



#### Inside this edition

Notifications and updates from CBIC regarding various issues of GST.

GSTN issues advisory for bank account validation on GST portal

GSTN enables new Facility to verify Document Reference Number (RFN) on GSTN

Hon'ble Rajasthan High Court says Since the assessee did not file an appeal within the prescribed time limit as specified in Section 107, and instead filed a writ petition almost eight months after the limitation period had expired, the writ petition filed by the assessee challenging the impugned order was to be dismissed.

Hon'ble Allahabad High Court says that the validity of the proceedings initiated by the revenue under Section 74 of the Central Goods and Services Tax Act is not affected by the non-issuance of a notice under Section 61. Hence, the revenue's proceedings were deemed valid, and the assessee was granted the opportunity to exercise their right of appeal.

Hon'ble Madhya Pradesh High Court says the show cause notice issued to the assessee was deemed invalid due to its lack of clarity in communicating relevant information and material.

CBIC issues Circular to implement Foreign Trade Police for F.Y 2023-24

**& more...**

**CBIC vide Notification No- 05/2023 of Central Tax rate dated May, 05 2023, has extended he time for exercising option to opt for forward charge tax liability by Goods Transport Agencies (GTAs) for the FY 2023-24.**

- The new time line shall be on or before 31st May, 2023 instead of 15th March, 2023. The required declaration (in prescribed format) can now be filed up to May, 31 2023 before jurisdictional authorities.
- Further, GTA who commences new business or crosses threshold for registration during any Financial Year, may exercise the option to itself pay GST on the services supplied by it during that Financial Year by making a declaration in Annexure V before the expiry of forty-five days from the date of applying for GST registration or one month from the date of obtaining registration, whichever is later.

**Source: Notification No- 05/2023 of Central Tax Rate**

CBIC vide Notification No- 10/2023 of Central Tax dated May, 10 2023, has notified threshold limit for issuance of e-invoices shall stand reduced to Inr. 5 crore (presently Inr.. 10 crore) w.e.f. August, 01 2023.

**Source: Notification No- 10/2023 of Central Tax**



**GSTN issues advisory for bank account validation on GST portal**

GSTN has issued an Advisory on functionality for validation of bank account.

- The bank account validation status can be seen under the Dashboard→My Profile→Bank Account Status tab in the FO portal.
- Tax Payers will also receive the bank account status detail on registered email and mobile number immediately after the validation is performed for his declared bank account.
- Whenever, the Tax Payer is shown 'Failure' icon with further details such as – The entered PAN number is invalid.
- PAN not available in the concerned bank account.
- PAN Registered under GSTIN, and the PAN maintained in the Bank Account are not same.
- IFSC code entered for the bank account details is invalid.

In these cases, the Tax Payer is expected to ensure that he has entered correct bank details and the KYC is completed by bank for his bank account. Whenever, the Taxpayer is shown, the status of his bank account as 'Success with Remark' icon with details "The account cannot be validated since the bank is not integrated with NPCI for online bank account validation", the Tax Payer should provide alternate bank account number so that it can be revalidated to expedite further online processes.

This feature is introduced to ensure that the bank accounts provided by the Taxpayer is correct.

**Source: Advisory dated April, 24 2023**





### CBIC GSTN enables new Facility to verify Document Reference Number (RFN) on GSTN

The GST portal ("System") generates various documents, such as notices/ orders, etc which are communicated to the taxpayer. Most such documents have a system-generated unique identifier DIN (Document Identification Number)/ RFN (Reference Number).

- These documents, by virtue of being generated by the System, are already traceable in the portal, mostly on the taxpayer's dashboard. Still, a facility for taxpayers to verify such documents through such auto-generated RFN is under development and will be provided shortly.
- In addition, in order to enable the taxpayers to ascertain that an offline communication (i.e. one which is not system-generated) was indeed sent by the State GST tax officer or not, a new facility for Reference Number (RFN) generation by State tax officer and verification by taxpayer has been provided. Under this feature, the State Tax office can generate a RFN for the physically generated correspondence sent to the taxpayer, which can be validated by the taxpayer (both pre-login and post-login). The facility to verify RFN of System-generated documents, once deployed, shall also be available in a seamless manner using the same link.
- To verify a Reference Number mentioned on the offline communications sent by State GST officers that are being sent to you, navigate to Services > User Services > Verify RFN option and provide the RFN to be verified.
- In case the RFN is of an offline communication generated by the State GST officer, the details with the valid RFN will be displayed. The limited details will be provided pre-login also for verification, while greater details will be provided when the taxpayer logs in and verifies RFN mentioned on an offline communication issued to him/ her.
- This facility is for offline correspondence issued by State GST authorities. For documents issued by Central GST officers, CBIC DIN facility may be used.

