

Tax INFORM

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DIRECT TAX



A. Recent Case Laws

I. Domestic Tax Rulings

[M.M. Aqua Technologies Ltd \(CIVIL APPEAL NO. 4742-4743 OF 2021\) / \(TS-645-SC-2021\)](#)

SC holds that issuance of debentures in lieu of payment of interest, as per loan rehabilitation plan, amounts to 'actual payment' of interest under section 43B of the Income-tax Act, 1961 (Act).

Background: In the instant case, the assessee had multiple outstanding loans from various lenders. Due to financial hardship, the assessee was unable to pay the outstanding dues towards interest and thus it entered into a 'rehabilitation plan' with the lenders. As per the plan, convertible debentures were accepted by the financial institutions in discharge of the debt on account of outstanding interest.

Accordingly, while filing the return of income for AY 1996-97, the assessee had claimed a deduction of Rs. 2,84,71,384/- under section 43B of the Act, based on the issue of debentures in lieu of interest accrued and payable to financial institutions.

The assessing officer rejected the assessee's contention on the premise that the issuance of debentures does not amount to 'actual payment' and thus is contrary to the provisions of Explanation 3C to section 43B(d) of the Act.

The Commissioner of Income-tax (Appeals) [CIT(A)] had observed that the discharge of interest liability through issuance of debentures was as per the terms and conditions governing the borrowing. It had further observed that debenture is a valuable security which is freely negotiable and openly quoted in the stock market and the financial institution had accepted debentures in effective discharge of the liability of outstanding interest and thus it would be tantamount to 'actual payment', under section 43B of the Act.

The Tribunal had upheld the order of the CIT(A) and held that nobody had the right to intervene and rewrite the arrangement for the parties. It was further observed that the assessee had not claimed the deduction of interest in the year in which the debentures were redeemed and the financial institution had duly offered to tax the amount received, by way of debentures, as its business income and hence there was no loss to the Revenue.

However, the High Court (HC) had held that the Explanation 3C to section 43B of the Act, applicable retrospectively from 1 April 1989, squarely covered this issue and negated the assessee's contention that interest which had been converted into loan, was deemed to be 'actually paid' and thus the issue was held against the assessee.

Issue before the Supreme Court: Whether issue of debentures against the payment of interest liability, would be tantamount to 'actual payment' as per the provisions of section 43B of the Act?

Supreme Court's Ruling: The SC observed that the object of section 43B was to allow deduction only on 'actual payment'. It was further noted that provision of section 43B(d) did not prescribe any specific mode of payments.

The SC noted the important findings of CIT(A) and Tribunal with respect to the rehabilitation plan agreed for discharge of interest and the fact that such interest had been offered to tax as business income by the financial institutions. Thus, it was held that interest was 'actually paid' by issuance of debentures.

The SC further observed that Explanation 3C to section 43B of the Act made it clear that the interest remaining unpaid, which has been converted into a loan or borrowing, would not be deemed to be 'actually paid' and the legislative intent of introducing such explanation was to prevent such misuse of section 43B of the Act.

Further, the SC discussed the three canons of interpretation that comes to the rescue of the assessee:

- **First:** Since, Explanation 3C was added with the object of plugging the loophole i.e. misusing section 43B by not actually paying interest but converting the same into fresh loan, bona fide transactions were not meant to be affected by it.
- **Second:** A retrospective provision under the Act 'for removal of doubts' cannot be presumed to be retrospective if it alters or changes the law as it earlier stood.
- **Third:** Any ambiguity in the language of Explanation 3C shall be resolved in favour of the assessee.

Considering the above, the SC set aside the order of the HC and held the issue in favour of the assessee and thereby allowed the deduction of interest under section 43B of the Act.

[The Karnataka State Co-operative Apex Bank Limited \(ITA No. 392 of 2016\) / \[TS-591-HC-2021\(KAR\)\]](#)

Fresh claim can be made before the assessing officer during the course of reassessment proceedings.

Background: The assessee was a Co-operative Apex Bank and had been granted licence to carry on the business of banking by the Reserve Bank of India. The assessee filed its return of income for AY 2007-08 on 31 March 2007. The return of income was processed under section 143(1) of the Act; however, no order of assessment was passed under section 143(3) of the Act.

