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EDITORIAL



Friends,

The Goods and Services Tax Network (GSTN) has introduced a new feature in the GST E-Way Bill (EWB) portal, allowing unregistered persons (URPs) to generate e-Way Bills without requiring GST registration. Effective from February 11, 2025, this feature requires the filing of Form ENR-03.

Under GST law, goods valued above Rs 50,000 cannot be transported without an e-Way Bill, and non-compliance may lead to the detention of goods and transport vehicles by GST officials. Previously, if neither the buyer nor the seller in a transaction was GST-registered, the transporter had to generate the e-Way Bill. Alternatively, one party had to obtain GST registration solely for this purpose. Now, this requirement has been eliminated, provided that either party submits Form ENR-03 and generates an e-Way Bill.

GSTN's advisory dated February 15, 2025, outlines the process for URPs to generate e-Way Bills. By enrolling on the EWB portal using Form ENR-03, URPs receive a unique Enrolment ID, which substitutes a GSTIN. This feature simplifies compliance for small businesses and individuals who are not liable for GST registration but need to transport goods.

To access the form, unregistered persons can enroll using Form ENR-03 via the EWB portal's registration section. Once they select the state and enter their PAN details, these details will undergo verification. The applicant must provide their address and contact information, which will also be verified through OTP authentication. After verification, the user must create a username and password before submitting the details. Upon successful submission, a 15-character Enrolment ID will be generated, which can then be used to generate e-Way Bills. To generate an E-Way Bill, the enrolled person must log in with their credentials. The Enrolment ID will automatically populate as the Supplier or Recipient, and the user can enter the required transport details before proceeding with the e-Way Bill generation.

This new facility provides multiple benefits to businesses and traders. It makes compliance easier for small traders, allowing them to move goods without needing GST registration. The government will have better transparency in tracking goods movement, which will help in monitoring tax compliance. The

reduction in compliance costs is another advantage, as small businesses no longer need to obtain GST registration just for the purpose of generating an EWB.

Since the implementation of GST, the e-Way Bill system has undergone several changes to improve efficiency. Initially, the system required either the buyer or the seller to be registered under GST, creating hurdles for unregistered traders. Over the years, feedback from stakeholders led to amendments, culminating in the introduction of Form ENR-03. The move aligns with the government's larger goal of improving ease of doing business and streamlining GST compliance.

This development will particularly benefit traders and businesses operating below the GST threshold. It allows them to transport goods seamlessly without registering under GST, thus reducing their compliance burden. Additionally, it encourages more businesses to formalize their operations and comply with indirect tax regulations.

By addressing the challenges associated with the earlier system, the government has provided a significant boost to small businesses. Over time, this feature could lead to better compliance rates and improved efficiency in goods movement. E-Way Bills play a crucial role in ensuring compliance with GST regulations by tracking the movement of goods. The introduction of this new feature simplifies the compliance burden for unregistered traders and businesses while improving tax administration. The government aims to enhance transparency in goods transportation and prevent tax evasion.

The introduction of Form ENR-03 and the ability for unregistered persons to generate e-Way Bills mark a significant milestone in GST compliance. It simplifies logistics for small traders, reduces compliance costs, and enhances government oversight of goods movement. With proper implementation and awareness, this initiative is expected to improve transparency and efficiency in the Indian tax system, ultimately contributing to a more formalized economy.

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

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TAX CALENDAR

Date	Form/Return/Challan	Reporting Period	Description
23rd February 2025- 01st March 2025	THERE ARE NO SIGNIFICANT DUE DATES FOR THIS WEEK	THERE ARE NO SIGNIFICANT DUE DATES FOR THIS WEEK	THERE ARE NO SIGNIFICANT DUE DATES FOR THIS WEEK

INCOME TAX

CIRCULAR

INCOME-TAX DEDUCTION FROM SALARIES DURING THE FINANCIAL YEAR 2024-25 UNDER SECTION 192 OF THE INCOME-TAX ACT, 1961

OUR COMMENTS: The Central Board of Direct Taxes vide Circular No. 03/2025 dated 20.02.2025 clarified that reference is invited to Circular No. 24/2022 dated 07.12.2022, whereby the rates of deduction of income-tax from the payment of income under the head "Salaries" under section 192 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), during the financial year 2022-23, were intimated. The said Circular also explained certain related provisions of the Act and Income-tax Rules, 1962 (hereinafter referred to as 'the Rules').

The present Circular contains the amendments made vide the Finance (No.2) Act of 2024, Finance (No.1) Act of 2024 and Finance Act of 2023 in respect of rates of deduction of income-tax from the payment of income under the head "Salaries" under section 192 of the Act. Where no amendments have been made by the above referred Acts, in such cases, the above referred Circular No. 24 of 2022 shall continue to be applicable for F.Y. 2024-25. The relevant Acts, Rules, Forms and Notifications are available at the website of the Income Tax Department- www.incometaxindia.gov.in.

Amendments made vide the Finance (No. 2) Act of 2024, Finance (No. 1) Act of 2024 and Finance Act of 2023 in respect of rates of deduction of income-tax from the payment of income under the head "Salaries" under section 192 of the Income tax Act, 1961, during the financial year 2024-25

1. The term "Salary" has been defined in section 15 of the Act. It has been further explained in section 17. As per the amendment in section 17(1) of the Act vide the Finance Act, 2023, "salary", inter alia, includes the following:

"....

ix) the contribution made by the Central Government in the previous year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 80CCH,"

2. As per the amendment vide the Finance Act, 2023 in section 17(2) of the Act, "perquisite", inter alias includes the following:

(i) The value of rent-free accommodation provided to the employee by his employer [computed in such manner as may be prescribed];

(ii) The value of any accommodation provided to the assessee by his employer at a concessional rate...."

3. As per the amendment vide Finance (No. 2) Act, 2024, the provisions related to **Surcharge** (under Old Tax Regime) applicable in the case of every individual are as under:

S. No.	Total Income	Surcharge Rate on the amount of income tax under old tax regime
(a)	More than Rs 50 lakhs < Rs 1 Crore (including the income by way of dividend or income under sections 111A or 112 or 112A)	10%
(b)	More than Rs 1 Crore < Rs 2 Crore (including the income by way of dividend or income under sections 111A or 112 or 112A)	15%
(c)	More than Rs 2 Crore < Rs 5 Crore (excluding the income by way of dividend or income under sections 111A or 112 or 112A)	25%
(d)	More than Rs 5 Crore (excluding the income by way of dividend or income under sections 111A or 112 or 112A)	37%
(e)	More than Rs 2 Crore (including the income by way of dividend or income under sections 111A or 112 or 112A), not covered under (c) and (d) above	15%

4. As per the amendment vide Finance (No. 2) Act, 2024 in respect of **section 115BAC**, the rates of income tax (under New Tax Regime) for the FY 2024-25 (i.e. Assessment Year 2025-26) are as under:

Sl. No.	Total Income	Rate of tax
1.	Up to 3,00,000	Nil
2.	From Rs. 3,00,001 to Rs. 7,00,000	5 per cent
3.	From Rs. 7,00,001 to Rs. 10,00,000	10 per cent
4.	From Rs. 10,00,001 to 12,00,000	15 per cent
5.	From Rs. 12,00,001 to Rs. 15,00,000	20 per cent
6.	Above Rs. 15,00,000	30 percent

Further, for the purposes of sub-section (1A) of section 115BAC, the total income of the person shall be computed-

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(i) without any exemption or deduction under the provisions of clause (5) or clause (13A) or prescribed under clause (14)(other than those as may be prescribed for this purpose) or clause (17) or clause (32), of section 10 or section 10AA or clause (ii) or clause (iii) of section 16 or clause (b) of section 24 [in respect of the property referred to in sub-section (2) of section 23] or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of sub-section (2) of section 80CCD or sub-section (2) of section 80CCH or section 80JJAA.

