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Fortnightly

# E-REVIEW

Vol. XII

No.24

February 16-28, 2018

## NEWS HIGHLIGHTS >>>

- ❖ TN GOVT URGED NOT TO CHANGE WIND BANKING PERIOD
- ❖ UP GOVT SIGNS 29 MOU IN TEXTILES
- ❖ GARMENT WAGES SOAR IN CAMBODIA; MONTHLY WAGE \$238-260
- ❖ EPFO LOWERS INTEREST RATE TO 8.55%

## REPRESENTATIONS >>>

- ❖ Vide a representation dated 22.2.2018 sent to Mr.K.Shanmugam, I.A.S., Additional Chief Secretary to the Government, Finance Department, Government of Tamil Nadu, the Association requested him not to change wind banking period and not to impose any restriction to open access power purchase.

## TEXTILE SCENE >>>

### UP govt signs 29 MoUs in textiles; creating 5 lakh jobs

- ❖ At the recently concluded Uttar Pradesh Investors Summit, the state government signed 29 memorandum of understanding (MoUs) in the textile segment, generating over 5 lakh employment opportunities. The implementation of the MoUs worth Rs 7,436 crore will boost the sales of textile items while creating opportunities for the local weavers and artisans. "A four-member committee under the textile commissioner has been formed, so as to maintain a constant touch with the investors and ensure that their problems are resolved," said a news agency quoting UP minister for handloom and textile Satyadeo Pachauri. The committee will include deputy director of textile directorate, Kanpur and managing director of the Uttar Pradesh State Industrial Development Corporation. The committee will look into that the investors benefit from the facilities as per the textile policy of UP, said Pachauri adding that the state government has also assured of the necessary assistance to the investors

## **Govt plans yarn depot with UP: Textiles Minister**

- ❖ Textiles Minister Smriti Irani recently announced a proposal to jointly set up a yarn depot with the Uttar Pradesh (UP) government to give a further boost to the textile sector in the state, which garnered proposals worth Rs 7,000 crore in the run-up to the two day investors' summit that concluded in state capital Lucknow on February 22, 2018. As subsidies hardly reached weavers, they can directly purchase yarn at subsidised rates at the depot. She also urged UP Industry Minister Satish Mahana and Textile Minister Satyadeo Pachauri to start discussions with industrialists to restart closed knitwear mills. Many UP industrialists want to return to the state after the new textiles policy was announced. Problems faced by mills in Kanpur, primarily due to trade unions, are over now, Pachauri said.

## **Maharashtra's new textile policy to privatize cooperatives**

- ❖ The state government in India's western state of Maharashtra, under its new textile policy for 2018 to 2023, has decided to privatize spinning mills and powerloom societies operated at present on cooperative basis by changing the clauses for the use of land, provided they are ready to return to the government the equity, loan and interest thereupon. The new policy aims at generating 10 lakh jobs in the next five years and doubling farmers' income by 2022. It is also expected to attract investments worth Rs 36,000 crore. If there is any change in the industrial use of the land, then an amount will have to be paid to the government as per the prevailing rules under the 'one time exit policy, according to a news agency report. A hundred and thirty six societies and mills in the state had sought funds in the form of a share capital, out of which 66 are running, while a few others are under installation, a few are into liquidation and three already closed. The state government's textile department funds cooperative cotton mills 45 per cent of share capital. Fifty per cent is needed to be raised in the open market whereas the rest is borne by the mill board. The policy offers several benefits, including competitive power tariffs and increased capital subsidy for scheduled caste, scheduled tribe and minority categories, and emphasizes on strengthening the knitting, garmenting and hosiery sector

## **Fall in textile exports a concern: Apex body**

- ❖ The Textile and Apparel exports for January 2018 saw a decline of 13%. The sharp decline, or the sub-optimum performance in the exports, has been due to a 16% decline in cotton textiles, 14% decline in apparel and 7% decline in made-made textiles. Following the month-after-month decline in overall exports, the cumulative exports of textile and apparel for the April-January period witnessed a degrowth of 4% with exports at Rs.187,080 crore compared to Rs.194,047 crore in the same 10 month period of last fiscal, said Confederation of Indian Textile Industry. Its Chairman, Mr.Sanjay Jain said the share of textile and apparel exports in the overall exports from India has also declined from 14% to 12% in January 2018 compared to the corresponding period of 2017.

