

CA |CMA |CS FINAL

IDT



**Jan 26,
Dec 25
Exams**

Think GST

Think Vishal sir

**CA Vishal
Bhattad**

AMENDMENTS

Part -2



Demand & Recovery

Sec 74A

Non-Payment of Tax

Short Payment of Tax

Erroneous Refund

Wrong - availment or utilisation of ITC

- 1) **Serving of SCN:** PO shall serve notice on such person required him to show cause as to why he should not pay the amount specified in a notice with interest u/s 50 & penalty leviable under GST law (No notice if, such amount in F.Y. < ₹1000).
- 2) **Time limit of SCN :** PO shall issue SCN within 42 months i.e 3 yr. 6 months from the:
 - Due date of furnishing A.R. for the F.Y. to which amount such relates or
 - From the date of erroneous refund
- 3) **Statement:** If SCN issued for earlier period & same default for other period = Issue statement for other period (grounds are same)
- 4) **Demand Order:** After considering the representation made by such person, PO shall issue demand order for tax, interest and penalty within 12M from SCN issued (extendable for Max 6M)

If such amount are payable for any reason other than fraud or wilful misstatement or suppression of tax to evade tax

Penalty payable = 10% of such tax due or ₹ 10,000 , whichever is higher



Avoidance of Penalty

Voluntary payment

If SCN is Issued

Demand Order (D.O)

Time limit:
Within 12M
from SCN issued
(extendable
for Max 6M)

If such amount are payable for by reason of fraud or wilful misstatement or suppression of tax to evade tax

Penalty payable = 100% of such tax due

If tax & interest is voluntarily paid before SCN **Penalty = 15% of such tax**

Shall inform to PO in writing of such payment & PO shall not serve SCN/ Statement for the paid amount

PO shall issue SCN, if amount paid falls short

Payment of Tax + Interest as mentioned in SCN

If Payment is Made within 60 days of SCN issued

No Penalty & All proceeding will be concluded [i.e.No D.O. & No Penalty]

If Payment is not made within 60 days

Penalty = as mentioned above (i.e. 10% of tax or ₹ 10,000, WIH)

Imp note :- 1) **Penalty** (10% or 10,000, WIH) is mandatorily payable irrespective of the fact whether payment is made within 60 days or not from communication of D.O.
2) **Penalty** (10% or 10,000, WIH) is Mandatorily payable if self-assessed tax or amount collected as tax has not been paid within 30 days from the due date of its payment.

If Payment is Made within 60 days of SCN issued

Penalty = 25% of such tax & all proceeding deemed to be concluded

If Payment is not made within 60 days

Penalty = as mentioned above (i.e. 100% of such tax subject to following)

Payment of Tax + Interest + Penalty

If Payment is Made within 60 days of communication of D.O

Penalty = 50% of such tax & all proceeding deemed to be concluded

If Payment is not made within 60 days

Penalty = as mentioned above (i.e. 100% of such tax)

Section 73:- Non-payment/ short payment etc. on account of reasons other than fraud, wilful misstatement or suppression of facts , pertaining to the period upto F.Y. 2023-24

words Inserted by F.A. 2024

Applicability of Sec 73 [Sec 73 (12)],

Provisions of this section shall be applicable for determination of tax pertaining to period upto F.Y. 2023-24.

Newly Inserted by F.A. 2024

Section 74:- Non-payment/ short payment etc. on account of fraud, wilful misstatement or suppression of facts , pertaining to the period upto F.Y. 2023-24

Inserted by F.A. 2024

Applicability of Sec 74 [Sec 74 (12)],

Provisions of this section shall be applicable for determination of tax pertaining to period upto F.Y. 2023-24.

Newly Inserted by F.A. 2024

For the purposes of section 73 and section 74:-

- (i) the expression **“all proceedings in respect of the said notice”** shall not include proceedings under section 132;
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, are deemed to be concluded.

~~(iii) Explanation 2:- For the purposes of this Act, the expression “suppression” shall mean~~

Omitted by F.A. 2024

- ~~⇒ non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or~~
- ~~⇒ failure to furnish any information on being asked for, in writing, by the proper officer.~~

Section 74A: Determination of tax not paid or short paid or erroneously refunded or ITC wrongly availed or utilised (“such amounts”) for any reason pertaining to FY 2024-25 onwards

Newly Inserted by F.A. 2024

1 Serving of SCN:- [Section 74A(1)]

- ⇒ If it appears to PO that any tax has not been paid or short paid or erroneously refunded, or ITC has been wrongly availed/ utilised, he **shall serve notice** on such person.
- ⇒ Such person shall be **required to show cause** as to why he should not pay the amount specified in notice with interest payable u/s 50 & a penalty leviable under GST law.
- ⇒ **No notice** shall be issued, if such amount in a **FY is less than 1000.**

2 Time limit to issue SCN:-

PO shall issue SCN **within 42 months (i.e. 3 years & 6 months)**

- ⇒ from the due date for furnishing of annual return for the FY to which such amount relates to or
- ⇒ from the date of erroneous refund.

3 Serving of a statement:-

If SCN is issued for any period, **PO may serve a statement** on person chargeable with tax containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under SCN.

