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EDITORIAL

Friends,

Discipline regarding penal action under various tax laws are widely discussed. Two interesting recent cases under Income Tax allows one to reflect further. Generally, losses are contested and seldom it is seen that assessees accept a loss return to be assessed as NIL. However, what if inspite of an irrefutable loss the assessee in good faith and, to avoid undue litigation, harassment and, to buy peace of mind agrees to get assessed at NIL income instead of declared loss, can a penalty/prosecution proceeding be initiated against the assessee u/s 271(1)(c) of the Income Tax Act? The answer is that it can be initiated. There is no provision for such plea of bargain under the Income Tax Act so as to act as estoppels upon AOs. However, in case the plea is not accepted by the AO, the assessee should be show caused and there should be substance in enquiry and evidence to prove concealment. Penalty proceedings are distinct from assessment proceedings, though they emanate from the assessment proceedings; still they are separate and independent proceedings all together. The Hon'ble Supreme Court of India in the case of CIT & Anr. Vs. M/s SSA's Emerald Meadows in CC dated 05.8.2016 [2016] has held that notice issued by the Assessing Officer under section 274 read with section 271(1)(c) of the Act was bad in law, as it did not specify under which limb of section 271(1)(c) of the Act, penalty proceedings has been initiated, i.e., whether for concealment of particulars of income or furnishing of inaccurate particulars of income. The assessee should know the grounds which he has to meet, otherwise the principles of natural justice are offended. Further, the order has to specify the offence alleged to be committed, as was held in the case of M/s UNITECH REALTY PVT. LTD Vs DCIT, CIRCLE - 27(1), NEW DELHI [2023-VIL-1036-ITAT-DEL].

Now coming to penalty proceeding u/s 271D which requires that if a person takes any loan or deposit or specified sum in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so taken. The question is whether levy of penalty under this provision is not depending on the outcome of the assessment order and hence there is no requirement of the assessment proceedings in imposing the provision u/s 271D of the Act. Here Section 275 comes to the rescue which pre-supposes the existence of assessment proceedings/revision proceedings or appeal proceedings arising from the assessment order or revision order and the limitation is provided as per outcome of these proceedings. In absence of assessment, the initiation of penalty is not valid. The Hon'ble Supreme Court in the case of CIT vs. Jain Laxmi Rice Mills has held that in absence of satisfaction recorded regarding the penalty proceedings u/s 271E/ 271D of the Act the order of levy of penalty is not valid. The same was also reiterated in the case of SHRI UMAKANT SHARMA Vs JCIT RATLAM [2023-VIL-1034-ITAT-IND]

Just to reiterate, we remain available over telecom or e-mail for any clarifications.

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SYNOPSIS

TAX CALENDAR

Date	Form/Return/Challan	Reporting Period	Description
15th March	Challan 280 (ITNS 280)	AY 2026-27	Fourth instalment of advance tax for the Assessment Year 2026-27.
15th March	FORM 24G	Feb-26	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of February, 2026 has been paid without the production of a Challan
17th March	TDS Certificate	Jan-26	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M & 194S in the month of January, 2026
20th March	GSTR-3B	Feb-26	Summary return of outward supplies and input tax credit claimed, along with payment of tax by a registered person with aggregate turnover exceeding INR 5 Crores during the preceding financial year or any registered person who has opted to file monthly return.

INCOME TAX

CASE LAW

MAGESTIC PREMISES PRIVATE LIMITED VERSUS ASSISTANT COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE-2, THANE & ANR: BOMBAY HIGH COURT

OUR COMMENT: In the instant case, the Return of Income for A.Y.2013-14 was filed on 26th December 2013 declaring a total income of Rs.17,50,690/-. Thereafter a notice under Section 142(1) dated 29th December 2015 was issued to the Petitioner raising certain queries with respect to cash deposits in various bank accounts as well as certain other issues. On 7th January 2016 the Petitioner files its response to the above notice explaining the cash deposits and its source. Thereafter, on 29th February 2016, during the course of assessment, a detailed explanation was sought by the Assessing Officer with respect to the transfer of Transferable Development Rights (TDR). The explanation with reference to the transfer of TDR was not to the satisfaction of the Assessing Officer, and therefore, whilst passing the Assessment Order under Section 143(3), an addition of Rs. 1,34,87,990/- was made on account of the profit from sale of TDR. What is important to note is that the Assessing Officer made no addition with reference to the query raised by him regarding the cash deposits. In other words, the explanation furnished by the Petitioner for the cash deposits was accepted by the Assessing Officer whilst passing the Assessment Order dated 29th February 2016 [under Section143(3) of the Act].

Be that as it may, against the said Assessment Order, the Petitioner preferred an Appeal before the CIT(Appeals). The CIT (Appeals) partly allowed the Appeal of the Petitioner vide its order dated 9th March2022 and upheld the addition [with reference to profit from sale of TDR] to the extent of Rs.1,03,83,721/-.Being dissatisfied with the order of the CIT (Appeals), the Petitioner approached the ITAT. The ITAT, videits order dated 30th November 2022, deleted the entire addition made on account of the transfer of TDR.

