed that the ADGFT had examined the issue and concluded that there was no misuse of the imported goods by the Appellant and that they had fulfilled the actual user condition. The court further emphasized that when the licensing authority, at the request of the customs authority, examines the factual position and determines the matter in favor of the Appellant, such a finding is binding on the Customs authorities. Consequently, the court set aside the final order of the Tribunal.

Authors' Notes:

In the matters of Foreign Trade Policy, DGFT functions as the policy maker while Customs authority functions as an execution arm. This decision thus re-emphasises the overarching role of the DGFT in deciding substantial issue over Customs.

CESTAT: Burden of proof on the assesee to establish that declared transaction value was not influenced by related entity

Nubiola India Private Limited

2023-TIOL-519-CESTAT-MAD

The Appellant imported various types of pigments from its parent company and subsidiaries. The Revenue authority alleged that there was a relationship between the foreign entity and the importer, and that this relationship had influenced the transaction value of the imported goods. The Adjudicating Authority rejected the declared invoice price of the imported goods and directed for a loading of 24.40% under the Customs Valuation Rules. Aggrieved the Appellant filed an appeal before the Appellate Authority, but the same was dismissed. Aggrieved the Appellant filed an Appeal before the Chennai CESTAT.

The CESTAT, observed that the burden was on the Appellant to prove that the declared transaction value was not influenced by

the relationship with its supplier. However, the Appellant failed to establish that the declared price was at arm's length and not influenced by the related entity. The CESTAT further observed that the declared prices were not at arm's length, and the Revenue authority had legitimate concerns about the impact of the relationship on the transaction value. The CESTAT emphasized that the Appellant had been given ample opportunities to present evidence, and the adjudicating authority had issued a comprehensive order based on the available information. Consequently, the CESTAT concluded that the impugned order did not warrant interference. As a result, the appeal was dismissed.

Transfer from SEZ/FTWZ to DTA cannot be termed as 're-import'

Baker Hughes Oilfield Services India Private Limited

Appeal Number: Ruling No. CAAR/Del/ Baker/09/2023

The Applicant, engaged in providing mining services, sought an advance ruling on the exemption from customs duty, IGST, and compensation cess on the re-import of equipment from a SEZ/FTWZ to a DTA. The Applicant contended that the equipment being re-imported was the same equipment earlier admitted into the SEZ/FTWZ and claimed eligibility for exemption under Notification No. 45/2017-Cus.

The CAAR held that the said notification did not apply as the goods were exported by units in an SEZ. They clarified that the transfer of goods between the SEZ/FTWZ and DTA did not meet the criteria for import/re-import. Hence, the notification was deemed inapplicable in this case.

CUSTOMS & FTP
From the Legislature

Sr No	Notification/ Circular	Summary
1.	Circular No. 16/2023-Cus, dated June 07, 2023	**CBIC provides guidelines for refund and ITC claims in accordance with SC direction regarding 'pre-import condition'** Hon'ble Supreme Court's in **UOI and others Vs. Cosmo Films Limited [Civil Appeal No. 290 of 2023]** upheld the pre-import condition and also instructed the revenue to set-out a process for taxpayers to pay the IGST forgone and avail credit thereof. The CBIC has thus clarified that importers have to pay the IGST w.r.t. imports that do not meet the pre-import condition and avail credit thereof. It also clarified the following on some of the technical aspect: • As the existing system for customs duty payment does not support payment after the goods are cleared. Therefore, importers must approach the assessment group at the port of import to pay the IGST and cess using a TR-6 challan; • After payment, the port of import shall generate a notional Out of Charge for the Bill of Entry on the Customs EDI system; • This enables the transmission of IGST and Compensation Cess information to the GSTN portal. As a result, importer can claim the ITC for the assessed Bill of Entry; • If the ITC is used for paying IGST on outward zero-rated supplies, the importer may be eligible for a refund.
2.	Circular No. 15/2023-Customs dated June 07, 2023	**New Mandate on Import/Export Declarations effective from July 01, 2023.** CBIC has now made certain additional qualifiers mandatory in import/export declarations. These qualifiers aim to enhance clearance efficiency, reduce reliance on technical agencies, and facilitate policy-making. Following mandatory additional qualifiers are being added for purposes of import or export declarations: • For imports, the qualifiers include the declaration of IUPAC names and CAS numbers of constituent chemicals for specific chapters; • For exports, qualifiers involve declaring the name of the medicinal plant, formulation, and surface material; • These changes are applicable to all bills of entry or shipping bills filed on or after July 01, 2023.

Sr No	Notification/ Circular	Summary
3.	Policy Circular No. 02/2023-24 dated June 23, 2023	**Manual Procedure for Amnesty Scheme Application for Default in Export Obligation** The DGFT has issued circular, outlining the procedure for exporters to apply for the Amnesty scheme for a one-time settlement of default in export obligation. The circular addresses challenges faced by exporters in filing applications through the EODC module of the DGFT website and introduces a manual mode of submission. • Exporters experiencing issues with the online filing can now use the website http://www.amnestyscheme.in to submit their applications manually; • The circular provides instructions for filling out the form, obtaining a printed and signed copy, and submitting it with supporting documents to the Regional Authority; • The Regional Authority will examine the shortfall, and upon payment of duty and interest, may grant the EODC online; • The final EODC letter will be issued through the DGFT website's online module, and Regional Authorities are instructed to process applications within three working days; • For assistance, exporters can contact the Regional Authority or email amnesty-dgft@nic.in.