4	Statement deemed to be SCN:-	
	Service of such statement shall be deemed to be service of notice on such person under this sec, if grounds relied upon for such other tax periods are same as mentioned in earlier notice.	
5	Penalty:-	
	If such amounts are payable for any reason	Penalty shall be equivalent to
	i) other than fraud or wilful-misstatement or suppression of facts to evade tax:-	- 10% of tax due from such person or - ₹10,000, whichever is higher .
	ii) of fraud or any wilful-misstatement or suppression of facts to evade tax:-	tax due from such person.
6	Determination of amounts due:-	
	After considering the representation made by such person, PO shall determine tax , interest & penalty due from such person & issue an order.	
7	Time limit to issue order & extension:-	
	➡ PO shall issue order u/s 74A(6) within 12 months from date of issue of notice u/s 74A(2). ➡ If PO is not able to issue order within specified period, then before expiry of specified period, Commissioner or an officer authorised by him senior in rank to PO but not below rank of Joint Commissioner of CGST may extend said period further by a maximum of 6 months . ➡ for delay in issuance of Reasons order is to be recorded in writing.	
8	Options to avoid penalty & proceedings in cases other than fraud, etc.:-	
	If person is chargeable with such amounts for any reason other than fraud or wilful-misstatement or suppression of facts to evade tax, then he may:- i) on his own pay tax with interest payable u/s 50 on it, before the service SCN . - The tax may be ascertained by him on his own or by PO also. - He shall inform PO in writing of such payment. - On receipt of such information, PO shall not serve any notice/ statement under this sec for the tax so paid or any penalty payable under GST law. ii) pay the said tax with interest payable u/s 50 within 60 days of issue of SCN , - on doing so, no penalty shall be payable & - all proceedings in respect of the said notice shall be deemed to be concluded .	
9	Options to avoid penalty & proceedings in cases of fraud, etc.:-	
	If person is chargeable with by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, then he may,-- i) on his own pay tax with interest payable u/s 50 on it & penalty of 15% of such tax, before the service SCN . - The tax may be ascertained by him on his own or by PO also. - He shall inform PO in writing of such payment. - On receipt of such information, PO shall not serve any notice under this sec for the tax so paid or any penalty payable under GST law. ii) pay the said tax with interest payable u/s 50 on it & penalty of 25% of such tax within 60 days of issue of SCN ,	

	- on doing so, all proceedings in respect of said notice shall be deemed to be concluded. iii) pay the tax with interest payable u/s 50 on it & penalty of 50% of such tax within 60 days of communication of order, & - on doing so, all proceedings in respect of said notice shall be deemed to be concluded.
10	SCN for shortfall:- If PO is of opinion that amount paid u/s 74A(8)(I) or u/s 74A(9)(i) falls short of amount actually payable, he shall proceed to issue notice under this sec for such shortfall in amount.
11	SCN for shortfall:- Overriding sec 74A(8), penalty u/s 74A(5)(i) shall be payable if any amount of self-assessed tax or any amount collected as tax has not been paid within 30 days from the due date of payment of such tax
12	Applicability:- This sec shall be applicable for determination of tax pertaining to FY 2024- 25 onwards. Explanation 1: Proceedings & its conclusion:- ➤ Here, 'all proceedings in respect of the said notice" shall not include proceedings u/s 132. ➤ If notice under same proceedings is issued to main person liable to pay tax & some other persons, & such proceedings against the main person have been concluded, the proceedings against all the persons liable to pay penalty u/s 122 & 125 are deemed to be concluded. Explanation 2: Meaning of suppression:- Under GST, 'suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under GST law, or failure to furnish any information on being asked for, in writing, by PO.

Comparison of Section 73 vs Section 74 vs Section 74A (CGST Act)

S. No.	Basis / Particulars	Old Section 73	Old Section 74	New Section 74A (Finance Act 2024)
1	Purpose / Philosophy	To determine tax short-paid without intent to evade	To determine tax short-paid with intent to evade	Simplify & unify proceedings; removed dual sections; make process easier, less litigation-prone
2	Applicability window	Up to FY 2023-24.	Up to FY 2023-24.	From FY 2024-25 onwards (transitional note embedded in the section).
3	Nature of offence	Cases not involving fraud, wilful misstatement, or suppression of facts	Cases involving fraud, wilful misstatement, or suppression of facts	Covers both types together — replaces 73 & 74 with a single uniform provision for determination of tax
4	Triggering situations	Determination of tax not paid, short paid, erroneously refunded, or ITC wrongly availed / utilized of tax without intent to evade	Same acts with intent to evade	Determination of tax not paid, short paid, erroneously refunded, or ITC wrongly availed / utilized – irrespective of intent; penalty quantum differentiates intent
5	Time limit to issue SCN	Must be ≥ 3 months before the outer limit to pass order (i.e., tied to order limit).	Must be ≥ 6 months before the outer limit to pass order.	Within 42 months from due date of annual return (or from date of erroneous refund).

6	Time limit to pass order	Within 3 years from due date of annual return (or from date of erroneous refund).	Within 5 years from due date of annual return (or from date of erroneous refund).	Within 12 months from date of SCN (extendable by 6 months by Commissioner/authorized officer).
7	Core penalty (post-adjudication)	Up to 10% of tax or ₹10,000 (whichever higher).	Equal to the tax (100%) in fraud cases.	Non-fraud: 10% of tax or ₹10,000 (whichever higher). Fraud: equal to tax.
8	Pre-SCN / early payment relief (voluntary payment before SCN)	If tax + interest paid before SCN → no SCN; if paid within 30 days of SCN → no penalty .	Reduced penalty slabs: 15% (before SCN), 25% (within 30 days of SCN), 50% (within 30 days of order); otherwise 100%.	Non-fraud: (i) pay before SCN—no SCN & no penalty ; (ii) pay within 60 days of SCN — no penalty . Fraud: (i) 15% before SCN; (ii) 25% within 60 days of SCN; (iii) 50% within 60 days of order.
9	Interest liability	Payable u/s 50(1) or 50(3) depending on case	Same	Same — interest continues as per Section 50
10	Deemed service of statement for other periods	Allowed if grounds same	Allowed if grounds same	Explicitly retained —statement deemed SCN for other periods if same grounds.



Appeals and Revision

Sec 112:- Appeals to Appellate Tribunal

Appeal by aggrieved Person	Person aggrieved by order passed by AA/RA may appeal to AT against such order
Time limit for filing appeal	Appeal shall be filed within 3 months (further extendable upto 3 months on sufficient cause) from the ☞ date on which the order sought to be appealed against is communicated to person preferring the appeal or ☞ the date, as may be notified by Govt., on recommendations of Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later.

