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EDITORIAL

Friends,

Promotion of industries is a continuous and ongoing effort of the Government. Government has taken a number of steps, in addition to the ongoing schemes, to boost the growth of industries. The measures taken in a few important areas are highlighted below:

- **Aatmanirbhar Package** to boost Industrial growth has been announced by the Government for Rs. 20.97 lakh crore with bold reforms in a number of sectors.
- **Higher FDI cap** has been allowed through **automatic route** in a number of sectors by streamlining and liberalising several sectors. Empowered Group of Secretaries (EGoS) & Project Development Cells (PDCs) have been set up in order to provide support and facilitation to investors for investing in India and to boost growth in key sectors of the economy.
- A **centralized Investment Clearance Cell** is being created, which would provide end-to-end facilitation support, including pre-investment advisory, information related to land banks and facilitating clearances at Central and State level.
- In order to realize the economies of scale, incentives are extended to units as per annual increases in their production/sale under **Production Linked Incentive (PLI) scheme**.

The Income Tax Department 25.09.2020 launched **Faceless Income Tax Appeals**. Under Faceless Appeals, all Income Tax appeals will be finalised in a faceless manner under the faceless ecosystem with the **exception** of appeals relating to serious frauds, major tax evasion, sensitive & search matters, International tax and Black Money Act. The Faceless Appeals system will include allocation of cases through Data Analytics and AI under the dynamic jurisdiction with central issuance of notices which would be having Document Identification Number **(DIN).** The Faceless Appeal will provide not only great convenience to the taxpayers but will also ensure **just and fair appeal** orders and minimise any further litigation. The new system will also be instrumental in imparting greater efficiency, transparency and accountability in the functioning of the Income Tax Department.

As per Press Release dated 20.09.2020 , Ministry of Finance has stated that as per provision in Sections 7, 8 & 10 of the GST (Compensation to States) Act, 2017, the issue of pending GST compensation and future course of action to meet the GST compensation shortfall has been discussed in **41st GST Council** meeting on 27.08.2020 in the light of the opinion given by Ld. Attorney General of India, wherein States were given **two options** to meet their GST compensation shortfall for current FY from market borrowing.

Option 1: The shortfall arising out of GST implementation (calculated at Rs. 97,000 crores approximately) will be **borrowed by States through issue of debt under a Special Window** coordinated by the Ministry of Finance. It will be the endeavour to ensure steady flow of resources similar to the flow under GST compensation on a bi-monthly basis.

Option 2: The entire shortfall of Rs 235,000 crores (including the Covid-impact portion) may be **borrowed by States through issue of market debt**. The GOI will issue an OM committing to repayment of principal on such debt from Cess proceeds as per para IV below.

As per Press Release dated 20.09.200, Ministry of Finance has stated that the total number of taxpayers who have **opted for the Direct Tax Vivad Se Vishwas Act** since its

EDITORIAL

enactment is 35,074 through Form-1 (Declaration under the scheme) that have been submitted till 8th September, 2020. The Minister further said that the revenue generated till date through the Act is Rs. 9,538 crores. This figure does not include the payments made by the taxpayers who are yet to file their declarations under the Scheme. The time-limit for filing of declaration under the scheme has been extended till **31st December, 2020**.

As per Press Release dated 18.09.2020, Ministry of Finance have issued order for implementation of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 with effect from **21st September 2020.** The new Rules will support the importer to correctly **ascertain the country of origin, properly claim the concessional duty and assist Customs authorities in smooth clearance** of legitimate imports under FTAs. Hence, the CBIC has been actively engaging with stakeholders through webinars and other means to guide them on compliance with the new Rules and to clarify any doubts that they may have. The new Rules would **strengthen** the hands of the Customs in checking any attempted misuse of the duty concessions under FTAs.

The Income Tax Department carried out a **search and seizure operation** on a prominent Hotelier, owning a chain of Hotels at Srinagar, Gulmarg, Sonamarg and Pahalgam with another hotel under construction at Leh **on 17.09.2020**. Various incriminating documents and materials evidencing unexplained investments in immovable properties, construction of hotels and residences aggregating to Rs. 25 crore in the last six financial years have been seized during the search, though he has not paid any tax since A.Y. 2014-15. Almost all these investments are in cash and outside the known sources of income. During the course of the search operation, receipt of unsecured loans to the tune of Rs. 25 crore in the past two years from persons of no-means has been found. All these loans are prima-facie not genuine, as the same have been advanced by persons with doubtful creditworthiness. The search also revealed that the assessee's children are studying in USA on whom expenditure of approximately Rs. 25 lakh/annum is being incurred. The **expenditure on account of education** in USA prima-facie appears to be **unexplained/undisclosed**.