HC holds Arbitrator "sole umpire", constitutional courts cannot interfere with arbitral award's reasoning

A.G. Enviro Infra Projects Pvt. Ltd. vs. J.S. Enviro Services Pvt. Ltd.

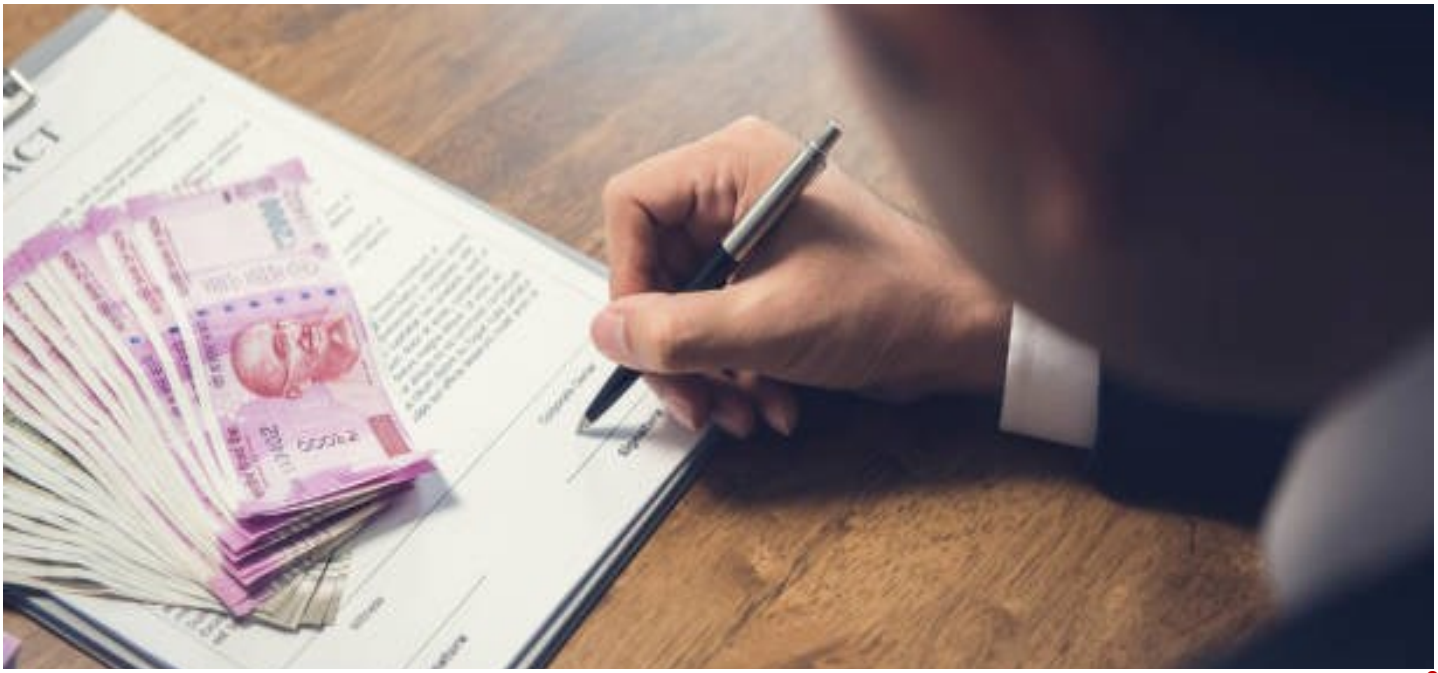
O.M.P. (COMM) 419/2020 & I.A. 3513/2020

The Petitioner and the Respondents were engaged collection and disposal of solid waste. A Concession Agreement was entered between the Petitioner and the Municipal Corporation of Delhi ('MCD') for the same and a part of it was subcontracted to Respondent. The Petitioner defaulted on one of the invoices raised by the Respondent, it filed a suit before the HC claiming the amount due. Simultaneously, the Petitioner filed an application before the HC for adjudication of the disputes by arbitration which was allowed. Subsequently, Arbitrator passed an award and granted the amount claimed by the Respondent on the invoice along with interest.

Aggrieved, the Petitioner filed a petition before the HC praying for the award to be set aside. The HC observed that, once the Award was passed by the Arbitral Tribunal, it could only be challenged on the basis of the very limited grounds enshrined under Section 34 of the Arbitration Act and the Courts had a very limited scope of interference under Section 34 of the Arbitration Act and it was outside the purview of the powers of the HC to re-appreciate and re-access the evidence produced before the Arbitral Tribunal.

Authors' Note:

It would be interesting to note that the HC in the present case had observed that it was a cardinal duty of the constitutional courts to keep in mind the "Lakshman Rekha" imposed on the powers of the courts while addressing the challenge to arbitral award under Section 34 of the Arbitration Act and thereby remember that the arbitral award which had been passed by respecting the mandate of the disputing parties, could not be set aside unless and until it suffered from a grave error that shocked the entire conscience of the court..



SAT quashes SEBI-order penalising CFO appointed later, for merely being signatory to financial statements

Milind Gandhi vs. SEBI

Misc. Application No. 260-261/2023 & Appeal No. 277/2023

The Appellant was the CFO of Cox and Kings Financial Services Ltd. ('the Company') who was appointed in January of 2019 and had been penalized by SEBI to the tune of INR 5 Lakhs for misrepresenting financial statements of the Company for the quarter ending September 30, 2018, and December 31, 2018, merely because he was a signatory to the Information Memorandum that had been issued in March 2019 when the fact of misrepresentation of the financial statement was detected by the Company. Aggrieved, by the same, the Appellant had approached the SAT.

