

Staying Updated

Customs, FTP and WTO newsletter

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- Alternative procedure prescribed by Central Board of Excise and Customs (CBEC) for refund of IGST paid on export in case of errors pertaining to Export General Manifest.
- Additional clarifications issued in relation to IGST paid on export.

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- Rejection of transaction value of imported goods on mere assumptions and presumptions without any cogent reasons is not acceptable. Further, transaction value cannot be enhanced basis data from National Import Database (NIDB) only.

- Where documentation was not for any post-import activity but were indispensable condition to the import of the main plant and equipment/ machinery, then their value was includible in the value of imported goods. Further, each such import will merit classification as that of the main import. Furthermore, it was decided that when imported goods did not correspond in terms of value, then their confiscation was permissible and there was also no bar for imposition of redemption fine if there was no duty liability.

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- Extension of exemption from payment of IGST and GST Compensation Cess under Advance Authorisation (AA) and Export Promotion Capital Goods (EPCG) schemes till 01 October, 2018.
- Amendment in processing of MEIS applications of SEZ units to discontinue submission of hard copy of documents by SEZ units to regional authorities.

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- Effective rate of BCD on open cell (15.6” and above) for use in the manufacture of LCD and LED TV panels of heading 8529 reduced to 5%. Earlier, *vide* Finance Bill 2018, these goods were subject to a levy of 10%.

(Notification No. 32/2018-Customs, dated 23 March, 2018)

- Amendment made in principle notification no. 52/2003-Customs, dated 31 March, 2003 to extend the benefit of upfront exemption from levy of IGST and GST Compensation Cess to goods imported by EOUs extended from 31 March 2018 to 01 October, 2018.

(Notification No. 33/2018-Customs, dated 23 March, 2018)

- Alternative procedure prescribed for refund of IGST paid on export in case of errors pertaining to EGM prescribed. EGM along with Form GSTR-3/ Form GSTR-3B is mandatory document for deeming shipping bill filed by an exporter as the application for refund claim. Non-filing of EGM at the gateway port and information mismatch in between EGM filed at local port and gateway port are the main reasons for holding up refund claims at Inland Container Depots (ICD). Shipping lines have been mandated to file electronic EGMs at gateway port or file supplementary EGM where shipping bills pertaining to ICD

are not incorporated in EGM.

(Circular No. 06/2018-Customs, dated 16 March, 2018)

- Additional clarification issued in relation to IGST paid on export, whereby facility to file refund of IGST paid on exports through officer interface, has been extended for shipping bills filed upto 28 February 2018. Earlier this facility was available for shipping bills filed till 31 December 2017.

(Notification No. 08/2018-Customs, dated 23 March, 2018)

Case laws

- **Classification:** In *John Deere India Private Limited v. Commissioner of Customs (Preventive) Amritsar (2018-TIOL-747-CESTAT-CHD)*, Chandigarh Tribunal observed that imported parts were of the harvester of specific design and were meant for use as parts of the harvester and not as parts for general use. On basis of Rule 3(c) of general rules of interpretation, it was decided that goods were classifiable under the heading which occurred last in numerical order among those which equally merit consideration. Accordingly, imported parts were classifiable under chapter heading 8433 90 00. Further, the Tribunal decided that in case of interpretation of classification of goods, such goods were not liable for confiscation and no redemption fine was imposable thereon. Consequently, no penalty was imposable on the appellant.

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- **Valuation:** In case of Commissioner of Customs Tuticorin *v.* SMBJ Impex Private Limited, A G International and DCP Synthetics Private Limited (**2018-TIOL-828-CESTAT-MAD**), Madras Tribunal observed that import of PU coated fabrics were considered for scrutiny by the department merely on the basis of alert circular issued by the Department of Revenue Intelligence. Further, the declared value was rejected on mere assumptions and presumptions without adducing any cogent evidence for holding the declared transaction value as incorrect. The Tribunal decided that Rule 7A could not be invoked without first excluding Rules 5 to 8 of the valuation rules with valid reasons. Furthermore, while placing reliance on various judicial pronouncements including Polyglass Acrylic Mfg. Co. Limited (2014-TIOL-39-CESTAT-DEL), the Tribunal decided that the transaction value of the impugned goods could not be enhanced solely on the basis of NIDB data.
- In case of CC (Appeals) *v.* Showa India Private Limited (**2018-TIOL-902-CESTAT-DEL**), Delhi Tribunal held that part of the development and documentation costs recovered as documentation charge and initial fee are to be loaded on to invoice value of masters samples/ utility models.
- **Classification and Valuation:** In the case of Bramhani Industries Limited *v.*

Commissioner of Customs (Airport and Air Cargo) Chennai (**2018-TIOL-842-CESTAT-MAD**), the assessee had imported 'Basic Engineering Design and Technical Documentation for Battery, BPP and CDQ' under chapter heading 4911 99 20. The Madras Tribunal observed that import of the engineering design and technical documentation were not for any post-import activity but were indispensable condition to the import of the main plant and equipment/ machinery. Thus, while placing reliance on ratios in the cases of Gujarat Mineral Development Corp'n. Limited (2005-TIOL-153-SC-CUS), Ferodo India Private Limited (2008-TIOL-28-SC-CUS) and Tata Iron & Steel Co. Limited *v.* CCE Bhubaneswar (2002-TIOL-07-SC-CUS-LB), it was decided that the value of such documentation was includible in the value of imported goods. Further, the Tribunal decided that each import will merit classification under Customs Tariff as that of the main import. Furthermore, it was decided that when imported goods did not correspond in respect of value, then their confiscation was permissible and there was also no bar for imposition of redemption fine if there was no duty liability.