We do hope that this bulletin adds value to your professional sphere.

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

Truly Yours

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SYNOPSIS

TAX CALENDAR

Due date	Form/Return/Challan	Reporting Period	Description
20th September 2020	GSTR-3B	August 2020	Summary of Outward and Inward Supplies (Turnover More Than 5 Crore)
20th September 2020	GSTR-5	August 2020	Summary of Outward and Inward Supplies for Non-Resident Foreign Taxpayers
20th September 2020	GSTR-5A	August 2020	Summary of Outward and Inward Supplies for Non-Resident OIDAR Service Provider
23rd September 2020	GSTR-3B	June 2020	Summary of Outward and Inward Supplies of the states Chhattisgarh, MP, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, TN, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh (Turnover upto 5 Crore) Without Interest
25th September 2020	GSTR-3B	June 2020	Summary of Outward and Inward Supplies of the states Jammu and Kashmir, Laddakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, UP, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha (Turnover upto 5 Crore) Without Interest
27th September 2020	GSTR-3B	July 2020	Summary of Outward and Inward Supplies of the states Chhattisgarh, MP, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, TN, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh (Turnover upto 5 Crore) Without Interest
29th September 2020	GSTR-3B	July 2020	Summary of Outward and Inward Supplies of the states Jammu and Kashmir, Laddakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, UP, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha(Turnover upto 5 Crore) Without Interest
30th September 2020	GSTR-3B	Feb-July 2020	Summary of Outward and Inward Supplies(Turnover upto 5 Crores) Reduced Rate of Interest @ 9%
30th September 2020	GSTR-9,9A & 9C	F.Y.2018-19	Annual Return and Reconciliation Statement
30th September 2020	ITR 1 to 7	F.Y.2018-19	Income Tax Return (Audit not applicable)

INCOME TAX

NOTIFICATION/CIRCULAR/CASE LAW

CG NOTIFIES L&T INFRA DEBT FUND AS AN INFRASTRUCTURE DEBT FUND FOR THE A.Y. 2018-19 AND SUBSEQUENT A.YS.

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Notification No. 74/2020 dated 31.08.2020** has notified that infrastructure debt fund shall comply with rule 2F of Income Tax Rules, 1962 and shall file its return of income on or before due date as specified in Section 139(4C) of the Income Tax Act, 1961.

[For further details please refer the notification]

GUIDELINES FOR COMPULSORY SELECTION OF RETURNS FOR COMPLETE SCRUTINY DURING THE F.Y. 2020-21

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Direct Taxes **vide Circular No. F.No.225/126/2020/ITA-II dated 17.09.2020** has circulated the guidelines for compulsory selection of returns for complete scrutiny during the F.Y.2020-21 and conduct assessment proceedings in many cases prescribed. The exercise of selection of cases for compulsory scrutiny shall be completed by 30th September 2020.

[For further details please refer the circular]

COMMISSIONER OF INCOME TAX, CHENNAI. VERSUS SHRI. C. SUBBA REDDY (HUF) – 2020 [MADRAS HIGH COURT]

Brief: Whether car parking include calculation of built-up residential units for deduction u/s 80IB?

OUR COMMENTS: In the present case, it was held by the Madras High Court that As decided in ***C. SUBBA REDDY (HUF) [2010 (12) TMI 248 - ITAT, CHENNAI]*** Section 80IB(10) of the Income Tax Act speaks about the residential unit having a maximum built-up area of 1500 sq.ft. to claim deduction. CIT(Appeals) has correctly held that built-up area is only the inner measurement of the residential units at the floor level plus projections and balconies plus thickness of the walls. But, the car parking area is not a living space and it is a common area which can be accessed by anyone since it has no boundary wall. No justification in including the car park in the definition of the built-up area of the residential unit for the purpose of determining the maximum built-up area. In such view of the matter, we are inclined to accept the reasoning of the Commissioner of Income Tax (Appeals) drawing support from the Tamil Nadu Apartment Ownership Act, 1994, which was confirmed by the Tribunal. See ***SHRI. SUBBA REDDY (HUF) [2015 (2) TMI 257 - MADRAS HIGH COURT***. Assessee is entitled to the benefit of deduction under Section 80IB of the Act. Accordingly, the Appeal filed the Revenue is liable to be dismissed and the same is hereby dismissed. The question of law is answered in favour of the Assessee.