The SAT noted that the financial statements for the quarters ending September 30, 2018, and December 31, 2018 were prepared by another CFO, wherein the financial statements were misrepresented and a true and correct pictures of the financials were not depicted and the Appellant was appointed as CFO only in January 2019 and therefore was obviously not involved in the preparation and misrepresentation of the financials for the second quarter and the third quarter. Further, the Information Memorandum had also been published, basis the financial statements for the second quarter and the third quarter.

Accordingly, the SAT placing reliance on **G.V. Films [Appeal No. 1043 of 2022]** wherein SEBI had held that the Appellant, only a signatory to the Annual Report, could not be found guilty of misrepresentation of financials, observed that SEBI's approach in holding the Appellant guilty because he was the CFO at the time of the event and so was also guilty of misrepresenting the financial statements of the Company was patently erroneous and that the Appellant could not be fastened with the responsibility of presenting an incorrect financial statement in the Information Memorandum merely because the Appellant was a signatory to the Information Memorandum, as there had to be something more than just his signatures, and in the absence of any other evidence, the liability could not be fastened only on the Appellant, when SEBI had exonerated the Executive and Independent Directors on the ground that they were unaware of the misrepresentation of the financial statement of the Company for the quarter ending September 30, 2018 and December 31, 2018 despite them also being signatories to the Information Memorandum.

Thus, finding that the SEBI order could not be sustained in so far as the Appellant was concerned, the SAT quashing the SEBI order that penalized the Appellant to the tune of INR 5 Lakhs, allowed the appeal.

HC holds PMLA twin-conditions inapplicable to women, grants bail to Unitech ex-Director's wife

Preeti Chandra vs. Directorate of Enforcement

Bail Application No. 3494/2022

The Applicant was the Director of M/s Prakausali Investments (India) Pvt. Ltd. ('Prakausali') and M/s Mayfair Investments Pvt. Ltd. ('Mayfair') and the wife of the Director of the Unitech Group. There were various allegations on Unitech Group promoters for siphoning off of money, cheating home buyers and transferring funds within group entities including offshore entities and offshore bank accounts.

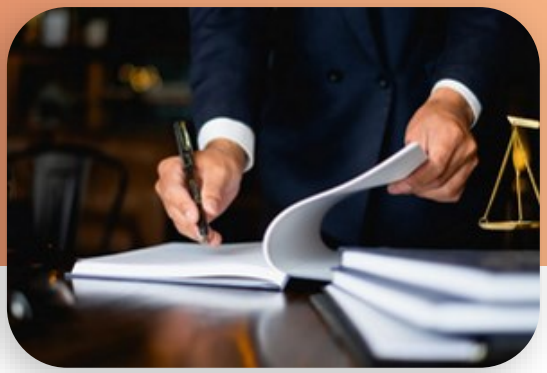
The Applicant was also accused of incorporating, overseeing, and managing a benami organization called Trikar Group alongside her husband and it was alleged that the funds obtained from illegal activities were kept in foreign accounts of Trikar Group in locations such as Cayman Islands, Singapore, and Mauritius. This allegedly occurred between the years 2015 and 2018, while the Applicant resided in the

UAE and allegedly managed the operations of Trikar Group. For the above allegations, the applicant had been arrested and put in police custody aggrieved by which the Applicant filed an application before the HC seeking grant of bail.

Perusing Section 45 of the PMLA and placing reliance on its decision in Kewal **Krishan Kumar vs. Enforcement Directorate [Bail Application No. 3575/2022]** wherein this court had observed that the legislature had carved out the proviso to Section 45(1) as a lenient provision for persons below 16 years of age, women or persons who were sick or infirm, the HC observed that the twin conditions of Section 45 of the PMLA would not be applicable to the Applicant as once an accused was a woman, the proviso to Section 45(1) would kick in and the Applicant would fall within the proviso. However, this did not mean that the Applicant would not be required to satisfy the triple test for grant of bail.

Further, rejecting ED's argument to sub-classify a "woman" based on education, occupation or social stature to fall within the proviso to Section 45(1) of the PMLA, The HC observed that the PMLA did not define a "woman" and it was neither the intention of the Indian Constitution nor the intention of PMLA to classify women on the basis of their education and occupation, social standing, exposure to society, etc. Moreover, the genesis of proviso to Section 45(1) was traceable to Article 15(3) of the Indian Constitution and beneficial legislation in favor of a class of persons, which was reflective of the constitutional spirit, could not be considered narrowly, and was required to be given a liberal interpretation. In light of the triple test for the grant of bail viz. flight risk, influencing witnesses and tampering of evidence, the HC, further observed that the District Court had stated that the Petitioner was not a flight risk, and as all documents were in the custody of the ED, the allegation of the Petitioner tampering with evidence or influencing the witnesses was not made out. Accordingly, granting bail to the Petitioner, the HC directed the Petitioner to inter-alia furnish a personal bond with a surety in the sum of INR 1 Lakh to the satisfaction of the Trial Court, not leave the country during the bail period and to surrender her Dominican Republic passport at the time of release before the Trial Court.

