

# UPDATE MAY 2024

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Bizsolindia Monthly Update | Issue IX | Volume XIX | May 2024

Spotlight

## THE FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT

*THE KERALA STORY*

In This Update

What's New

Did you Miss This

#DigitalUpdates



## We Believe In

**“A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption of our work. He is the purpose of it. He is not an outsider of our business. He is part of it. We are not doing him a favour by serving him. He is doing us a favour by giving us the opportunity to do so.”**

**Mahatma Gandhi**

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## THIS MONTH FOR YOU!

Sl. No.	Law	Particular	Due Dates
1	Wages Act	Payment of salary /wages if employees < 1000	7/5/2024
2	Income Tax	Payment of TDS/TCS deducted /collected for April 24	7/5/2024
3	Wages Act	Payment of salary /wages if employees > 1000, under Payment Of Wages Ac	10/5/2024
4	GST	GSTR-7 Registered persons who deducted TDS for the month of April 24	10/5/2024
5	GST	GSTR -8 for E-Commerce Operator For The Month of April 24	10/5/2024
6	Excise	ER-1 and ER-2 returns	10/5/2024
7	GST	Filing of GSTR-1 for the month of April 24	11/5/2024
8	GST	Filing of return for the month of April 24 for the taxpayers filing GSTR-1 on quarterly basis	13/5/2024
9	GST	GSTR-5 return form that has to be filed by a non-resident foreign taxpayer	13/5/2024
10	GST	GSTR-6-ISD Return for the month of April 24	13/5/2024
11	Income Tax	Issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of March 24	15/5/2024
12	Income Tax	Quarterly statement of TCS deposited for the quarter ending March 31, 2024	15/5/2024
13	Income Tax	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes have been modified after registering in the system for the month of April, 2024	15/5/2024
14	Provident Fund	Due date to pay of the April 24 provident fund contribution of both employee and employer to be paid by the employer under ECRCum-Return	15/5/2024
15	ESIC	Due date to pay ESIC Payments for April 24	15/5/2024
16	Income Tax	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April 24 has been paid without the production of a challan	15/5/2024
17	GST	Filing of GSTR-3B for the month of April 24	20/5/2024
18	GST	Due date for filing GSTR-5/ 5A for the month of April 24	20/5/2024
19	GST	GST Payment of Tax Payers under QRMP	25/5/2024
20	Income Tax	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of April 24	30/5/2024

Sl. No.	Law	Particular	Due Dates
21	Income Tax	Submission of a statement (in Form No. 49C) by non-resident having a liaison office in India for the financial year 2023-24	30/5/2024
22	Income Tax	Issue of TCS certificates for the 4th Quarter of the Financial Year 2023-24	30/5/2024
23	MCA	Form 11 LLP Annual Return for FY 2023-24	30/5/2024
24	MCA	PAS-6 To be filed by unlisted public company for reconciliation of share capital audit report on half yearly	30/5/2024
25	Profession Tax	Monthly Professional Tax Payment Cum Return In Form IIIB	31/5/2024
26	Income Tax	Quarterly statement of TDS deposited for the quarter ending March 31, 2024	31/5/2024
27	Income Tax	Return of tax deduction from contributions paid by the trustees of an approved superannuation fund	31/5/2024
28	Income Tax	Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect for financial year 2023-24	31/5/2024
29	Income Tax	Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for calendar year 2023 by reporting financial institutions	31/5/2024
30	Income Tax	Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2023-24 and hasn't been allotted any PAN	31/5/2024
31	Income Tax	Application for allotment of PAN in case of person being managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in Rule 114(3)(v) or any person competent to act on behalf of the person referred to in Rule 114(3)(v) and who hasn't allotted any PAN	31/5/2024
32	Income Tax	Statement of donation in Form 10BD to be furnished by reporting person under section 80G(5)(iii) or section 35(1A)(i) in respect of the financial year 2023-24	31/5/2024
33	Income Tax	Certificate of donation in Form no. 10BE as referred to in section 80G(5)(ix) or section 35(1A)(ii) to the donor specifying the amount of donation received during the financial year 2023-24.	31/5/2024

<b>Sl. No.</b>	<b>Law</b>	<b>Particular</b>	<b>Due Dates</b>
34	Income Tax	Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on or before July 31, 2024)	31/5/2024
35	Income Tax	Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or section 11(1) (if the assessee is required to submit return of income on or before July 31, 2024)	31/5/2024

## FROM THE DESK OF THE CHAIRMAN



**CS Venkat R Venkitachalam**

Chairman, Bizsolindia

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One law of Economics continues to be strong and uncontested. The new truism is that the US economy decides which direction the world economy should take. The US economy continues to defy gravity causing consternation among both the old school economists and the new. But why?

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There was a time, not long ago, the English were only too happy and willing to go to any of the third world countries and pitch their tents there. Now they have come a full circle. Now they do not want to go anywhere; but they do not want anyone to come to their land either. The number of immigrants seeking asylum in Europe is on the increase. One of the biggest problems faced by a developed nation is the problem of immigration of the illegal variety. The problem facing the US is no exception. Most of the illegal immigration takes place in the US from Mexico. In a world ravaged by increasing poverty, lawlessness and climate change, the number of illegal migrations is alarmingly on the increase. After a couple false starts the UK hit on a novel idea to discourage illegal immigration – deport the illegal immigrants to a place that they would hate. Rwanda fits the bill like no other. A poor country like Rwanda also be happy to accommodate the children of a lesser God. UK also do not expect the illegal immigrants to gladly go and stay there. That would then amount them jumping from the frying pans to the fire considering the Rwanda's economic condition compared to the UK. The British government anticipated that this measure would definitely apply a break to the virtual free flow of illegal immigration into the UK. This plan to send immigrants to Rwanda for asylum processing is a complex issue with significant ethical concerns. Critics argue that it violates international agreements on refugees where asylum seekers have the right to a fair and safe hearing in the country they reach first. Sending them to Rwanda undermines this right. Rwanda's human rights record also raises serious questions about the safety and well-being of the migrants sent there. Reports of mistreatment of refugees and a history of authoritarian rule are also cause for concern. The policy aims to deter people from making dangerous journeys across the English Channel. However, critics argue that it preys on vulnerable people's desperation, and it fails to address the root causes of migration itself. Those who

argue in favour of this policy feel that it discourages people from using unsafe channels like small boats to reach the UK. They believe a stricter system is needed to handle unmanageable immigration. Some argue that it discourages those who bypass safe countries like France to claim asylum in the UK that is perceived as unfair to those who follow the rules. Proponents say the UK shouldn't be expected to shoulder this burden alone by itself. The UK Supreme Court previously ruled that the policy was unlawful, but the government passed a new law in April 2024 to bypass these concerns. The policy's legality and effectiveness remain debated. Rwanda, on the other hand appears to welcome the illegal immigrants of UK with open arms in return for the largesse they would receive from the UK for extending the favour of accepting these immigrants. I now change my earlier statement. These are not the children of a lesser God. They are the unwanted children of an unwanted God going to an unwelcome land!

We are used to people, particularly from the higher echelons of the society used to making perfunctory apologies in courts whenever they are caught red handed for some transgressions. The courts also feel that when the high and mighty of the land come to the court with folded hands contrived gestures with a tame apology should be good enough. Afterall, the courts also are to be seen as mighty as well as magnanimous. Recently in the Supreme Court this norm did undergo some palpable change. The Court was not satisfied with a routine apology with good reasons. The Court's majesty was in full view when it repeatedly refused to accept the apologies offered by Yoga Guru Baba Ram Dev and his partner in crime Acharya Balakrishna. They were hauled up before the Court for publishing patently wrong and misleading advertisements for their home grown Ayurvedic products by denigrating the Allopathic line of treatment. The clairvoyants that they are, perhaps thought that they could get away after running down the efficacy of modern medicines. They had almost gone to town with the claim that they could repair even 'broken hearts' with their home-grown medicines. Repeated apologies by them did not satisfy the judges who also did not want a routine apology only to satisfy the court on the ground that they are playing with the health of gullible public even as the government (in this case the government of Himachal Pradesh) failed to crack the whip. Justice Hima Kohli had this say "The victim is always the public. We are concerned with all those FMCG companies who are taking their consumers and clients up and down the garden path, showing them very rosy pictures about what their products can do for them. People who pay good money for these products finally end up suffering at the cost of their health. That is absolutely unacceptable." Patanjali Ayurved had claimed publicly that their medicine "Coronil"

was the ideal panacea for Covid19! In the whole world no one could claim that that there was a medicine to cure this virus. This being what it is, the apex court's action should serve as a notice to those who take people for a ride based on questionable remedies. Lo and behold. Just as I finish writing this piece, here comes the news that the Uttarakhand government has suspended the manufacturing licenses of 14 products made by Patanjali, the Yoga Guru's flagship company for repeatedly publishing misleading advertisements about their efficacy according to the government order. The judges are considering whether to press contempt charges against Ramdev or not. Justice may be delayed; but when it comes, it pours! Unfortunately for the Yoga Guru, the justice system practiced in India is heavily oriented by western thoughts.

**Donald** Trump is a busy man these days hopping from one court of law to another. As a result, he does not even have the time required to continue with his campaign for presidency, the elections for which is less than a year away. By the cases in which he is the sole or primary defendant there is likely to be not enough time to campaign. But Trump is a complete political animal. From the court itself between the proceedings, he gets attracted to the arc lights and is always ready with his one-liners to impress those who are willing to listen to him. The rest comes to him naturally. He is victim of a rigged system, and the government of the day is only too ready and willing to frame the poor man with trumped up cases and shamelessly using the system to stop him from becoming the President again for which he is the most eminently suitable person. Currently, he is embroiled on an issue involving immunity for the President for whatever acts done by him while in office. One may be excused for this kind of a preposterous proposition. The implied logic for this kind of an omnibus amnesty for a President is that he could always be trapped into one controversy or other in the absence of such a general amnesty. So goes Trump's argument. With this amnesty in place an American President can afford to take bold decisions without the fear of being dragged into criminal offences, especially after he demits office. He and his lawyers have borrowed this concept from the proceedings against Richard Nixon when the latter was charged with tampering with the evidence in the Watergate scandal way back in 1972. Nixon, a former President, was accused of attempting to conceal his involvement in a break-in at the Democratic National Committee headquarters located in the Watergate Office Building in Washington. According to Trump's lawyers a President can be hauled up in courts of law only if he impeached first after finding him guilty. In the bargain a legal process is made subservient to a political process. It means that for a criminal act the Senate has to hold the Presi-

dent guilty and pronounce a sentence. Otherwise, he need not worry. During the hearing in this case the counsel for Trump admitted that a President can get away with murder - literally. This means that a US President can get away with murder if he orders one, while him being the President! Sometime somethings can sound stranger than fiction, almost bizarre. That is democracy in action as practiced by an autocratic President like Donald Trump! The Supreme Court is expected to deliver a verdict any time now. With a committed judiciary firmly in place in the US Supreme Court, Trump's followers need not bother about dispensation of justice impartially without fear or favour. Such niceties are for the third world countries!

