



Dimensions – 45th Edition

Judgment under the Pre-GST regime:

1. M/s Anu Cashews & others v The Commissioner of Customs & others¹

Issue for Consideration

Whether benefits under the Merchandise Export from India Scheme (MEIS scheme) can be denied on a mere technical lapse on part of the exporter?

Discussion & Judgment

Discussion:

- The Petitioner is an exporter, seeking to avail the benefit of MEIS scheme as envisaged under the Foreign Trade Policy, 2015-20 (FTP). The Petitioner while claiming the benefit of MEIS scheme indicated its intention to claim the benefit of the scheme in the specific box in the software through which details are uploaded on the web portal. However, in a further column which required them to check the appropriate box with regard to the intention to claim reward in respect of the export consignment, the Petitioner missed checking the box by stating 'Yes'. Accordingly, the system recorded the default setting, which indicated 'No'.
- The Respondents denied the benefit, since intention to avail the benefit was not expressly indicated by the Petitioner and consequently, necessary verification of the consignment was not conducted prior to its export.
- On a detailed examination of the facts and the screen shots of the web portal, the Hon'ble High Court observed as under:
 - There are separate columns wherein the description of the goods, and the intention to claim the export benefit should be entered;
 - Further, another column requires an exporter to indicate the intention to avail benefit against which the default setting reads as 'No'. Thus, in order to claim benefits, exporter needs to uncheck the box having option 'No' and check the box reading

¹ TS-1149-HC-2019(KER)-FTP



	<p>'Yes'. The Petitioner had indicated his intention to avail the benefit of the scheme which was evident from the other details entered on the web portal while.</p> <ul style="list-style-type: none"> - Export benefits cannot be denied in a mechanical manner merely because there was a technical lapse on the part of the exporter. <p>Judgment:</p> <p>The Hon'ble High Court directed the Respondents to consider the claim afresh and grant the benefit if on an overall consideration of the details furnished by the petitioner, the intention to claim the benefit of the MEIS scheme was seen as manifested at the time of export.</p>
<p>Dhruva Comments / Observations</p>	<p>It is a well settled law that any benefits accruing should not be denied merely on technical or procedural lapse on part of an applicant. This judgment emphasizes on the intention to avail benefit of a scheme clubbed with other details entered in the web portal and, ignores a mere technical lapse on the part of the Petitioner.</p>

Press Release under GST:

2. 38th Meeting of the GST Council ²	
<p>Background</p>	<p>With a focus on easing the compliances and augmenting tax collections, the Union Finance Minister chaired the 38th GST Council meeting on December 18, 2019.</p>
<p>Key decisions</p>	<ul style="list-style-type: none"> • Extension of due date for annual return in GSTR-9 and reconciliation statement in GSTR-9C for FY 2017-18 to January 31, 2020. • Waiver of late fees on GSTR-1, pending to be filed for July 2017 to November 2019, provided these are filed by January 10, 2020. • Block e-way bill for those taxpayers who have not filed their GSTR-1 for two tax periods. At present, it is blocked for taxpayers who have not filed GSTR-3B for two tax periods. • ITC, in respect of invoices or debit notes not reflected in GSTR-2A, to be restricted to 10% of the eligible credit as shown in GSTR-2A. The current restriction is of 20%. • Suitable actions to be taken for blocking of fraudulently availed input tax credit to check the menace of fake invoices. • SOP for tax officers to be issued for action to be taken for non-filing of GSTR-3B. • Various law amendments, approved by the Council, to be introduced in Budget 2020. • Levy a single rate of GST @ 28% on both State run and State authorized lottery. This change shall become effective from March 1, 2020.
<p>Dhruva Comments / Observations</p>	<p>The decision to further restrict the availment of credit in cases of mismatch to 10% from the erstwhile 20% will have a greater impact on the working capital requirements of the taxpayers. This move, though aimed at inducing discipline and transparency, comes at a time when the businesses are asking for simplification in compliance requirements under the GST law.</p>

² Press release dated December 18, 2019



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