**Source: Advisory dated April, 28 2023**

**Hon'ble Rajasthan High Court says Since the assessee did not file an appeal within the prescribed time limit as specified in Section 107, and instead filed a writ petition almost eight months after the limitation period had expired, the writ petition filed by the assessee challenging the impugned order was to be dismissed.**

#### Facts

The assessee, a proprietor-firm in the hospitality sector with GST registration, received an intimation letter from the department regarding the tax payable under Section 73(5), but failed to provide a response. Subsequently, a show cause notice was issued to the assessee, to which they also did not reply. As a result, an order determining the amount payable under Section 73 was issued. The present writ petition was filed, challenging the validity of the order on the grounds of the department's alleged violation of the principles of natural justice by not properly determining and specifying the reasons for creating the demand against the assessee.

#### Rulings

According to Section 107, there is a 30-day limitation period for challenging the impugned order through an appeal, which can be extended by the appellate authority for an additional month if it is satisfied that the aggrieved party was prevented by valid reasons from filing the appeal within three months. In this case, the assessee did not file an appeal before the appellate authority within the prescribed limitation period and instead filed a writ petition nearly eight months after the expiration of the limitation period. Therefore, the writ petition filed by the assessee to challenge the impugned order was not valid and should be dismissed.

***Judgement dated May,03 2023 in case Malik Khan vs. Chief Commissioner GST and Central Excise. D.B. Civil Writ Petition No. 2785 Of 2023.***



**Hon'ble Allahabad High Court says that the validity of the proceedings initiated by the revenue under Section 74 of the Central Goods and Services Tax Act is not affected by the non-issuance of a notice under Section 61. Hence, the revenue's proceedings were deemed valid, and the assessee was granted the opportunity to exercise their right of appeal.**