The Assessing Officer (AO) initiated reassessment proceedings under section 148 of the Act, during such proceedings, the assessee made an additional claim on account of loss on sale of securities, to the extent of Rs 8.28 crores. However, the AO, while passing order under section 143(3) r.w.s. 147 of the Act, rejected the additional claim of the assessee on the ground that section 148 provides remedy to the Revenue and is not a remedy to the assessee. The CIT(A) and Tribunal had upheld the order of the AO in this respect.

The primary contention of the assessee was that, in the present case, there was no original assessment and an intimation under section 143(1) of the Act was not an order of assessment and therefore the issue of loss on sale of government securities was never considered by the AO and had not reached finality and hence reliance on the ruling of Hon'ble SC in the case of Sun Engineering Works (P.) Ltd ((1992) 198 ITR 297 (SC)) could not be placed.

Issue before the High Court (HC): The issue which arose before the Hon'ble HC was whether an assessee could raise an additional claim for the first time during the course of re-assessment proceedings?

High Court's Ruling: The High Court placed reliance on the ruling of Hon'ble SC in the case of Rajesh Jhaveri Stockbrokers [(2007) 291 ITR 500 (SC)] and held that an intimation u/s 143(1) was not an assessment order. Thus, the question of re-assessment did not arise and hence the proceedings u/s 148 of the Act was the first assessment and the same could have been done considering all the claims of the assessee.

The High Court further placed reliance on the ruling of K.L Srihari (HUF) [(2001)250 ITR 193 (SC)] and held that even if an intimation u/s 143(1) is to be considered as an order of assessment, in subsequent re-assessment proceedings, the original assessment proceedings get effaced, and thus the AO was required to consider the proceedings de novo and consider the claim of the assessee.

In view of the above, the AO was directed to consider the additional claim of the assessee and adjudicate on the same.



Oberoi Motors (ITA No.-3512/Del/2018) / [TS-601-ITAT-2021(DEL)]

Business losses can be set-off against income surrendered during survey.

Background: In the instant case, there was a survey operation under section 133A of the Act. During the survey, the assessee offered an additional income of Rs 85.88 lakhs for AY 2012-13 and recorded the same in its books of accounts.

Subsequently, the AO found out that the assessee had filed return of income for AY 2012-13 declaring total income of Rs 65.42 lakhs, after set-off of business loss against the income surrendered during the survey. Accordingly, the AO initiated the re-assessment proceedings and disallowed the losses which were set-off against the surrendered amount.

The CIT(A) held that the surrendered amount was “deemed income” and did not fall under any of the heads of income and therefore no set-off of business loss could be allowed against such income.

Before the Tribunal, the assessee, placed reliance on the ruling of the Hon’ble Apex Court in the case of Lukhmichand Baijnath [35 ITR 416 (SC)] and contended that the surrendered income was duly recorded in the books of accounts and therefore it would be unreasonable to treat the same as not falling under any of the heads of income. Further, reliance was also placed on the case of its sister concern Kirtiman Cement and Packaging Private Limited [(ITA No. 2777)], wherein the Coordinate Bench of the Tribunal had allowed the business loss to be set-off against the surrendered income.

Lastly, reliance was placed on the CBDT Circular No. 11/2019, dated 19 June 2019, wherein the Board had accepted that prior to 1 April 2017, losses could be set-off against the deemed income.

Issue before the Tribunal: Whether set-off of business losses are allowed against the income surrendered during survey?

Tribunal’s Ruling: The Tribunal accepted all the contentions of the assessee and held that once the assessee had introduced the transaction in its books of accounts, it would not be reasonable to say that such income did not fall under any head of income and no set-off could be allowed against the same.

Accordingly, the Tribunal directed the AO to delete the disallowance of the set-off of business loss against the surrendered income.

Shri Ashish Indur Chowdhry (ITA No.6737/Mum/2019) / [TS-564-ITAT-2021(Mum)]

Forfeiture of advance received against sale of property is a capital receipt and cannot be construed as cessation of trading liability under section 41(1) of the Act.

