



# Thinking Beyond

Monthly Newsletter

**A knowledge sharing initiative**

**August 2024**



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## Taxability of loans granted between related persons or between group companies

In the recent times, GST Department by exercising the powers bestowed on them by way of Section 65 of the CGST Act 2017, has been raising the audit observations stating that GST shall be paid on the inter-company loans given amongst the related person under the GST.



**CA Thulasiram S**

It can be re-called at this juncture, in the past GST Department has been raising the similar demands alleging that the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service and thereby, GST is payable on the same.

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## GST Portal Update- Understanding GSTR-1A as a Revision Tool in the GST realm

In the recent past, multiple initiatives are taken by the Government in consultation with the GSTN to streamline the GST return filing. The auto-population of details in GSTR-3B which is earlier loaded in GSTR-1 is one such classic example. As on date, the auto-populated figures in the GSTR-3B are editable by the taxpayers. This flexibility allows the taxpayers to file GSTR-3B with the tax liability different from



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what has been already declared in the GSTR-1. Lately for the differences between GSTR-1 and 3B, the GST Department has started issuing automatic notices in FORM GST DRC-01B, when certain parameters like specified amount or percentage of difference exist.

There were instances, where the taxpayers have committed mistakes while filing the GSTR-1 or even missed to report certain invoices while filing the GSTR-1 for a particular tax period, in the absence of the concept of “Revision of returns’ under the GST realm, the taxpayers need to wait all the way till furnishing the GSTR-1 for the next tax period, which attracts interest liability @18% in some cases.

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## Legal Updates – July 2024

1. Payment of Royalty for Mining Rights is not in the nature of Tax - Wider Ramification in IDT Laws
2. Services provided by clubs or association qualify as supply and the said amendment in Section 7(1)(aa) is in line with the Constitution. Levy would be treated as prospective w.e.f. 01.01.2022
3. Order passed without considering taxpayers reply was set aside and remanded for reconsideration
4. Proceedings cannot be initiated against a non-existent entity
5. Order passed without considering taxpayers reply was set aside and remanded for reconsideration
6. Refund claimed in contravention of Rule 96(10) is mere procedural error and benefit of refund to exporters should be given wider interpretation
7. Notice and order issued by same officer with two different designations void and invalid
8. Notice for confiscation of goods under Section 130 of the CGST Act, 2017 need not be proceeded by notice for detention and seizure under Section 129 of the CGST Act, 2017
9. Subsequent order passed for the same financial year having overlapping demands were quashed and remanded for reconsideration
10. Demand raised on comparison of outward supplies disclosed in GST returns with receipts in the assessee's bank account operated for the entire PAN is absurd

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## **HNA Updates – Second special All-India Drive against fake registrations to be initiated from 16th August 2024**

**[Read More](#)**

Sl. No	Date	Functionality	Particulars
1	01.08.2024	<a href="#"><u>Detailed Manual and FAQs on filing of GSTR-1A</u></a>	<p>1. As per the directions of the Government vide notification no. 12/2024 dt 10th July 2024, Form GSTR-1A has been made available to the taxpayers' form July 2024' tax period. GSTR-1A is an optional facility to add, amend or rectify any particulars of a supply reported/missed in the current Tax period's GSTR-1 before filing of GSTR-3B return of the same tax period.</p> <p>2. GSTR-1A shall be open for the taxpayer after filing of GSTR-1 of a tax period or after the due date of GSTR-1 whichever is later. A Detailed manual for filing of GSTR-1A and related FAQs can be seen below –</p> <ul style="list-style-type: none"> <li>Detailed Manual for filing GSTR – 1A: <a href="https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Creation_of_Outward_Supplies_Return_in_GSTR-1.htm">https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Creation_of_Outward_Supplies_Return_in_GSTR-1.htm</a></li> <li>FAQ on Filing GSTR-1A : <a href="https://tutorial.gst.gov.in/downloads/news/creative_faqs_on_gstr1a_fo_cr25785.pdf">https://tutorial.gst.gov.in/downloads/news/creative_faqs_on_gstr1a_fo_cr25785.pdf</a></li> </ul>
2	02.08.2024	<a href="#"><u>Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Jammu &amp; Kashmir and West Bengal</u></a>	<p>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.</p> <ol style="list-style-type: none"> <li>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.</li> <li>The above-said functionality has been developed by GSTN. It has been rolled out in Jammu &amp; Kashmir and West Bengal on 02nd August 2024.</li> <li>The said functionality also provides for the document verification and appointment booking process. After the submission of the application in Form GST REG-</li> </ol>

