



A2Z TAXCORP LLP

Tax and Law Practitioners

Weekly GST Communique

**January
2022
Week 4**

Highlights
of recent
updates in
the field of
indirect
taxation
and direct
taxation





Contents
GST
Important Judgments, Rulings of the week
Important Notifications, Circulars of the week
Important Press Releases of the week
Important Updates of the week
Videos of the week
Online Certified Advance GST Course by CA. Bimal Jain
Online Certified GST Export Course by CA. Bimal Jain
Income Tax
Important Notifications, Circulars of the week
Important Updates of the week
News Flash



GST

Important Judgments, Rulings of the week



Assessee not liable to reverse CENVAT credit on amount written off as bad debts

The Hon'ble CESTAT Chandigarh in ***SBI Cards and Payments Services Pvt. Ltd. v. Commissioner of Service Tax, Delhi [Service Tax Appeal No. 55319 of 2013 with 50192 of 2015 dated January 4, 2022]*** set aside the order confirming the demand for reversal of CENVAT credit on the amount written off as bad debts. Further, held that there is no such provision in the CENVAT Credit Rules, 2004 ("**the CENVAT Credit Rules**") or in the Finance Act, 1994 ("**the Finance Act**") for reversal of CENVAT credit for the services provided for which no consideration for service provided is received by an assessee.

For complete case summary [Click Here](#)

No tax evasion can be presumed on mere non-extension of validity of e-way bill due to traffic blockage and agitation

The Hon'ble Supreme Court of India in ***Assistant Commissioner ST & Ors. v. Satyam Shivam Papers Pvt. Ltd. [Special Leave to Appeal (C) No(s). 21132/2021 dated January 12, 2022]*** affirmed the judgment passed by the Hon'ble Telangana High Court and held that, tax evasion cannot be presumed on mere non-extension of validity of e-way bill by the assessee due to traffic blockage and agitation, for which the Revenue Authority is responsible for not providing smooth passage of traffic. Further, imposed a sum of INR 69,000/- on the Revenue Department towards the cost payable to the assessee, and to be recovered, directly from the persons responsible

For complete case summary [Click Here](#)



Salary cost to be included in valuation for cross charge for supply of services between head office and branch office or vice versa

The AAAR, Maharashtra in the matter of ***M/S. Cummins India Limited [Advance Ruling No. MAH/AAAR/AM-RM/01/2021-22 dated December 21, 2021]*** held that head office using all its human resources to facilitate the operational requirements of the branch offices/units by way of procuring common input services on behalf of the branch offices/units thereby, providing the services, therefore, allocation and recovery of any amount including its employees salary cost from the branch offices/units will be subject to GST. Hence, the allocation and recovery of the salary of the employees of the head office from the branch office/units will be subject to GST.

Our comments:

in pre-GST regime, any supply of service between head office and branch office or vice versa was not taxable thus, it has been a contentious issue since inception of GST, whether any supply of service between head office and branch office or vice versa is chargeable to GST or not. But, the above-mentioned ruling stating inclusion of salary cost also in valuation for cross charge for supply of services between head office and branch office or vice versa, will open up pandora box for the following reasons:

- Employees are appointed and working for Company as whole and not employed for head office or branch specifically, which is distinct person under the GST.
- Salary paid to employees are in relation to employment, which is neither a supply of goods nor services under Para 1 of the Schedule 3 of the CGST Act, which reads as “Services by an employee to the employer in the course of or in relation to his employment”.
- Further, inclusion of salary costs in valuation for cross charge of services is more detrimental for exempted sector viz. education, health care, etc., whereby inclusion of salary costs for chargeability of GST in cross charge will lead to double whammy as GST charged on Salary cost will be not available as credit and second, it is subject to litigation.

To know more, kindly watch our video on “**Cross Charge vs. ISD - Inclusion of Salary for supply of Services by HO to Branch**” | CA Bimal Jain” <https://youtu.be/Cpo6xr8Kwow>

For complete ruling summary [Click Here](#)



Supply of service sub-contracted by recipient company cannot be considered as 'intermediary'

The AAAR, Gujarat, in the matter of **M/S. Stovec Industries Ltd. [Advance Ruling No. GUJ/GAAAR/APPEAL/2021/32 dated November 2, 2021]** modified the ruling passed by the AAR, Gujarat and held that, supply of installation/up-gradation of machines and training services for and on behalf of the Company located outside India, by the supplier in India will not fall under the definition of 'intermediary'.

