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EDITORIAL



Friends,

The “Date of initiation” for calculating time barring period of Issuing Order for penalty u/s 275 is crucial. In terms of Section 275(1)(c) of the Income Tax Act, no order imposing penalty could be passed after expiry of six months from the end of the month in which the action for imposition of penalties was initiated.

Now the question is what is the “date of initiation of penalty proceedings”.

Consider that the Assessing Officer made reference for penalty proceedings on 25.09.2023 to the JCIT range, but the JCIT issuing the show cause notice on 04.08.2024 and the Order on 15.11.2024. Whether the “date of initiation of penalty proceedings” is 25.09.2023 when the Assessing Officer's made reference for penalty proceedings to JCIT or 04.08.2024 when the JCIT issued the show cause notice.

In case, “date of initiation of penalty proceedings” is 25.09.2023 then the time barring period for issuance of Order is 31.2.2024.

In case “date of initiation of penalty proceedings” is 04.08.2024 then the time barring period for issuance of Order is 31.2.2025.

Hence, we go into analysis of the meaning of the word ‘initiate’. The expression initiate is not defined under the Act and must be construed in its normal sense.

- The Shorter Oxford English Dictionary defines the word ‘initiate’ as “to begin, commence, enter upon, to introduce, set going, originate.”

- In Webster’s Third New International Dictionary, the word ‘initiate’ has, inter alia, been defined thus: “to begin or set going: make a beginning of: perform or facilitate the first actions, steps, or stages of:”

- The Words and Phrases (Permanent Edition) defines ‘initiate’ to mean: “an introductory step or action, a first move; beginning; start, and to initiate as meaning – to commence.”

- In *Om Prakash Jaiswal v. D.K. Mittal & Anr.*: (2000) 3 SCC 171, the Supreme Court had considered the meaning of the expression ‘initiate any proceedings for contempt’ by referring to the dictionary meaning of the said word. It is relevant to refer to paragraph 10 of the said decision, which is set out below:

“10. The expression—“initiate any proceedings for contempt” is not defined in the Act. Words and Phrases (Permanent Edition) defines “initiate” to mean – an introductory step or action, a first move; beginning; start, and “to initiate” as meaning to commence. Black’s Law Dictionary (6th Edn.) defines “initiate” to mean commence; start; originate; introduce; inchoate. In section 20, the word “initiate” qualifies “any proceedings for contempt”. It is not the initiation of just any proceedings; the proceedings initiated have to be proceedings for contempt.”

The expression ‘action for imposition of penalty is initiated’ must, thus, clearly refers to the date on which the first introductory step for such action is taken, it must necessarily mean the start of such action. It must mean the commencement of action for imposition of penalty. As noted above, the AO had found that it was the admitted case that the assessee had defaulted and accordingly, made a reference to the learned JCIT on 25.09.2023. This was obviously for the purposes of imposition of penalty. The reference, thus, clearly marked the first step for initiation of action for imposition of penalty. The Show Cause Notice issued subsequently was to provide the assessee an opportunity to show cause why penalty not be imposed.

Hence, the beginning of the action for imposition of penalty had initiated with the AO determining that there was a cause for such imposition on 25.09.2023 as was held in **COMMISSIONER OF INCOME TAX (TDS)-2 DELHI Vs TURNER GENERAL ENTERTAINMENT NETWORKS INDIA PVT LTD [2024-VIL-209- DEL-DT]**.

**Just to reiterate that we remain available over telecom or e-mail.
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TAX CALENDAR

| Date | Form/Return/Challan | Reporting Period | Description |
|---------------------------|--------------------------------|------------------|--|
| 30 th November | Challan-Cum-Statement | October'2024 | Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of October, 2024 |
| 30 th November | Return of Income | AY 2024-25 | Return of income for the assessment year 2024-25 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s) |
| 30 th November | Form No. 3CEAA | FY 2023-24 | Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2023-24 |
| 30 th November | Form No. 64 | PY 2023-24 | Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during previous Year 2023-24 (Form No. 64) |
| 30 th November | Form No. 64D | PY 2023-24 | Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2023-24) to units' holders |
| 30 th November | Form No. 64A | FY 2023-24 | Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2023-24. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A |
| 30 th November | Submission of Return of Income | November'2024 | Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is November 30, 2024) |
| 30 th November | Form No. 3CEJ | November'2024 | Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager. (if the assessee is required to submit return of income on November 30, 2024) |

