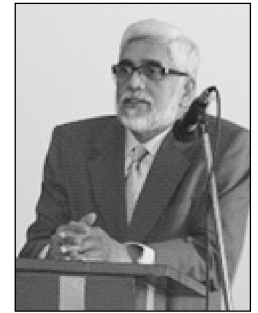






## FROM THE DESK OF THE CHAIRMAN



The students of management usually face a poser whether management is a science or an art and the querist would more often than not extract a reply that suits him. However, it is rarely that one comes across a question on similar vein about Economics. What kind of a science is the subject of Economics, if it indeed is a science? Inability to predict future events with some element of exactitude based on certain logical sequence can question the very reliability of Economics for decision making purposes. Economics, already considered as an abstract subject, is increasingly looking like a voodoo science, if at all it can be called a science. When the Chinese economy came crashing down there were those who said Deja vu even as an equal number of economists who were running for cover. As economists are trying to figure out patterns and consequences to evolve another theory for posterity let us look at what is happening in our neighborhood and see if we can make any sense out of it from a lay man's point of view.

China was busy over the last two decades or so making investments for a gigantic future for itself as a factory of the world exporting goods at competitive prices through sheer volumes of scale. When the time to take stock of the returns on the investments came, the world markets were already in recession. With little purchasing power left with the people the economy could not be driven or revived by consumption. The government took the easy way out by propping up the economy through fiscal measures thereby giving an impression that everything was still hunky-dory with the economy and its management. As if that was not enough, easy credit was made available to retail investors who were out of work, as it is, and were looking out for avenues to earn a livelihood. The proverbial free lunch was on offer. By the time they realised that there indeed was no free lunch the stock market was already on a tail spin. For an economy, touted to be growing at a scorching rate of 7%, this fall is confounding and incredulous. The

Chinese government not only controls the value of its currency but also rations information pertaining to the state of affairs of the economy. The Chinese response to stem the slide in the stock market was swift but unpredictable. They devalued the RMB to stabilise the markets. It is obvious that the Chinese authorities were also taken aback not only by the fall in the stock markets but also by the extent of the fall. The authorities find themselves between the rock and the hard place as the Americans would put it. Beijing wants vibrant economic systems and structures in place but still be in control of what happens in the market place. These are two contradictory positions. This is the country in pursuit of being a global player rivaling the US! It may not be enough to evaluate what is happening in China only as an economic phenomenon. The authorities will have to take a call now to decide how long can they live with the kind of tools deployed in an open, transparent and vibrant market place but also at the same time be a closed and opaque economy - and yet a super power. With widespread discontentment in the society because of the stock market crash and increasing unemployment there would be new rules to the game of Chinese checkers. The country will have no option but change the way they conduct their business. This transition is in fact waiting to happen. Do we see the Dragon loosening its fists? Likely.

The silly season in America is here. The race for elections for a new President in late 2016 has begun. The season has started with a bang. This election will be remembered more in the name of one man than the name of the new President who would be eventually elected. That one man is billionaire Donald Trump, the real estate tycoon and a reality TV showman. He is showing a mirror to the Americans about who they are and what they want to be. His biggest selling point to the American people is that he is not a politician and he seldom conceals his contempt for the archetypical politicians. Presently he

fits into the description of a bull in a china shop upsetting the calculations of all other hopefuls in the Republican Party. He is everything a politician is not. He speaks without bothering about what impact it would have on his electoral prospects and how he would be judged. Instead of cultivating vote banks he goes right ahead and demolishes even the edifices of potential support. He labelled the Mexican immigrants as anti-social and naturally criminal. In the process he has caught the fancy of the conservative base of his party who have had enough of politicians soft pedaling issues concerning immigration. In the first debate among the Republican candidates he went on a broadside against the anchor herself with scant regard for political price he may have to pay. After all these shenanigans he is far ahead of other contenders from his party in opinion polls. He has no qualms about declaring that he is not even willing to support any Republican Party candidate other than himself. He is so full of himself, pompous, tactless and arrogant. He is rhetorical and bombastic with few actionable strategies. He has threatened to ostracise China and impose curbs on Chinese goods. Sociologists are busy figuring out how he is able to stay ahead in the race for a ticket to contest the Presidential elections despite all these. When Trump threw his hat in the ring no one took him seriously and now when he is refusing to take anyone else but himself seriously his party does not know what to do with him. If he becomes the President of the most powerful country on earth you can bet on one fact. He would be a different kind of a President - an all American President - both in style and substance.

Employees work for money. Yes, of course. Do they work only for money? Perhaps not. Annually monetary compensation is decided on the basis of evaluation of performance of an employee. This is a time tested method. Rewarding employees for their contribution to the organization and keeping them motivated has always been a challenge to the employers. This challenge has not been made any simpler by the fact that performance of an employee in an organization does not take place in isolation. It is always a team effort and in this to isolate individuals for reward and punishment without being subjective is a difficult task. Consequently there has always been a conscious effort to make the performance appraisal systems more and more mechanical to obviate errors arising out of biases of those who appraise others. Typically

most of the employees fall in the performing category in the middle with the laggards on one side and the high-flyers on the other resembling a bell curve. Usually the appraisals of those who fall in the middle take place in a routine manner, the attention being focused on the two sides of the curve. This model also suffers from the fact that in the bell curve those who perform better than the average performers tend to get lumped together with those who are just about able to scrape through to expected levels. This results in ignoring the developmental requirements of a large number of employees. The process of evaluation of performance in India have come a long way from those days when the person is identified first and rating is tailor-made to suit the pre determined reward for that person. Appraisal processes still suffers from subjectivity and a lack of priority that it deserves. Typically all appraisals come up at the same time with the appraisers finding it difficult to allocate sufficient time and focused attention to this all important activity. Accenture recently announced that the organisation following the footsteps of its parent company abroad would carry out appraisals all year around and do away with the bell curve phenomenon. The organisation has signaled that more personal attention would be given to this activity. Earlier companies like KPMG, Adobe, Microsoft and Google, to name a few, had decided to do away with the bell-curve mechanism. One of the solutions to this process that I have tried out is that people could be appraised on the date of their joining on an annual basis without having to bother about what shape the appraisal curve takes. This process eliminates the most important de-motivating factor in appraisal process of perceived relative injustice and constant comparisons among employees, fair or unfair. Whether the latest move would turn out to be another management fad or an earnest exercise at evaluation of the most valuable assets of the organisation remain to be seen. In a knowledge driven service sector it makes eminent sense to try and provide continuous developmental inputs to the employees through on-going appraisals that could become second nature to the organisation itself. This could also usher in a culture of continuous learning on the part of the employees as well.

Away from stock markets and currency devaluations there is a grim and grave event of human suffering that escapes the attention of people like us who are

not affected directly - the issue of migration of large populations. Large swathe of people are leaving their homes and fighting the elements of nature to migrate in search of a better tomorrow without caring if they would be able to survive today. Fearing certain death people are daring death by setting up on journeys searching for safer places to live to fight for another day. The migrant problem has reached such proportions that diplomatic rows have broken out even among European countries as no one wants to accommodate the never ending stream of asylum seekers. The native local populations are also up in arms against the asylum seekers. This has led to riots in Germany. Border skirmishes have erupted between Greece and Macedonia in an effort to prevent the migrants from crossing over. A standoff was witnessed between France and England at Calais to prevent people from entering UK. The economies of countries like Greece and Italy are hardly in a position to accommodate the large influx of refugees. The figures of migration from Middle East and Africa are so staggering and so is the misery of those who make it to the land from across the Mediterranean Sea. The number of people who have died in their attempt to escape from suffering is anybody's guess. Lakhs of people have landed on the southern shores of Europe. And many more are making their way by land in search of an El Dorado somewhere else in the continent. In this large exodus the ethnic profile of Europe is changing in more ways than one. As always, war and poverty are the driving force for causing migration in such large scale. As we go to press there is news coming from Brussels that the EU leaders are meeting next week to streamline the migration process in the wake of the death of some migrants in

a truck that was carrying them to their promised land.

Everything about Maggie has a two-minute time frame. Children love the instant food so do the harried mothers hard pressed for time every morning. It is no secret that men love it as much as anyone else for sheer convenience. As events turned out a ban on sale of this noodle also came at double quick time. Now before you could say oh no the ban stands lifted subject to certain caveats, of course. The noodle snack raises one too many questions to feel comfortable. Even after the highly publicised ban on the sale of this popular food product no one seems sure why and on what grounds were they taken off the shelves. Not all the states banned the product. There were labs from outside India who cleared the product for their own consumption. Nestle, the company perhaps did not go on the offensive against the government fearing official backlash, especially being a multinational company. But that stand by the company cannot be accepted as we, as customers, have a right to know and the company has a duty to tell. The less said about the government stand the better it is. The state governments also did not cover themselves with glory in their handling of the entire episode. The Food Safety and Standards Authority of India (FSSAI) the nodal agency charged with the responsibility of ensuring the safety of what we eat cut a sorry figure. I am left wondering if the controls and bans are only for those food products which are made ready in two minutes or are they applicable to those food products which are made ready at road sides in one minute as well.

Thank you.