Our comments:

It is pertinent to note that, vide the above Circular it has been clarified that, a company incorporated in India and a body corporate incorporated by or under the laws of a country outside India, which is also referred to as foreign company under the Companies Act 2013 ("**the Companies Act**"), are separate persons under CGST Act, and thus are separate legal entities. Accordingly, these two separate persons would not be considered as "merely establishments of a distinct person in accordance with Explanation 1 in Section 8 of the IGST Act".

Further, to know more, kindly watch our video on "**Who is Intermediary in GST - What is dispute for Intermediary in Export of Services || CA Bimal Jain**" <https://www.youtube.com/watch?v=Ur3zbxlcJDA>

For complete ruling summary [Click Here](#)

GST not leviable on handling charges of PDS distribution of Dhothies & Sarees/ School Uniforms to the state government

The AAR, Tamilnadu in the matter of **M/S. Handloom Weavers Cooperative Society Ltd. [Advance Ruling No. TN/47/ARA/2021 dated December 30, 2021]** held that, the services rendered by the assessee towards handling of Dhothies & Sarees/ School Uniforms from Co-operative Societies to Public Distribution System / Revenue Department are exempted from payment of GST. Further held that, undertaking the activities of inspection, collection, storage, transportation, etc., are 'Pure Services' even if the supply is a composite supply.

For complete ruling summary [Click Here](#)

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Important Notifications, Circulars of the week



Retention of ISO Containers to meet future requirements

The CBIC issued **Circular No. 01/2022-Customs dated January 18, 2022** regarding retention of International Organisation for Standardization ("ISO") Containers to meet future requirements.

Board hereby guides all the field formations to allow extension of time period for re-exports of ISO containers meant for transportation of Liquid Medical Oxygen grade, if imported under Notification No. 104/1994-Customs dated March 16, 1994, till September 30, 2022, upon receipt of requests from the importers, in this regard.

Further, in respect of ISO Containers imported on lease by availing IGST exemption under serial number 557B of Notification No.50/2017-Customs dated June 30, 2017, it is hereby clarified that as long as ISO containers are in India under a valid lease and the IGST amount is paid on such lease amount under CGST law, the IGST is not required to be paid on the value of the ISO containers, and in such a situation the need for re-export would not arise.

For complete Circular [Click Here](#)

Alignment of Circular providing relaxation in furnishing of Bank Guarantee to various categories of AEO/AEO (MSME) with CAROTAR, 2020

The CBIC issued **Circular No. 02/2022-Customs dated January 19, 2022** regarding alignment of Authorized Economic Operator ("AEO") Circular No. 33/2016 dated July 22, 2016 and 54/2020 dated December 15, 2020 with Customs Administration of Rules of Origin Under Trade Agreements Rules, 2020 ("CAROTAR 2020") implemented vide dated September 21, 2020.

It is clarified that with the insertion of Section 28 DA of Customs Act, 1962 relating to procedure regarding claim of preferential rate of duty, and the issuance of CAROTAR, 2020 (Customs Administration of Rules of Origin



Under Trade Agreements Rules, 2020) vide Notification No. 81/2020-Customs dated August 21, 2020 (effective September 21, 2020), these provisions prevail over dispensation extended vide para 1.5.1. (v), 1.5.2.(ix), 1.5.3.(iv) of Circular No. 33/2016- Customs dated July 22, 2016 and para 3(vii) of Circular No. 54/2020- Customs dated December 15, 2020 and the latter stand suitably aligned to the former.

For complete Circular [Click Here](#)

DGFT issued clarification w.r.t. Steel Import Monitoring System

The DGFT vide **Policy Circular No. 38/2015-2020 dated January 19, 2022** issued clarification regarding Steel Import Monitoring System ("SIMS").

The issues were referred to M/O Steel and based upon their clarification, responses thereto are given below:

A. Whether re-import of goods for packaging purposes falling under HS codes of Chapters 72,73 and 86 of ITC (HS), 2017 is also covered under scope of SIMS?

Response: Re-import of steel for packaging purposes will not be covered under SIMS as it is not primarily meant for value addition, rather being re-imported for packaging only.