INCOME TAX

NOTIFICATION

EXEMPTION FROM SPECIFIED INCOME U/S 10(46) OF IT ACT 1961 – ‘NATIONAL AVIATION SECURITY FEE TRUST’

OUR COMMENTS: The Central Board of Direct Taxes vide Notification No. 120/2024 dated 19.11.2024 notified that in exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘National Aviation Security Fee Trust (PAN AADTN2508F), a trust established by the Central Government, in respect of the following specified income arising to that trust, namely:-

(a) Grant or subsidy or any receipt in the nature of grant as approved by/under directions of Ministry of Civil Aviation, Government of India;

(b) Aviation Security Fee collected at the prevailing rates as per orders of Ministry of Civil Aviation, Government of India;

(c) Amount transferred from escrow accounts for deposits of the passenger service fee (security component) maintained by airport operators with the scheduled banks for Ministry of Civil Aviation, Government of India as beneficiary; and

(d) Interest earned on bank deposits.

2. This notification shall be effective subject to the conditions that National Aviation Security Fee Trust, -

(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall be applicable with respect to the assessment years 2025-2026, 2026-2027, 2027-2028, 2028-2029 and 2029-2030 relevant for financial years 2024-2025, 2025-2026, 2026-2027, 2027-2028 and 2028-2029 respectively.

[For further details please refer the Notification]

NOTIFICATION

EXEMPTION FROM SPECIFIED INCOME U/S 10(46) OF IT ACT 1961 – ‘DISTRICT LEGAL SERVICE AUTHORITY’

OUR COMMENTS: The Central Board of Direct Taxes vide Notification No. 119/2024 dated 19.11.2024 notified that in exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘District Legal Service Authority’ as specified in the Schedule to this notification, constituted by Government of Haryana for every District in the State of Haryana in exercise of powers conferred by sub-section (1) of section 9 of the Legal Services Authorities Act, 1987 (Central Act No. 39 of 1987), as a ‘class of body’ in respect of the following specified income arising to that body, namely:—

(a) Grants received from the Punjab and Haryana High Court, Central Authority i.e. National Legal Services Authority and State Authority i.e. Haryana State Legal Services Authority for the purposes of the Legal Services Authorities Act, 1987;

(b) Grants or donation received from the Central Government or the State Government of Haryana for the purpose of the Legal Services Authorities Act, 1987;

(c) Amount received under the order of the Court;

(d) Fee received as recruitment application fee; and

(e) Interest earned on bank deposits.

2. This notification shall be effective subject to the conditions that each of the District Legal Service Authority-

(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years;

And

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall be applicable for assessment years 2024-2025, 2025-2026, 2026-2027, 2027-2028 and 2028-2029 relevant for financial years 2023-2024, 2024-2025, 2025-2026, 2026-2027 and 2027-2028 respectively.

INCOME TAX

SCHEDULE

| S. No. (1) | Name of Authority (2) | PAN (3) |
|---------------|---|------------|
| 1. | District Legal Service Authority, Hisar | AABAD3836H |
| 2. | District Legal Service Authority, Bhiwani | AAAGD0034Q |
| 3. | District Legal Service Authority, Kurukshetra | AAALD1049C |
| 4. | District Legal Service Authority, Palwal | AAAJC0822A |

[For further details please refer the Notification]

NOTIFICATION

SPECIFYING FORMS PRESCRIBED IN APPENDIX-II OF THE INCOME TAX RULES 1962, TO BE FURNISHED ELECTRONICALLY UNDER SUB-RULE (1) AND SUB-RULE (2) OF RULE 131 OF THE INCOME-TAX RULES, 1962

OUR COMMENTS: The Central Board of Direct Taxes vide Notification No. 06/2024 dated 19.11.2024 notified that in exercise of the powers conferred under sub-rule (1) and sub-rule (2) of Rule 131 of the Income-tax Rules, 1962 ('the Rules'), the Director General of Income Tax (Systems), with the approval of the Board, hereby specifies that the following Forms that shall be furnished electronically and shall be verified in the manner prescribed under sub-rule (1) of Rule 131:

| Form | Description |
|---------|--|
| Form 42 | Appeal against refusal to recognise or withdrawal of recognition from a provident fund |
| Form 43 | Appeal against refusal to approve or withdrawal of approval from a superannuation fund |
| Form 44 | Appeal against refusal to approve or withdrawal of approval from a gratuity fund |

2. This Notification shall come into effect from 22.11.2024.

[For further details please refer the Notification]

