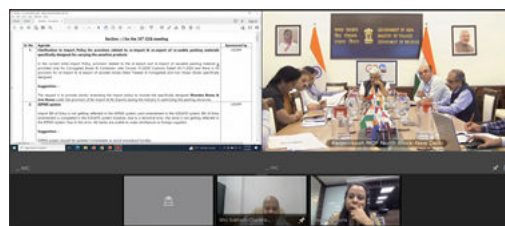




LATEST NEWS AND HIGHLIGHTS



USISPF organised a roundtable discussion on tax implications for US inbound businesses. The event was led by experts from Deloitte including Robert Stack, Managing Director, Washington National Tax, Pierre-Henri Revault, US Inbound Leader, Anu Alex, India Country Tax Liaison, and Tehmina Sharma, US Corridor leader.



Forum participated in 16th meeting of All India Customs Consultative Group held virtually on May 02, 2023

KEY ENGAGEMENTS IN FOCUS

 ENGAGEMENT WITH MINISTRY OF FINANCE	<ul style="list-style-type: none"> • Clarity in taxation of online gaming from an indirect and direct tax perspective • Extension of concessional withholding tax regime on External Commercial Bonds/ INR Bonds <hr/> <ul style="list-style-type: none"> • Address issues emerging from mandatory e-filing of Form IOF for non-residents • Address impact of 'angel tax' provisions on non-resident investors
 ENGAGEMENT WITH GST POLICY WING	<ul style="list-style-type: none"> • Clarification on place of supply for courier services under GST Law • Clarification on reimbursement of ESOP provided by parent company being classified as import of service <hr/> <ul style="list-style-type: none"> • Engagement with GST Policy Wing and GST Network to address issues emanating from restricted time limit on reporting of old invoices on e-invoicing portal
 ENGAGEMENT WITH DEPARTMENT OF CUSTOMS	<ul style="list-style-type: none"> • Address issues arising from introduction of Electronic Cash Ledger • Joint engagement with Finance Ministry and Department of Telecommunications to address ambiguities in Customs classification of telecommunication products and equipment
 TAX RESEARCH	<ul style="list-style-type: none"> • Engagement with industry stakeholders and experts to produce working paper on contentious issues emanating from Two-Pillar international tax framework
 MEMBER OUTREACH	<ul style="list-style-type: none"> • GSTN Advisory on All India Model GST Audit Manual released by Committee of Officers on GST audit

FORUM'S SECTOR-DRIVEN ADVOCACY

 <h3>Energy & Infrastructure</h3> <ul style="list-style-type: none"> • Customs Duty Exemption for capital assets used in developing projects for renewable business • Customs Duty rationalization of components used in electrolyser technology • Customs Duty concessions on goods required for setting up bio-fuel projects • Waiver of GST compensation cess on purchase of coal • GST applicability on reimbursement towards Lost-in-hole equipment • Clarification regarding issuance of Essentiality Certificate for imported goods 	 <h3>Pharmaceuticals, Medical Devices & Diagnostics</h3> <ul style="list-style-type: none"> • Customs Duty rationalisation for high-end X-Ray machines • Customs Duty rationalisation for chemicals • Need for Independent HSN Code under Customs for Medical Refrigerators and Freezers • Reversal of input tax credit under GST on destruction of date-expired products • Challenges emerging from withholding tax provisions under section 194R of Income Tax Act
 <h3>Telecommunications, Media & Technology</h3> <ul style="list-style-type: none"> • Rationalisation of customs duty on LCD/ TFT displays used in automotive cockpit systems 	 <h3>Food & Beverage</h3> <ul style="list-style-type: none"> • Differentiated GST rate for aerated and no-sugar beverages • Rationalisation of customs duty on seedless raisins

FORUM'S ADVOCACY FOR CROSS-SECTORAL ISSUES



GST

- Practical challenges faced during GST audits requiring state wise/ GSTIN wise financial statements
- Availing Input Tax Credit under GST against IGST paid through TR6 Challan



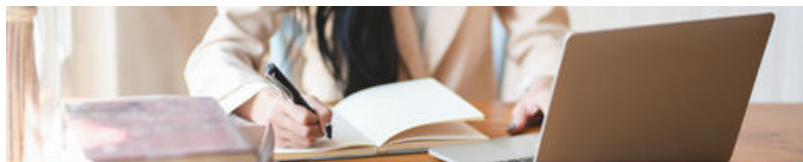
CUSTOMS AND EXCISE

- Rationalisation of tariffs
- Challenges arising from misclassification of products
- Advocacy efforts on export incentive schemes including SEIS and RoDTEP
- Issues and challenges under CAROTAR rules and Faceless Assessments



CORPORATE TAX

- Recommendations for policy and procedural changes in Indian Transfer Pricing regime
- Challenges in implementation of TDS under various provisions of the Act
- Issues emerging from TCS amendments



UPCOMING EVENTS

- Consultation with Tax Research Unit at Ministry of Finance to discuss GST & Customs issues for energy & infrastructure sector
- Briefing session on 'Business imperatives of modern FTAs'
- Industry consultation on issues emerging from e-filing of Form 10F



PAST EVENTS

- 16th meeting of All India Customs Consultative Group
- Discussion on Tax Implications for U.S. Inbound Businesses
- Virtual briefing on Amnesty Scheme under Foreign Trade Policy 2023
- Consultation with CBDT on applicability of Section 56(2) (viib) of the Income Tax Act to non-resident investors

- Consultation with Tax Research Unit on Customs issues for pharmaceuticals and medical devices sector
- Consultation with GST Policy Wing on reversal of ITC on date-expired pharmaceutical goods

RECENT TAX RULINGS



In association with

In International Tax, the [Supreme Court](#) dismissed Revenue's appeals challenging the profit attribution to foreign companies engaged in electronic global distribution services to airlines through the Computerized Reservation System. The Supreme Court held that the proportion of profits arising or accruing in India is a question of fact and upheld the concurrent findings of the High Court and ITAT. [The Special Bench](#) of Mumbai ITAT held that the rate of dividend distribution tax shall apply unconditionally on dividend paid to non-resident shareholders without any regard to the lower rate prescribed for taxation of dividend under the relevant DTAA. [Mumbai ITAT](#) held that the special provision for tax on capital gains arising to a non-resident from transfer of unlisted shares prevails over the general provisions that allow the adjustment for forex rate fluctuation. Thus, ITAT held that non-residents in such cases are not entitled to the benefit of forex rate adjustment and indexation of cost.

On the Transfer Pricing front, the [Supreme Court](#) ruled that the issue of determination of the arm's length price constitutes a 'substantial question of law', therefore, the decision of the ITAT is not final and the High Courts can entertain appeals on the issues of comparable selection, choice of filters etc. [Mumbai ITAT](#) adopted 'other method' as the most appropriate method to benchmark royalty payment made for unique intangibles, opined that 'other method' was perfect as it reflected commercial pricing in the way it was actually determined after due negotiations between parties and was price-oriented. In another case, [Mumbai ITAT](#) accepted benchmarking of corporate guarantee based on the yield approach by imputing commission @ 0.35%.

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*To contribute to our ongoing discussions on these matters,
please write to [@Shweta Kathuria](#) and [@Anikha Ashraf](#)*

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