(ii) without set off of any loss,

(a) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);

(b) under the head "Income from house property" with any other head of income;

(iii) by claiming the depreciation, if any, under any provision of section 32, except clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed;

and

(iv) without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

5. As per the amendment made vide Finance (No. 2) Act, 2024, section 192(2B) is reproduced as under:

"...(2B) Where an assessee who receives any income chargeable under the head "Salaries" has, in addition, -

(i) any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head "Income from house property"); or

(ii) any tax deducted or collected under the provisions of Part B or Part BB of this Chapter, as the case may be,

for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1), the particulars of -

(a) such other income;

(b) any tax deducted or collected under any other provision of Part B or Part BB of this Chapter, as the case may be; and

(c) the loss, if any, under the head "Income from house property",

in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take into account the particulars referred to in clauses (a), (b) and (c) for the purposes of making the deduction under sub-section (1):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible from income under the head "Salaries", except where the loss under the head "Income from house property" and the tax deducted in accordance with other provisions of Part B and tax collected in accordance with the provisions of Part BB, of this Chapter, has been taken into account.]

6. The **Form No. 16** has been amended vide the Income-tax (Fifth Amendment) Rules, 2023, w.e.f. 1-7-2023 and shall be applicable for the assessment year 2024-25 and subsequent assessment years. Form No. 16 (has been further modified vide the Income-tax (Eighth Amdt.) Rules, 2024, w.e.f. 15-10-2024. The modified Form No. 16 is placed at **Annexure-A**.

7. The amendments in **Form No. 24Q** made by the Income-tax (Fifth Amendment) Rules, 2023 are as under:

(i) In Annexure-I: Deductee wise Break up of TDS, "Health and Education Cess" has been substituted for "Education Cess".

(ii) Annexure-II Details of salary paid or credited during the financial year... and net tax payable (under section 192) has been substituted by the Income-tax (Fifth Amendment) Rules, 2023, w.e.f. 01.07.2023.

Further, the amendment in **Form No. 24Q** made by the Income-tax (Eighth Amendment) Rules, 2024 w.e.f. 15.10.2024 is as under:

(i) In Annexure-II, column No. 388A- 'Amount reported as per section 192(2B), of other tax deducted at source or tax collected at source, other than (388)' has been inserted.

8. As per the amendment vide Income-tax (Eighteenth Amendment) Rules, 2023 w.e.f. 01.09.2023 in the Rule 3 of the Rules, in respect of the accommodation provided by any other employer, the rates prescribed for valuation of perquisites are as under:

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S. No.	Circumstances	Where accommodation is unfurnished	Where accommodation is furnished	
(2)	Where the accommodation is provided by any other employer and-			accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee.
	(a) where the accommodation is owned by the employer, or	(i) 10% of salary in cities having population exceeding 40 lakhs as per 2011 census;	The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.	(b) where the accommodation is taken on lease or rent by the employer.
		(ii) 7.5% of salary in cities having population exceeding 15 lakhs but not exceeding 40 lakhs as per 2011 census;		Actual amount of lease rental paid or payable by the employer or 10% of salary, whichever is lower, as reduced by the rent, if any, actually paid by the employee.
		(iii) 5% of salary in other areas, in respect of the period during which the said		The value of perquisite as determined under column (3) and increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the pr

9. The definition of "remote area" given in Explanation (v) to Rule 3 of the Rules has been amended vide Income-tax (Eighteenth Amendment) Rules, 2023 w.e.f. 01.09.2023 as under:

“(v) "remote area", for purposes of proviso to sub-rule (1) means any area other than an area which is located -

(a) within the local limits of; or

(b) within a distance, measured aerially, of 30 kilometers from the local limits of any municipality or a cantonment board having a population of 1,00,000 or more based on the 2011 census....”

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10. As per clause (iii) of sub-rule (7) of Rule 3, the value of free food and non-alcoholic beverages provided by the employer to the employee shall be the amount of expenditure incurred by such employer. As per the amendment vide Income-tax (Tenth Amendment) Rules, 2023, w.e.f. 21.06.2023, the second proviso to clause (iii) of sub-rule (7) of Rule 3 reads as under-

"Provided further that the provisions of the first proviso in respect of free food and non-alcoholic beverage provided by the employer through paid voucher shall not apply to an employee, being an assessee, who has exercised an option under sub-section (5) of section 115BAC or whose income is chargeable to tax under sub-section (1A) of section 115BAC."

11. The exemption limit of leave encashment, in the case of employees **other than Government employees**, has been enhanced to Rs 25,00,000/- vide CBDT Notification No. 31/2023 dated 24.05.2023. Accordingly, the exemption in respect of leave encashment in case of a non-Government employee at the time of retirement shall be lower of the following amounts:

Period of earned leave standing to the credit in the employee's account at the time of retirement x average monthly salary.

Average monthly salary x 10 (i.e., 10 months' average salary).

Maximum amount as specified by the Central Government, i.e. Rs. 25,00,000.

Leave encashment actually received at the time of retirement.

If an employee receives leave salary from more than one employer in the same year, then the maximum amount of exemption under section 10(10AA) (ii) of the Act cannot exceed the amount specified by the Central Government (i.e. Rs. 25,00,000). Where any employee has claimed exemption of leave salary under this section in any earlier year(s), then in case of such employee, the ceiling limit (i.e. Rs. 25,00,000) shall be reduced by the amount of exemption earlier claimed.

12. The **sub-section (12C) has been inserted in section 10 of the Act** vide Finance Act, 2023. Under section 10(12C) of the Act, any payment from the Agniveer Corpus Fund to a person enrolled under the Agnipath Scheme, or to his nominee shall be exempt. Section 10(12C) of the Act is reproduced as under:

"(12C) any payment from the Agniveer Corpus Fund to a person enrolled under the Agnipath Scheme, or to his nominee.

Explanation. For the purposes of this clause "Agniveer Corpus Fund" and "Agnipath Scheme" shall have the meanings respectively assigned to them in section 80CCH;"

13. Section 87A provides relief in the form of rebate to individual taxpayers, resident in India, who are in lower income bracket, i.e. having total income not exceeding Rs 5,00,000/-. The amount of rebate available under section 87A is Rs 12,500/- or the amount of tax payable, whichever is less. As per the amendment vide Finance Act, 2023, w.e.f. 01.04.2024, the proviso to section 87A has been inserted and the same is reproduced as under:

"... **Provided** that where the total income of the assessee is chargeable to tax under sub-section (1A) of section 115BAC, and the total income-

(a) does not exceed seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing for the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to one hundred per cent of such income-tax or an amount of twenty-five thousand rupees, whichever is less;

(b) exceeds seven hundred thousand rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds seven hundred thousand rupees.

14. "Section 80CCH of the Act related to '**Deduction in respect of contribution to Agnipath Scheme**' has been inserted vide Finance Act, 2023. Accordingly, after paragraph No. 11 of para 5.5.3 the following paragraph No. 12 is inserted and the same is to be read as under:

"80CCH. (1) Where an assessee, being an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after the 1st day of November, 2022, has in the previous year paid or deposited any amount in his account in the said Fund, he shall be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited.