**Venkat R. Venkitachalam**



# GST CORNER

By **CMA A. B. Nawal**

1st September 2015

Even though Monsoon Session have become dry and no GST resolution was passed in Rajya Sabha due to chaos made by opposition, NDA Govt. is committed to introduce GST w.e.f. 1st April 2016. Govt officials are fully equipped for introduction of GST which can be observed from following announcement:

1. Revenue Secretary have stated that GST Model Law is finalized and Draft Registration will be ready soon.
2. CBEC have revamp CBEC Website and specifically made a separate tabs for GST
3. Existing Directorate General of Service tax has been renamed to Directorate General of Goods & service Tax and office has been shifted to Delhi
4. Revenue Secretary have confirmed CBEC IT backbone being improved and aligned with GSTN infrastructure
5. CBEC suggests LTUs may be used for registration of certain All India Service providers in GST regime
6. Govt reaches out to Opposition for a Special Session of Parliament; Amendments to be decided on floor of House as stated by Ministry of Parliamentary affairs - Mr. Venkaiyya Naidu

## Recent Developments on the GST

Five Committees have been constituted by the Empowered Committee of State Finance Ministers (EC) to deal with the various aspects of work relating to the introduction of GST. The Committees are:

- i. The Committee on the Problem of Dual Control, Threshold and Exemptions in GST Regime;
- ii. The Committee on Revenue Neutral Rates for State GST & Central GST and Place of Supply Rules (A Sub - Committee has been constituted to examine issues relating to the Place of Supply Rules)
- iii. The Committee on IGST & GST on Imports (A Sub -Committee has been set up to examine

issues pertaining to IGST model)

- iv. The Committee to examine Business Processes under GST Regime (Three Sub - Committees have been constituted to examine issues pertaining to Registration & Returns, Refunds and Payments)
- v. The Committee to draft model GST Law (Three Sub -Committees have been constituted to draft various aspects of the model law)

The first four Committees have submitted their final reports, which are under consideration of the Empowered Committee / Government of India

CBEC officials, as members of these Committees / Sub - committees, are playing a significant role in the work relating to design and contours of the proposed GST regime

The meetings of the Empowered Committee are attended by The Nodal Member of the CBEC and other officials

A GST Cell headed by a Commissioner level officer has been created with in CBEC which functions in close coordination with TRU. Three Groups have been constituted by CBEC to work on various aspects of the GST

DG Systems has recently constituted a Steering Committee Steering Committee for implementation of GST System for CBEC. Augmentation in human resources would be necessary to handle such large number of taxpayers scattered across the length and breadth of the country. Capacity building, particularly in the field of Accountancy and Information Technology, for the departmental officers have to be taken up in a big way.

DGST has been renamed as Directorate general of Goods & Service Tax and office has been shifted from Mumbai to Delhi w.e.f. 1st August 2015

Institute of Cost Accountant of India is the Diamond Partner with ASSOCHAM for creating awareness on

GST across India and holding seminars at Delhi, Kolkata, Hyderabad, Chennai, Bangalore, Mumbai & Pune and senior officials from CBEC and Revenue are going to address alongwith other experts.

The GST Policy Wing shall act as a policy vertical in the Board under the member (GST). The Policy Wing will deal with all policy matters relating to GST including the related legislation. The Policy Wing will also formulate the CBEC's views on GSTC Secretariat and also matters relating to the subsuming of the various Central Taxes in the GST. Matters related to issues raised in Parliament including Parliamentary Questions connected to GST will be handled by the Policy Wing. It will interact with EC (Empowered Committee) and State Governments and will assist CBEC in finalizing its views in relation to various facets of the GST. It will also act as CBEC's interface with the Trade and Industry on matters relating to GST. Finally, it will also attend to any other matter relating to GST that CBEC may like to assign to the Policy Wing.

The Directorate of GST shall be headed by a Principal Director General and will be headquartered in Delhi. It will primarily function as a think tank acting as an intermediary between the Board and the field formations. It will inter alia discharge functions of research and analysis, capacity building of officers, coordinating with various Directorates of CBEC and State Institutions connected to GST and assist the GST Policy Wing in the Board on all matters related to GST. It will also handle the transitional issues arising out of the metamorphosis of Service Tax Directorate into GST Directorate.

Hon. Finance Minister have stated in the meeting of Chief Commissioners of Central Excise & Service Tax "The Central Board of Excise and Customs should be in readiness to implement GST by having model draft laws and IT preparedness. The three legislations - Central GST (CGST), State GST (SGST) and integrated GST (iGST) - will be moved for passage in Parliament after Constitutional Amendment Bill on GST becomes an Act."

He put a premium on training of officers, capacity building and interaction with state governments for effective implementation of GST.

The government is eyeing GST rollout from April 2016.

"It (GST) is going to be extremely friendly to the economy and businesses. It has the capacity to widen the base and reduce the level of harassment. It has the capacity to add to the country's GDP," he added.

On the rollout preparedness, Revenue Secretary Shaktikanta Das said the exact structure and rate would be finalised by the GST Council.

Even Industry is eagerly waiting for simplified Tax regime.

No sooner, 122nd Constitutional Amendment Bill 2014 is passed in Joint House which is to be scheduled in Sept 2015 then minimum 15 State Govt. have to approve the said bill. Thereafter there will be no difficulty of implementation of GST w.e.f. 1st April 2016.

Let sense of all political parties prevail for overall growth of industry and improve the GDP by min 2%.



# What's New...!!

## CUSTOMS

### Notifications

#### Tariff:

- Exemption on Goods which are required for the Revised National Tuberculosis Control Programme funded by the Global Fund to fight AIDS, Tuberculosis and Malaria has been extended upto 31st March 2016. Following goods will also be exempted being added in the notification no. 49/2013 dtd. 29/11/2013.

- o Inj. Streptomycin - 750mg (PC-5)
- o Cap Rifampicin - 150mg(PC-6)
- o Cap Rifabutin - 150mg(PC-33)

**[Notification No. 41/2015-Cus dated 30th July -2015]**

- Chief Executive Officer is authorized to sign the certificate required as per notification to avail the

exemption for specified goods imported by Defence and internal security forces as listed in notification No. 39/96-Customs, dated the 23/07/1996. **[Notification No. 42/2015-Cus dated 30th July -2015]**

- The exemption to import Capital goods and spares thereof, raw materials, parts, material handling equipment and consumables, for repairs of ocean-going vessels by a ship repair unit is extended even to unregistered units with Director General of Shipping, Government of India. **[Notification No. 43/2015-Cus dated 4th August-2015]**

- Import Duty will be levied on Wheat at 10%w.e.f 1st April 2016 as compared to 'Nil' earlier. **[Notification No. 44/2015-Cus dated 7th August -2015]**

- Customs Duty on various form of Stainless Steel is now revised as follows -

Sr.No. (1)	Chapter or heading or Sub-heading or Tariff item (2)	Description of Goods (3)	Standard Rate (4)	Additional Duty Rate (5)	Condition No. (6)
"329A	72	All goods other than goods mentioned against serial number 333B	10%	-	-
330	72 (except 7202 60 00, 7208, 7209, 7210, 7211, 7212, 7225, 3090, 7225 4019, 7225, 50 or 7225, 9900)	All goods other than the following:- (i) goods mentioned against serial numbers 331, 332, 333, 333A, 333B and 334; (ii) seconds & defectives of goods falling under Chapter 72	5%	-	-
333A	7206, 7207, 7213, 7214, 7215, 7216, 7217, 7221, 7222, 7223, 7225 (except 7225 11 00, 7225 3090, 7225 4019, 7225 50 or 7225 9900), 7226 (except 7226 11 00), 7227 or 7228	All goods	10%	-	-
333B	7208, 7209, 7210, 7211, 7212, 7225 3090, 7225 4019, 7225 50 or 7225 9900	All goods	12.5%	-	-
334	7219, 7220	All goods other than seconds and defectives	7.5%	-	-

**[Notification No. 45/2015-Cus dated 12th August-2015]**

**Non-Tariff**

**2015-Cus(NT) dated 11th August- 2015]**

- Umroli port in Maharashtra has been recognized as Customs port for the purpose of Loading of Bauxite ore for export. **[Notification No. 74/**
- Tariff Value of Imported goods have been further amended as given below

Sl. No.	Chapter heading	Description of goods	Tariff value US \$ (Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	593
2	1511 90 10	RBD Palm Oil	624
3	1511 90 90	Others - Palm Oil	609
4	1511 10 00	Crude Palmolein	626
5	1511 90 20	RBD Palmolein	629
6	1511 90 90	Others - Palmolein	628
7	1507 10 00	Crude Soya bean Oil	700
8	7404 00 22	Brass Scrap (all grades)	3336
9	1207 91 00	Poppy seeds	2188

S.No.	Chapter heading	Description of goods	Tariff value (US \$)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	363 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	499 per kilogram

Sl. No.	Chapter heading	Description of goods	Tariff value (US \$) (US \$ Per Metric Tons )
1	080280	Areca nuts	2452

**[Notification No. 75/2015-Cus(NT) dated 14th August- 2015]**

- Following declarations will have to be furnished w.e.f. 18th August 2015 under Customs Baggage Declaration Regulations, 2013 -
  - o Declaration of holding Indian Currency to be made if the amount exceed Rs.25,000/- as compared to earlier Rs. 10,000/- .
  - o Declaration of carrying any Flat Panel (LCD/ LED/Plasma) Television to be made under baggage at the time of landing.
  - o Customs Duty free allowance for has been raised to Rs.45,000/- from Rs.35,000/- were the goods are originating from countries other than Other than Nepal, Bhutan, Myanmar, China.
- o Under duty free allowance, passengers can now bring only 100 Cigarettes or 25 Cigars or 125gm of tobacco as compared to earlier of 200 Cigarettes or 50 Cigars or 250gm of tobacco.