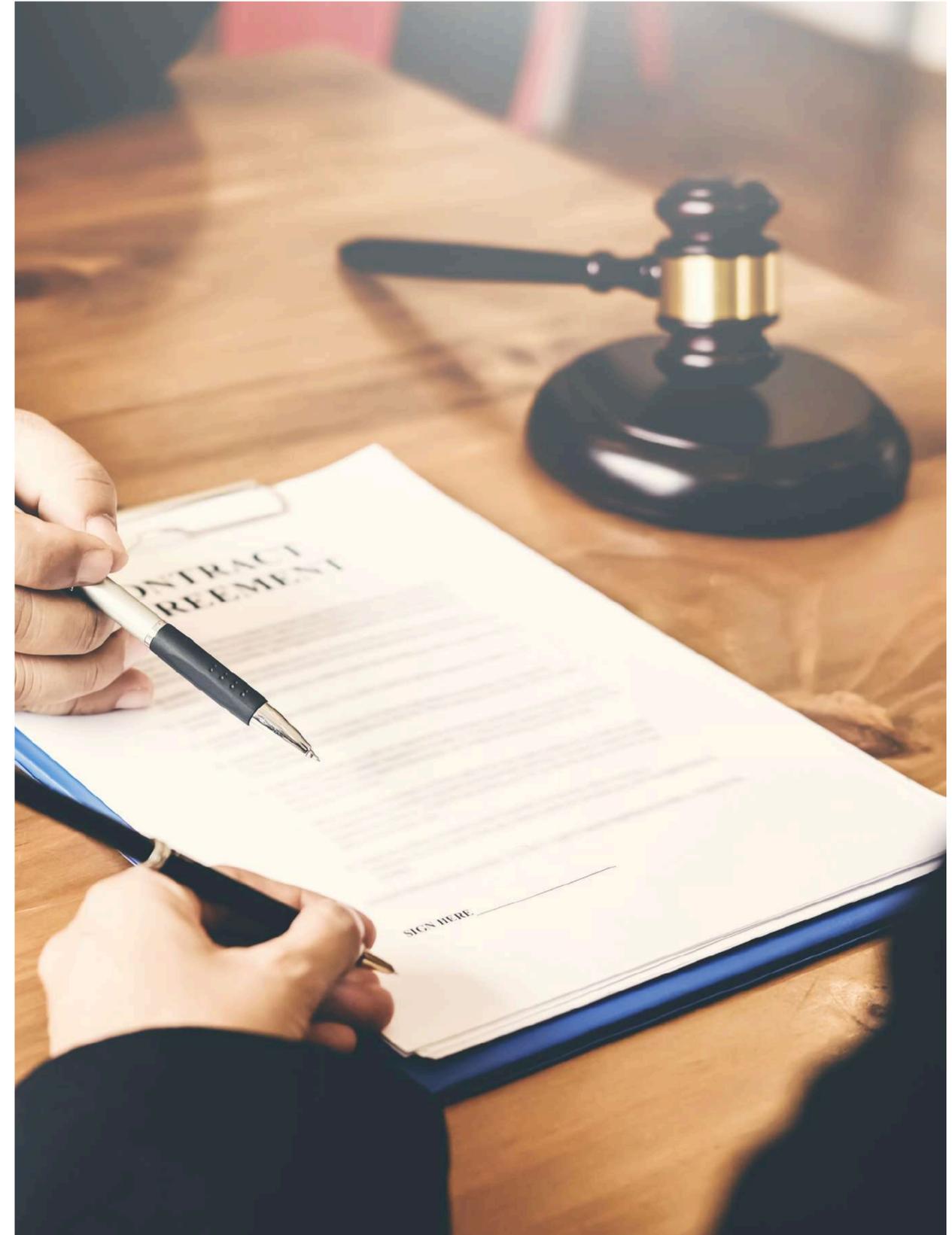
#### Facts

The petitioner-assessee had filed returns for the assessment year 2019-20. The respondent-revenue, however, did not issue any notice under Section 61 but instead initiated proceedings under Section 74 against the assessee based on certain grounds related to the classification and consequent tax payment of certain goods. After examining the issue, the revenue passed an order determining that there was a shortfall in the previously paid tax and raised a demand for the appropriate payment of the tax shortfall, along with interest and penalty. The question arises as to whether the department was required to issue a notice under sub-section 3 of Section 61 before initiating action under Section 74 of the Act, considering that the returns had already been submitted by the petitioner.

#### Rulings

The absence of notices issued under Section 61 of the Central Goods and Services Tax Act does not imply that issues related to classification or short payment of tax cannot be addressed under Section 74. The exercise of power under Section 74 is not contingent upon the issuance of notices under Section 61. Consequently, the petitioner's arguments were rejected, and the proceedings were deemed valid. Furthermore, it was noted that the petitioner had the option to file an appeal, which they had not yet pursued.

**Source: Judgement dated May,05 2023 in case of Nagarjuna Agro Chemicals (P.) Ltd. vs. State of U.P. Writ Tax No. 336 Of 2023**



**Hon'ble Delhi High Court says the Principal Commissioner, CGST, Meerut lacked jurisdiction over the territories where the petitioner's principal place of business was situated, and therefore, did not have the authority to issue an attachment order concerning the petitioner as a taxable person.**

### Facts

The petitioner was registered as a taxable person for two principal places of business: the first in Kundli, Sonipat, Haryana, and the second in Bulandshahar, Uttar Pradesh.

### Rulings

It is acknowledged that the territorial jurisdiction of the Principal Commissioner, CGST, Meerut does not cover Kundli, Sonipat, Haryana, nor does it extend to Bulandshahar, Uttar Pradesh. Section 83 of the Central Goods and Services Tax Act, 2017 should be interpreted in conjunction with Sections 3 and 5 of the same Act. Hence, the Principal Commissioner, CGST, Meerut did not have jurisdiction over the territories where the petitioner's principal places of business were located and was not authorized to issue an attachment order against the petitioner as a taxable person.

