The TAX POST

A bimonthly bulletin on the world of Indirect Taxes

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PREFACE

Dear Readers,

The outbreak of the novel coronavirus disease (COVID-19) puts a spotlight on the resilience of health systems and the country's emergency preparedness and response. The rapid spread of COVID-19 and the strong subsequent waves emphasise the urgent need for a strong and healthy workforce, advanced medical support system, rapid vaccination programme, as an integral part of every resilient health system.

While the trajectory of new cases in some geographies indicates transition toward normalcy, the fragile situation continues in certain other countries with transmission and deaths counts still high, unequal access to vaccination, and variants of concern threatening to undo progress achieved in the early days. This edition of 'The Tax Post' reaches you when the situation remains grim in India and the health care system is stressed with very little elbow room to accommodate fresh cases of the virulent, new COVID-19 strain.

The focus of this edition of the 'The Tax Post' once again shifts to the Healthcare sector – the Devices industry, which plays an important role, especially in the pandemic inflicted world. While the expectations from this important part of the healthcare sector is at an all-time high, the industry is looking forward to appropriate policy initiatives to build capacities to grow fast and serve the world. We have featured an expert from the industry in the section 'Industry Voice', to share his perspective. Our internal sector experts have elucidated certain important aspects, from a global and in-country standpoint.

The 'Cover story' of this edition deals with an interesting aspect of Central Sales Tax (CST) law, a legislation which had started fading from the public memory after the introduction of the GST law. The spectre of CST continues to loom large even in the GST regime, compelling businesses to reimagine their procurement of fuel/energy needs and product pricing strategy, in the light of an amendment proposed in an archaic law, through the Union Budget 2021.

Despite numerous Court rulings, authorities are determined to take resort to procedure provisions or administrative circulars to thwart substantive, beneficial provisions incorporated in fiscal statutes leading to unproductive and protracted litigations. We are bisecting a recent decision given by the Gujrat High Court in the section 'Decoded', a decision which could be a welcome relief for many exporters. 'Global Trends' of the publication, continues to bring news on VAT/GST from other jurisdictions.

We trust this edition would be interesting and insightful to our readers.

COVER STORY

Spectre of Central Sales Tax (CST) looming large in the post-GST era

The backdrop:

The Goods & Service Tax (GST) was introduced with much fanfare and expectation in India, in July 2017. The much-articulated benefits of GST included the removal of archaic origin-based indirect tax to usher-in a contemporary 'destination-based consumption tax', sweep away tax cascading, discard non-creditable taxes to introduce seamless input tax credit, encourage India Inc to be price competitive viz-a-viz goods/service of foreign origin, materialise 'One nation, One Tax, One market' promise, etc. While these are cited to be objectives and purposes for the roll-out of GST, after a long and painstaking 17-year consultative process, the recent developments on the ground appear to indicate that the policy makers are clawing back to re-energise the age-old, outdated CST, which was introduced in 1957. So is it a case of one step forward and one back-wards?

While GST was introduced, in order to meet the demands of the stakeholders, few products [viz. Petroleum Crude, High Speed Diesel Oil, Motor Spirit commonly known as Petrol, Aviation Turbine Fuel, Natural Gas (commonly referred to these 5 items as 'Petro-products') and Alcoholic liquor for human consumption ('Liquor', in short)] were kept outside the scope of GST. It was enshrined in the legislation that Petro-products would be brought under the GST net at a future date, basis recommendations of the GST council, which has representation from the Central and State governments. While the clamour for inclusion of Petro-products under GST growing louder and the governments voicing readiness, an innocuous looking amendment to CST Act, which was initially left un-noticed in the fine-prints of the Union Budget 2021 documents or few stray voices later, missed the headlines of a pandemic-hit economy.

When the amendments carried-out through the Finance Bill 2021 are implemented, many industries in the country would be confronted with significant cost escalations, revisit of pricing decisions and potential erosion of trade, unless the policy makers choose to follow the overarching principle of 'Value Added Tax' in its strict sense!

The Challenge:

With the roll-out of GST, Integrated Good & Service Tax (IGST) law was also introduced to administer levy of GST on transactions taking place on inter-state basis (which includes import and export too). An amendment was also found necessary in the CST law as all goods except Petro-products and Liquor would only be subject to GST from July 2017. While amending the CST law, Section 2(d) of CST Act, 1957 which defines the term 'Goods', was amended to restrict the scope of 'Goods' to Petro-products and Liquor alone.

This gave rise to a spate of litigations, where the tax authorities sought to restrict the benefit of concessional CST rate @ 2% against the declaration in Form-C, only to those taxpayers who purchase 'Goods' (i.e., Petro-products and Liquor alone) for the use in the manufacture or processing of 'Goods' (again, the Petro-products and Liquor). Many Petroleum refining companies insisted to its customers to submit an undertaking and/or bank guarantees to indemnify the sellers against potential denial of concessional CST levy of 2%. While some state governments sought to deny the benefit of concessional CST and refused to issue Form-C to taxpayers, some States allowed the same by issuance of administrative guidelines.

The dispute reached the High Courts of many States where the taxpayers challenged denial of concessional CST. The Madras High Court[1] (as approved by Supreme Court) in one of the cases held that the definition of 'Goods', amended with effect from 1 July 2017 under the provisions of the CST Act to restrict it to six commodities specified in Section 2(d) of the CST Act, does not mean that the entire scope of the operation of CST Act has been amended. The rights of the purchasing dealers of the 'Goods' including the right to purchase at a concessional rate against declaration in 'C' form continues unabated under Section 8(3)(b) of the CST Act, which has not been amended in 2017. The scope of the term 'Goods' in Section 2(d) of the Act does not obliterate such seamless flow of the inter-state trade or the operability of the CST Act for both selling dealers as well as purchasing dealers throughout the country. The Legislature never intended to do so while restricting the applicability of the CST Act only to six specified commodities and take them out of GST Law and taking all other commodities except the six specified items in the GST law regime. Such a view on the part of the Revenue is self-defeating and cannot be countenanced by the Court. The freedom of trade including the right to purchase during inter-state trade or commerce enshrined in Article 301 read with Article 304(b) of the Constitution cannot taken away by the GST regime. The Punjab & Haryana High Court[2] (approved by Supreme Court) along with many other High Courts[3] came to an identical conclusion.

The Legislative Change:

While the above judgments appear to have cemented the position, regarding the eligibility to concessional CST against the declaration in Form-C for sectors beyond Petro-products and Liquor, the Finance Bill, 2021

proposed an amendment to Section 8(3)(b) of CST Act, 2021 to limit the scope of the benefit to only those who sell 'Goods' (i.e., Petro products and Liquor) as defined in Section 2(d). Simultaneously, the amended provision removed the benefit available to few other sectors, such as those who use these goods in telecommunication networks, mining or distribution of electricity/other forms of power.

The pre-amended and the amended Section 8(3)(b) of CST Act is given below for the benefit of quick comparison by the readers:

Pre-Amended	Amended through Finance Bill 2021
(3) The goods referred to in sub-section (1) - (a) ..... (b) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power;	(3) The goods referred to in sub-section (1) - (a) ..... (b) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing for sale of goods specified under clause (d) of section 2; **(Emphasis supplied)**

The amended provision makes it mandatory that the benefit of concessional CST @2% would be accorded to those Goods, as referred to in Section 8(3) of the CST Act. Section-8(3), in turn, restricts benefit to Goods purchased and used him in the manufacture or processing 'for sale of goods specified under clause (d) of section (2)'. This would mean that the 'Goods' sold shall be Petro-products and Liquor, after manufacture or process; if after process/manufacture, what is sold is other than Petro-products and Liquor, it falls outside the ambit of this beneficial provision.

