



GST Sectorial Series (Virtual) - Part I

Webinar on GST- Bulk trade and wholesale

Arranged by WIRC of ICAI

Presentation by CA Rajat Talati
on 9.6.2022

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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

- 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 happens
- Square-off transaction
- Is it transaction in security?

Washout transaction

- Compensation received/ paid
- Is it Act of tolerating an act?

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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)

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

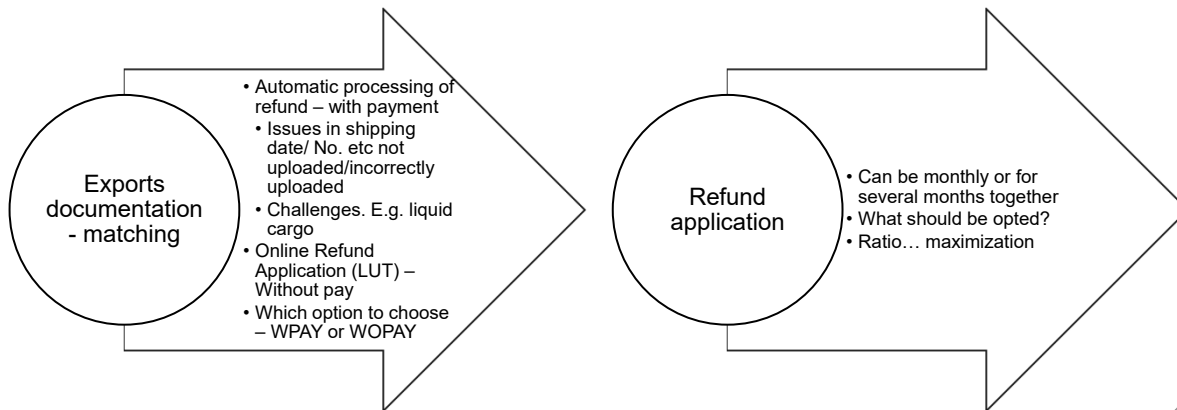
- Deemed export – Supply to an EOU
 - Supply under LUT?
 - Exempt supply? Does Rule 42 apply?

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Exports & refund



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Export - Import Services






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✓ RCM	/
<p>Ocean freight</p> <ul style="list-style-type: none"> • CIF V. FOB value <ul style="list-style-type: none"> • On what RCM payable? • Mohit Minerals – SC May 2022 • Payment of RCM under protest <ul style="list-style-type: none"> • Claim of refund? 	
<p>High Seas Purchase</p> <ul style="list-style-type: none"> • 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	
<p style="text-align: right;"> 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? </p>	
 Accumulated credit - Bill to Ship to	
<p>Is it an area of planning?</p>	
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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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<p>✓</p> <h2>Import - Forex fluctuation</h2>	
<p>Imports – IGST paid on the Customs rate on date of import</p> <ul style="list-style-type: none"> • Fluctuation in foreign exchange rate • Is IGST payable on differential? Can refund be asked? 	<h2>Post import discount</h2> <ul style="list-style-type: none"> • Is ITC to be reversed? • Is it import of service?
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<p>✓</p> <h2>ITC - Common Credit</h2>	
<ul style="list-style-type: none"> • Common Credit <ul style="list-style-type: none"> • Exempt V. taxable supplies • How to calculate common credit <ul style="list-style-type: none"> • 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.29.5.2021
 Bill of lading dt.3.6.2021

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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