In the interregnum, the impugned notice dated 12th January 2021 under Section 148 was issued to the Petitioner. On 11th February 2021 the Petitioner, through its letter, requested Respondent No.1 to provide a copy of the reasons recorded. The reasons for reopening were accordingly furnished to the Petitioner on28th June 2021. On 20th July 2021 the Petitioner filed its objections to the reasons recorded. Finally, the order disposing of the objections was passed on 2nd December 2021, a copy of which was provided to the Petitioner on 17th February 2022. It is in this light that the present Petition was filed by the Petitioner on7th March 2022 challenging the notice issued under Section 148 as well as the order disposing of the objections.

It has been held as far as this reason is concerned, we find that as on date, the said reason does not survive for the simple reason that this entire addition has been deleted by the ITAT in other order. This is not even disputed by the Revenue. We, therefore, find this reason today does not survive for reopening the assessment.

Certain cash deposits that have been made during the year - We fail to understand how the AO has now come to the conclusion that there was any failure on the part of the Petitioner to disclose fully and truly all material facts in the original scrutiny proceedings. As mentioned earlier, in the original scrutiny proceedings, a specific query was raised by the Assessing Officer in relation to the cash deposits and a sufficient explanation was given in relation thereto. In fact, even the cash book was produced before the AO (during the scrutiny proceedings) for verification. It is after examining the cash book, as well as the explanations given by the Petitioner, that the AO chose not to make any addition in relation to these cash deposits. Once these are the facts, the AO, in reassessment proceedings, could not have come to the conclusion that there was any failure on the part of the Petitioner to fully or truly disclose all facts in relation to the cash deposits.

The present case is nothing but a mere change of opinion on the part of the Assessing Officer to re-open the assessment.

[For further details please refer the Case Law]

GST

CASE LAW

M/S. MULTITECH SOLUTIONS VERSUS ASSISTANT COMMISSIONER OF STATE TAX, ALIPORE CHARGE & ORS.

OUR COMMENTS: In the Instant case learned advocate appearing for the petitioner has invited the attention of this court to the reply furnished by the petitioner to the notice to issue by the Appellate Authority in the appeal seeking the petitioner's explanation for the delayed presentation of the appeal and has submitted that the petitioner could not lodge the appeal within the prescribed time since the petitioner did not receive any communication either as regards the notice to show cause or the adjudication order from the adjudicating authority.

Inviting the attention of this court to the averments made in paragraph 7 of the writ petition and the screen shot of the relevant portal at page 31 of the writ petition, it is submitted that the petitioner was sought to be served a copy of the notice to show cause as well as the adjudication order only by uploading the same on the relevant portal under the "Additional Notices and orders" tab. It is submitted that the Hon'ble Division Bench of this Court has in the case of

Ram Kumar Sinhal Vs. State of West Bengal & Anr. reported at 2025 SCC OnLine Cal 6279, (which has also been followed in the subsequent judgments by this Court) held that service of notice only through uploading on portal under the 'Additional Notices and Orders" tab is not proper. It is argued that since the petitioner was not properly served with the notice to show cause and the adjudication order at all, therefore, the question of limitation having set in could not have arisen.

Learned advocate appearing for the respondents State authorities submits that the scrutiny notice had been served upon the petitioner through e-mail. However, he cannot dispute the factual position that the adjudication order and the preceding notice to show cause were not served upon the petitioner by any mode except by only uploading the same on the portal under the "Additional Notices and Orders" tab.

It has been held that since it not in dispute that the petitioner was not served with the notice to show cause and the adjudication order properly therefore it can be inferred that the petitioner did not have knowledge thereof. In such view of the matter, the question of limitation having set in for the purpose of filing appeal against the adjudication order could not have arisen. The Appellate Authority has glossed over such issue and dismissed the petitioner's appeal solely on the ground of delay.

The appellate authority ought to have considered this aspect of the matter and should have refrained from dismissing the appeal only on the ground of delay. In such view of the matter, the appellate order impugned dated April 30, 2025 deserves interference.

Limitation and condonation of delay - remand for fresh consideration on merits. It has also been held that Since the appellant has approached the appellate authority immediately upon getting knowledge of the adjudication order therefore, the technical delay occassioned by the petitioner in preferring the appeal stands condoned. The order impugned dated April 30, 2025 is set aside and the matter is remanded to the file of the appellate authority for fresh consideration on merits. The appellate authority shall now hear out the petitioner on merits in accordance with law.

It is clarified that this court has not gone into the merits of the petitioner's case and all points are left open to be urged by the petitioner before the appellate authority and to be decided by the appellate authority in accordance with law.

WPA stands disposed of with the above observations.

[For further details please refer the Case Law.]

FEMA

CASE LAW

CAMBATA INDUS. PVT. LTD. Versus ADDITIONAL DIR. OF ENFORCEMENT, MUMBAI: BOMBAY HIGH COURT

OUR COMMENTS: In the instant case the petitioners herein are facing adjudication proceedings under the provisions of Foreign Exchange Regulation Act, 1947, Foreign Exchange Regulation Act, 1973 and Foreign Exchange Management Act,1999 for the alleged acts and omissions alleged to have been committed in the year 1958, 1966 and 1970.

The petitioners herein, states that the show cause notices were issued against them somewhere in the month of September, 1973 and June, 1974 requiring them to appear before respondent No. 1 in-person or through their Advocate on 10th April, 1974. The petitioners failed to appear. No reply was filed on behalf of the petitioners. In spite of this no action was taken by the respondents to act upon the show cause notices purportedly issued in the month of September, 1973 and June, 1974.

For the first time, after 27 years, the petitioners were again called upon to appear for personal hearing before respondent No. 1 i.e. on 17th July, 2001. The petitioners did not appear for hearing on 17th July,2001.