[1]Commissioner of Commercial Taxes Vs. Ramco Cements Ltd (2020-TIOL-578-HC-MAD) as approved by Supreme Court
[2]Carpo Power Ltd Vs. State of Haryana (2018-TIOL-3065-HC-P&H)
[3]Hindustan Zinc Limited v. State of Rajasthan (2019) 64 GSTR 366 (Raj), Shree Raipur Cement Plant v. State of Chhattisgarh (2018(IV)MPJR (SC) 45), Star Cement Meghalaya and others v. The State of Assam (2018 (57) GSTR 369 (Gau), Tata Steel Limited v. State of Jharkhand ((2019) 70 GSTR 364 (Jha),

The Impact

The amended provision would have adverse impact on the industry, directly and indirectly. The benefit of Form-C would now be available only to oil refineries or resellers of the Petro-products or who manufacture/process Liquor.

For example, manufacturers of all other products viz. cement, steel, machineries, electronic equipment, fertilizers, chemicals, etc., who use Petro-products in their factory (say, Diesel for DG set) cannot buy Petro-products against Form-C after the amended provision is implemented. Telecom operators require Diesel to run DG sets installed at the tower sites for use during power failure. The new provision would disentitle them of the concessional CST. A mining company or a power generating company who uses Petro-products, cannot procure it by the issue of declaration in Form-C. This may also reignite the pre-GST days, when the state governments resorted to VAT rate reduction to attract consumption or route transaction through their States. The Airlines would continue to choose a State, which levies the lowest VAT on ATF. The tax induced distortions, which were expected to be addressed through introduction of GST, would receive a fresh lease of life, if the age-old practice is not stopped.

When the CST Law was first introduced in 1957, the purpose was to determine the principle as to when the sale takes place in the interstate trade or commerce, regulate rate of tax on goods of special importance and to levy a modest tax @1% to be retained by the originating State, as a measure to augment the revenue collection. While world over, the interstate transaction tax was sought to be taxed at nil/zero rate, in the Indian experience, the rates started creeping-up to equal the Sales Tax/VAT rate as applicable on an intra-state transaction in respective State. Soon the States had started attracting investments by offering refund of taxes (including CST) with an expectation of increased economic activity and trickle-down effect. As the CST rate started creeping-up, cost of production or the tax cost increased leading to an inflationary trend. Administrative hassles associated with procurement, issue and submissions of Form-C created further havoc.

Until it was decided that the archaic origin based inter-state tax would be replaced with a robust destination-based consumption tax i.e., GST, the taxpayer suffered the onslaught of the primitive tax form, which was phased-out in many jurisdictions. As a justification for switch over to the GST regime, it was argued that the introduction of GST would make India a single, unified market with no restriction on movement of goods from one state to other. It was also advocated that the removal of CST will remove the cascading effect as CST did not carry any set-off relief and there was a distortion in the VAT regime due to export of tax from one state to another, which defeated the important cannons of the taxation.

The proposed amendment would require the businesses to reinvent their procurement strategy, as use of Petro-products interstate would have significant cost impact, if seen in the context of the entire value chain. It is not clear how the impact of a very high, cost component (some states levy VAT of 30%+ on Petrol and up to 25% on diesel) would unsettle the pricing model of the enterprises. Further, the government is required to formulate a suitable mechanism to compensate the tax cost that may be embedded in the product, especially on cross border trade to make Indian products price competitive in the international market. Unless revisited, it can adversely affect the domestic industry due to cheaper imports.

The Conclusion:

The amendment appears to give an indication that the government is not prepared to bring-about Petro-products under the GST regime in the near future. The intent appears to keep these products under the Excise duty and VAT for a longer period to continue to tap on this sector and garner more revenue.

During the pre-GST regime, issuance of declaration in Form-C was permitted for activities such as distribution of power or telecommunication service, even though no VAT/CST was payable on the output side. Therefore, logically, non-levy of VAT/CST on the output side cannot be a reason for denial of the concessional CST against Form-C.

Denial of concessional CST on Petro-products could be a deathblow to Indian businesses which are reeling under the impact of the global pandemic. The foundation for creating a facilitative business environment starts with certainty in fiscal policies and building investor confidence with a sound, transparent and predictable legal framework. To protect businesses and instill confidence in fragile situations, the ecosystem has to be conducive and the rules clearer and coherent.

While the government has been proactive in addressing the concerns of businesses with respect to fiscal statutes, it is expected that the government will swiftly move to address the concerns of the India Inc with regard to this retrograde step of increasing the CST incidence, under the GST regime, which runs counter to the avowed principles of a good 'Value Added Tax'.