REGULATORY
From the Legislature



RBI expands the scope of Trade Receivables Discounting System

The TReDS is an electronic platform for facilitating the financing / discounting of trade receivables of MSMEs through multiple financiers. To ease constraints faced by MSMEs in converting their trade receivables to liquid funds, the RBI had earlier issued the 'Guidelines for TReDS which allowed financing / discounting of MSME receivables on "without recourse" (to courts) basis by permitted financiers.

Based on the experience gained, and as announced in the Statement on Developmental and Regulatory Policies dated February**RBI/2023-24/37 dated June 7, 2023**

8, 2023, the RBI has expanded the scope of TReDS by also allowing insurance companies to function as the fourth participant to facilitate financiers to hedge from default risks. The RBI has also stated that the stage at which insurance facility is to be availed will be specified by the operators of TReDS.

Further, the RBI has also decided to make the following enhancements to the TReDS guidelines:

- Expand the pool of financiers: The TReDS transactions fall under the ambit of "factoring business", and banks, NBFC-Factors and other financial institutions (as permitted by RBI) can presently participate as financiers in TReDS. The FRA allows certain other entities / institutions to undertake factoring transactions. Accordingly, all entities / institutions allowed to undertake factoring business under FRA and the rules / regulations made thereunder, are now permitted to participate as financiers in TReDS. This would augment availability of financiers on TReDS platforms.
- Enable secondary market for FUs: The TReDS guidelines provide for the discounted / financed FUs to have a secondary market, which is, however, not introduced yet. Given the experience gained, TReDS platform operators may, at their discretion, enable a secondary market for transfer of FUs within the same TReDS platform.
- Display of bids: The TReDS platforms facilitate transparent and competitive bidding by the financiers. To make the process more transparent, the platforms may display details of bids placed for an FU to other bidders. However, the name of the bidder shall not be revealed.

Authors' Note:

These enhancements are expected to boost the cash flows of MSMEs by further promoting the transparent and competitive bidding by the financiers.

SEBI allows mutual funds to invest in repo transactions on commercial papers, certificate of deposits and "AA" and above rated corporate debt securities

Circular No. SEBI/HO/IMD/IMD PoD-2/P/CIR/2023/85 dated June 8, 2023

In a bid to boost growth of the corporate bond market, SEBI has allowed mutual funds to invest in repo transactions in AA" and above rated corporate debt securities, Commercial Papers, and Certificate of Deposits.

Further, SEBI has stated that for the purpose of consideration of credit rating of exposure on repo transactions for various purposes, including for potential risk class matrix, liquidity ratios and risk-o-meter, the same will be as that of the underlying securities on a look-through basis. Further with regards to transactions, where settlement is guaranteed by a clearing corporation, the exposure will not be considered for the purpose of determination of investment limits for single issuer, group issuer and sector level limits.

Author's Note:

A repo transaction, also known as a repo or sale repurchase agreement involves the selling of securities, with the seller agreeing to buy them back at a later date. This instrument is used for raising short-term capital.

MCA exempts Production Sharing Contracts, Revenue Sharing Contracts, Exploration Licenses and Mining Leases in the petroleum sector from moratorium declared under IBC

Notification No. S.O. 2660(E) dated June 14, 2023

MCA has notified that the moratorium declared under IBC shall not apply where the Corporate Debtor has entered into Production Sharing Contracts, Revenue Sharing Contracts, Exploration Licenses and Mining Leases made under the Oilfields (Regulation and Development) Act, 1948 and rules made thereunder. Further, any transactions, arrangements or agreements, including Joint Operating Agreement, connected or ancillary to the above transactions/arrangements or agreements shall also be excluded. This effectively means that the government can cancel such contracts or permits with insolvent firms in the petroleum sector even when bankruptcy proceedings are going on against them.

According to the IBC rules, once moratorium is declared by the adjudicating authority under Section 14 upon the commencement of insolvency, any permit, registration, concession, clearance or a similar grant or right (of the stressed firm) provided by any authority under any other law can't be suspended or terminated, subject to certain riders.

However, Production Sharing Contracts, Revenue Sharing Contracts, Exploration Licenses and Mining Leases have now been exempted from these prohibitions.

MCA extends the due-date for filing of Form DPT-3 (Return of Deposits) by companies without additional fees to July 31, 2023 for FY 2022-23

General Circular No. 06/2023 dated June 21, 2023

Keeping in view the transition of MCA-21 Portal from Version-2 to Version-3, MCA has allowed companies to file Form DPT-3 (Return of Deposits) for FY 2022-23 without any additional fees by July 31, 2023, extending the due-date for its filing from June 30, 2023.

MCA revises LLP Form No.3, which pertains to "Information concerning Limited Liability Partnership Agreement."

Notification No. G.S.R. 411(E) dated June 2, 2023

MCA has issued the Limited Liability Partnership (Amendment) Rules, 2023, through which it amends the existing Limited Liability Partnership Rules, 2009 to introduce a revised LLP Form No.3, which pertains to "Information concerning Limited Liability Partnership Agreement."

Under the current regulations, every LLP must submit information about the LLP agreement by filing Form No.3 with the Registrar of Companies (ROC) within 30 days of incorporation. With the LLP (Amendment) Rules, 2023, the MCA has introduced additional disclosure requirements in Form No.3, specifically, if the nominee is a body corporate, the form must now include additional information such as the type of body corporate and details of the LLPIN/CIN/FLLPIN/Other Identification Number associated with it.

Authors' Note:

This amendment aims to enhance LLPs' transparency and reporting standards by improving the accuracy and completeness of the information provided in the form and thereby ensuring comprehensive information regarding the LLP agreement. These changes will assist in maintaining accurate records and facilitating regulatory compliance.