Background: The assessee was an individual and a Bollywood actor who hosted famous programmes as well as acted in music videos and advertisements.

The assessee had received Rs 2.03 crores as advance against a sale of property from Art Advertising and Marketing (India) Pvt. Ltd. (AAMPL), vide Memorandum of Understanding (MOU), dated 3 March 2004. As per the MOU, the total consideration was fixed at Rs 4 crores, which was required to be paid on or before 31 March 2019, failing which the assessee would have an option to terminate the MOU and earnest money paid by the purchaser would be refunded without any interest.

AAMPL had expressed its inability to complete the transaction, vide letter dated 13 September 2008 and accordingly the assessee started repaying the earnest money as per the MOU. However, an amount of Rs 1.66 crores and Rs 0.33 crores was still outstanding in the assessee's books of accounts as on 31 March 2015 and 31 March 2017 respectively.

During the course of assessment proceedings for AY 2015-16, the AO observed that an amount of Rs 1.66 crores was not paid for more than a decade and accordingly concluded that such liability ceases to exist and added the same as income of the assessee, under the provisions of section 41(1) of the Act on account of 'cessation of liability'.

The CIT(A) held that the provisions of section 41(1) would not get triggered as the assessee had not claimed any deduction in earlier years in respect of such liability.

Issue before the Tribunal: Whether forfeiture of advance received against sale of property can be taxed under section 41(1) of the Act?

Tribunal's Ruling: At the outset, the Tribunal held that an amount received as advance for sale of property is a capital receipt and not a trading receipt and hence the same cannot be construed as a trading liability of the assessee.

The Tribunal further held that since the assessee has shown such liability in its books proves that the assessee had acknowledged his debts due to AAMPL and the subsequent conduct of the assessee by making repayments proves that the said liability is a genuine capital liability. Since the liability continues to remain in the balance sheet as on 31 March 2015 and the fact that the assessee has not claimed deduction in the earlier years while creating this liability, the same cannot be treated as cessation of liability in terms of section 41(1) of the Act.

Considering the above, the Tribunal held the issue in favour of the assessee.

II. International Tax Rulings

[Asia Today Limited \(ITA No.4628/MUM/2006\) / \[TS-620-ITAT-2021\(Mum\)\]](#)

Re-domiciliation of an entity cannot be a ground for denial of tax treaty benefits.

Background: The assessee (previously known as 'Signpost International Limited') was a company incorporated in British Virgin Islands (BVI) on 15 November 1991.

The assessee re-domiciled itself in Mauritius by way of 'Continuation' process (a process by which a company moves its 'domicile' or 'place of incorporation' from one jurisdiction to another by changing the country under whose laws it is registered or incorporated, whilst maintaining the same legal identity). This means that the company ceases to 'live' in one jurisdiction, and is deregistered there, but via a transfer by way of the continuation process, is alive and well in another.

In the present case, the Registrar of Companies (ROC) of Mauritius issued a 'certificate of incorporation by continuation' dated 29 June 1998, which provided that the certificate will be effective on the date of deregistration of the company in the place of incorporation. The ROC of BVI issued a certificate of deregistration dated 30 June 1998 to the assessee.

The Revenue authorities contended that the assessee, being originally a BVI company, was not entitled to tax treaty benefits as per India-Mauritius DTAA.

However, the assessee contended that the Government of Mauritius had issued a Tax Residency Certificate (TRC), the validity of which was not even called into question and accordingly the tax treaty benefits could not be denied.

Issues before the Tribunal: The primary issue before the Tribunal was whether the treaty benefits could be denied on account of re-domiciliation of an entity from one country to another.

Tribunal's Ruling: At the outset, the Tribunal observed that not all countries allow re-domiciliation, but many popular offshore centres do permit, and even facilitate, the re-domiciliation. BVI and Mauritius are such jurisdictions. It was further observed that, given the ground realities of offshore world, re-naming, re-structuring and even re-domiciliation of offshore companies are facts of life.

The Tribunal further noted that the assessing officer had himself granted the treaty benefits and it could not be open to the Revenue's representative to revisit this foundational aspect after two decades from the relevant financial year for the first time without any specific ground of appeal in this respect.