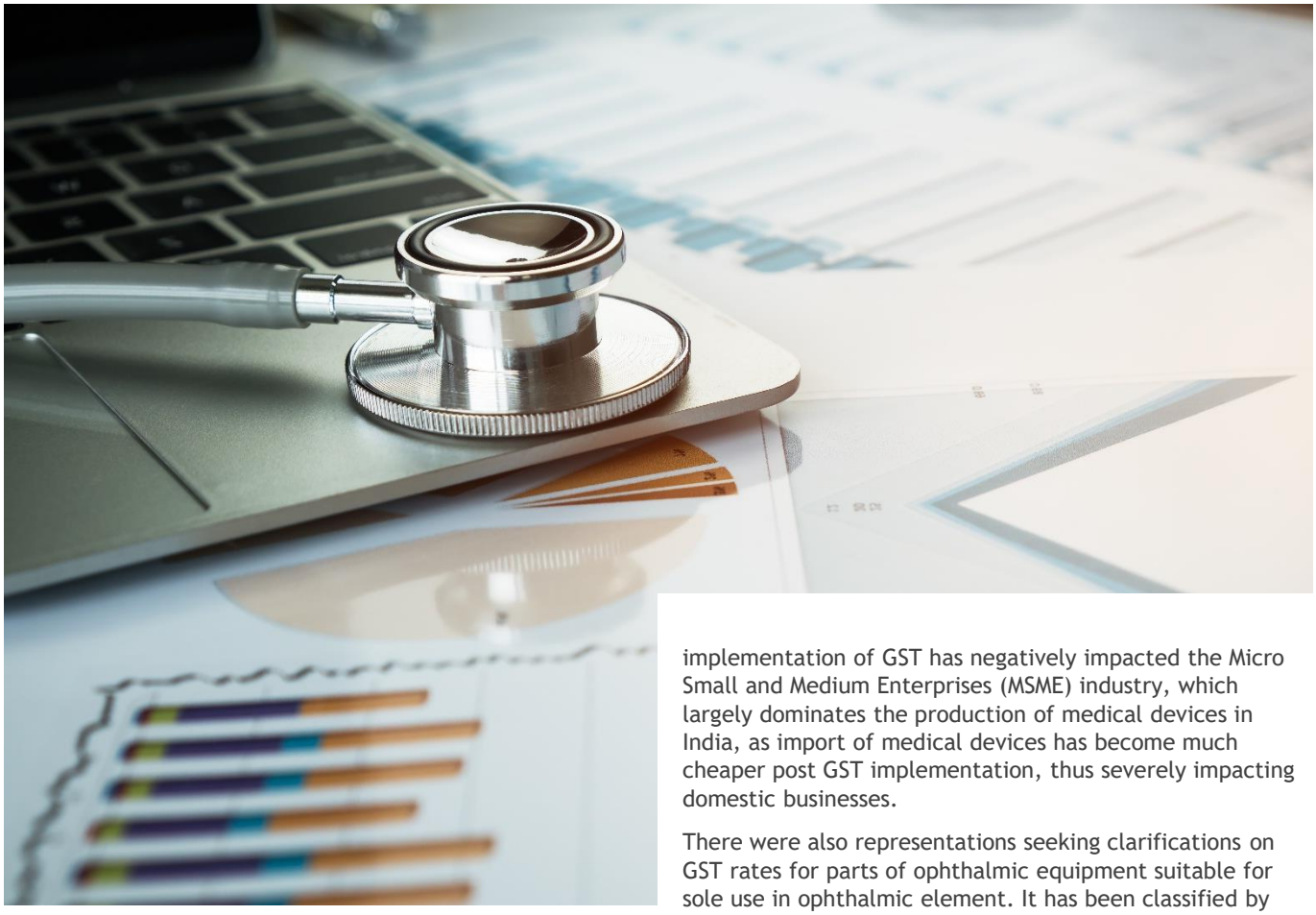
THE INDUSTRY VOICE

S. Srikanth
Head – Taxation
Trivitron Healthcare Private Limited

The role of the Medical Devices Industry and its transformation

Healthcare is a sector that concerns itself with the well-being of the people. It includes both, the supply of services by the hospitals and diagnostic centres, as well as the supply of goods by pharmaceutical/devices manufacturing companies. It is characterised by the diagnosis of a disease, virus or injury, preventative, and curative remedies to help people suffering from disease or injury. The development of medical technologies has led to countless lives being saved and has played a crucial role in building a safer, more stable society. Hence, the demand for medical devices and affiliated technological solutions in healthcare remains very high. However, medical technology is also one of the most challenging sectors due to the rigorous regulatory path that needs to be followed.

Medical devices are those apparatuses or instruments used for medical purposes like diagnosis, treatment, or investigations, categorised in In-Vitro and In-Vivo applications and include devices like pacemakers, syringes, catheters, X-ray, ultrasound, CT, MRI machines etc. The medical devices industry has erupted significantly worldwide during the last decade. With increase in life expectancy and non-communicable diseases, this industry in India is estimated to become a USD 50bn market by 2025 as per the India Brand Equity Foundation (IBEF). Currently, India is among the 20 leading global devices market and the 4th largest market in Asia with a size of USD 6bn. The sector is driven by 75-80% imports, which created a path to manufacture or develop indigenous medical devices and hence has large potential to invest, and step towards an 'Atminirbhar Bharat'. The key industrial players include Hindustan Syringes, GE Healthcare, 3M Science, Medtronic,



Johnson & Johnson, Becton Dickinson, Philips Health care, Stryker Corporation, Siemens Health Care, etc. However, the role of the SMEs is pivotal in the Indian context.

Recent policy changes to allow 100% FDI in medical devices and the announcement of the Production Linked Incentive (PLI) Scheme are expected to boost the 'Ease of Doing Business' in India and consolidate the 'Make in India' plan.

The Regulatory environment and Fiscal law rationalisation

Conceived on the principle of 'One nation, One tax, One market', the Goods and Service Tax (GST), a pathbreaking fiscal reform, was undertaken by the country after 70 years of independence, subsuming 17 Central and State levies. The implementation of GST has its own impact on the medical devices industry wrt. rate rationalisation, though it has largely addressed the cascading effect of taxes.

There is a long pending demand from the domestic medical equipment manufacturers to rationalise the GST rate to 5% from the existing higher rates. It is perceived that the implementation of GST has negatively impacted the Micro Small and Medium Enterprises (MSME) industry, which largely dominates the production of medical devices in India, as import of medical devices has become much cheaper post GST implementation, thus severely impacting domestic businesses.

There were also representations seeking clarifications on GST rates for parts of ophthalmic equipment suitable for sole use in ophthalmic element. It has been classified by the industry under the heading 9018 liable to 12% tax; however, CAG has expressed a different opinion and stated it merit to be classified under the residual entry heading 9033 which attracts GST @18%. The Central Board of Indirect Taxes, in this context classified it under heading 9018 which attracts 12%.

While the impact of imposition of Health Cess of 5%, in addition to the Basic Customs duty of 7.5% on the value of the goods, introduced vide Union Budget 2020 on import of certain medical devices to help finance healthcare infrastructure and services was viewed worrisome by one segment of the players, it is welcomed by few others towards the advantage of accelerating medical devices manufacturing as a 'Make in India' enabler.

The removal of duty exemption on critical implants was appreciated as a welcome move as it would hugely impact the ability of medical device companies to continue bringing innovative medical implants to India.

The Health Cess is leviable on goods classified under headings 9018, 9019, 9020, 9021, and 9022 of the First

Schedule to the Customs Tariff Act, 1975. Medical Devices that are exempt from Basic Customs Duty under an applicable Free Trade Agreement and components used in the manufacture of medical devices are exempt from the cess.

In April 2019, the country's highest advisory body on technical issues related to drugs and medical devices - the Drugs Technical Advisory Board (DTAB) recommended that all medical devices should be notified as drugs under the Drugs and Cosmetics Act. With the aim to regulate all medical devices so that they meet certain standards of quality and make the medical device companies accountable, the Union Health Ministry notified medical equipment used on humans or animals as 'drugs' under Section 3 of the Drugs and Cosmetics Act, with effect from 1 April 2020. The manufacture, import and sale of all medical devices will need to be certified by the Central Drugs Standard Control Organisation (CDSCO). Medical Devices Amendment Rules, 2020 was also introduced, for mandatory registration of medical devices.

This broadens the scope of coverage from a compliance perspective since currently only 23 categories of medical devices are regulated by the CDSCO. The need of the hour is for a separate regulatory central nodal body under the Ministry of Health and Family Welfare (MoHFW) to control the quality of devices and regulatory requirements of all medical devices which are quite different from Pharma or Drug products.

Lucrative industrial and trade schemes and its impact on the medical devices industry

The PLI scheme for the medical devices industry is designed to provide monetary incentives and compensate the industry from the considerable cost of inadequate infrastructure, domestic supply chain and low focus on Research & Development (R&D).

The PLI scheme is allowed for the following segments:

- Cancer Care/Radiotherapy
- Radiology & Imaging Medical services
- Anaesthetics & Cardiorespiratory Medical Devices
- All implants

Diagnostics (other than imaging) and patient aids (pacemakers, ear aids, etc.) are also important subsectors of the medical devices industry where imports are significant. Local manufacturers in these subsectors have understood the need for support through schemes like PLI and have been requesting for inclusion.

The PLI scheme is available for 5 years and is based on the incremental turnover. The minimum threshold incremental turnover is INR 600mn for F.Y. 2022-23 and continues to INR 2800mn for F.Y 2026-27. The reduction in the threshold of the incremental turnover from the current levels, would help smaller players to benefit from the scheme and reciprocate and accomplish the 'Make in India' mission.

Macro-economic industrial ventures and its way in the medical devices sector

The Government of India approved a scheme called 'Promotion of Medical Device Parks' in March 2020. These parks are created to provide world class medical infrastructure facilities such as common testing, laboratory facilities, etc. reducing the manufacturing cost significantly thereby leading to better availability and affordability of medical devices in the Indian market.

The scheme provides a one-time grant for the creation of Medical Device Parks proposed by the state government. It supports only 4 medical device parks with a maximum financial outlay of INR 4,000mn and each park will get a maximum grant of INR 1,000mn. Since, the Indian medical devices market is proliferated by imported goods, and there is a dire need for access to medical devices across the country, especially rural India, the country requires more such parks to encourage and support domestic manufacturers.

