


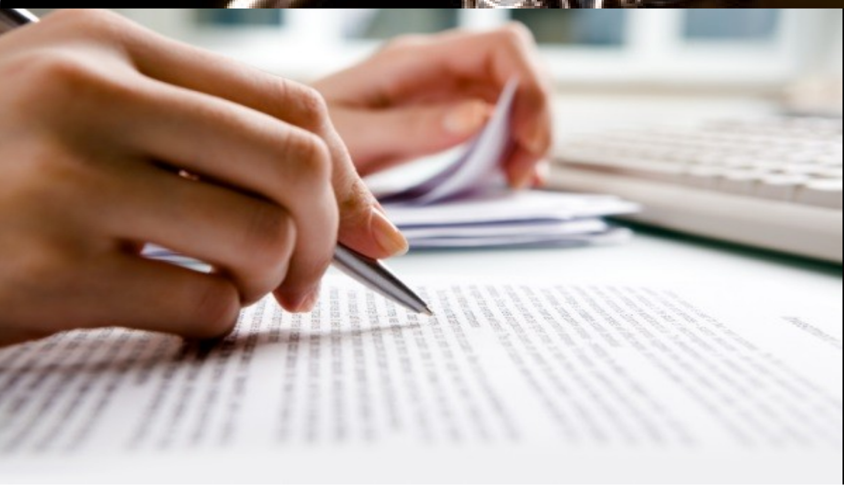


NITYA tax associates

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Recent developments impacting Export Incentives and International Trade

December 30, 2019

Recent developments impacting Export Incentives and International Trade

The latest developments vis-à-vis dispute on export incentives before the World Trade Organization ('WTO') and implementation of new Foreign Trade Policy in India.

1. India can continue with disputed export incentives

As per Article 17(1) of Annexure 2 of the WTO Agreement, a Standing Appellate Body consists of seven persons and at least three members need to serve on each case. On December 10, 2019, two members of the existing three-member panel retired from the panel. As per news sources, USA has been continuously blocking the appointment of new members in the Appellate Body for past two years due to various reasons. In nutshell, effective December 11, 2019, settlement of any trade disputes before the Appellate Body is delayed due to unavailability of the requisite quorum. Further, as per Article 16(4) of Annexure 2 of the WTO Agreement, a report of the dispute resolution panel shall not be enforced if an appeal has been filed with Standing Appellate Body against the same.

NITYA Comments:

India filed an appeal on November 19, 2019 against WTO's order dated October 31, 2019 wherein various export incentives offered by India were held to be violative of WTO's Subsidies and Countervailing Measures Agreement. As an indirect consequence, India can continue with its existing export incentives such as MEIS, EPCG etc. for the time-being. Please refer to NITYA's Insight | Issue 71 | Recent developments impacting Export Incentives and International Trade dated November 27, 2019 for a detailed update on the same, enclosed in trail mail for ready reference.

2. New Foreign Trade Policy likely to be effective from April 1, 2020

As per latest news reports, the Central Government will issue new Foreign Trade Policy ('FTP') effective from April 1, 2020. The new FTP is expected to replace the existing export incentives with Remission of Duties or Taxes on Export Product (RoDTEP) to avoid disputes (arising from WTO's order) in future.

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