**[Notification No. 76/2015-Cus(NT) dated 18th August- 2015]**

- Adjudicating authorities have been nominated for specific show cause notices.

**[Notification No. 77/2015-Cus(NT) dated 18th August- 2015]**

**[Notification No. 78/2015-Cus(NT) dated 18th August- 2015]**

**[Notification No. 79/2015-Cus(NT) dated 18th August- 2015]**

**[Notification No. 80/2015-Cus(NT) dated 18th August- 2015]**

### **Anti-Dumping Duty:**

- Anti-Dumping duty is re-imposed on Compact Fluorescent Lamps (CFL) in all forms & conditions, originating in, or exported from China PR, Sri Lanka and Vietnam. It shall remain in force from 28th July 2015 to 28th July 2020, unless revoked earlier.

**[Notification No. 34/2015-Customs (ADD) dated 28th-July -2015]**

- Anti-Dumping duty on all imports of Ceramic Glazed tiles & vitrified tiles imported from China, which was subjected to provisional assessment has been finalized & imposed for new imports w.e.f 31st July 2015. For this purpose notification No 109/2011-Cus dated 15/12/2011 is rescinded.

**[Notification No. 35/2015-Customs (ADD) dated 31st - July -2015]**

**[Notification No. 36/2015-Customs (ADD) dated 31st-July -2015]**

- Anti- Dumping Duty on "Viscose Staple Fibre excluding Bamboo Fibre" originating in, or exported from, the People's Republic of China and Indonesia, has been extended for one year i.e. upto and inclusive of the 25th July 2016, unless revoked earlier.

**[Notification No. 37/2015-Customs (ADD) dated 6th August -2015]**

- Anti-Dumping Duty was re-imposed on " Vitamin C" originating in, or exported from, the People's Republic of China and shall remain in force from 06th August 2015 up to and inclusive of 5th August 2020, unless revoked earlier. **[Notification No. 38/2015-Customs (ADD) dated 6th August -2015]**
- Anti-dumping duty has re-imposed on imports of Flax or Linen Fabric having flax content of more than 50%, originating in or exported from the People's Republic of China and Hong Kong and shall remain in force from 12th August 2015 up to and inclusive of 11th August 2020, unless revoked earlier. **[Notification No. 39/2015-**

**Customs (ADD) dated 12th August -2015]**

- Anti-dumping duty has been re-imposed on Potassium Carbonate, originating in or exported from Korea RP and Taiwan and shall remain in force from 12th August 2015 up to and inclusive of 11th August 2020, unless revoked earlier. **[Notification No. 40/2015-Customs (ADD) dated 12th August -2015]**
- Anti-dumping duty was imposed on 'Diketopyrrolo Pyrrole Pigment Red 254 (DPP Red 254)' originating in, or exported from the People's Republic of China and Switzerland and shall remain in force from 17th August 2015 up to and inclusive of 16th August 2020, unless revoked earlier. **[Notification No. 41/2015-Customs (ADD) dated 17th August-2015]**
- Anti-dumping duty was re-imposed on 'Caustic Soda' originating in, or exported from the People's Republic of China and Korea RP and shall remain in force from 18th August 2015 up to and inclusive of 17th August 2020, unless revoked earlier. **[Notification No. 42/2015-Customs (ADD) dated 18th August-2015]**
- Anti-dumping duty on PVC Flex Films originating in, or exported from, the People's Republic of China has been extended upto 29th July 2016. **[Notification No. 43/2015-Customs (ADD) dated 18th August-2015]**
- No Anti-dumping on imports of Flexible Slabstock Polyol originating in, or exported from, the People's Republic of China, Republic of Korea, Chinese Taipei and Brazil. **[Notification No. 44/2015-Customs (ADD) dated 18th August-2015]**
- Anti-dumping duty has been re-imposed on Phosphoric Acid of all grades and all concentration (excluding Agriculture or Fertilizer grade) originating in or exported from Korea RP and shall remain in force from 24th August 2015 up to 23rd August 2020, unless revoked earlier. **[Notification No. 45/2015-Customs (ADD) dated 24th August-2015]**

### **Circulars:**

- No Circulars

### **Instructions:**

- No New Instructions

## CENTRAL EXCISE:

### Notifications:

#### Tariff:

- Exemption to Anti-Tuberculosis Drugs, Diagnostics and Equipment's from whole of Excise duty has been extended up to 1st Apr 2016 . Further ,for following goods of the description specified in the Table below also be exempted;

Sl. No.	Category	Description of goods
(1)	(2)	(3)
1.	Anti Tuberculosis Drugs	(xxxvii) Inj. Streptomycin-750 mg (PC-5)
		(xxxviii) Cap Rifampicin-150 mg (PC-6)
		(xxxix) Cap Rifabutin-150 mg (PC-33)

**[Notification No. 40/2015-CE, dated 30th July 2015]**

#### Non-Tariff:

- No new notifications

#### Circulars:

- No new circulars

#### Instructions:

- Kindly visit revamped CBEC website.

#### LBT:

- No new notifications

## SERVICE TAX

### Notifications

- No New Notifications

#### Circular

- No New Circular

#### Instruction

- Department have clarified some doubt regarding penal provisions as below.
  - Show Cause Notice Need not to be issued if the Assesse waives it.
  - In case the assessee makes a written request for waiver of a written SCN, the thirty day period within which assessee has the

option to pay 15% penalty can be computed from the date of receipt of such a letter for waiver of SCN by the department.

- Conclusion of proceedings may be approved by an officer equal in rank to the officer who is competent to adjudicate such cases.

**[F.No.137/46/2015-Service Tax dated 18th August 2015]**

## FOREIGN TRADE POLICY

### Notifications:

- Export through port of Kolkata of sawn timber to Nepal made exclusively out of imported wood logs through has been permitted from the Land Customs Station (LCS) of Raxaul..

**[Notification No. 16/2015-2020 dated 28/07/2015]**

- Export of Rice Bran oil in bulk has been exempted from the prohibition on export of edible oils. Also, the quantity ceiling on export of organic edible oils has been removed.

**[Notification No. 17/2015-2020 dated 06/08/2015]**

- Export of all varieties of onions for the item description at Serial Number 51 & 52 of Chapter 7 of Schedule 2 of ITC (HS) Classification of Export & Import will be subject to a Minimum Export Price (MEP) of US\$ 700 F.O.B. per M.T.

**[Notification No. 18/2015-2020 dated 24/08/2015]**

### Public Notices:

- Exporters can file the application for Chapter 3 schemes i.e. FPS, FMS, MLFPS, VKGUY, SFIS, SHIS, IEIS and Agri Infrastructure Incentive Scheme as per previous Foreign Trade Policy 2009-2014 in other words, such application needs to be filed in earlier format & not in the form meant for MEIS/SEIS. **[Public Notice No. 29/2015-20 dated the 04/08/2015]**
- SEZ/ EOU units shall apply to concerned Development Commissioner of special economic zone for claiming benefits of MEIS or SEIS under chapter 3.
- In case of IEC holders that have units in SEZ/ EOUs as well as in DTA, such IEC holders can apply as

- \* SEZ/EOU units apply to Development Commissioner of special economic zone
- \* DTA units apply to concerned Regional Authority (RA) DGFT.
- MEIS/SEIS will be given for the specifying SEZ ports & it can be transferred to any other port subject to obtaining Telegraphic Release Advice (TRA) from concerned Development Commissioner.

**[Public Notice No. 30/2015-20 dated the 26/08/2015]**

- Activities pertaining to reprocessing of garments/ used clothing /secondary textiles materials / lipping/ rags/ industrial wipers/shoddy wool/ yarn/ blankets/ shawls and other recyclable textile materials will not be allowed under EOU schemes. However, extension of existing LOP can be applied to board of Approval & extension can be given by BOA.

**[Public Notice No. 31/2015-20 dated the 26/08/2015]**

#### **Trade Notices:**

- No New Trade Notice

## **INCOME TAX**

#### **Notification:**

- Procedure for online furnishing of 'Statement of financial transaction or reportable account' for a prescribed reporting financial institution laid-out. **[Notification No. 03/2015 dated 25th August 2015]**

## **MVAT**

#### **Trade Circular:**

- Introduction of Computerized Desk Audit (CDA) reports for period 2012-2013 by Maharashtra Government for analyzing electronic data pertaining to e-returns, audit reports, in Form e-704 and annexure uploaded by all dealers.
  - Dealer will not be required to visit the sales tax office for audit period if he agrees with the findings of CDA and pays tax as per CDA along with applicable interests.
  - The facility of CDA will not be available to LTU dealers or PSI cases or refund claiming dealers or the cases which are pending for

investigation or the cases specifically selected for comprehensive audits or assessments for the period 12-13.