Need of the hour

With importers dominating the medical devices market, domestic manufacturers require policy support along with significant efforts to become self-reliant and invest further in newer technologies and research. The apprehension surrounding tax laws and higher tax rates would push-up the cost of the devices. Health services provided to patients are free from GST and the ability to avail credit of the taxes paid on these devices are also curtailed, leading to an increase in the cost of medical services.

The establishment of more medical device parks in various states, inclusion of medical devices in the scheme with appropriate state level stimulus packages, etc. are the need of the hour to meet the industry expectations. Formulation of suitable guidelines for the approval of devices including clinical investigation requirements, oversight of marketing and promotion, putting in place a robust and functioning system of adverse event reporting accessible to the public, rules for voluntary and statutory recalls and patient compensation scheme, would improve transparency and create public confidence.

It is expected that an appropriate ecosystem would emerge very quickly for the medical devices industry which would contribute to India becoming a global medical services market.

(The contributed article is in my personal capacity and the views expressed in the article in no manner represent the views of the company)

IN-TALES

The Medical Devices Industry

Introduction:

Access to good quality, affordable, and appropriate health products is indispensable for the advancement of universal health coverage, addressing health emergencies and promoting a healthier population.

Without medical devices, common medical procedures, right from bandaging a sprained ankle, to diagnosing HIV/AIDS, implanting an artificial hip or any surgical intervention, would not be possible. Medical devices are used in many diverse settings - by laypersons at home, by paramedical staff and clinicians in remote clinics, by opticians and dentists and by health-care professionals in advanced medical facilities, for prevention and screening and in palliative care. Such health technologies are used to diagnose illness, monitor treatments, assist disabled people and intervene and treat illnesses, both acute and chronic.

Today, there are an estimated 2 million different kinds of medical devices in the world market, categorised into more than 7000 generic devices groups. A medical device can be any instrument, apparatus, implement, machine, appliance, implant, reagent for In Vitro use, software, material or other similar or related article, intended by the manufacturer to be used, alone or in combination for a medical purpose.

Medical devices businesses provide numerous benefits to the health care sector to treat, diagnose and assist patience not only in recovering from the adverse medical condition but also to improve quality of life. Growing chronic deceases, increase in surgical procedures, rising geriatric population and increased health awareness are expected to boost the global medical devices market in coming times.

Global Perspective:

Growth in interest in medical technology, investment in R&D for next generation medical devices and speed of approvals from regulatory agencies are likely to catapult the industry to a USD 600bn. by the middle of the current decade, from around USD 450bn in 2019. The technological advancement and rising demand for innovative products to overcome unmet needs in the health care sector are other factors, which aid growth in the medical device market.

The global medical device market share is dominated by In Vitro Diagnostic (IVD) medical devices with around 13%, followed by Orthopaedic devices, Cardio-Vascular devices,

Diagnostic imaging, Minimally Invasive Surgery, Wound Management, Diabetic Care, Ophthalmic, Dental and Nephrology, in that order. While North America market is anticipated to hold a significant share in the global device market, Asia Pacific on the other hand, is an emerging market, promising high growth prospects due to increased standards of living, life expectancy and improving infrastructure.

Reinventing business models and building new sources of revenue have never been more important for the healthcare sector, especially as it seeks to improve lives and livelihoods. Driven by a combination of rapid development of technology and medical science, market needs, policy framework, and resource crunch, the navigation towards a sustainable business model is already underway.

The penchant for research and innovation was moving very quickly pre-COVID, and it has only accelerated during the current pandemic. Realising the need and owing to possibly improved healthcare and resultant attractive returns, private equity and other investors have started deploying substantial resources to attract talent, drive the business case and eventual scale-up. Winning approaches typically begin with a fact-based strategic review of business building opportunities, grounded in customer needs, competitive moves, and value creating ideas that pass the test.

India Perspective:

The medical devices industry is important for the country as it plays to our strengths. Frugal engineering and interesting innovations have happened in India which make it possible to manufacture medical devices here at a fraction of the cost of imported equipment. The COVID-19 crisis has also highlighted the point that the current domestic capacities are not adequate to meet a crisis demand.

The Indian medical devices market stood at USD 11bn in 2020. The market is expected to grow at a CAGR of 35.4% from 2020 to 2025 to reach USD 50bn. India possesses the unique advantage of increase in demand, export opportunity, conducive eco-system and policy framework and increasing investment in this sector. India had been dependent on imports for ~75-80% of its medical device demand, especially from countries like the US, China, and Germany. Rising number of medical facilities, growing health consciousness, increase in spending by the government and increased consumption of medical services would be the major drivers for the industry India.

The overall healthcare sector and medical devices industry in particular have grown significantly over the last decade and there is a huge gap in the demand and supply for medical devices in India, which opens-up huge opportunity for fresh investments in the manufacturing sector. Many domestic and multinational corporates are chasing this massive opportunity to penetrate the untapped opportunity in India. Increase in FDI in the medical devices industry by 98% in FY 2020 (INR 22bn) over 2019 (INR 11bn) reflects this bright outlook.

India is among the top 20 markets for medical devices, globally. The Government of India has commenced various initiatives to strengthen the medical devices sector, with emphasis on research and development. Further, India, which has a high import dependency for medical devices, had exports of USD 2.1bn in 2019 and is expected to increase its exports to USD 10bn by 2025.

The cost of healthcare in India is almost 35% more competitive as compared to developed countries such as the US and the UK. That is the reason many foreign tourists visit India to get affordable treatment. There is also an exponential rise in the domestic demand in the preventive healthcare segment.

Promotional Programmes in India:

Government policies such as 100% FDI in the medical devices industry, Production Linked Incentive (PLI) schemes, set-up of medical device parks, significant increase in plan outlay in the health sector, increase in India-Russia bi-lateral trade target by year 2025, etc. are expected to be the means to propel the country to the next level of growth in the near future.

To increase exports of medical devices from the country, the Ministry of Health and Family Welfare (MOHFW) and Central Drugs Standard Control Organisation (CDSCO) implemented various initiatives, including re-examination and implementation of Schedule MIII (draft guidance on good manufacturing practices and facility requirements), system for export labelling, clinical evaluation and adverse reporting clarification, licensing authority extending validity of free sales certificate from 2 years to 5 years, etc.

In May 2020, the government announced a plan of around USD 4.9bn over a period of 5 years, to incentivise investments in manufacturing medical devices. By 2022, Gautam Budh Nagar, Noida is expected to have a medical tools and system manufacturing park. A plan is underway for a mission scheme of USD 6.85bn, of which USD 13.75mn would be funded by the Central Government.

In February 2021, Punjab's Industry and Commerce Ministry had announced that a park for medical devices is proposed in Rajpura, Punjab, across an area of 210 acres, with an estimated project cost of USD 24.67mn. In January 2021, the Tamil Nadu government proposed to build a medical devices park (spanning 350 acres) near Oragadam in Kancheepuram district, near Chennai. The proposed cost for developing this project is USD 58.92mn. The government of Andhra Pradesh is establishing the Andhra Pradesh MedTech Zone (APMTZ), which will house all capital-intensive scientific facilities/laboratories for lease to manufacturers in Vishakhapatnam.

The government has also approved applications for nine eligible projects that are expected to lead to a total committed investment of USD 100mn by large multinational and domestic companies, which can generate sizable employment opportunities as well.

Challenges:

Policymakers must make the important distinction between short-term resolution and long-term strategy. There are a lot of challenges that the government needs to address to make the country a hub for manufacturing medical equipment. To begin with, necessary infrastructures like supply chain and logistics channels, need to be put in place. There is irregular power supply in several parts of the country which impairs the manufacturing process. The government also needs to take steps to reduce the high cost of finance for local manufacturers.