(2) Where the Central Government makes any contribution to the account of an assessee in the Agniveer Corpus Fund referred to in sub-section (1), the assessee shall be allowed a deduction

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in the computation of his total income of the whole of the amount so contributed.

Explanation. For the purposes of this section, --

(a) "Agnipath Scheme" means the scheme for enrolment in Indian Armed Forces introduced vide letter No. 1(23)2022/D(Pay/Services), dated the 29th December, 2022 of the Government of India in the Ministry of Defence:

(b) "Agniveer Corpus Fund" means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held."

15. Amendments in Penalty and Prosecution provisions on default on account of TDS-

(i) As per the Finance Act, 2023, **section 271C** on 'Penalty for failure to deduct tax at source' has been amended. Section 271C, inter alia, lays down that if any person fails to deduct whole or any part of tax at source or fails to pay or ensure payment of, **the whole or any part of tax under the proviso to section 194B (w.e.f. 01.04.2023), sub-section (2) of section 194BA (w.e.f. 01.07.2023)**, he/she shall be liable to pay, by way of penalty, a sum equal to the amount of tax not deducted or paid or payment ensured by him.

(ii) As per the Finance Act, 2023, **section 276B** on 'Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B' has been amended. Section 276B lays down that if a person fails to pay to the credit of the Central Government within the prescribed time, as above, the tax deducted at source by him or tax payable by him or ensure payment of tax under the proviso to Section 194B (w.e.f. 01.04.2023), or section 194BA(2) (w.e.f. 01.07.2023), he/she shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine."

(iii) Further, the following proviso has been inserted in section 276B of the Act vide Finance (No.2) Act, 2024:

"**Provided** that the provisions of this section shall not apply if the payment referred to in clause (a) has been made to the credit of the Central Government at any time on or before the time prescribed for filing the statement for such payment under sub-section (3) of section 200. "

16. Miscellaneous

16.1 These instructions are not exhaustive and are issued only with a view to guide the employers. Wherever there is any doubt, reference may be made to the provisions of the Income-tax Act, 1961, the Income-tax Rules, 1962, the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2022 (No. 38 of 2022), the above mentioned Finance Acts, the relevant circulars / notifications, etc.

16.2 It is stated that in case any assistance is required, the Assessing Officer/the Local Public Relation Officer of the Income-tax Department may be contacted.

16.3 These instructions may be brought to the notice of all Disbursing Officers and Undertakings including those under the control of the Central/State Governments.

16.4 Copies of this Circular are available at the following websites: www.finmin.nic.in & www.incometaxindia.gov.in

[For further details please refer the Circular]

CIRCULAR

EXTENSION OF DUE DATE FOR FILING OF FORM NO. 56F UNDER THE INCOME-TAX ACT, 1961

OUR COMMENTS: The Central Board of Direct Taxes vide Circular No. 02/2025 dated 18.02.2025 clarified that on consideration of difficulties reported by the taxpayers and other stakeholders in timely filing of report of accountant required to be filed under sub-section (8) of section 10AA read with sub-section (5) of section 10A of the Income-tax Act, 1961 ('the Act') and with a view to avoid genuine hardship to such cases, the Central Board of Direct taxes, in exercise of its powers under section 119(2)(b) of the Income Tax Act, 1961, hereby extends the due date of filing of report of the accountant as required to be filed under sub-section (8) of section 10AA read with sub-section (5) of section 10A of the Act, for Assessment year 2024-25 from the specified date under section 44AB of the Act to 31.03.2025.

[For further details please refer the Circular]

GST

ADVISORY

BIOMETRIC-BASED AADHAAR AUTHENTICATION AND DOCUMENT VERIFICATION FOR GST REGISTRATION APPLICANTS OF JHARKHAND AND ANDAMAN AND NICOBAR ISLANDS

OUR COMMENTS: GSTN vide advisory dated 18.02.2025 has advised that This is to inform taxpayers about recent developments concerning the application process for GST registration. It is advised to keep the following key points in mind during the registration process.

1. Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking a photograph of the applicant along with the verification of the original copy of the documents uploaded with the application.

2. The above-said functionality has been developed by GSTN. It has been rolled out in Jharkhand and Andaman and Nicobar Islands on 15th February, 2025.

3. The said functionality also provides for the document verification and appointment booking process. After the submission of the application in Form GST REG-01, the applicant will receive either of the following links in the e-mail,

- (a) A Link for OTP-based Aadhaar Authentication OR
- (b) A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification (the intimation e-mail)

4. If the applicant receives the link for OTP-based Aadhaar Authentication as mentioned in point 3(a), she/he can proceed with the application as per the existing process.

5. However, if the applicant receives the link as mentioned in point 3(b), she/he will be required to book the appointment to visit the designated GSK, using the link provided in the e-mail.

6. The feature of booking an appointment to visit a designated GSK is now available for the applicants of Jharkhand and Andaman and Nicobar Islands.

7. After booking the appointment, the applicant gets the confirmation of appointment through e-mail (the appointment confirmation e-mail), she/he will be able to visit the designated GSK as per the chosen schedule.

8. At the time of the visit of GSK, the applicant is required to carry the following details/documents

- (a) a copy (hard/soft) of the appointment confirmation e-mail
- (b) the details of jurisdiction as mentioned in the intimation e-mail
- (c) Aadhaar Card and PAN Card (Original Copies)
- (d) the original documents that were uploaded with the application, as communicated by the intimation e-mail.

9. The biometric authentication and document verification will be done at the GSK, for all the required individuals as per the GST application Form REG-01.

10. The applicant is required to choose an appointment for the biometric verification during the maximum permissible period for the application as indicated in the intimation e-mail. In such cases, ARNs will be generated once the Biometric-based Aadhaar Authentication process and document verification are completed.

11. The operation days and hours of GSKs will be as per the guidelines provided by the administration in your state/UT.

[For further details please refer the detailed advisory]

ADVISORY

INTRODUCTION OF FORM ENR-03 FOR ENROLMENT OF UNREGISTERED DEALERS/PERSONS IN E-WAY BILL PORTAL FOR GENERATING E-WAY BILL

OUR COMMENTS: GSTN vide advisory dated 15.02.2025 has advised that a new feature has been introduced in the E-Way Bill (EWB) system to facilitate the enrolment of unregistered dealers supplying goods, with effect from 11.02.2025. In accordance with Notification No. 12/2024 dated 10th July 2024, Form ENR-03 has been introduced for the enrolment of unregistered dealers.

2. Unregistered dealers engaged in the movement or transportation of goods can now generate e-Way Bills by enrolling themselves on the EWB portal and obtaining a

GST

unique Enrolment ID. This ID will serve as an alternative to the Supplier GSTIN or Recipient GSTIN for generating e-Way Bills.

User Guide for ENR-03 Enrolment

1. Accessing ENR-03:

- a) As per the notification, an Unregistered Person (URP) can enrol using Form ENR-03.
- b) The option is available under the "Registration" tab in the main menu of the EWB portal.

2. Filling Out the ENR-03 Form:

- a) Upon selecting the option, the enrolment screen will be displayed.
- b) The applicant must select their State and enter their PAN details, which will be verified.
- c) The type of enrolment must be selected, and address details must be provided.
- d) A mobile number must be entered, which will be verified via OTP.

3. Creating Login Credentials:

- a) The user must create a username, check its availability, and set a password before submitting the details.
- b) Upon successful submission, a 15-character Enrolment ID will be generated, and an acknowledgment will be displayed.
- c) This Enrolment ID can be used for generating e-Way Bills in place of a GSTIN.