**One** law of Economics continues to be strong and uncontested. The new truism is that the US economy decides which direction the world economy should take. Ruchir Sharma, the noted economist, feels that the much awaited “soft landing” of the US economy is not about to happen so soon. He, like most other economists feel that it may now be a case of “no landing”. The US economy continues to defy gravity causing consternation among both the old school economists and the new. But why? According to Ruchir Sharma “perhaps the most overlooked explanation for American resilience is that, far more than other developed countries, the US kept stimulating its economy well after the recession of 2020 was over. By some estimates, fiscal stimulus accounted for more than a third of US growth in 2023. Without it, the US would not look like such a marvel compared with other developed economies”. Ruchir Sharma also feels that “As long as interest rates remain higher for longer, the US will be asking for worse trouble if it keeps running deficits close to 6 per cent of GDP; that is twice the pre-pandemic average for the US and six times the median for western Europe. The US cannot sustain such aggressive stimulus indefinitely, and government spending is already slowing”. It is like keeping the US economy on steroids unmindful of consequences. However, according to Jamie Dimon, CEO of JP Morgan one should be worried about the possibility of stagflation. Dimon feels that he is “still hopeful for the US economy to experience a soft landing, where growth slows but the economy avoids a recession even if inflation remains a little high, but he's not certain that is the most likely outcome”. Inflation has been stubbornly elevated so far this year and a report showing growth slowed in the first three months of this year fanned fears of stagflation which occurs when the economy is weak or in recession, yet prices keep moving higher. Stagflation last occurred in the 1970s, when conditions were far worse than today. In 1975, for example, inflation topped 10 per cent while the unemployment rate peaked at 9 per cent. We all seem to be living in extraordinary times whether the famed economists agree or not. In the 1970s, the U.S. experi-

enced stagflation, which was its worst economic performance since the Great Depression. Stagflation was caused by a number of factors, including Federal budget deficits, high unemployment, rising oil prices, and debt accumulation. As of August 2022, the U.S. inflation rate was 8.3%, which is higher than the central bank's target of 2%. However, unlike in the 1970s unemployment remains low.

**Here** is a book recommendation for you. It was with a lot of foreboding and little expectation that I picked up the book “Chip Wars: The Fight for the World’s Most Critical Technology” authored by Chris Miller, an economic historian. When I started the book, it fully justified my initial apprehensions. In the beginning the book meandered through the troubled waters of the Taiwan straits with little to look forward to. Soon, it changed course justifying the author’s take on the journey of semiconductors: “The spread of semiconductors was enabled as much by clever manufacturing techniques as academic physics. Universities like MIT and Stanford played a crucial role in developing knowledge about semiconductors, but the chip industry only took off because graduates of these institutions spent years tweaking production processes to make mass manufacturing possible. It was engineering and intuition, as much as scientific theorising, that turned a Bell Labs patent into a world-changing industry.” Chris Miller, the author of the book, is an Assistant Professor of International History at the Fletcher School of Law and Diplomacy at Tufts University. In this book he takes us through the checkered history of semiconductors. This book, according to the author, is “an epic account of the decades-long battle to control the world’s most critical resource—microchip technology”. Please permit me to quote once more from the book what has now become a truism - Moore’s Law - it states that the number of components on a single chip doubles every two years at minimal cost. While not actual science, it was an observation and extrapolation that has held steady since 1965. This book traces the amazing story of Taiwan’s extraordinary ascent - how one company – with a vision and with government financial support – can remake an entire industry. This book, among many other things, also traces the antecedents of three of the greatest innovators in the area of semiconductors, viz., Morris Chang, Gordon Moore and Bob Noyce. The book rightly concludes with this quote: “The chips they invented and the industry they built provide the hidden circuitry that has structured our history and will shape our future”. This book is an informative and engaging read on the critical topic of semiconductor chips. The book highlights how semiconductors have become fundamental to modern life and national security - they are everywhere from our phones to weapons systems. The geopolitics involved in this area between the US on the one hand and China on the other. The Chip is the

new oil – of power. Simply put, the book is eminently readable like a non-fiction thriller. This makes the complex topic of Chips and Semi-Conductors accessible to a wider audience. When I finished the book, I got the distinct feeling that not reading the book would have made me an ignoramus though reading it does not make me an expert on Chips. When I completed, I definitely felt more enlightened, but not necessarily more knowledgeable on the complicated subject of chips and semiconductors. A remarkable book all the same.

I came across a talk show in which Mr Anil Swarup, the former Coal Secretary was discussing the coal situation in this country and how he had dealt with the issue when he was in government. A lot of credit had been given to him for having put this scam tainted public sector company back into commercial reckoning. I listened to what he had to say as I hold shares in Coal India. Over a period of time, particularly in recent times, I have seen the share prices of the company moving upwards. That normally does not happen in government owned companies, even if the companies make handsome profits. When the company makes profits, the Government would be the first in the queue to claim the dividends that the company must pay thereby making this almost like a tax on the company, because it is a government company and these dividends are required by the government to balance its budgets. He talked about the problems involved in increasing production in the coal mines. This process is a function of identifying the land, environmental forest clearances and evacuation of the population in at these collieries. He also gave in graphic detail the efforts of managers of the company going to nearby schools and find places where toilets could be dug - a public service initiative by a public limited company! Never mind the paradox of the coal mining company digging shitholes! He cheekily compared this situation to the Tata Steel's famous tagline – “We also make Steel.” Anil Swarup's adaptation of the tagline being “Coal India digs shitholes; but it also produces coal”. I realised that these bureaucrats can also have a sense of humour. By the time Swarup completed his interview he had one more observation to make that I also share. He was full of praise for Arun Jaitley who was the finance minister then and yet took the trouble of coordinating with other ministries including coal to get the government's job done. I was reminded of my own two-bit in these very columns. Jaitley was the best Prime Minister, India never had!

**Thank you.**

**Venkat R Venkitachalam**

# THE FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT

## THE KERALA STORY



**CS Venkat R Venkitachalam**

Chairman, Bizsolindia

**T**he Fiscal Responsibility and Budget Management Act (FRBM Act) of 2003 is an Act of the Indian Parliament that aims to improve the management of public funds, reduce the fiscal deficits, and strengthen fiscal prudence. Mr. Yashwant Sinha, the then Finance Minister of India introduced the Act in Parliament. The Act carried with it a bouquet of laudable objectives that over a period of time seem to have diminished its lustre. We will be running ahead of the story if we decide to sit on judgment on the efficacy of the Act before even understanding the nuances associated with the Act itself especially since the objectives of the Act and the time it came to be implemented are taken into consideration. When the FRBM Act was brought in by the Government, the memory of an Indian Government pledging the country's family silver abroad was still fresh in the minds of India and Indians. Before we go further, it is necessary for us to dwell on the noble objectives of the Act and also the benefits expected from the Act. It is not every day that a group of politicians get together and take a solemn pledge to put voluntarily restrictions on themselves. It is, therefore, necessary to first understand the FRBM Act that was enacted to ensure long term macroeconomic stability in a country with a federal structure of governance and intergenerational equity in fiscal management.

**The** objectives of the Act, inter alia, included a) eliminating the endemic practice of driving up revenue deficits while preparing the annual financial budgets of the country; b) reducing the practice of running fiscal deficits unmindful of their consequences to the country's fiscal health; c) it was also expected to transit from a highly secretive budget preparation exercise to a transparent fiscal management system based on sound rationale and financial logic; d) the Act sought to introduce

a more equitable distribution of India's unbridled debt over time by focusing on introducing transparent systems to ensure long term stability; and e) one of the key objectives of the new Act was to arm the country's Central Bank the much-needed flexibility to rein in the scourge of inflation. The FRBM Act also made it mandatory for the government to place the following along with the Budget documents to the Parliament on annual basis, viz., a) Medium Term Policy Statement, b) Macroeconomic Framework Statement and c) Fiscal Policy Strategy Statement. These statements were intended to focus on the state of financial health of the economy and also to ensure how the government of the day has performed on the given parameters as contained in the FRBM Act. Additionally, it was also proposed that revenue deficit, fiscal deficit, tax revenue and the total outstanding liabilities are projected as a percentage of Gross Domestic Product (GDP) in the medium-term fiscal policy statement. The targeted goals as contained in the Act, however, could be exceeded by the government of the day in exceptional circumstances involving national security, natural calamities, etc.

**Setting** stringent targets and goals in an economy under the normal circumstances is one thing; adhering to the same set of standards in a difficult year could be another matter. The Government realised this problem before long. In 2013, the government introduced a change and inserted the concept of "effective revenue deficit". The effective revenue deficit would be equal to revenue deficit minus grants to states for the creation of capital assets. With mounting pressures in implementing proposed changes, a committee under N K Singh, an Economist and a former bureaucrat was set up in 2016 to suggest changes to the Act on the premise that the targets set under FRBM Act previously were too rigid for easy implementation. The Committee in its wisdom made certain recommendations such as:

- **Targets:** The committee suggested using debt as the primary target for fiscal policy and set a target that the proposed goals must be achieved by 2023.
- **Fiscal Council:** The committee proposed to create an autonomous Fiscal Council with a chairperson and two members appointed by the Centre (not employees of the government at the time of appointment).
- **Deviations:** The Committee suggested that the grounds for the government to deviate from the FRBM Act targets should be clearly specified.
- **Borrowings:** According to the suggestions of the committee, the government must not borrow from the RBI except when the Centre has to meet any temporary shortfall in receipts and that RBI should be allowed to subscribe to government securities to finance any deviations and it should also be allowed to purchase government securities from the secondary market.

**The** Government set itself such (over) ambitious targets like: (i) limiting the fiscal deficit to 3% of the GDP by 31st March 2021. Though there was a such a huge gap between the target and actual figures, it could be explained away because of Covid related exigencies that affected the economy and the global financial crisis of 2009. The Government also committed itself to limiting the debt of the Central Government to 40% of the GDP by 2024-25. When last heard the Union Government had pledged to reduce the government's deficit to 6.9% of GDP for 2021-22 and 6.4% for 2022-23! The soothsayers of the government are optimistic that the fiscal deficit would fall to 4.5% of GDP by 2025-26.

**Here** is a quick explainer. A fiscal deficit is the difference in the income of a government as compared to its spendings. It is the difference between the total income of the government and the total expenditure incurred by it. This difference is generally filled by government borrowings. By looking at this deficit the economists calibrate the inflation expectations in the economy. The fiscal affairs of a government are of direct concern to its citizens and to international parties which interact with it.