Inserted by F.A. 2024

Application by Department	➤ Commissioner may call for and examine the record of any order passed by AA/RA to satisfy himself about the legality or propriety of the said order - ➤ on his own motion, or ➤ on request from the SGST/ UTGST Commissioner. ➤ To determine specified point arising out of the said order, Commissioner may direct any subordinate officer to apply to AT within 6 months from date on which order has been passed or the date, as may be notified by Govt., on recommendations of Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later ➤ Such application made by authorised officer shall be dealt with by AT as if it were an appeal made against the order of AA/RA & provisions of GST Act shall apply accordingly. ➤ No pre-deposit is required for departmental appeal. Inserted by F.A. 2024
Memorandum of cross objections Inserted by F.A. 2024	➤ The Appellate Tribunal may admit an appeal within 3 months after the expiry of the period referred to in sub-section (1) or permit the filing of an application within 3 months after the expiry of the period referred to in sub-section (3), or permit the filing of a memorandum of cross-objections within 45 days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period. ➤ Party against whom appeal/application is preferred may file a memorandum of cross-objections electronically in APL-06 against any part of order appealed against within 45 days (further extendible upto 45 days on sufficient cause) of receipt of notice of appeal. ➤ It may be filed manually in APL-06, only if Registrar allows the same by issuing a special or general order to that effect, subject to such conditions & restrictions as specified in said order. ➤ It shall be disposed of by AT like an appeal made within specified time for filing initial appeal.

MANDATORY PRE-DEPOSIT

As per Section 107(6)(b): Appeals to AA	As per Sec 112(8): Appeals to AT
➤ Appeal can be filed by appellant only when he pays the following as pre-deposit:- ➤ full amount of tax, interest, fine, fee & penalty arising from impugned order as is admitted by him & Substituted by F.A. 2024 ➤ 10% of disputed tax arising from said order, subject to maximum of ₹25 Crore ₹20 Crore (₹ 40 Crore in case of IGST). ➤ Further, no appeal shall be filed to AA against an order u/s 129(3), unless a sum equal to 25% of penalty has been paid by appellant. ➤ Payment of pre-deposit ensures staying of recovery proceedings for the balance amount of demand in dispute.	➤ Appeal can be filed by appellant only when he pays the following as pre-deposit:- ➤ full amount of tax, interest, fine, fee & penalty arising from impugned order as is admitted by him & ➤ 20% 10% of disputed tax arising from said order, in addition to amount deposited before AA as pre-deposit, subject to maximum of ₹50 Crore ₹ 20 Crore (₹ 40 Crore in case of IGST). Substituted by F.A. 2024 ➤ On payment of this pre-deposit, recovery proceedings for balance amount shall be deemed to be stayed till the disposal of appeal.

Sec 20 of IGST Act : Application of provisions of Central Goods and Services Tax Act:-

Old 5th Proviso	Where appeal is to be filed before Appellate Authority or Appellate Tribunal, the maximum amount payable shall be 50 Crore and 100 Crore respectively.
Amendment	Maximum ₹40 Crore shall be payable for each appeal to be filed before the Appellate Authority or the Appellate Tribunal. Substituted by F.A. 2024



OFFENCES AND PENALTIES

Sec 122 (1B) : Penalty in case of ECO

~~Any ECO who~~ **Any ECO, who is liable to collect tax at source u/s 52,—** **Substituted by F.A. 2024**

- allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;
- allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or
- fails to furnish the correct details in the statement to be furnished u/s 52(4) of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act, shall be liable to pay a **penalty of**
- 10,000, or
- an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax u/s 10,
whichever is higher.

Sec 128A : Waiver of interest or penalty or both relating to demands raised u/s 73, for certain tax periods:-

Inserted by F.A. 2024

- Overriding entire act, if any tax is payable by a person chargeable with tax for period from 01/07/17 to 31/03/20, or a part thereof, as per,—
 - a notice issued u/s 73(1) or a statement issued u/s 73(3), & where no order u/s 73(9) has been issued; or
 - an order passed u/s 73(9), & where no order u/s 107(11) or u/s 108(1) has been passed; or
 - an order passed u/s 107(11) or u/s 108(1), & no order u/s 113(1) has been passed, & the said person pays full tax payable as per notice / statement / order referred above, on or before the date that may be notified by Govt., then
 - person shall not be liable to pay interest u/s 50 & penalty** under this act &
 - all proceedings** for the said notice/order/statement shall be **deemed to be concluded**, subject to prescribed conditions.

Proviso

1

If a notice has been issued u/s 74(1), & an order is passed or required to be passed by PO as per direction of Appellate Authority (AA) or Appellate Tribunal (AT) or court as per sec 75(2), **said notice or order shall be considered to be notice/order referred to in (a)/(b) above.**



	Proviso 2	If application is filed u/s 107(3) or u/s 112(3) or an appeal is filed by an officer of CGST u/s 117(1) or u/s 118(1) or where any proceedings are initiated u/s 108(1), against an order in (b) or (c) above or against the directions of AA or AT or court referred above, the said conclusion of proceedings shall be subject to condition that the said person pays additional tax payable, if any, as per order of AA or AT or court or Revisional Authority, within 3 months from date of said order.
(2)	Above provision shall not apply to any amount payable by person due to erroneous refund .	
(3)	Above provision shall not apply in cases where an appeal or writ petition filed by the said person is pending before AA or AT or court & has not been withdrawn by him on or before the date notified above.	
(4)	Overriding entire act, if above specified amount is paid & proceedings are deemed to be concluded, no appeal u/s 107(1) or u/s 112(1) shall lie against an order referred to in (b) or (c).	

Notification issued u/s 128A(1) - N/No. 21/2024

S I . No.	Class of registered person	Date upto which payment for tax payable as per notice/statement/order referred to in sec 128A(a)/(b)/(c), can be made for waiver of interest &/or penalty.
1.	RPs to whom a notice/ statement/ order referred to in sec 128A(a)/(b)/(c) has been issued	31.03.2025
2.	RPs to whom a notice has been issued u/s 74(1), for period referred to in sec 128A(1), & an order is passed or required to be passed by PO in pursuance of the direction of Appellate Authority, or Appellate Tribunal, or a court, as per sec 75(2), for determination of tax payable by such person, deeming as if notice were issued u/s.73(1)	Date ending on completion of 6 months from date of issuance of order by PO redetermining tax u/s 73.