According to Section 122(1) of the CGST Act, 2017, the assets of a person falling under Sub-section (1A) of Section 122 can only be attached by a Commissioner who has jurisdiction over that taxable person. Furthermore, no allegations were made that the petitioner retained any benefit from the alleged transactions mentioned in the specified clauses of Section 122(1) of the Act. On the contrary, it was alleged that the petitioner company was established as a dummy company to fraudulently claim Input Tax Credit (ITC). Therefore, the impugned order should be set aside.

The provisional attachment of property should not be based solely on suspicion that the petitioner was a dummy company, especially considering that the suspicion was based on statements about one of the directors being associated with M/s Best Agrolife Group, without considering the corporate documents of the petitioner. The Commissioner is required to form an opinion to attach the property of a taxable person based on relevant facts and not solely on grounds of suspicion. The petitioner's bank accounts cannot be attached based on mere suspicion.

**Source: Judgement dated May,16 2023 in case of Sidhivinayak Chemtech (P.) Ltd. vs. Principal Commissioner, CGST, W.P.(C) NO. 17547 OF 2022.**





**Hon'ble Madras High says upon the interception and detention of the consignment of goods by the authorities on the basis that the supplier had incorrectly passed on Input Tax Credit, the assessee filed a statutory appeal before the Appellate Authority, complying with the requirement of paying 25% of the disputed penalty. The release of the goods was contingent upon the provision of a Bank Guarantee or payment in cash amounting to 200% of the tax.**

#### Facts

After the assessee transported a consignment of goods, it was intercepted and detained by the authorities. An order of detention in Form GST MOV-06 was issued. Although the consignment was accompanied by an e-Way Bill, the goods were detained by the officer on the grounds that the supplier, from whom the assessee purchased the goods, had wrongly passed on Input Tax Credit. The assessee argued that the movement of goods complied with the provisions of the GST Act and Rules, and a statutory appeal under section 107 was filed before the Appellate Authority after paying 25% of the disputed penalty. The assessee further contended that once a pre-deposit of the required amount was made under section 107(6), the officer should have released the goods.

#### Rulings

Once the order was stayed, the goods could be released, subject to any other safeguards imposed by the Appellate Authorities under the respective Acts.

The officer who detained the goods became functus officio, meaning that their authority ended, once the mandatory pre-deposit was made, and the order had no legal force. Any further recovery proceedings would be dependent on the final outcome of the appeal. Consequently, the assessee was instructed to deposit the maximum penalty of 200% of the tax, after adjusting the amount already deposited, or provide a Bank Guarantee as per section 129(c) of the Act. Upon furnishing a Bank Guarantee for the remaining penalty amount or making the payment in cash, the goods should be released.

**Source: Judgement dated May,05 2023 in case of Haresh Kumar vs. Assistant Commissioner (ST) W.P.No. 14628 Of 2023.**



**Hon'ble Delhi High Court says the assessee, who was exporting services without paying IGST and filed a refund application, had their application rejected on the basis that the services provided qualified as an intermediary service according to the definition in section 2(13). However, due to insufficient analysis of the actual work performed by the assessee, the challenged order was required to be overturned and the case remanded back for further consideration.**

#### Facts

The assessee was involved in the business of exporting services to Netgear Pte. Ltd. without paying Integrated Goods and Services Tax (IGST) and subsequently filed a refund application to claim Input Tax Credit (ITC). However, a show cause notice was issued to reject the refund, stating that the assessee was functioning as an intermediary according to the definition in Section 2(13) and therefore, the place of supply of services was in India. The assessee argued that they provided marketing and sales support services as per the agreement with Netgear Pte. Ltd, and the remuneration was based on a cost-plus approach. Both the adjudicating authority and the appellate authority issued orders rejecting the refund claim of the assessee.

#### Rulings

The Adjudicating Authority solely referred to a specific clause in the agreement, which stated that the assessee would carry out reconciliation of sales for that year as a direct consequence of the service provider's activities and would reasonably approve the costs incurred by the service provider in fulfilling its obligations under the agreement. However, it did not indicate that the remuneration was based on the achieved sales. Consequently, the determination of whether the entity was an intermediary had to be made based on the actual work performed. Therefore, the challenged order was required to be overturned, and the matter was to be remanded to the Adjudicating Authority for a decision after examining the actual work performed by the assessee.

