



Key Case Alert

Notifications

Various notifications have been issued by the CBIC on 01 June 2021 to give effect to the recommendations of the 43rd GST Council meeting

S.No.	Notification dated 1 June 2021	Explanation
1	Notification No. 16/2021 – Central Tax	Notification has appointed 1 June 2021 as the date on which Section 112 of the Finance Act 2021 shall come into force. Section 112 of the Finance Act provides for retrospective amendment by insertion of proviso in Section 50 of the Central Goods and Services Tax (“CGST”) Act stating interest shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.
2	Notification No. 17/2021 – Central Tax	Due date for furnishing details of outward supplies in Form GSTR-1 for the month of May 2021 extended to 26 June 2021.
3	Notification No. 18/2021 – Central Tax, Notification No. 02/2021-Integrated Tax and Notification No. 02/2021-Union Territory Tax	Notifications seeks to provide relief by lowering of interest rate for late filing of monthly/quarterly returns in Form GSTR-3B for the month/quarter March 2021 to May 2021, as specified.
4	Notification No. 19/2021 – Central Tax	No late fees up to 60 days for filing of Form GSTR-3B for the months of March, April & May 2021. Specific relief has been granted as per the turnover of the taxpayer.
5	Notification No. 20/2021 – Central Tax	Late fees leviable under Section 47 for delay in furnishing of return in FORM GSTR-1 from the tax period June 2021 onward has been rationalised. The maximum late fee payable has been capped between 250 rupees to 2000 rupees, to be paid by the registered person depending on the turnover.

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S.No.	Notification dated 1 June 2021	Explanation
6	Notification No. 21/2021 – Central Tax	Late fees leviable under Section 47 for delay in furnishing of return in FORM GSTR-4 for the tax period 2021-22 onwards has been rationalised. The maximum late fee payable is 250 rupees for person filing nil return, and 1000 rupees maximum in all other cases.
7	Notification No. 22/2021 – Central Tax	Late fees leviable under Section 47 for delay in furnishing of return in FORM GSTR-7 for the period June 2021 onwards rationalised. The late fees payable has been reduced to Rs 25 per day per return subject to a maximum of Rs 1000 per return.
8	Notification No. 23/2021 – Central Tax	Government departments and local authorities have been exempted from the mandatory requirement of generating e-invoices.
9	Notification No. 24/2021 – Central Tax	Time limit for completion or compliance of any action, by any authority or by any person prescribed or notified under the said act for the period starting 15 April 2021, has been extended up to the 30 June, 2021, including for the purposes of completion of proceeding, passing order, issuing notice, filing of appeal, submitting reply or application etc. in view of the spread of pandemic COVID-19.
10	Notification No. 25/2021 – Central Tax	Due date for furnishing return in Form GSTR-4 for the financial year ending 31 March 2021, extended up to 31 July 2021.
11	Notification No. 26/2021 – Central Tax	Due date for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from 1 January 2021 to 31 March 2021 has been extended from 25 April 2021 to 30 June 2021.
12	Notification No. 27/2021 – Central Tax	Notification has notified Central Goods and Services Tax (Fifth Amendment) Rules, 2021. Following are the key changes: <ul style="list-style-type: none"> A registered person registered under the provisions of the Companies Act, 2013 shall, during the period from the 27 April 2021 to 31 August 2021 be allowed to furnish the return in FORM GSTR-3B and the details of outward supplies in FORM GSTR-1 and GSTR 3B or using invoice furnishing facility, verified through electronic verification code. Rule 36(4) shall apply cumulatively for the period April, May & June 2021 and the return in FORM GSTR-3B for the tax period upto June 2021 shall be furnished with the cumulative adjustment of input tax credit for the said months. The furnishing of details using invoice furnishing facility for the month of May 2021 can be furnished from 1st June, 2021 till 28th June, 2021.

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Sea Cargo Manifest and Transshipment Regulation, 2018 to be effective from 30 June 2021

Notification No. 50/2021 dated 31 May 2021 has been notified to allow the provisions of the Sea Cargo and Transshipment Regulations, 2018 to be effective from 30 June 2021. Upon its implementation, it will be compulsory for all shipping lines, importers and exporters to adhere to the defined timelines for filing a manifest for all cargo on a vessel loading or moving through Indian port.

