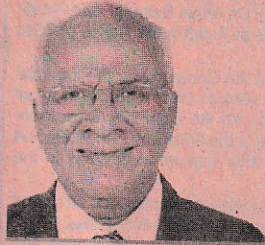


'No Customs duty on transfer of goods from one SEZ unit to another'



CHATROOM

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Will inter-unit transfer of goods by one unit to another unit within the same SEZ under Rule 30(15)(v) of SEZ Rules 2006 below the cost price at which such goods were imported/procured, attract Customs duty?

I do not find any provision to levy Customs duty on goods transferred by one SEZ unit to another SEZ unit in the same SEZ, whether the price at which the goods imported or procured are the same as the price at which the goods were transferred, or more or less.

As per rule 74(5) of SEZ Rules 2006, depreciation norms for capital goods shall be as given in sub-rule (1) of rule 49 of SEZ Rules 2006. Rule 74 deals with exit of units. Will depreciation norms, as per rule 49(1) of SEZ Rules 2006, apply for used capital goods of a continuing SEZ unit also?

The prescribed depreciation rates come into play for determining the value when the goods are removed from the SEZ into DTA, either for sale or for any purpose, including the exit of the unit. When the unit continues in the SEZ, the need for determining the value after reckoning depreciation does not normally arise. For determining the NFE, the amortisation is allowed at 10 per cent per year. For accounting purposes, the depreciation can be worked out as per the Companies Act

and for income tax purposes, as per income tax laws.

The government has brought in Rule 36(4) of the CGST Rules, 2017 restricting the ITC to 20 per cent of the eligible credit for invoices and debit notes not uploaded by the supplier. Can we challenge it on the grounds that once we have paid the supplier for the invoice, including the tax amount, we should not be deprived of the credit?

Section 16(1) of the CGST Act, 2017 says that every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services, or both, to him which are used or intended to be used in the course or furtherance of his business. Apparently, the government is of the view that the power to restrict the credit flows from this provision. However, the alternate view is that the conditions and restrictions allowed under the provision can be limited only to procedural and documentation requirements, and not the quantum of credit. In my opinion, it is worth putting the restriction to judicial scrutiny.

Can we remit claims of a foreign buyer for our exported goods found defective?

Para C.22 of RBI Master Direction no.16/2015-16 dated February 2, 2016, says that banks may remit export claims on application, provided the relative export proceeds have already been realised and repatriated to India and the exporter is not on the caution list of the Reserve Bank of India, and the exporter is advised to surrender proportionate export incentives, if any, received by him.