Sections 73 and 74 are no longer applicable, having been superseded by the provisions of Section 74A, which is now in effect from 1st November 2024.

Particulars	Provisions
Composition Scheme	Sec 10(5): Recovery and Penalty If the PO has reasons to believe that a taxable person has paid tax u/s 10(1) or 10(2A), despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty & the provisions of section 73 or section 74 or section 74A shall, mutatis mutandis, apply for determination of tax and penalty.
Input Tax Credit	Sec 21: Manner of recovery of credit distributed in excess:- Where the ISD distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74 or section 74A, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.
	Rule 121: Recovery of credit wrongly availed:- The amount credited under sub-rule (3) of rule 117 may be verified and proceedings under section 73 or section 74 or section 74A, as the case may be, shall be initiated in respect of any credit wrongly availed, whether wholly or partly.
Payment of Tax	Sec 49(8)(c): Order of discharging liabilities:- Every taxable person shall discharge his tax and other dues under this Act, or the rules made thereunder in the following order, namely:- (a) self-assessed tax, and other dues related to returns of previous tax periods. (b) self-assessed tax, and other dues related to the return of the current tax period. (c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74 or section 74A.
	Sec 50(1): Interest on delayed payment of tax:- The interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date as per sec 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 or section 74A in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.
	Rule 88B(1): Manner of calculating interest on delayed payment of tax:- In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 or section 74A in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under sub-section (1) of section 50.

TDS-TCS	Sec 51(7): Tax deduction at source:- The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74 or section 74A.
Accounts & Records	Sec 35(6): Accounts and other records:- Subject to the provisions of section 17(5)(h), where the registered person fails to account for the goods or services or both as per sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74 or section 74A, as the case may be, shall, mutatis mutandis, apply for determination of such tax.
Assessment	Sec 61(3): Scrutiny of returns:- In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74 or section 74A.
	Sec 62(1): Assessment of non-filers of returns:- Notwithstanding anything to the contrary contained in section 73 or section 74 or section 74A, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.
	Sec 63: Assessment of unregistered persons:- Notwithstanding anything to the contrary contained in section 73 or section 74 or section 74A, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relate.
	Sec 64(2): Summary assessment in certain special cases:- On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74 or section 74A.
	Sec 65(7): Audit by tax authorities:- Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.

	Sec 66(6): Special Audit:- Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.				
Advance Ruling	Sec 104(1): Advance ruling to be void in certain circumstances:- I If Authority/Appellate Authority finds that advance ruling pronounced by it u/s 98(4) or u/s 101(1) has been obtained by applicant/appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio & all the GST law shall apply it as if such advance ruling had never been made. <table border="1"> <tr> <td>Proviso</td><td>No order shall be passed unless an opportunity of being heard has been given to applicant or appellant.</td></tr> <tr> <td>Explanation</td><td>The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in section 73(2) & 73(10) or section 74(2) & 74(10) or section 74A(2) & 74A(7). Inserted by F.A. 2024</td></tr> </table>	Proviso	No order shall be passed unless an opportunity of being heard has been given to applicant or appellant.	Explanation	The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in section 73(2) & 73(10) or section 74(2) & 74(10) or section 74A(2) & 74A(7). Inserted by F.A. 2024
Proviso	No order shall be passed unless an opportunity of being heard has been given to applicant or appellant.				
Explanation	The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in section 73(2) & 73(10) or section 74(2) & 74(10) or section 74A(2) & 74A(7). Inserted by F.A. 2024				
Refund	Rule 96B(1): Recovery of refund of unutilised ITC or IGST paid on export of goods where export proceeds not realised:- Where any refund of unutilised input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realised , in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non- realisation of sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or section 74 or section 74A of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50.				
Demand & Recovery	Sec 75:General provisions relating to determination of tax:- Sec 75(1): Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74 or sub-sections (2) and (7) of section 74A, as the case may be. Sec 75(2A): Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty u/s 74A(5)(ii) is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person, u/s 74A(5)(i).				

Sec 75(10): The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in sec 73(10) or in sec 74(10) or in sec 74A(7).

Sec 75(11): An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in subsection (10) of section 73 or sub-section (10) of section 74 **or subsection (7) of section 74A** where proceedings are initiated by way of issue of a show cause notice under the said sections.

Sec 75(12): Notwithstanding anything contained in section 73 or section 74 **or section 74A**, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

Sec 75(13): Where any penalty is imposed under section 73 or section 74 **or section 74A**, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

Rule 142:- Notice and order for demand of amounts payable under the Act

Rule 142(1): The proper officer shall serve, along with the

- (a) Notice issued under section 52 or section 73 or section 74 **or section 74A** or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01,
- b) Statement under sub-section (3) of section 73 or sub-section (3) of section 74 **or section 74A(3)**, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.

Rule 142(1A): The proper officer may, before service of Notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74 **or section 74A(1)**, as the case may be, communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.

Rule 142(2): Where, before the service of Notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 **or section 74A(8)(i), as the case may be, or tax, interest and penalty in accordance with the provisions of section 74(5) or section 74A(9)(i)**, or where any person makes payment of tax, interest,

penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A), he shall inform the proper officer of such payment in FORM GST DRC-03 and an acknowledgement, in FORM GST DRC-04 shall be made available to the person through the common portal electronically.

Rule 142(2B): Where an amount of tax, interest, penalty or any other amount payable by a person under section 52 or section 73 or section 74 or **section 74A** or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, has been paid by the said person through an intimation in FORM GST DRC-03 under sub-rule (2), instead of crediting the said amount in the electronic liability register in FORM GST PMT -01 against the debit entry created for the said demand, the said person may file an application in FORM GST DRC-03A electronically on the common portal, and the amount so paid and intimated through FORM GST DRC-03 shall be credited in Electronic Liability Register in FORM GST PMT -01 against the debit entry created for the said demand, as if the said payment was made towards the said demand on the date of such intimation made through FORM GST DRC-03.