It appears that after repeal of FERA, 1973, the stock of all pending cases was taken by the prosecution department. Finding pendancy of the show cause notices, proceedings were revived to adjudicate upon the show cause notices after expiry of almost more than 27 years as stated hereinabove.

The petitioners have invoked the Writ Jurisdiction of this Court under Article 226 of the Constitution of India in the year, 2003 contending that the impugned action seeks to adjudicate upon the acts and omissions alleged to have taken place in the year 1958, 1966 and 1970 pursuant to the show cause notices issued in the year 1973-74 which are deficient in material facts and particulars.

It has been held that the Court found that the Adjudicating Authority had jurisdiction to initiate proceedings but that jurisdiction does not permit reopening matters after an inordinate lapse where the delay is attributable to the Department and not to the parties. The factual matrix shows initial notices fixed for hearing on 10th April, 1974, no appearance or reply then, and thereafter no steps for some 27 years until fresh notices in 2001 and 2003. There is no explanation by the respondents for the long inaction; the absence of relevant records and the likely prejudice to the petitioners from lapse of 30-35 years were held to be material. Applying the settled principle that every authority must act within a reasonable period, and having regard to the worry, impairment of defence and other consequences of undue delay, the Court held that the Department cannot be permitted to reopen such old matters. The Court distinguished cases where delay was caused by interim orders or actions beyond the Department's control and noted that its conclusion is confined to the peculiar facts of the present case. [Paras 13, 14, 15, 19, 20]

Adjudication proceedings founded on the 1973-74 show cause notices, in respect of acts alleged in 1958, 1966 and 1970, are quashed as stale and cannot be proceeded with; petition allowed on the facts.

Final Conclusion: Writ allowed; proceedings based on the show cause notices of 1973-74 (relating to acts in 1958, 1966 and 1970) quashed on the ground of inordinate delay and resulting prejudice, with no order as to costs.

[For further details please refer the Case Law.]

CUSTOMS

NOTIFICATION

SEEKS TO AMEND NOTIFICATION NO. 45/2025-CUSTOMS, DATED THE 24TH OCTOBER, 2025

OUR COMMENTS: The Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, issued Notification No. 06/2026 dated 12.03.2026 Notified that In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 45/2025-Customs, dated the 24th October, 2025, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 781 (E), dated the 24th October, 2025, namely:-

In the said notification, in the LISTS appended to TABLE I, in List 14, after item number 2 and the entries relating thereto, the following item number and the entries shall be inserted, namely :-

"3. SBER Bank*

(* with effect from 25.06.2025 till 31.03.2026. Import allowed for domestic consumption only)".

[For further details please refer the Notification.]

PUBLIC NOTICE

PROCEDURE FOR HANDLING EXPORT CARGO AFFECTED DUE TO THE CLOSURE OF STRAIT OF HORMUZ/DISRUPTION IN MARITIME ROUTES, GRANT OF BACK TO TOWN (BTT) UNDER SECTION 143AA OF THE CUSTOMS ACT, 1962

OUR COMMENTS: The Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, issued Public Notice No. 12/2025-26 dated 10.03.2026 Notified that Attention of all Exporters, Customs Brokers, Custodians, Shipping Lines, Freight Forwarders, Rail Operators, Terminal Operators and other stakeholders is invited to CBIC Circular No. 09/2026-Customs dated 08.03.2026, issued under Section 143AA of the Customs Act, 1962, prescribing special procedures for handling export cargo returned or affected due to closure of the Strait of Hormuz and similar disruption in international shipping routes.

2. It is observed that trade is facing disruption on account of cancellation of vessel schedules, non-acceptance of cargo by shipping lines, return of containers from gateway ports, and uncertainty in export completion after grant of Let Export Order. Therefore, in order to facilitate trade, avoid congestion at ICDs and to ensure uniformity in handling such cargo, the following procedure shall be followed:

I. Cases where Shipping Bill filed but Let Export Order (LEO) not given:

(i) The exporter or the authorised Customs Broker may submit a request for Back to Town (BTT) to the jurisdictional Assistant/Deputy Commissioner of Customs.

(ii) In case of self-sealed/factory-stuffed containers, if the seal is found intact, permission for Back to Town (BTT) may be granted without further examination, except in cases where specific intelligence inputs, alerts, or risk parameters necessitate examination. If the seal is found tampered with or where the seal particulars do not match the records, the container shall be subjected to 100% examination before allowing BTT.

(iii) In case of Export goods other than Self-Sealed/Factory-Stuffed container i.e. warehouse-stuffed goods, BTT may be permitted without examination, except in cases where specific intelligence inputs, alerts, or risk parameters necessitate examination, where-in goods shall be examined 100% before allowing BTT.

II. Cases where Let Export Order (LEO) has been granted but the container has not left the ICD.

(i) The exporter or the authorised Customs Broker may submit a request for Back to Town (BTT) to the jurisdictional Assistant Commissioner/Deputy Commissioner of Customs.

(ii) Upon receipt of the request, the Proper Officer shall verify the Shipping Bill details, container number, seal number, stuffing records, and the status of e-seal/integrity of bottle seal, as applicable.

CUSTOMS

(iii) Where the seal is found intact and matches the records, permission for Back to Town (BTT) may be granted without further examination, except in cases where specific intelligence inputs, alerts, or risk parameters necessitate examination.