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. Once 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.

6. At the time of the visit of GSK, the applicant is required to carry the following details.

- 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.

7. 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.

8. The applicant is required to choose an appointment for the biometric verification during the maximum permissible period for the application as indicated in

			<p>the intimation e-mail. In such cases, ARNs will be generated once the Biometric-based Aadhaar Authentication process and document verification are completed.</p> <p>9. The feature of booking an appointment to visit a designated GSK is now available for the applicants of Jammu &amp; Kashmir and West Bengal.</p> <p>The operation days and hours of GSKs will be as per the guidelines provided by the administration in your respective state.</p>
3	2.08.2024	<b>Advisory in respect of Changes in GSTR -8</b>	<p>Please refer to the GST Council decision to the effect that TCS rate has been reduced from the current 1% (0.5% CGST + 0.5% SGST/UTGST, or 1% IGST) to 0.5% (0.25% CGST + 0.25% SGST/UTGST, or 0.5% IGST) effective from 10/07/2024 vide Notification No. 15/2024 dated 10.07.2024.</p> <p>Thus, the following important aspects regarding the TCS rates effective from 10.07.2024 are to be noticed:</p> <p><b>1. Period from 1st July to 9th July 2024:</b></p> <p>During this period, the old TCS rate of <b>1%</b> will continue to apply. Taxpayers are required to collect &amp; report TCS at this rate for all transactions happened between these dates.</p> <p><b>2. From 10th July 2024 onwards:</b></p> <p>A revised TCS rate of <b>0.5%</b> will come into effect from 10th July 2024. Taxpayers must ensure their systems and processes are updated to reflect this new rate for all transactions happened from 10th July forward.</p> <p>Further, as few taxpayers have reported validation error while filing GSTR-8 for the month of July 2024, it is to inform that GSTN team is working on the changes announced by GST Council in respect of GSTR 8, is expected to be complete in next couple of days, and users would be able to file returns from 06th August 2024 midnight onwards. Any inconvenience caused in this regard is regretted.</p>



Sl. No	Date	Functionality	Particulars
4	23.08.2024	<b>Advisory for furnishing bank account details before filing GSTR-1/IFF Notification No. 38/2023 – Central Tax New Delhi, the 4th August, 2023</b>	<ol style="list-style-type: none"> <li>1. As per Rule 10A of Central Goods and Services Tax Rules, 2017 notified vide notification no. 31/2019 dated 28.06.2019, a taxpayer is required to furnish details of a valid Bank Account within a period of 30 days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both in FORM GSTR-1 or using Invoice Furnishing Facility (IFF), whichever is earlier.</li> <li>2. Advisory and various communications have already been issued time to time to inform the taxpayers regarding furnishing the details of a valid Bank Account detail in the GST Registration.</li> <li>3. Now, from 01st September 2024 this rule is being enforced. Therefore, for the Tax period August-2024 onwards, the taxpayer will not be able furnish GSTR-01/IFF as the case may be, without furnishing the details of a valid Bank Account in their registration details on GST Portal.</li> <li>4. Therefore, all the taxpayers who have not yet furnished the details of a valid Bank Account details are hereby requested to add their bank account information in their registration details by visiting <b>Services &gt; Registration &gt; Amendment of Registration Non - Core Fields tabs on GST Portal.</b></li> </ol> <p>It is informed that in absence of a valid bank account details in GST registration, you will not be able to file GSTR-1 or IFF as the case may, be from August-2024 return period.</p>

