

# Tax Bulletin

Update publication for our clients

*June, 2018*



**Vijaywargi Khabiya & Saoji**

Chartered Accountants

# FOREWORD

Ever since the Goods and Services Tax ('GST') has been introduced w.e.f. July 1, 2017, radical changes have been made by the GST Council aiming at reducing the tax burden or easing out the operational functioning of the tax structure. In fact, it was recently announced that several amendments of GST law are likely to be placed before the Parliament in the monsoon session. The advent of GST has restricted the benefits under the Foreign Trade Policy ('FTP') by and large to Customs duties only, however, with subsequent amendment to the FTP the benefits have been extended to the levy of GST with little shelf life. Further, Direct Tax is ever evolving and the plethora of judicial rulings have always given us interpretational perspective.

Owing to the above, we at **Vijaywargi Khabiya & Saoji ('VK&S')** have resolved to develop a routine of periodic updates summarizing the latest key tax developments in a short, easy-to-read format. While GST will be reaching its one year milestone shortly and has entailed various changes in the way businesses work, it is important to keep ourselves and all our clients updated with every crucial development.

Drawing on our experience of tax regulatory matters and insight from relationships with various organizations, we have put together an update series of Tax bulletins. With analysis and insight on changes in the Indian taxation front, these bulletins are designed to help you stay up-to-date with the latest developments and explain what these changes mean for you and your business.

With this end in mind, we have compiled our 1st Edition of the Tax bulletin in relation to Direct Tax (i.e. Income Tax) and Indirect Tax (i.e. GST, Customs law and FTP).

Warm Regards,

**Team VK&S**

# CONTENTS



- 1 Income Tax updates
- 2 Goods & Services Tax ['GST'] updates
- 3 Customs updates
- 4 Foreign Trade Policy ['FTP'] updates
- 5 Packaged Scheme of Incentive ['PSI'] updates



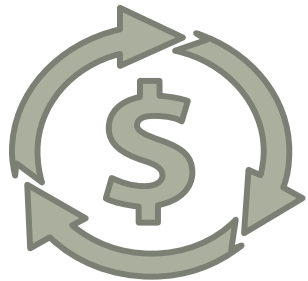
# Income Tax updates

- Notifications and Circulars
- Judicial Snippets

# Informants Reward Schemes



- ❖ With the objective of obtaining people's participation in the Income Tax Department's efforts to unearth black money and to reduce tax evasion, **two new reward schemes** have been announced by the Income Tax Department:
  1. Income Tax Informants Reward Scheme, 2018, ('IT Informant Scheme') *(yet to be notified)*
  2. Benami Transactions Informants Reward Scheme, 2018 ('Benami Transaction Scheme') *(Notified on April 23, 2018)*



- ❖ As per the IT Informant Scheme, a person can get reward up to ₹ 5 crore by giving specific information about evasion of Income tax on income and assets in India and abroad.
- ❖ Under the Benami Transaction Scheme a person can get reward up to ₹ 1 crore for giving specific information to the Joint or Additional Commissioners of Benami Prohibition Units (BPUs) about benami transactions and properties as well as proceeds from such properties which are actionable under Benami Property Transactions Act, 1988, as amended. Foreigners will also be eligible for such reward.

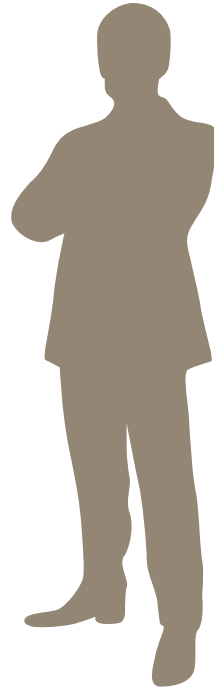


- ❖ *Identity of the persons giving information will not be disclosed and strict confidentiality will be maintained by the Department.*

# Centralized Communication Scheme, 2018 notified by the CBDT

## *Issue & service of notice:*

- ❖ The Centralised Communication Centre ['CPC'] shall issue notice to any person requiring him to furnish information or documents for the purpose of verification.
- ❖ Information / documents to be furnished on or before the date specified in the notice.
- ❖ Designated authority to run sustained campaign to ensure compliance by way of sending electronic mails, Short Message Service, reminders, letters and outbound calls.