It was further noted that there was no material on record to suggest that the assessee company was not fiscally domiciled in the Mauritius and it was nothing more than a doubt in

the mind of the Revenue representative and the same could not form the basis for rejecting the treaty entitlement.

Thus, the Tribunal rejected the contentions of the Revenue authorities and held that 're-domiciliation' of the company by itself could not lead to denial of treaty entitlements of the jurisdiction in which the company was re-domiciled. However, the fact of re-domiciliation could, at best, trigger detailed examination of the company being fiscally domiciled in that jurisdiction.



[Haresh C Sheth \(ITA Nos.1380/Mum/2020\) / \[TS-769-ITAT-2021\(Mum\)\]](#)

Delay in furnishing TRC condoned and treaty benefits under India-USA DTAA allowed.

Background: The assessee was a non-resident individual who had e-filed his return of income for AY 2014-15 on 29 July 2014, declaring an income of Rs. 4,85,550/-. During the year under consideration, the assessee had derived interest income on fixed deposits and bank interest. While filing the return of income, the assessee had offered the same to tax as per the beneficial rate of tax under the India-USA DTAA.

During the assessment proceedings, the assessee failed to substantiate that the interest income was offered to tax in his return of income filed in USA and accordingly, the assessing officer (AO) declined to apply the beneficial provisions of India-USA DTAA and subjected the interest income to tax as per the normal provisions.

During the proceedings before the CIT(A), the assessee had filed TRC and Form 10F by way of additional evidence. However, the CIT(A) rejected the assessee's contentions on the

ground that these documents ought to have been available with the assessee at the time of filing of return of income itself.

Issue before the Tribunal: Whether the assessee was eligible to claim the beneficial rate of tax on the interest income as per India-USA DTAA even if the TRC and Form 10F was not available at the time of filing the return of income?

Tribunal's Ruling: The Tribunal observed that the assessee could not furnish TRC during the assessment proceedings due to paucity of time as the TRC was required to submit the same within two days. When the AO demanded the TRC, the assessee was on pilgrimage and hence it was too short a time to coordinate with his CPA and US tax authorities. Further, the assessee obtained the TRC within 4 weeks and submitted the same before the AO, although after conclusion of the assessment proceedings. Accordingly, the Tribunal held that there were justifiable reasons for the assessee in not filing the TRC during the course of assessment proceedings.

Further, the Tribunal held that the very basis of rejection of assessee's claim (i.e. the assessee failing to substantiate that the interest income offered to tax by him in USA) was absolutely misconceived and misplaced as the assessee was not seeking credit of taxes paid on his income abroad but was seeking to tax the interest income as per the beneficial rate under the India-USA DTAA.

Considering the above and the fact that the assessee had submitted the TRC along with Form 10F, the Tribunal decided the issue in favour of the assessee and granted the beneficial tax rate on interest income under the India-USA DTAA.



B. Notifications/Circulars

Circular No 15/2021 dated 3rd August 2021

Extension of time limits for undertaking various compliances.

The CBDT, vide Circular no. 15/2021, dated 3rd August 2021 has extended the time limits for undertaking various compliances under the Act. The same have been summarized as under:

Sr No	Nature Of Extension	Original Due Date	Extended Due Date
1	Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ended 30th June, 2021	15.07.2021	31.08.2021
2	Equalization Levy Statement in Form No.1 for the FY 2020-21	30.06.2021	31.08.2021
3	Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64D for the FY 2020-21	15.06.2021	15.09.2021
4	Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the FY Year 2020-21	30.06.2021	30.09.2021
5	Intimation by a Pension Fund in respect of investment made by it in India in Form No. 10BBB for the quarter ended 30th June, 2021	31.07.2021	30.09.2021
6	Intimation by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ended 30th June, 2021	31.07.2021	30.09.2021

Notification No 92/2021 dated 10th August 2021

Guidelines under section 9B and Section 45(4) of the Income tax Act.

The CBDT, vide above-mentioned notification, has inserted Rule 10RB under the Income-tax Rules, 1962 (Rules) which prescribes the formula/ methodology for computation of relief with respect to Minimum Alternate Tax (MAT) payable by the assessee due to operation of section 115JB(2D) of the Act, where past year's income is included in the current year due to Advance Pricing Agreements (APA)/ secondary adjustments under transfer pricing provisions.

