



**NITYA**  
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## NITYA Weekly Roundup

**August 2020 | Week 2**

**August 19, 2020**



## PART A: WRITS

### 1. Challenge to Proceedings

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| <b>Issue</b> | <b>Challenge to Show Cause Notice proposing differential GST on Ayurvedic / Unani / Siddha ingredients-based Sanitizers</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Order</b> | <p>The Petitioner challenged Show Cause Notices proposing demand of differential GST on Ayurvedic / Unani / Siddha ingredients-based Sanitizers. The Petitioner contended that Sanitizers are rightly classifiable under Chapter Heading 3004 of the Customs Tariff Act, 1975 ('CTA') attracting 12% GST against revenue's classification under Chapter Heading 3808 attracting 18% GST. The Petitioner filed representation before the revenue seeking clarification on this issue.</p> <p>The High Court disposed-off writ petition with direction to GST Council for considering Petitioner's representation.</p> <p><b><i>Haryana Ayurvedic Drugs Manufacturers Association v. CGST, CWP No. 11474 of 2020 (P&amp;H)</i></b></p> |

**NITYA Comments:** The dispute on classification of Sanitizers is looming large over industry. Refer our detailed analysis on this issue in **NITYA Outlook I Issue 43 I Classification of hand sanitizers under GST dated July 3, 2020.**

### 2. Detention, Seizure, Confiscation of goods

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| <b>Issue</b> | <b>Refund of sale proceeds of goods seized and auctioned</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Order</b> | <p>In this case, the Petitioner's goods were seized (while in transit) due to mismatch with statutory documents. The revenue initiated proceedings against the Petitioner. The owner of conveyance paid requisite fine and conveyance was released. However, the owner of goods did not pay requisite tax and penalty. Accordingly, goods were confiscated and auctioned.</p> <p>The Petitioner challenged these proceedings before the High Court. The Single Judge permitted the Petitioner to pay 100% tax and penalty payable under Section 129 of the Central Goods &amp; Services Tax Act, 2017 ('CGST Act'). Single Judge further ordered to refund sale proceeds to the Petitioner after deducting applicable tax as determined under Section 129.</p> <p>The revenue challenged order of Single Judge on the ground that Bench wrongly exercised jurisdiction under Article 226 of the Constitution of India and there was an alternative remedy of appeal available under Section 107 of the CGST Act.</p> <p>The Division Bench of High Court held that once order is passed under Section 129, only available remedy is payment of tax and penalty and filing of an appeal thereafter. Refund of sale proceeds was neither prayer of the Petitioner nor law prescribes the same. Accordingly, order passed by Single Judge is not in consonance with the CGST Act and was set aside.</p> <p><b><i>CCT v. K.S Arcanut Stores, T.K.K Traders &amp; V.N Nirmalan, 2020-VIL-368-KAR</i></b></p> |

## PART B: ADVANCE RULINGS

### 1. Classification and applicable rate of tax

| Issue | Parts of railway                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| Order | <p>The Applicant was engaged in supply of various castings in nature of coupler parts such as coupler head, knuckle, lock, rotary lock etc. ('products'). The Applicant's buyer provided pre-determined drawings to the Applicant and the buyer in turn supplied products to Indian Railways.</p> <p>The taxpayer sought ruling on classification and rate of GST on products. The contesting entries were Chapter Heading 8607 of the CTA attracting 5% GST or Chapter Heading 7325 attracting 18% GST.</p> <p>The Authority for Advance Ruling held that Chapter Heading 8607 of the CTA covers parts of railway subject to cumulative fulfilment of following conditions:</p> <ul style="list-style-type: none"><li>• The goods must be identifiable as being suitable for use solely or principally with the abovementioned vehicles; and</li><li>• The goods must not be excluded by Notes to Section XVII of the CTA.</li></ul> <p>It was held that the products satisfy both the above-mentioned conditions. Accordingly, the products will be classified under Chapter Heading 8607 and attract 5% GST (12% GST from October 2019).</p> <p><b>Prragathi Steel Castings, 2020-VIL-232-AAR (KAR)</b></p> |

**NITYA Comments:** The ruling is correct as classification of goods under Chapter Heading 8607 does not vary depending on the nature of buyer.

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