SEBI issues guidelines on products offerings allowed to be sold by OBPPs, directs OBPs to stop selling unlisted securities

Circular No. SEBI/HO/DDHS/POD1/P/CIR/2023/092 dated June 16, 2023

SEBI vide Circular No. SEBI/HO/DDHS/DDHS-RACPOD1/P/CIR/2022/154 dated November 14, 2022, had earlier provided for the registration and regulatory framework for OBPPs. On finding that certain OBPPs were offering unlisted bonds/other products on a separate platform/website and had not divested of such offerings and also that certain OBPPs had a link on the OBPs/website to another platform/ website for transacting in unlisted bonds/other products, in contravention of their regulatory framework. SEBI has directed OBPs to desist from offering debt securities that are not listed or are not proposed to be listed and reiterated that an entity acting as an OBPP shall cease to offer on its platform or any other platform website, products or services not permitted under the NCS Regulations.

Further, SEBI has ruled that OBPPs can only offer listed debt securities, government securities, listed sovereign gold bonds, listed municipal debt securities, and listed securitized debt instruments and treasury bills on their platforms. In addition, SEBI has mentioned that the holding company, subsidiary, or associate of an OBPP shall not utilize the name, brand name, or any name resembling that of the OBPP for offering products and services that were not regulated by a financial sector regulator viz. SEBI, RBI, IRDAI, or PFRDA.

Lastly, SEBI has clarified that these guidelines shall come into force with immediate effect and any contravention of the same would lead to action under the SEBI Act and any rules, regulations and circulars issued thereunder.

Authors' Note:

OBPs offer an avenue for investors, particularly non-institutional investors to access the bond market however, as their operations were outside SEBI's regulatory framework for entities operating or desirous of operating as OBPPs which was earlier notified in the above-mentioned Circular dated November 14, 2022, SEBI issued the instant guidelines in order to protect the interest of investors in securities and to promote the development and regulation of the securities market by restricting OBPPs from offering unlisted bonds/other products.

SEBI LODR (Second Amendment) Regulations, 2023

SEBI vide notification no. SEBI/LAD-NRO/GN/2023/131 dated June, 14 2023 notified the SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2023. The amendments are aimed at strengthening corporate governance at listed entities by empowering shareholders, streamlining the disclosure requirements for material events or information and strengthening compliance. The amendment shall come into force from 14th July 2023 (i.e. from the thirtieth day from the date of their publication in the Official Gazette).

Key areas emphasized in the notification are as follows:

- Stricter timelines to fill the Vacancy of the Key Managerial Personnel (KMP) within 3 months from the date of the vacancy
- Directors can't freely enjoy permanency on the board of a listed entity
- Introduction of threshold-based criteria for determining the materiality of events/information
- SEBI specifies shorter timelines for the disclosure of material events/information
- Mandatory disclosure of details w.r.t cyber security incidents, breaches, or loss of data along with quarterly compliance report
- Top listed entities to verify market rumors promptly
- Revised timelines w.r.t. intimation to stock exchanges
- Dissemination of information on website at least 2 days in advance w.r.t. Institutional Investors meet
- Sale, lease or disposal of an undertaking outside Scheme of Arrangement
- Disclosure requirements for certain types of agreements binding listed entities
- Special Rights to shareholder

SEBI's commitment to promoting investor confidence and implementing a more robust regulatory framework is a positive step for India's capital markets. These reforms are expected to enhance the functioning and integrity of listed entities, benefiting stakeholders, and contributing to the overall growth of the economy.

Master Circular for Issue of Capital and Disclosure Requirements

SEBI has been, from time to time, issuing various circulars/directions under the relevant provisions of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 ("ICDR Regulations 2018"). In order to enable the stakeholders to have access to all such circulars at one place, SEBI vide circular no. SEBI/HO/CFD/PoD-2/P/CIR/2023/00094 dated June, 21 2023 has issued this Master Circular under the ICDR Regulations 2018. This Circular provides a comprehensive guide to compliance and regulations in the Indian securities market. It covers various aspects such as non-compliance penalties, rights issues, disclosures, online filing, and compensation to investors. Market participants, including registered merchant bankers, recognized stock exchanges, and listed entities, should familiarize themselves with this circular to ensure compliance with SEBI guidelines and enhance investor protection.

INTERNATIONAL DESK

UAE releases Ministerial Decisions on business restructuring relief, excluded and qualifying activities

UAE's Finance Minister releases Ministerial Decisions No. 133 and 139 of 2023 on Business Restructuring Relief for the purpose of Federal Decree-Law No.47 of 2022 on Taxation of Corporations and Business and qualifying and excluded activities for the Corporate Tax Laws. Further, the Ministerial Decision on business restructuring provides guidance on the transfer in exchange for shares and other forms of consideration, ownership interest, election to apply for business restructuring relief, and transfer of unutilized tax losses among others.

Further, Ministry added that income from certain specific excluded activities will not be treated as qualifying income regardless of whether the income is derived from the free zone person or as part of undertaking a qualifying activity. The Ministry has set a de minimis requirement of Dh 5 Million or 5% of the total revenue for qualifying firms.

The exemptions to free zones will help the UAE retain its competitiveness, as its GCC neighbours offer incentives to lure international firms to their countries.