Further, a new Form No. 3CEEA has been notified which is required to be filed electronically by the assessee for the purpose of claiming such relief.

C. Other Updates

The Taxation Laws (Amendment) Act, 2021 (TLA Act)

Retrospective tax on indirect transfer of Indian assets withdrawn.

The TLA Act has amended the provisions of section 9 of the Act and accordingly has withdrawn the retrospective tax on indirect transfer of Indian assets, if the transaction was undertaken before 28 May 2012, subject to the satisfaction of prescribed conditions.

To read our detailed analysis on the above, please refer: <https://www.foxmandal.in/taxation-laws-amendment-bill-2021/>.

Reserve Bank of India (RBI) proposes to introduce 'Regulatory GAAR' for round tripping under FEMA

Draft Foreign Exchange Management (Non-debt Instruments – Overseas Investment) Rules, 2021 (ODI Rules) introduced.

Vide ODI Rules, the RBI has, inter alia, proposed that the financial commitment by a person resident in India in a foreign entity, that has invested or invests into India, at the time of making such financial commitment or at any time thereafter, either directly or indirectly, designed for the purpose of tax evasion/ tax avoidance by such person, shall not be permitted.



INDIRECT TAX



Goods & Services Tax

A. Recent Case Laws:

[Siddhi Vinayak Trading Company vs Union of India & ORs. \[TS-450-SC-2021-GST\]](#)

Litigant barred to writ petition citing the existence of alternative remedy of appeal.

In this case, the Appellant had filed a writ petition before the Hon'ble High Court of Allahabad claiming that when a Central Tax Authority initiates action by way of a notice/summon, a State Tax Authority cannot conduct proceedings under Section 74 of the Uttar Pradesh Goods and Services Tax Act, 2017. The said writ petition got dismissed against which the Assessee preferred a Special Leave Petition (SLP) before the Hon'ble Supreme Court. The Supreme Court dismissed the Assessee's SLP, citing the availability of an alternative remedy of appeal available to the Assessee under section 107 of the Uttar Pradesh Goods and Services Tax Act, 2017.

[Medical Bureau vs Commissioner of CGST & Anr. \[TS-391-HC\(DEL\)-2021-GST\]](#)

Revenue directed to expedite refund following Assessee's refund application for unutilized-ITC on "zero-rated supplies."

In this case, the Assessee claimed before the Hon'ble High Court of Delhi that Revenue had failed to issue a refund on exports made by the Assessee out of India qualifying as 'Zero-rated supplies' in GST. The Assessee submitted that the supplies made by it were "zero-rated supplies", and the Assessee became entitled to the refund of unutilized ITC as per the provisions of the Integrated Goods and Services Tax Act, 2017 [IGST Act] and Central Goods and Services Tax Act, 2017 [CGST Act].

The Court observed and found that the refund application in question was yet to be disposed of and directed the original Adjudicating Authority to expedite and decide the pendency of the refund within six weeks according to the law.

Assistant State Tax Officer vs VST and Sons (P) Limited & Anr. [TS-392-HC(KER)-2021-GST]

Supply of Goods for personal/household effect, exempt from e-way bill requirement.

In this case, the Assessee had purchased the vehicle after payment of Integrated Goods and Services Tax with a temporary registration apart from the motor vehicle insurance and had used it notably.

The GST Officer detained the Car for being transported without an e-way bill. The Kerala High Court confirmed that goods classifiable as "used for personal and household effect" fall under Rule 138(14) (a) of the Kerala Goods and Services Tax Rules, 2017 and thus exempted from the requirement of the e-way bill. The Hon'ble Court confirmed that used vehicles, even if run only for negligible distances, are to be categorized as 'used personal effects' not falling under the scope of the e-way bill requirement.

Implement Impex Pvt. Ltd. vs State of Maharashtra & Ors. [TS-394-HC(BOM)-2021-GST]

Provisional Attachment of Bank Account to be validated for 1 Year.