B. Whether SIMS Registration is required if the steel/steel item is exported from DTA to SEZ and then imported from SEZ to DTA when [i] the item is being imported to DTA without any value addition and [ii] the item is being imported to DTA after some value addition?

Response: In both the cases i.e. [i] if the steel/steel item is exported from DTA to SEZ and then imported into DTA from SEZ without value addition, or [ii] with value addition, there should be no requirement for SIMS registration.

For complete Circular [Click Here](#)

CBIC issued master circular w.r.t. recovery and write off of arrears of revenue

The CBIC vide **Circular No. 1081/02/2022-CX dated January 19, 2022** issued master circular on recovery and write off of arrears of revenue.

Board has issued Instructions/Circulars relating to following:

- The Concept of Arrear
- The Statutory Provisions for Recovery



- **Categories of Arrears**
- **Procedure for Recovery of Arrears**
- **Cases under Litigation/Appeal**
 - Cases of arrears pending before SC / HC/ CESTAT-
 - Cases before Commissioner (Appeals)
 - The appeals pending with Additional / Joint Commissioner should be reviewed and cases of high revenue or of recurring nature should be taken upon priority.
- **Cases before Additional Secretary (Revision Application)**
- **Cases with Board for Industrial and Financial Reconstruction (BIFR) /National Company Law Tribunal (NCLT)**
- The NCLT was formed under section 408 of the Companies Act, 2013 (18 of 2013) w.e.f. June 01, 2016 and the cases pending with the BIFR /DRT got transferred to NCLT under Section 434 of the Companies Act, 2013.
- Necessary action in cases earlier pending with BIFR / DRT, which have now gone to NCLT / NCLAT as per Section 434 of Companies Act, 2013 should be taken up promptly by keeping track of hearing dates etc. Well conversant Group 'A' officers should properly present the cases before NCLT / NCLAT.
- **Cases with Debt Recovery Tribunal (DRT)**
- **Cases with Official Liquidator (OL)**
- **Cases where Appeal Period is Not Over**
- **Recovery of Un-disputed/recoverable Arrears**
- **Identification of Property of Defaulters**
- **Recovery through Attachment and Sale of Property**
- **Recovery of Arrears under CGST Act, 2017**
- **Write Off Provisions for Customs, Central Excise & Service Tax Arrears.**

For complete Circular [Click Here](#)



Important Press Releases of the week



IT industry can play a key role in raising services exports to \$1 trillion a year says Piyush Goyal

Union Minister of Commerce & Industry, Consumer Affairs, Food & Public Distribution and Textiles, Shri Piyush Goyal has assured leaders of India's top IT companies that the Central government will give full support to the sector to accelerate growth and help India's Services exports soar to \$1 trillion in a decade.

Shri Goyal said India was on track to achieve its merchandise exports target of \$400 billion this year, while Services exports were likely to be about \$240 billion to \$250 billion, which is much lower, but can grow rapidly and catch up with merchandise exports.

"When I look at the trajectory of these – I personally believe this is going to be a race to the top. We can converge \$1 trillion. That should be the ambition, mission. You have a little bit of catching up to do. I'll be delighted if you cross \$1 trillion faster than them," the minister told IT industry leaders.

IT industry leaders said the sector had seen strong growth last year, and in the past week, strong earnings reported by companies has set a positive tone for the years ahead.

For complete Press Release [Click Here](#)

MSME units are together capable of constituting a complete supply chain: MSME Secretary

There is tremendous potential for Indian engineering MSMEs to be integrated into the Global Value Chain due to their manufacturing cost advantage, said Mr B. B. Swain, Secretary, Ministry of MSME. Addressing the inaugural session of MSME Conclave organized by EEPIC India on January 19, 2022, Mr Swain said that for the MSMEs to achieve high growth the two most significant interventions required are related to credit



assistance and technology upgradation. He noted that the Ministry of MSME has been working closely with other Ministries and Departments to facilitate the ease of doing business for MSMEs.

"The AtmaNirbhar announcements have focused on easing access to registering as MSMEs, easing their access to credit and providing them the much needed protection as far as global tenders are concerned," Mr Swain said. He informed the participants that MSMEs engaged in manufacturing of engineering products are about 29% of the 67 lakh MSMEs which have registered since July 01, 2020 on the Udyam registration portal. "MSME units are together capable of constituting a complete supply chain and being globally competitive because of their diverse products ranging from intermediate to final products," Mr Swain said.