4. Generating an e-Way Bill:

- a) The enrolled URP can log in to the EWB portal using the registered credentials.
- b) By selecting the 'Generate New' option, the Enrolment ID will be auto-populated as the Supplier/Recipient.
- c) Other relevant details must be entered before proceeding with e-Way Bill generation.

For further assistance or queries related to this update, taxpayers may contact the GST Helpdesk or refer to the detailed User Guide

attached. https://tutorial.gst.gov.in/downloads/news/user_manual_for_enr_03_final.pdf.

This advisory is issued for the information and compliance of all stakeholders.

[For further details please refer the detailed advisory]

FEMA

NOTIFICATION

ABU MOOSA AND CO. VERSUS UNION OF INDIA: BOMBAY HIGH COURT

OUR COMMENTS: It is the case of the appellants that the Special Director Enforcement Directorate, Mumbai issued a show cause notice, dated 29th April 2002 calling upon the appellants to show cause as to why adjudication proceedings under Section 51 of the Foreign Exchange Regulation Act, 1973 ("FERA" for short) read with Sections 49(3) and (4) of the FEMA should not be held in respect of the alleged contravention of the provisions of Sections 8(1), Section 6(4) and Section 6(5) read with Section 7 of Foreign Exchange Regulation Act, 1973 and paragraph 3 of the Memorandum of Instructions to full fledged money changers issued by the Reserve Bank of India. The allegations were in relation to foreign exchange of ₹ 20,86,005/- sold by the appellants to Foreign Exchange Money Changers M/s. Hotel Zam Zam at Mumbai. A reply was filed to this show cause notice. An order came to be passed on 28th October 2004 pursuant to this show cause notice holding that the appellants have violated and contravened the provisions of Foreign Exchange Regulation Act (FERA) and a penalty was imposed in a sum of ₹ 50,000/- each on both the appellants.

It has been held that, Two persons identified themselves as Hanif and Rajesh Mhatre of Hotel Zam Zam. Mhatre was carrying briefcase along with him. A search revealed that one Suleman Patel with the help of Ms. Pinky Jaisinghani and Sanjay Jadhvani were operating two FFMCS. As a result of the search documents, the authorities recovered and seized the articles under a Panchanama. The identical allegations pertaining to Hanif and Mhatre tendering two pay orders along with the advice letter on the cash counter of M/s. LKP Merchant Financing Ltd. are to be found in the present show cause notice. The statements of all these persons were recorded by the officers of D.R.I. The partner of the present appellants stated

that the appellant's firm has obtained FMC license, dated 28th September 1996 issued by the Reserve Bank of India for dealing with purchase of foreign currency, that he was the person responsible for day-to-day operation of foreign currency dealing. The foreign currency was sold to Hotel Zam zam, which was admittedly the licensed full-fledged foreign money changer. It is in these circumstances that we are of the opinion that some of the allegations on page no. 55 of the paper book pertaining to lack of authorization should not be seen in isolation.

Court is unable to accept the argument that the money or the foreign exchange leaving the authorized persons and reaching or being passed off to the unauthorized person was not the matter which was dealt with by the Hon'ble Supreme Court. Further, violation and contravention emphasized by him was not the subject matter of the Supreme Court judgment and proceedings. Once the Supreme Court was dealing with an identical allegation, identical breach and of similar legal provision and manual, then, we are unable to accept Shri Desai's argument. The Hon'ble Supreme Court's judgment is binding upon us. It is too well settled to require any reiteration that the judgment of the Hon'ble Supreme Court continues to bind us and will not lose its binding value merely because some argument which was canvassed before us was not raised or certain aspects were not considered or the relevant provisions were not brought to the notice of the Court. When we find that the judgment of the Hon'ble Supreme Court is dealing with the identical controversy, similar legal provision and even the allegations in the show cause notices are common, then, it would cover the matter fully. - Impugned order set aside - Following decision of Tulip Star Hotels Ltd., Peter Kerkar Versus Special Director of Enforcement [2014 (1) TMI 1348 - SUPREME COURT] - Decided in favour of assessee.

CUSTOMS

NOTIFICATION

SEEKS TO AMEND NOTIFICATION NO. 50/2017-CUSTOMS, DATED THE 30TH JUNE, 2017 - EFFECTIVE RATES OF CUSTOMS DUTY AND IGST FOR GOODS IMPORTED INTO INDIA - EXCLUSION OF CONDITION NO. 84 FOR ALL GOODS (EXCLUDING VESSELS AND OTHER FLOATING STRUCTURES AS ARE IMPORTED FOR BREAKING UP)

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 15/2025-Customs (Tariff) dated 20.02.2025 notified that in exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) and sub-section (12) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R. 785(E), dated the 30th June, 2017, namely:-

In the said notification, in the Table, -

Against S.No. 551 and S. No. 555, in column (6), for the entry "84", the entry "-" shall be substituted.

2. This notification shall come into force with immediate effect.

[For further details please refer the Notification]

NOTIFICATION

CUSTOMS (ON - ARRIVAL MOVEMENT FOR STORAGE AND CLEARANCE AT AUTHORISED IMPORTER PREMISES) REGULATIONS, 2025

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 11/2025-Customs (N.T.) dated 17.02.2025 notified that in exercise of the powers conferred by section 157 read with section 143AA of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs, for the purposes of facilitation of trade, hereby makes the following regulations, namely:—

1. Short title and commencement. -

(1) These regulations may be called the Customs (On - Arrival Movement for Storage and Clearance at Authorised Importer Premises) Regulations, 2025.

(2) They shall come into force with effect from the date to be notified.

2. Definitions. - (1) In these regulations, unless the context otherwise requires, -

(a) "Act" means the Customs Act, 1962 (52 of 1962);

(b) "Authorised Importer" means the importer authorised under regulation 4;

(c) "Authorised Importer Premises" means the designated place authorised for storage of imported goods before clearance or removal under regulation 4;

(d) "Clearance at Authorised Importer Premises" includes movement of imported goods of Authorised Importer from port to the Authorised Importer Premises, storage, examination, clearance or removal thereof.

(e) "Form" means the Form annexed to these regulations.

(2) The words and expressions used herein and not defined in these regulations shall have the same meanings as assigned to them in the Act or notifications issued thereunder.

3. Application. - These regulations shall apply to –

(a) importers satisfying the following conditions, namely: -

(i) importer is recognised as Authorised Economic Operator under Tier II or Tier III status;

(ii) designated place demarcated within already licenced warehouse under section 58 or under section 58A of the Act;

(iii) licenced bonded warehouse where designated place is demarcated has permission under section 65 of the Act; and

(iv) the resultant goods pertain to goods classified under headings 8517-8548;

(b) such imported goods only, where no order is made under section 47 or section 60 of the Act and the importer is intending to avail clearance at Authorised Importer Premises.

4. Registration. - (1) Subject to regulation 3, the importer who intends to avail the facility of clearance at Authorised Importer Premises, shall make an application before the Commissioner of Customs having jurisdiction to issue licence under sections 58 or 58A of the Act, seeking to avail the facility of clearance at Authorised Importer Premises in the Form annexed to these regulations.

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(2) The Commissioner shall get the Authorised Importer Premises verified within seven days.

(3) On the basis of verification under sub-regulation (2), the Commissioner shall decide the application within seven days and communicate to the applicant;

Provided that where the verification or information provided by the importer is insufficient to decide the application, the Commissioner of Customs may provide further period of fifteen days to importer for making it sufficient to decide the application.