- Communication of CDA findings shall be in an intimation u/s 63(7) of MVAT Act in Form 604-A.

**[Circular 12 T 2015 dated 14th August 2015]**

- Clarification regarding steps to be followed by departmental authorities while processing of registration applications submitted along with the scanned documents i.e. with regards to: -
  - verification of application,
  - visit to place of business,
  - grant of TIN,
  - Relaxation of document verification.

**[Circular 13 T 2015 dated 14th August 2015]**

## **SEZ:**

- **Amendment:** Area of existing apparel SEZ at Ahmedabad, Gujarat has been de-notified and now the area will be only 20 hectare then that of 38 hectare. **[Notification dated 16th July 2015]**

## **COMPANY LAW**

#### **Notifications:**

- Draft rules w.r.t. 'National Company Law Appellate Tribunal (Salaries, Allowances and other Terms and Conditions of Service of President & Members) Rules, 2015' are ready and circulated but the same are yet to be notified and published in Official Gazette.
- Draft rules w.r.t. 'National Company Law Appellate Tribunal (Salaries, Allowances and other Terms and Conditions of Service of Chairperson and other Members) Rules, 2015' are ready and circulated but the same are yet to be notified and published in Official Gazette.

#### **Circulars:**

- Time for filing of cost audit report to the Central Government for the Financial Year 2014-2015 in e-form CRA-4 has been extended up to 30th Sept 2015 without any penalty / late fees. **[General Circular No.12/2015 dated 1st Sept 2015]**

## **FEMA/RBI:**

- No new Notifications.

## FX Updates

USD/INR (\$)				
The USD rose to a new 2-year high at 66.76 levels in the month of August due to fears among investors of global financial turmoil and economic slowdown. Chinese policymakers could struggle further as their devaluation of the Yuan failed to correct investor sentiments. The Fed is expected to delay its rate-hike till the time global economic slowdown fears eases so the Rupee could see some appreciation in the coming month. The RBI's rate cut decision could boost investor sentiment in local equities, but the overall picture remains unsteady due to monsoon deficiency in major parts of the country.				
EUR/INR (€)				
The USD weakened to 92.62 levels against the basket of major currencies as investors expected the Fed to delay its much awaited rate-hike decision and hence the EUR enjoyed the default benefit which rose to 78.12 levels against the Rupee. Investor sentiment reached its 4-year peak, which also helped the EUR strengthen against the USD. The ECB's stimulus could further weigh on the common currency but growth figures could help the EUR appreciate in the coming month.				
GBP/INR (£)				
Investors' expectations that the BoE could delay its rate-hike to the second quarter of 2016 erased all the recent gains in the pair, which fell from 105.54 levels and was last seen trading at 101.79 levels. The British GDP grew at 0.7% in the second quarter of the current year, which helped the Sterling rebound against the USD as it helped limit fund outflows. Increased business investments in the British economy could help power the Pound against the Rupee.				
JPY/INR (¥)				
The fears of global economy recession triggered by the slowdown in the Chinese economy and falling commodity prices amid lowered risk appetite helped the Yen appreciate against the USD. The delay in the Fed-rate hike and lowered crude oil prices could further strengthen the position of the Yen. Increased consumer spending in the Japanese economy could add pressure on policymakers for further monetary easing.				
Tenure	USD/INR	EUR/INR	GBP/INR	JPY/INR
Current Levels (30/07/2015)	66.14	73.93	101.79	0.5433
1 Week	65.75-66.40	73.45-74.30	101.55-102.30	0.5410-5470
2 Weeks	65.15.-66.20	72.85-74.95	101.05-102.85	0.5360-5490
4 Weeks	64.75-66.75	72.52-75.15	100.50-103.25	0.5310-5520

### Key Economic Indicators

Date	Currency	Event	Forecast	Previous
31-08-2015	INR	GDP Growth Rate	7.4%	7.5%
31-08-2015	INR	Infrastructure Output	2.90%	3%
01-09-2015	GBP	Manufacturing PMI	51.9	51.9
02-09-2015	USD	ADP Non-Farm Employment Change	204K	185K
03-09-2015	EUR	ECB press Conference	-	-
10-09-2015	GBP	MPC Official Bank Rate Votes	2-0-7	1-0-8
18-09-2015	USD	FOMC Press Conference	-	-
29-09-2015	INR	RBI Interest Rate Decision	-	-

**CBEC Notified Exchange Rate of exchange of conversion of the foreign currency with effect from 4th September, 2015 [Notification No. 84/2015 (NT) Dated 4th September 2015]:**

**SCHEDULE - I**

S.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	47.30	45.90
2	Bahrain Dinar	180.85	170.90
3	Canadian Dollar	50.55	49.45
4	Danish Kroner	10.10	9.85
5	EURO	75.35	73.55
6	Hong Kong Dollar	8.65	8.50
7	Kuwait Dinar	225.70	213.25
8	New Zealand Dollar	42.75	41.60
9	Norwegian Kroner	8.15	7.90
10	Pound Sterling	102.60	100.35
11	Singapore Dollar	47.30	46.35
12	South African Rand	5.10	4.80
13	Saudi Arabian Riyal	18.20	17.20
14	Swedish Kroner	7.95	7.75
15	Swiss Franc	69.25	67.50
16	UAE Dirham	18.55	17.55
17	US Dollar	66.85	65.80

**SCHEDULE-II**

S.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Japanese Yen	55.60	54.35
2	Kenya Shilling	65.25	61.60



## SUPPLIES TO DEEMED EXPORTS – ISSUES OF VALUATION

**By CMA Ashok B. Nawal**

Contact: +91 9890165001 • Email: nawal@bizsolindia.com

Chapter 7 of Foreign Trade Policy 2015-2020 covers the Deemed Exports. Supplies by manufacturers to the following are considered as Deemed Exports:

- a. Supply of goods against Advance Authorisation/ Advance Authorisation for annual requirement/ DFIA;
- b. Supply of goods to EOU / STP / EHTP / BTP;
- c. Supply of capital goods against EPCG Authorisation;
- d. Supply of marine freight containers by 100% EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;

Such supplies are eligible for:

- a. Advance Authorisation / Advance Authorisation for annual requirement / DFIA.
- b. Deemed Export Drawback.
- c. Refund of terminal excise duty, if exemption is not available.

In other words, if supply has been made against above, those manufacturers are entitled to import duty free raw material, components, parts etc. etc. and do not pay import duty on such material. Thereby the price / transaction value is not the sole consideration of the value of goods supplied.

In view of the above:

Issue for consideration is as to whether it would constitute 'additional consideration' received by the assessee as per the definition of 'transaction value' contained in Section 4 of the Act read with Rule 6 of the Rules. We, therefore, shall reproduce the relevant portion of the provisions of Section 4 which existed at the material time, which read as under:

4. Valuation of excisable goods for purposes of charging of duty of excise:
  - (1) Where under this Act, the duty of excise is chargeable on any excisable goods with

reference to their value, then, on each removal of the goods, such value shall -

- (a) in a case where the goods are sold by the assessee, for delivery at the time and place of the removal, the assessee and the buyer of the goods are not related and the price is the sole consideration for the sale, be the transaction value.

xxxxxx

- (d) "transaction value" means the price actually paid or payable for the goods, when sold, and includes in addition to the amount charged as price, any amount that the buyer is liable to pay to, or on behalf of, the assessee, by reason of, or in connection with the sale, whether payable at the time of the sale or at any other time, including, but not limited to, any amount charged for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter; but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods."

As is clear from the reading of the aforesaid provision, the duty of excise is chargeable on the excisable goods with reference to the value of such goods. Generally, the price of the goods, i.e. the price at which such goods are ordinarily sold by the assessee to a buyer is to be the value of the goods. This value is called the 'transaction value'. The Central Government has also framed the Rules which, inter alia, lay down the provisions for determination of value. Rule 6 thereof, with which we are specifically concerned, reads as under:

"RULE 6. Where the excisable goods are sold in the circumstances specified in clause (a) of sub section (1) of section 4 of the Act except the circumstance where the price is not the sole consideration for sale, the value of such goods shall be deemed to be the

aggregate of such transaction value and the amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee.

Explanation. - For removal of doubts, it is hereby clarified that the value, apportioned as appropriate, of the following goods and services, whether supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale of such goods, to the extent that such value has not been included in the price actually paid or payable, shall be treated to be the amount of money value of additional consideration flowing directly or indirectly from the buyer to the assessee in relation to sale of the goods being valued and aggregated accordingly, namely:

- i. value of materials, components, parts and similar items relatable to such goods;
- ii. value of tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used in the production of such goods;
- iii. value of material consumed, including packaging materials, in the production of such goods;
- iv. value of engineering, development, art work, design work and plans and sketches undertaken elsewhere than in the factory of production and necessary for the production of such goods." Even when these goods are sold by the assessee at different prices to different classes of buyers (not being related persons), each such price is to be deemed to be the normal price of such goods in relation to each class of buyers. However, as per the definition of 'transaction value' contained in this very section, i.e. Section 4(3)(d), certain charges can be added to the price at which the goods are actually sold, under certain circumstances.