A Knowledge Paper titled 'Integrating Indian MSMEs to Global Value Chain' was also released in the inaugural session of the Conclave. **The paper has suggested that India's trade regime should promote value addition in the country. "Hence, the general tariff structure should be low on raw and primary goods, slightly higher on intermediaries and the highest on final products,"** it said.

It further recommended that both direct and indirect tax structure should be neutral and not discriminate between the nature of firms. "Banks and the financial institutions should be more willing to discern genuine exporters and demand less of collateral. Finally, stability in policy measures with less intervention and emphasis on neutrality on behalf of the government will be necessary," it listed among some of the broad pointers.

For complete Press Release [Click Here](#)

Centre releases advance installment of tax devolution to State Governments amounting to Rs. 47,541 crore

Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman has authorised the release of an advance installment of tax devolution to State Governments amounting to Rs. 47,541 crore, on January 20, 2022. This is in addition to the regular devolution for the month of January 2022, also being released January 20, 2022.

Thus, States would receive a total of Rs. 95,082 crore or double their respective entitlement during the month of January 2022. State-wise break-up of the amounts being released is appended.

It is pertinent to mention that the Government of India had released the first advance instalment of tax devolution amounting to Rs. 47,541 crore to States on November 22, 2021. With the release of the second advance installment on January 20, 2022, the States would have received an additional amount of Rs. 90,082 crore under tax devolution over and above what has been budgeted to be released till January, 2022.

This is in line with the commitment of Government of India to strengthen the hands of States to accelerate their capital and developmental expenditure to ameliorate the deleterious effects of COVID-19 pandemic.

For complete Press Release [Click Here](#)



Important Updates of the week



How to get E-mail & Cell phone number of Central and State GST officers on the GST portal

You can now get the E-mail & Cell phone number of Central and State GST officers on the GST portal.

Check it out through the steps given below:

1. Login and go to **Services → Ledger → Negative liability statement** (don't skip this)
2. Now go to **Services → User Services → Contacts**

To Know More [Click Here](#)

A list of GSTINs generating IRN has been issued by NIC

The National Informatics Centre ("NIC") has issued a list of GSTINs updated till January 18, 2022 generating Invoice Reference Number ("IRN").

For List of GSTINs [Click Here](#)

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Videos of the Week



Refund Rejection Order set aside on Period of Limitation relying on SC Order (English) || CA Bimal Jain

You can access the complete video on “**Refund Rejection Order set aside on Period of Limitation relying on SC Order (English) || CA Bimal Jain**” at following link: https://youtu.be/AG_c2SO88RM

Refund Rejection Order set aside on Period of Limitation relying on SC order (Hindi) || CA Bimal Jain

You can access the complete video on “**Refund Rejection Order set aside on Period of Limitation relying on SC order (Hindi) || CA Bimal Jain**” at following link: <https://youtu.be/tHJZstmJsBI>

What is Fake Invoice and Fake Credit || CA Bimal Jain

You can access the complete video on “**What is Fake Invoice and Fake Credit || CA Bimal Jain**” at following link: <https://youtu.be/hoOf6mbzUUY>

Cross Charge vs. ISD - Inclusion of Salary for supply of Services by HO to Branch || CA Bimal Jain

You can access the complete video on “**Cross Charge vs. ISD - Inclusion of Salary for supply of Services by HO to Branch || CA Bimal Jain**” at following link: <https://youtu.be/Cpo6xr8Kwow>



Online Certified Advance GST Course by CA. Bimal Jain



Recorded: Certified Advanced GST Course by CA. Bimal Jain

Course Highlights:-

- ✓ Detailed understanding of GST Provisions with Practical Case Studies
- ✓ Analysis of open and burning issues in GST
- ✓ Divergent Judgements and Case studies from different Advance Ruling Authorities / HC
- ✓ Understanding of all Recent Amendments and Implications
- ✓ Certificate of Participation will be Provided
- ✓ Free GST Updates on E-mail, WhatsApp, Telegram for 1 Year
- ✓ Background Material and PPT will be Provided on downloadable basis.
- ✓ Total 21 Recorded Sessions (60 Hours), will be available for 120 hours or 60 Days whichever expires earlier
- ✓ 30% discount on MRP of latest 6th edition of GST Book, "GST Law and Commentary – with Analysis and Procedures by Bimal Jain & Isha Bansal"

Hurry !!! Register Now !!!