Note: Any reference to the Commissioner of Customs shall also include a reference to the Principal Commissioner of Customs.

5. Declaration of intent to avail the facility. - The Authorised importer shall declare his intent in the Bill of Entry under section 46 of the Act along with the details of Authorised Importer Premises.

6. Grant of automated permission to avail this facility. - (1) On arrival of the goods and completion of the electronic process relating to goods covered in the Bill of Entry including reconciliation with the arrival manifest, an-automated permission for storage at the Authorised Importer Premises shall be granted by the Customs Automated System;

Provided that the above said permission shall not be available in the following situations, namely: -

- (a) goods are selected for scanning and found suspicious after scanning; or
- (b) no-objection is pending from any Government agency; or
- (c) release is kept on hold based on specific intelligence.

(2) The decision regarding permission to avail this facility shall be made available to the importer electronically.

7. Movement, Storage and Clearance or Removal. - (1) On grant of permission under regulation 6, the importer may move the goods to his Authorised Importer Premises under bond after affixing secured seal as specified by the Commissioner of Customs having jurisdiction over Authorised Importer Premises;

Provided that the Commissioner of Customs may having regard to the nature of goods or manner of transport, permit movement of such goods without affixing the secured seal.

(2) On arrival, the bond officer having jurisdiction over the Bonded warehouse of the Authorised Importer Premises may examine the goods, if required in accordance with examination order and provide report to the Port of Import electronically.

(3) Importer may submit any documents or respond to the query, if required during clearance or removal at the Authorised Importer premises.

(4) On completion of the formalities including examination, the goods may be cleared for home consumption under section 47 of the Act or permitted to be removed for warehousing under section 60 of the Act by the proper officer at the Port of Import.

8. Obligation of the Authorised Importer. - The Authorised Importer shall –

- (a) provide continuity bond for custody of the goods during the movement;
- (b) move the goods under his custody and inform the bond officer regarding the arrival of the goods at the Authorised Importer Premise;
- (c) provide for safe storage of the goods and to facilitate handling and examination at the expense of the authorised importer;
- (d) ensure that goods are cleared or removed within fifteen days of permission granted under regulation 6;

Provided that the said period of fifteen days may be further extended by the Commissioner of Customs having jurisdiction over the bonded warehouse, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control;

(e) maintain records of receipt, handling, storing and removal of goods into or from the Authorised Importer Premises, as the case may be, and produce the same to the bond officer, as and when required; and

(f) abide by all the provisions of the Act and rules, regulations, notifications and orders issued thereunder.

9. Suspension of the facility. - The Commissioner of Customs, may suspend or revoke the authorisation granted under regulation 4, if any other conditions are not met or no longer valid after observance of due process of law.

10. Penalty.- If an Authorised Importer or any person contravenes any of the provisions of these regulations or abets

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such contravention or fails to comply with any of the provisions of these regulations, he shall be liable to penalty to an extent specified under clause(ii) of sub-section (2) of section 158 without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.

11. Power to relax. - The Board having regard to the nature of the goods, their manner of transport or storage, may by order exempt a class of goods from any of the provisions of these regulations subject to such conditions specified therein.

[For further details please refer the Notification]

NOTIFICATION

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, ARECA NUT, GOLD AND SILVER

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Notification No. 10/2025-Customs (N.T.) dated 01.02.2025 notified that in exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

"TABLE-1

Sl. No.	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1111
2	1511 90 10	RBD Palm Oil	1147
3	1511 90 90	Others – Palm Oil	1129
4	1511 10 00	Crude Palmolein	1155
5	1511 90 20	RBD Palmolein	1158
6	1511 90 90	Others – Palmolein	1157

7	1507 10 00	Crude Soya bean Oil	1082
8	7404 00 22	Brass Scrap (all grades)	5244

TABLE-2

Sl. No.	Chapter/ heading/ subheading/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	938 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	1043 per kilogram
3.	71	(i) 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; (ii) 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. 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.	1043 per kilogram
4.	71	(i) Gold bars, other than tola bars, bearing manufacturers or refiner's engraved serial	938 per 10 grams

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	<p>number and weight expressed in metric units;</p> <p>(ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</p> <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>	
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TABLE-3

Sl. No.	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	8140"

2. This notification shall come into force with effect from the 15th day of February, 2025.

[For further details please refer the Notification]

CIRCULAR

AUTOMATION OF REFUND APPLICATION AND PROCESSING IN CUSTOMS

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Circular No. 05/2025-Customs dated 17.02.2025 clarified that with the focus on reducing time and cost of trading across the borders, Customs has been taken constantly taking several reform measures aimed at simplification, digitization and making the process efficient and effective. This is in-line with announcement by Hon'ble Finance Minister to digitize all the remaining Customs processes by mid-2026. For example, system-based automated clearances for certain imports of authorized importers were introduced in Customs to reduce the time-taken in this regard. Similarly, all the payments made to the Customs have made digital through electronic payment gateway of ICEGATE.

1.2 On the similar lines, one of the important aspects identified by CBIC for automation is relating to refund procedure under Customs.

2.1 Customs Act, 1962 provides for processing the claim for refund by any person of any Customs duty and interest paid or borne by him under section 27. Further, Refund is also sanctioned for export duty in certain cases under Section 26 or under certain notifications such as 102/2007-Customs.

2.2 Currently, Refund Application under section 27 is filed manually in terms of Customs Refunds Application (Form) Regulations, 1995. Board has already stipulated procedure for handling of refunds under Board Circular No. 24/2007-Cus dated 2nd July, 2007 and Circular No. 22/2008-Customs dated 19th Dec, 2008. In short, it inter-alia provides for processing of refunds at different stages i.e receipt, acknowledgement, deficiency memo, issuance of speaking order including on aspects of unjust enrichment, audit mechanism, monitoring mechanism etc. In particular, the mechanism of compulsory concurrent audit (pre-audit) in case of refund of more than 5 lakh, compulsory post-audit in the case refund for amount between Rs 50,000/- and Rs. 5 lakh and post-audit on the basis of the random selection in the case refund of amount below Rs 50,000/- exists.

3. Manual processing and disbursal of refund amount is time-consuming and requires physical interface. Further, the status of the application is also not readily available to the trade. To enhance transparency and for electronic disbursal of refunds, an online processing and disbursal of Customs duty refund applications has been developed and is enabled on the Customs Automated System.

4.1 The key aspects relating to the electronic processing of refund is indicated below for the ease of reference:

(a) Applicant may file Refund Application electronically on ICEGATE Portal in terms of Customs Refunds Application (Form) Regulations, 1995 along with the supporting documents such as Unjust enrichment certificate etc.

(b) In case re-assessment of Bill of Entry is required before refund, option to request re-assessment is also enabled on ICEGATE. Once re-assessment is done, the pre-filled refund application form will be made available for the applicant to file his refund claim.

(c) As the refund amount will be credited to the Bank account already registered in Customs Automated System, applicant may check and update the details before filing their refund application.

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(d) On successful filing of Refund Application at the ICEGATE Portal, Unique Application Reference Number (ARN) will be generated immediately before its scrutiny or checking for its completeness by the Proper Officer.

(e) On receipt of Refund Application, the proper officer shall scrutinise the application and intimate any deficiency in the application within 10 days of ARN on the ICEGATE dashboard. The proper officer may ensure that all the queries are sent in one-go and piece-meal queries are avoided.