These include the provision for advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty commission etc. However, Rule 6 of the Rules specifies that if the goods are sold in the circumstances specified in clause (a) of sub-section (1) of Section 4, then the value of such goods shall be deemed to be the aggregate of such transaction value plus the 'amount of money value of any additional consideration flowing directly or indirectly from the buyer to the assessee'. The

implication of this Rule is that any form of additional consideration which flows from the buyer to the assessee, monetary value thereof is to be included while arriving at the transaction value. It is not necessary that such an additional consideration is to flow directly and even indirect consideration is includible.

Hon. Supreme Court have agreed with the views of Commissioner, Central Excise and which was upset by the Tribunal and not disputed by the assessee in the case of Commissioner of Central Excise, Nagpur- I Vs. M/s. Indorama Synthetics (India) Ltd.[Civil Appeal No. 1834 of 2006] that we would like to recall the following findings arrived at by the Commissioner, which are not upset by the Tribunal in the impugned decision or even disputed by the assessee:

- a. The assessee had supplied goods to a particular type of buyers at much lower price than the price charged from the general buyers in the normal course of trade as it had obtained the facility of invalidating of advance licences from such buyers and procured imported raw material (duty free) against such licences for manufacturing of finished goods. It is, therefore, alleged that the assessee and the buyers had mutuality of interest in the business of each other and there was a flow back and the price was not the sole consideration for sale in these cases in accordance with the provisions of Section 4(1)(a) of the Act.
- b. Therefore, they were related persons in terms of provisions of the erstwhile Section 4(4)(c), presently Section 4(3)(b)(iv) of the Act.
- c. It is observed that para 7.7 of the EXIM Policy on Advance Release Order speaks of mutuality of interest as the assessee had procured duty free imported raw materials against invalidation of advance licence of the consignees and in turn it sold the finished goods to the said consignees at lower prices as compared to other normal buyers. Thus, the price was not the only consideration.
- d. Once the advance licence is invalidated, the said clearance to the buyers who were earlier holding the said licences need not be treated as deemed export and rightly the assessee had cleared the said goods to such buyers on payment of excise

duty, but at lower value than the clearance made to the normal buyers. Thus, the assessee appeared to have derived double benefits in these transactions, i.e.

- a. enhanced sale and paid less duty on lower value; and
  - b. imported duty free raw materials.
- e. In this case, the right to procure duty free imported raw material is being transferred to supplier by the buyer. This indicates the flow back of additional considerations from the buyer of the said goods to the seller, which is the assessee. On the facts of this case, we are of the opinion that the Commissioner has rightly come to the conclusion with regard to the fact that additional monetary consideration, in addition to the price being paid for the goods, i.e. transfer of advance import licence in favour of the seller by the buyer enabling the seller of the goods to effect duty free import of the raw materials and bringing down the cost of production/procurement, is a consideration, the monetary value of which has to be considered under the provisions of the Rules, i.e. Rule 6 thereof.

To conclude, this judgement of Hon. Supreme Court have lot of impact in the following circumstances:

- a. Supply against CT-3 to EOU / EHTP / BTP / STP: Such EOU / EHTP / BTP / STP procures the goods duty free in accordance with notification no. 22/2003 CE Dtd. 31.03.2003 and debit in the B-17 Bond to the extent of duty forgone. The duty forgone is calculated based on the transaction value and rate of duty applicable. Supply to EOU / EHTP / BTP / STP is considered as Deemed Export and Manufacturer Supplier is entitled to obtain Advance Authorization, EPCG Authorization and avail the duty exemption. Such duty exemption will be considered as additional flow back in accordance with Rule 6 of Central Excise (Determination of Value of Excisable Goods) Rules 2000 and thereby bond amount is less debited which may unnecessarily lead to litigation even though CT-3 is issued by EOU unit and CT-3 covers only quantity and not the value but unnecessary litigations may arise.

- b. Supply against Advance Authorization / ARO: Para 7.04 of Foreign Trade Policy 2015-2020 provides benefits of Terminal Refund of Excise Duty only in the case where, there is no exemption under Central Excise. In the present case, supply is made against ARO, excise duty is payable and therefore valuation of such goods supplied against ARO will have the impact of the above decision and hence any custom duty benefit availed by such manufacturer should be considered as additional flow of consideration.
- c. Supply against DFIA : Para 7.04 of Foreign Trade Policy 2015-2020 provides benefits of Terminal Refund of Excise Duty only in the case where, there is no exemption under Central Excise. In the present case, supply is made against DFIA, excise duty is payable and therefore valuation of such goods supplied against DFIA will have the impact of the above decision and hence any custom duty benefit availed by such manufacturer should be considered as additional flow of consideration.

### **Conclusion:**

1. EOU / STPI / BTP / EHTP Unit should include in the CT-3 value of custom duty forgone by the supplier, when goods are procured from supplier who is availing the benefit of Advance Authorization / DFIA / Deemed Exports Duty Drawback and such value of CT-3 to be enhanced and supplier should include the value of duty forgone in the goods supplied to the EOU and thereafter further reduce the said amount of duty forgone and B-17 Bond to be debited on the excise duty on the value inclusive of duty forgone.
2. If goods are supplied against ARO, customs duty forgone should be added in the assessable value and thereafter duty has to be paid. However, the same can be obtained under refund from DGFT as per para 7.03 of the Foreign Trade Policy 2015-2020 or recipient can avail cenvat credit and there is no loss.
3. If goods are supplied against ARO, customs duty forgone should be added in the assessable value and thereafter duty has to be paid. However, the recipient is eligible to avail cenvat credit or can take the drawback of Excise Duty paid.



## Is the Hydra harming the Tusker?

— By Adwait V.

*"It does not do to leave a live dragon out of your calculations, if you live near him."*

— J.R.R. Tolkien (*The Hobbit*)

I must mention, at the outset, the reason why I decided to use the term Hydra to describe China. In ancient Greek mythology, a Hydra is described as a many-headed serpentine monster that grew two heads each time one was lopped-off. Well, China's situation appears no different to me. Despite valiant (but belated) efforts by the Chinese government, China's woes seems to grow double-fold each time they try taming a single problem. What we have seen in the past few weeks cannot be described as anything short of a global financial meltdown. Markets across the world have taken a beating, with Asian markets facing the music at an ear-splitting volume. Indian stock markets, free-falling to disastrous levels on what many are rightly calling Black Monday (24th August '15) saw the markets wipe out Rs. 7 Lakh Crores worth of investor wealth in a matter of hours.

A number of armchair analysts simply blame the Chinese devaluation for the state of current affairs. But one must be mindful of the fact that although the Yuan was devalued by 3%, most emerging markets and other developed markets fell by a much larger percentage. In typical knee-jerk reaction, investors started moving their money to safe-haven countries, causing a fall in demand for markets such as India and the US. That being said, the effect of the Chinese devaluation cannot be discarded as a whole, with the past month showcasing how hollow China's real economy truly is. Despite every attempt by the government, Chinese stocks continued to tumble to record lows, wiping out capital and hopes of a growing economy in China. The Chinese government was hoping to fund infrastructure projects and growth with the help of capital from the (artificially-inflated) stock market to help reduce the impact of weak global demand for their exports, with spectacularly catastrophic results. The global weakness in demand has affected not only China, but other growing economies like India too.

Markets respond with a knee-jerk reaction to news or data that is easily perceived as shocking or unexpected. The Chinese story is no exception. With the Chinese economy undergoing structural

corrections, a devaluation of the Yuan was clearly on the cards, which some experts believe was overvalued by over 25% to begin with. A slump in the manufacturing activity data out of China to a 6-year low also caused panic in the markets. Again, with global demand reducing across all verticals, it was but a matter of time before China posted such figures.

On the flip side, it is important to note that the devaluation of the Yuan could have wider ramifications for India, and some of it on the positive front. An over-valued Yuan ensured some smaller economies remained in the shadows, slowing their growth. Investments in India now look a lot more appealing to global investors with India's general policy to grow cautiously being widely appreciated at this point in time. Also, while investors flee the Chinese markets, causing distress to all emerging markets, in the longer term, investors should consider India as an interesting investment-hub, with our economy and markets both performing well under pressure.

With the sudden volatility in the Indian markets being a consequence of global factors rather than internal weaknesses, the current scenario should be seen as nothing more than an aberration, one that will see India come out stronger. Foreign reserves close to an all-time high; enough to cater to nine months of imports and falling crude oil prices softening our import footprint drastically, India's growth story looks fundamentally strong.

But with an eye on the shorter-term, where volatility continues to reign strong, immediate movements in the market remain erratic and difficult to predict. It is, therefore, important to focus on monitoring the internal factors inherent in risk management, the ones that are in our control. This is often easier said than done. But a focussed effort, with expert help, could easily eradicate a large portion of any corporate's risk to market movements.

So to summarize my answer to the aforementioned question on top, yes, the hydra could hurt the tusker, but, in the immortal words of Nietzsche 'That which does not kill us, makes us stronger'.