For Details & Registration Link: <https://www.a2ztaxcorp.in/product/gst-webinar/>



Online Certified GST Export Course by CA. Bimal Jain

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Online GST Course On
Exports, Deemed Exports, SEZ, Imports, Merchandise Exports, Inverted Duty Structure (including Refunds)
BY
CA Bimal Jain

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Recorded: GST Course on Exports, Deemed Exports, SEZ, Imports, Merchandise Exports, Inverted Duty Structure (including Refunds) by CA. Bimal Jain

Course Highlights:-

- ✓ 6 Online Recorded Sessions of 2.30 Hrs each with Background Material (BGM)
- ✓ Exports of Goods or Services: Registration, ITC, Time of Supply, Place of Supply, e-way bills, etc.
- ✓ Deemed Exports of Goods under GST
- ✓ Merchandise Exports of Goods under GST

Hurry !!! Register Now !!!

For Details & Registration Link: <https://www.a2ztaxcorp.in/product/gst-course-new/>



Income Tax

Important Notifications, Circulars of the week



CBDT issued guidelines for income tax exemption under a Unit Linked Insurance Policy

The CBDT vide **Circular No. 2 of 2022 dated January 19, 2022** issued guidelines under clause (10D) of Section 10 of the IT Act") provides for income-tax exemption on the sum received under a life insurance policy, including any sum allocated by way of bonus on such policy subject to certain exclusions.

Clause (10D) of section 10 of the Income Tax Act, 1961 ("the IT Act") provides for income-tax exemption on the sum received under a life insurance policy, including any sum allocated by way of bonus on such policy subject to certain exclusions.

The Finance Act, 2021 amended clause (10D) of section 10 of the IT Act by inserting fourth to seventh provisos. Fourth proviso provides that, with effect from February 01, 2021, the sum received under a Unit Linked Insurance Policy (ULIP), issued on or after February 01, 2021, shall not be exempt under the said clause if the amount of premium payable for any of the previous years during the term of such policy exceeds Rs 2,50,000. Further, fifth proviso provides that if premium is payable for more than one ULIP, issued on or after February 01, 2021, the exemption under the said clause shall be available only with respect to such policies where the aggregate premium does not exceed Rs 2,50,000 for any of the previous years during the term of any of those policies. Sixth proviso provides that the fourth and fifth provisos shall not apply in case of sum received on death of the person.

Seventh proviso to the said clause (10D) also empowers the Central Board of Direct Taxes (Board) to issue guidelines, with the previous approval of the Central Government, in order to remove any difficulty which arises while giving effect to the provisions of the said clause. In exercise of the powers under this proviso, Board, with the previous approval of the Central Government, hereby issues the following guidelines.



Sum received including any sum allocated by way of bonus (hereinafter referred as “consideration”) during the previous year (hereinafter referred as “current previous year”) under any one or more ULIPs issued on or after February 01, 2021 (hereinafter referred as “eligible ULIP”) shall be exempt under clause (10D) of section 10 of the IT Act, subject to the satisfaction of other provisions of said clause.

The same are explained by way of examples of different situations.

The above guidelines are explained with the help of the examples which can be accessed at the complete circular below.

For complete Circular [Click Here](#)



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Important Updates of the week



CBDT issued refunds of over Rs. 1,59,192 crore to more than 1.74 crore taxpayers from April 01, 2021 to January 17, 2022

As per the recent tweet of Income Tax India, **the CBDT has issued refunds of over Rs. 1,59,192 crore to more than 1.74 crore taxpayers from April 01, 2021 to January 17, 2022.**

Income tax refunds of Rs. 56,765 crore have been issued in 1,72,01,502 cases & corporate tax refunds of Rs. 1,02,428 crore have been issued in 2,22,774 cases.

This includes 1.36 crore refunds of AY 2021-22 amounting to Rs. 26,372.83 crore.