Sl. No	Date	Functionality	Particulars
5	23.08. 2024	<b>Introduction of RCM Liability/ITC Statement</b>	<p>To assist taxpayers in correctly reporting Reverse Charge Mechanism (RCM) transactions, a new statement called "<i>RCM Liability/ITC Statement</i>" has been introduced on the GST Portal. This statement will enhance accuracy and transparency for RCM transactions by capturing the RCM liability shown in Table 3.1(d) of GSTR-3B and its corresponding ITC claimed in Table 4A(2) and 4A(3) of GSTR-3B for a return period. This statement will be applicable from tax period <i>August 2024</i> onwards for monthly filers and from the quarter, <i>July-September-2024</i> period for quarterly filers. The RCM Liability/ITC Statement can be accessed using the navigation: <i>Services &gt;&gt; Ledger &gt;&gt; RCM Liability/ITC Statement</i>.</p> <p><b><i>Reporting Opening Balance in RCM ITC Statement.</i></b></p> <p><i>RCM ITC opening balance can be reported by following below navigation:</i></p> <p><i>Login &gt;&gt; Report RCM ITC Opening Balance or Services &gt;&gt; Ledger &gt;&gt; RCM Liability/ITC Statement &gt;&gt; Report RCM ITC Opening Balance</i></p> <ul style="list-style-type: none"> <li><i>• In case the taxpayers have already paid excess RCM liabilities by declaring the same in Table 3.1(d) of GSTR-3B however he hasn't availed corresponding ITC through Table 4(A)2 or 4(A)3 of GSTR-3B, due to any reason, in such cases taxpayer need to fill Positive value of such excess paid liability as RCM ITC as opening balance in RCM statement.</i></li> <li><i>• In case the taxpayers have already availed excess RCM ITC through Table in Table 4(A)2 or 4(A)3 of GSTR-3B however he hasn't paid corresponding liability by declaring the same in table 3.1(d) of GSTR-3B, in such cases taxpayer will be needed to fill a negative value of such excess</i></li> </ul>

*claimed ITC as RCM as opening balance in RCM Statement.*

- *In case taxpayer need to reclaim the RCM ITC, which was reversed in earlier tax periods through Table 4(B)2 of GSTR-3B, if eligible, he can reclaim such RCM ITC in Table 4A(5) of GSTR-3B. Please note that such RCM ITC shall not be reclaimed through Table 4(A)2 and 4(A)3 of GSTR-3B. Such RCM ITC reversal need not to be reported as RCM ITC opening balance.*

***For Opening Balance pls reconcile till tax Period:***

- ***Monthly filers:*** Report the opening balance considering RCM ITC till the July-2024 return period.

- ***Quarterly filers:*** Report the opening balance up to Q1 of FY 2024-25, considering RCM ITC till the April-June 2024 return period.

- ***Deadline to declare Opening Balance:*** Opening balance can be declared till 31.10.2024.

- ***Amendments in Opening Balance:*** Taxpayers can rectify any errors committed while declaring the opening balance on or before 30.11.2024, he shall be provided three opportunities for the same.

*This amendment facility shall be discontinued after 30.11.2024.*

Sl. No	Date	Functionality	Particulars
6	24.08.2024	<b>Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration of Applicants of Dadra and Nagar Haveli and Daman and Diu AND Chandigarh</b>	<p>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.</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. The above-said functionality has been developed by GSTN. It has been rolled out in Dadra and Nagar Haveli and Daman and Diu AND Chandigarh on <b>24th August 2024</b>.</li> <li>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, <ul style="list-style-type: none"> <li>(a) A Link for OTP-based Aadhaar Authentication OR</li> <li>(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)</li> </ul> </li> <li>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.</li> <li>5. However, if the applicant receives the link as mentioned in point 3(b), she/he will be required to book the</li> </ol>