**An** important part of the FRBM Act is the financial division of powers and entitlement inter se between the Centre and States in the federal structure of government in India. In the general scheme of things under the FRBM Act, the Centre is always projected to be a responsible entity and it has also not spared any effort to project the States as profligates. This needs a closer examination based on some number crunching. According to Prasanna Mohanty, an economist and an opinions writer, the Debt to GDP and Fiscal Deficit numbers demonstrate states are actually more prudent than the Centre! Mohanty has the figures to back up his position. The past few days have seen a flurry of news reports stating of the Centre and RBI as warning state governments against their off-budget borrowings and borrowings against future revenues creating an impression that the latter are fiscally profligate and irresponsible. The RBI went to the extent of telling banks to stop funds to states using future revenues. According to Mohanty the official statistics do not bear out this proposition. The amendments made in 2018 to the FRBM Act, provided that: "The Central Government shall (a) take appropriate measures to limit the fiscal deficit up to 3% of GDP by 31st March 2021; (b) endeavour to ensure that (i) the general Government debt does not exceed 60%; (ii) the Central Government debt does not exceed 40% of GDP by the end of financial year 2024-25. The day of reckoning is here and now. Going by the percentage of deviations in the past four fiscals, the annual average deviation works out to 12.6 percentage

points for the Centre as against 8.5 percentage points for States. That indicates that the States have performed better than the Centre consistently. For the entire eleven fiscals (pre pandemic and pandemic) of FY 2012-22, the annual average fiscal deficit for the Centre was 4.9% and for the States it was 2.8%. Believe it or not, this demonstrates that the States are more fiscally prudent and responsible vis-a-vis the Centre. With this in the background, let us now examine the case of Kerala that it has brought to the Supreme Court.

**The** State of Kerala is not only the most literate but also the most litigious. The State now is knocking on the doors of the Supreme Court alleging that the Centre is interfering in the management of the State's finances by imposing arbitrary limits on its borrowings. The Supreme Court referred this to a Constitution Bench to determine the question raised by Kerala whether a State has an "enforceable right" to raise its borrowing limits from the Union government and other sources. The Court wants a five-judge Bench to decide important questions of law, including whether "fiscal decentralisation" was an aspect of Indian federalism and if Central regulations fixing net borrowing ceilings on states were a violation of the principles of federalism itself. The Division Bench also sought the Constitution Bench to examine if the borrowing restrictions of the Centre were in conflict with the role assigned to the Reserve Bank of India as the "public debt manager". The reference came on the basis of an original suit filed by Kerala accusing the Union government of arbitrarily restraining its borrowing limits, due to which the state is skirting on the brink of a financial emergency as it is unable to pay salaries, pensions and fulfil its other essential financial commitments. In the process, however, the apex Court also cautioned that "if the State has essentially created financial hardship because of its own financial mismanagement, such hardship cannot be held to be an irreparable injury that would necessitate an interim relief against the Union. Such step might set a bad precedent in law that would enable the states to flout fiscal policies and still successfully claim additional borrowings. The state of Kerala argued that it had approached the apex court against the arbitrary shackles put on it by the Centre that was nothing short of a blatant attack on federalism and a ruse to bring about a breakdown of the constitutional machinery in the state. The state had also argued that the borrowing limits ought to be fixed by the states themselves. A five-judge Bench will now decide whether 'fiscal decentralisation' is an integral aspect of Indian federalism and if so, are Central regulations fixing borrowing limits on states a violation of the principles of federalism.

**The** State argued in the apex Court that the Centre's authority is limited to regulating loans sought by the state from the Central Government and it does not extend

to other borrowings of the state. It was the state's case that liabilities arising from the Public Account and State-Owned businesses do not form part of state's borrowings. The state needed INR 26,226 crores to meet the obligations for pension schemes, financial aids and living allowances. It was also the state's case that as per the Comptroller and Auditor General of India, the State had not fully utilised its permitted borrowing capacity in the past three years (2020-2021, 2021-2022, and 2022-2023) leaving INR 24,434 crores unutilised. The state was seeking permission to utilise the underutilised borrowing space from the previous years and nothing more. The state contended that it should be allowed to borrow up to the maximum allowable fiscal deficit based on the 15th Finance Commission Report. The state also made a telling point that its debts were eminently sustainable as they had strictly adhered to the Domar Model indicating that the state's Gross State Domestic Product (GSDP) is growing at a faster rate than its effective interest rate. (The Harrod-Domar model is a Keynesian model to explain economic growth. This model is used widely in development economics to explain an economy's growth rate).

**The Centre** on the other had asserted that the management of public funds is of national importance, giving it the necessary authority to oversee all borrowings by the states to safeguard the financial health of the nation. It was contended by the Centre that certain debts of the State from specific public accounts and businesses should also be considered as part of its borrowing, potentially circumventing borrowing limits. According to the Centre the plaintiff had previously exceeded borrowing limits by INR 14,479 crores, contradicting the state's claim of underutilising borrowing by INR 2,941.82 crores until the fiscal year 2022-2023. The Centre's arguments were grounded in the regulations outlined in the Report of the 14th Financial Commission, which stipulated that if a state over-borrows in a year, the excess amount should be deducted from its borrowing limit in the subsequent fiscal year. It was argued by the Centre that the financial strain and outstanding dues of the State of Kerala are a result of its financial mismanagement and not because of the borrowing regulations enforced by the Union Government. The Centre also contended that any excessive borrowing in one fiscal year should be acknowledged and adjusted for in the subsequent year. The Centre argued that granting further borrowing leeway to the state could potentially endanger and undermine the financial well-being of the entire country.

**When** state institutions make these claims and counter claims it is time to look at our Constitution dealing with this subject. Article 293 of the Constitution of India deals with the powers of the states in terms of what is permitted. This Article

stipulates as follows:

1. Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed.
2. The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India.
3. A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government.
4. A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.

**After** the initial arguments and after examining the provisions of the Constitution the apex Court formulated the following issues for discussion and decision:

- Can the Plaintiff-State receive an interim injunction while constitutional questions concerning financial management and borrowing restrictions are pending?
- Is the Plaintiff-State experiencing financial hardship due to alleged mismanagement by the Union, warranting urgent relief?
- To what extent can the court engage in Judicial Review of fiscal policies that seemingly conflict with the essence of Article 293 of the Constitution?
- Does Article 293(3) of the Constitution encompass borrowing by government-owned businesses and debts from the Public Account?
- Is fiscal decentralisation a component of Indian Federalism? Do the Defendant's actions potentially breach Article 14 of the Constitution by exhibiting 'manifest arbitrariness'?

**During** the hearing in the Court senior advocate Kapil Sibal representing Kerala argued that the Centre's restrictions constituted nothing less than executive overreach. He emphasised Kerala's constitutional authority to determine its own budget and borrowing needs. Sibal also highlighted the significant reduction in

Kerala's borrowing from the Union government post-liberalisation and objected to the Union's interference in the state's financial matters. In response, additional solicitor general N. Venkataraman contested Kerala's claims, alleging misrepresentation of figures and pointing out the state's consistent over-borrowing in recent years. He raised concerns about Kerala's macroeconomic stability and the potential adverse effects of granting the requested ₹10,000 crore. According to the Union government, any financial stress faced by Kerala was due to its mismanagement citing substantial financial resources provided to the state including payments to meet the GST compensation shortfall. Kerala had initially requested the Centre's approval to borrow ₹19,351 crore. While the Centre had agreed to allow an additional borrowing of ₹13,608 crores, it insisted that Kerala withdraw the legal suit. However, the Court intervened on this issue stating that the Centre cannot impose conditions on Kerala for withdrawing the lawsuit. The Court examined the arguments presented by both parties and observed that the case raised significant constitutional questions requiring authoritative interpretation. It referred the case to a five-judge bench for further deliberations. Regarding the interim relief sought by Kerala, the Court applied the Triple-Test principle (a prima facie case, balance of convenience, and irreparable loss or harm). While Kerala failed to establish a prima facie case for under-utilization of borrowing space, the Court found that the balance of convenience favoured denying the relief. The Court noted that Kerala had already received substantial borrowing concessions during the proceedings. The Supreme Court's decision to refer a case filed by the Kerala government to a Constitution Bench is an important event in Centre-State relations especially in matters of federalism and state finances. The case is about the Union of India's interference in the state's finances by imposing a ceiling on borrowings. The Supreme Court further observed that fiscal mismanagement by states is an issue that the Union government must be concerned with as it impacts the nation's economy. The Court advised the Centre and the Kerala government to iron out their differences. The dynamics of Centre-State relations in India are defined by the allocation of powers and responsibilities between the central government and state governments. These intergovernmental relations, guided by constitutional provisions, hold significant importance in the operation of the federal structure. The last word has not been spoken on this issue yet in this Kerala Story. Watch this space.

**Thank you.**

**Venkat R Venkitachalam**

# BE QUALITY CAUTIOUS EVEN SELLING IN DOMESTIC MARKET IN INDIA

**Ashok B Nawal**

Founder, Bizsolindia Services Pvt. Ltd.

Notification No. 71 / 2023 dtd 11.03.2024 issued by Ministry of Commerce and Industry to clarify enabling provisions for import of inputs that are subjected to mandatory Quality Control Orders (QCOs) by Advance Authorisation Holders, EOU and SEZ, which provides Appendix 2Y of Foreign Trade Policy indicating products covered under Quality Control Orders issued by Department of Promotion and Industry and Internal Trade (DPIIT), Ministry of Steel and Ministry of Textile. The detailed list for which Quality Control Orders are mandatory for importation has been notified in notifications issued by respective Ministry.

Earlier, this policy was not mandatory for Advance Authorisation Holders, EOU and SEZ even though they were allowed to clear the goods for domestic market and thereby, there was no level playing things and domestic suppliers were not insulated of receiving the goods, where inputs are used without application of Quality Control Orders of the said Ministries.

Therefore, we give below the relevant provisions and care needs to be taken by Advance Authorisation Holders, EOU & SEZ.

Para 2.3 of Foreign Trade Policy clearly provides :

## Quote

### 2.03 Compliance of Imports with Domestic Laws :

(a) Domestic Laws/ Rules/ Orders/ Regulations/ technical specifications/ environmental/safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.

(b) However, goods to be utilized/ consumed in manufacture of export products may be exempted by DGFT from domestic standards/ quality specifications.

## Un-Quote

In accordance to the aforesaid provision in the foreign trade policy, ministry of commerce has issued the Notification No. 71/2023 dtd. 11.03.2024 providing import conditions for specified items subjected to mandatory quality control orders even for advance authorisation holder/ EOU/ SEZ subject to granting certain exemptions of meeting mandatory compliance to quality control orders in the case of Textile, Steel & items notified by Department of Promotion of Industry & Internal Trade (DPIIT). Copies of such Notifications issued by relevant ministry making mandatory compliance under QCO for items specified is enclosed herewith.