Rule 142(3): Where the person chargeable with tax makes payment of tax and interest u/s 73(8) or u/s 74A(8)(ii), as the case may be, or tax, interest and penalty u/s 74(8) or u/s 74A(9)(ii), as the case may be, within the period specified therein, or where the person concerned makes payment of the amount referred to in section 129(1) within 7 days of the notice issued under sub-section (3) of that Section but before the issuance of order under the said sub-section (3),

- he shall intimate the proper officer of such payment in FORM GST DRC-03 &
- the proper officer shall issue an intimation in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

Rule 142(4): The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 **or section 74A(6)** or sub-section (3) of section 76 or the reply to any Notice issued under any section whose summary has been uploaded electronically in FORM GST DRC-01 under sub-rule (1) shall be furnished in FORM GST DRC-06

Rule 142(5): A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 **or section 74A** or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned.

Rule 88D(3): Manner of dealing with difference in ITC available in auto-generated statement containing the details of input tax credit and that availed in return:- Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74 **or section 74A**, as the case may be.

Offences & Penalties & Prosecution	Sec 127: Power to impose penalty in certain cases:- Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 74A or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.	
Appeal & Revision	Sec 107: Appeals to Appellate Authority	
	Sec 107(11): The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order. <table border="1" data-bbox="391 697 1536 1005"> <tr> <td data-bbox="391 697 553 1005"> Proviso 2 </td><td data-bbox="553 697 1536 1005"> Where Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where ITC has been wrongly availed or utilised, no order requiring the appellant to pay such tax or ITC shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified u/s 73 or sec 74 or section 74A. </td></tr> </table>	Proviso 2
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CUSTOMS ACT 1962



Import of Goods at Concessional Rate of Duty or for Specified End Use Rules, 2022

These rules shall apply where:

- (a) a notification provides for the observance of these rules;
- (b) an importer intends to avail the benefit of any notification and such benefit is dependent upon the use of the goods imported being covered by that notification for the manufacture of any commodity or provision of output service or being put to a specified end use.

Important Definitions

(a)	“Act” means the Customs Act, 1962.
(b)	“Capital Goods” means goods, the value of which is capitalized in the books of account of the importer;
(C)	“Customs Automated System” means the Indian Customs Electronic Data Interchange System;
(d)	“Date of Import” means the date of the order made by the proper officer under section 47, permitting clearance of the goods;
(e)	“Form” means a form annexed to these rules;
(f)	“information” means the information provided by the importer who intends to avail the benefit of a notification;
(g)	“job work” means any treatment, process or manufacture, consistent with the notification undertaken by a person on goods belonging to the importer except gold, jewellery and articles thereof, and other precious metals or stones and the term “job worker” shall be construed accordingly;
(h)	“Jurisdictional Custom Officer” means an officer of Customs of a rank equivalent to the rank of Superintendent or Appraiser exercising jurisdiction over –
	the premises where either the goods imported shall be put to use for manufacture or for rendering output services;
	the primary address specified in the Importer Exporter Code issued by Directorate General of Foreign Trade in other cases;
(i)	“Manufacture” means the processing of raw materials or inputs by the importer in any manner that results in emergence of a new product having a distinct nature or character or use or name; and the term “manufacturer” shall be construed accordingly;
(j)	“Notification” includes any notification issued under sub-section (1) of section 25 and section 11 of the Act;
(k)	“Output Service” means supply of service excluding after-sales service, utilising imported goods.
(l)	“Section” means a section of the Customs Act.
(m)	“Specified end use” means dealing with the goods imported in a manner specified in the notification and includes supply to the intended person and the term “end use recipient” shall be construed accordingly.
(n)	“Quarter” means a period comprising any three consecutive calendar months ending on the last day of March, June, September or December of a calendar year

Note – The words and expressions used in these rules and not defined but defined in the Customs Act shall have the same meanings as assigned to them in the Customs Act.

1.	Importer to give one-time prior information [Rule 4]	(1) The importer shall provide one-time prior information on the common portal, in prescribed form containing the following particulars, namely: — i. the name and address of the importer and his job worker, if any; ii. the goods produced or process undertaken at the manufacturing facility of the importer or his job worker, if any, or both; iii. the nature and description of goods imported used in the manufacture of goods at the premises of the importer or the job worker, if any; iv. particulars of the notification applicable on such import; v. nature of output service rendered utilising the goods imported; vi. particulars of premises intended to be used in case of unit transfer; vii. details of the end use recipient in cases where goods imported are supplied for specified end use; and viii. the intended ports of import. (2) On acceptance of the information, an Import of Goods at Concessional Rate of Duty (IGCR) Identification Number (IIN) shall be generated against such information. However, such information may be updated on the common portal in case of a change in the details furnished in prescribed form. (3) The importer who intends to avail the benefit of a notification shall submit a continuity bond with such surety or security as deemed appropriate by the AC/DC of Customs with an undertaking to pay <table><tr><th colspan="2">a) in case of a notification that provides a duty exemption,</th><th>b) in all cases where the notification is other than one that provides an exemption benefit</th></tr><tr><td>i)</td><td>Amount payable = Duty leviable on Inputs - Duty (if any) already paid</td><td rowspan="3">the amount equal to the assessable value of the goods being imported.</td></tr><tr><td>ii)</td><td>Interest = u/s 28AA i.e. @ 15 % p.a.</td></tr><tr><td>iii)</td><td>Period of Interest = From date of Exemption to date of payment</td></tr></table>	a) in case of a notification that provides a duty exemption,		b) in all cases where the notification is other than one that provides an exemption benefit	i)	Amount payable = Duty leviable on Inputs - Duty (if any) already paid	the amount equal to the assessable value of the goods being imported.	ii)	Interest = u/s 28AA i.e. @ 15 % p.a.	iii)	Period of Interest = From date of Exemption to date of payment
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ii)	Interest = u/s 28AA i.e. @ 15 % p.a.											
iii)	Period of Interest = From date of Exemption to date of payment											
2.	Procedure to be followed [Rule 5]	(1) The importer who intends to avail the benefit of a notification shall be required to mention the IIN and continuity bond number and details while filing the Bill of Entry. (2) AC/DC of Customs at the custom station of importation shall allow the benefit of the notification to the importer. (3) Where a Bill of Entry is cleared for home consumption, the bond submitted by the importer gets debited automatically in the customs automated system and the details shall be made available electronically to the jurisdictional Customs Officer.										
3.	Importer to maintain records [Rule 6]	(1) The importer shall maintain an account so as to clearly indicate - i. quantity and value of goods imported; ii. quantity and date of receipt of the goods imported in the relevant premises; iii. quantity of such goods consumed including the quantity used domestically for manufacture, quantity exported, if any, to fulfil the intended purpose and quantity of goods sent to an end use recipient; iv. quantity of goods sent for job work and the nature of job work carried out; v. quantity of goods received after job work; vi. quantity of goods re-exported, if any, under rule 10; and vii. quantity remaining in stock, according to bills of entry, and shall produce the said account as and when required by the AC/DC of Customs										