**Source: Judgement dated May,18 2023 in case of Netgear Technologies India (P.) Ltd. vs. Joint Commissioner CGST Appeals W.P.(C) No. 10704 Of 2022.**

**Hon'ble Madhya Pradesh High Court says the show cause notice issued to the assessee was deemed invalid due to its lack of clarity in communicating relevant information and material. Therefore, it should be annulled, granting the competent authority the liberty to proceed in accordance with the law.**

#### Facts

The show cause notice issued to the petitioner-assessee lacked clarity as it failed to provide relevant information and material, which prevented the petitioner from adequately responding to it. As a result, the dismissal of the appeal was legally flawed.

#### Rulings

As per Section 75 of the CGST Act, it is mandatory for the revenue authority to provide a reasonable opportunity to the assessee. Failure to do so renders the resulting actions invalid. Therefore, the challenged orders and show cause notice should be annulled, granting the competent authority the liberty to proceed in accordance with the law.

*Source: Judgement dated May, 10 2023 in case of Durge Metals vs. Appellate Authority and Joint Commissioner State Tax, Writ Petition No. 6124 of 2020.*

**Hon'ble Delhi High Court says the order rejecting the assessee's refund claim based on the non-submission of relevant documents should be overturned, as the assessee would have had the right to request an opportunity to provide the necessary documents before the Tribunal if the Appellate Tribunal had been constituted**

#### Facts

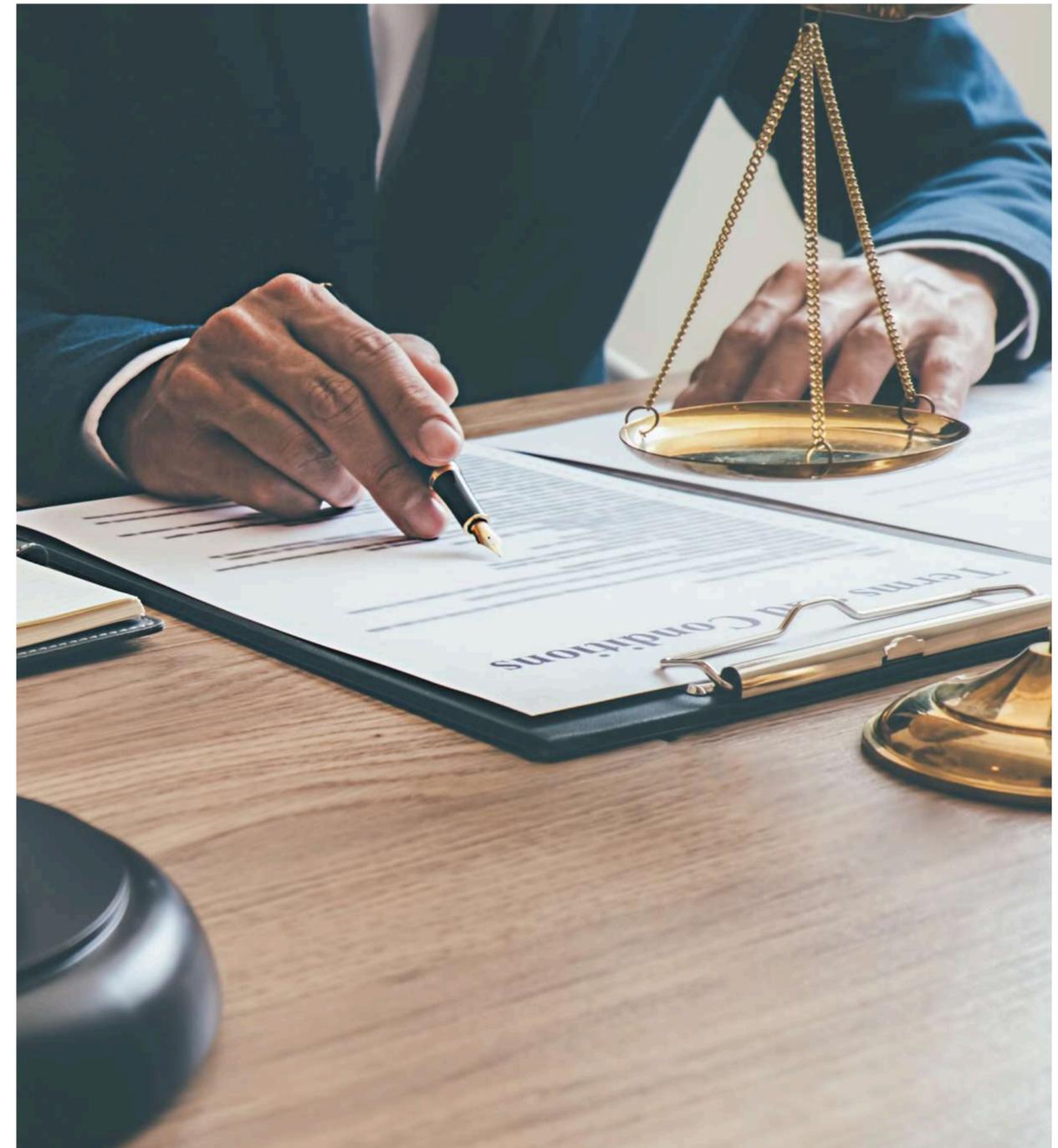
The petitioner's refund claim was denied based on the grounds that the assessee did not submit the necessary documents and failed to attend the meeting with the relevant officer.