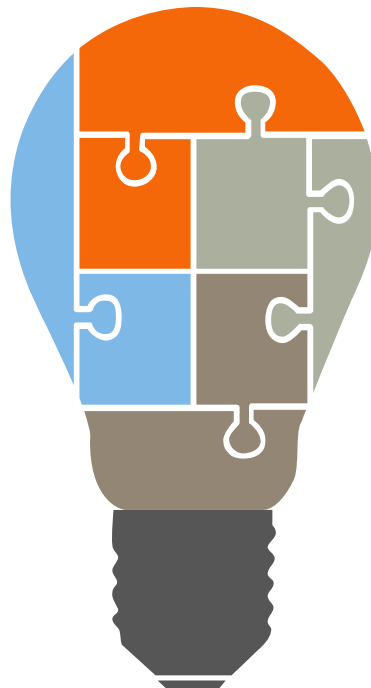
## *Reply of notice*

- ❖ The CPC may prescribe a machine readable structured format for furnishing the information or documents by the person in response to the notice issued.
- ❖ The procedure, formats and standards for furnishing response to the notices are yet to be specified.
- ❖ Personal appearance shall not be made mandatory

# Judicial Snippets

## *Mahaveer Kumar Jain vs CIT [Supreme Court*

It is a fundamental rule of law of taxation, that unless otherwise expressly provided, income cannot be taxed twice. In a case of reasonable doubt, the construction most beneficial to the taxpayer is to be adopted.



## *Bengal Tea and Fabrics Ltd. vs DCIT*

Commission amount payable by an assessee to non-resident agents shall be deemed to have accrued or arisen in India and thus TDS implications will follow. In the absence of DTAA between India and the foreign Country, the income was held to be taxable in India by way of “business connection”.

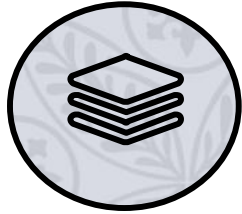
2

# GST updates

- Notifications and Circulars



# Inverted duty structure, e-way bill and interception of goods



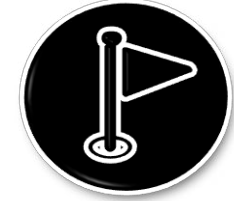
## Refund of Input Tax Credit – Inverted Duty Structure in case of services

- Rule 89(5) of the CGST Rules, 2017 has been amended to provide for the formula for refund of ITC on account of inverted duty structure even in case of services. Prior to the amendment, the formula only provided for refund calculation of inverted duty structure in case of 'supply of goods.'
- Vide Notification No. 21/2018- CT dated April 18, 2018,



## E-way Bill

- From April 1, 2018 e-way bill was made mandatory for inter-State movement of goods
- From June 1, 2018 e-way bill for intra-state movement of goods adopted in most states
- With effect from May 25, 2018, e-way bill for movement of goods within Maharashtra made mandatory where the value of goods exceeds ₹ 50,000/-



## Movement of goods – Procedure for interception by officer

- Detailed procedure for interception of goods and vehicles has been prescribed.
- Refer to detailed Annexure A.

# Refund related clarifications

## Issue

## Clarification

1

Challenge faced in refund filing by Input Distributor ('ISD'), Composition dealer and Non-resident tax payer who are not required to file GSTR-1 or GSTR-3B

Refund application to be allowed when other relevant returns are filed, viz., GSTR-6 (ISD), GSTR-4 (Composition Dealer), GSTR-5 (Non-resident taxable person)

*Since refund filing was linked to submission of GSTR -3B and GSTR-1, specific persons were facing issues in claiming refund. This is a helpful clarification in case of such persons*

*This clarification appears to be detrimental for exporters making zero-rated supply on payment of IGST*

2

Refund of unutilized ITC of Compensation Cess ('Cess') in case of zero-rated outward supply on which Cess is not applicable

Zero-rated outward supply is made without charging IGST under LUT- refund of ITC of Cess will be available.