Integrated Goods and Services Act ("IGST") Exemption on imports of COVID-19 relief material imported for personal use has been extended

Ad hoc exemption Order number 4/2021 dated 3 May 2021 has granted exemption from IGST on import of such specified goods received free of cost for free distribution for covid relief. This exemption has been extended from 30 June 2021 to 31 August 2021 vide Ad hoc exemption order number 5/2021 dated 31 May 2021.

Govt exempts IGST on imports of specified COVID-19 relief material

Customs Notification 32/2021 dated 31 May 2021 exempts IGST on imports of specified COVID-19 relief material specified as per notification no. 27/2021 dated 20 April 2021 & 2021/28 dated 24 April 2021, upto 31 August 2021. Both notifications referred above seeks exempt customs duty on import of Remdesivir injection, Remdesivir API and Beta Cyclodextrin used in the manufacture of Remdesivir, oxygen cylinders/fillers/concentrators/tanks, ventilators, covid vaccines and related goods as specified.

Central Goods and Services Tax (Fourth Amendment) Rules, 2021 has been introduced

Notification No. 2021/15-Central Tax Dated 18th May, 2021 has notified several amendments under the Central Goods and Services Tax ('CGST') Rules, 2017 to provide amendments in refunds, registration, and E-Way Bill (EWB) provisions. The following changes have been made:

- Days counting from RFD 01(form for filing of refund) to RFD 03(form for communicating deficiency in application), not to be counted in the period of 2 years, in case, fresh refund application after rectifying the deficiencies is submitted.
- Form RFD -01W introduced for withdrawal of refund applications filed before RFD 04 or RFD 05 or RFD 06 or RFD 07 or RFD 08 (forms for processing of refund by authority) are issued. On submission of RFD 01W, amount debited from electronic cash ledger for filing of refund shall be credited back.
- Form REG 21 for application for revocation of cancellation of registration which was to be filed within 30 days from the date of service of the order of cancellation, shall now be made within the time as extended by Additional Commissioner or Joint Commissioner.
- In sub-rule (1) of rule 138, no person shall be allowed to furnish the information (in PART A of FORM GST EWB-01) in respect of any outward movement of goods of a registered person. Earlier the restriction was with regard to registered person instead of the "OUTWARD MOVEMENT OF GOODS".
- Modifications have been made in Form RFD 07 by inserting Part A of the form for order of withholding refund and Part B for order of release of withheld refund.

Directorate General of Foreign Trade ("DGFT") introduced an online e-EPCG Committee module

Trade Notice 05/2021-22 dated 19 May 2021 has been issued to intimate the IT revamp

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of the DGFT website for receiving applications seeking relaxation in policy/procedure in terms of para 2.58 of Foreign Trade Policy 2015-20. Para 2.58 empowers DGFT to pass such orders or grant such exemption, relaxation or relief, as he may deem fit and proper, in public interest. The trade notice clarifies that henceforth the applications will be accepted only through online mode and no manual submission of applications would be allowed. For availing the service, the applicant will require to login, fill in requisite details in the form, upload necessary documents and submit application after paying requisite fee. A system generated tracking number will be issued on successful submission of the form. The committee will subsequently scrutinise the form and Directorate may issue online deficiency letters calling for additional information, which the exporter may rectify online. The decision of the committee will be communicated online.

CBIC issues clarification on changes introduced through Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2021

Circular No.10/2021-Customs dated 17 May 2021 has been issued for providing clarification on changes introduced through the Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2021 that took effect from 2 February 2021. The rules lay down the procedures in which an importer can avail the benefit of a concessional customs duty on import of goods required for domestic production of goods or providing services. The clarification summarizes the procedure to be followed by an importer for clearance of goods from the port of import, receipt of goods at premises of importer/job worker, goods sent for job work, receipt of goods from job worker, re-export and maintenance of account. The Directorate General of Systems, CBIC, is in the process of automating and facilitating online submission of compliances prescribed in the rules through the ICEGATE portal, and until then compliances and communication are to be made through email. The benefits given under the rule will be contingent upon intimation to jurisdictional customs officer about the intent to avail benefits.