CIRCULAR

CONDONATION OF DELAY UNDER SECTION 119(2)(B) OF THE INCOME-TAX ACT, 1961 IN FILING OF FORM NO. 10-IC OR FORM NO. 10-ID FOR ASSESSMENT YEARS 2020-21, 2021-22 AND 2022-23

OUR COMMENTS: The Central Board of Direct Taxes vide Circular No. 17/2024 dated 18.11.2024 clarified that In exercise of the powers conferred under section 119(2)(b) of the Income-tax Act,

1961 ('the Act'), the Central Board of Direct Taxes ('CBDT') by Circular No. 6/2022 dated 17.03.2022 and Circular No. 19/2023 dated 23.10.2023 condoned the delay in filing of Form No. 10-IC as per Rule 21AE of the Income-tax Rules, 1962 ('the Rules') for Assessment Years 2020-21 and 2021-22 in cases where the conditions mentioned in the said Circulars are satisfied.

2. Representations have been received by the CBDT stating that Form No. 10-IC or Form No. 10-ID could not be filed for various assessment years on or before the due date or extended due date, as the case may be. It has been requested that the delay in filing of these Forms for respective assessment years may be condoned.

3. With a view to avoid genuine hardship to the assesseees in exercising the option, under section 115BAA of the Act read with Rule 21AE of the Rules or under section 115BAB of the Act read with Rule 21AF of the Rules, the CBDT in exercise of the powers conferred under section 119(2)(b) of the Act, hereby authorizes: -

a) the Pr. Commissioners of Income Tax ('Pr. CsIT')/ Commissioners of Income Tax ('CsIT') to admit and deal with the applications for condonation of delay in filing of Form No. 10-IC or Form No. 10-ID for Assessment Years 2020-21, 2021-22 and 2022-23 where there is a delay of upto 365 days.

b) the Pr. Chief Commissioners of Income Tax ('Pr. CCsIT')/ Chief Commissioners of Income Tax ('CCsIT')/ Directors General of Income Tax ('DsGIT') to admit and deal with the applications for condonation of delay in filing of Form No. 10-IC or Form No. 10-ID for Assessment Years 2020-21, 2021-22 and 2022-23 where there is a delay of more than 365 days.

4. The Pr. CCsIT/ CCsIT/ DsGIT/ Pr. CsIT/ CsIT while deciding such applications for condonation of delay in furnishing of Form No. 10-IC or Form No. 10-ID to exercise the option, under section 115BAA of the Act read with Rule 21AE of the Rules or under section 115BAB of the Act read with Rule 21AF of the Rules, shall satisfy themselves that the applicant's case is a fit case for condonation under the existing provisions of the Act. The Pr. CCsIT/ CCsIT/ DsGIT/ Pr. CsIT/ CsIT shall ensure that the following conditions are satisfied, while deciding such applications: -

(i) The return of income for relevant assessment year has been filed on or before the due date specified under section 139(1) of the Act;

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(ii) The assessee has opted for taxation, u/s 115BAA of the Act in case condonation of delay is for Form No. 10-IC and u/s 115BAB of the Act in case condonation of delay is for Form No. 10-ID, in "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6; and

(iii) The assessee was prevented by reasonable cause from filing such Form before the expiry of the time allowed and the case is of genuine hardship on merits.

5. No application for condonation of delay in filing of Form No. 10-IC or Form No. 10-ID shall be entertained beyond three years from the end of the assessment year for which such application is made. The time limit for filing of such application within three years from the end of the assessment year will be applicable for application filed on or after the date of issue of this Circular. A condonation application should be disposed of, as far as possible, within six months from the end of the month in which such application is received by the Competent Authority.

6. The delegation of powers, as per para 3 of this Circular shall cover all such applications for condonation of delay under section 119(2)(b) of the Act which are pending as on date of issue of this Circular.

[For further details please refer the Circular]

CIRCULAR

CONDONATION OF DELAY UNDER SECTION 119(2)(B) OF THE INCOME-TAX ACT, 1961 IN FILING OF FORM NO. 9A/10/10B/10BB FOR ASSESSMENT YEAR 2018-19 AND SUBSEQUENT ASSESSMENT YEARS

OUR COMMENTS: The Central Board of Direct Taxes vide Circular No. 16/2024 dated 18.11.2024 clarified that In supersession of all earlier Circulars/Instructions issued by the Central Board of Direct Taxes ('CBDT') from time to time to deal with the applications for condonation of delay in filing Form 9A/10/10B/10BB for Assessment Year 2018-19 and subsequent assessment years, the CBDT in exercise of the powers conferred under section 119(2)(b) of the Income Tax Act ('the Act'), authorizes: -

1.1 the Pr. Commissioners of Income Tax ('Pr. CsIT')/ Commissioners of Income Tax ('CsIT') to admit and deal with applications for condonation of delay in filing Form 9A/10/10B/10BB for Assessment Year 2018-19 and subsequent assessment years where there is a delay of upto 365 days.