Zero-rated outward supply by charging IGST - ITC of Cess cannot be utilized for making payment of IGST (as per specific provision). Such balance ITC of Cess will be accumulated.



# Refund related clarifications... contd.

## Issue

3

Refund application not filed in case of mistake at the time of filing GSTR-3B which is corrected in GSTR-1



Clerical Error

## Clarification

Refund is granted after an automatic validation check of amount mentioned in 3.1(b) of GSTR-3B . In case of mistake in filing details in GSTR-3B, it is clarified that refund application will be allowed to be filed provided amount of refund is not more than aggregate of IGST pertaining to outward taxable (Column 3.1.a of GSTR-3B), zero-rated (Column 3.1.b of GSTR-3B) and exempt supplies (Column 3.1.c of GSTR-3B) [For period of July 2017 to March 2018]

Although this clarification will facilitate filing refund claims even in cases of clerical errors, however, due to the condition that refund amount must be less than or equal to the aggregate of IGST amounts mentioned in 3 columns, the quantum of refund allowed will be less than the actual benefit available in case where zero-rated supplies are more than exempt and taxable supplies. Conversely, excess benefit may be available in case where zero-rated supplies are less than taxable or exempt supplies.

# Refund related clarifications... contd.

## Issue

## Clarification

4

Requirement of LUT / Bond in case of zero-rated supply of exempt goods or non-GST goods

LUT / Bond not required in case of zero-rated supply of exempt or non-GST goods.

In case of non-GST goods (e.g. Alcohol) applicable Central Excise provisions or respective State VAT provisions must be followed.

*This clarification is would reduce the requirement of LUT compliance for zero-rated supplies (exports, supplies to SEZ for authorized operation) of exempt products including rice, other agricultural produce, etc. or non-GST products.*

5

Scope of restriction on refund of IGST to exporters charging IGST on zero-rated supplies as per Rule 96(10) of the CGST Rules

Restriction under Rule 96(10) of the CGST Rules will not apply in case inputs are obtained from the following :

- (1) suppliers who do not avail benefit of specified Notifications
- (2) suppliers at (1) even if they have obtained goods from some suppliers who claim benefit of specified Notifications
- (3) manufacturer who at the time of import took benefit of specified Customs Notifications

# IGST on supplies within Bonded Warehouse

- ❖ The Government has taken note that “transfer/sale of goods while being deposited in a customs bonded warehouse” is a common trade practice whereby the importer files an into-bond bill of entry and stores the goods in a customs bonded warehouse and thereafter, supplies such goods to another person who then files an ex-bond bill of entry for clearing the said goods from the customs bonded warehouse for home consumption.
- ❖ In this regard, applicability of IGST in case of such sale/ transfer when goods are within Customs Bonded Warehouse has been clarified as tabulated.

Particulars	Applicability of IGST	Circular Reference
Supplies within Customs Bonded Warehouse before April 1, 2018	<b>IGST to be collected and paid</b>	Circular No. 46/2017-Customs dated 24.11.2017
Supplies within Customs Bonded Warehouse after April 1, 2018	<b>IGST not applicable</b>	Circular No. 3/1/2018-IGST, dated 25.05.2018



# GST on tenancy rights and authority for examination of GST Practitioners



## Payment of GST on transfer of tenancy rights

- It has been clarified that the activity of transfer of 'tenancy rights' (also known as Pagadi System) is covered under the scope of supply and taxable per-se. However, renting of residential dwelling for use as a residence is exempt[Sl. No. 12 of notification No. 12/2017-Central Tax(Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both will be exempt.

## Authority for conducting examination for GST practitioners

- The National Academy of Customs, Indirect Taxes and Narcotics ('NACIN') Department of Revenue, Ministry of Finance, Government of India, has been appointed as the authority to conduct the examination for qualification of goods and services tax practitioner. The details of the examination have not been notified yet.