Medical equipment manufacturers have been demanding to reduce the effective rate of GST on medical devices to 5% from the present 18% for many products. There is also a need to rationalise custom duty for necessary components and transitional inputs going into the production of medical equipment in India. It will further help if the government begins to incentivise high-end medical equipment manufacturers to promote the production of these devices in the country. The industry has also been seeking import restrictions and duty protection on the import of medical devices in India. This would restrict imports and at the same time, provide a boost to local manufacturers.

In the short run, we need to bring down the cost of equipment for emergency supplies that are pouring in. Most of this is imported on a government-to-government (G2G) basis like the recent import of testing kits from China. To meet immediate concern, the government had already brought down the custom duty rates, which also helped to tie-over the immediate needs and help private importers who sought to deploy CSR funds for procurement and distribution. In the medium or long run, there is merit in considering custom duty rationalisation for critical components and intermediate inputs going into the production of medical equipment in India, which resonate with the 'Make in India' policy of the Union Government.

There is also a need to increase skill development and training programs to tackle the shortage of talented and trained people in the industry. The government will have to prioritise the need to put in place a robust regulatory framework to maintain high-quality standards and create a healthcare ecosystem in India. Future plans should contain steps to reduce the country's dependency on medical devices/technology imports. It appears that NITI Aayog is drawing-up a strategic road map for the medical devices industry, similar to the incentive package that gives sizable capital subsidies to electronics business.

On the GST front frequent rate changes has its pros and cons. GST rate rationalisation needs to be considered after considering the need of promoting in-country manufacturing. Lowering of GST rates may not be the solution since if the rate is too low, it will lead to an inverted duty structure. This creates blockage of tax credits while availing of input duty credits leading to demands for refunds, which is often delayed and has been cited as one of the major challenges faced by Indian business. Further, reduction in GST rate would hurt governmental revenues, which has been under severe stress. High GST rate can not only lead to inflation but also potential damage to the domestic industry and dependency on imports.

Keeping all this in view, the GST rate rationalisation on medical devices must be taken up as part of a comprehensive rate rationalisation exercise. Perhaps one uniform GST rate for all medical devices could be a solution. Today the industry is still coping with a multiplicity of rates (nil, 5%, 12%, 18%, 28% plus cesses). The GST rates must also be pegged at a level where there are no blockages of input duty credit through an inverted duty structure. Convergence of 5% , 12% and 18% into a single rate may be better option.

Other issues with respect to the stabilisation of the GST law and procedures continue to pose challenges, be it uncertainty on Input Service Distribution model viz a viz. cost recharge, increased compliance burden in credit matching, e-way bill, e-invoice, etc., or stringent timeline in goods return including the procedures, inefficiencies in Advance Ruling where the authorities are inclined to take positions favouring the revenue, Restriction in Export refund linking it to 1.5 times the domestic supply by similarly placed exporter or restriction in Input tax credit. The proposed amendment to the CST Act to restrict the benefit of concessional CST against Form-C to petroleum products is expected to increase the price on account of tax, which runs counter to the object and purpose of GST.

Conclusion:

The Central and the State Governments have taken several initiatives to promote a healthy environment for the growth of medical device manufacturing in the country. With an increased allocation of INR 2238bn for health for FY 2021-22, conducive environment for growth, development of industrial corridors and creation of smart cities, the government aims to ensure holistic development of the nation. What is important is to drive home the advantage of the policy announcements and inclination to address the concerns of the industry, by suitable oncourse corrections basis the concerns expressed by the industry not only at the policy formulation level but also at the implementation level.

DECODED

[4]High Court re-emphasis on primacy of the spirit of law than its letter

Facts:

The exporter in this case, has been engaged, inter alia, in the export of Insoluble Sulphur since 1995. The exporter is eligible for Merchandise Export Incentive Scheme (MEIS) under the Foreign Trade Policy (FTP) 2015-20 in view of its export of the notified product to the specified countries from a unit located in a Special Economic Zone (SEZ). Prior to the introduction of the MEIS scheme, the exporter had been availing export benefits under the Focus Market Scheme (FMS) of the erstwhile FTP in respect of export of Insoluble Sulphur. The exporter had been receiving MEIS in respect of the exports made by it, post June 2015. The issue which arises in the present writ-application pertains to a 2-month period from 01 April 2015 to 31 May 2015.

The exporter had exported certain quantities of Insoluble Sulphur from the Mundra Port (a non-EDI port) through various Shipping Bills (SBs), during the disputed period referred to above. The export documents i.e., the SBs bear the endorsement of the authorities of having examined the goods and supervised the stuffing. However, the aforesaid SBs did not contain a declaration as prescribed under Clause 3.14 of the Handbook of Procedure (HBP) under the FTP, that "We intend to claim rewards under Merchandise Exports from India Scheme".

The exporter subsequently filed an application before the jurisdictional DGFT Authorities for grant of MEIS scrips for the disputed period; the authorities pointed-out non-compliance with the requirement of declaration specified under Clause-3.14 of HBP referred to above. This deficiency was sought to be cured by the exporter and also the jurisdictional DGFT authorities by seeking clarification from DGFT Headquarters. While clarification was pending, jurisdictional ZDGFT issued three scrips for the disputed period and simultaneously these scrips were kept under suspension on the ground that clarification is awaited from the DGFT, New Delhi, in regard to whether the non-EDI shipping bills can be given relaxation from making declaration in the SB. The exporter was also asked to surrender the scrips, leading to the eventual surrender of the scrips.

During few interactive sessions with the DGFT authorities and through separate written communications, the exporter continued to voice their concerns, without any avail. This was followed by a proposal by the authorities to deny the benefits of MEIS scrips and the closure of the file, by the Development Commissioner. This prompted the exporter to file an application before the Customs Authorities to amend the SBs to include the declaration as required in HBP, followed by multiple reminders to the Customs Authorities, which also did not evoke any response. Aggrieved by this, the exporter filed a Writ Petition before the High Court of Gujrat.

[4]Oriental Carbon & Chemicals Ltd Vs. UoI (2021-VIL-316-GUJ-CU)

EXPORTER'S CONTENTION:

- They argued that the action of the authorities to deny MEIS on the ground of non-compliance with declaration as per Clause 3.14 of the Handbook of Procedures is ex-facie arbitrary, unreasonable, unconstitutional, perverse and illegal since there is no dispute that they are eligible to claim the benefits under the MEIS since they have undisputedly exported the notified goods to the notified countries as per the scheme of MEIS.
- Even the authorities had understood that the requirement of declaration of intent to claim the MEIS benefits on the SB is effective from 01 June 2015. The authorities had, therefore, issued three scrips to the exporter. They submitted that there was some confusion whether such declaration was required for the period between 01 April 2015 and 31 May 2015. The same prompted the authorities at Kandla to seek the necessary clarification from the DGFT, New Delhi. Hence, the writ-applicant could not have been denied the MEIS benefits on this ground.
- The requirement of declaration of intent to claim MEIS benefits is at best a procedural or a technical requirement as contained in HBP, which merely lays-down the procedure to be followed for the purpose of implementing the FTP. The said provision of the declaration of intent is only for the purpose of internal convenience of the authorities, i.e. for the purpose of internal communication/ transmission of SB containing such declaration from the Customs authorities to the DGFT. It is a procedural requirement and, therefore, not mandatory. The failure thereof should not entail harsh consequences. It is at best a directory requirement and non-mention thereof is an inadvertent procedural lapse/defect, which can be waived or cured.
- The authorities have ample powers to grant relaxation/waiver and have, in fact, granted appropriate relaxation/waiver in case of exports taken place from the EDI ports. Therefore, even the authorities have not treated this procedural requirement as mandatory or its non-compliance as fatal. It is extremely unreasonable, arbitrary, irrational, discriminatory and high-handed to not grant relaxation/waiver in case of exports made from non-EDI ports.
- Pursuant to the letters addressed by the authorities, asking the exporter to remove the defect, they addressed letters categorically declaring their intention to claim rewards under the MEIS and removing the defect in SB, requesting that its letter be treated as a formal declaration of the intent. They also sought amendment of its SBs under Section 149 of the Customs Act, 1962, so as to mention the declaration of intent as required by Clause 3.14 of HBP, which would cure the defect.
- Circular bearing no:36/2010 dated 23 September 2010, which is sought to be relied upon by the Authority to impose a limitation period of 3 months for SB amendment, is not found in the parent provision, i.e., Section 149 of the Customs Act, 1962. It is submitted that a subordinate legislation cannot travel beyond the parent statute or impose a limitation or restriction not found in the parent statute. The exporter relied on judgments[5] to buttress this argument.
- Customs Act, 1962, contains several safeguards to ensure that the goods are exported including whether goods are prohibited for export, issue entry outwards before the vessels can be loaded, issue a written order permitting the vessel to leave the port, examination of cargo, etc.
- The exporter further relied on other decisions in identical situations, which was disposed-off in favour of various other cases[6] .

AUTHORITY'S CONTENTION:

- There is no verification of goods at the time of the export in case of free SBs and, in such circumstances, the writ-applicant should not be permitted to amend its SBs later for the purpose of claiming the MEIS benefits.
- Authorities argued that the request for amendment of SB under Section 149 of the Customs Act, 1962, is delayed, as the same is hit by the timeline specified in circular no:36/2010 dated 23 September 2010, which prescribes a three months' time limit.
- Vide Public Notice no.40/2015-20 dated 9 October 2015 and Public Notice no:47/2015-20 dated 8 December 2015 respectively, the relaxation was granted in the case of the EDI shipping bills not

[5]CC vs. Lykis Ltd [2021 (2) TMI 261] and Mahalaxmi Rubtech vs. UoI [2021- VIL-173-GUJ-CU]

[6]Bombardier Transportation India Pvt. Ltd. vs. DGFT [2021 (3) TMI 9], Raj & Co. vs. UOI [2021-VIL-313-GUJ-CU], Gokul Overseas vs. UOI [2020-VIL-191-GUJ-CU], Kedia Agencies vs. Commissioner of Customs [2017 (348) ELT 634], Pasha International vs. Commissioner of Customs [2019 (365) ELT 669 (Mad)], Global Calcium vs. AC, Customs [2019 (370) ELT 176 (Mad)] and P. A. Footwear vs. DGFT [2020 (372) ELT 660 (Mad)]

containing declaration only because the electronical filing was being done for the first time and, therefore, the similar relaxation in the case of the non-EDI shipping bills cannot be granted.

OBSERVATIONS AND DECISION OF THE COURT:

- Goods covered in the disputed SBs were, in fact, examined as observed from the endorsements made by the authorities on SBs. The Customs Act, 1962, provides for several safeguards contained in Sections 39 to 42, 50 and 51 respectively, under which the authorities are duty bound to duly pass all the SBs before any goods can be exported. Authorities are required to ascertain whether the goods are prohibited for export before permitting the clearance for export, issue entry outwards to the vessels carrying the export good, issue written order permitting the vessel to leave the port after all the procedures are duly completed. Therefore, it is not correct to say that no verification is undertaken at the time of the export.
- Authorities relied on the newly introduced Rule 46(1)(c) of the SEZ Rules in order to contend that there is a specific provision for examining the goods covered under the MEIS Scheme. However, this contention is completely misplaced since this provision was introduced vide M.C. & I. (D.C.) Notification GSR No.909(E) dated 19 September 2018, whereas the exports in question were much prior thereto (i.e., from 01 April 2015 to 31 May 2015), at that point of time, there was no separate provision in the said Rule 46 for examination of the goods where the MEIS benefits are claimed.
- Section 149 of the Customs Act, 1962, specifically permits amendment of SBs even after the export on the basis of the documentary evidence which was in existence at the time of export. There is no restriction in the said provision to deny amendment after the goods are exported unless the goods are checked at the time of export. Hence, the authorities cannot introduce such restrictions de hors the said provision.
- This Court, as well as other High Courts have allowed several petitions where the free SBs were allowed[7] to be amended and/or the MEIS benefits were directed to be given despite lack of declaration.
- So far as the objection raised by authorities on time limit, the Court observed that Section 149 of the Customs Act, 1962 does not prescribe any time limit. In fact, at the relevant point of time, it did not even provide for the fixation of the time limit by way of rules or regulations. Therefore, no time limit can be read into the said provision nor can it be introduced by way of a circular. It is well-settled that a subordinate legislation cannot travel beyond the parent statute or impose a limitation or restriction not found in the parent statute.
- In the present case, the authorities had themselves sought clarification from the DGFT as to whether the declaration was mandatory prior to 1 June 2015 and were awaiting clarification. The authorities had even issued three scrips to the exporter against six of its applications, which were later suspended while awaiting such clarification. Hence, it is not correct to blame the exporter for not having sought amendment immediately.
- Authority did not issue any communication to the exporter to seek amendment of the SB under Section 149 of the Customs Act, 1962. Even the letters addressed by the Authorities later-on, in August 2018, asking to remove the deficiency, did not specify that the exporter would have to seek amendment under Section 149 of the Customs Act, 1962. On receiving the communication, the exporter filed a letter categorically declaring its intention to claim the MEIS benefits and removing the defects. Thus, the exporter cannot be said to have delayed.
- In the case of the EDI shipping bills, the declaration is by ticking “Y” (for Yes) in the reward column, which was not done by several exporters who had exported through the EDI ports. This was the exporter's mistake as well as the inadvertent omission of declaration on the SB in the case of the non-EDI shipping bills. Therefore, to discriminate between the two would be unreasonable and unfair.
- There is no dispute that the exporter is eligible to claim the benefits under the MEIS, since it has admittedly exported the notified goods to the notified countries as per the scheme of the MEIS. The exporter has been exporting the very same goods prior to the Foreign Trade Policy, 2015-20, and claiming the benefits under the then extant FMS and has subsequently also exported the very same goods and claimed the benefits under the MEIS scheme. The only lapse is with regard to the inadvertent omission to declare the intent as per Clause 3.14 of the HBP during the period between 1 April 2015 and 31 March 2015. This lapse being technical or a procedural lapse, the exporter should not be denied of substantive benefits, as held by this Court in the case of Bombardier Transportation India Pvt. Ltd.
- It would be extremely unfair and unjust not to extend the benefits of MEIS to the exporter on the ground that it had exported goods from a non-EDI port.
- The Court finally directed the authorities to complete the process and issue scrips within a period of eight weeks.

[7]Refer decisions referred to in foot note-2 above

BDO Comments:

There have been a flurry of disputes on the issue at various jurisdiction, ignoring the settled principle that substantive benefits cannot be denied for procedural infraction. The Apex Court as well the High Courts have time and again depreciated the over-emphasis on procedures to thwart the end and objective of the substantive provisions of the law. The Apex Court in an important judgement[8] had held that "We must always remember that processual law is not the tyrant but the servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant not a resistant in the administration of justice. Where the non-compliance, though procedural, will thwart fair hearing or prejudice doing justice to parties, the rule is mandatory. But grammar apart, if the breach can be corrected without injury to a just disposal of the case, we would not enthrone a regulatory requirement into a dominant desideratum. After all, Courts are to do justice, not to wreck this end product on technicalities."