Salient features are provided below:

- **Any item to be imported under advance authorisation will not require pre-mandatory requirements under Quality Control Order subject to following conditions :**
  - All imports will have pre-import condition. In another words such export products, so imported without compliance of pre-mandatory requirement under quality control order will be used only for export product and therefore import for replenishment will not be exempted with mandatory requirement.
  - While obtaining advance authorisation, such exemption will be clearly endorsed by the regional authority on the request of exporter. It means while applying the advance authorisation, exporter will have to make the request for endorsement of such exemption on advance authorisation.
  - If such endorsement of exemption is not made on the advance authorisation even the imports under advance authorisation have to meet mandatory compliance under the quality control orders.
  - If exporter has consumed more than that of notified SION or adhoc norms , such persons will deem to be violating provisions of Customs Act and penalty , confiscation provisions will be attracted over & above penalty for un-fulfilled export obligation to that extent.

- Any surplus or un-utilised material cannot be transferred or sold in domestic market. Therefore, such material either will have to be re-exported or destructed in presence of custom officer, but in any case, it cannot be used for manufacture of domestic use and supply domestically.
- Such material so destructed, advance authorisation will have to pay custom duty at the effective rate of duty applicable to normal importer irrespective of country of origin or rate applicable under Free Trade Agreement (FTA) and also, they will have to pay composition fees of amount equivalent to 10% of CIF value of such material so destructed. This will be mandatory document to be uploaded alongwith redemption application for obtaining EODC.
- Where such advance authorisation obtained with such endorsement will not be clubbed with any other advance authorisation.
- Advance Authorisation obtained for exporting textile product will have to fulfil export obligation within 180 days from the date of importation.
- **Any item to be imported under EOU will not require pre-mandatory requirements under Quality Control Order .**

EOU Unit is exempted for meeting pre-mandatory requirement as a quality control order subject to following conditions:

- EOU Unit Holder will have to provide undertaking to the Development Commissioner and Custom Authorities stating that such goods will not be used for manufacture of goods and sold in DTA or supplied in DTA as such.
- When such imports are made claiming exemption of pre-mandatory requirement, good manufactured out of such raw material will be only exported and not allowed to be supplied in domestic tariff area.
- In case such domestic sale is made, it will be contravention of Foreign Trade (Development & Regulations) Act read with provisions of Customs Act 1962.
- Any un-utilised and surplus raw material cannot be transferred or sold in domestic market. Therefore, such material either will have to be re-exported or destructed in presence of custom officer, but in any case, it cannot be used for manufacture of domestic use and supply domestically.
- Such goods so imported will have to be used for physical export. Even the deemed export is not allowed.

- **Any item to be imported under SEZ will not require pre-mandatory requirements under Quality Control Order .**
- SEZ Unit Holder will have to provide undertaking to the Development Commissioner stating that such goods will not be used for manufacture of goods and sold in DTA or supplied in DTA as such.
- When such imports are made claiming exemption of pre-mandatory requirement, good manufactured out of such raw material will be only exported and not allowed to be supplied in domestic tariff area.
- In case such domestic sale is made, it will be contravention of SEZ Act read with provisions of Foreign Trade (Development & Regulations) Act and read with provisions of Customs Act 1962.
- Any un-utilised and surplus raw material cannot be transferred or sold in domestic market. Therefore, such material either will have to be re-exported or destructed in presence of custom officer, but in any case, it cannot be used for manufacture of domestic use and supply domestically.
- Such goods so imported will have to be used for physical export. Even the deemed export is not allowed.

In another words, any goods which are required to be sold in domestic market by Advance Authorisation Holders, EOU & SEZ where goods imported from such importers who were not registered with BIS, will have to also obtain such registration otherwise goods cannot be sold in domestic market, otherwise it will be liable for confiscation and penalty will be imposed.

**Thank you.**

**Ashok B Nawal**

# EXTENDED PRODUCER RESPONSIBILITY FOR PLASTIC WASTE

CS Anita Patil



Now a days India is moving forward with environmental sustainability at a fast pace, as are many other countries. Compliance with Extended Producer Responsibility (EPR) is an essential component of this journey. As per Annual Report 2020-21 by CPCB estimated plastic waste generation during the year was approx. 41,26,997 TPA (Tons Per Annum). An EPR policy holds manufacturers accountable for managing post-consumer waste as well as the complete lifecycle of their products. This article offers thorough guidance on EPR Compliance in India w.r.t. Plastic Waste.

## INTRODUCTION:

Extended Producer Responsibility (EPR) is a concept where producers are held responsible for the entire lifecycle of their products, including disposal and recycling. It is a crucial step towards sustainable waste management and environmental protection. In India, EPR has gained momentum in recent years, and the government has implemented several policies and regulations to promote it.

EPR was first introduced in India in the early 2000s, with the launch of the National Environmental Policy (NEP) in 2006. The policy aimed to promote sustainable development and environmental protection by encouraging EPR. In 2011, the Ministry of Environment and Forests (MoEF) introduced the E-waste (Management and Handling) Rules, which made it mandatory for producers to manage their e-waste. In 2016, the MoEF introduced the Plastic Waste Management Rules, which made it mandatory for producers to manage their plastic waste. The Ministry also notified The Solid Waste Management Rules, 2016 on 8th April 2016. As plastic waste is part of solid waste, therefore both the rules apply to managing plastic waste in the country.

These regulations make it mandatory for producers to manage their waste and recycle their products. The government has also introduced incentives and tax breaks for producers who implement EPR voluntarily. The Indian government has introduced several policies and regulations related to EPR.

In order to streamline implementation process of EPR, the Ministry of Environment, Forest and Climate Change, Government of India, in its fourth Amendment to the Plastic Waste Management Rules, dated February 16, 2022, notified **'Guidelines on Extended Producer Responsibility for Plastic Packaging' in the Schedule II of the Rules.**

These regulations mandate the generators of plastic waste to take steps to minimize generation of plastic waste, not to litter the plastic waste, ensure segregated storage of waste at source and hand over segregated waste in accordance with rules. The rules further mandate the responsibilities of local bodies, gram panchayats, waste generators, retailers and street vendors to manage plastic waste.

The Plastic Waste Management Rules, 2016 cast Extended Producer Responsibility on Producer, Importer, and Brand Owner. Extended Producer Responsibility shall be applicable to both Pre-Consumer and Post-Consumer Plastic Packaging Waste. It also provides the roles and responsibilities of Producers, Importers, Brand Owners, Central Pollution Control Board (CPCB), State Pollution Control Board (SPCB) or Pollution Control Committees, Recyclers and Waste Processors for effective implementation of Extended Producer Responsibility. These guidelines shall come into force with immediate effect i.e. from 16th Feb 2022.

Accordingly, the **Producers, Importers and Brand Owners (PIBOs) and Plastic Waste Processors (PWPs)** shall have to register through the online centralized portal developed by the **Central Pollution Control Board (CPCB).**

## KEY DEFINITIONS TO UNDERSTAND:

- **“Producer” (P)** means person engaged in manufacture or import of carry bags or multilayered packaging or plastic sheets or like and includes industries or individuals using plastic sheets or like or covers made of plastic sheets or multilayered packaging for packaging or wrapping the commodity.
- **“Importer” (I)** means a person who imports plastic packaging or products with plastic packaging or carry bags or multilayered packaging or plastic sheets or like.
- **“Brand Owner” (BO)** means a person or company who sells any commodity under a registered brand label or trademark.
- **“Plastic Waste Processors” (PWP)** means recyclers of plastic waste as well as entities engaged in using plastic waste for energy (waste to energy) including in coprocessing or converting plastic waste to oil (waste to oil) except in cases where feedstock chemicals are produced for further use in the production of plastic which may then be considered under recycling, industrial composting.
- **“Extended Producer Responsibility” (EPR)** means the responsibility of a producer for the environmentally sound management of the product until the end of its life.
- **“End of Life disposal”** means using plastic waste for generation of energy subject to relevant guidelines in force, which includes co-processing (e.g. in cement, steel or any other such industry) or waste to oil, except in cases where feedstock chemicals are produced for further use in the production of plastic which may then be considered under recycling or for road construction as per Indian Road Congress guidelines etc.
- **“Recycling”** means the process of transforming segregated plastic waste into a new product or raw material for producing new products.
- **“Recyclers”** are entities who are engaged in the process of recycling plastic waste.
- **“Plastic Packaging”** means packaging material made by using plastics for protecting, preserving, storing, and transporting of products in a variety of ways.
- **“Reuse”** means using an object or resource material again for either the same purpose or another purpose without changing the object’s structure.
- **“Use of recycled plastic”** means recycled plastic used as raw material, instead of virgin plastic, in the manufacturing process.
- **“Waste to Energy”** means using plastic waste for generation of energy and includes co-processing (e.g. in cement, steel or any other such industry)

- **“Pre-consumer plastic packaging waste”** means plastic packaging waste generated in the form of reject or discard at the stage of manufacturing of plastic packaging and plastic packaging waste generated during the packaging of product including reject, discard, before the plastic packaging reaches the end-use consumer of the product.
- **“Post-consumer plastic packaging waste”** means plastic packaging waste generated by the enduse consumer after the intended use of packaging is completed and is no longer being used for its intended purpose.

#### **ENTITIES COVERED UNDER EPR:**

- Producer (P) of plastic packaging.
- Importer (I) of all imported plastic packaging and / or plastic packaging of imported products.
- Brand Owners (BO) including online platforms/marketplaces and supermarkets/retail chains other than those, which are micro and small enterprises as per the criteria of Ministry of Micro, Small and Medium Enterprises, Government of India.
- Plastic Waste Processors (PWP)

#### **ENTITIES EXEMPTED FROM COVERAGE OF EPR:**

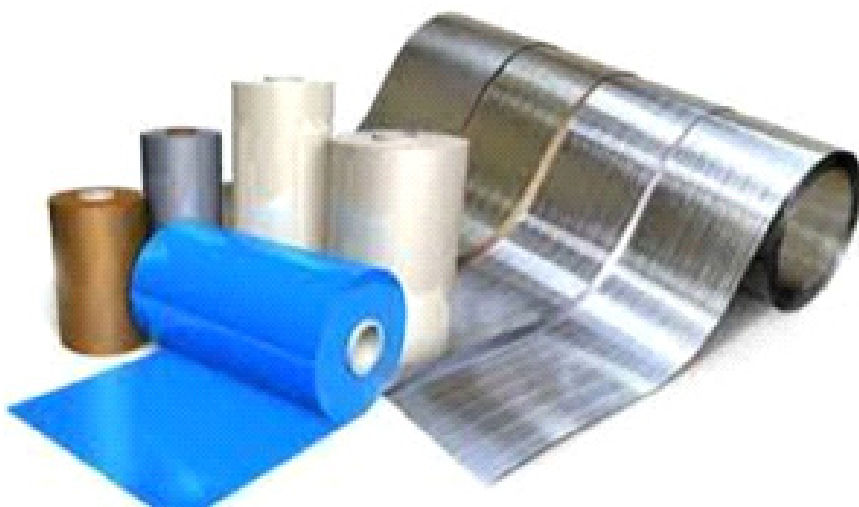
- Export Oriented Units
- The Micro & Small category of Brand Owners

#### **PLASTIC PACKAGING CATEGORIES COVERED UNDER EPR:**

- **Category I:** Rigid plastic packaging (plastic bottles, plastic drums, plastic hard waste)



- **Category II:** Flexible plastic packaging of single layer or multilayer (more than one layer with different types of plastic), plastic sheets or like and covers made of plastic sheet, carry bags, plastic sachet or pouches.