## GLOBAL TEXTILE SCENE

### Garment wages soar in Cambodia; monthly wage \$238-\$260

- ❖ Ordinary staff in Cambodian garment factories can now earn between \$238 and \$260 per month, including benefits, according to research by the National Trade Unions Coalition (NTUC) covering more than 30 factories. Garment and footwear sector workers received their first pay packet at the higher rate on February 10. The new minimum monthly wage is \$170 now. NTUC president Far Saly said the wage hike would benefit the lives of workers and their families. The coalition found some employees, who are paid according to the quantity of products, can now earn up to \$480 each month, according to a report in a Cambodian newspaper.

### Cambodian factory workers protest on annual leave issue

- ❖ Around 1,000 workers at the Hwa Long Cambodian Outsole Industry factory in Kampong Cham's Chherng Prey district in Cambodia recently came out in protest five times in a single day demanding annual leave payments in cash. They have been protesting with this demand since February 14, but the company has offered them time off for all their annual leave. The small problem has been compounded, Cheng Heang, director of labour department in Kampong Cham, told Cambodian newspaper 'Khmer Times'. He added though authorities and labour department officials tried to negotiate, no result has come out of that yet.

## RAW MATERIAL FRONT

### Early cotton sowing banned in Pakistan's Punjab

- ❖ Pakistan's Punjab state has imposed Section-144, which prohibits an assembly of more than four people in an area, to discourage early sowing of cotton crop, according to state agriculture secretary Muhammad Mahmood. The decision was taken to save the crop from insect and pest attack, particularly pink bollworm and address production decline. Early sowing of cotton crop acts as a breeding ground for the pest. The early sowing practice also created hurdles in meeting the official annual cotton production target, Pakistani media reports quoted Mahmud as saying. The rise in cotton production by up to 7.49 per cent this year can be attributed to the ban imposed last year on early sowing of cotton, he added.

### Textile mills prefer US cotton; imports set to rise

- ❖ Cotton imports this season might surpass the official estimate of 17 lakh bales, as textile mills are increasingly buying cotton from the U.S. in larger quantities. Though imported cotton is slightly lower micronaire compared with the widely used domestic cotton (Shankar 6 variety), mills were opting for U.S., cotton as these were free of contamination and realization would be better. Also, the units could get a 4 to 5% cost advantage. Total imports during the last cotton season (2016-17) was 30.94 lakh bales and

the previous year it was 22.79 lakh bales. The total imports this season (October 2017 to September 2018) might cross 20 lakh bales. Mills in Andhra Pradesh, Gujarat and Tamil Nadu are buying cotton from US. The total import this season is already more than 10 lakh bales and majority stock is from US.

## LABOUR FRONT

### EPFO lowers interest rate to 8.55%

- ❖ EPFO lowered the rate of interest on Employees Provident Fund to 8.55% for its over six crore subscribers for 2017-18 from 8.65% in the previous fiscal. “It is difficult to evaluate about future in view of present economic scenario. We paid 8.65 per cent last fiscal, which left a surplus of Rs.695 crore. This year, we have decided to recommend 8.55 per cent for 2017-18, which will leave a surplus of Rs.586 crore:”, Labour Minister, Mr.Santosh Gangwar said after the EPFO’s Trustees Meet.

