



Indirect Tax Newsletter

June 2023

E-invoicing applicability limit reduced from Rs. 10 Crores to Rs. 5 crores.

The Central Board of Indirect Taxes (CBIC) announced Notification No. 10/2023–Central Tax dated May 10, 2023, as an amendment to Notification No. 13/2020 – Central Tax, dated March 21, 2020, to reduce the e-invoicing turnover limit to Rs 5 Crore, to be implemented with effect from August 1, 2023. Taxpayers having an aggregate turnover exceeding Rs. 5 crores in any preceding FY from 2017-18 onwards shall be liable to generate e-invoice.

Exemption to certain deposits from the provisions of section 51A of the Customs Act, 1962 extended to 30.6.2023

Notification No.18/2023–Customs (N.T.) dated 30.03.2023 exempted certain deposits from the provisions of section 51A of the Customs Act, 1962 [Section 51A requires payment of duty, interest, penalty, etc. be credited through electronic cash ledger (ECL)] from 01.04.2023 to 30.04.2023.

Circular No. 09/2023–Customs dated 30.03.2023 has specified that ECL as envisaged in section 51A of Customs Act, 1962 will be implemented in phases. In the first phase starting from 01.04.2023 till 30.04.2023, the exemption to deposit from the provisions of section 51A shall be restricted to the items specified in Notification No.18/2023–Customs (N.T.) dated 30.03.2023. In second phase, starting from 01.05.2023, the exemptions cited above would continue, except for the deposits with respect to goods imported or exported at International Courier Terminals.

Issue of notice under section 61(3) is not a condition precedent for initiating action under section 74 of the GST Act, 2017.

CASE LAWS

Case name- Nagarjuna Agro Chemicals (P.) Ltd. vs. State of U.P.

Order no- Writ Tax No. 336 of 2023

Date of judgement- May 15, 2023

Facts-The assessee petitioner filed returns for the assessment year 2019-20. However, the revenue (respondent) did not issue a notification pursuant to Section 61(3) and instead began proceedings against the assessee pursuant to Section 74 over the classification of specific products and the ensuing tax payment. Following an investigation, the revenue issued an order stating that there was a deficiency in the previously paid tax and requesting the missing tax amount, plus interest and penalties.

Given that the returns for the AY 2019-20 had already been submitted, the petitioner questioned whether the department was necessary to publish a notice under sub-section 3 of Section 61 before taking action under Section 74 of the Act.

Held- It was decided that the issuance of notices under Section 61 of the GST Act is not necessary for the exercise of authority under Section 74. It does not follow that difficulties with classification or underpayment of tax cannot be addressed under Section 74 because notices required by Section 61 have not been issued. The Court considered the proceedings to be legal. It was also mentioned that the petitioner had two weeks from the judgement date to file an appeal.

Fresh Refund claim not required for department's lapses in providing the order.

Case name: Steel Authority of India Ltd. vs. State of Jharkhand

Date of Judgment: 12-06-2023

Appeal No: W.P. (T) NO. 3983 OF 2022



Facts- A refund of an export-related compensating cess that had not yet been used was granted to the petitioner. The petitioner, however, reported not receiving the payment advice due to technical issues. After 30 months, the petitioner was informed that an order had been passed rejecting the refund, but the copy of the order was not provided to the petitioner.

After the department received a directive from the High Court to decide, the petitioner was given instructions to debit the electronic credit ledger with the return amount. The department admitted during the latest round of proceedings that the contested order was not in their files, but they requested that the petitioner submit a new reimbursement application.

Held- The disputed order was not presented by the department, and even if it had been, it was issued without giving the petitioner a chance to be heard. If instructed to submit a refund claim once more, the petitioner would be required to pay interest. The Authority's denial of the refund request was illegal and went against the statute's requirements. Thus, from the end of the 60-day period following the receipt of the refund application to the day the refundable amount was paid, the petitioner was entitled to interest under Section 54 of the CGST Act at a rate of 6 percent per year. Within three weeks, the responder was required to process the refund claim and any applicable interest.