(iv) Where the seal is found tampered with or where the seal particulars do not match the records, the container shall be subjected to 100% examination before allowing BTT.

(v) The Let Export Order and the Shipping Bill shall be cancelled in the ICES system by the proper officer.

III. Cases where cargo has been dispatched from ICD to the gateway port but has not been loaded on the vessel

(i) The exporter or the authorised Customs Broker may submit a request for Back to Town (BTT) to the jurisdictional Assistant Commissioner/Deputy Commissioner of Customs.

(ii) Upon return of the container to the ICD, the Proper Officer shall verify the integrity of the seal.

(iii) Where the seal is found intact, permission for Back to Town (BTT) may be granted without further examination, except in cases where specific intelligence inputs, alerts, or risk parameters necessitate examination.

(iv) The Let Export Order and the Shipping Bill shall be cancelled in the ICES system by the proper officer.

IV. In the following mentioned scenarios procedure as prescribed in Circular No. 09/2026-Customs dated 08.03.2026 **issued by the CBIC shall be followed:-**

(i) Cases where cargo has been dispatched from the ICD to the gateway port, loaded on the vessel, and the vessel remains within Indian Territorial Waters, but EGM/SDM has not been filed.

(ii) Cases where cargo has been loaded on the vessel and the vessel is within Indian Territorial Waters and EGM/SDM has been filed, or the vessel returns without calling at any foreign port

(iii) Cases where the vessel has called at a foreign port but the cargo has not been discharged.

3.1 In cases where Export General Manifest (EGM) has already been filed, cancellation of such Shipping Bills shall be carried out through the post-EGM cancellation facility in ICES, as and when the functionality is operationalised by the DG Systems.

3.2 Until the ICES system functionality for post-EGM cancellation becomes operational, manual records of such cases shall be maintained by the concerned ICDs and it must be ensured that the details are entered in the system, once it is operationalised.

4. The field formations shall ensure the recovery of all export incentives including IGST, Drawback etc manually, if the same is already disbursed. The transhipment of cargo shall be dealt as per the existing provisions. It must be ensured that export cargo returned or affected due to disruption in international shipping routes is given priority in facilitation.

5. The above relaxation shall remain in force till 15 days from issuance of the Circular No. 09/2026-Customs dated 08.03.2026.

6. Any difficulty in implementation of this Public Notice may be brought to the notice of this office for appropriate clarification or guidance.

[For further details please refer the Public Notice.]

PUBLIC NOTICE

PROCEDURE FOR MOVEMENT OF TRANSSHIPMENT CONTAINERS BY ROAD FROM VISAKHA CONTAINER TERMINAL (VCTPL) TO VPLP LTD. CFS UNDER VISAKHAPATNAM CUSTOM HOUSE FOR ONWARD DISPATCH TO PERSIAN GULF PORTS

OUR COMMENTS: The Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, issued Public Notice No. 05/2025-26 dated 9.03.2026 Notified that As the geopolitical situation in the Middle East has led to the closure of Strait of Hormuz, there is an information of vessels stranded with containers bound for Persian Gulf ports via Strait of Hormuz. Pursuant to the above, shipping lines have reached out to for offloading the containers bound for Persian Gulf Ports at the Port of Visakhapatnam (M/s VCTPL). The Shipping Lines will tranship these containers back to their original destinations once the safe passage through Strait of Hormuz is restored.

2. Attention of the Custom House Brokers, Steamer Agents and all other concerned is invited to this Custom House Public Notice No. 41/2017 dated 27.09.2017 in respect of International Transshipment of Containers to and from Foreign Ports through Visakhapatnam Port.

3. As of now, the Foreign port bound containers landed at VCTPL Berth are moving from VCTPL to Foreign ports vide Public Notice No. 41/2017.

4. M/s. VCTPL in their representation letter dated 03.03.2026 informed that, in view of shortage of yard space inside the terminal, only limited transshipment containers can be accepted. Therefore, they can accept additional containers subject to Customs allowing movement from VCTPL to Container Freight Stations. Subsequently these Containers shall be returned to the terminal upon placement of the vessel by the shipping lines after the resumption of passage of Strait of Hormuz. M/s VPLP Ltd. CFS in their letter dated 6th March 2026, have given their willingness to store transshipment containers at their CFS and have agreed to follow the procedures to be laid down by Customs.

5. Accordingly, to facilitate movement of Persian Gulf bound containers from M/s. VCTPL to M/s. VPLP Ltd CFS., the following procedure is laid down:

i) M/s VPLP Ltd. CFS under Visakhapatnam Custom House has to submit a separate Transit Bond for Rs. 300 Crores for approval in ITP Cell for movement of Gulf Countries bound containers from VCTPL to the CFS.

ii) The Bond will be debited manually in ITP Cell at the time of movement of Containers from VCTPL and after the containers reaching the CFS, the Bond will be re-credited at ITP Cell on submission of proof of receipt at CFS issued by Preventive Officer of the CFS.

iii) Containers received at CFS should be placed in a specified place demarcated for foreign bound containers. These containers should not be mixed with the general Import/Export containers.

iv) For these containers placed at CFS, ITP Cell will issue ICCD/T.P after due verification of all relevant documents.

v) M/s. VPLP Ltd CFS., will have to furnish a fortnightly statement to the ITP Cell of Custom House, Visakhapatnam indicating the transit movement of the containers from CFS to foreign ports for the purpose of reconciliation.