		having jurisdiction over the premises or where the goods imported shall be put to use for manufacture of goods or for rendering output service. However, in case of non-receipt or short receipt of goods imported in the relevant premises, the importer shall intimate such non-receipt or short receipt immediately on the common portal in the prescribed form. (2) The importer shall submit a Quarterly statement on the common portal in the prescribed form by 10th day of the following quarter.
4.	Procedure for allowing Imported goods for job work [Rule 7]	(1) The importer shall maintain a record of the goods sent for job work during the month and mention the same in the quarterly statement. (2) The importer shall send the goods to the premises of the job worker under an invoice or wherever applicable, through an electronic-way bill, as specified in the CGST Act, 2017, mentioning the description and quantity of the goods. (3) The maximum period for which the goods can be sent to the job worker shall be 1 year from the date of invoice or electronic way bill referred to in sub-rule (2). (4) In case the importer is unable to establish that the goods sent for job work have been used as per the particulars mentioned under rule 4, the jurisdictional Customs Officer shall take necessary action against the importer under rule 11 and 12. (5) The job worker shall,- - maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process; - produce the account details before the jurisdictional Customs Officer as and when required by the said officer; - after completion of the job work send the processed goods to the importer or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or electronic way bill.
5.	Procedure for allowing imported goods for unit transfer [Rule 8]	(1) The importer shall maintain a record of the goods sent for unit transfer during the month and mention the same in the quarterly statement. (2) The importer shall send the goods under an invoice or wherever applicable, through an e-way bill, as specified in the CGST Act, 2017, mentioning the description and quantity of the goods. (3) The importer shall in relation to transfer of goods to another unit,- - maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process; - produce the account details before the jurisdictional Customs Officer as and when required by the said officer; - after completion of the said process, send the processed goods back to the premises of the importer from where the goods were received or to a job worker for carrying out the remaining processes, if any, under the cover of an invoice or electronic way bill.
6.	Procedure for supplying imported goods to the end use recipient [Rule 9]	(1) The importer shall maintain a record of the goods supplied to the end use recipient during the month and mention the same in the quarterly statement. (2) The importer shall send the goods under an invoice or wherever applicable, through an electronic way bill, as specified in the CGST, 2017, mentioning the description and quantity of the goods. (3) In case of supply for replenishment or export against supply, the end use recipient shall,- maintain an account of receipt of goods, manufacturing process undertaken thereon and the

		waste generated, if any, during such process; ii. produce the account details before the jurisdictional Customs Officer as and when required by the said officer; iii. produce the relevant details to the importer for fulfilment of the benefit under the notification.
7.	Re-export or clearance of unutilised or defective goods [Rule 10]	(1) The importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so imported, the importer shall have an option to either re-export or clear the same for home consumption, within the said period, namely – (i) within the period specified in the notification; (ii) within 1 year from the date of import, where the time period is not specified in the notification: However, the said period of 1 year can be further extended by the jurisdictional Commissioner for a period not exceeding 3 months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control. (2) Any re-export of the unutilised or defective goods referred to in sub rule (1) shall be recorded by the importer in the quarterly statement by providing the details of necessary export documents: <i>However, the value of such goods for re-export shall not be less than the value of the said goods at the time of import.</i> (3) The importer who intends to clear unutilised or defective goods for home consumption shall have an option of voluntary payment of applicable duty along with interest on the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the quarterly statement. (4) The importer shall have an option to clear the capital goods imported, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA, on the depreciated value allowed in straight line method as under – i. for every quarter in the first year @ 4%; ii. for every quarter in the second year @ 3%; iii. for every quarter in the third year @ 3%; iv. for every quarter in the fourth and fifth year @ 2.5% v. and thereafter for every quarter @ 2%. Explanation. – (1) For the purpose of computing rate of depreciation under this rule for any part of a quarter, a full quarter shall be taken into account. (2) The depreciation shall be allowed from the date when the capital goods imported have come into use for the purpose as laid down in the notification, upto the date of its clearance. (5) The importer shall have the option of voluntary payment of the duty along with interest, through the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the quarterly statement. Example:- Mr. X, a chemical manufacturer, imports a machine from Germany on 12 th January, 2022 for ₹20 lakh. Mr. X is eligible for concessional rate of customs duty on capital goods imported by him subject to the condition that he follows the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2022. Machinery was put to use on 1st February, 2022. On 5th April, 2025, Mr. X wants to clear the machine for home consumption after having used the machine for the specified purpose for which it was imported. Mr. X requires your help in calculating the customs duty he will be liable to pay for such clearance as per rule 10 of the Customs (Import of Goods at Concessional Rate of Duty) Rules,

2022. Concessional rate of basic customs duty is 5%. Normal rate of basic customs duty is 20%. Calculate the basic customs duty payable by Mr. X on clearance of such capital goods for home consumption on 5th April, 2025. Ignore interest calculation. [CA Final Nov 22 Exam]

Answer: Thus, depreciation % will be computed as follows:

2022: 4 quarter x 4 = 16%

2023: 4 quarter x 3 = 12%

2024: 4 quarter x 3 = 12%

2025: 2 quarter x 2.5 = 5%

Total depreciation % will be 45%

Depreciation amount will be: 45% of ₹20 Lakh = ₹9 lakh

Depreciated value of the machine is ₹20 Lakh – ₹9 lakh = ₹11 lakh

Accordingly, basic customs duty payable by Mr. X will be computed as follows:

= [₹11 lakh × 20%] - [₹20 lakh × 5%]

= ₹[2.20 - 1.00] lakh

= ₹1.20 lakh

Question :- Suhasi Electronics Pvt. Ltd., an importer, who availed the benefit of the notification imported the raw materials for manufacturing LED panels. No condition or time period has been specified in the notification in relation to re export of unutilized or defective goods, so imported. The goods were imported on 10th February, 2024.