1.2 the Pr. Chief Commissioners of Income Tax ('Pr. CCsIT')/ Chief Commissioner of Income Tax ('CCsIT')/ Director Generals of

Income Tax ('DGsIT') to admit and deal with applications for condonation of delay in filing Form 9A/10/10B/10BB for Assessment Year 2018-19 and subsequent assessment years where there is a delay of more than 365 days.

2. The Pr. CCsIT/ CCsIT/ Pr. CsIT/ CSIT while entertaining such applications for condonation of delay in filing Form 9A/10/10B/10BB, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Forms before the expiry of the time allowed and the case is of genuine hardship on merits.

2.1 Further, in respect of Form No. 10, the Pr. CCsIT/ CCsIT/ Pr. CSIT/ CsIT as the case may be, shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in any one or more of the forms or modes specified in sub-section (5) of section 11 of the Act.

3. No application for condonation of delay in filing of Form 9A/10/10B/10BB shall be entertained beyond three years from the end of the assessment year for which such application is made. The time limit for filing of such application within three years from the end of the assessment year will be applicable for application filed on or after the date of issue of this Circular. A condonation application should be disposed of, as far as possible, within six months from the end of the month in which such application is received by the Competent Authority.

4. The delegation of powers, as per para 1.1 & 1.2 of this Circular shall cover all such applications for condonation of delay under section 119(2)(b) of the Act which are pending as on date of issue of this Circular.

[For further details please refer the Circular]

GST

NOTIFICATION

EXTENSION OF DUE DATE FOR FILING OF RETURN IN FORM GSTR-3B FOR THE MONTH OF OCTOBER, 2024 FOR THE PERSONS REGISTERED IN THE STATE OF MAHARASHTRA AND JHARKHAND

OUR COMMENTS: The Central Board of Indirect Taxes vide Notification No. 26/2024-Central Tax dated 18.11.2024 notified that in exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in **FORM GSTR-3B** for the month of **October, 2024** till the twenty-first day of November, 2024, for the registered persons whose principal place of business is in the state of Maharashtra and Jharkhand and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

[For further details please refer the Notification]

ADVISORY

GSTR 2B and IMS

OUR COMMENTS: GSTN vide advisory dated 16.11.2024 has advised that it has been reported by few taxpayers that their GSTR-2B for October-2024 period has not been generated on 14th November, 2024. In this regard it to be informed that as per the design of IMS, GSTR-2B will not be generated by the system in below scenarios:

i. In case the taxpayer has opted for QRMP scheme (Quarterly filers), GSTR-2B will not be generated for first and second month of the quarter. Ex. For quarter Oct-Dec, 2024, the quarterly taxpayer will get GSTR-2B for December-2024 period only and not for October-2024 & November-2024.

ii. In case the taxpayer has not filed their previous period GSTR-3B, GSTR-2B will not be generated by the system. Such taxpayers need to file their pending GSTR-3B in order to generate GSTR-2B on demand. For example, if the taxpayer has not filed GSTR-3B for September-2024, their GSTR-2B for October-2024 will not be generated. Once the taxpayer files their GSTR-3B for September-2024, they will be able to generate their GSTR-2B for October-2024 by clicking the "Compute GSTR-2B (OCT 2024)" button on the IMS dashboard.

[For further details please refer the detailed advisory]

FEMA

NOTIFICATION

[For further details please refer the Notification]

FOREIGN EXCHANGE MANAGEMENT (FOREIGN CURRENCY ACCOUNTS BY A PERSON RESIDENT IN INDIA) (FOURTH AMENDMENT) REGULATIONS, 2024

OUR COMMENTS: The Reserve Bank of India, vide Notification No. 10 (R)/ (4) /2024 dated 19.11.2024 notified that In exercise of the powers conferred by section 9 and clause (e) of sub-section (2) of section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank of India makes the following amendment in the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2015 [Notification No. FEMA 10(R)/2015-RB dated January 21, 2016] namely:-

1. SHORT TITLE AND COMMENCEMENT: -

(i) These regulations shall be called the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) (Fourth Amendment) Regulations, 2024.