- **Category III:** Multilayered plastic packaging (at least one layer of plastic and at least one layer of material other than plastic)



- **Category IV:** Plastic sheet or like used for packaging as well as carry bags made of compostable plastics.



## EPR REGISTRATION:

- Following entities shall register on the centralized portal developed by Central Pollution Control Board namely: -
  - Producer (P),
  - Importer (I),
  - Brand owner (BO),
  - Plastic Waste Processor (PWP) engaged in:
    - recycling,
    - waste to energy,
    - waste to oil, and
    - industrial composting
- **Registration of Producers, Importers & Brand-Owners (operating in one or two states) and Plastic Waste Processors shall be done by State Pollution Control Board or Pollution Control Committee** through the centralized Extended Producer Responsibility portal developed by Central Pollution Control Board.
- With respect to such entities starting their business in a particular year after the introduction of these regulations and placing their products in market in that year, they shall have Extended Producer Responsibility target obligations from the next year.
- In case any entity falls into more than one sub-category mentioned above as Producer/ Importer/ Brand Owners/ PWPs then the entity shall register under each of those sub-categories separately.
- Further, in cases, where the entity has units in different states, in a particular sub-category as mentioned above as Producer / Importer/ Brand Owners/ PWPs, then these units shall also be registered separately. However, only one registration under a sub-category in a state would be needed, even if more than one unit are located in a state.
- The entities required to register under EPR shall not carry any business without registration obtained through an online centralized portal developed by Central Pollution Control Board.
- The entities covered under EPR shall not deal with any entity not registered through an on-line centralized portal developed by the Central Pollution Control Board.
- CPCB/SPCB or the Pollution Control Committee shall not issue or renew registration to plastic waste recycling or processing units unless the unit possesses a valid consent under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) along with a certificate of registration issued by the District Industries Centre or any other Government agency authorised in this regard.

- Every CPCB/SPCB or the Pollution Control Committee shall take a decision on the grant of registration within 90 days of receipt of an application which is complete in all respects.

#### **REVOCAION OF REGISTRATION:**

In case, it is found or determined that any entity registered on the on-line portal has **provided false information or has willfully concealed information or there is any irregularity or deviation from the conditions stipulated while obtaining registration** under Extended Producer Responsibility guidelines, then the registration of such an entity would be revoked for a one -year period after giving an opportunity to be heard. The entities whose registration has been revoked shall not be able to register afresh for the period of revocation.

#### **VALIDITY OF REGISTRATION & RENEWAL:**

The registration granted under these rules shall initially be valid for a period of 1 year, unless revoked, suspended or cancelled and shall subsequently be granted renewal for 3 years. Every application for renewal of registration shall be made at least 120 days before the expiry of the validity of the registration certificate.

#### **TARGETS FOR EPR & OBLIFATIONS FOR IMPORTER, PRODUCER & BRAND OWNERS:**

EPR target is plastic waste which is introduced in the market by PIBOs. The Extended Producer Responsibility targets for the Producers, Importers & Brand-Owners shall be determined category-wise as provided in Clause 7 of EPR Guidelines, 2022.

#### **IMPOSITION OF ENVIORNMENTAL COMPENSATION:**

- Environmental Compensation shall be levied based upon polluter pays principle, with respect to nonfulfillment of Extended Producer Responsibility targets by Producers, Importers & Brand Owners, for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environment pollution.
- Environmental Compensation, as applicable, shall be levied by the Central Pollution Control Board on PIBOs operating in more than two states. In other cases, it is to be levied by the respective State Pollution Control Board (SPCB). The Environment Compensation, as applicable, shall be levied by the Central

Pollution Control Board. In case, the State Pollution Control Board or Pollution Control Committee does not take action in reasonable time, the Central Pollution Control Board shall issue directions to the State Pollution Control Board / Pollution Control Committee.

- Payment of environmental compensation shall not absolve the Producers, Importers & Brand-Owners of the obligations set out in these guidelines. The unfulfilled Extended Producer Responsibility obligations for a particular year will be carried forward to the next year for a period of three years.
- In case, the shortfall of Extended Producer Responsibility obligation is addressed within three years. The environmental compensation levied shall be returned to the Producers, Importers & Brand-Owners as given below:
  - Within one year of levying of EC: 75% return.
  - Within two years 60% return.
  - Within three years 40% return
- After completion of three years on environmental compensation getting due the entire environmental compensation amount shall be forfeited. This arrangement shall allow for collection and recycling of plastic packaging waste by Producers, Importers & Brand-Owners in later years as well.

#### **ANNUAL RETURNS BY PIBOs & PWPs:**

- **Annual Return required to be filed by PIBOs** stating details of the plastic packaging waste collected and processed towards fulfilling obligations under Extended Producer Responsibility with the CPCB or concerned SPCB or Pollution Control Committee as per pro forma prescribed **by 30th June of the next financial year**. Information on the reuse and/or recycled content used for packaging purposes will also be provided along with the details of the registered recyclers from whom the recycled plastic has been procured.
- The Plastic Waste Processors (PWPs) shall submit annual returns after end of every financial year by **30th April of the next financial year** on the quantity of plastic waste processed category-wise as per prescribed pro forma on the centralized portal developed by CPCB.

## **CONCLUSION:**

EPR is a crucial tool in the fight against plastic pollution, shifting the responsibility for waste management to the producers. By incentivizing sustainable design, promoting a circular economy, and reducing environmental pollution, EPR plays a vital role in achieving a cleaner and more sustainable future. Effective implementation of EPR requires collaboration between governments, producers, consumers, and other stakeholders to create a comprehensive and efficient waste management system. To ensure compliance, the Central Pollution Control Board (CPCB) has begun issuing show-cause notices to all unregistered PIBOs. This step aims to encourage their registration and adherence to the Plastic Waste Management Rules, as well as fostering responsible waste management practices.

We Bizsol India Services can assist PIBOs & PWP's in filing applications with the State Pollution Control Board or Central Pollution Control Board, obtaining registration certificates, resolving ambiguities, and submitting annual filings

**Thank you.**

**CS Anita Patil**

# WHAT'S NEW?



## WHATS NEW? GST

### Notifications:

- Interest is waived for specified registered persons for specified tax periods, which was delayed because of technical glitch on the portal but had sufficient balance in their electronic cash ledger or electronic credit ledger, or had deposited the required amount through challan [Notification No 07/2024-Central Tax dated 08.04.2024]
- CBIC extends the timeline for implementation of new special procedure to be followed by a registered person engaged in manufacturing of certain goods (Tobacco and Pan Masala) from 01.04.2024 to 15.05.2024 [Notification No 08/2024-Central Tax dated 10.04.2024]
- Due date for filing of GSTR-1 for the monthly taxpayers be extended till 12.04.2024 [Notification No 09/2024-Central Tax dated 12.04.2024]

### Instructions:

- Following guidelines is issued by GST-Investigation, CBIC to be followed in the CGST Zones while engaging in investigation, subject to legal provisions or instructions issued on this behalf:
  - Responsibility of developing and approving: Commissioner shall be responsible for developing and approving any intelligence, conducting search, and completing investigation in a case and the relevant subsequent action, including in the divisional formations, etc.

- **Initiation only after approval:** Each investigation must be initiated only after the approval of the (Pr.) Commissioner, except in the defined situations where the prior written approval of the zonal (Pr.) Chief Commissioner shall be required
- **Same subject matter with respect to the same taxpayer/GSTIN:** The fact of initiation of inquiry, if any, already on same subject matter with respect to the same taxpayer/GSTIN by another investigating office or tax administration must be ascertained for purposes of obtaining approval to initiate investigation
- **Either DGGI or State GST department is also simultaneously undertaking record-based investigation of the same taxpayer on different subject matters:** The (Pr.) Commissioner must engage in dialogue with the other investigating office(s) to consider the feasibility of only one of the offices pursuing different subject matters with respect to the taxpayer, and the other offices consolidating their material with that office.
- **Investigation w.r.t. a GSTIN in its jurisdiction, and the issue is relevant to some or all of that taxpayers' GSTINs registered (under the same PAN) in multiple jurisdictions:** The issue of investigation is relevant to some or all of that taxpayers' GSTINs registered (under the same PAN) in multiple jurisdictions. If the matter also falls in the charter of DGGI and is not such that DGGI avoids taking up (as it is more appropriately in the purview of return scrutiny or audit etc), then the (Pr.) Commissioner shall expeditiously make a self-contained reference to its zonal (Pr.) Chief Commissioner who shall request the Pr. DG, DGGI to take up the matter in accordance with DGGI guidelines
- **The issue is relevant to other taxpayers' GSTINs registered (under multiple PANs) across various CGST jurisdictions.** In this scenario, the (Pr.) Commissioner shall within 30 days of initiation of investigation take either of the defined two actions with the approval of zonal (Pr.) Chief Commissioner
- **Taxpayer(s) is/are following, or have followed, a prevalent trade practice based on particular interpretation on that issue in the sector/industry:** The scenario may arise in a CGST Zone where an issue investigated by one of the (Pr.) Commissioners is based on an interpretation of CGST Act/ Rules, notifications, circulars etc, and it is in the direction of proposing non-payment or short payment of tax, however, the background is that the taxpayer(s) is/are following, or have followed, a prevalent trade practice based on particular interpretation on that issue in the sector/industry. This scenario results in more than one interpretation and likelihood of litigation, change in practice etc
- **Manner of Investigation for specific sectors:** In initiating investigation with respect to a listed company or PSU or Corporation or Govt Dept./agency or an Authority established by law, or seeking details (that are record-based and/or are reflected in statutory books of account or filings) from them, the

practice to be adopted by the CGST field formation should be of initially addressing official letters (instead of summons) to the designated officer of such entity (detailing the reasons for investigation, and the legal provisions therefor) and requesting the submission of the relevant specified details in a reasonable time period

- **Seeking information/documents:** Letter issued for seeking information/documents from regular taxpayer, the reference can be to inquiry “with respect to” or “in connection with” that entity.
- **Information available digitally/online on GST portal:** Information available digitally/online on GST portal should not be called for under letter/summons from a regular taxpayer.
- **Summons:** The summons in conduct of investigation must not convey requests outside the scope defined for a summons.
- If a taxpayer has utilized ITC towards payment of GST on its outward supplies, it is not acceptable to seek via summons/letter aspects such as - ‘please clarify whether ITC availed and utilized was proper.’
- **Approval for Summons:** In issuing summons, the norm shall be of prior reasoned approval (of officer not below Dy/Asst. Commissioner level) of the content of the summons to be printed by the summoning officer
- Where, for strictly operational reasons, it is not possible to obtain such prior written permission, the approval by such an officer can be verbal, however this all must be confirmed in writing at the earliest opportunity.
- Before summoning any information or documents from a regular taxpayer, the relevancy and propriety of what is being sought must be recorded
- **Record Keeping:** Scanned copy of a statement (recorded under summons) be uploaded in the same e-office file in which approval was obtained to issue summons. Outcome of search/inspection conducted, including panchnama (if any), be also so uploaded.
- **Conclusion:** An investigation initiated must reach the earliest conclusion which is not more than one year. It is not necessary to keep investigation pending till limitation in law approaches. Show cause notice should not be delayed after conclusion of investigation. [Instruction No 01/2023-24-GST(Inv) dated 30.03.2024]

#### Advisory:

- Facility for re-filing of GSTR-3B for some of the taxpayers where there was discrepancies in the returns of some taxpayers during the filing process between the saved data in the GST system and actually filed data in the fields of ITC availment and payment of tax liabilities. These returns shall be reset, in order to give opportunity to such taxpayers to correct the discrepancy. [Advisory dated 09.04.2024]

- New feature to auto-populates the HSN-wise summary from e-Invoices into Table 12 of GSTR-1 is now available on the GST portal. This allows for direct auto-drafting of HSN data into Table 12 based on e-Invoice data. [Advisory dated 09.04.2024]

- **Enhancement in the GST Portal:**

GSTN will be launching an enhanced version of the GST portal on 3rd May 2024. The effort is to improve user experience and ensure that the information needed is accessible and easy to navigate.