(f) If there is no deficiency or all the deficiencies have been rectified, acknowledgement number shall be generated by the proper officer on the Portal and same will be available to the user.

(g) The show-cause Notice in case of rejection or the order for refund sanction or rejection shall be communicated electronically through ICEGATE Portal. Proper officer may pass a speaking order and also including examination of aspects relating to the unjust enrichment.

(h) Board has decided to do away with the concurrent audit of refund claims in all cases, and shift the same to post-audit, in view of processing of refund application in electronic environment. The manner of selection for audit will be finalized by DG-Audit in consultation with DG ARM.

(i) On sanction of Refund, the amount will be electronically credited to the Bank Account of the Applicant through PFMS system. The process of crediting the refund amount in the Consumer Welfare Fund would continue to be handled in the manner as it exists now. The fact of crediting the refund amount to the Consumer Welfare Fund will be part of refund order.

(j) The status of the application will be made available to the applicant at ICEGATE Dashboard.

(k) The MIS reports regarding refunds pendency, is also available to the customs officers for efficient, effective and transparent monitoring.

4.2 The Board Circulars No. 24/2007-Cus dated 2nd July, 2007 and Circular No. 22/2008-Customs dated 19th Dec, 2008 stands modified to the above extent.

4.3 The DG (Systems) shall issue detailed guidelines on the processing of Refund application.

5. As a transitional measure, applicant may file refund either manually or online modes till 31.03.2025. However, no manual

refund application shall be accepted after 31st March, 2025, unless the same is allowed by the concerned Pr. Commissioner/ Commissioner of Customs, for the reasons to be recorded in writing.

6. This Circular may be given wide publicity by issue of suitable Trade Notice/ Public Notice. The Officers under your jurisdiction may be sensitized to handhold the stakeholders for using this module. Difficulties, if any, in the implementation of the above Circular may be brought to the notice of the Board.

[For further details please refer the Circular]

CIRCULAR

SINGLE UNIFIED MULTI-PURPOSE ELECTRONIC BOND IN CUSTOMS-EKAL ANUBANDH

OUR COMMENTS: The Ministry of Finance, Department of Revenue vide Circular No. 04/2025-Customs dated 17.02.2025 clarified that CBIC's ongoing initiatives to simplify trade processes, improve transparency, and adopt best practices have resulted in steady improvements across various trade facilitation metrics. Leveraging Information technology, many processes have become paperless and contactless, thus providing ease and less time consuming for the trade.

2. In the same direction, to enhance efficiency and reduce the administrative load on businesses, CBIC has decided to introduce a project named "Ekal Anubandh", wherein trade will be encouraged to use single All-India Multi-purpose Electronic Bond with end-to-end automation. As a first step, single All-India Multipurpose Bond for importers or exporters in lieu of the transaction-wise Bonds being submitted across different ports, thus offering significant potential to save both time and costs in trade procedures.

3.1 At present, importer or exporter submits separate bonds along with security, for every transaction at each port for different scenarios as stipulated in the Board circulars given below:

i. Provisional Assessment Circular No. 38/2016 dt. 22.08.2016 and Circular 42/2020-Customs dated 29.09.2020

ii. Export Promotion Schemes – Circular 11A/2011-Customs dated 25.02.2011

iii. Warehousing under Section 59 - Circular 18/2016-Customs dated 14.05.2016 and Circular 21/2016 - Customs dated 31.07.2016

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iv. MOOWR in bonded warehouse under section 65 – Circular 34/2019-Customs dated 01.10.2019

v. MOOWR in Special Warehouse under section 65 vide Circular 36/2020-Customs dated 17.08.2020-Customs.

3.2 The current practice is adding cost and time for the trade and customs and adds to the administrative burden of maintaining physical records. The status and retrieval also pose difficulties.

Single All-India Multipurpose electronic Bond (SEB):

4.1 To overcome above issues and to provide end-to-end digital solution, in lieu of submission of separate bonds, importer or exporter will have an option to submit a Single All-India Multipurpose electronic Bond (SEB) with following features:

(a) Importer/Exporter can choose the obligations; he intends to undertake in the common bond format and submit at any port of importer's choice electronically at ICEGATE.

(b) Option to include additional obligations or additional amount at the later stage is available at ICEGATE

(c) Electronic Payment of stamp duty and electronic execution of Bond through integration with National E-Governance Services Limited (NeSL) by affixing electronic signature without any requirement for notary.

(d) Online linking End-to-End issued Electronic Bank Guarantee

(e) Verification of Bank Guarantee (BG) issued by issuing Bank

4.2 On the lines of the initiative of 'Digital Document Execution or DDE' for paperless execution and storage of financial contracts, through M/s N National E-Governance Services Limited (NeSL) by Department of Financial Services (DFS), digital execution of customs bonds is being enabled. The process of execution of bond electronically including the digital payment of stamp duty is elaborated in Annexure-A. The Importer/exporter executing the bond may ensure that applicable stamp duty is paid.

4.3 In this regard, as clarified earlier vide Circular 11A/2011-Customs dated 25.02.2011 in respect of National Bond for EP Schemes, opinion of Law Ministry regarding the legal implications of a single bond across different customs locations is re-iterated as follows "since the Bond is executed in favour of President of India, the same is enforceable by any authorized Commissioner (Customs)". Further, it also clarified that, in view

of capability to identify the executants and time-stamping of the electronic signatures, there is no further requirement of notaries during SEB execution process.

4.4 Format of the SEB is provided in **Annexure-C**.

Submission of Bank Guarantee:

5. Along with the execution of Bond, procedure for submission of Bank Guarantees is also being streamlined. For the sake of uniformity, the quantum of Bank Guarantee to be provided in the different instances prescribed earlier through the Board circulars have been collated and made available in **Annexure-F**. The importer/exporter may also be able to select the quantum of bank guarantee applicable for different purposes like provisional assessment, EP schemes etc. Further, a separate option is also available in case there is a need for having different quantum of bank guarantee other than those specifically listed in Annexure F. The detailed procedure for linking of Bank guarantee with the bond is elaborated in **Annexure-B**.

6. With electronic bonds and bank guarantees, importers/exporters/customs brokers can manage and track documents in real time, ensuring greater security and transparency throughout transactions. The "Ekal Anubandh" project ensures that above digital solutions are environmentally friendly, cost-effective, and more convenient, as they eliminate the need for physical signatures and paperwork, allowing for faster approvals and fewer delays. Therefore, the importers and exporters are encouraged that, wherever required, importers/exporters/customs brokers may execute a single unified multi-purpose electronic bond and electronic bank guarantee.

7. For further details of the e Bond and e Bank Guarantee module, detailed Advisories issued by ICEGATE website may be referred to.

8. The Single All India Multipurpose electronic Bond (SEB) under "Ekal Anubandh" project shall be implemented through detailed advisories being issued by DG Systems in a phased manner. User feedback will be suitably incorporated during implementation.

9. The Chief Commissioners of the Zones may sensitize the officers under their jurisdiction of the above changes to handhold the trade. Necessary Public Notice may be issued and outreach activities conducted with the relevant stakeholders. Difficulties, if any may be brought to the notice of the Board.