## JUDGEMENTS

### Trade discount can be deducted

The Supreme Court has set aside a judgment of the Karnataka High Court and ruled that while computing taxable turnover, a company would be entitled to a deduction of trade discount under the State VAT Law. In this case, Maya Appliances Vs Asst Commissioner, the company that manufactures home appliances allowed discounts to its distributors as a matter of trade practice. These discounts may take the form of a scheme discount or quantity discount. The company claimed the discount as a deduction from the total turnover. It argued that it offered a quantity discount to its distributors, depending on their performance during the previous quarter as part of a marketing strategy. The Commissioner of Commercial Taxes disallowed the quantity discount observing it was not relatable to the sales effect by the tax invoices. The company appealed to the High Court without success. However, the Supreme Court agreed with its contention.

### Supreme Court holds that CENVAT credit of service tax paid on transport of goods from the place of removal to the buyer's premises not available after 01 April, 2018

#### Facts

The assessee, a cement manufacturer, availed CENVAT credit of service tax paid on transportation of goods from their premises to the customer’s premises during the period January, 2010 to June, 2010. The tax authorities sought to deny such credits, on the ground that such services do not qualify as input services. While the adjudicating authorities decided the issue against the assessee, in appeal, the first appellate authorities, relying on the CBEC circular no. 97/8/2007-ST dated 23 August, 2007 (2007 circular) ruled in favour of the assessee. The CESTAT as well

as the High Court (HC) ruled in favour of the assessee. Against the HC decision, the tax authorities filed an appeal in the Supreme Court (SC).

### Supreme Court's decision<sup>1</sup>

The SC held that the 2007 circular was issued on the basis of the definition of 'input service' as on date of circular and the benefit of the circular could not be applied after the amendment in the definition of 'input services' with effect from 01 April, 2008. The Court held that, with effect from 01 April, 2008, CENVAT credit in respect of transportation of goods 'from the place of removal' to the customer's premises is not admissible and that transportation 'up to the place of removal' is only allowed.

### The Takeaways

There have been significant amount of litigations on eligibility of CENVAT credit of service tax paid on outward transport, involving both the periods i.e. prior to 01 April, 2008 and post 01 April, 2008. The SC has finally resolved the issue by holding that post 01 April, 2008 the credit will not be available on the transport of goods from the place of removal to buyer's premises.

For the period prior to 01 April, 2008, the SC has recently held in the case of Andhra Sugars, that the credit of transportation services from the place of removal to buyer's premises is available. This was based on a previous SC decision in the case of Vasvadatta Cements and the 2007 circular.

Industry should now relook at the positions adopted in the past periods and evaluate the impact of these decisions on the positions taken. The revenue authorities are likely to conclude pending proceedings based on these judgements and may also issue fresh notices to companies, where credit on outward transportation have been taken.

1 2018-TIOL-42-SC-CX

2 Andhra Sugars (2018-TIOL-45-SC-CX)

3 Vasvadatta Cements (Civil Appeal No. 11710 of 2016)

### **I-T - When Revenue has shown benevolence in granting payment of tax dues in installments, if assessee misses installments, it is a fit case for launching prosecution: HC**

CHENNAI, FEB 27, 2018: THE issue is - Whether when the Revenue has shown benevolence in granting payment of tax dues in instalments, if the assessee misses the instalments, it is a fit case for launching prosecution. YES is the answer.

### Facts of the case:

The Assessee, an educational institution offering various courses, had filed its return for the relevant AY. In the course of assessment proceeding, the Revenue noted that the Assessee had outstanding tax dues and the same was not

remitted. In response, the Assessee expressed their difficulties for deposit, on which the Revenue permitted them to clear the outstanding in monthly instalments. However, the Assessee failed to stick to the instalment scheme. Consequently, the Revenue initiated a prosecution against the Assessee by imposing interest for the belated payment as per sec 201(1A).