# Beyond the Obvious

## Central Excise

- ❖ **Addition of Deemed Export Benefit in Transaction Value in case supply against Invalidation Letter:** The resultant effect of invalidating the advance licence by the buyer was issuance of licence for intermediate supply in favour of the assessee and the said licence ensured certain benefits in favour of the assessee. In the present case, on these facts, we have to simply see as to whether the definition of 'transaction value', as contained in Section 4 of the Act read with Rule 6 of the Rules, would encompass this benefit as amounting to additional consideration. Our conclusion is that it would come within the ambit of additional consideration indirectly flowing from the buyers to the assessee. **[AIT-2015-118-SC]**
- ❖ **Time Limit for Rebate Claim:** The petitioner exported certain goods on payment of duty during September, 2011. It filed the ARE-I Forms within 48 hours from the date of clearance of the goods. The other documents were, however, admittedly, filed more than a year thereafter. The adjudicating authority rejected the claim for rebate on the ground that it was barred by limitation. The appellate authority also dismissed the claim on the same ground. The petitioner's claim for refund would be governed by rule 18 of the Central Excise Rules, 2002 read with the notification issued thereunder. The said notification does not provide any period of limitation for a claim for rebate. The rejection of the petitioner's claim for rebate, therefore, is not well founded. The impugned order dated 26.05.2014 of the Commissioner of Central Excise (Appeals) is quashed and set aside. The application for rebate shall be processed and dealt with in accordance with law on the basis that it is not barred by the period of limitation prescribed in Section 11-B the Central Excise Act, 1944 **[AIT-2015-116-HC]**
- ❖ **Encashment of BG in case of EPCG:** Bank guarantee encashed on the ground of non-fulfilment of Export obligation for a block period - Petitioner ultimately discharged export obligation and sought refund of the amount realised through encashment of bank guarantee - Refund rejected on the ground of time bar which is challenged in the Writ Petition - Held: Settled law that the bank guarantee cannot be regarded as equivalent to payment of duty and it is only furnished to safeguard the interest of the revenue in case of non fulfilment of export obligation - Impugned order is set aside - The respondent is directed to refund the amount of within one week from the date of receipt of a copy of this order - However, the petitioner is not entitled to claim the interest in the light of decision in M/s.Areva T&D India Limited's case. **[2015-TIOL-1959-HC-MAD-CUS]**
- ❖ **Exemption compulsory or optional:** Appellant manufacturing kraft paper and clearing the same on payment of duty - case of Revenue is that goods are exempt by notification 4/2006-CE as amended and hence appellant cannot pay duty and claim credit on inputs - Demand issued for recovery of credit availed and to consider duty paid/collected as u/s 11D of CEA, 1944 . Held: Issue involved is already decided by Tribunal in case of Balkrishna Paper Mills Ltd. & Others - 2015-TIOL-1100-CESTAT-MUM by holding that appellant cannot be forced to avail Nil rate of duty as they have option to pay duty under sr. no. 91 & 93 of the notification - appeals are allowed. **[2015-TIOL-1789-CESTAT-MUM]**
- ❖ **Blending of Scrap amounts to manufacture:** Applicant proposes to process various grades of stainless steel scrap ("metal scrap") to produce

produce "blended metal scrap". Blended metal scrap is required by the stainless steel manufacturers as a raw material for its manufacturing activity i.e. for manufacture of stainless steel products. The proposed activity would amount to manufacture. **[AIT-2015-115-AAR]**

- ❖ **Use of Brand name of another person which is eligible for SSI exemption:** No doubt, when the brand name or trade name of another person is used by an SSI unit then the SSI unit shall not be entitled to the exemption from payment of excise duty under the Notification No. 175/86. However, what is relevant is that the other unit of whose brand name or trade name is used, should be a unit which is not eligible for grant of exemption under this Notification. In the present case, M/s Vikshara Trading itself was a SSI unit which has been claiming exemption and the same was allowed by the Tribunal in ' C.C.E., Ahmedabad v. Vikshara Trading and Investment Pvt. Ltd .' and the said judgment of the Tribunal has been upheld by Supreme Court which is reported in - 2003-TIOL-97-SC-CX . Accordingly, the impugned judgment of the Tribunal is set aside and held that the appellant shall be entitled to the exemption under the aforesaid Notification. **[2015-TIOL-191-SC-CX]**
- ❖ **Duty Liability in case of goods supplied to EOU against CT-3:** Assessee cleared goods under cover of ARE-3 on strength of CT-3 certificates without payment of duty. Assessee submits that said Company issued CT-3 certificates to assessee following the procedure under Rule 20 of CER, 2002 As per Rule, 20 (3) of Rules, said company, 100% EOU admitted the receipt of goods and therefore, responsibility for payment of duty casts upon them - It is clearly evident that said Company had received goods and it was not entered in inbond register - As per Skyron Overseas 2009-TIOL-2414-CESTAT-AHM , duty liability cannot be raised on assessee who supplied the goods. **[2015-TIOL-1666-CESTAT-AHM]**
- ❖ **Re-credit of duty paid on Export of goods by EOU:** It is undisputed that appellant is an export oriented unit not required to discharge any Excise duty on the goods exported by them. It is also undisputed that appellant had debited the Cenvat account for discharge of duty liability on the goods cleared for export. The refund claim filed by the appellant was also rejected on the same grounds; the findings are not contested by both sides. If it is so, the revenue authorities holding that the amount debited by the appellant on goods cleared for export is without any authority of law. Natural corollary would be the amount should be returned back to appellant, as revenue authorities can collect tax/duty only by authority of law. In the case in hand, from the records, it transpires that appellant though having filed refund claim, subsequently withdrew the same, with a request to lower authorities, seeking permission to recredit the amount in their Cenvat account; this legitimate request of the appellant is also dismissed by the lower authorities. In my view, the lower authorities have erred in passing the order of rejecting the request of re-credit of the amount paid by the appellant and not due to the government. To me, the impugned order is not in consonance with the law settled by the higher judicial forums, holding that duty collected without authority of law cannot be retained by the government. **[2015-TIOL-1814-CESTAT-MUM]**
- ❖ **Corroborative evidences required to prove clandestine removal :** There has to be an illicit manufacture of goods to indulge in clandestine removals for which extra raw material, extra manpower, transportation of finished goods, cash payments etc. are required to be established with a reasonable degree. In the absence of any corroboration, case of clandestine removal cannot be held as established on the basis of few parallel invoices recovered from a third party. **[2015-TIOL-1659-CESTAT-AHM]**
- ❖ **Time limit for utilization of Cenvat Credit:** Issue is whether the Cenvat Credit lying unutilized as on 22.07.1996 when the Vanaspati Oil was exempted from duty can be utilized for the payment of duty on Vanaspati Oil in the month of May 2004 when the duty was introduced -

Calcutta High Court has in Rasoi Ltd. while allowing the petition has held that the petitioner is entitled to invoke such vested right and SLP filed by Revenue was dismissed by apex court - also in the case of Agarwal Industries the Tribunal has held that the accumulated credit would not lapse - appellant has correctly utilized CENVAT credit lying unutilized as on 22.07.1996 - appeal allowed with consequential relief. **[2015-TIOL-1647-CESTAT-DEL]**

## Income Tax

- ❖ **Interest on Advance Tax:** Under the provisions of Section 234B, the moment an assessee who is liable to pay advance tax has failed to pay such tax or where the advance tax paid by such an assessee is less than 90 per cent of the assessed tax, the assessee becomes liable to pay simple interest at the rate of one per cent for every month or part of the month. Levy of such interest is automatic when the conditions of Section 234B are met. **[AIT-2015-112-SC]**
- ❖ **Gross Profit Ratio when books of accounts are not maintained:** Where books of accounts are not maintained by the assessee, AO can not apply GP rate based on his personal knowledge of previous returns and local knowledge about trade. **[2015-TIOL-1826-HC-P&H-IT]**
- ❖ **Laying of marble floor revenue expenditure or capital in nature:** The expenditure incurred on laying marble flooring in hotel business is allowable as revenue expenditure **[2015-TIOL-1825-HC-DEL-IT]**
- ❖ **Review petition:** The review is permissible only when there is new and important evidence not available at the time of earlier proceedings or in case there is some glaring error/mistake apparent on the face of the record. Therefore no review petition rearguing the appeal is permissible in other circumstances. **[2015-TIOL-1824-HC-MUM-IT]**
- ❖ **Expenditure to maintain capital assets:** When expenditures were incurred only to replace certain parts of boiler/BWE and overhauling of the parts in boiler and is only to preserve and maintain the existing assets i.e. boiler/BWE and there is no enduring advantage obtained on replacement of such parts of existing assets, the same cannot be considered as capital expenditure **[2015-TIOL-1246-ITAT-MAD]**
- ❖ **Bad debts written off:** The order of Supreme Court in the case of TRF Ltd. V/s CIT - 2010-TIOL-15-SC-IT, Apex Court has held that for a claim of bad debt, the assessee has to only establish that debt has been written off and it was not necessary to establish that debt has become irrecoverable. Admittedly, the debt has been written off as noted in the assessment order itself and the loan was given in ordinary course of regular business activities of the assessee. Therefore, as per the Supreme Court decision, the action of writing off of debt was sufficient to claim the loss. In the judgments relied upon by A.R., the Supreme Court had remitted back the claim of bad debt to A.O. as in that case, the facts of writing off of debt was not examined by A.O. However, in the present case, the debt has actually been written off therefore, relying upon the ratio of judgment of Supreme Court, the claim of assessee in respect of bad debt written off is allowable. **[2015-TIOL-1240-ITAT-DEL]**
- ❖ **Condonation of Delay - Income Tax:** The application for condonation of delay, be allowed when assessee being lay man relied on tax consultant who did not file appeals in time on the ground that assessee is actually prohibited by sufficient reasons for not presenting the appeal. **[2015-TIOL-1236-ITAT-AHM]**
- ❖ **Differential amount received on cancellation of flats is capital gain:** The Assessee intended to purchase flats from Topworth Properties Pvt. Ltd. (TPPL) and for that purpose the Assessee paid TPPL Rs.1.60 crores. Since TPPL was unable to deliver the flats on time, the Assessee cancelled the booking. The Assessee received back a sum of Rs. 2.10 crores from TPPL and offered to tax the differential sum of Rs.50 lakhs as capital gains. The AO by the order dated 24th December 2009 treated the entire sum of Rs. 2.10 crores as business income in the hands of

the Assessee. He also treated the sum of Rs. 50 lakhs as capital gains. Before the high court, it was sought to be urged on behalf of the Revenue that the aforementioned sum of Rs. 50 lakhs should in fact have been treated as business income. The stand of the Revenue as reflected in the order of the AO was to treat the said sum of Rs. 50 lakhs as capital gains. The Court declines to permit the Revenue to change its stand. **[2015-TIOL-1789-HC-DEL-IT]**