In this case, the Joint Commissioner in the exercise of the power conferred by Section 83(1) Central Goods and Services Tax Act, 2017 r/w Rule 159(1) of the Central Goods and Services Tax Rules, 2017 [Provisional Attachment of Property] had attached the Assessee's Bank Account. The grievance filed before the Hon'ble High Court was that despite a lapse of more than a year from the provisional attachment of the Assessee's Bank Account, the attachment Order was not lifted.

The Hon'ble Bombay High Court directed the Joint Commissioner to immediately communicate to the Assessee's banker to release the attached bank account and that the Assessee shall be permitted to operate the relevant bank account. In the said case, the Assessee had deposited the amounts towards the Appeal u/s 107(6) of the Central Goods and Services Tax Act, 2017 and an acknowledgement to that effect was made available. The Hon'ble High Court confirmed that in such an event, the GST law restrains the Revenue from initiating further proceedings for recovery of the balance amount until the Appeal is finally disposed of.

The Additional Director General, DGGST vs Kerala Communicators Cable Ltd. [TS-454-HC(KER)-2021-GST]

Attachment of Bank Account lifted upon the furnishing of Bank Guarantee.

In this case, the Assessee filed a writ petition against the Order of provisional attachment of bank accounts issued in exercise of the powers under section 83 of the Central Goods and Services Tax Act, 2017 [Provisional Attachment].

The Assessee claimed that those provisional orders of attachment had expired by operation of the statute itself and the condition made attached to the restoration of the bank accounts of Assessee to furnish security in the form of a bank guarantee and undertaking availed from the Assessee restricting him from alienating any fixed assets, plant, property and equipment shown in the balance sheet dated March 31, 2020, does not cause any grievance to the Revenue.

The Kerala High Court refused to interfere with the Order, maintaining the Order's status quo.



Yashaswi Academy for Skills [TS-447-AAR(MAH)-2021-GST]

Stipend reimbursed by Industry Partner to skill trainees does not attract GST.

In this case, the applicant prepared monthly records of the apprentices, processed and paid their Stipend in their bank accounts, took insurance policies towards Employee Compensation and personal accident policy for trainees and in turn received fixed professional service charges per candidate, reimbursement of the Stipend paid to trainees and other expenses paid on the trainees from the Industry Partner.

The stipend was not paid by the Industry Partner directly but routed through the Applicant; thus, the Applicant was only a conduit for stipend and the essential service was provided by the trainees to the trainer companies. The applicant claimed that the said stipend was not taxable in the hands of the applicant.

The Maharashtra Advance Ruling confirmed that the reimbursement by Industry Partner to the applicant being a third-party aggregator under the Apprentice Act, 1961, did not attract GST.

New Tirupur Area Development Corporation Limited [TS-370-AAAR(TN)-2021-GST]

Potable water made exempt from GST.

In this case, the question before the Authority was whether potable water can be treated as 'purified water' and made liable to GST. The Tamil Nadu Appellate Authority on Advance Ruling confirmed that supply of 'potable water' "is nothing but supply of 'water' only and not purified water" and also clarified that "Potable water cannot be equated to 'purified water' as it has only one meaning, i.e., water fit for human and animal consumption. Thus, it does not attain the nature and quality of 'purified water' on its processing.

MAN, Energy Solutions India Pvt. Ltd. TS-367-AAR(MAH)-2021-GST]

Marine generators to attract GST @ 5%

The Maharashtra Authority on Advance Ruling confirms that Marine Diesel Engine [MDE] are "essential parts of a ship" as for being used for main propulsion or turning the ships' propellers. The Authority further clarified that it is only on the exclusive supply of MDE's to shipbuilding companies/shipyards/Indian Navy for use and application in ships, vessels, boats, floating structures etc., that MDE's qualify for concessional rate of Goods and Services Tax @ 5% as per Sl. No. 252 of Notification No. 1/2017-CTR dated June 28, 2017. Further, its parts are to be covered under the said entry only if supplied to/and used by companies manufacturing ships and other vessels.

KLF Nirmal Industries Pvt. Ltd. [TS-374-AAR(TN)-2021-GST]

Edible-oil manufacturers are allowed to factor in Input Tax Credit on Captive Solar-Plan design/supply/installation.