However, a small portion of the goods received were found to be defective and remained unutilized due to a production shift in the company. Suhasi Electronics approached you to obtain advice for dealing with these defective and unutilized goods.

On the basis of provisions of the Customs (Import of Goods at Concessional Rate of Duty or for Specified Purposes) Rules, 2022 as amended, you are required to discuss:

- Whether Suhasi Electronics can re-export these unutilised or defective goods? If yes, what is the maximum permissible time period, in which Suhasi Electronics can re-export the goods?
- What are the conditions applicable in case of re-export of goods?
- If Suhasi Electronics chooses to clear the goods for home consumption, explain the procedure for the same. [CA Final RTP Sep 25]

Answer:

- As per **rule 10** of the Customs (Import of Goods at Concessional Rate of Duty or for Specified Purposes) Rules, 2022 as amended, the importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so imported, the importer shall have an option to either re-export or clear the same for home consumption.

➤ Thus, Suhasi Electronics Pvt. Ltd. can re-export such defective and unutilized goods.

➤ The re-export or home clearance must be made **within –**

 - within the period specified in the notification,
 - within **1 year** from the date of import, where the time period is not specified in the notification:

➤ However, the said period of **1 year** can be further extended by the jurisdictional Commissioner for a period not exceeding 3 months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control.

➤ So, re-export can be made by 9th February 2025 in this case as no condition or time period has been specified in the notification in relation to re-export of unutilized or defective goods, so imported.

➤ Further, the date of re-export can be **extended** by the jurisdictional Commissioner up to 3 months.

		(b) Conditions applicable for re-export of goods: ➡ Re export of the unutilized or defective goods shall be recorded by the importer in the quarterly statement by providing the details of necessary export documents. ➡ The value of such goods for re-export shall not be less than the value of the said goods at the time of import (c) If Suhasi Electronics opts to clear the goods for home consumption: ➡ It can make voluntary payment of applicable customs duties along with interest on the common portal. ➡ The details of such duty payment and clearance must be disclosed in the importer's quarterly statement.										
8.	Recovery of duty in certain case [Rule 11]	1) In the event of any failure on the part of the importer to comply with the above mentioned conditions or any payment referred above is not paid or short paid, AC/DC shall take action by invoking the Bond to initiate the recovery proceedings of an amount as under - <table border="1"> <tr> <td colspan="2">a) in case of a notification that provides a duty exemption,</td><td>b) in all cases where the notification is other than one that provides an exemption benefit</td></tr> <tr> <td>i)</td><td>Amount payable = Duty leviable on Inputs - Duty (if any) already paid</td><td rowspan="3">the amount equal to the assessable value of the goods being imported.</td></tr> <tr> <td>ii)</td><td>Interest = u/s 28AA i.e. @ 15 % p.a.</td></tr> <tr> <td>iii)</td><td>Period of Interest = From date of Exemption to date of payment</td></tr> </table> (2) Notwithstanding anything contained in these rules in relation to removal and processing of imported goods for job-work, the importer shall be responsible for ensuring that the said goods are used in accordance with the purposes provided in the notification and in the event of failure to do so, AC/DC shall take action in accordance with these rules, without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.	a) in case of a notification that provides a duty exemption,		b) in all cases where the notification is other than one that provides an exemption benefit	i)	Amount payable = Duty leviable on Inputs - Duty (if any) already paid	the amount equal to the assessable value of the goods being imported.	ii)	Interest = u/s 28AA i.e. @ 15 % p.a.	iii)	Period of Interest = From date of Exemption to date of payment
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ii)	Interest = u/s 28AA i.e. @ 15 % p.a.											
iii)	Period of Interest = From date of Exemption to date of payment											
9.	Penalty [Rule 12]	The importer or a job worker who contravenes any of the provisions of these rules or abets such contravention shall be liable to a specified penalty without prejudice to any other action which may be taken under the Act, rules or regulations made thereunder or under any other law for the time being in force.										

Comprehensive Case Study: Calvin Pharmaceuticals Pvt. Ltd.

Background

- ➔ **Importer:** Calvin Pharmaceuticals Pvt. Ltd., Pune
- ➔ **Product manufactured:** Antibiotic capsules
- ➔ **Imported goods:** Pharma-grade reactor machine (value ₹20 Lakhs) and catalysts, Spares (Value ₹30 Lakhs)
- ➔ **Notification applied:** No. 50/2017-Cus., Entry 428 – Concessional 5% BASIC (Customs) Duty (Normal rate = 20%)
- ➔ **End use condition:** Goods must be used for manufacture of life-saving drugs.

Rule 4 – Prior Information and IIN Generation

Calvin Pharma files **Form IGCR-1** on ICEGATE portal with:

- ➔ Details of Pune manufacturing unit and its job worker (FineChem Labs, Nashik)
- ➔ Description of imported machine and catalyst
- ➔ Notification number and intended end use
- ➔ Ports of import (Mumbai Port)

After acceptance, portal issues

- ➔ **IGCR Identification Number (IIN): IN-RPH-2022-001**

They also execute a continuity **bond of ₹ 20 lakh** with security deposit of ₹ 2 lakh, undertaking to pay duty plus interest u/s 28AA (15% p.a.) if conditions are breached.

