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NOTIFICATIONS



CBIC notified the foreign currency exchange rates for Imports and Exports CBIC vide Notification No-92/2021 of Customs dated 18th November 2021 has notified the foreign currency exchange rates for Imports and Exports

Schedule-I			
Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		For Imported Goods	For Exported Goods
1	Australian Dollar	55.2	52.85
2	Bahraini Dinar	203.3	190.85
3	Canadian Dollar	59.9	57.75
4	Chinese Yuan	11.8	11.45
5	Danish Kroner	11.5	11.10
6	EURO	85.6	82.55
7	Hong Kong Dollar	9.7	9.35
8	Kuwaiti Dinar	253.7	237.55
9	New Zealand Dollar	53.5	51.2
10	Norwegian Kroner	8.65	8.35
11	Pound Sterling	101.9	98.45
12	Qatari Riyal	20.95	19.65

13	Saudi Arabian Riyal	20.45	19.2
14	Singapore Dollar	55.65	53.8
15	South African Rand	4.95	4.65
16	Swedish Kroner	8.55	8.25
17	Swiss Franc	81.65	78.4
18	Turkish Lira	7.05	6.6
19	UAE Dirham	20.85	19.6
20	US Dollar	75.1	73.4

Schedule-II			
Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		For Imported Goods	For Exported Goods
1	Japanese Yen	66.25	63.9
2	Korean Won	6.5	6.1

Source: Notification No. 92/2021 – Customs dated November 18, 2021.

CBIC reduces Road and Infrastructure Cess (RIC) on Petrol and Diesel

CBIC vide Notification No.52/2021- Customs dated 3rd November 2021 has reduced : Road and Infrastructure Cess (RIC) on Petrol and Diesel to INR.13 and INR.8 per litre respectively.

Source: Notification No. 52/2021 – Customs dated November 18, 2021.

JUDGEMENTS AND ADVANCE RULING



No cenvat credit on catering service availed by assessee-employer to provide food & beverages in factory canteen

Issue: Department issued a show cause notice wherein it was alleged that outdoor catering services were not eligible input services being excluded vide Rule 2(l)(c) of the Cenvat Credit Rules and accordingly, the show cause notice proposed to demand the credit with interest and imposition of penalty.

Judgement: Hon'ble Karnataka High Court in case of Toyota Kirloskar Motor Private Limited Vs Commissioner of Central Tax Appeal Number : CEA No. 36/2018 upheld the validity Services received by assessee in the capacity of employer for providing food and beverages in the canteen maintained and run in the factory as per the mandate of Section 46 of the Factories Act, 1948 would not be eligible for cenvat credit as the statutory definition of 'input service' under Rule 2(l) post amendment w.e.f., 1.4.2011 provided that 'outdoor catering' services fell under the exceptional services in Rule 2(l)(c) of the Cenvat Credit Rules, 2004.

Source: *Toyota Kirloskar Motor Private Limited Vs Commissioner of Central Tax Appeal Number : CEA No. 36/2018*

GST Refund allowed in case of inverted tax structure where input & output are same **Issue:** Refund in case of inverted tax structure where input and output are same is allowed or not under Section 54(3)(ii)?

Judgement: The Hon'ble Gauwahati High Court in the case of BMG Informatics Pvt Ltd Vs Union of India has held that the input supplies and the output supplies made by the petitioner assessee are not

governed either by a nil rate of tax nor it is governed by fully exempted rate of tax and, therefore, the refund provided under Section 54(3)(ii) would be applicable in respect of the difference between the rate of tax of input supplies and the rate of tax on output supplies. In other words, the provisions for refund of the unutilized input tax credit under Section 54(3)(ii) of the CGST Act of 2017 would be applicable in case of the petitioner assessee.

In the instant case, when the provisions of Section 54(3)(ii) of the CGST Act of 2017 are unambiguous and explicitly clear in nature, there is no requirement of bringing in any uniformity in the implementation of the Act and the provisions of Section 54(3)(ii) would have to be applied in the manner it is provided in the Act itself.

Consequently, in view of the clear unambiguous provisions of Section 54(3) (ii) providing that a refund of the unutilized input tax credit would be available and the provisions of paragraph 3.2 of the Circular No. 135/05/2020-GST dated 31st March 2020 providing that even though different tax rate may be attracted at different point of time, but the refund of the accumulated unutilized tax credit will not be available under Section 54(3)(ii) in cases where the input and output supplies are same, would have to be ignored.

The matter stands remanded back to the Assistant Commissioner to pass a reasoned order on the claim of the petitioner assessee for refund under Section 54(3)(ii) of the CGST Act of 2017.