The Tamil Nadu Authority on Advance Ruling has confirmed that electric energy, being fully captively consumed for manufacturing and supplying taxable goods viz. Edible Oils qualifies as the input used in the manufacture of the end product, and accordingly, allowed the credit of GST paid on designing, engineering and execution of Grid Solar PV Power Plant.

Premier Sales Promotion Pvt. Ltd. [TS-384-AAR(KAR)-2021-GST]

Supply of e-vouchers taxable as goods at 18%.

The Karnataka Authority on Advance Ruling has, in the case of e-vouchers, observed that e-vouchers are moveable property and intangible goods, and a transaction involving it includes a transfer of the title. The Authority therefore confirmed that e-vouchers were taxable @18%

as per residual entry No. 453 of the third schedule of Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017.

[Deccan Transco Leasing Pvt. Ltd \[TS-430-AAR\(TEL\)-2021-GST\]](#)

Importation of leasing services into India attracts IGST.

In this case, the Applicant, a Non-vessel owner container carrier/operator located in India, leased containers from outside India. The Applicant contended that the location of the lessor was outside India, and containers did not reach India; therefore, the transaction of the Applicant was a deemed sale of goods, i.e., hire purchase and not taxable under GST.

The Telangana Authority on Advance Ruling rejected the Applicant's contention and held that the transaction was liable to Integrated Goods and Services Tax (IGST)

[DKV Enterprises Private Limited \[TS-413-AAR\(AP\)-2021-GST\]](#)

18% IGST applicable on the commission received for rendering services as an Intermediary.

The Andhra Pradesh Authority on Advance Ruling has held that commission received in convertible Foreign Exchange for rendering services as an intermediary between an exporter abroad receiving such services and Indian importer of equipment is not an export of service; it is a supply by an intermediary and an inter-state supply taxable @18%.

B. Notification/ Circulars

[Notification No. 33/2021-Central Tax dated 29.08.2021](#)

The late fee for non-furnishing GSTR-3B for July 2017 to April 2021 was capped at INR 500 per return for those taxpayers who did not have any tax liability. For those with tax liability, the late fee was INR 1,000 per return.

On June 1, 2021, the Government of India notified the reduced late fee for non-furnishing Form GSTR-3B for the tax period starting from July 2017 to April 2021. The reduced rate was available provided the taxpayer filed the returns for these tax periods by August 31, 2021. The said due date is now extended and accordingly, the last date to avail the GST amnesty scheme, under which taxpayers have to pay a reduced fee for delayed filing of monthly returns, is extended by three months from August 30, 2021, to 30th till November 30, 2021.

[Notification No. 34/2021- Central Tax, dated 29.08.2021](#)

Vide this notification, the Government of India has extended the timeline for revocation of cancellation of registration to 30.09.2021, where the due date of filing application for revocation of cancellation of registration falls between 01.03.2020 to 31.08.2021. The extension is made applicable only to a case when registrations of a composite dealer is cancelled on account of non-furnishing of GST returns for three consecutive tax periods; or when a taxpayer other than a composite dealer has not furnished returns for a continuous period of six months.