To Know More [Click Here](#)

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News Flash

Sale of land with electricity poles, drainage line not to attract GST, says Goa AAR

<https://www.a2ztaxcorp.com/sale-of-land-with-electricity-poles-drainage-line-not-to-attract-gst-says-go-aar/>

FADA wants 18% GST on two-wheelers, 5% on used vehicles in Union Budget

<https://www.a2ztaxcorp.com/fada-wants-18-gst-on-two-wheelers-5-on-used-vehicles-in-union-budget/>

Jewellers urge FM to reduce GST rate, increase PAN card limit to Rs 5 lakh in Budget 2022

<https://www.a2ztaxcorp.com/jewellers-urge-fm-to-reduce-gst-rate-increase-pan-card-limit-to-rs-5-lakh-in-budget-2022/>

Importers of denatured ethyl alcohol drag government to court over GST classification issue

<https://www.a2ztaxcorp.com/importers-of-denatured-ethyl-alcohol-drag-government-to-court-over-gst-classification-issue/>

Crypto Bill likely to miss Budget session as govt seeks time to build consensus

<https://www.a2ztaxcorp.com/crypto-bill-likely-to-miss-budget-session-as-govt-seeks-time-to-build-consensus/>

Finance Ministry notifies e-advance ruling scheme, allows filing e-mail application

<https://www.a2ztaxcorp.com/finance-ministry-notifies-e-advance-ruling-scheme-allows-filing-e-mail-application/>

MTAI seeks reduction in GST, customs duties on medical devices, cold chain units

<https://www.a2ztaxcorp.com/mtai-seeks-reduction-in-gst-customs-duties-on-medical-devices-cold-chain-units/>

Bombay HC sets aside rejection of refund claims by GST authorities

<https://www.a2ztaxcorp.com/bombay-hc-sets-aside-rejection-of-refund-claims-by-gst-authorities/>

CBIC steps up revenue collection drive with states in fourth quarter

<https://www.a2ztaxcorp.com/cbic-steps-up-revenue-collection-drive-with-states-in-fourth-quarter/>

CAIT demands removal of GST No. mandate for small traders entering e-commerce

<https://www.a2ztaxcorp.com/cait-demands-removal-of-gst-no-mandate-for-small-traders-entering-e-commerce/>

Govt may offer taxpayers incentives to shift to new income tax regime

<https://www.a2ztaxcorp.com/govt-may-offer-taxpayers-incentives-to-shift-to-new-income-tax-regime/>

Home buyers may get higher tax deductions on home loans in Budget next month: Report

<https://www.a2ztaxcorp.com/home-buyers-may-get-higher-tax-deductions-on-home-loans-in-budget-next-month-report/>



Abbreviations		
1.	GST	Goods and Services Tax
2.	CGST	Central Goods and Services Tax
3.	IGST	Integrated Goods and Services Tax
4.	CGST Act	Central Goods and Services Tax Act, 2017
5.	CGST Rules	Central Goods and Services Tax Rules, 2017
6.	IGST Act	Integrated Goods and Services Tax Act, 2017
7.	IGST Rules	Integrated Goods and Services Tax Rules, 2017
8.	ITC	Input Tax Credit
9.	RCM	Reverse Charge Mechanism
10.	Customs Act	Customs Act, 1956
11.	IT Act	Income Tax Act, 1961
12.	IT Rules	Income Tax Rules, 1962
13.	CBIC	Central Board of Indirect Taxes
14.	CBDT	Central Board of Direct Taxes



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Tax and Law Practitioners



Thank You

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About us:

A2Z Taxcorp LLP is a boutique Indirect Tax firm having its offices at New Delhi and Guwahati specializing in GST, Central Excise, Custom, Service Tax, VAT, DGFT, Foreign Trade Policy, SEZ, EOU, Export – Import Laws, Free Trade Policy, etc. It is a professionally managed firm having a team of experienced and distinguished Chartered Accountants, Company Secretary, Lawyers, Corporate Financial Advisors and Tax consultants to provide various services like litigation and representation, transaction advisory, diagnostic reviews/ health checks, audit defense & protection, retainership & compliance, configuration of tax efficient business model etc. Its clientele consists mainly of Foreign MNC, large/mid-sized Indian companies which includes exporters, FMCG, consumer durables, automobiles, aerated beverages, ceramic tiles, real-estate, hospitality, etc.

Thanks & Best Regards,

Bimal Jain

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