[For further details please refer the Circular]

DGFT

CASE LAW

M/S AIMS RETAIL SERVICES PRIVATE LIMITED, M/S KANUSHI ENTERPRISES, M/S AIMS MIGITAL TECHNOVATIONS PVT. LTD., M/S OSIYA OVERSEAS LLP, M/S NARAYANI OVERSEAS LLP, M/S ASHI CREATION PRIVATE LIMITED, M/S ICONNECT INDIA, M/S AVIK TELEVENTURES PVT. LTD., M/S BTPL DISTRIBUTION PVT. LTD., MS NEW EXCELLENT TELEVENTURES LLP, M/S BORA EXIM PVT LTD, VERSUS UNION OF INDIA & ORS: DELHI HIGH COURT

OUR COMMENTS: Disentitlement from claiming duty drawback on export of the said mobile phones under Section 75 of the Customs Act, 1962 read with Customs and Central Excise Duties Drawback Rules, 2017 - unlocking mobile phones after they are manufactured - case of Revenue is that the process of unlocking/activating the said mobile phones would be hit by the proviso to Rule 3(1) of Duty Drawback Rules - HELD THAT:- The interpretation of the expression "taken into use" in the proviso to Rule 3 of Duty Drawback Rules is the core of the contest in the present petitions. Accordingly, whether the process of unlocking/activation of the mobile phones, as employed by the Petitioners, constitutes "taken into use" would be the question determinable.

The purpose of duty drawbacks is to ensure that the customs duty paid by the importers or excise/GST paid by local manufacturers on a particular good is not loaded on to the said good/product when exported, making such products uncompetitive in the international market. The burden of these duties/taxes collected by the Government are eased in respect of the exporters, so that adequate relief is provided to them to compete in international markets with foreign exporters. In addition, easing of the said burden allows encouragement for exports which enables earning of foreign exchange for the country.

The process of unlocking/activating the mobile phones has also evolved from time to time. Such process initially involved insertion of SIM cards and making a call to the network of the destination country. In recent times it could also be done through 'air-activation' without opening of the packaging or the phone. In the air-activation insertion of a SIM card would also not be necessary. The process of unlocking may further evolve from time to time with technological advancement. However, the question is whether the unlocking/ activation of the mobile phone, through insertion of sim card or through 'air-activation' or any other process, constitutes 'taken into use' in terms of the proviso to Rule 3 of Duty Drawback Rules.

Interpretation of "taken into use" vis-à-vis unlocking/activation of the mobile phones - HELD THAT: - It is

seen that apart from switching on, insertion of sim card and making a call for 5 minutes, no other feature of the mobile phone is utilised for the purpose of unlocking/activating the said mobile phone. In addition, it is noted that in cases of 'air-activation' the aforesaid steps are also eliminated and the entire process is conducted without even unboxing or unsealing of the mobile phones. A mobile phone is capable of multifarious uses and applications. None of the said features or capabilities of the phone are being utilised during the process of unlocking. The unlocking/activation of the mobile phone enables the same to be used in a particular geographical territory, in this case territories outside India, and nothing more.

Considering the thousands of uses that a mobile phone can be put to, mere unlocking cannot constitute use by the Petitioners. The development of standards in the field of telecommunication which enables usage of mobile phones across countries may be rendered ineffective if such configuration is held to the detriment of the OEM or the traders/exporters. With the growth of mobile phone manufacturing/ assembling in India more and more exports would take place and the mere fact that the said products are configured for use in foreign countries cannot deprive the Petitioners from duty drawbacks under the prevalent law discussed hereinabove. Drawbacks are benefits which are given to exporters and in the case of any ambiguity such benefits should go in favour of the exporters and not the other way round. The unlocking/activation of the mobile phone merely makes the mobile phone more usable in the destination country and the same would therefore not constitute "taken into use" under proviso to Rule 3 of Duty Drawback Rules.

Conclusion - The unlocking/activating of the mobile phones as per the procedures adopted by the Petitioners herein is mere 'Configuration' of the product to make it usable and does not constitute "taken into use" under proviso to Rule 3 of the Duty Drawback Rules. The Clarifications go beyond Section 75 of the Act and the Duty Drawback Rules since the interpretation sought to be given by CBIC is that unlocking/activation of mobile phones constitutes "taken into use". The said interpretation which is contained in the Clarifications is not sustainable. Accordingly, the Clarifications issued by the CBIC are quashed.

Petition allowed.