			<p>appointment to visit the designated GSK, using the link provided in the e-mail.</p> <p>6. The feature of booking an appointment to visit a designated GSK is now available for the applicants of Dadra and Nagar Haveli, Daman and Diu AND Chandigarh.</p> <p>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.</p> <p>8. At the time of the visit of GSK, the applicant is required to carry the following details/documents</p> <p>(a) a copy (hard/soft) of the appointment confirmation e-mail</p> <p>(b) the details of jurisdiction as mentioned in the intimation e-mail</p> <p>(c) Aadhaar Card and PAN Card (Original Copies)</p> <p>(d) the original documents that were uploaded with the application, as communicated by the intimation e-mail.</p> <p>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.</p> <p>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.</p> <p>11. The operation days and hours of GSKs will be as per the guidelines provided by the administration in your respective Union Territory.</p>
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GST

Notification-Central Tax

Notification No. and Date of issue	Subject
16/2024-Central Tax Dated 06/08/2024	Seeks to notify section 11 to 13 of Finance Act (No.1) 2024 <b><u>HNA Comments:</u></b> This notification announces the commencement dates for specific provisions of the Finance Act, 2024: <ul style="list-style-type: none"><li>• October 1, 2024: Provisions of Section 13 of the Finance Act, 2024, will come into force.</li></ul> April 1, 2025: Provisions of Sections 11 and 12 of the Finance Act, 2024, will come into force. <a href="#">Read more.</a>

GST

Instruction/Guidelines

Instruction No. and Date of issue	Subject
<p>Instruction No. 03/2024-GST Date: 14-08-2024</p>	<p>Applying para 2(g) of Instruction No. 01/2023-24-GST (Inv.) dt. 30-3-2024 in Audit.  <b><u>HNA Comments:</u></b>            This instruction builds on the earlier <b>Instruction No. 01/2023-24-GST</b> (dated 30th March 2024), which provides guidelines for managing investigations with regular taxpayers.  <b>Key Focus (Para 2(g) of Instruction No. 01/2023-24-GST):</b></p> <ul style="list-style-type: none"> <li>• When <b>multiple interpretations</b> of GST laws (Act, Rules, notifications, circulars) arise during investigations, especially when based on a <b>prevalent trade practice</b>, it may lead to <b>litigation</b> or <b>practice changes</b>.</li> <li>• In such cases, the <b>Zonal (Pr.) Chief Commissioner</b> should refer the matter to the <b>GST Policy or TRU</b> wing of the Board <b>before issuing a show cause notice</b> to promote uniformity and avoid disputes. If the matter, after being processed, is amongst those that also gets placed before the GST Council.</li> </ul> <p><b>Application in Audits:</b></p> <ul style="list-style-type: none"> <li>• The instruction mandates that the same approach be followed during the <b>audit process</b>.</li> </ul> <p>This includes <b>ongoing audits</b>, with the aim of <b>maintaining consistency</b> and avoiding unnecessary litigation. <a href="#">Read more.</a></p>
<p>Instruction No. 02/2024-GST Date: 12-08-2024</p>	<p>Guidelines for Second special All-India Drive against fake registrations– regarding.  <b><u>HNA Comments:</u></b>            The instruction provides guidelines for a <b>second special All-India drive</b> against fake GST registrations, following the success of a similar drive in 2023. The drive is aimed at identifying and removing fraudulent GST registrations and preventing revenue losses.  <b>Period of Special Drive:</b> The drive will run from <b>16th August 2024 to 15th October 2024</b>, involving both Central and State tax authorities. <a href="#">Read more.</a></p>