## Customs

- ❖ **Conversion of export scheme in Shipping Bill:** Section 149 of the Customs Act read with Circular No. 4/2004 dated 16.10.04, clearly envisages amendment to be considered between one scheme to another scheme where the documentary evidence was in existence before the export. In the present case, ARE-1 clearly shows that the goods were exported under Advance License Scheme, which is counter signed by the proper officer of Customs, who allowed the let export and mentioned the shipping bill number in Part B of ARE1 - On identical issue the Tribunal in Final Order No. 40864/2014 dated 10.09.2014 already allowed the amendment of the shipping bills - appellants are eligible for conversion of all the nine shipping bills from DEPB scheme to Advance License Scheme. **[2015-TIOL-1645-CESTAT-MAD]**

## Service Tax

- ❖ **Service tax on works contract:** Service tax cannot be levied on indivisible Works Contract prior to 1st June 2007. **[AIT-2015-113-SC]**
- ❖ **Penalty under Service tax:** SCN was issued on 22.06.2006 and period of demand is 01.07.2003 to 31.03.2005 and thus entire period is beyond normal period of one year - When extended period is not invocable, and entire ST was paid before issuance of SCN, assessee is entitled to benefit of Section 73(3) of Finance Act, 1994 - In terms of which even SCN was not required to be issued in which case question of imposing penalty would simply not arise - Impugned order set aside and appeal allowed. **[2015-TIOL-1670-CESTAT-DEL]**
- ❖ **Factor deciding starting of Commercial**

**Production:** It is only on the date on which the commissioning process has been completed that the plant is in a position to produce the goods of the desired quality and as per its installed capacity and when some production has been made, that plant can be said to have commenced commercial production, as it is at that stage only that the plant is in a position to start commercial production. **[2015-TIOL-1669-CESTAT-DEL]**

- ❖ **Cenvat Credit:** Vehicle Maintenance service, Group Health Insurance Service, Garden Maintenance service and Entertainment service are services clearly covered under the definition of Input Service as they have nexus with the production activity of the appellant's factory - Credit admissible. **[2015-TIOL-1668-CESTAT-MUM]**
- ❖ **Cenvat Credit on the Invoices addressed to unregistered office:** Eligibility to avail Cenvat Credit on strength of invoices/bills issued to assessee's Delhi office which is unregistered with Service Tax Department - No allegation that input services were not received/utilized by assessee - No dispute that such input services were not properly accounted - In absence of any such dispute regarding availment of services and their utilization for payment of ST or proper accounting of same, denial of Cenvat Credit of ST paid by Nainital office of assessee on sole ground that invoices issued are in name of assessee's unregistered office at Delhi is unjustified - Defect in invoices are only procedural lapse or rather a curable defect - Impugned order to extent of disallowance of Cenvat Credit is set aside - Penalty of Rs.10,000/- imposed under section 77 of FA, 1994 is also set aside. **[2015-TIOL-1629-CESTAT-DEL]**
- ❖ **Waiver of Penalty under Service Tax:** Consultant pocketing money meant for payment towards ST liability - FIR proceedings initiated against Consultant by the department, which clearly shows that it is not the appellant who has committed an offence of non-payment of service tax, it is the consultant, who has defrauded them, therefore, there is reasonable cause for waiver of penalty imposed u/s 77 & 78 of FA, 1994 in terms of s.80 of FA, 1994 - Revenue appeal dismissed. **[2015-TIOL-1650-CESTAT-MUM]**



- ❖ NRI deposits raise India's external debt by 6.6%.
- ❖ Definitive Anti-Dumping duty on Phosphoric Acid imposed for five years.
- ❖ India, Germany agree to amend DTAA; enhance exchange of information.
- ❖ Ministry of Tourism to give Rs 600 Crore for Tourism Development in Bihar.
- ❖ Govt selects 184 districts for equitable healthcare facilities: PM
- ❖ FM launches CBEC's New Website
- ❖ Govt not happy with growth in service tax collections; Revenue Secretary calls for above 20% growth
- ❖ Revenue Secretary asks CCs + DGs to improve taxpayers' services
- ❖ India, UAE set up forum to assess business opportunities for investment
- ❖ India, Seychelles formally sign Tax Information Exchange Agreement today along with pacts in defence areas
- ❖ Union Cabinet extends tenure of 7th Pay Commission upto Dec 31, 2015
- ❖ Cabinet okays amendments in Arbitration & Conciliation Bill
- ❖ Govt aware of FTAs and dumping hurting Indian rubber and steel sectors: Minister
- ❖ Law Commission submits Report on Draft Model Investment Treaty
- ❖ Law Commission for amendments in Bribery of Foreign Public Officials Bill
- ❖ Govt to make declaration of Eco Sensitive Zones to end Confusion: Javadekar
- ❖ PM directs agencies to expedite power and mobile connectivity to all unconnected villages in 1000 days
- ❖ Asian stocks hit three-year low; Panic selling continues; Chinese stocks further sink.
- ❖ Mayhem at BSE - Sensex crashes 1200 points + Investors lose over Rs 3 lakh crore
- ❖ M&A to increase by 20% in current fiscal; CCI to enable e-filing of papers from Oct 1: Ashok Chawla
- ❖ Govt formulates policy to e-market handloom products
- ❖ Govt to introduce Aadhaar-based Digital Life Certification for Pensioners
- ❖ Union Cabinet okays Revised Air Services pact with Seychelles
- ❖ Cabinet okays MoU with Australia in fields of education
- ❖ Portal launched for Students Seeking Education Loans
- ❖ Atal Pension Yojana amended to expand scope of scheme
- ❖ Validity of AEO Programme extended to five years
- ❖ PM unfolds Rs 1.25 lakh crore development package as poll-inducement for Bihar

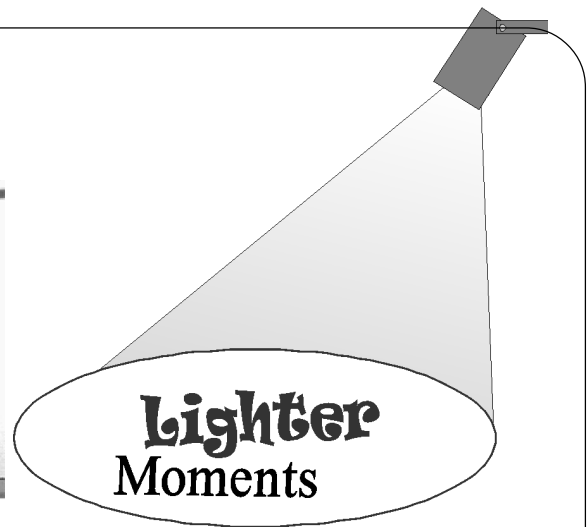


- ❖ Kolkata Airport Customs seizes 4 kg unclaimed gold worth Rs 1.1 Crore + also seizes gold worth Rs 81.6 lakhs from a Nepalese pax
- ❖ CBEC issues Addl Charge order for seven Chief Commissioners of Customs & Central Excise
- ❖ Karnal Singh, IPS of 1984 batch, gets addl charge of Director, Enforcement Directorate
- ❖ For CBEC, TAR becomes Taxpayers' Services Directorate; DIPR becomes its subordinate office.
- ❖ CBDT promotes two CCITs as Principal CCITs
- ❖ Monetary Limits - Lates SC decision - CBDT directs field formations to quickly file review petitions
- ❖ Two PCITs locally transferred in Ahmedabad
- ❖ Neerja Mathur takes over as Member of Joint Electricity Regulatory Commission for Goa & UTs.
- ❖ Sahar Airport Customs seizes gold worth Rs 1.82 Crore + nabs a pax with foreign currency worth Rs 25 lakh



Income tax officer gave tips to a young lady, "You should pay your income tax with smile."

The lady replied, "I have tried it thrice, but every time they insist on cash or cheque."



**Lighter Moments**



**The DEBIT - CREDIT rule**

Debit	Credit
Left	Right

A very successful partner in a big firm had a peculiar habit. He would go to his desk everyday, open a locked drawer, look inside, lock the drawer again, and start his work. This continued for many days.