# Recovery of arrears of pre-GST regime

## Clarification issued in relation to recovery of arrears of tax pertaining to pre-GST regime

Nature of Recovery	Recovery triggered by	Mode of Recovery
Recovery of arrears of wrongly availed CENVAT Credit	Any proceeding of appeal, review or reference initiated before, on or after July 1 , 2017	As an arrear of tax under Section 142(6)(b) of the CGST Act, unless recovered under the existing law
Recovery of CENVAT Credit carried forward wrongly during GST transition	Availment of CENVAT credit of central excise duty/service tax in TRAN-1 in contravention of Section 140 of the CGST Act	Such ineligible credit will not be allowed to be carried forward and will be recoverable as an arrear of tax under Section 79 of the CGST Act
Recovery of arrears of central excise duty and service tax:	Assessment or adjudication proceedings instituted before, on or after July 1 , 2017	As an arrear of tax under Section 142(8)(a) of the CGST Act, unless recovered under the existing law
	Any proceedings of appeal, review or reference relating to output duty or tax liability initiated, whether before, on or after July 1 , 2017, under the existing law	As an arrear of tax under Section 142(7)(a) of the CGST Act, unless recovered under the existing law
Recovery of arrears due to revision of return under the existing law	Revision of any return furnished under the previous law whereby any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible	As an arrear of tax under Section 142(9)(a) of the CGST Act, unless recovered under the existing law



# Payment of arrears of pre-GST regime

## Mode of payment :

Details of recovery	To be paid as	Method of payment	Recording of payment
Recovery of duty amount / ineligible credit taken or carried forward	As Central tax	Utilization of amounts available in Electronic credit ledger / electronic cash ledger	To be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01)
Recovery of interest, penalty or late fee in relation to duty amount/credit	Interest, penalty ,late fee of Central tax	Utilization of amounts available in electronic cash ledger	To be recorded in Part II of the Electronic Liability Register (FORM GST PMT-01)

## Payment of central excise duty & service tax on account of returns filed for the past period

- ❖ With effect from 1<sup>st</sup> April, 2018, the registered person may file Central Excise / Service Tax return for the period prior to 1<sup>st</sup> July, 2017 on [www.aces.gov.in](http://www.aces.gov.in) but the payment shall be made through the ICEGATE portal.





3

# Custom updates

- Notifications and Circulars

# Customs Regulations Notified

## Customs Audit Regulations 2018



Replaces the Regulations of 2011

*Audits until now were only restricted to a few category of assesses such as Authorised Economic Operators. Under these regulations, scope of an 'Auditee ' has been enlarged to include importer, exporter, custodian of goods, licensee of a warehouse, etc.*

## Customs Brokers Licensing Regulations, 2018

Replace the Regulations of 2013

*Aadhar card and PAN made mandatory for issuing license to brokers*



## Sea Cargo Manifest and Transhipment Regulations, 2018



*Notified in supersession of Import Manifest (Vessels) Regulations, 1971, Export Manifest (Vessels) Regulations, 1976 and Transportation of Goods (Through Foreign Territory) Regulations, 1965*

# Customs Regulations Notified



## Bill of Entry (Electronic Integrated Declaration and Paperless Processing) Regulations, 2018

Replaces the Regulations of 2011

- *Digital signature required for self submission through ICEGATE*
- *Bill of entry to be filed within one day of arrival of vessel/ vehicle at a customs station at which such goods are to be cleared for home consumption or warehousing*
- *Late fee charges prescribed for delayed filing (Maximum late fee- Amount of duty payable / 50,000)*



## Pre-notice Consultation Regulations, 2018



*Provides for consultation to be undertaken between Noticee and Officer before issuance of SCN.*