High Court held that,

++ it is seen that the Assessee expressed their difficulties to the Department and the Department had been benevolent and had granted indulgence to the Assessee by permitting the Assessee to clear the outstanding in ten monthly instalments subject to payment of interest chargeable u/s 220(2). The instalments become due on the 10th of every month. The communication by the Revenue also states that any failure to adhere to the instalment scheme should result in cancellation of the scheme and coercive steps for recovery of tax demand would be initiated;

++ It is admitted that Assessee has paid only Rs. 3 lakhs and defaulted in payment of monthly instalments. Therefore, the indulgence shown by the Department vide its communication does not, any longer, appear to enure to the benefit of the Assessee. Hence, there is no error in the communication so challenged, which is one more opportunity granted to the Assessee. The Department has rightly initiated prosecution and it appears that the Assessee has challenged the same on certain technical grounds.

### **ST - Refund - Notfn. 41/2007-ST - Amending notification 33/2008-ST cannot be considered as clarificatory: CESTAT**

**NEW DELHI, FEB 27, 2018: THE** appellants exported goods and filed refund claims under Notification No. **41/2007-ST** dt. 06.10.2007 in respect of the service tax paid on various services used in the export of goods.

Refunds were disallowed on the ground that the goods have been exported under drawback claim and hence in terms of the proviso 1(e) of the Notification No. 41/2007-ST , refund is not allowable.

The appellants are before the CESTAT and submit that the condition regarding availment of drawback stands deleted vide Notification No. **33/2008-ST** w.e.f. 07.12.2008 and there can be no objection to grant of refund subsequent to that date. Inasmuch as by this notification, in paragraph 1, in the proviso, sub-paragraph (e) was omitted.

It is further contended that the amendment is to be considered as clarificatory in nature and benefit of refund should be extended even to the period prior to the amendment. Reliance is placed on the decision in *Orient Craft Limited - 2017-TIOL-2196-Tri-CHD* in which the refund claim under Notification No. 41/2007 has been allowed even in respect of cases where drawback has been claimed. In this case, the Single Member Bench had referred to the clarification given by Directorate of Drawback, Ministry of Finance in which it is stated that the refund claim cannot be denied simply on the basis that the drawback has been claimed, since in terms of the Drawback Rules, it is *granted only in respect of input*

*services used in the manufacture of goods and the services which were used by the appellants for export of the goods does not form part of the drawback claim.*

The AR, while contesting the submissions made by the appellant pointed out that the said decision has been passed by a Single Member Bench and refunds cannot be allowed in view of the decision in *Rajasthan Textile Mills & Others - 2016-TIOL-1228-CESTAT-DEL.*

The Bench observed -

++ We note that the refund claims in question cover the period partly prior to 07.12.2008 and part of the claims are for the period subsequent to the date. After the amendment of Notification No. 41/2007 by Notification No. 33/2008, the condition regarding drawback availment has been deleted and there can be no objection to grant of such refund subsequent to that date if otherwise allowable.

++ For the period prior to such amendment by Notification No. 33/2008, the condition under Notification is very clear to the effect that the refund under the Notification cannot be paid if said goods have been exported under claim of drawback of service tax paid. After referring to the decision of the Division Bench in the case of *Rajasthan Textile Mills* (supra), we note that such refund claims cannot be sanctioned.

++ By following the decision of the Division Bench of the Tribunal (supra), we are of the view that refund for the period prior to the amendment by Notification No. 33/2008 cannot be sanctioned and we order so.

Nonetheless, the cases were remanded to the adjudicating authority for purposes of bifurcating the refund and considering the refund for the period subsequent to the date of such amendment.

## **Case laws - Customs**

In *Deepak Enterprises v. Union of India and Ors* (2018-TIOL-199-HC-DEL-CUS), the petitioner had supplied goods to EOUs upon payment of Excise duties. Being deemed exports in terms of the FTP, the petitioner had claimed refund of TED in terms of the FTP. The DGFT had rejected the claim of the petitioner citing that the refund of Excise duty could be claimed under the Central Excise laws and also cited minutes of meetings of the Policy Interpretation Committee in this regard. The Delhi High Court highlighted the settled position that unless the statute conferring the power to make delegated or subordinate legislatures expressly provide that the same can be made with retrospective operation, no such power would be inferred. Thus, it is apparent from the above that the Central Government is not empowered to make any retrospective changes in the policy. It was also highlighted that the Central Government could not make any change in the FTP that had the effect of taking away any vested right. It also highlighted that the role of DGFT was limited to advising the Central Government in formulation of import and export policy, but it cannot amend or frame the FTP. Thus, the Delhi High Court held that there is no dispute that the petitioner has discharged Excise duty on the goods supplied to the EOUs, and hence, in terms of para 8.3(c) of the FTP, the petitioner was eligible for claim of TED.