Key Enhancements Include:

- **News and Updates Section:** A dedicated tab for all news and updates. This section now includes a beta search functionality, module wise drop downs and access to archived advisories dating back to 2017.
- **User Interface Improvements:** Minor tweaks have been made to the homepage to enhance usability and aesthetics especially to make it convenient to use.
- **Updated Website Policy:** GSTIN have updated their website policy, including the data archival policy. Details regarding web managers have also been included. These changes are scheduled to go live at midnight on 3rd May 2024. [Advisory dated 26.04.2024]

## WHAT'S NEW? CUSTOMS

Notifications:

Tarrif:

- Fully exemption of export duty on exports of Kalanamak rice not exceeding 1000 MTs subject to the specified conditions. [Notification No. 22/2024-Customs dated 02.04.2024]
- Duty free import of yellow peas is allowed with bill of lading issued on or before 30.06.2024. [Notification No. 23/2024-Customs dated 05.04.2024]

Non-Tarrif:

- Customs Exchange Rate effective from 05.04.2024:

## Schedule I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	56.10	53.70
2.	Bahraini Dinar	230.05	213.30
3.	Canadian Dollar	62.75	60.75
4.	Chinese Yuan	11.75	11.35
5.	Danish Kroner	12.30	11.95
6.	EURO	92.05	88.95
7.	Hong Kong Dollar	10.80	10.50
8.	Kuwaiti Dinar	280.2	262.80
9.	New Zealand Dollar	51.45	49.10
10.	Norwegian Kroner	7.90	7.70
11.	Pound Sterling	107.35	103.90
12.	Qatari Riyal	23.65	22.25
13.	Saudi Arabian Riyal	23.00	21.65
14.	Singapore Dollar	62.90	60.95
15.	South African Rand	4.60	4.35
16.	Swedish Kroner	7.95	7.75
17.	Swiss Franc	94.15	90.70
18.	Turkish Lira	2.70	2.55
19.	UAE Dirham	23.45	22.05
20.	US Dollar	84.35	82.60

## Schedule II

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	55.85	54.20
2.	Korean Won	6.40	6.00

[Notification No. 27/2024-Customs (NT) dated 04.04.2024]

- Updated Tariff value for specified goods effective from 10.04.2024:

TABLE-1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	929 (i.e., no change)
2	1511 90 10	RBD Palm Oil	939 (i.e., no change)
3	1511 90 90	Others – Palm Oil	934 (i.e., no change)
4	1511 10 00	Crude Palmolein	944 (i.e., no change)
5	1511 90 20	RBD Palmolein	947 (i.e., no change)
6	1511 90 90	Others – Palmolein	946 (i.e., no change)
7	1507 10 00	Crude Soya bean Oil	938 (i.e., no change)
8	7404 00 22	Brass Scrap (all grades)	5033(i.e., no change)

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	747 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	900 per kilogram

-2-

3.	71	<ul style="list-style-type: none"> <li>Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92;</li> <li>Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</li> </ul> <p>Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.</p>	900 per kilogram
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4.	71	<ul style="list-style-type: none"> <li>Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units;</li> <li>Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</li> </ul> <p>Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.</p>	747 per 10 grams
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TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	747 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	900 per kilogram

[Notification No. 28/2024-Customs (NT) dated 09.04.2024]

- Updated Tariff value for specified goods effective from 16.04.2024 :

TABLE-1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	952
2	1511 90 10	RBD Palm Oil	955
3	1511 90 90	Others – Palm Oil	954
4	1511 10 00	Crude Palmolein	959
5	1511 90 20	RBD Palmolein	962
6	1511 90 90	Others – Palmolein	961
7	1507 10 00	Crude Soya bean Oil	950
8	7404 00 22	Brass Scrap (all grades)	5104

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	773 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	939 per kilogram

-2-

3.	71	<ul style="list-style-type: none"> <li>Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92;</li> <li>Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</li> </ul> <p>Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.</p>	939 per kilogram
4.	71	<ul style="list-style-type: none"> <li>Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units;</li> <li>Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</li> </ul> <p>Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.</p>	773 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	6033

[Notification No. 29/2024-Customs (NT) dated 15.04.2024]

- Customs Exchange Rate effective from 19.04.2024:

#### Schedule I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	55.10	52.70
2.	Bahraini Dinar	230.30	213.50
3.	Canadian Dollar	61.70	59.80
4.	Chinese Yuan	11.75	11.35
5.	Danish Kroner	12.10	11.80
6.	EURO	90.75	87.65
7.	Hong Kong Dollar	10.80	10.55
8.	Kuwaiti Dinar	280.05	262.65
9.	New Zealand Dollar	50.65	48.35
10.	Norwegian Kroner	7.70	7.50
11.	Pound Sterling	105.90	102.45
12.	Qatari Riyal	23.70	22.25
13.	Saudi Arabian Riyal	23.00	21.70
14.	Singapore Dollar	62.50	60.50
15.	South African Rand	4.55	4.25
16.	Swedish Kroner	7.75	7.55
17.	Swiss Franc	93.55	90.10
18.	Turkish Lira	2.65	2.50
19.	UAE Dirham	23.45	22.05
20.	US Dollar	84.40	82.70

#### Schedule II

Sl. No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	55.00	53.35
2.	Korean Won	6.30	5.9

[Notification No. 30/2024-Customs (NT) dated 18.04.2024]

- Updated Tariff value for specified goods effective from 01.05.2024 :

TABLE-1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	944
2	1511 90 10	RBD Palm Oil	965
3	1511 90 90	Others – Palm Oil	961
4	1511 10 00	Crude Palmolein	969
5	1511 90 20	RBD Palmolein	972
6	1511 90 90	Others – Palmolein	971
7	1507 10 00	Crude Soya bean Oil	959
8	7404 00 22	Brass Scrap (all grades)	5461

TABLE-2

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	751 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	886 per kilogram

-2-

3	71	<ul style="list-style-type: none"> <li>Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92;</li> <li>Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</li> </ul> <p>Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.</p>	886 per kilogram
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4	71	<ul style="list-style-type: none"> <li>Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units;</li> <li>Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</li> </ul> <p>Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.</p>	751 per 10 grams
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TABLE-3

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	6033 (i.e., no change)

[Notification No. 32/2024-Customs (NT) dated 30.04.2024]

- Notification No. 77/2023 -Customs (N.T.) dated 20.10.2023 relating to AIRs of Duty Drawback has been amended for the chapter 3, 16, 42, 63, 72, 75, 81, 87, 88 and 93. Same will be effective from 03.05.2024 [Notification No. 33/2024-Customs (NT) dated 30.04.2024]

#### Instructions:

- Extension period for 3 months to Ortho-phosphoric Acid which is used for manufacturing of Fertilizers from applicability of BIS standard IS 798:2020 implemented through QCO dated 13.05.2022. Necessary action may be taken to sensitize officers respective Customs jurisdiction regarding the same. [Instruction No. 09/2024-Customs dated 22.04.2024]

## WHAT'S NEW? CENTRAL EXCISE

#### Notification:

- Special Additional Excise Duty on production of Petroleum Crude increased to Rs. 6800 per tonne from 04.04.2024 [Notification No. 11/2024 Central Excise Dated 03.04.2024]
- Special Additional Excise Duty on production of Petroleum Crude increased to Rs. 9600 per tonne from 16.04.2024 [Notification No. 12/2024 Central Excise Dated 15.04.2024]
- Special Additional Excise Duty on production of Petroleum Crude increased to Rs. 8400 per tonne from 01.05.2024 [Notification No. 13/2024 Central Excise Dated 30.04.2024]

# WHATS NEW?

## DGFT

### Notification:

- Exports up to an aggregate quantity not exceeding one thousand metric tonnes of Kala Namak rice is allowed through the specified customs stations, taken together, from the date on which this notification enters into force. Authorized signatory for certification of Kala Namak rice and its quantity will be Director, Agriculture Marketing & Foreign Trade, Lucknow. [Notification No. 01/2024 dated 02.04.2024]
- Export of additional 10,000 MT of onions (under HS code 0703 10 19) to UAE through National Cooperative Exports Limited (NCEL) over and above the quota notified vide DGFT Notification No. 65/2023 dt. 01.03.2024 is allowed. [Notification No. 02/2024 dated 03.04.2024]
- Export of Eggs, Potatoes, Onions, Rice, Wheat Flour, Sugar, Dal, Stone Aggregate and River Sand have been permitted to the Republic of Maldives under bilateral trade agreement between Government of India and Government of Maldives during 2024-25 as per the quantities indicated in the Table at Para 1 above. The export of above items to Republic of Maldives will be exempted from any existing or future restriction/prohibition on export. [Notification No. 03/2024 dated 05.04.2024]
- Import of Yellow Peas under ITC (HS) Code 07131010 is –Free” without the MIP condition and without Port Restriction, subject to registration under online Import Monitoring System, with immediate effect for all import consignments where Bill of Lading (Shipped on Board) is issued on or before 30th June 2024. [Notification No. 04/2024 dated 05.04.2024]
- Import of Melon Seeds under ITC(HS) code 12077090 is ‘Free’ with effect from 1st May 2024 till 30th June 2024, on ‘Actual User’ basis to Processors of Melon Seeds having a valid FSSAI Manufacturing Licence in line FSSAI Order dated 15.03.2024. Goods imported/shipped/arrived but not cleared from Customs prior to 1st May 2024 may also be cleared during 1.5.2024 to 30.6.2024. [Notification No. 05/2024 dated 05.04.2024]
- Imposition of Port restrictions for exporting of essential commodities under Prohibited / restricted category to the Republic of Maldives during 2024-25, as per quota notified under DGFT Notification No 03/2023 dated 05.04.2023, has been notified. [Notification No. 06/2024 dated 15.04.2024]
- Export of 10,000 MT of onions (under HS code 0703 10 19) to Sri Lanka through National Cooperative Exports Limited (NCEL) has been allowed. Further, export of additional 10,000 MT quantity of Onions (under HS code 0703 10 19) through NCEL to UAE, over and above the quota of 24,400 MT already notified vide DGFT Notification No. 65/2023 dt. 01.03.2024 and 02/2023 dt. 03.04.2024, has been allowed. [Notification No. 07/2024 dated 15.04.2024]