Uzbekistan commits to Two Pillar Solution by joining OECD/G20 BEPS Inclusive Framework

Uzbekistan joins international efforts against tax evasion and avoidance by joining the OECD/G20 Inclusive Framework on BEPS. Through this, Uzbekistan has committed to addressing the tax challenges arising from the digitalization of the economy by joining the two-pillar to reform the international tax rules and ensure that multinational enterprises pay a fair share of tax wherever they operate. Uzbekistan will participate in the implementation of the BEPS package of 15 measures to tackle tax avoidance, improve the coherence of international tax rules and ensure a more transparent tax environment.

Switzerland gives a constitutional nod to a global minimum tax, ordinance expected

Switzerland votes on a constitutional amendment for the implementation of the Global Minimum Tax with 78.45% of the votes in its favour. The global minimum tax was proposed to be introduced for large, internationally active corporate groups and there will be no change for other companies. The Swiss Federal Constitution will provide a basis for explicitly permitting such unequal treatment. The 750 million Euro threshold for minimum tax application assures that 99% of Swiss businesses will not be directly impacted by the reform and will continue to be taxed as before.

The ordinance would introduce a 'supplementary tax', leviable to make good the shortfall of minimum tax and would apply until it is superseded by a federal law, which is to be presented by the Federal Council to the Federal Parliament, latest by six years.

Russia, Oman sign agreement to avoid double taxation

Russia and Oman have signed an agreement to avoid double taxation, Russia's finance ministry described the move as an important step in deepening economic ties between the two countries. Russia has proposed suspending its double taxation agreements with countries that have imposed sanctions on Moscow over its invasion of Ukraine.

SPARKLE ZONE

Pre-Import Condition: Navigating Challenges and Clarity

India's trade landscape has witnessed the remarkable success of the Advance Authorisation Scheme, a pivotal initiative that has significantly boosted the country's exports. To maintain its effectiveness and prevent misuse, certain conditions and restrictions have been imposed. One such requirement is the pre-import condition, which mandates that goods must be imported before they are used in the manufacturing of final products intended for export.

The implementation of the GST posed challenges for exporters operating under the Advance Authorisation Scheme. Initially, imports made under the scheme were not exempted from the IGST. This placed a burden on exporters, leading to working capital shortages and the accumulation of ITC. In response to exporters' concerns, partial relief was granted by extending IGST exemption to Advance Authorisation Scheme imports that fulfilled the pre-import criteria. However, the lack of clarity surrounding this condition resulted in confusion and prolonged industry unrest, further exacerbated by conflicting court rulings challenging its constitutional validity.

Eventually, the matter reached the Hon'ble Supreme Court, and in the case of **UOI v. Cosmo Films Limited [2023-TIOL-45-SC-CUS]**, the constitutional validity of the pre-import condition was upheld. The Supreme Court overturned the Gujarat High Court's decision that had deemed the pre-import condition in

paragraph 4.14 of the Foreign Trade Policy 2015-20 as arbitrary and ultra vires. The Revenue, aggrieved with the Gujarat High Court's ruling, approached the Apex Court by way of appeal against the High Court's decision. The Apex Court acknowledged that the inconvenience faced by exporters in paying IGST and subsequently claiming a refund could not be grounds for considering the pre-import condition as arbitrary. Thus, the Hon'ble Supreme Court upheld the mandatory fulfillment of the pre-import condition. This decision conclusively resolved the issue of the pre-import condition concerning IGST exemption and compensation cess under the Advance Authorisation scheme from October 13, 2017 to January 9, 2019. The Apex Court directed the Revenue to allow manufacturer-exporters who were benefiting from interim orders until the challenged judgments were delivered to claim refunds or ITC. Furthermore, the Apex Court instructed the Revenue to issue a suitable circular regarding this matter.

Consequently, the CBIC issued Circular No. 16/2023-Cus dated June 7, 2023, and the DGFT issued Trade Notice No. 07/2023-24 dated June 8, 2023, with the aim of providing guidance and clarity to importers. However, the unforeseen ramifications and complexities arising from these circulars have cast uncertainty over their ability to effectively address importers' concerns.

This article attempts to anlayse the hidden intricacies and implications of the circular, hoping to guide importers through its complexities.

Decoding the Circular

The Circular clarifies that imports made under the Advance Authorisation scheme that do not meet the pre-import condition requirements are liable to pay IGST and Compensation Cess.

The CBIC further clarifies the following:

- Importers must approach the assessment group at the port of import and utilize a TR-6 challan to pay the IGST and Compensation Cess along with interest since the existing payment system does not support post-clearance transactions.
- The port of import will generate a notional Out of Charge for the Bill of Entry on the EDI system.
- This enables the transmission of IGST and Compensation Cess information to the GSTN portal, allowing importers to claim ITC for the assessed Bill of Entry.
- Importers who utilize their ITC to pay IGST on outward zero-rated supplies may be eligible for a refund, offering a glimmer of hope amidst the intricacies of import regulations.

Examining the Implications of the Circular

The issuance of the Circular has brought clarity to importers, illuminating the intricate process of tax payment and ITC claims. It serves as a guiding beacon, enabling importers to navigate the complex realm of tax compliance with increased confidence and understanding. Moreover, the Circular's commendable approach of extending its applicability to all importers, rather than a select few, promotes fairness and equal treatment within the import community, fostering trust and cohesion.