5. The above procedure has been devised as a special trade facilitation measure for Persian Gulf ports bound in transit containerized cargo landed at Visakhapatnam Port (VCTPL) and is valid till 31st March 2026. Other terms and conditions of Public Notice No. 41/2017 dated 27.09.2017 remain unchanged.

6. Any difficulties arising in implementing this Public Notice may be brought to the notice of the undersigned.

[For further details please refer the Public Notice.]

PUBLIC NOTICE

PROCEDURE FOR ALLOWING "BACK TO TOWN" (BTT) OF EXPORT CARGO WHERE EGM HAS NOT BEEN FILED IN VIEW OF ONGOING WAR CONDITIONS IN THE MIDDLE EAST REGION

OUR COMMENTS: The Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, issued Public Notice No. 10/2025 dated 7.03.2026 Notified that Attention to all concerned is invited to the current geopolitical situation and ongoing war conditions in the Middle East region. This conflict has led to significant disruptions in maritime routes, suspension of bookings by major shipping lines, and the closure of key ports in the Gulf region. Consequently, a large volume of export shipments destined for these regions is currently stuck at Terminals and Container Freight Stations (CFS) at Kandla Port to above subject.

2. **Trade Facilitation Measures:** To mitigate the hardship faced by the trade and to prevent the congestion of port terminals, the following relaxation in the procedure is prescribed for Back to Town (BTT) movement of such stranded export containers/shipping bills for which EGM has not been filed:

On receipt of the containers in the Terminal/CFS, as the case may be, and where the exporter desires to take the goods back to town, the Exporter or their authorized Customs Broker (CB) shall approach the Assistant/Deputy Commissioner (Export).

On receipt of the request, the customs officers of Dock preventive section posted in concerned Terminal/CFS shall verify the seal on the containers and match the details mentioned in the Shipping Bill and the stuffing records.

If the seal is intact, the requirement for physical examination is hereby waived for such Shipping Bills before granting BTT permission. This waiver is intended to expedite the evacuation of cargo and reduce additional handling costs for the exporters.

Further, in view of the prevailing circumstances, BTT-related fees/penalties leviable under the Customs Act, 1962 or the regulations thereunder, for these specific shipments shall also be waived.

3. This Public Notice shall come into force with immediate effect and shall remain valid until further orders or until the normalization of shipping operations in the affected region.

4. Difficulty, if any, in implementation of this Public Notice may be brought to the notice of the undersigned.

5. This issues with the approval of Commissioner of Customs, Kandla

[For further details please refer the Public Notice.]

CIRCULAR

LEVY OF FEE FOR AMENDMENT OR CANCELLATION OF EXPORT DOCUMENTS IN CASES OF WITHDRAWAL OF EXPORT CONSIGNMENTS DUE TO FORCE MAJEURE CIRCUMSTANCES - SECTION 143AA OF THE CUSTOMS ACT, 1962

OUR COMMENTS: The Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, issued Circular No. 10/2025-26 dated 10.03.2026 Clarified that Representations have been received from trade and industry regarding levy of fee for amendment or cancellation of export documents in cases where export consignments are required to be withdrawn from the Customs area due to circumstances beyond the control of exporters.

2. The Levy of Fees (Customs Documents) Regulations, 1970, notified under clause (a) of sub-section (2) of section 157, read with clause (1) of sub-section (2) of section 158 of the Customs Act, 1962, prescribe fees for amendment or cancellation of customs documents, under which a fee has been prescribed for amendment or cancellation of customs documents including Shipping Bills and related documents.

3. The Board has taken note of the prevailing disruptions in international shipping and logistics routes arising from the ongoing crisis in the Middle East region. It has been brought to the notice of the Board that due to the closure of the Strait of Hormuz and the consequent disruption in maritime routes, vessels carrying export cargo from India may be unable to reach their destination ports or may be required to alter their voyage plans. As a result, sailings may be cancelled or postponed by shipping lines and cargo movements through affected routes may be disrupted. The present circumstances constitute an exceptional situation affecting international shipping routes and export logistics. In such circumstances, exporters may be required to seek amendment or cancellation of export documents or withdrawal of export consignments from the Customs area due to cancellation or rescheduling of vessels or flights, suspension of cargo services by carriers, or operational disruptions in ports or airports. The requirement for amendment or cancellation of documents in such cases arises due to these exceptional circumstances or other force majeure and not due to any lapse on the part of the exporter or the Customs Broker.

4. In view of the exceptional situation affecting international shipping routes and export logistics arising from the closure of the Strait of Hormuz, and in exercise of the powers conferred under sub-clauses (c) and (d) of section 143AA of the Customs Act, 1962, it is clarified that where amendment or cancellation of export documents becomes necessary solely due to force majeure circumstances, the proper officer may allow such amendment or cancellation without insisting on payment of the fee prescribed under the Levy of Fees (Customs Documents) Regulations, 1970, as amended.

5. Such cases may include situations where export consignments are required to be withdrawn from the Customs area or export documents require amendment on account of cancellation or non-operation of flights, withdrawal or rescheduling of vessels, disruption of cargo services by carriers, closure or operational disruption of ports or airports, natural disasters, government-mandated restrictions affecting

transport operations, or other comparable circumstances beyond the control of the exporter.