Customs- non Tariff

Notifications

Notification No. and Date of issue	Subject
54/2024-Customs (NT) Dated- 14-08-2024	<p>Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver-Reg.</p> <p><b>Summary:</b> The CBIC issued this notification to fixes the tariff value of edible oils, brass scrap, areca nut, gold, and silver. This notification shall come into force with effect from the 15th day of August, 2024 <a href="#">Read more.</a></p>
55/2024-Customs (NT) Dated- 23-08-2024	<p>Notification No. 55/2024-Customs (N.T.) dated 23.08.2024 to amend Notification no 77/2023 -Customs (N. T.) dated 20.10.2023 (to revise the AIR of duty drawback of gold and silver jewellery/articles)</p> <p><b>Summary:</b> Seek to amend notification no 77/2023-Customs (N.T) dated 20.10.2023 to revise the AIR of duty drawback of gold and silver jewellery/articles <a href="#">Read more.</a></p>
56/2024-Customs (NT) Dated- 30-08-2024	<p>Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver-Reg</p> <p><b>Summary:</b> Vide Notification 56/2024-Customs (NT) dated 30th August 2024, amend the principal notification 36/2001-Customs (N.T.), and its previous amendments, including the most recent one, 54/2024-Customs (N.T.) dated 14th August 2024. This notification specifically updates tariff values provided under TABLE-1, TABLE-2, and TABLE-3, for various imported goods under specified tariff headings. This notification come into force from 31st August 2024. <a href="#">Read more.</a></p>



Customs- Non Tariff	
Notifications	
Notification No. and Date of issue	Subject
57/2024-Customs (NT) Dated- 31-08-2024	<p>Sea Cargo Manifest and Transshipment (Third Amendment) Regulations, 2024</p> <p><b><u>Summary:</u></b> The Notification No. 57/2024-Customs (N.T.) dated 31<sup>st</sup> August 2024 vide which phase-wise implementation of the Sea Cargo Manifest and Transshipment Regulations (SCMTR) via amending regulation 15(2) of Sea Cargo Manifest and Transshipment Regulations, 2018.</p> <p><b>Date Till which Transitional provisions are applicable:</b></p> <ul style="list-style-type: none"> <li>• Mormugao: September 10, 2024</li> <li>• Mangalore: September 30, 2024</li> <li>• Mumbai and Kandla: October 15, 2024</li> <li>• Tuticorin and Vishakhapatnam: October 31, 2024</li> <li>• Ennore, Kattupalli, and Cochin: November 15, 2024</li> <li>• All other Customs Ports: November 30, 2024</li> </ul> <p>Moreover, Circular No. 12/2024-Customs dated 31 Aug. 2024 has been issued to provide Date of Implementation of SCMTR filing in new format at different ports.</p> <p><a href="#">Read more.</a></p>

Customs- Tariff

Circulars

Circular No. and Date of issue	Subject
10/2024-Customs Dated-20-08-2024	<p>Use of ICETABs for efficient examination and clearance process.</p> <p><b>Summary:</b> The Circular No. 10/2024-Customs, introduces the use of ICETABs (Mobile tablet device for customs officers to quickly upload examination reports in real time) for improving the efficiency of the customs examination and clearance process. <a href="#">Read more.</a></p>
11/2024-Customs Dated-25-08-2024	<p>Implementation of automation in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 in respect of EOUs with effect from 01.09.2024 – reg.</p> <p><b>Summary:</b> The Circular No. 11/2024-Customs, discusses the implementation of automation for the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, specifically for Export Oriented Units (EOUs), effective from 1st September 2024. <a href="#">Read more.</a></p>
12/2024-Customs Dated-31-08-2024	<p>Implementation of the Sea Cargo Manifest and Transshipment Regulations (SCMTR).</p> <p><b>Summary:</b> The circular outlines the phased implementation of the Sea Cargo Manifest and Transshipment Regulations (SCMTR) as per Notification No. 57/2024-Customs (N.T.) dated August 31, 2024.</p> <p><b>Here are the key points:</b></p> <ul style="list-style-type: none"> <li>• Stakeholders should start filing in the new format on a parallel basis immediately to avoid any negative impact on cargo clearance once the new format becomes mandatory.</li> <li>• The Chief Commissioners of Customs are requested to closely monitor the progress of implementation of the roll-out of SCMTR for the ports coming under their jurisdiction. <a href="#">Read more.</a></li> </ul>