Source: *BMG Informatics Pvt Ltd Vs Union of India, WP(C)/3878/2021, Dated: 02/09/2021*

HC quashes order cancelling GST registration without issuing SCN

Issue: GST registration cancelled without any issuance of any prior show cause notice

Judgement: The Hon'ble Allahabad High Court in the case of S.R. Steel Vs State of U.P. And 2 Others has held that the Having heard the learned counsel for the parties and having perused the record, undeniably cancellation of registration has serious and far reaching consequences on the rights of the dealer/person engaged in any business. Such cancellation may even take away the right to conduct business. Also, in the context of the GST Laws, it has further consequence of upsetting ITC entitlement on sale and purchase by such a person/dealer. Even so, the Act itself obligates the authority to issue a prior notice and afford a proper opportunity of hearing to the concerned before cancellation of his registration. This mandatory requirement is contained in the first proviso to Section 29(2) of the UPGST Act, 2017. Before an order cancelling the registration may be upheld or be allowed to exist or recognized in law it must therefore be undisputed that the affected dealer/person had been issued a proper prior show cause notice in that regard and he had been afforded adequate opportunity to defend.

In the peculiar facts of the present case as have been noted above, we lift the bar of alternative remedy as we find that the petitioner's registration was cancelled without issuance of any prior show cause notice. Also, the delay is largely on account of the conduct of the State respondents or conduct attributable to the State respondents as they alone were responsible to update the information on the GST Portal. That not done, the petitioner/citizen may not be relegated to the forum of alternative remedy as his valuable right to do business has been curtailed in violation of principle of natural justice.

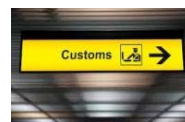
Accordingly, the order dated 30.6.2018 cancelling the petitioner's registration is set aside. The matter is remitted to respondent no.3 to pass a fresh order, in accordance with law.

At present, learned counsel for the petitioner has been served with the copy of the show cause notice dated 5.4.2018 and the order dated 30.6.2018. It is expected that the petitioner would file his reply within a period of two weeks from today. Upon such reply being filed, respondent no.3 may proceed to fix a date for hearing next fifteen days and pass appropriate orders, within a month therefrom.

With the above observation, the writ petition is allowed. No order as to costs.

Source: S.R. Steel Vs State of U.P. And 2 Others , Appeal Number : Writ Tax No. 860 of 2021, Dated: 25/10/2021

CUSTOMS



CBIC issued instructions for import of tea from neighbouring country

The CBIC vide Instruction No. 25/2021-Custom issued instructions for import of tea from neighbouring country. It has been stated in the above-mentioned communication, that Darjeeling Tea is recognised for its unique flavour and qualities and has acquired tremendous domestic and international reputation. The DoC is in receipt of various communications raising concerns regarding import of tea from Nepal and the domestic sale of such imported teas as "Darjeeling Tea", thereby adversely impacting the interests of the domestic Darjeeling Tea Planters.

It is clarified that as per the Food Safety Standards (FSS) (Import) Regulations, 2017, clearance is required for import of food items into India. Further, the present trade treaty between India and Nepal allows

mandatory sanitary and phytosanitary certificates, before products are allowed into each other's country. As per the provisions of the Tea (Distribution & Export) Control Order, 2005, any importer importing tea from Nepal needs to have a license, as mandated under this order, and should also have a clearance certificate issued by the Tea Council.

Source: Instruction No. 25/2021-Customs, Dated: 24/11/2021

GST REVENUE COLLECTION

The gross GST revenue collected in the month of November 2021 is ₹ 1,31,526 crore of which CGST is ₹ 23,978 crore, SGST is ₹ 31,127 crore, IGST is ₹ 66,815 crore (including ₹ 32,165 crore collected on import of goods) and Cess is ₹ 9,606 crore (including ₹ 653 crore collected on import of goods).

The government has settled ₹ 27,273 crore to CGST and ₹ 22,655 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of November 2021 is ₹ 51,251 crore for CGST and ₹ 53,782 crore for the SGST. Centre has also released ₹ 17,000 crore to States/UTs towards GST compensation on 03.11.2021.

For the second straight month gross GST collection crossed ₹ 1.30 lakh crore. The revenues for the month of November 2021 are 25% higher than the GST revenues in the same month last year and 27% over 2019-20. During the month, revenues from import of goods was 43% higher and the revenues from domestic transaction (including import of services) are 20% higher than the revenues from these sources during the same month last year.

The GST revenues for November 2021 have been the second highest ever since introduction of GST, second only to that in April 2021, which related to year-end revenues and higher than last month's collection, which also included the impact of returns required to be filed quarterly. This is very much in line with the trend in economic recovery.

Source: pib.gov.in

LET'S TALK

For a deeper discussion of how these issues might affect your business, please contact our Indirect Taxation Team.

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