Rule 5 – Availing Benefit at Import Stage

While filing Bill of Entry on 12 January 2022, Calvin mentions:

IIN – IN-RPH-2022-001
Bond – RPH-CUS-01
Notification 50/2017 Entry 428

The Assistant Commissioner of Customs verifies details and allows 5% BCD.

Bond value auto-debited electronically and sent to jurisdictional Customs office.

Rule 6 – Record Maintenance and Quarterly Statement

Calvin creates a digital register:

Particulars	Quantity	Value (₹ Lakhs)	Action
Reactor machine	1	20	Installed in Pune plant
Catalyst powder	500kg	10	Used in production / job work
Spares	100 Pcs	5	In stock

They file Quarterly statement by 10th April 2022 via portal.

If short receipt occurs, they must inform instantly through Form IGCR-2.

Rule 7 – Job Work

In 20th May 2022, Calvin sends 50 kg of catalyst to FineChem Labs (Nashik) for granulation.

- ➔ Goods moved under Tax Invoice and e-Way Bill.
- ➔ Job worker records receipt, process, and waste generated (2 kg waste).
- ➔ Finished catalyst returned on 15th May 2023 within **1 Year**.
- ➔ Details captured in monthly statement.

✓ **Compliance met.**



Rule 8 – Unit Transfer

Calvin transfers part of imported spares (20 pcs) to its Hyderabad unit for installation on similar machine. Movement under invoice + e-Way Bill with description and quantity.

Hyderabad unit maintains account and returns unused 5 pcs later.

Rule 9 – Supply to End-Use Recipient

In Dec 2022, Calvin supplies 100 kg of imported catalyst to MedTech Biotech Ltd. under notification benefit (same end use – export drugs).

MedTech maintains its own IGCR register, provides production details to Calvin for quarterly reporting.

✓ Both parties remain eligible since end use verified.

Rule 10 – Re-Export / Clearance of Unused Goods

Scenario A –

Re-export of Defective Catalyst	Clearance for Home Consumption
➤ 50 kg of catalyst found defective in testing. ➤ Calvin re-exports it to Germany on 15 March 2023 (within 1 year, extension by Comm, for further 3 months on sufficient cost). ➤ Details of shipping bill and export value recorded in portal.	➤ 50 kg of catalyst found defective in testing. ➤ Voluntary Payment = Duty on such goods + Interest

Scenario B – Clearance of Used Capital Goods

After 3 years of use, Calvin decides to sell the reactor for home consumption on 5 April 2025.

Depreciation (straight-line method):

Year	Rate	%
2022	4 X 4	16
2023	3 X 4	12
2024	3 X 4	12
2025	2.5 X 2	5
Total		45%

Depreciated value = ₹ 20 L – 45 % = ₹ 11 L

Duty difference = (20 % × 11 L) – (5 % × 20 L) = ₹ 1.20 Lakh

Interest @ 15 % from import date of exemption till the date of payment.

All entries reflected in **quarterly** statement & importer at his option can make a voluntary payment of duty & interest before end of quarter.

Rule 11 – Recovery for Non-Compliance

In June 2025, audit reveals that FineChem Labs used 10 kg of imported catalyst for their own product (not for Calvin). Jurisdictional AC invokes bond for that quantity:

➡ **Duty recoverable = Duty forgone on 10 kg (assume ₹ 20,000)**

➡ **Interest @ 15 % from import date of exemption till the date of payment.**

Rule 12 – Penalty

FineChem Labs (job worker) and Calvin Pharma (importer) both liable for specified penalty for contravention of these rules.

Foreign Trade Policy (FTP)

1. Trade facilitation measures introduced with an option available to the Central Government for consultation with relevant stakeholders to seek their views and also providing the mechanism on best endeavour basis, to inform reasons for not accepting views concerning the formulation or amendment of the Foreign Trade Policy.

FTP 2023 has been amended by inclusion of Para 1.07A and Para 1.07B in Chapter 1 which provides as under:-

Consultation with Stakeholders

The Central Government, in the course of formulation of FTP, as and when it deems reasonable to do so, may seek views/ suggestions/ comments/ feedback from relevant stakeholders, including importers/ exporters/ industry experts with regard to formulation, incorporation of specific provision(s) or amendments in the FTP, and to the extent possible, 30 days' time-period may be provided to such relevant stakeholders for submission of their views/ suggestions/ comments/ feedback.

However, Central Government reserves the right to suo moto formulate, amend or incorporate any specific provisions, without seeking views, suggestions, comments, or feedback from stakeholders.

Soliciting of views, suggestions, comments or feedback

If the views, suggestions, comments or feedback are not incorporated in the FTP, the Central Government may to the extent possible and if deems reasonable to do so, provide, to the relevant stakeholders, including importers/ exporters/ industry experts the reasons for not considering their views etc. while formulating, amending or incorporating specific provisions in the FTP.

However, Central Government is not obliged or mandated to disclose reasons for not incorporating views etc., that

- (i) has the potential to or will adversely affect trade relations with any foreign country.
- (ii) would adversely affect food, economic or national security of India;
- (iii) is in conflict with any government policies, strategic programs, international obligations or commitments or long-term plans and would undermine the objectives of such policies or programs;
- (iv) addresses matters unrelated to trade or serve narrow, private or special interests to the detriment of or contrary to the broader public interest, good; or
- (v) would require the disclosure of confidential or classified information Nothing shall confer any legal right whatsoever on any person to seek reasons for his views comments, opinions or feedback, not being incorporated in the Foreign Trade Policy thereof.

Further, no legal right shall be conferred on any person to seek reasons for his views, comments, opinions or feedback, not being incorporated in the FTP thereof.

Extension of support under RoDTEP scheme: [N/N 11/2025-26]

- ➔ The RoDTEP Scheme benefit will be available for export of products manufactured from Advance Authorisation units, SEZs, and EOUs with effect from 01.06.2025.
- ➔ The support under RoDTEP scheme for export of products manufactured by DTA units is available till 30-09-2025.