- Time period for accreditation of Halal Certification Bodies and registration of Export Units have been extended by a period of three months i.e., up to 4th July 2024. [Notification No. 08/2024 dated 23.04.2024]
- Export of upto an aggregate quantity not exceeding 2000 MT of white onion has been allowed through the specified ports, taken together, with immediate effect. The exporter shall have to get the certificate from the Horticulture Commissioner, Government of Gujarat certifying the item and quantity of white onion to be exported. [Notification No. 09/2024 dated 25.04.2024]

#### Public Notice:

- Standard Input Output Norm (SION) E-124 for export of Refined Sunflower Oil (Edible Grade) has been amended with revised import entitlements. [Public Notice No. 01/2024 dated 09.04.2024]
- Timelines and Procedures for registration under the Import Monitoring System (MS-IMS) for import of Melon Seeds are notified. [Public Notice No. 02/2024 dated 09.04.2024]
- Corrigendum issued to Public notice no. 01/2024 dated 9th Apr 2024 for correction of the import quantity of “Filter Aid” at S.No. 6 from 3600 Kg to 3.600 Kg. [Corrigendum dated 29.04.2024]

#### Circular:

- Following clarification has been issued w.r.t. Advance Authorization (AA) Export Obligation fulfilment by Physical Exports vs. Domestic Supplies:
  - AA Holder holding an AA issued on or after 01.04.2015, under Customs Notification No. 18/2015-Customs, dated 01.04.2015 has following options to fulfil export obligation:
    - Either by physical exports or by making domestic supplies under para 7.02(A) (a) of FTP 2015-2020 i.e. Supply of goods against AA/ AA for annual requirement/DFIA i.e. Supply of goods against AA/AA for annual requirement/DFIA.
    - To make supplies under para 7.02A (b) of FTP 2015-2020 i.e. supply of goods to EOU/STP/EHTP/BTP.
    - To make supplies under para 7.02(A) (c) of FTP 2015-2020 i.e. supply of capital goods against EPCG authorisation provided exemption from payment of applicable Anti-Dumping Duty, Countervailing Duty, Safeguard Duty and Transition Product Specific Safeguard Duty if any has not been availed.
  - AA for deemed export issued under Customs Notification No. 21/2015-Customs dated 01.04.2015:
    - AA holders issued under this notification have similar options for fulfilling export obligations, including physical exports and domestic supplies as mentioned above [Circular No. 01/2024 dated 12.04.2024]

## Trade Notice:

- With the objective to streamline processes, enhance transparency, and promote efficiency in India's foreign trade ecosystem trade notice is issued outlining the crucial directives regarding the submission of digitized Aayat Nirayat Forms (ANFs), Appendices, and other documents.

No hard or soft copies of digitized ANFs, Appendices, IEC, RCMC, or MSME Udyam Registration certificates need to be submitted to DGFT (HQ) or its Regional Authorities. Additionally, there is no requirement to upload such documents alongside online applications

All deficiency letters and correspondences pertaining to online applications must be issued and responded to exclusively online. Physical paper responses to such communications should not be entertained.

[Trade Notice No. 01/2024-25 dated: 02.04.2024]

- Country wise QR measures imposed on import of Isopropyl alcohol (IPA) under HSN 2905 1220, in terms of Notification No 64/2015-20 dated 31.03.2023, have discontinued w.e.f. 01.04.2024 and import of IPA is now “free” without any policy condition. [Trade Notice No. 02/2024 dated 18.04.2024]

## WHATS NEW?

### COMPANIES ACT

- No New Notifications

## WHATS NEW?

### INCOME TAX

- Essential guidelines issued for verification of Income Tax Returns, emphasizing timely compliance and adherence to prescribed procedures. Tax payers are advised to ensure prompt e-verification or ITR-V submission within the stipulated 30-day period to avoid the consequences of late filing. [Notification No. 02/2024, dated 31.03.2024]
- Amul Research and Development Association' situated in Anand, Gujarat, is approved for tax benefits under section 35 of the Income-tax Act, 1961. [Notification No. 38/2024, dated 09.04.2024]
- “Shree Ramanuj Kot Laxmi Venkatesh Mandir” managed by Shree Ramanuj Kot Trust, Indore, Madhya Pradesh (PAN: AAATR0970L) to be place of historic importance and a place of public worship of renown throughout the state of Madhya Pradesh for the purposes of the section 80G(2)(b) of the Income Tax Act 1961.

Notification will be valid only for the renovation or repair of the “Shree Ramanuj

Kot Laxmi Venkatesh Mandir” to the extent of Rs. 1,63,06,311/- and will cease to be effective after the said amount has been collected or on 31.03.2029, whichever is earlier.

[Notification No 40/2024-Income Tax dated 23.04.2024]

- Following income arising to ‘Kerala Autorickshaw Workers Welfare Fund Scheme, Kollam’ (PAN:AAATK3080E), a Board constituted by the Government of Kerala,

will be exempted under clause (46) of section 10 of the Income-tax Act, 1961, Subject to the condition mentioned in the notification.

- Grant received from State Government of Kerala
- Contribution received from the workers registered as members in the Scheme.
- Contribution received from self-employed persons and employers for workers, registering as members of the Scheme
- Registration fee
- Interest earned on bank deposits

This notification shall be deemed to have been applied for assessment years 2024-2025, 2025-2026, 2026-2027, 2027-2028 and 2028-2029 respectively.

[Notification No 41/2024 dated 24.04.2024]

- Deductee/ collectee having PAN status as ‘Inoperative’ attracts higher TDS/ TCS rates. However, for the transactions entered into upto 31.03.2024 with inoperative PANs, deductors/ collectors shall have no liability to deduct TDS/ TCS at higher rate if PAN becomes operative on or before 31.05.2024. [Circular no 6/2024 dated 23.04.2024]
- CBDT has extended the due date for filing Form 10A and Form 10AB to 30th June 2024 for category of applicants as mentioned in the circular. [Circular no.7/2024 dated 25.04.2024]

# BEYOND THE OBVIOUS



## GST

- HC remanded matter since dept. disallowed ITC for not showing bank payment proof of invoices without demanding it: HC [Amit Upadhyay v. Sales Tax Officer {[2024] 161 taxmann.com 676 (Delhi)}]
- Except for holding that the taxpayer had availed ITC which is blocked credit u/s 17(5), no reasons are specified - Order set aside and matter remanded: HC [APL Apollo Tubes Limited (Unit II) Vs State Tax Officer (Intelligence){ W. P.No.9030 of 2024}]
- HC set aside penalty order since dept. failed to prove deliberate or wilful intention of assessee to avoid and evade tax [Maxxcab Wires & Cables (P.) Ltd. v. The State of West Bengal {[2024] 161 taxmann.com 678 (Calcutta)}]
- HC sets aside confiscation order since calculation of stock on basis of an estimate was without any basis in law [Eco Plus Steels (P.) Ltd. v. State of U.P. {[2024] 161 taxmann.com 414 (Allahabad)}]
- GST refund can't be denied merely because of non-compatibility of data between Customs and GST Department: HC [Venus Jewel v. Union of India {[2024] 161 taxmann.com 313 (Bombay)}]
- Proper Officer is Required to Substantiate Why Reply is Unsatisfactory & Provide Opportunity Before Confirming Demand:HC [Paras Enterprises v. Union of India – {[2024] 159 taxmann.com 657 (Delhi)}]
- Application for cancellation of GST registration can't be rejected merely on ground of pendency of DRC-01 proceedings: HC [ Chetan Garg v. Avato Ward 105 State Goods and Service Tax {[2024] 161 taxmann.com 468 (Delhi)}]
- Bombay HC quashed SCN issued to levy GST on ocean freight on FOB contracts Agarwal Coal Corporation (P.) Ltd. v. Assistant Commissioner of

## State Tax {[2024] 161 taxmann.com 1 (Bombay)}

- HC quashed order confirming tax demand as disparity was due to wrong reporting of CGST & SGST instead of IGST [Subh Sri Agencies v. Deputy State Tax Officer {[2024] 161 taxmann.com 487 (Madras)}]
- HC remanded matter as assessee couldn't participate in adjudication of SCN which was sent to its old address [Fino Paytech Ltd. v. Union of India {[2024] 161 taxmann.com 416 (Bombay)}]
- HC set aside order since proper officer didn't consider detailed reply of assessee & failed to apply mind [Charu Overseas (P.) Ltd. v. Union of India {[2024] 161 taxmann.com 513 (Delhi)}]
- HC remanded matter since consultant of assessee hadn't informed him about initiation of proceedings [Tvl. Bharathi Electricals v. State Tax Officer {[2024] 161 taxmann.com 428 (Madras)}]
- Matter to be remanded since assessee's reply to non-filing of Form ITC-02 was not considered: HC [GG Organics Care (P.) Ltd. v. State Tax Officer {[2024] 161 taxmann.com 549 (Madras)}]
- HC set aside order passed without applying mind when a detailed reply with full disclosures was furnished by assessee [Canara Bank v. Assistant Commissioner, DGST {[2024] 161 taxmann.com 448 (Delhi)}]
- HC quashes order of appellate authority as it rejected appeal on technical ground of not annexing certified copy of order [Jai Prakash Shiv Charan Bidi v. Commissioner, Commercial Taxes {[2024] 161 taxmann.com 551 (Allahabad)}]
- HC remanded matter back for re-adjudication since taxpayer could not access portal and failed to submit reply to SCN [Jain Cement Udyog v. Central Board of Indirect Taxes and Customs {[2024] 161 taxmann.com 512 (Delhi)}]
- Assessment order to be quashed if assessee's explanations to SCN were disregarded in order & no hearing granted: HC [Tvl. Saravanaa Projects & Co. v. Assistant Commissioner (ST) {[2024] 161 taxmann.com 429 (Madras)}]
- Madras HC Quashed Order Since SCN Served on Portal But Assessee Was Unable to Access Portal Due to Cancellation [Thirumalai Sales Corporation v. Assistant Commissioner (Circle) – {[2024] 161 taxmann.com 427 (Madras)}]