(ii) They shall come into force with effect from the date of their publication in the Official Gazette.

2. Amendment to Regulation 5:

In Regulation 5, the explanation to the existing sub-regulation E shall be substituted as follows: -

“Explanation: For the purpose of this sub-regulation a ‘startup’ will mean an entity recognised as a startup by the Department for Promotion of Industry and Internal Trade pursuant to notification number G.S.R. 127(E) dated February 19, 2019, and as amended from time to time.”

6. Amendment to Schedule I of Exchange Earner’s Foreign Currency (EEFC) Account Scheme:

The explanation to para 1 (vii) of Schedule I shall be substituted as follows: -

“Explanation: For the purpose of this schedule a ‘startup’ will mean an entity recognised as a startup by the Department for Promotion of Industry and Internal Trade pursuant to notification number G.S.R. 127(E) dated February 19, 2019, and as amended from time to time.”

CUSTOMS

NOTIFICATION

INLAND CONTAINER DEPOTS FOR LOADING AND UNLOADING OF GOODS - SEEKS TO AMEND NOTIFICATION NO. 12/97-CUSTOMS (N.T.) DATED THE 2ND APRIL, 1997

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 83/2024-Customs (N.T.) dated 21.11.2024 notified that in exercise of the powers conferred by clause (aa) of sub-section (1) read with sub-section (2) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/97-Customs (N.T.) dated the 2nd April, 1997, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 193 (E), dated the 2nd April, 1997, namely:-

In the said notification in the Table, against serial number 10 relating to the State of Rajasthan, in column (3) and (4), after item (v) in column (3) and the entries relating thereto in column (4), the following item and entries shall be inserted, namely: -

| (1) | (2) | (3) | (4) |
|-----|-----|-------------------|--|
| | | “(vi) Dhanakya | Unloading of imported goods and the loading of export goods or any class of such goods.” |

[For further details please refer the notification]

NOTIFICATION

LAND CUSTOMS STATIONS AND ROUTES FOR IMPORT AND EXPORT OF GOODS BY LAND OR INLAND WATER WAYS - SEEK AMENDMENT IN NOTIFICATION NO. 63/1994-CUSTOMS (N.T.) DATED THE 21ST NOVEMBER, 1994

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 82/2024-Customs (N.T.) dated 20.11.2024 notified that in exercise In exercise of the powers conferred by clauses (b) and (c) of sub-section (1) of section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 63/1994-Customs (N.T.) dated the 21st November, 1994, published in

the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 830 (E), dated the 21st November, 1994, namely: -

In the said notification, in the opening paragraph, for the fourth proviso, the following shall be substituted, namely: -

"Provided also that the clearance of the following class of goods only shall be permitted at Balat, Kalaichar, Srinagar, Kamalasagar, Bholaganj, Nalikata and Ryngku Border Haats, namely: -

- (a) locally produced vegetables, food items, fruits, spices;
- (b) minor forest produce including bamboo, bamboo grass and broom stick but excluding timber;
- (c) products of cottage industries like gamcha, lungi, saree and any other handloom product;
- (d) small household and agricultural implements including dao, plough, axe, spade, chisel and the like; and
- (e) garments, melamine products, processed food items, fruit juice, toiletries, cosmetics, plastic products, aluminum products, cookeries, stationery.

Explanation. - For the purposes of this notification, the term "locally produced" shall mean produce of the concerned border district."

[For further details please refer the Notification]

CIRCULAR

CLARIFICATIONS ON THE APPLICABILITY OF CONCESSIONAL DUTY UNDER IGCR RULES, 2022 IN CERTAIN INSTANCES

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Circular No. 26/2024-Customs dated 21.11.2024 clarified that kind reference is invited to the Notification No. 74/2022-Customs (N.T.) dated 09.09.2022 and Circular No. 18/2022-Customs dated 10.09.2022 regarding Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022 as amended.

2. Representations have been received in the Board regarding the issues related to the applicability of concessional duty

CUSTOMS

under IGCR Rules, 2022 for MOOWR Scheme. The issues have been examined and the same are clarified as below:

Simultaneous availment of IGCR along with MOOWR:

3.1 Doubts have been raised on the availment of IGCR benefit for the warehoused goods taken for manufacturing simultaneously with the duty deferment under MOOWR and being cleared to DTA or removed to SEZ or to another MOOWR unit.