Caselaws

Gurcharan Singh v. Union of India & Ors. [W.P. (C) 5149/2021, dated 21 May 2021]

The Hon'ble Delhi High Court quashed the notification imposing IGST on oxygen concentrators which are imported by individuals and are received as gifts i.e. free of cost for personal use, without a government agency. The court held that, an artificial, unfair and unreasonable distinction has been drawn between persons, who import oxygen concentrators through a canalizing agency and those who obtain imported oxygen concentrators as gifts, for personal use. The appeal by the revenue against the order has been made before the Supreme Court wherein notice has been issued in the appeal against the High Court verdict and stay has been granted on order declaring imposition of IGST on the import of oxygen concentrators by individuals for personal use as unconstitutional.

B.M/s Jet Airways Ltd Vs. C.C [2021-TIOL-293-CESTAT-MUM-LB]

Airlines operating on international routes usually have some left-over aviation turbine fuel ("ATF") while the aircraft is inbound in India and customs duty is discharged on such ATF. The issue before the hon'ble tribunal was whether a notional amount (of 20%) was to be added representing the cost of transportation of the ATF. Rule 10(2)(a) of the Customs

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Valuation Rules, 2007 provides for addition of 'cost of transportation' and not 'value of transportation', and the first proviso to section 14(1) of the Customs Act stipulates that only an amount 'paid' or 'payable' for the cost of transportation is to be added to the transaction value. The larger bench of the hon'ble tribunal held that such inclusion is permissible only when any amount is paid or payable for transportation of the goods and when no amount is payable, the cost will be NIL. In the instant case, it has been found as a fact that neither the ATF is transported, nor any cost is incurred. The notional value of transportation under the proviso to rule 10(2) cannot, therefore, be added to the transaction value. The transaction value has to be determined strictly in accordance with section 14(1) of the Customs Act and rule 10(2) of the 2007 Rules. The Tribunal further held that there is no transport of the ATF in India through the aircraft and ATF filed in the aircraft only represents the fuel for enabling the flight journey, which is a consumable for the airlines.

BNP Paribas Global Securities Operations Private Ltd. Vs the Assistant Commissioner of GST & Central Excise (W.P. Nos. 34638 & 34641 of 2018 - Madras High Court)

The Madras High Court allowed the benefit of CENVAT refund to the taxpayer as the credit of duty was not able to be used after the introduction of the GST. The petitioner urged that the total value of input tax credit which was un-utilized to the tune of Rs.6,62,67,726/- which was not taken into GST Account by following the transfer application, and therefore the petitioner was entitled to refund the claim of the amount even though the petitioner could not debit the duty in the ST-3 return in view of the change in the law. The refund claims filed by the petitioner were filed within the period of one year from the date of exports in terms of Rule 5 of CENVAT Credit Rules, 2004 but were filed after the GST was implemented. The quorum while considering the fact that the petitioner has also not been able to utilize the credit of duty under the provisions of GST which came to effect from 1 July 2017, held that legitimate export incentives cannot be denied to the petitioner. The court found no merits in denying the benefit of refund claim filed by the petitioner under Rule 5 of the CENVAT Rules, 2004 and directed the respondent authority to refund the amount to the petitioner.

Sri Muniappa Steels Vs Assistant Commissioner [W.P. No. 10489 of 2019 - Madras High Court]

The judgment has laid down the ratio that an assessment order passed under the GST laws, based on a statement given by a third party dealer for which the assessee has no access is totally unsustainable before law since it is passed in gross violation of the principles of natural justice. In the show cause notice, the assessing officer alleged that the supplier (a third party dealer) had admitted in his statement that they had neither received any inward nor engaged in outward supply. Basis the statement, the notice issued arrived at a conclusion that the transaction was not genuine, and the petitioner was engaging in bill trading. The court observed that the assessment order mentions the statement recorded by the third party dealer and in the light of the fact that the statement forms the basis of assessment, the petitioner ought to have been granted opportunity to peruse the statement and put forth its objections to the same. The same not been done constitutes violation of the principles of natural justice.

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Koenig Solutions Private Limited Vs Union Of India & Ors. [W.P.(C) 5040/2021 - Delhi High Court]

Delhi High Court has granted stay on the proceedings/summons initiated by the central tax officers against the petitioner company whose jurisdiction has been assigned to the state tax officer, Delhi, who have also exercised the jurisdiction. The high court granted the stay and also recorded the submission of bar under provisions of the GST laws. Section 6(2) of the CGST Act bars the parallel proceedings under the act, by central and state authority. The high court, while granting the stay, has found that prima facie there is lack of jurisdiction by the central tax officer, and issued notice.

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