#### Rulings

If an application for refund includes all the necessary documents as specified under Rule 89, the application cannot be rejected as incomplete and must be processed. In the present case, the assessee had submitted most of the relevant documents, and if the Appellate Tribunal had been constituted, the petitioner would have been entitled to request an opportunity to submit the relevant documents before the Tribunal.

Therefore, the order rejecting the assessee's refund application should be overturned, and the matter should be remanded back to the appropriate officer.

*Judgement dated May,02 2023 in case of SRG Plastic Company vs. Commissioner Delhi Goods and Services Tax Trade and Tax Department, W.P.(C) NO. 5698 OF 2023 CM APPL. NO. 22331 OF 2023.*



### CBIC issues Circular to implement Foreign Trade Police for F.Y 2023-24

CBIC issued Circular No- 12/2023-Customs dated May, 24 2023 to implement Foreign Trade Police for F.Y 2023-23.

The Customs notifications for purposes of implementation of schemes mentioned in FTP chapters on duty remission/exemption or EPCG schemes that were issued on 01.04.2023 include the Notification Nos. 21 to 24/2023-Customs for Advance Authorization (AA), AA for deemed export, AA for annual requirement, AA for export of prohibited goods, No. 25/2023-Customs for Duty Free Import Authorization, No.26/2023 for EPCG and No. 27/2023 for Special Advance Authorization. Notification Nos. 24 and 25/2023 - Customs (NT) have been issued with respect to RoDTEP and RoSCTL schemes, respectively. These notifications are available at [www.cbic.gov.in](http://www.cbic.gov.in).

Late fee for the financial year 2022-23 and onwards is as under:

A few aspects of the FTP-HBP are highlighted below-

- 1) The Special Advance Authorization Scheme (SAAS) in Para 4.04A of FTP is for import of specialized fabrics meant for export production of garments of Chapter 61 and 62. It has been provided that such authorization may also be issued on the basis of self- declaration with the condition that the norms shall be finalized/fixed in such cases within stipulated time period of 90 days.
- 2) The eligibility to apply under Self Ratification Scheme for purposes of Advance Authorization in para 4.06 of FTP has been extended to a manufacturer cum actual user who holds a valid 2-Star or above Status under para 1.25 of FTP if it has already submitted its application on CBIC's AEO portal for grant of AEO certification, provided he obtains the AEO certification within 120 days, else the DGFT' s Norms Committee shall have to fix the norms. The field formations and Directorate of International Customs should note this aspect and ensure that AEO applications do not depend on their account and are handled in a timely manner.
- 3) In terms of para 4.09 of FTP, a minimum value addition of 25% is now to be achieved for spices under Advance Authorization Scheme.