6. Exporters or authorised Customs Broker shall submit requests to the jurisdictional Deputy/Assistant Commissioner of Customs, supported by evidence such as airline/shipping line communications, port/airport notices, or other relevant documents. The proper officer may, after being satisfied that the amendment or cancellation arises solely due to such circumstances and not on account of avoidable errors or omissions on the part of the exporter, allow the amendment or cancellation without levying the prescribed fee under the Levy of Fees(Customs Documents) Regulations, 1970, as amended.

7. The above instructions shall apply to export consignments handled at all Customs stations including sea ports, air cargo complexes, Inland Container Depots (ICDs) and Container Freight Stations (CFSs). All Principal Chief Commissioners/Chief Commissioners of Customs are requested to bring these instructions to the notice of all officers and staff under their jurisdiction for uniform implementation and strict compliance.

8. The above relaxation shall remain in force till 15 days from issuance of this circular.

9. Difficulty, if any, in implementation of this Circular may be brought to the notice of the Board.

[For further details please refer the Circular.]

CIRCULAR

RETURN OF EXPORT CARGO FROM INTERNATIONAL WATERS DUE TO CLOSURE OF THE STRAIT OF HORMUZ – SECTION 143AA OF THE CUSTOMS ACT, 1962

OUR COMMENTS: The Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, issued Circular No. 09/2026-Customs dated 08.03.2026 Clarified that Representations have been received from field formations indicating that, due to the closure of the Strait of Hormuz and the consequent disruption in maritime routes, certain vessels carrying export cargo from India are unable to reach their destination ports and are returning to Indian ports. It has been requested to prescribe a simplified procedure for handling of such cargo.

2. The matter has been examined by the Board. It is noted that the present circumstances constitute an exceptional situation affecting international shipping routes and export logistics. Accordingly, Board in exercise of the powers conferred under Section 143AA of the Customs Act, 1962, prescribes the following procedures in order to facilitate trade and ensure expeditious handling of such cargo, where export cargo is brought back to Indian ports due to the closure of the Strait of Hormuz or similar disruptions. In all such cases the vessel shall be permitted to berth only at the same India port from which it was departed except in case of transhipment. The procedures to be followed in different situations are prescribed as below:

(a) Cargo loaded on vessel and vessel is within Indian territorial waters and EGM or SDM not filed

(i) The master of the vessel/Captain shall submit an undertaking stating that the vessel has not crossed territorial waters of India. In such cases, the vessels may be permitted to berth at the Indian port without filing Sea Arrival Manifest (SAM) where the vessel had earlier departed from an Indian port and has not called at any foreign port.

(ii) The containers may be offloaded at the port terminal without filing a Bill of Entry, subject to verification of related shipping documents.

(iii) The container particulars shall be verified with the corresponding Shipping Bills. During such verification, the integrity of container seals shall also be checked and matched with seal details declared in the Shipping Bills.If the seal is found tampered or not intact, the container shall be subjected to 100% examination.

(iv) The proper officer shall ensure that the Shipping Bills and Let Export Order is cancelled.

(v) Where requested by the exporter, Back to Town facility may be permitted by the proper officer.

(b) Cargo loaded on vessel and vessel is within Indian territorial waters and EGM or SDM filed OR Vessel is beyond Indian territorial waters and is in International waters and returning without calling any foreign ports.

CUSTOMS

(i) The master of the vessel/Captain shall submit an undertaking stating that the vessel has not crossed territorial waters of India or has returned without calling any foreign port if it has crossed territorial water of India. In such cases, the vessels may be permitted to berth at the Indian port without filing Sea Arrival Manifest (SAM) where the vessel had earlier departed from an Indian port and has not called at any foreign port.

(ii) The containers may be offloaded at the port terminal without filing a Bill of Entry, subject to verification of SDM and related shipping documents.

(iii) The container particulars shall be verified with the corresponding Shipping Bills. During such verification, the integrity of container seals shall also be checked and matched with seal details declared in the Shipping Bills. If the seal is found tampered or not intact, the container shall be subjected to 100% examination.

(iv) A new option will be provided by DG System to cancel such Shipping Bills post EGM in ICES system, wherever applicable. The entry of Shipping Bill in new facility for cancellation post EGM will also ensure that export incentives are not disbursed in cases where such benefits have not yet been granted.

(v) Details of such cancelled Shipping Bills shall be shared with RBI, DGFT and other concerned agencies by ICEGATE.

(vi) Till the new system as mentioned above is developed, the field formations shall maintain all the records manually and shall enter the details in system, once its operationalised.

(c) Vessel is beyond Indian territorial waters and is in International waters and returning to India after calling any foreign port without discharge of any container.

(i) Such consignments shall be treated as Exported out of India.

(ii) SAM should be filed by the Shipping line or the authorised representative.

(iii) Procedures mentioned at (ii) to (vi) of para (b) above should be followed in these cases.

3. The field formations to ensure the recovery of all export incentives including IGST, Drawback etc manually, if the same is already disbursed. The trashipment of cargo shall be dealt as per the the existing provisions.

4. The above relaxation shall remain in force till 15 days from issuance of this circular.

5. Difficulties, if any, in implementation of this circular may be brought to the notice of the Board.

[For further details please refer the Circular.]

DISCUSSION

CERTIFICATE OF ORIGIN: WHY INDIAN EXPORTERS NEED IT

OUR COMMENTS: In international trade, documentation plays a critical role in determining the legality, taxation, and movement of goods across borders. One such important document is the Certificate of Origin (COO), which certifies that exported goods originate from a particular country. For Indian exporters, the Certificate of Origin serves as proof that goods are manufactured or substantially processed in India and is commonly required by customs authorities, banks, and trade partners in cross-border transactions.