Customs

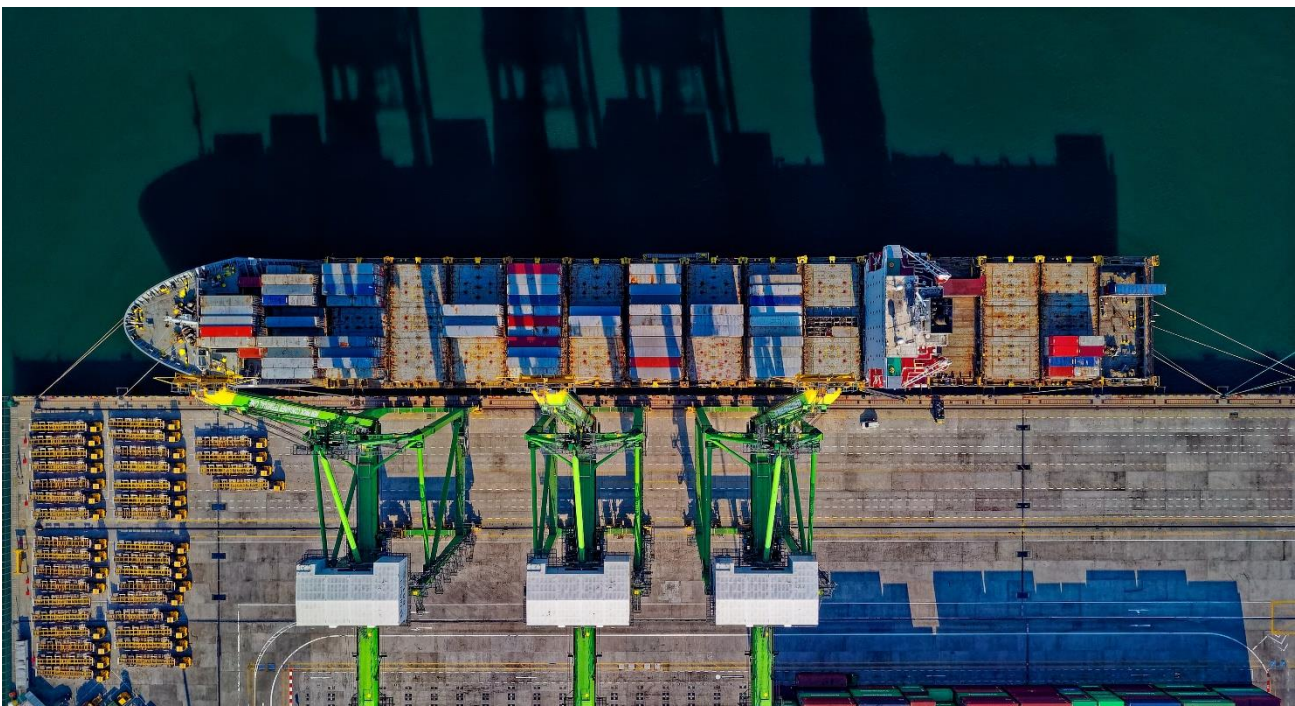
A. Notifications:

Notification No 40/2021-Cus, dated 19-08-2021

Vide this notification, the Government of India amends Notification No. 34/2021- Customs dated 29.06.2021, for bringing reduction in the rate of Basic Customs Duty on Crude Soya Oil [1507 10 00] from 15% to 7.5%; Crude Sunflower Oil [1512 11 10] from 15% to 7.5%; Refined Soya Oil [1507 90 10] from 45% to 37.5% and Refined Sunflower Oil [1512 19 10] from 45% to 37.5%, from August 20, 2021, till September 30, 2021.

Notification No. 41/2021-Cus, dated 30-08-2021

Vide this notification, the Government of India has further extended the Customs Duty and Health Cess exemption on import of Covid Relief Items. Items including COVID-19 vaccine, Amphotericin B, Oxygen concentrator, Medical Oxygen, Oxygen storage tanks, Cryogenic Road transport tanks for Oxygen, Oxygen cylinders including cryogenic cylinders and tanks, Non-invasive ventilation nasal masks for ICU ventilators, etc. were exempted till August 31, 2021. The said exemption is now extended to September 30, 2021.



Miscellaneous

A. Notifications:

Notification No. 19/2015-2021 dated August 17, 2021

The Ministry of Commerce and Industry has notified the guidelines and rates for the new *Scheme for Remission of Duties and Taxes on Exported Products*. The Scheme is to boost Indian exports and competitiveness covering sectors like Marine, Agriculture, Leather, Gems & Jewellery, Automobile, Plastics and Electrical/Electronics and Machinery. Remission rates for around 8555 tariff items have been notified to allow refund of duties/taxes/levies, at the Central, State, and local level, borne on the exported products, including prior stage cumulative indirect taxes on goods and services used in the production of the exported product.

The rebate under the Scheme is not available in respect of duties and taxes already exempted/remitted/credited. The rebate would not depend on the realization of export proceeds at the time of the rebate issue. Adequate safeguards are to be set up by the Central Board of Indirect Taxes and Customs (CBIC) on an IT-enabled platform for recovery of rebate amount where foreign exchange is not realized, including for suspension/withholding of Scheme and imposition of penalty in case of fraud.



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