Now that the ruling on this topic is clear and emphatic, it is time that such procedural lapses may be ignored by the authorities, in the interest of time and cost associated with such meaningless litigations.

[8]State of Punjab Vs. Shamlal Murari AIR (1976 (1) SCC 719)

GLOBAL TRENDS

VAT/GST News:

International:

Germany: Registration notification for OSS is available since 1 April 2021

The regulations in connection with the e-commerce on the extension of the so-called Mini One Stop Shop (MOSS) to a One Stop Shop (OSS) should come into force on 1 April 2021, however, businesses should apply from 1 July 2021.
The registration notification (participation in the OSS) is available as of 1 April 2021 and has to be filed electronically with the German Federal Tax Office until 30 June 2021 (i.e., the beginning of the taxation period) Participation in the OSS procedure is not obligatory (same approach as in the MOSS procedure). However, the participation in OSS enables the taxable person to declare and pay VAT which is due in several EU Member States centrally in only one Member State. This removes the necessity to register in several Member States for VAT purposes and simplifies the process.

Source: https://www.globalvatcompliance.com/germany-registration-notification-for-oss-available-april/

Poland: SLIM VAT 2 – WNT corrections and import of services

In response to the "voice of business", on 18 February 2021, the Ministry of Finance published the next edition of the package of changes in the VAT area, the so-called SLIM VAT package 2. Presented as a set of solutions that fit into the concept of the "Simple Local and Modern VAT" should, by definition, facilitate tax settlement by entrepreneurs and at the same time improve the liquidity of companies.
One of the goals set by the Ministry of Finance is to facilitate the settlement of invoices correcting the intra-Community acquisition of goods (WNT) and the import of services.

The draft provides for linking the moment of recognition of the correction with the moment of its cause. Primary causes (existing at the time of sale, e.g., incorrectly specified price, quantity) will result in retroactive settlement. Consequential reasons (occurring after the transaction) will be adjustments "on an ongoing basis" settled in the declaration for the month of occurrence of the reason for the adjustment.
Source: https://www.globalvatcompliance.com/poland-slim-vat-wnt-import-services/

When are online marketplaces responsible for VAT in the EU?

New EU e-commerce rules take effect from 1 July 2021. The VAT e-commerce package has far-reaching consequences for any business engaged in distance selling to customers in EU member states.

From 1 July 2021, a digital platform that facilitates sales on behalf of the seller is, under specified conditions, considered the deemed supplier. There are two scenarios in which the platform is responsible for VAT. First, if an EU business ships goods valued under €150 from outside the EU to customers in the EU and such sale is conducted by a digital platform, that platform is responsible for the VAT. In the second scenario, where a seller not established in the EU that sells to customers in EU member states via an Online Market Place (OMP), the OMP is responsible for the VAT.

Source: https://www.vatglobal.com/when-are-online-marketplaces-responsible-for-vat-in-the-eu/#

Oman implementing new VAT laws

Oman's VAT laws come into effect on 16 April 2021. 5% VAT will apply on goods and services traded in Oman. The 5% rate also applies to goods that are imported into the Sultanate. VAT in Oman will apply to all goods, except exempt essential items (such as medicines and specified

food products) and exempt services (including healthcare and education).

Companies that generate revenue in excess of 1mn OMR had to register for VAT already. Such businesses are deemed registered from 16 April 2021. From that date, they must therefore comply with all relevant VAT requirements.

Source: https://www.vatglobal.com/oman-implementing-new-vat-laws/

Greece delays myDATA e-invoices e-books to 1 July 2021

Greece has announced that the mandatory introduction of e-invoices and e-books has been delayed again, this time from 1 April 2021 to 1 July 2021. This is due to the economic disruption caused by the COVID-19 pandemic – although the 'myDATA' portal is still undergoing development work. The first quarterly submissions will therefore be due by 31 October 2021 (unchanged).

The introduction of transactional-level reporting is now mandatory, so companies prepared for the 1 January deadline may still proceed now with the submission of Q4 invoices. Businesses that have registered with third-party e-invoice providers must still start submitting now.

Records to be held digitally include two sets of data

e-Invoices: Sales VAT invoices (domestic B2B transactions). It also includes records of Purchase e-invoice that have been received. Invoices details must include accounting code details, unlike regular e-invoices.

e-Books: Accounting General Ledger transactions; Cash ledger Payroll; and Fixed asset transactions, include depreciation provisions. B2C and cross-border transactions, not included in e-invoice data, will be added to the e-books.

The above digital records will be transmitted automatically to the AADE, via the 'myDATA' portal. The filing deadline is set to be the 20th day of the following month.

Source: https://www.avalara.com/vatlive/en/vat-news/greece-delays-mydata-e-invoices-e-books-to-1-jan-2021.html

Philippines targets 2023 for e-invoicing and e-receipts

The Philippine Department of Finance is scheduled to commence a pilot of e-invoicing in January 2022, with a plan to roll out to all B2B and perhaps B2C transactions in 2023 in a phased approach. This would include large businesses and exporters first. The initiative to digitise all cash and regular invoicing processes is aimed at reducing the compliance burden for both taxpayers and the tax office, and well as reduce VAT fraud.

Source: https://www.avalara.com/vatlive/en/vat-news/philippines-targets-2023-for-e-invoicing-and-e-receipts.html

Italy: Clarifications on the new Digital Services Tax (DST)

A new circular has been published by the Italian Revenue Agency regarding the application of DST. This circular provides better guidance on the application of the country's new DST. This involves which companies are concerned in terms of revenue, sales thresholds, services covered, and exclusions.

The Circular also provides guidance on the annual declaration (return) and payment of DST, including a new notification of the change in deadlines announced earlier in March.

This DST is an indirect tax on gross payments and not a tax on income. As such, the DST does not fall within the scope of Italy's tax treaties.

Source https://www.globalvatcompliance.com/italy-clarifications-on-digital-services-tax/

India:

GST officers to be soon armed with real-time data on vehicles moving without e-way bills

With effect from 1 January 2021, the government has integrated RFID/FasTag with the e-way bill system and a transporter is required to have an RFID tag in his vehicle and details of the e-way bill generated for goods being carried by the vehicle is uploaded into the RFID.
This system enables to intercept stuck trucks at toll plazas and check GST evasion. The tax officers would also be provided analysis reports on identifying e-way bill with no movement of goods as it would help officials identifying cases of circular trading. It would also provide reports on recycling of e-way bills for tax evasion prone commodities to help officers in identifying tax evaders.
Source: https://economictimes.indiatimes.com/small-biz/gst/gst-officers-to-be-soon-armed-with-real-time-data-on-vehicles-moving-without-e-way-bills/articleshow/82137559.cms

COVID relief: Govt allows biz to verify monthly GST returns through EVC till May 31

In a notification, the Central Board of Indirect Taxes and Customs (CBIC) said any registered person, during the period from 21 April 2021 to 31 May 2021, will be allowed to furnish the return in Form GSTR-3B and details of outward supplies in Form GSTR-1 verified through Electronic Verification Code (EVC).

Currently, businesses are required to digitally sign the GSTR-3B form while filing the monthly return and paying taxes. However, with offices shut due to the lockdown, businesses are unable to generate a digital signature that has led to delay in filing returns.