3.2 In this regard, this aspect has already been clarified under Question 17 of FAQs [<https://www.cbic.gov.in/entities/cbic-content-mst/MTUwMDA%3D>] on MOOWR which is reproduced as follows:

“The eligibility to export benefits under FTP or IGCR would depend upon the respective scheme. If the scheme allows, units operating under Section 65 has no impact on the eligibility. In other words, a unit operating under Section 65 can avail any other benefit, if the scheme allows.”

3.3 It is once again re-iterated that, the MOOWR unit may avail IGCR exemption along with duty deferment under MOOWR simultaneously, provided that the importer undertakes to comply with the additional conditions prescribed in the Concessional Notification and IGCR Rules therein including time-limit etc., in addition to MOOWR stipulations for those goods while supplying goods from its premises.

Applicability of IGCR benefit in certain cases:

4.1 Doubt has been raised about the availability of IGCR benefit for the MOOWR unit involving in import certain goods specified in the notification for value-addition by way of manufacturing under MOOWR and further supplies the value-added goods to the final manufacturer of cellular mobile phones. This doubt has arisen especially in reference to the Notification No. 57/2017-Cus dated 30.06.2017, as amended wherein, at a few entries/serial numbers such as 5C to 5E, description of goods is mentioned including the expression “for use in manufacture of cellular mobile phones”.

4.2 It may be noted that, CBIC Instruction 16/2024-Customs dt. 25.06.2024 already clarifies the procedure to be adopted for import of goods by a unit in compliance with the provisions of

MOOWR and transfer of resultant goods to another unit. Further, there is a clear documentation involving transfer and periodical accountal by the MOOWR units.

4.3 Accordingly, it is clarified that the expression “for use in manufacture of cellular mobile phones” is intended to convey that the component should be used in manufacturing process for cellular mobile phones. This does not mean that the components should be imported by manufacturer of cellular mobile phones. Therefore, the goods being imported by the intermediate goods manufacturer who is MOOWR unit for further supplying after some manufacturing/ value addition to the final manufacturer of Cellular mobile phones are duly eligible for the benefit of concessional rate of duty under IGCR Rules, 2022, as long as all other conditions are met.

5. Suitable Public Notice may kindly be issued for guidance of the trade. Any difficulties faced or doubts arising in the implementation of this Circular may please be brought to the notice of Board.

[For further details please refer the Circular]

CIRCULAR

IMPLEMENTATION OF AUTOMATION IN THE CUSTOMS (IMPORT OF GOODS AT CONCESSIONAL RATE OF DUTY OR FOR SPECIFIED END USE) RULES, 2022

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Circular No. 25/2024-Customs dated 21.11.2024 clarified that reference is drawn to the Circular No. 04/2022-Customs dated 27.02.2022 on implementing automation in the IGCR Rules, 2017 which have been subsequently superseded by IGCRS Rules, 2022.

2. Representations have been received regarding difficulties in filing of the monthly returns on the IGCR portal.

3. Considering the request of stakeholders, Board has decided to permit the importers who are facing difficulties on electronic filing of their IGCR-3 monthly statement, may do so manually before jurisdictional officers till 31.01.2025. The monthly statement is to be filed online from the month of February 2025.

CUSTOMS

4. Further, an excel utility will be made available by DG Systems, CBIC by 15th December 2024 for filing IGCR-3 monthly statement. The importers are encouraged to make use of the same to file their IGCR3/ IGCR 3A statements electronically for present and past periods. The same may be completed latest by 31st January 2025.

5. Suitable Public Notice etc. may kindly be issued for guidance. Any difficulties faced or doubts arising in the implementation of this Circular may please be brought to the notice of Board.

[For further details please refer the Circular]

2018, which would need to be declared at the time of filing of import declarations w.e.f 15.12.2024. Declaration of additional qualifiers would improve quality of assessment and intervention and increase facilitation.

5. Suitable Public Notice may kindly be issued for guidance of the trade. Any difficulties faced or doubts arising in the implementation of this Circular may please be brought to the notice of Board.

[For further details please refer the Circular]

CIRCULAR

MANDATORY ADDITIONAL QUALIFIERS IN IMPORT DECLARATIONS IN RESPECT OF COKING/ NON-COKING COAL W.E.F 15.12.2024

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Circular No. 24/2024-Customs dated 20.11.2024 clarified that Reference is invited to the Circular No.55/2020-Customs dated 17.12.2020 wherein, importers were advised to voluntarily declare the complete description of imported goods and certain additional qualifiers for imported items such as scientific names, IUPAC names, brand name, etc. as applicable to reduce queries and improve the efficiency of assessment.