# Customs Clarifications – CA Certificate for pending IGST refunds

Type of Case	Details of IGST	GSTN to send email	Steps to be taken by Exporter
No short payment of IGST	IGST Amount for exports and taxable sales in GSTR-3B more than IGST amount in GSTR -1	Email sent by GSTN will confirm transmission of records to Customs EDI System	Exporters whose refunds are processed/ sanctioned will be required to submit <b>CA Certificate</b> by 31 October 2018 to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018. Certificate to be given to Customs office at port of export and jurisdictional GST office
Short payment of IGST	IGST Amount for exports and taxable sales in GSTR-3B less than IGST amount in GSTR -1	E-mails shall be sent by GSTN to each exporter so as to inform the exporter that their records are held up due to short payment of IGST.	<ol style="list-style-type: none"> <li>1) Exporter to Make balance payment of IGST</li> <li>2) Proof of payment to be submitted to AC/ DC of Customs in charge of port of export (If aggregate IGST refund amount for the said period is more than Rs. 10 lacs – <b>CA Certificate</b> that the shortfall amount has been liquidated to be submitted)</li> <li>3) Exporter to give undertaking to return any excess refund identified later</li> <li>4) Refunds to be processed</li> <li>5) Exporters whose refunds are processed/ sanctioned will be required to submit <b>CA Certificate</b> by 31 October 2018 to the effect that there is no discrepancy between the IGST amount refunded on exports and the actual IGST amount paid on exports of goods for the period July' 2017 to March' 2018.</li> </ol>



# Customs Clarifications – E-sealing of refrigerated (‘reefer’) containers



4°C

- ❖ In case of perishable items exported through reefer containers, the maintenance of temperature is of utmost importance. Where the factory stuffed containers are being e-sealed by exporters themselves, sometimes due to selection by risk management system, these reefer containers are being picked up for examination at Customs ports/ICDs which do not have sterile, temperature controlled examination facilities.
- ❖ It has been clarified that reefer containers carrying perishable goods may be sealed under the supervision of a customs officer. Procedure for applying to the concerned officer prescribed



# FTP updates

- Notifications, Public Notices Trade Notices

# FTP Notifications & Public Notices



## Extension of IGST & Cess Exemption

- Extension of exemption from IGST and Compensation Cess under Advance Authorization, EPCG scheme and EOU (for Imported Goods) extended till 01.10.2018.



## Amendment in Para 3.08 (b) of Chapter-3 of FTP 2015-2020

- To avail SEIS benefit, service provider should have net free foreign exchange earnings of 15000USD for company or firm and 10000USD for individual service providers and sole proprietor in the year of rendering service.
- Earlier it was for preceding financial year.



## Processing of MEIS applications for SEZ Exports

- The processing of MEIS Application for SEZ Exports has been simplified vide this Public Notice.
- Hard Copy of SEZ Shipping Bills are not required to be submitted for claiming benefits under MEIS.



## Maintenance of Annual Average Export Obligation

- Excess average export obligation in any year can be used to offset shortfall in average export obligation for any other year.

# DGFT Trade Notices

Subject	Implications
<p>Launch of e-MPS- facility to make online payment for miscellaneous applications</p>	<p>New facility of online payment is introduced for Miscellaneous Application like Amendment of License, Payment of Composition Fee, etc.</p> <p>Earlier it was done through manual mode only i.e. Demand Draft or Challan.</p>
<p>Processing of MEIS applications under FTP 2015-20 in terms of Public Notice 62 dated 16.02.2018</p>	<p>DGFT Head quarter has instructed all Regional Authorities (RA) offices {vide Public Notice No. 62 dated 16.02.2018} to process MEIS application only on the basis on ITC (HS) Code mentioned in Shipping bill.</p> <p>Earlier, it was processed on the basis of ITC (HS) Code &amp; Description of Export Item as well.</p> <p>However, many of the RA offices are rejecting the MEIS Applications for the mismatch of description of export product.</p> <p>Once again HQ has instructed to process MEIS Application in terms of Public Notice 62 dated 16.02.2018.</p>
<p>EODC Monitoring System for Advance/EPCG Authorizations.</p>	<p>EODC monitoring system (i.e. new web site) is developed by DGFT, which can be accessed at <a href="http://eodc.online">http://eodc.online</a></p> <p>All applications which are submitted by Exporters for EODC can check the status, either Deficiency letter issued or EODC issued.</p>





# DGFT Trade Notices

Subject	Implications
Launch of facility to check status of Importer Exporter Code (IEC) application made to DGFT	New facility is introduced to check status of Import Export Code ('IEC') application. It can be accessed from DGFT website as under.
Public Notice No.33 dated 23.10.2017 applied to all scrips under Chapter 3 of FTP.	As per Public Notice No.33 dated 23.10.2017, validity period of duty credit script issued under chapter 3 of FTP 2015-20 has been increased to 24months from 18months only for the script which are issued on or after 01.01.2016. Now this Public notice is applicable for all the chapter 3 scrips issued in policy period 2015-20.