4) In terms of para 4.11 of FTP, all items with a basic customs duty of more than 30% have also been included in the list of ineligible categories of import under self declaration basis. Project imports are excluded from EPCG scheme. In terms of para 6.11 (d) of FTP, facility of exemption from furnishing bank guarantee shall not be available to certain units which have been issued confirmed demand etc. under CGST/SGST/UTGST/IGST Acts. Further, the facility of exemption from furnishing Bank Guarantee at the time of import or going for job work in DTA to EOU | EHTP | STP | BTP has been extended to units having AEO certification, subject to certain conditions.

The Circulars No. 54/2004-Customs dated 13.10.2004 and 36/2011-Customs dated 12.08.2011 would stand modified to the extent mentioned in para 6.11 (d) of FTP.

- In terms of para 6.04 (b) (i) of HBP, the EOUs, for setting up, operations or maintenance of wind captive power plant and solar captive power plant would not get tax/duty benefits. Accordingly, the Notification nos. 52/2003 - Customs dated 31.03.2003 and Notification no. 22/2003- Central Excise dated 31.03.2003 have been amended vide Notification no. 28/2023- Customs dated 01.04.2023 and Notification no. 20/2023- Central Excise dated 26.04.2023 respectively.
- In terms of para 6.38 (a) of HBP, the conversion to EOU from DTA unit having EPCG licence, would, apart from other conditions, be permitted only if either the DTA unit has fulfilled the stipulated export obligation and obtained EODC or the DTA unit has made payment of applicable duties and taxes and compensation cess on capital goods imported under the EPCG Scheme. Appendix 6M has been suitably modified vide DGFT Public Notice No .10/2023 dated 26.04.2023.
- In the Gems and Jewellery schemes the list of Nominated Agencies has been revised. Accordingly, Notification no.57/2000-Customs dated 08.05.2000 has been amended vide Notification no. 28/2023- Customs dated 01.04.2023.

**Source: Circular No- 12/2023-Customs**





### CBIC issued Circular to introduce Faceless Assessment – Re-organization of National Assessment Centers and Faceless Assessment Groups

CBIC vide Circular No-13/2023 of Customs dated May, 31 2023 introduced, Faceless Assessment such as implementation of Anonymized Escalation Mechanism (AEM) to address grievances in delays in assessments and implementation of Standard Examination Orders to enhance uniformity of examinations. Accordingly, it is proposed to effect the following changes in the scheme of Faceless Assessment.

#### Changes to NAC Structure:

- The number of NACs has been reduced to 8, from the existing 11 (i.e by merging chemicals I, II and III into Chemicals and by merging Automobiles & Instruments and Misc. products/project imports into Automobiles, Instruments, Misc. products & Project Imports).
- Each of the 8 NACs would now be convened by one Pr. Chief/Chief Commissioner as indicated in column 1 of the Table in the Annexure. (On the basis of the assessable value of goods imported in the zone in the ascending order).

#### Re-organization of Faceless Assessment Groups:

- In alignment with the changes to NAC, Faceless Assessment Groups (FAG) for different commodities listed in the Column (2) of the table in annexure to this circular has been identified based on the imported goods handled by these goods on basis of assessable value. This is done to further promote specialization.
- Except for the changes in the NACs stipulated in paras above, the Conveners would be responsible for carrying out all the roles and responsibilities entrusted to Co conveners and outlined in Circular No.40/2020-Customs dated 04.09.2020.
- The changes informed in this circular would be effective from 15.06.2023 and DG Systems would issue suitable advisory in this regard. Any issue in implementation may be brought to the notice of the Board.

**Source: Circular No-13/2023 of Customs**

## GST Revenue

The gross Good & Services Tax (GST) revenue collected in the month of May, 2023 is ₹1,57,090 crore of which CGST is ₹28,411 crore, SGST is ₹35,828 crore, IGST is ₹81,363 crore (including ₹41,772 crore collected on import of goods) and cess is ₹11,489 crore (including ₹1,057 crore collected on import of goods)

**Source:** [pib.gov.in](http://pib.gov.in)

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