Foreign trade policy

Notifications and public notices

- The Directorate General of Foreign Trade (DGFT) has amended para 2.17 of FTP to impose prohibition on additional goods such as industrial machinery, transportation vehicles and food and agricultural products, when directly or indirectly imported from or exported to Democratic People's Republic of Korea.

(Notification No. 52/2015-20, dated 07 March, 2018)

- DGFT has extended exemption from payment of IGST and GST Compensation Cess under AA and EPCG schemes from earlier 31 March, 2018 to 01 October, 2018.

(Notification No. 54/2015-20, dated 22 March, 2018)

- DGFT has extended exemption from payment of IGST and GST Compensation Cess under EOU scheme from earlier 31 March, 2018 to 01 October, 2018.

(Notification No. 55/2015-20, dated 23 March, 2018)

- DGFT has notified benefit under MEIS for Bengal Gram (desi chana) falling under tariff item 0713 20 20 for a period of three months i.e. for exports made during 21 March 2018 to 20 June 2018.

(Public Notice No. 66/2015-20, dated 21 March, 2018 read with

Corrigendum to Public Notice No. 66/2015-20 dated 22 March, 2018)

- With the objective to improve ease of doing business, simplification of procedures, and reduction of delays, DGFT has amended para 3.01(c) and para 3.01(d) of HBP to provide that no physical copy of shipping bills are required to be filed with RA to claim benefit under MEIS.

(Public Notice No. 67/2015-20, dated 22 March, 2018)

- DGFT has notified procedure *vide* insertion of para 4.07A in HBP for implementation of SRS for holders of AEO certificate. The salient aspects include application in Appendix-4E, chartered engineer certificate in Appendix-4K, input output norms applied for by AEO certificate holder to be final, audit of production and consumption records by DGFT or authorise/nominated agencies etc.

(Public Notice No. 68/2015-20, dated 22 March, 2018)

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- The Central Government has imposed levy of definitive ADD on Ofloxacin Acid falling under Chapter 29, when originating in or exported from China, for a period of three years. The aforementioned period of five years shall commence with date of levy of provisional ADD (i.e. 13 July, 2017), but shall exclude the period between date of lapse of provisional ADD (i.e. 13 January, 2018) and the date immediately preceding the date of publication of the notification for levy of definitive ADD on aforementioned goods.

(Notification No. 06/2018-Customs (ADD), dated 12 March, 2018)

- The Central Government has imposed levy of ADD on Sulphonated Naphthalene Formaldehyde falling under tariff item 3824 40 90, when originating in or exported from China, for a period of five years.

(Notification No. 07/2018-Customs (ADD), dated 13 March, 2018)

- The Central Government has imposed levy of ADD on Ofloxacin falling under the tariff item 3004 20 34, when originating in or exported from China, for a period of three years.

(Notification No. 08/2018-Customs (ADD), dated 15 March, 2018)

- The Central Government has withdrawn levy of ADD on Melamine falling under the tariff item 2933 61 00, when originating in or exported from European Union, Iran, Indonesia and Japan, after conclusion of sunset review.

(Notification No. 09/2018-Customs (ADD), dated 19 March, 2018)

- The Central Government has extended levy of ADD on Metaphenylene Diamine falling under Chapter 29, when originating in or exported from China, by one year from 21 March 2018 to 21 March 2019.

(Notification No. 10/2018-Customs (ADD), dated 13 March, 2018)

- The Central Government has imposed levy of ADD on Dimethylacetamide falling under sub-heading 2924 19, when originating in or exported from China and Turkey, for a period of five years.

(Notification No. 12/2018-Customs (ADD), dated 20 March, 2018)

- The Central Government has imposed levy of ADD on Resorcinol falling under Chapter 29, when originating in or exported from China and Japan, for a period of three years.

(Notification No. 13/2018-Customs (ADD), dated 21 March, 2018)

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- The Central Government has imposed levy of ADD on Monoisopropylamine falling under the tariff item 2921 11 90, when originating in or exported from China subject to ADD, for a period of five years.

(Notification No. 14/2018-Customs (ADD), dated 21 March, 2018)

- The Central Government has extended levy of ADD on Flat Base Steel Wheels falling under sub-heading 8708 70, when originating in or exported from China, by one year from 25 March 2018 to 25 March 2019.

(Notification No. 15/2018-Customs (ADD), dated 22 March, 2018)

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