2. It is noted that information provided during the import in case of coking/ non coking coal falling under 2701 is inadequate and also for required certifications from technical agencies for assessment, etc. thus, adversely impacting cargo clearance time. It is also felt insufficient for devising policies on import.

3. On reviewing the matter and based on the inputs from the Ministry of Coal, a draft consultation was published on 27.08.2024 proposing to seek additional information in import declarations as a subcategory based on different grades based on ash percentage in case of coking coal and based on gross calorific value (GCV) in case of non-coking coal, thereby offering effective avoidance of queries, enhancing efficiency in assessment and facilitation.

4. Accordingly, the additional qualifiers, as per Annexure, are being proposed in terms of the Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations,

DGFT

TRADE NOTICE

HARMONISATION OF SCHEDULE-II (EXPORT POLICY), ITC(HS) 2022

OUR COMMENTS: The Ministry of Commerce and Industry vide Trade Notice no. 22/2024-25 dated 14.11.2024 notified To streamline the Export Control and Facilitation process and provide enhanced clarity for all stakeholders, DGFT proposes to notify a harmonized Schedule-II (Export Policy) based on 8-digit ITC (HS) codes, in line with the latest tariff codes notified under the Finance Act 2024, replacing the description-based Export Policy.

2. Earlier, a draft Schedule-II (Export Policy) for Chapters 40-98 was shared through Trade Notice No. 11/2024-25 dated 02.08.2024. The comments received have been incorporated into the revised draft. The updated draft Schedule-II (Export Policy) for all Chapters 01 to 98 is enclosed (**Annexure**). **Comments/feedback on the draft are invited via email at exportdgft@nic.in by 27.11.2024.** Subsequent to this consultation period, the draft will be finalised and duly notified.

3. This Trade Notice is issued with the approval of the Competent Authority.

[For further details please refer the Trade Notice]

CASE LAW

COMMISSIONER OF CUSTOMS (AIRPORT AND GENERAL) NEW DELHI VERSUS M/S SHAKTI CARGO MOVERS

OUR COMMENTS: Revocation of Customs Broker License - certain exports facilitated by the respondent which were made by the exporters, who are allegedly found to be non-existent at their principal place of business – It has been held that, admittedly, the DGFT had issued IEC to M/s Shree Enterprises. At the material time, the GST registration for the said entity was also valid.

CESTAT referred to Section 79 of the Indian Evidence Act, 1872, which posits a presumption of genuineness of documents, that have been certified by an officer of the Central Government. The documents evidencing the issuance of IEC as well as the registration under the CGST Act /SGST Act (allocation of Goods and Service Tax Identification

Number–GSTIN) were undeniably documents, which emanated from the government authorities and therefore, the respondent cannot be faulted in relying upon the same. There is also no dispute that the documents such as the rent agreement and the electricity bill that were collected by the respondent from the entity in question and furnished to the CoC, are genuine documents. There are no allegations that the said documents are forged or fabricated.

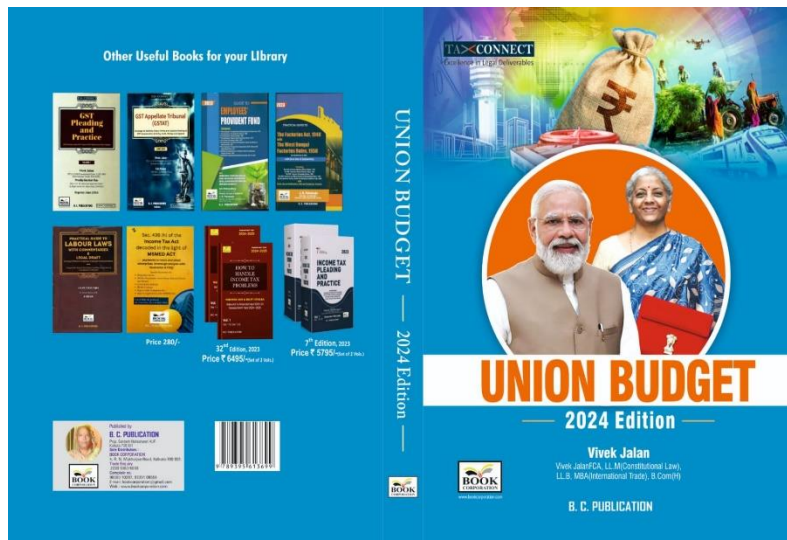
CoC had faulted the respondent for accepting such documents on the ground that the rent agreement had expired on 01.12.2020 and the goods were exported thereafter from February 2021 to May 2021. Similarly, the respondent was faulted for accepting the electricity bill furnished by the exporter in question (M/s Shree Enterprises) on the ground that it pertained to the month of June, 2020.