4

# PSI update

# Packaged Scheme of Incentives

- ❖ Under the provisions of PSI -2013, the eligibility and quantum in relation to the financial incentives were majorly dependent on the payment of Value Added Tax ('VAT') by an industrial unit. However, with effect from July 1, 2017, VAT amongst other taxes has been subsumed into GST.
- ❖ The Maharashtra Government has issued Government Resolution on 14-02-2018 wherein the mechanism to quantify the incentives available under GST regime has been specified. The quantification methodology stated therein will **retrospectively apply from July 1, 2017**.

## Indirect tax related incentives under PSI – 2013 : VAT regime v/s GST regime

Type of Unit	Gross Investment in Plant & Machinery	Quantum of VAT Incentive	Quantum of GST Incentive
Micro, Small and Medium Scale Units ('MSME')	Upto Rs. 10 Crore	VAT on local sales - ITC + CST payable + 65% of ITC	100% of <b>Gross</b> SGST (Sale Within the State)
Large Scale Units	More than Rs. 10 Crore	90% of Net VAT on local sales - ITC + CST payable	60% to 100% of Net SGST (Sale Within the state)

*It appears that industrial units will not receive any benefits with respect to taxes paid on inter-state sales . This appears to be a draconian provision for units that have 100% sales outside the State.*



# About VK&S



## SERVICES

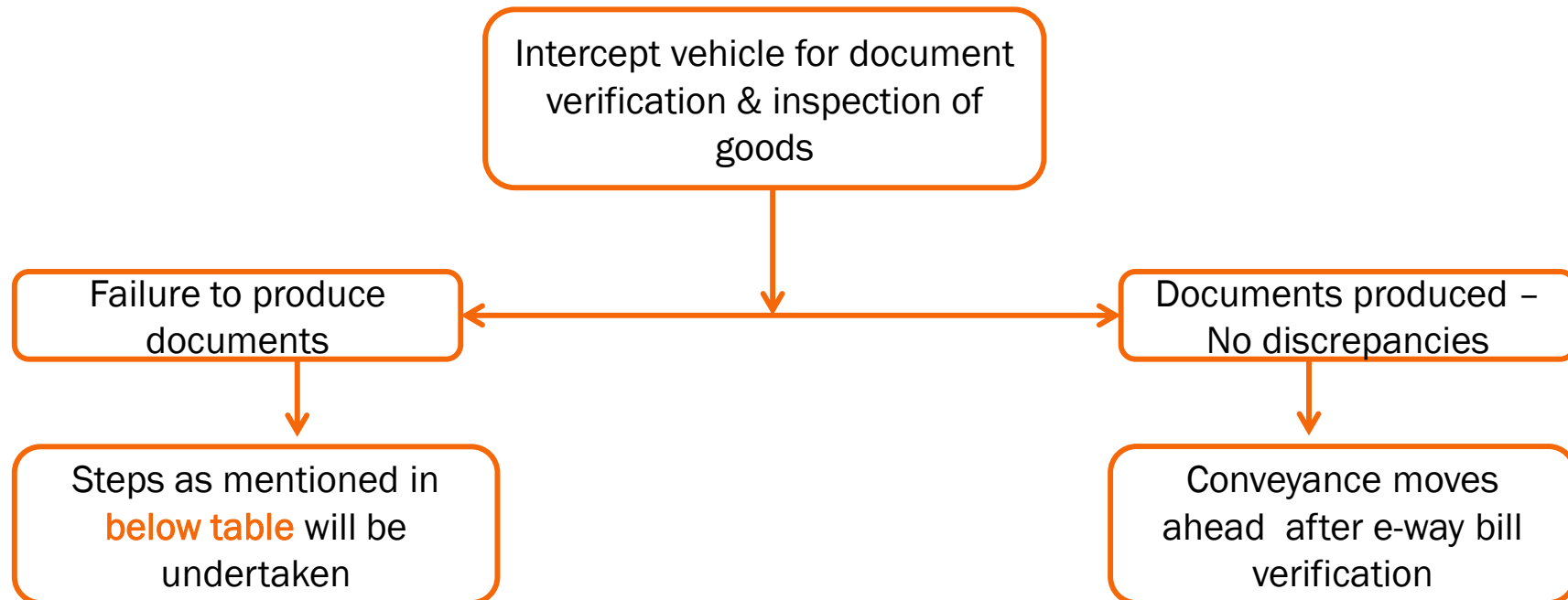
Customers are the source of real  
growth with practical expertise.