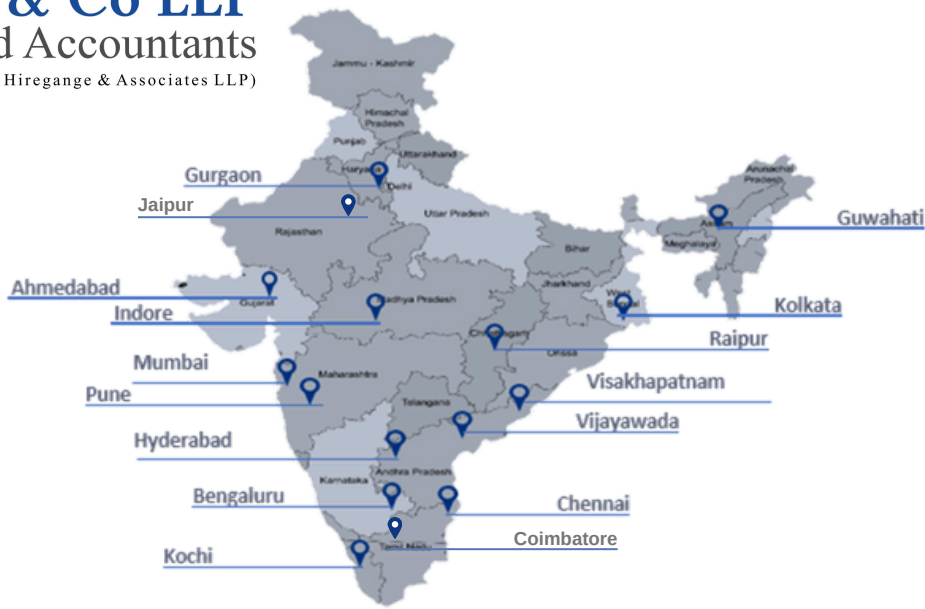
Customs- Instructions & Guidelines

Instructions

Instruction No. and Date of issue	Subject
<p>17/2024-Customs Dated- 05-07-2024</p>	<p>Authorised Officers under Section 25 read with Section 47 (5) of Food Safety Standards (FSS) Act, 2006 and Regulation 13 (1) of FSS (Import) Regulation, 2017 -reg. <b>Summary:</b> The government has updated the list of officials responsible for food safety and expanded the number of places where imported food can enter India. Four new locations have been added to the existing 155 entry points. These new locations are in Tamil Nadu, Goa, and Bihar <a href="#">Read more.</a></p>
<p>18/2024-Customs Dated-10-07-2024</p>	<p>Applicability of SCOMET policy on Irregular aluminium Powder - Clarification by DGFT -reg. <b>Summary:</b> The government has updated export rules for aluminium powder. Round or oval-shaped aluminium powder is now considered a controlled item and must be tested by a government or approved lab before it can be exported. Additionally, aluminium powder that reacts easily also needs a special export permit. The government can inspect the product or ask for proof of its manufacturing process. <a href="#">Read more.</a></p>
<p>19-2024-Customs Dated-22-07-2024</p>	<p>Provisional attachment of bank account(s) - Section 110 (5) of Customs Act, 1962 -reg. <b>Summary:</b> The directive mandates a written order, authorized by a senior customs official, to justify any bank account attachment aimed at safeguarding revenue or thwarting smuggling activities. This order must be formally delivered to both the bank and account holder and clearly outline the officer's rationale. <a href="#">Read more.</a></p>

Blood Donation Camp organized by H N A & Co. LLP, Pune in collaboration with CFO Logics and Sahyadri Hospitals, Pune on 3<sup>rd</sup> August 2024.





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