However, alongside the welcome clarity, importers now face

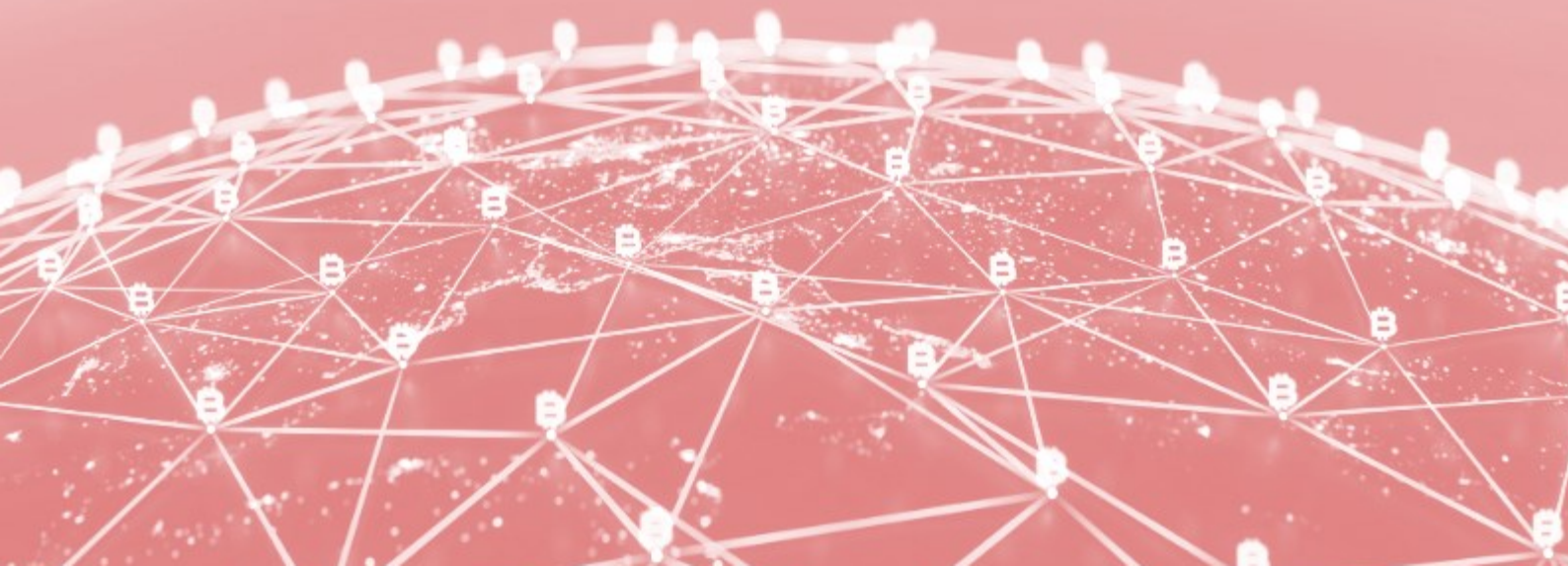
the additional financial burden of interest payments accompanying their tax liabilities. Although the Customs Tariff Act and related provisions do not specifically provide for the imposition of interest on additional customs duties or IGST, it is unlikely that authorities will reassess the Bill of Entry without the payment of interest. Consequently, importers may face an additional financial burden in the form of interest payments. However as there isn't any explicit provisions for the imposition of interest on IGST, taxpayers can defend their position against paying interest in such cases. Nonetheless, importers have the option to seek a refund of the interest paid by following the ratio established in the case of **Mahindra & Mahindra Limited v. UOI [2022-TIOL-1319-HC-MUM-CUS].***

Furthermore, the Circular does not provide specific procedures and timelines for refunds, leaving importers grappling with uncertainty, unable to determine when or if they will be able to recover their financial outlays. This lack of transparency regarding refunds adds complexity and anxiety to import operations.

As importers delve into the depth of the Circular, it is crucial to weigh the positive impact of enhanced clarity and equitable treatment against the potential drawbacks of increased financial strain and uncertain refunds. By staying informed, importers can make informed decisions, navigate the tax landscape with resilience, and adapt their strategies to align with the evolving nuances of the Circular's provisions.

Conclusion

While the Circular offers some benefits and attempts to address multiple issues, it leaves room for speculation and apprehension. The true test lies in whether departmental officers will effectively guide and assist the trade or interpret the Circular in a manner that creates new controversies for importers. It remains to be seen how this controversial Circular will unfold and impact other importers. As importers prepare for the road ahead, maintaining vigilance and readiness to address emerging challenges will be crucial.



GLOSSARY

Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ADD	Anti-Dumping Duty
AE	Associated Enterprise
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
AIS	Annual Information Statements
ALP	Arm's length price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
ARE	Alternate Reporting Entity
AU	Assessment Unit
AY	Assessment Year
B2B	Business to Business
B2C	Business to Customer
BBT	Buy-Back Tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base Erosion and Profit Shift
BOI	Body of Individuals
CAG	Comptroller and Auditor General of India
CAT	Common Aptitude Test
CBCR	Country By Country Reporting
CBDT	Central Board of Direct Taxes
CBI	Central Board of Indirect Tax
CBIC	The Central Board of Indirect Taxes and Customs
CG	Central Government
CGST Act	Central Goods and Services Act, 2017
CIT	Commissioners of Income Tax
CPC	Centralised Processing Centre
CSR	Corporate Social Responsibility
[CIT(A)]	Commissioner of Income-tax (Appeals)
Cus	Customs Act, 1962
CVD	Countervailing Duty
DDT	Dividend Distribution Tax
DRC	Dispute Resolution Committee
DRI	Directorate of Revenue Intelligence
DTAA	Double Taxation Avoidance Agreement
EODC	Export Obligation Discharge Certificate
FDI	Foreign Direct Investment
Fin	Finance Bill Finance Bill, 2022
FM	Finance Minister
FMV	Fair Market Value
FPI	Foreign Portfolio Investors
FTP	Foreign Trade Policy
G2B	Government to Business
GST	Goods and Services Tax
H&EC	Health and Education Cess
HFC	Housing Finance Company
HNI	High Net Worth Individual
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code
IFSCA	International Financial Services Centres Authority Act, 2019