Source: https://economictimes.indiatimes.com/small-biz/gst/covid-relief-govt-allows-biz-to-verify-monthly-gst-returns-through-evc-till-may-31/articleshow/82288164.cms

Centre releases INR 300bn as GST compensation for FY21

The Central government has released INR 300bn as GST compensation to states for FY21. With the amount released on 27 March, the total compensation released for FY21 comes to INR 700bn. The Centre has also released an additional INR 140bn as adhoc settlement of integrated GST. This was released on 30 March.

Source: https://economictimes.indiatimes.com/small-biz/gst/centre-releases-rs-30000-crore-as-gst-compensation-for-fy21/articleshow/81772102.cms

Customs News:

International:

Launch of WCO Trade Tools, a new online database for the Harmonized System, Origin and Valuation

The World Customs Organization (WCO) is proud to announce the release of its new online tool, www.wcotradetools.org, which compiles information to support international trade actors in the classification of goods and the determination of the corresponding Customs tariffs and taxes. This new database offers a single point of access to the Harmonized System, preferential Rules of Origin and Valuation, through a completely new, user-centric and ergonomic interface.

In addition to a new interface design and new search engines, this new platform offers the following key features:

- Ability to cross-reference information by using a comparison tool in the Harmonized System (HS) and Rules of Origin
- A direct overview of the most recent HS updates, highlighting the changes introduced
- A system for tracking the evolution of the HS codes across editions, using a “History” tool
- A facility for searching through the Product Specific Rules in more than 200 Free Trade Agreements, and access to the corresponding HS entry

Source:http://www.wcoomd.org/en/media/newsroom/2021/march/launch-of-wco-trade-tools-a-new-online-database-for-the-hs-origin-and-valuation.aspx

WCO signs an agreement with United Kingdom Border Force to enhance the WCO Cargo Targeting System

WCO and the United Kingdom Border Force (UKBF) have concluded an agreement to enhance the WCO Cargo Targeting System (WCO CTS). This marks the latest chapter in the growing partnership between the WCO and UKBF following the recent agreement to deploy the WCO CTS to Guatemala and Thailand

The WCO CTS is a cargo manifest risk assessment and targeting solution developed by the WCO for Customs administrations around the globe. It allows those adopting the solution to implement international best practice cargo risk assessment and targeting, including key pillars of the WCO’s SAFE Framework of Standards to secure and facilitate global trade.

Source:
http://www.wcoomd.org/en/media/newsroom/2021/march/wco-signs-an-agreement-with-united-kingdom-border-force-to-enhance-the-wco-cargo-targeting-system.aspx

COLIBRI presents its Geoportal, featuring a new mapping tool combined with a database completely dedicated to General Aviation

Since 2019 the WCO and the European Union (EU) are partners in a Project called "COLIBRI: monitoring and controlling general aviation along the cocaine route". The Project aims to step-up international coordination and efforts with the aim of combatting organized crime and the challenges posed by drug trafficking.

The flexibility offered by General Aviation (GA) is exploited by organized crime. In order to strengthen controls over this mode of transport, COLIBRI presents a new IT tool: the Geoportal and its mobile application.

The new IT Portal comprises a database and a communication tool to share information to aid the control and monitoring of GA in coordination with partners around the world.

The Geoportal, its database, and the mobile application will help with risk analysis and in developing control and operational strategies. Through the Geoportal, administrations will be able to collect information and send it to operational units regardless of their location. The Geoportal will make it possible to overlay information on a map and to take measures to plan a mission

Source:
http://www.wcoomd.org/en/media/newsroom/2021/march/colibri-presents-its-geoportal.aspx

India

CBIC extends customs duty and integrated GST exemptions till 31 March 2022

CBIC extended the basic customs duty and IGST exemptions for export-oriented units, by a year till 31 March 2022.

The Board also made it mandatory for a GST taxpayer having turnover of more than INR 50mn in the preceding financial year, to furnish 6 digits HSN Code on invoices issued for supplies.

The Board also extended the exemption from integrated tax and compensation cess on goods imported against authorisations under Advance Authorisation and Export Promotion Capital Goods (EPCG) schemes, till 31 March 2022.

Source: https://economictimes.indiatimes.com/small-biz/gst/cbic-extends-customs-duty-and-integrated-gst-exemptions-till-march-31-2022/articleshow/81830735.cms

Online signing ceremony for an MoU on the establishment of a Regional Customs Laboratory in India

Chairman Kumar highlighted his firm commitment to make the expertise and facilities of the Central Revenues Control Laboratory (CRCL) available to WCO Members in the Asia/Pacific region, so as to enhance information sharing in that region. The above-mentioned expertise and facilities will also be used to organize workshops and seminars on analysis methodologies and techniques to enhance efficiency in revenue collection, in protecting the society as well as facilitating trade.

Source:
http://www.wcoomd.org/en/media/newsroom/2021/march/online-signing-ceremony-for-an-mou-on-the-establishment-of-a-regional-customs-laboratory-in-india.aspx

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Contact Us

For any content related queries, you may write in to taxadvisory@bdo.in or get in touch with,

GUNJAN PRABHAKARAN
Partner & Leader
Indirect Tax
+91 44 6131 0203
gunjanprabhakaran@bdo.in

DINESH KUMAR
Associate Partner
Indirect Tax
+91 9840 3100 39
dineshkumar@bdo.in

For any other queries or feedback, kindly write to us at marketing@bdo.in

BDO in India

Ahmedabad
The First, Block C – 907 & 908
Behind ITC Narmada, Keshavbaug
Vastrapur, Ahmedabad 380015, INDIA
Tel: +91 98 2564 0046

Bengaluru
SV Tower, No. 27, Floor 4
80 Feet Road, 6th Block, Koramangala
Bengaluru 560095, INDIA
Tel: +91 80 6811 1600

Chennai
No. 443 & 445, Floor 5, Main Building
Guna Complex, Anna Salai, Teynampet
Chennai 600018, INDIA
Tel: +91 44 6131 0200

Delhi NCR - Office 1
The Palm Springs Plaza
Office No. 1501-10, Sector-54
Golf Course Road
Gurugram 122001, INDIA
Tel: +91 124 281 9000

Delhi NCR - Office 2
Windsor IT Park
Plot No: A-1, Floor 2
Tower-B, Sector-125
Noida 201301, INDIA
Tel: +91 120 684 8000

Goa
701, Kamat Towers
9, EDC Complex, Patto
Panaji, Goa 403001, INDIA
Tel: +91 832 674 1600

Hyderabad
1101/B, Manjeera Trinity Corporate
JNTU-Hitech City Road, Kukatpally
Hyderabad 500072, INDIA
Tel: +91 40 6814 2999

Kochi
XL/215 A, Krishna Kripa
Layam Road, Ernakulam
Kochi 682011, INDIA
Tel: +91 484 675 1600

Kolkata
Floor 4, Duckback House
41, Shakespeare Sarani
Kolkata 700017, INDIA
Tel: +91 33 6766 1600

Mumbai - Office 1
The Ruby, Level 9, North West Wing
Senapati Bapat Marg, Dadar (W)
Mumbai 400028, INDIA
Tel: +91 22 6277 1600

Mumbai - Office 2
Floor 6, Raheja Titanium
Western Express Highway
Geetanjali Railway Colony, Ram Nagar
Goregaon (E), Mumbai 400063, INDIA
+91 22 6831 1600

Pune - Office 1
Floor 6, Building # 1
Cerebrum IT Park, Kalyani Nagar
Pune 411014, INDIA
Tel: +91 20 6763 3400

Pune - Office 2
Floor 2 & 4, Mantri Sterling, Deep
Bunglow Chowk, Model Colony,
Shivaji Nagar, Pune 411016, INDIA
Tel: +91 20 6723 3800

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