

TAXTIME

NEWSLETTER

INCOME TAX DEPT DETECTS UNDER-INVOICING OF IMPORTS

The Income Tax Department on Saturday said it has unearthed a case of under-invoicing of imports where an importer showed lesser value in the bill and paid less duty but the actual value was much higher, causing a loss to the exchequer. Gadgets firm had declared import value of ₹20 cr as against the estimated ₹2,000 cr

REVISION OF GST ORDER OUTSIDE RP'S AMBIT

The Income Tax Department on Saturday said it has unearthed a case of under-invoicing of imports where an importer showed lesser value in the bill and paid less duty but the actual value was much higher, causing a loss to the exchequer. Gadgets firm had declared import value of ₹20 cr as against the An order by National Company Law Appellate Tribunal (NCLAT) is likely to become the guiding principle for resolution professionals in Insolvency and Bankruptcy Code (IBC) involving statutory taxes such as GST dues. A recent order by the Chennai bench of NCLAT made it clear that revision of Goods and Services Tax's assessment order is beyond RP jurisdiction and not sustainable under law



HIGHER TARIFF VALUE ON EDIBLE OILS TO LOWER BENEFIT OF CUT IN IMPORT LEVIES

Recently after lowering import levies, the Finance Ministry has upped the tariff value for edible oils. This means the benefit of lowering duty for retail prices will be less than expected



MORE THAN 2 LAKH CRYPTO ACCOUNTS BLOCKED IN INDIA OVER 6 MONTHS

The past year or so has seen decentralised cryptocurrency slowly becoming part of the mainstream narrative. On the seamy side, the digital currency has also provided an avenue for online criminal activities involving tax evasion and other kinds of serious frauds.

In the past six months, between April-September 2021, the top three cryptocurrency exchanges – WazirX, CoinSwitch Kuber and CoinDCX – have blocked over two lakh accounts citing malicious activities



ARBITRATION AWARD TO ATTRACT GST EVEN IF INFRA PROJECT WAS COMPLETED UNDER EARLIER TAX REGIME

The amount received as arbitration award for a contract completed on or before June 30, 2017 will attract GST, ruled the Telangana State Authority for Advance Ruling.

The AAR discussed six issues related to taxability. Accordingly, there would be no GST on unpaid amounts, including price escalation for works executed in the pre-GST period, refund of excess deductions made and interest on delayed payments of interim payment certificates. Since, supply in all three cases was made in pre-GST regime, these will not attract GST.

Now, arbitration took place after GST's introduction, which means supply was made in the GST regime. The next issue here is the delay in the completion of the projects due to contractee. AAR highlighted that, *"Time of supply of the service of tolerance is the time when such determination takes place. However, the contractee/employer has not determined the cost of delay prior to arbitration award. It was determined only by arbitration award on May 9, 2019,"* while terming the date as according to GST Law as the time of supply. It also noted that consideration received for such forbearance would attract GST at the rate of 18 per cent. Similarly, interest on such an amount will also attract GST at the same rate.

ANTI-DUMPING DUTY LEVIED ON ARYLIDES IMPORTS FROM CHINA

Based on the recommendations of the designated authority in the Commerce Ministry in its final findings, the revenue department imposed a definitive anti-dumping duty of 24.79 per cent of cost, insurance and freight (CIF) value in the case of arylides produced by Qingdao Haiwan Speciality Chemicals and 26.64 per cent of CIF value in the case of arylides produced by Nantong Acetic Acid Chemical





WITH THE OECD/G20 GLOBAL TAX AGREEMENT, INDIA WILL LIKELY HAVE TO GIVE UP EQUALISATION LEVY

Implementation of Pillar One needs jurisdictions to hold off from introducing new unilateral measures and withdrawing already introduced digital taxes and similar levies. India legislated a 6% equalisation levy on online advertisements from June 2016 and a 2% equalisation levy on e-commerce supply of goods and services from April 2020. In May 2021, India also prescribed the thresholds for the applicability of the 'significant economic presence' concept, which allows it to assert domestic taxing rights on profits earned by non-resident entities with revenues exceeding ₹20 million or users exceeding 300,000. An effective working of the two-pillar solution may require India to repeal such measures.



LEGITIMATE TAX PLANNING NOT TABOO

Recently, a similar dispute came for consideration before Mumbai bench of Income Tax Appellate Tribunal, where tax authorities denied taxpayer's claim of set-off of capital loss incurred by taxpayer on sale of almost worthless shares of an Indian company against capital gains earned by taxpayer from sale of residential house property.

Tax planning and tax avoidance have always been a matter of debate between the tax authorities and taxpayers for over decades. Tax authorities always seek to disregard transactions, terming it to be planned for tax avoidance/ tax evasion in the disguise of tax planning. On the other hand, taxpayers always claim transactions or structures to be for legitimate tax planning permissible under law. The House of Lords England had addressed the issue of tax planning its orders pronounced in the case of Fisher's Executors and Duke Westminster, wherein it was held that "a taxpayer is entitled to manage his affairs within law, so as to pay minimum taxes". This is commonly known as the Westminster's principle.

The Mumbai ITAT on perusal of the facts of the case, concluded that minimisation of tax liability as long as it is through the legitimate tax planning and without using any colourable device, is not illegal. Further, it is not even immoral as it is everybody's duty to himself manage his affairs properly within the framework.

The legitimacy of tax planning has been re-emphasised by the Mumbai-ITAT through this judgment aiming to give a fresh insight to this classic old debate

INDONESIAN LAWMAKERS APPROVE TAX REFORM PLANS

Indonesia's lower house of parliament has signed off on a bill that provides for a two-stage hike to the headline value-added tax rate, the cancellation of a planned corporate tax cut, and the introduction of a new top rate of personal income tax

The bill also provides for the introduction of a tax amnesty scheme, which will run from January 1 to June 30, 2022, and the replacement of the individual Taxpayer Identification Number (NPWP) with a Population Identification Number (NIK)

AVAILABILITY OF INPUT TAX CREDIT (ITC) FOR FY 2020-21

As per Section 16(4) of CGST Act, 2017, no taxpayer shall take input tax credit in respect records (invoices and debit notes) for supply of goods or services (or both) for Financial Year 2020-21 after the due date of furnishing the return for the month of September 2021. The due date for the GSTR-3B for September 2021 is either 20th October 2021 for monthly filers and 22nd or 24th October 2021 depending on the State/UT of registration of the taxpayer.

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