The certificate plays a key role in determining the applicable import duty in the destination country and establishing eligibility for tariff concessions under international trade agreements. If the Certificate of Origin is not provided, the importer may lose duty benefits, shipments may face delays at customs, and payments under trade finance instruments such as Letters of Credit may also be withheld. Therefore, the COO has become an essential document for ensuring smooth export transactions and regulatory compliance.

Legal Framework in India: In India, the issuance of the Certificate of Origin is governed by the Foreign Trade Policy (FTP) and the Handbook of Procedures issued by the Directorate General of Foreign Trade (DGFT). These regulations specify the eligibility criteria, documentation requirements, and the authorities authorized to issue the certificate. Only designated bodies such as Chambers of Commerce, Export Promotion Councils, and Commodity Boards are authorized to issue Certificates of Origin. Before issuing the certificate, these authorities verify supporting documents to ensure that the goods meet the prescribed origin criteria. To streamline the process, the DGFT has introduced an online system known as the e-COO platform, through which exporters can apply electronically using their Import Export Code (IEC). The issuing agency verifies the uploaded documents and issues the certificate digitally.

Types of Certificates of Origin: Certificates of Origin are broadly classified into two categories: non-preferential and preferential. A non-preferential Certificate of Origin simply certifies that the goods originate from India. It does not provide any tariff concession to the importer but is commonly required by customs authorities for regulatory and statistical purposes. Many importing countries require this certificate to verify the source of goods and to ensure compliance with their import regulations. A preferential Certificate of Origin, on the other hand, enables importers to avail reduced or zero customs duty under trade agreements signed by India with other countries. These preferential arrangements help make Indian goods more competitive in global markets. However, exporters must comply with specific Rules of Origin to qualify for these benefits.

Trade Agreements and Rules of Origin: India has entered into several bilateral and regional trade agreements that provide preferential tariff treatment to exports. These include agreements with ASEAN countries, Japan, South Korea, the United Arab Emirates, Australia, and the European Free Trade Association (EFTA) countries. Each agreement contains its own Rules of Origin and documentation requirements. To qualify as originating from India, goods must either be wholly obtained in India or must undergo substantial transformation within the country. Wholly obtained goods include products entirely produced in India without the use of imported materials, such as agricultural products grown in India, minerals extracted from Indian soil, or animals raised domestically.

In cases where imported inputs are used, the goods may still qualify as Indian origin if they undergo sufficient manufacturing or processing in India. This is generally assessed through criteria such as value addition within India, change in tariff classification after processing, or completion of specified manufacturing processes. Exporters must maintain proper production records, cost details, and documentation to demonstrate compliance with these requirements.

Digital Certification through the e-COO Platform: India has significantly modernized the origin certification process through the e-COO platform, which allows exporters to apply online and obtain certificates electronically. Exporters can log in using their IEC, upload relevant documents such as invoices and shipping details, and track the status of their applications digitally. The upgraded e-COO 2.0 system includes features such as multi-user access under a single IEC, Aadhaar authentication, and digital signature verification. The electronically issued Certificate of Origin is legally valid and widely accepted by customs authorities and banks for export documentation.

Self-Certification Mechanism: Under certain trade agreements, trusted exporters may be allowed to declare the origin of their goods themselves instead of obtaining a certificate from an issuing authority for every shipment. This system, known as self-certification, simplifies export procedures and reduces administrative delays. However, exporters using this facility must maintain comprehensive documentation supporting their origin claims. Customs authorities may verify these records at any time, and any misuse of the self-certification facility may lead to penalties or cancellation of the authorization.

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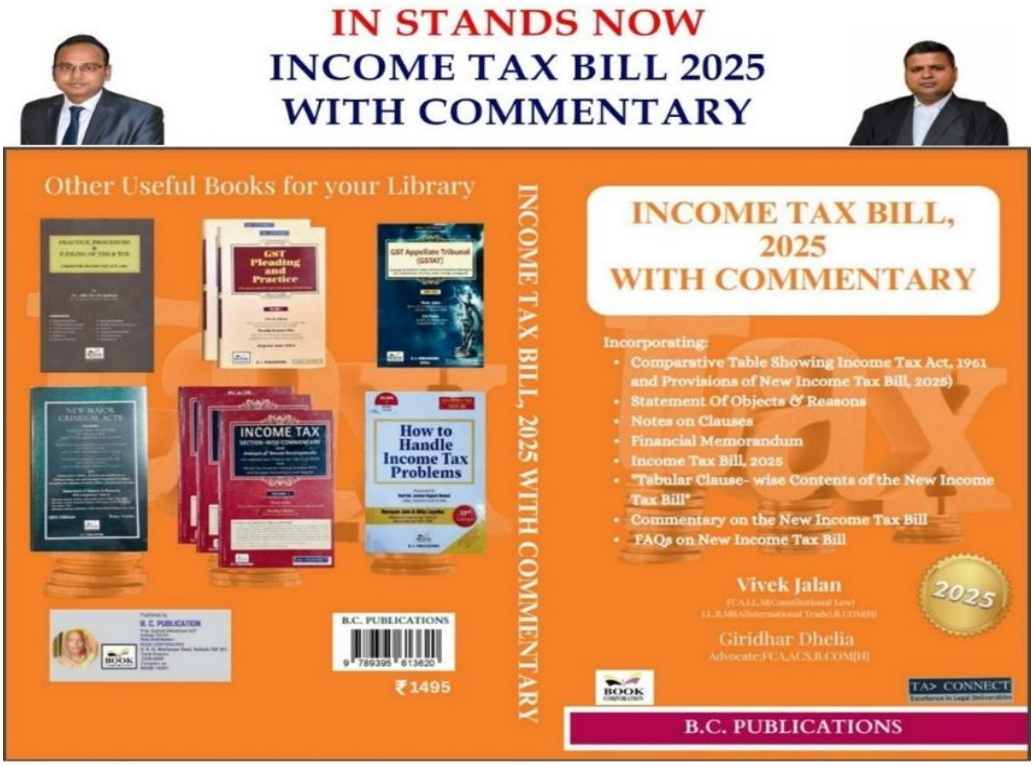