His subordinates knew that he hid the secret of his success in the drawer, they waited for the opportunity.

Then, one day when the partner had gone out of the city, the juniors decided to make a break.

They broke into the drawer, breathlessly, and looked inside. There was one small piece of paper inside - it said - "Left is debit and right is credit."



A man joined a big Multi National Company as a trainee.

On his first day, he dialed the kitchen and shouted into the phone: "Get me a cup of coffee, quickly!"

The voice from the other side responded: "You fool; you've dialled the wrong extension! Do you know who you're talking to?"

"No" replied the trainee.

"It's the Director of the company, you idiot!"

The trainee shouted back: "And do you know who YOU are talking to, you IDIOT?"

"No!" replied the Director angrily.

"Thank God!" replied the trainee and kept the phone down.....!!!



**Breaking News**

Consultant Review, the leading publication on the consulting world in India, has listed their view of the 25 most promising risk management consultants in India in their August 2015 issue. We are pleased to announce that Bizsolindia Forex Services was among the elite 25 consultancies to be named in this list.



## **Bizsolindia Forex Services:**

### Helping make Currency and Interest-Rate Risk Manageable

**O**perations involving finance and foreign exchange (forex) transactions need close supervision and assessment. Generally, financial organizations and businesses engaged in exports and imports are prone to losses arising out of inadequate attention paid to management of treasury operations and the resultant financial decisions. By the very nature and type of risks involved in these areas that are so highly volatile and by nature unpredictable, the managements more often than not are ill prepared to deal with contingencies arising out of constantly evolving situations in currency markets. In most of the cases, the existing stereotyped processes to assess and deal with such risks are seen to be inadequate. Currency markets are unforgiving as their movements are swift and the consequences lethal. Consequently businesses require assistance from specialists to deal with these risks. Bizsolindia Forex Services Pvt. Ltd. (Bizsolfx) evolved out of this need felt by businesses to find a value for money consulting company which is capable of managing all risks involved in their international operations. Headquartered in Pune, Maharashtra, Bizsolfx was founded in 2013 to offer currency and interest-rate risk management consultancy services to corporates of all sizes. Bizsolfx is a group company of Bizsolindia Services Pvt. Ltd., which provides end-to-end solutions to corporate with respect to all matters concerning international trade among other services.

#### **Vision to Deliver Quality at Its Best**

Adwait Venkitachalam, Director who heads the operations of the company, brings his passion to this aspect of business. He brings his rich experience in the area of treasury operations to bear while dealing with the complex situations when dealing with clients' issues. "Having worked in the treasury function in one of the largest banks in India, it struck me that clients, more often than not, were ignorant about the risks involved in the areas of forex and their costs and consequences. It was seen that they were not aware of the opportunities available in hedging

these risks and the savings-potential by covering those risks," Adwait explains. As a result, the company offers tailor-made solutions to manage the risks involved in terms of a company's operations related to forex.

Like any other start-up the challenges faced by Bizsolfx were also formidable in the initial stages, primarily because of the nature of services offered by the company. For the company it was not a case of catering to a market, many a time. It was all about creating a market and servicing it. In the initial stages for the young company and its young professionals the priority was to sell the concept of covering currency risks, a field that was given little or no importance in the scheme of things in organisations. This mindset is discernible even today in the corporates. It however overcame this challenge by offering a qualitatively well differentiated product to its clients in a way that it became a benchmark to be followed by all the other players in the industry. The quality-oriented approach followed by Bizsolfx has enabled it to gain an ever-growing list of clients who continue to retain their faith in the company ever since their first association. The company has to provide advisory services to clients based on constantly evolving changes in international markets and timely advice to the clients. Time is of the essence here. Detailing the company's accomplishments, Adwait says, "We are extremely proud that we have consistently managed to help every one of our clients reduce over 90 percent of their fx-risk and leakages from the exchange-rate gap. Also, now in our third year of operations, we have managed 100 percent retention of our growing customer-base."

Since its inception, the organization has delivered great value to the companies that have an exposure to forex risks. This consulting company manages everything from providing information on live currency rates, market updates to managing the forex risks and even dealing with the banks on their clients' behalf. Bizsolfx also formulates customized forex policies to govern the treasury activities. With its entire bouquet of services, the company aims to expand its operations to seven more cities across the country and further to international markets in the years to come.



Adwait Venkitachalam  
Director

## OUR SERVICES

**Bizsolindia provides consultancy in the following areas through associate companies and professional firms of the Directors**

<b>Bizsolindia Services Private Limited</b>	Consultancy & Audit in the area of <ul style="list-style-type: none"><li>• Strategic Management Consultancy</li><li>• Direct Taxation including Domestic and International Transfer Pricing</li><li>• Indirect Taxation(Customs, Central Excise, Service Tax, VAT/ CST, LBT)</li><li>• FEMA</li><li>• Foreign Trade Policy (Export Promotional Schemes, EPCG, Advance Authorization, DFIA, Duty Drawback, Brand Rate Fixation)</li><li>• EOU / EHTP / STP /BTP</li><li>• SEZ</li><li>• Project Consultancy (Industrial Parks, Clusters , Agro Economic Zone, Food Park, etc)</li><li>• New Business Set up in India</li><li>• Valuation including Business Valuation</li><li>• Internal Audit</li><li>• Corporate Law &amp; Procedures</li></ul>
<b>BSPL Outsourcing Pvt. Ltd.</b>	Knowledge Process Outsourcing in the area of <ul style="list-style-type: none"><li>• Indirect Taxation</li><li>• Accounts</li><li>• Inventory management</li><li>• Fixed Assets Management</li><li>• Implementation of Company Law Matters</li></ul>
<b>Bizsolindia IT Services Private Limited</b>	Specialized IT consulting and Solutions / modules along with ERP Integration and following areas <ul style="list-style-type: none"><li>• Specialized Software for EOUs and SEZs</li><li>• Expert in Application programming using Java and ERP Connectivity</li><li>• Data Migration</li><li>• Offers bucket of Add On Products for EXIM related solutions for the</li><li>• Complete industry needs</li><li>• ERP Consulting / Implementation</li></ul>
<b>Bizsolindia Forex Services Pvt. Ltd.</b>	Forex Services dealing with : <ul style="list-style-type: none"><li>• Treasury Audit</li><li>• Information Services</li><li>• Advisory Services</li><li>• Policy Consulting</li><li>• Treasury Outsourcing</li><li>• Interest Rates Advisory</li><li>• Treasury Operations Training</li><li>• Banking Advisory Services</li><li>• International Syndication</li></ul>
<b>Bizsol HR Services Private Limited</b>	Strategic Consultancy in the area of HR & Soft skills Training
<b>Bhagwati Shipping Private Limited</b>	Custom House Agent (11/578), Custom Clearance of Export and Import consignments
<b>A.B. Nawal &amp; Associates, Cost Accountants</b>	Practicing Cost Accountant, Cost Audit, Central Excise, Adjudication matters up to CESTAT, VAT Audit.
<b>Behede Joshi &amp; Associates, Chartered Accountant</b>	Practicing Chartered Accountants, Statutory Audit & Tax Audit, VAT Audit, Transfer Pricing.
<b>R. Venkitachalam, Company Secretary</b>	Practicing Company Secretary.
<b>Nawal &amp; Sonaje Associates, Cost Accountants</b>	Practicing Cost accountants, Cost Audit
<b>Bizsol Projects &amp; Infrastructure Solutions LLP</b>	Infrastructure Consultancy, Project Management Services in respect of Real Estate solution for Industrial, Residential, Trade & Commerce & Consultancy related to Finance & Investments



NIRC - Mr. Ashok Nawal, Vice-Chairman Bizsolindia addressing the participants during a seminar on 'Special Audit of Central Excise & Service Tax' organized by NIRC of ICAI at Delhi.



Mr. Venkat R. Venkitachalam, Chairman Bizsolindia & Mr. Ashok Nawal, Vice-Chairman, Bizsolindia addressing at seminar on 'Awareness session on GST' held at Bizsolhouse Nasik.



Mr. Ashok Nawal, Vice-Chairman Bizsolindia, addressing at seminar on 'Awareness session on GST' held at Bizsolhouse Nasik.



Celebrating the 60th Birthday of Mr. Ashok Nawal, Vice -Chairman Bizsolindia at Corporate office, Pune



**Bizsolindia Services Pvt. Ltd.**

CIN : U74999PN2004PTC019256  
14 -17, Suyash Commercial Mall, Above Union Bank, Baner Road,  
Baner, Pune - 411 045. Tel.: +91 20 40702000/01 Fax:+91 20 40702002.  
corporate@bizsolindia.com, www.bizsolindia.com

Nashik: +91 253 6633111, Mumbai: +91 22 30284141,  
Daman: +91 9909025831,

We welcome your valuable feedback on this issue at editor@bizsolindia.com

<b>Core Team:</b>	<b>Chief Editor:</b>	<b>Editorial Team:</b>
Ashok Nawal	Manoj Malpani	Adwait V.
Manoj Behede		Anita Patil
Monica Joshi		Amit Devdhe
Arun Sawant		Sunita Kulkarni
Pravin Arote		Harshada Patil
Preeti Kulkarni		Gaurav Shah