CESTAT observed – in our view rightly so – that it was not necessary for the Custom Broker to keep a continuous surveillance at the physical address of an exporter. The KYC documents are required to be obtained at a time when a particular entity is onboarded as a client of the Custom Broker. It is also necessary for the Custom Broker to periodically verify the same. Plainly, the rent agreement and the electricity bill could not be considered to be stale or were required to be disbelieved.

The impugned order setting aside the order-in-original dated 17.10.2023 cannot be faulted.

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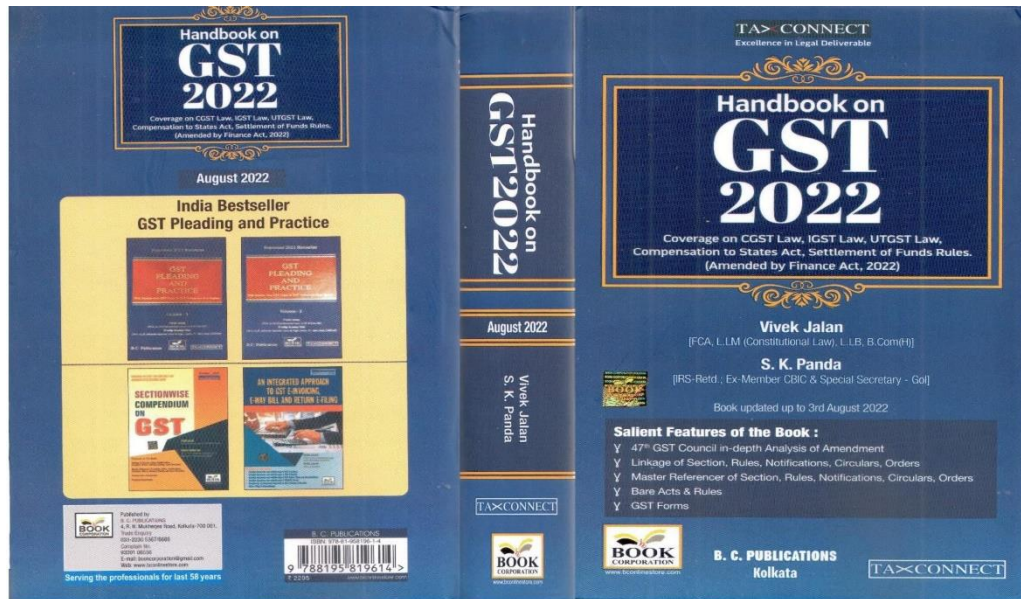
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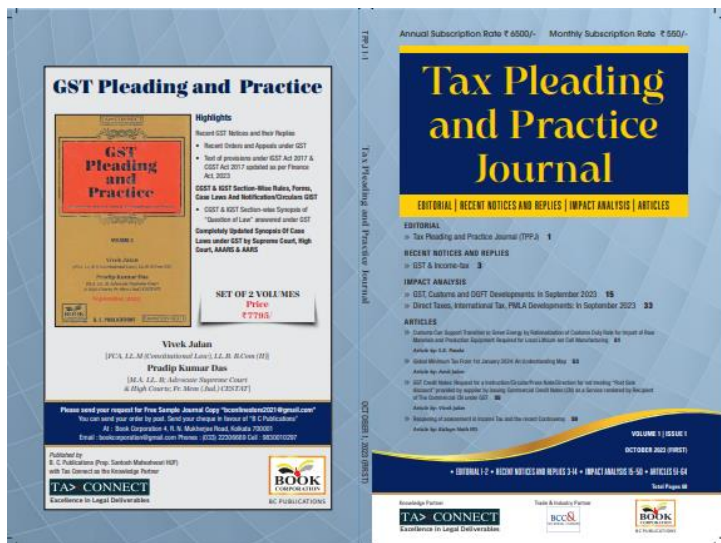
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