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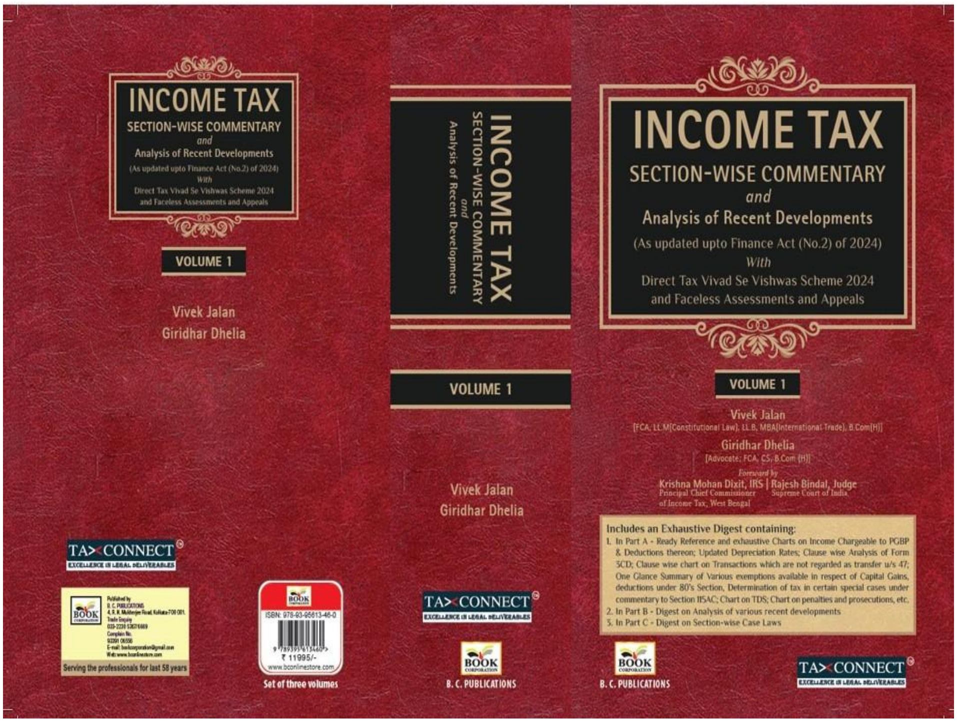

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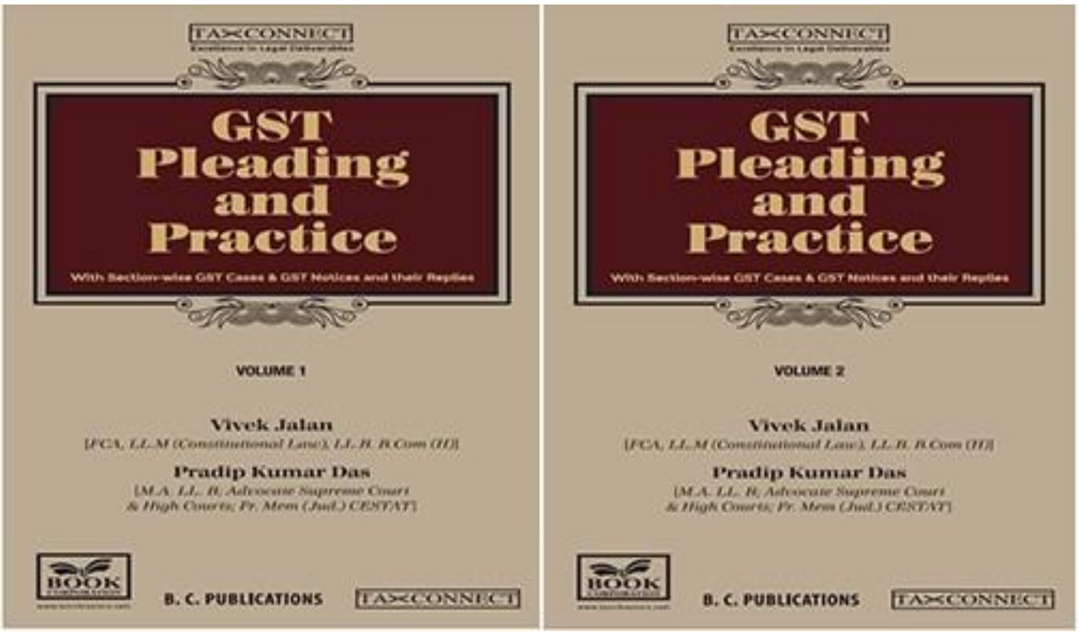

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