Abbreviation	Meaning
IGST	Integrated Goods and Services Tax
IIM	Indian Institute of Management
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts
IT Act	The Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
ITO	Income-tax Officer
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MoF	Ministry of Finance
MSME	Micro Small and Medium Enterprises
NaFAC	National Faceless Assessment Centre
NBFC	Non-Banking Finance Company
NCCD	National Calamity Contingent Duty
NCLT	National Company Law Tribunal
NFT	Non-Fuungible Tokens
NELP	New Exploration Licensing Policy
NHB	National Housing Bank
NPA	Non-Performing Assets
NPS	National Pension System
OBU	Offshore Banking Unit
OEC	Organization for Economic Co-operation and Development
OPC	One Person Company
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCIT	Principal Commissioners of Income Tax
PCCIT	Principal Chief Commissioners of Income-tax
PIV	Pooled Investment Vehicle
PMLA	Prevention of Money Laundering Act, 2002
PPI	Prepaid Payments Instruments
PSU	Public Sector Undertaking
PY	Previous Year
RBI	Reserve Bank of India
REITs	Real Estate Investment Trusts
RIC	Road and Infrastructure Cess
RTGS	Real Time Gross Settlement
RU	Review Unit
SAD	Special Additional Duty
SAED	Special Additional Excise Duty

GLOSSARY

Abbreviation	Meaning
SCGT	State Goods and Services Tax
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFT	Statement of Financial Transaction
SIAC	Singapore International Arbitration Centre
SPF	Specific Pathogen Free
SWS	Social Welfare Surcharge
TAN	Tax Deduction Account Number
TCS	Tax Collected at Source
TDS	Taxes Deducted at Source
TIS	Taxpayers Information Summary
TPO	Transfer Pricing Officer

Abbreviation	Meaning
TOL Act	Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
TRC	Tax Residency Certificate
UCB	Urban Co-operative Bank
UK	United Kingdom
USA	United States of America
UTGST	Union Territory Goods and Services Tax
VsV	Vivad se Vishwas
VU	Verification Unit
WTO	World trade Organization
HC	High Court
SC	Supreme Court
FY	Financial Year
NFT	Non-Fuungible Tokens

FIRM INTRODUCTION

Taxcraft Advisors LLP ('TCA') is a multidisciplinary advisory, tax and litigation firm having multi-jurisdictional presence. TCA team comprises of professionals with diverse expertise, including chartered accountants, lawyers and company secretaries. TCA offers wide-ranging services across the entire spectrum of transaction and business advisory, litigation, compliance and regulatory requirements in the domain of taxation, corporate & allied laws and financial reporting.

TCA's tax practice offers comprehensive services across both direct taxes (including transfer pricing and international tax) and indirect taxes (including GST, Customs, Trade Laws, Foreign Trade Policy and Central/States Incentive Schemes) covering the whole gamut of transactional, advisory and litigation work. TCA actively works in trade space entailing matters ranging from SCOMET advisory, BIS certifications, FSSAI regulations and the like. TCA (through its Partners) has also successfully represented umpteen industry associations/trade bodies before the Ministry of Finance, Ministry of Commerce and other Governmental bodies on numerous tax and trade policy matters affecting business operations, across sectors.

TCA & **VMGG & Associates ('VMGG')** are group firms providing consulting and audit services. While TCA is a multidisciplinary advisory, tax and litigation firm, VMGG is a firm registered with the Institute of Chartered Accountants of India. VMGG is therefore primarily into audit and attestation services (including risk advisory and financial reporting).

With a team of experienced and seasoned professionals and multiple offices across India, TCA & VMGG as a combination offer a committed, trusted and long cherished professional relationship through cutting-edge ideas and solutions to its clients, across sectors.

Website: **www.taxcraftadvisors.com**

GLS Coporate Advisors LLP ('GLS') is a consortium of professionals offering services with seamless cross practice areas and top of the line expertise to its clients/business partners. Instituted in 2011 by eminent professionals from diverse elds, GLS has constantly evolved and adapted itself to the changing dynamics of business and clients requirements to offer comprehensive services across the entire spectrum of advisory, litigation, compliance and government advocacy (representation) requirements in the field of Goods and Service Tax, Customs Act, Foreign Trade, Income Tax, Transfer Pricing and Assurance Services.

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GLS has worked with a range of companies and have provided services in the field of business advisory such as corporate structuring, contract negotiation and setting up of special purpose vehicles to achieve business objectives. GLS is uniquely positioned to provide end to end solutions to start-ups companies where we offer a blend of services which includes compliances, planning as well as leadership support.

With a team of dedicated professionals and multiple offices across India, it aspires to develop and nurture long term professional relationship with its clients/business partners by providing the most optimal solutions in practical, qualitative and cost-efficient manner. With extensive client base of national and multinational corporates in diverse sectors, GLS has fortified its place as unique tax and regulatory advisory rm with in-depth domain expertise, immediate availability, transparent approach and geographical reach across India.

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