**Vijaywargi Khabiya and Saoji**, Chartered Accountants, is a single window professional services firm focusing on high quality services one needs from a business advisory organization. The firm is managed by dynamic & pulsating partners with decade long professional experience. The firm provides services and consultancy related to accounting & implementation thereof, auditing including internal, statutory, tax, concurrent and management audit, matters related to direct & indirect tax including advisory, litigation, due diligence review, tax optimization and compliance services, outsourcing of accounts, payrolls, FEMA, Company Laws matters, Project Financing, Subsidies, and the like.

# Annexure A

## Procedure for interception of goods and vehicles

Movement of goods – Procedure for interception by officer



Steps	Particulars	Form	Timeline
1	Record statement of person in charge of conveyance	GST MOV -01	
2	Order for stationing vehicle and physical verification	GST MOV -02	
3	Report to be prepared and be uploaded on the common portal	Part A of Form GST EWB-03	Within 24 hours of the issuance of Form GST MOV-02
4	Conclude the inspection proceedings	-	Within a period of 3 working days from the date of issuance of invoice of FORM GST MOV-02  Extension of time to be obtained from the Commissioner by written permission in GST MOV-03
5	On completion of physical verification/inspection of the conveyance and the goods, report to be prepared	GST MOV-04	
6	Final report to be uploaded on common portal	Part B of FORM GST EWB-03	Within 3 days of physical verification/inspection
7	Release order in case of no discrepancies	GST MOV-05	-
8	Detention order for goods and vehicle specifying tax and penalty	GST MOV-06	-
9	Notice shall be served on the person in charge of the conveyance to pay tax and penalty	GST MOV-07	-
<b><i>Action taken within 7 days from Detention Order</i></b>			
10	Payment made or Bond/Security in Form GST MOV-08 given – Issue Release Order	GST MOV-05	Within 7 days from Detention Order

Steps	Particulars	Form	Timeline
11	Upload order on portal	GST MOV-09	-
12	Detention Order Objected	-	Within 7 days from Detention Order
13	Consider objections and pass speaking order quantifying tax and penalty	GST MOV-09	-
14	Tax and penalty paid =- Release order to be issued	GST MOV-05	-
	<i>Action not taken within 7 days from Detention Order</i>		
15	<p>Notice to be served for confiscation of goods and conveyance along with quantum of tax, penalty and fine.</p> <p>If conveyance used for carriage of goods or passengers for hire – notice also to be served on the owner of conveyance</p>	GST MOV-10	
16	Opportunity of being heard will be given		
17	Order of confiscation of goods – Title to pass to Central Government	GST MOV-11	3 months window will be given to person in charge of goods to make payment
18	Order of confiscation of conveyance – Title to pass to Central Government	GST MOV-11	3 months window will be given to and person in charge of conveyance to make payment

# Contact us



## ANY QUESTIONS?

### **VIJAYWARGI KHABIYA & SAOJI**

CHARTERED ACCOUNTANTS

1<sup>st</sup> Floor, Keshav Complex, 10 No. Pulia  
Kamptee Road, Nagpur-440004  
Maharashtra India

Phone: 0712 2642654

+91 9168165444

[info@cavks.in](mailto:info@cavks.in)

[www.cavks.com](http://www.cavks.com)