[Decided in favour of the assessee]

GST

CASE LAW

M/S BEST SELLERS (COCHIN) PRIVATE LIMITED VS THE ASSISTANT STATE TAX OFFICER, PALAKKAD- 2020 [KERALA HIGH COURT]

Brief: Consignment had a valid invoice and there is no requirement of E-Way Bill.

OUR COMMENTS: In the present case, the petitioner has approached this Court aggrieved by Ext.P7 detention notice issued to him in Form GST MOV-7. In the Writ Petition, it is the case of the petitioner that the transportation was of a consignment of watches that had been supplied to him by the seller in Delhi at a discounted rate of Rs.8.99. It is seen that the transportation of the goods was accompanied by Ext.P4 tax invoice, where the supplier in Delhi had shown the actual price of the consignment of watches, which was Rs.4,49,550/- and had given a discount of almost the entire amount save to the extent of Rs.8.99, and had paid IGST at the rate of 18% on the actual value of the watches. The consignment was detained by the respondent, on the ground that, although the consignment was covered by a valid invoice, it was not accompanied by a valid e-way bill. The learned counsel for the petitioner would point that inasmuch as the discounted value of the goods was less than Rs.50,000/-, there was no requirement for the consignment to be accompanied by an e-way bill. Consignment was detained on the ground that, although the consignment was covered by a valid invoice, it was not accompanied by a valid e-way bill. It was held that since the discounted value of the goods was less than Rs.50,000/-, there was no requirement for the consignment to be accompanied by an e-way bill. As evident from the original invoice the effective value of the goods that was transported was only Rs.8.99 and the provisions of the Act and Rules mandate that an e-way bill is required only for consignments whose value exceeds Rs.50,000/-, the detention in this case cannot be said to be justified. The Writ Petition is allowed by quashing detention notice and directing the respondent to forthwith release the goods and the vehicle to the petitioner. The case is answered in favour of petitioner.

[Decided in favour of the petitioner]

PRESS RELEASE/CASE LAW

REVIEW OF FOREIGN DIRECT INVESTMENT (FDI) POLICY IN DEFENCE SECTOR

OUR COMMENTS: The Ministry of Commerce & Industry, Government of India, Department for Promotion of Industry and Internal Trade **vide Press Release No. 4/2020 dated 17.09.2020** has revised the FDI Policy in Defence Sector.

[For further details please refer the press release]

V. SEJAPPA VERSUS THE STATE BY POLICE INSPECTOR LOKAYUKTA, CHITRADURGA- 2016 [SUPREME COURT]

Brief: Order of acquittal is the most important aspect.

OUR COMMENTS: In the present case, High Court held the appellant-accused guilty of the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. By legality of evaluation of the evidence and the findings recorded by the trial court, it was held by the Trail Court that in order to constitute an offence under Section 7 of the Prevention of Corruption Act, 'proof of demand' is a sine quo non. In the present case, trial court recorded an order of acquittal on the evidence and circumstances:-(i) delay in lodging the complaint; (ii) even though the appellant is alleged to have made the demand on 09.12.1997 at Chitradurga, absence of the appellant in Chitradurga from 07.12.1997 to 10.12.1997 and absence of proof of demand; (iii) doubts raised regarding the submission of the documents Ex. P6 to P15 by PW-1 for processing the pension papers and settling the retiral benefits and (iv) inconsistency in the evidence of prosecution witnesses in establishing the acceptance of the amount by the appellant. Absence of proof of demand on 09.12.1997, coupled with PW-2's evidence that the amount was paid by PW-1 to the appellant towards purchase of diesel raises serious doubts about the amount being paid by PW-1 as illegal gratification. High Court neither considered the defence plea of alibi nor it held that the decision of the trial court was erroneous or perverse. In our view, evaluation of the evidence made by the trial court while recording an order of acquittal does not suffer from any infirmity or illegality or manifest error and the grounds on which the order of acquittal is based cannot be said to be unreasonable. While so, High Court was not justified in interfering with the order of acquittal and the impugned judgment cannot be sustained. In the result, appeal is allowed and the impugned judgment of the High Court is set aside and the order of trial court acquitting the appellant of the charges is restored. The appellant is on bail, his bail bonds stand discharged.

[Decided in favour of the petitioner]

CUSTOMS

NOTIFICATIONS/CASE LAW

TARIFF NOTIFICATION IN RESPECT OF FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SILVER

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 87/2020-Customs dated 15.09.2020** has amended tariff value of edible oils, brass scrap, poppy seeds, areca nut, gold and silver.

[For further details please refer the notification]

EXCHANGE RATE FOR IMPORT AND EXPORT OF GOODS HAS BEEN NOTIFIED

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 88/2020-(N.T) dated 17.09.2020** has notified exchange rate of conversion of foreign currency to Indian currency for imported and exported goods w.e.f 18.09.2020.