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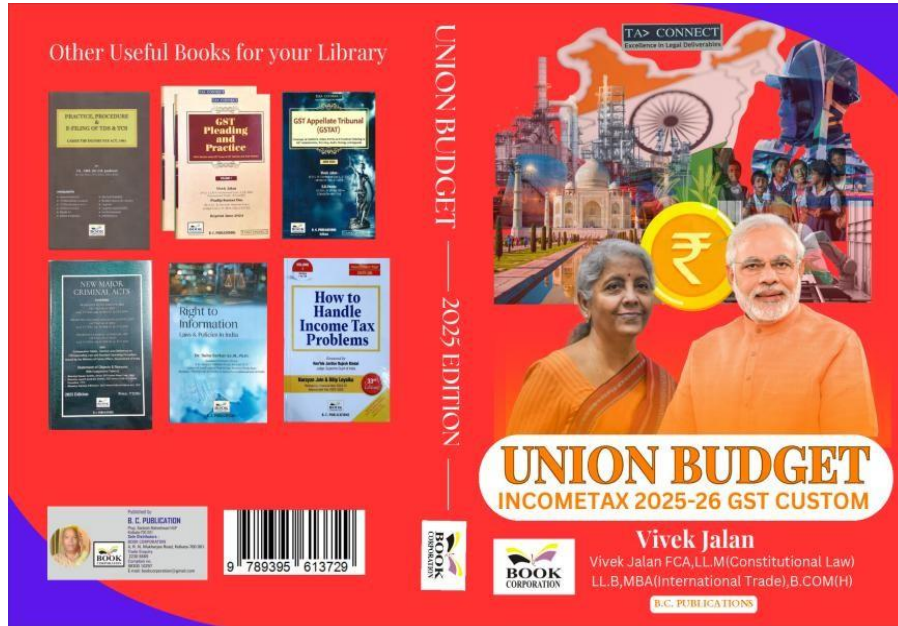
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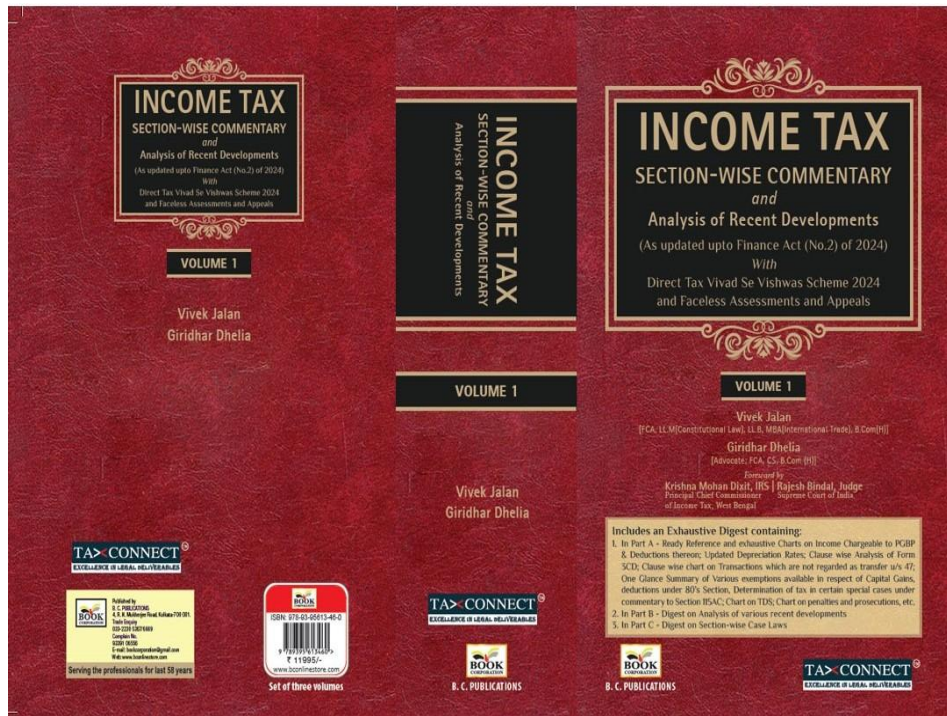
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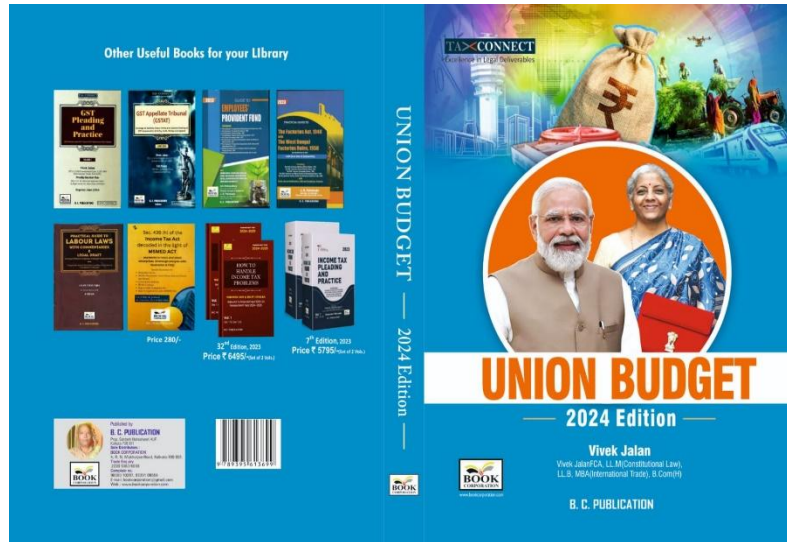
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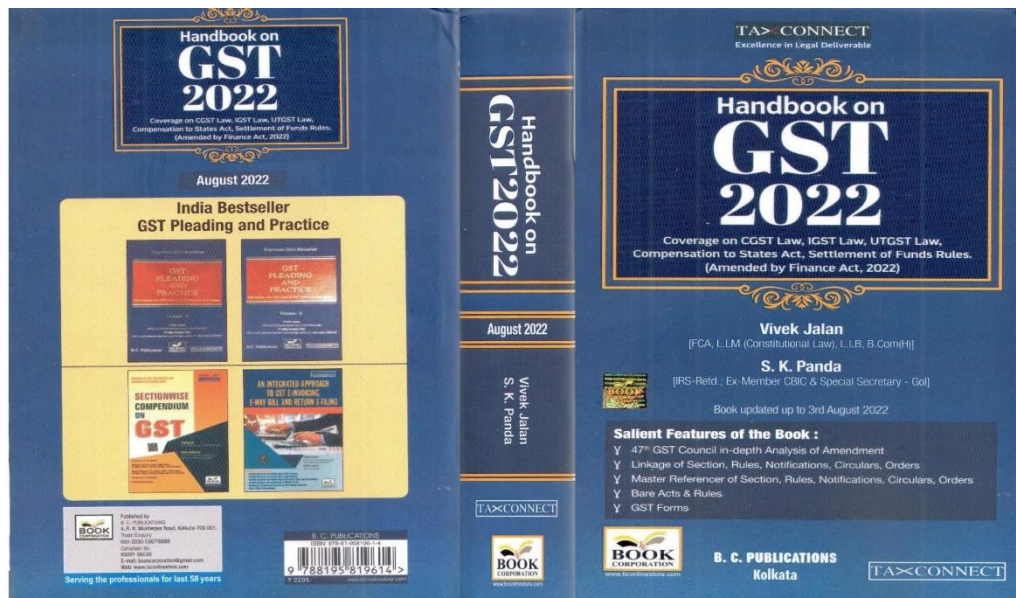
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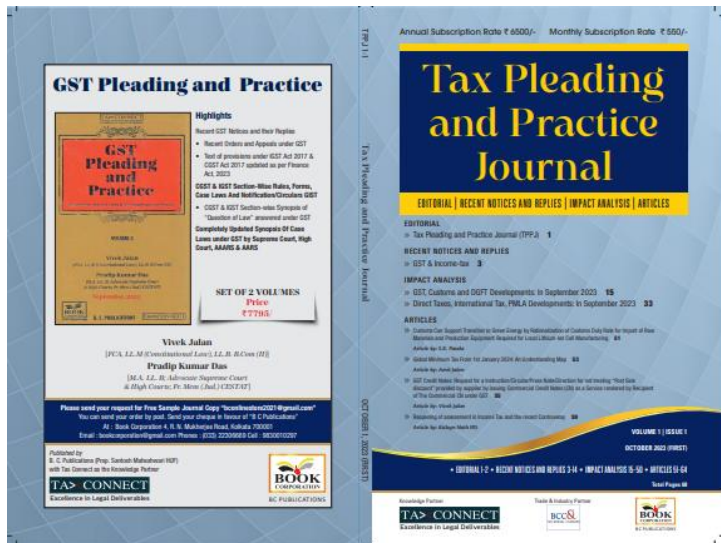
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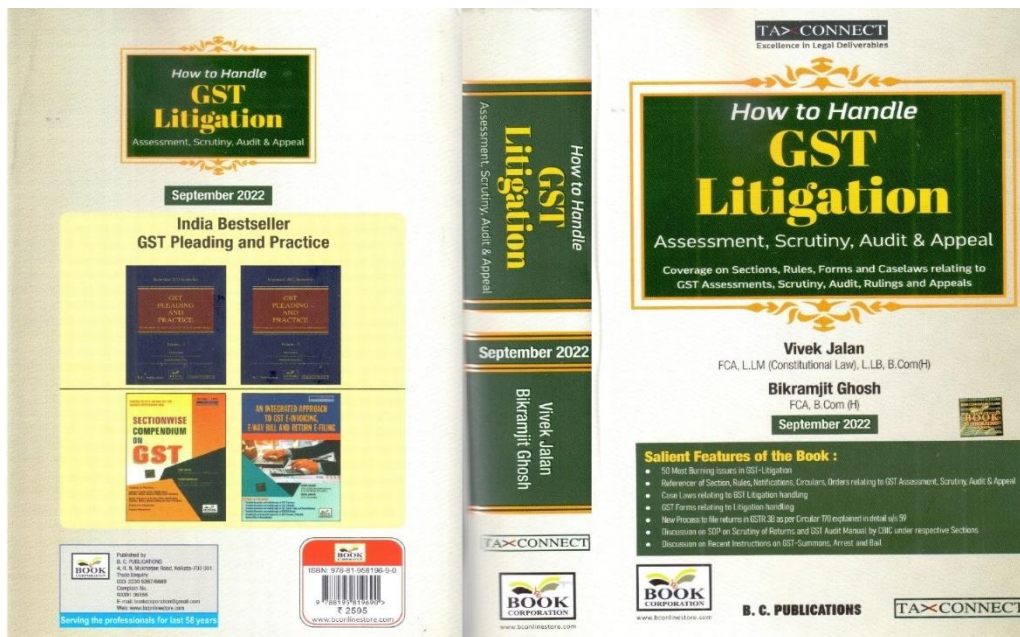
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