- No liability on SEZ unit to pay GST under RCM on services of advocate subject to furnishing a LUT or a bond: AAR [Abans Alternative Fund Manager LLP, In re {[2024] 161 taxmann.com 681 (AAR - GUJARAT)}]

## **CENTRAL EXCISE**

- Valuation - Incentive/industrial subsidy of VAT/Sales Tax paid by State Government under Industrial Promotion Policy, not includible in assessable value for payment of Central Excise duty: SC [PRINCIPAL COMMISSIONER OF CGST AND CENTRAL EXCISE V. MAHINDRA STEEL SERVICE CENTER LTD.{ (2024) 17 Centax 242 (S.C.)}]
- Mandatory Pre-Deposit U/S 35F For Filing Appeal Before CESTAT Can't Be Waived In Writ Jurisdiction: HC [Ram Kishan Bairwa vs. Central Excise Service Tax Appellate Tribunal And 2 Others {2024 LiveLaw (AB) 262 [WRIT TAX No. - 416 of 2024]}]
- Freight/Insurance Amount Is Not Includible In Assessable Value Of Goods For Charging Excise Duty: CESTAT [Panama Petrochem Ltd. Versus Commissioner of C.E. & S.T.-Daman {Excise Appeal No. 10576 of 2016- DB}]

## **SERVICE TAX**

- Extended period of limitation was not invocable by Revenue and therefore, SCN was hit by limitation as no service tax was actually charged or received by assessee and issue was wholly interpretational in nature: SC [Commissioner Of Central Taxv. Vijay Nirman Company Pvt. Ltd {(2024) 16 Centax 484 (S.C.)}]
- Service Tax Not Liable To Be Paid On Ocean Freight/Sea Transportation Services: HC [ M/s. Sanathan Textile Pvt Ltd. Versus Union of India{ Writ Petition No. 184 Of 2019}]
- Dept. Can't After Being Unsuccessful, On Its Own, Declare Order For CENVAT Credit Refund To Be Erroneous: HC [Blackberry India Pvt Ltd -Earlier Known As Research In Motion India Pvt Ltd Versus The Commissioner CGST{2024 LiveLaw (Del) 416}]
- Activity Of Providing Tips Related To Shares Is Not Covered Under "Banking And Other Financial Services": {CESTAT {(2024) 16 Centax 61 (TRI. -Ahmd)}}
- Remuneration Paid To Whole-Time Directors As Commission Based On Profit Doesn't Attract Service Tax: CESTAT [Gujarat Guardian Ltd. Versus C.C.E-Bharuch {Service Tax Appeal No. 11779 of 2016- DB}]

## CUSTOMS

- Issuance Of Pre-SCN Consultation Is Mandatory Requirement For Issuing SCN Under Customs Act, 1962: HC [[Bihar Foundry & Castings Ltd. Versus Union of India](#){ 2024 LiveLaw (Jha) 37}]
- Where contract between foreign buyer and exporter stated that all Indian taxes will be borne by exporter, and foreign buyer's undertaking stated that export duty incidence was not passed on to them, refund of export duty could not be hit by unjust enrichment on ground that exporter's financial records had not shown refundable amount as receivables. [[Muneer Enterprises Versus Commissioner Of Customs](#) {(2024) 17 Centax 377 (Tri.-Bang)}]

## INCOME TAX

- AO can't independently evaluate face value of shares by rejecting method adopted by assessee: HC [[Agra Portfolio \(P.\) Ltd. v. Principal Commissioner of Income-tax](#) {[2024] 161 taxmann.com 303 (Delhi)}]
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- AO can't initiate reassessment against Co. after approval of resolution plan by NCLT: HC [[Principal Commissioner of Income-tax, Central-4 v. Patanjali Foods Ltd.](#) {[2024] 161 taxmann.com 675 (Bombay)}]
- Block period for search assessment to be reckoned from date of handing over of seized books of a/c to AO: HC [[Principal Commissioner of Income-tax, Central-1 v. Ojjus Medicare \(P.\) Ltd.](#) {[2024] 161 taxmann.com 160 (Delhi)}]
- Sec. 153C proceedings can be initiated only if seized material is likely to have bearing on determination of income: HC [[SAKSHAM COMMODITIES Ltd. v. INCOME TAX OFFICER](#) {[2024] 161 taxmann.com 485 (Delhi)}]
- Sum received from employer on account of out-of-court settlement isn't taxable as profit in lieu of salary: ITAT [[Income-tax Officer v. Avirook Sen](#) {[2024] 161 taxmann.com 462 (Delhi - Trib.)}]
- No additions towards LTCG on sale of shares just because Co. was identified as penny stock: ITAT [[IN THE ITAT MUMBAI BENCH 'C' DCIT v. Pavankumar Bachhraj Chandan](#) {[2024] 161 taxmann.com 674 (Mumbai - Trib.)}]

- Sales supported by stock register, bills and VAT returns couldn't be treated as bogus: ITAT [JMK Exports v. ACIT {[2024] 161 taxmann.com 481 (Delhi - Trib.)}]
- Transfer of leasehold rights in land not covered within the purview of section 50C: ITAT [Deputy Commissioner of Income-tax v. A. R. Sulphonates (P.) Ltd. {[2024] 161 taxmann.com 451 (Kolkata - Trib.)}]

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- Guarantors who failed to pay invoked guarantees were rightly barred from filing their claim as FC in CIRP of CD: SC [ {[2024] 161 taxmann.com 474 (SC)[01-04-2024]}
- Warrant of attachment on bank a/c unjustified as the applicant had discharged its liability as per approved RP: HC [ {[2024] 161 taxmann.com 51 (Bombay) [18-03-2024]}
- CD is solely responsible for repayment after failed barter agreement, AA rightly admitted CIRP plea: NCLAT {[2024] 161 taxmann.com 684 (NCLAT-New Delhi)[04-04-2024]}

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- Liability of guarantor is joint and several with principal debtor: SC {[2024] 161 taxmann.com 76 (SC)}
- DRT erred in approving a lower bid and prioritizing unsecured creditors over mortgagee in an auction sale: HC {[2024] 161 taxmann.com 50 (Bombay)}

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- Co-Promoters Are Also Liable To Pay Refund With Interest To Allottees In Case Of Delay Under Section 18 Of The RERA: HC [Wadhwa Group Housing Private Ltd V/s. Mr. Vijay Choksi and SSS Escatics Pvt. Ltd {SA(St.)21842-2023-FC}]
- Rights Of Allottees Under Section 18 Is Unconditional & Absolute, Regardless Of Unforeseen Events Beyond Control Of Promoter: MahaREAT [Neelkamal Realtors Suburban Pvt. Ltd vs Mrs. Regina D'Costa {Appeal No. AT006000000052555 a/w. AT006000000052556}]
- Despite The Allotment Letter Issued During The MOFA Regime, The Registered Project Will Still Be Covered Under RERA: MahaREAT [Case: Sachin Tomar And Shivaji Tomar Vs Ensaara Metropark Luxora Infrastructure Pvt, Ltd. {Appeal No 4T004000000031625 Of 2019}]
- Section 18 Of RERA Applies Even If There Is No Written Express Agreement For Sale Between The Allottee And Promotor: MahaREAT [Case: Sachin Tomar And Shivaji Tomar Vs Ensaara Metropark Luxora Infrastructure Pvt, Ltd {Appeal No 4T004000000031625 Of 2019}]

# DID YOU MISS THIS



- GST collections hit a record high in April 2024 at ₹2.10 lakh crore. This represents a significant 12.4% year-on-year growth
- Defense exports have touched a record Rs 21,083 crore (approx. USD 2.63 Billion) in the Financial Year (FY) 2023-24, a growth of 32.5% over the last fiscal year
- Pension Portals of all Pension Disbursing Banks to be integrated in the Integrated Pensioners' Portal of Department of Pension & Pensioners' Welfare to ensure Ease of Living of Pensioners
- Indian Coast Guard (ICG) and the Gujarat Anti-Terrorism Squad (ATS) seized an Indian fishing boat in the Arabian Sea carrying 173 kg of narcotics and arrested two perpetrators on board.
- Indian Coast Guard (ICG) in collaboration with the Anti-terrorism Squad (ATS) and Narcotics Control Bureau (NCB), seized 86 kg of narcotics valued @ Rs 600 cr

# TDS/TCS Mismatch & Follow Up

**Handling TDS / TCS Mismatches & Follow-Up With Suppliers & Customers**

## Identifying TDS/TCS deducted by Suppliers/Vendor's

- Obtain the list of TDS/TCS deducted by your suppliers/vendor's, TDS/TCS receivable GL listing
- Download the Form 26AS from TRACS website
- Reconciliation of TDS reflected in Form 26AS and TDS receivable GL
- Prepare summary report of Matched, Mismatch transactions

## Suppliers Follow-ups

- Interaction with suppliers for the identified mismatches
- Follow up for correction of mismatches with the supplier within the agreed timeline
- Guiding the suppliers w.r.t. methodologies for updation of TDS/TCS details
- Any other field work required in relation to above scope
- Providing MIS from time to time for these activities

## Identifying TDS deducted by Customer's

- Obtain the list of TDS deducted by customer's w/s 194Q, TDS receivable GL listing
- Download the Form 26AS from TRACS website
- Reconciliation of TDS reflected in Form 26AS and TDS receivable GL
- Prepare summary report of Matched, Mismatch transactions

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- Reconciliation of the credit availed by the company with the invoice reported by the supplier.
- Preparing supplier-wise summary report of mismatches.

## Suppliers Follow-ups

- Interaction with suppliers and customers for the identified mismatches.
- Follow up for correction of mismatches with the supplier within the agreed timeline.
- Guiding the suppliers w.r.t. methodologies for correction of the invoices.
- Working out strategies for agreed mismatches.
- Any other field work required in relation to above scope.
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## New Episodes



**Clarification on TCS liability**  
Preeti Kulkarni | Director & CFO, Bizsolindia



**Clarification to deal with difference in ITC**  
Nidhi Nawal | Director, Bizsolindia



**Clarification on taxability of share capital held in subsidiary company by the parent company**  
Manoj Behede | Director, Bizsolindia



**Clarification on ITC & Methodology For Issue of Supply of Goods Against the Warranty Claims**  
Manoj Malpani | Director, Bizsolindia



**Andhra Pradesh's Landmark Ruling on GST Credit: Impact on Taxpayers Explained**  
Manoj Malpani | Director, Bizsolindia



**Clarification on how to calculate interest on IGST credit wrongly availed & utilized.**  
Adv. Kiran Sawale | Senior Advisor - Consulting & Taxation, Bizsolindia



**Clarification on Is E Invoicing mandatory for your business?**  
Amit Devdhe | Senior Advisor - Consulting & Taxation, Bizsolindia



**No Interest, No Penalty can be levied under Customs Act**  
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Company Secretary

Practicing Company Secretary.

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Practicing Cost Accountants & Cost Audit

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