[For further details please refer the notification]

AMENDMENT TO BILL OF ENTRY (FORMS) REGULATIONS,1976

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 90/2020-Customs dated 17.09.2020** has amended the Bill of Entry (Forms) Regulations, 1976 and this shall come into effect from 21.09.2020. Form No-I, II and III has been substituted.

[For further details please refer the notification]

REDUCTION IN BASIC CUSTOM DUTY ON LENTILS (MOSUR) FOR THE PERIOD FROM 18.09.2020 TO 31.10.2020

OUR COMMENTS: The Ministry of Finance, Government of India, Central Board of Indirect Taxes and Customs **vide Notification No. 34/2020-Customs dated 17.09.2020** has reduced Basic Custom Duty on Lentils (Mosur) for the period 18.09.2020 to 31.10.2020.

[For further details please refer the notification]

SAI ENTERPRISE THROUGH ITS SOLE PROPRIETOR NANANK MOTUMAL PHERWANI VERSUS UNION OF INDIA AND OTHERS - 2020 [BOMBAY HIGH COURT]

Brief: Bank account freezed on the ground of illegally availed Integrated Goods and Services Tax (IGST) refund of an exporter was deposited in the bank account of the petitioner.

OUR COMMENTS: In the present case, Bombay High Court held that Section 110(5) of the Customs Act, 1962 was inserted in the Customs Act by the Finance (No.2) Act, 2019 with effect from 01.08.2019 - Evidently, the action of freezing the bank account i.e., on 07.12.2018 was undertaken prior to insertion of the aforesaid provision w.e.f. 01.08.2019. Prima-facie this provision may not be applicable to the case of the petitioner. Additionally, as per the condition mentioned in Section 110(5), the initial period of freezing the bank account i.e., not exceeding six months has expired long back. That apart, even if as per the proviso such period was extended by the PCC or CC for a further period not exceeding six months, that extended period has also elapsed. In such circumstances, continuing with the freezing of the bank account of the petitioner would be oppressive and without any sanction of law. Hence, to unfreeze the seized bank account was ordered in favour of the assessee.

[Decided in favour of assessee]

DGFT

NOTIFICATION/PUBLIC NOTICE

AMENDMENT IN EXPORT POLICY OF ONIONS

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Notification No. 31/2015-2020-FTP dated 14.09.2020** has amended the export policy of onions. The Export of all varieties of Onions, as described above, is prohibited, with immediate effect. The provisions under Transitional Arrangement (Para 1.05 of the FTP 2015-20) shall not be applicable under this notification.

[For further details please refer the notification]

INSERTION OF POLICY CONDITION IN CHAPTER 85 AND 94 OF ITC (HS), 2017, SCHEDULE – I (IMPORT POLICY)

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Notification No. 32/2015-2020-FTP dated 17.09.2020** has inserted new policy condition in Chapter 85 and 94 of ITC(HS), 2017, Schedule-I (Import Policy) to enable random sampling of LED products and Control Gear for LED products notified under "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012". This issues with the approval of Minister of Commerce and Industry.

[For further details please refer the notification]

IMPLEMENTATION OF THE TRACK AND TRACE SYSTEM FOR EXPORT OF PHARMACEUTICALS AND DRUG CONSIGNMENTS

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Public Notice No. 16/2020-2021-FTP dated 22.09.2020** has given noticed that the date for implementation of Track and Trace system for export of drug formulations with respect to maintaining the Parent-Child relationship in packaging levels and its uploading on Central Portal has been extended upto 01.04.2021 for both SSI and non SSI manufactured drugs.

[For further details please refer the public notice]

HARMONIZATION OF TABLE 2 OF APPENDIX 3B FOR EXPORTS MADE WITH EFFECT FROM 01.01.2020

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Public Notice No. 17/2020-2021-FTP dated 22.09.2020** has given noticed that certain amendments have been made in the MEIS schedule , Table 2 of Appendix 3B to harmonize it with the Notification no. 38 dated 01.01.2020 and the changes in the Finance (No. 2) Act, 2019, 5th Schedule as notified by CBIC.

[For further details please refer the public notice]

PUBLICATION OF REVISED ANF-7A

OUR COMMENTS: The Ministry of Commerce and Industry, Directorate General of Foreign Trade vide **Public Notice No. 18/2020-2021-FTP dated 23.09.2020** has revised ANF-7A of Appendices & ANFs.

[For further details please refer the public notice]

LETS DISCUSS FURTHER!

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