

GST Relearn Refresher Series (Virtual) - Part I

Webinar on GST- Bulk trade

Arranged by WIRC of ICAI

Presentation by CA Rajat Talati
on 13.4.2023

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Agenda

- Bulk trade business – An overview
- Different elements of Sale Price and valuation Issues
- Typical business transactions / Models
- Problem Areas – Issues in Import - Exports & Refund
- RCM- Ocean freight
- Some ITC related pressing queries

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Our view of bulk trade business

- Large whole sellers
 - Agri produce – cotton, oil seeds , etc
 - Minerals and ores
 - Chemicals & gases
 - Liquid cargo in bulk – in tanker / stored at tanks
 - Cement, steel etc
- Rail wagon loads/racks, charter ship, container loads
- Procurement from Agri produce from mandi, mines, large importers, Govt Agencies like cotton corp. of India, MMT, SAIL etc
- Indian entities / subsidiaries of MNC – Large international players

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Elements of sale price



Quality allowance

- Act of tolerance?
- Arbitration award
- Time gap – MSTT Wester India Coal Field Ltd.

Quantity Difference

- Normal loss V. Abnormal loss
- Amount collected from transporter
- Transit Insurance
- Recovery of Insurance claim
- Any ITC reversal? Any Tip?

Price Variance – Increase or decrease

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Some typical recoveries - Nature and elements of recovery

Carry charges	Warehouse charges
Packing and forwarding	Transport
APMC cess	Interest on delayed payment
Scrap Sale	Sale of Empties



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Typical Transactions

Transactions on Commodity Exchange

- Actual delivery – roll over
 - How this takes place
- Square-off transaction
- Is it transaction in security?

Washout transaction

- Compensation received/ paid
- Is it Act of tolerating an act?
 - Cir – 178/2022 3.8.2022

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High Seas Sale - Bond sale

High Seas Sales and Bond to Bond Sales

- Periods prior to amendment to Sch III w.e.f. 1.2.2019
- Exempt supplies- Any ITC reversal?
 - BASF India Ltd (2018-VIL-85-AAR)
- Post amendment
 - Any ITC reversal? – See Expn to Sec 17(3)
 - **Finance Act 2023 – Amendment to Para 7 & 8 of Sch III – Act passed but provision not made effective**

Bond to Bond and Ex-Bond Sales

- Circular Customs 46/2017 dt. 24.11.2017
- Circular IGST3/1/2018 dt 25.5.2018 wef 1.4.2018

Merchant Trade -Out and Out sale – Drop Shipment

- Synthite Indu ltd [2018- VIL- 02-AAR – Kerala] – No IGST & reverse ITC
- INA BEARING India P Ltd [2018-VIL-290-AAR - MH] – No GST
- M/s Sterlite Technologies Ltd [2021-VIL-43 -AAAR - Guj] - Against

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Ex- tank delivery - Liquid cargo

Ex- Tank delivery

- Comingled goods
- Different suppliers – common storage
- POS? Sec 10(1)(c) – do not involve movement
- Sludge

Ex- Tank delivery supplies

- Passing of property
- Business risk...security...Issue of delivery order

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Merchant Export

Concessional rate of GST @0.1%

- Conditions – Notification CTR 40/2017 dt. 23.10.2017
- All cumulative conditions

Supply to SEZ who is to export...is it possible to levy 0.1% GST?

Sourcing from different suppliers

- Lots – packing/unpacking, grading
- Bulk loading
- From when to compute 90 days?
- Covid relaxation – Cir 138/08/2020

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Sale to EOU

- Deemed export – Supply to an EOU
 - Supply under LUT?
 - Exempt supply? Does Rule 42 apply?

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Exports & refund

Exports documentation - matching

- Automatic processing of refund – with payment
- Issues in shipping date/ No. etc not uploaded/incorrectly uploaded
- Challenges. E.g. liquid cargo
- Online Refund Application (LUT) – Without pay
- Which option to choose – WPAY or WOPAY

Refund application

- Can be monthly or for several months together
- What should be opted?
- Ratio... maximization

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Export - Import Services

Export of services

- Sec2(6) of IGST
- Different kind/nature of services rendered
 - Market survey
 - Analytical research
 - Government policy issues & advisory

Intermediary services

- Sec 2(23) of IGST
- POS Services - Sec 13(8) – Location of Supplier of Service
- Indenting agent

Import of services

- Sec 2(11) of IGST
- Sec 13(3)(a) POS – where service performed
- Survey/ certification of cargo in other country
- Assistance for selection of lot at an auction

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RCM

Ocean freight

- CIF V. FOB value
 - On what RCM payable?
- Mohit Minerals – SC May 2022
- Payment of RCM under protest
 - Claim of refund?

High Seas Purchase

- Who pays IGST?
- Who pays RCM on Ocean freight?

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Bill to Ship to



Standard transactions – No issues



Bill to Ship to with delivery to job-worker

Manufacturer's billing S/W doesn't pick up final delivery address

Who should make E-way bill?

- Late night despatches from factories/ warehouse adds to problems
- 4 party reference – How to get it documented?



Accumulated credit - Bill to Ship to

Is it an area of planning?

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Branding

- Unbranded cargo exempt e.g. green peas, wheat flour/Atta
 - Purchase of loose cargo from mandi & branding it
 - What is branding. Refer entry of Noti CTR 1/2017
 - “(ii)(a) The phrase “brand name” means brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.”*
 - How about corporate logo being used?
- Unbranded cargo packed and sold to customer under his brand name
 - Would exemption continue in the hands of supplier?
 - What if miller [job-worker] is asked to pack in 3rd party brand?

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Bulk procurement

- Central Purchase Order placed with a bulk supplier say MMTTC/ CCI
 - Dispatches from warehouses across the country in different states
 - Invoices on HO who has raised PO or Invoices done individually from each warehouse
 - How to handle documentations
 - What if ultimate customer is in the same state from where despatches to take place

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Import - Forex fluctuation

Imports – IGST paid on the Customs rate on date of import

- Fluctuation in foreign exchange rate
- Is IGST payable on differential? Can refund be asked?

Post import discount

- Is ITC to be reversed?
- Is it import of service?

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ITC - Common Credit

- Common Credit
 - Exempt V. taxable supplies
 - How to calculate common credit
 - For exempt supplies, for taxable supplies
 - What is common?
 - Should it be calculated on monthly basis? Should it be reviewed at year end? Rule 42(2)
 - What if exempt supplies only in few months? Should such ratio be reworked?

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Export with pay

- Reporting of transaction in GSTR – 1

- Consider : Export invoice dt.29.5.2022
 Bill of lading dt.3.6.2022

In which month the transaction to be reported?

As per date of invoice or B/L date?

- Export procedure

- Commercial invoice [provisional invoice] to enable filing of B/L
- Filing of EGM
- Completion of export

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Export with pay

contd....

- Time of supply Sect 2(2) – earlier of

- Date of invoice
- The date on which the supplier receives the payment with respect to the supply

- Sec. 31 – tax invoice – before or at the time of

- Sec 31(1)(a) → removal of goods for supply to the recipient
- Sec 31(1)(b) → delivery of goods or markup available

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