## Case laws - Customs

No importer can claim absolute exemption from Customs duty as a right. Person claiming exemption should satisfy the pre-conditions prescribed as it is part of exemption and should be strictly enforced. • In respect of assessment in Electronic Data Interchange (EDI) system, filing of refund is in itself seeking amendment of Bill of Entry (BOE) and benefits otherwise available should not be denied. • Imported Carbon Black N 330 against Advance Licence from China shall be subject to levy of Safeguard Duty since the levy of safeguard duty is country specific. • Goods sold to Export Oriented Units (EOUs) upon payment of Excise duties, being deemed exports in terms of the FTP, were eligible for claim of refund of Terminal Excise duty (TED)

## COTTON AND COTTON YARN PRICES

### Price Behaviour

#### Cotton – Spot\* (Rs/Candy)

- ❖ Given below are the cotton and cotton yarn prices prevailed at various dates for the benefit of the members:

Variety	24.02.2018	17.02.2018	10.02.2018	03.02.2018	27.01.2018	19.01.2018	12.01.2018
ICS-101 (Bengal Deshi (RG) / Assam Comilla)	42000	41300	42400	40900	41100	422000	42900
ICS-201 (Bengal Deshi (SG))	42500	41800	42900	41400	41700	42800	43600
ICS-102 (V-797)	29200	29600	30000	30400	30400	30400	31600
ICS-103 (Jayadhar)	33400	33200	33400	33600	33600	33800	34600
ICS-202 (J-34)	39200	38900	39300	39600	40100	40600	40900
ICS-105(LRA-5166)	39800	39500	40300	40600	41000	41300	41300
ICS-105 (H4-Mech 1 - Guj)	39100	39200	39600	39700	40700	40800	41000
ICS-105 (Shankar – 6 (Guj))	39800	39700	40300	40300	41300	41200	42000
ICS-105 (Bunny / Brahma)	41900	41800	41900	41700	42500	42300	43200
ICS-107 (DCH 32)	55100	55000	56000	56000	56700	55300	55800

\* - Spot rates quoted based on growth & grade standard (i.e: parameter based)

Source: CAI

#### Cotton Yarn (Rs/Kg – Taxes Extra)

Count	24.02.2018	17.02.2018	10.02.2018	03.02.2018	27.01.2018	19.01.2018	12.01.2018
<b>Hank Yarn</b>							
20s	190	190	190	190	190	190	190
30s	210	210	210	210	210	210	210
40s	233	233	233	233	233	233	233
60s K	254	254	254	254	254	254	254
60s C	327	327	327	327	327	327	327
80s C	382	382	382	382	382	382	382
<b>Cone Yarn</b>							
20s	190	190	190	190	190	185	180
30s	200	200	200	200	200	190	190
40s	208	208	208	208	208	205	205
60s K	255	255	255	255	255	255	255
60s C	280	280	280	280	280	280	280
80s C	354	354	354	354	354	354	354

Source: \* - Mill Source: (Quotes are only indicative)

## CIRCULARS ISSUED DURING THE FORTNIGHT

S. No.	Circular No	Date	To	Subjct
1)	54-E/2018	16.2.2018	Member Mills in Tamil Nadu	Constraints in obtaining NOC from the concerned EDCs for purchase of power – updation – reg.
2)	54-F/2018	17.2.2018	Member Mills in Tamil Nadu	Corrigendum in circular No.54-E/2018 - Constraints in obtaining NOC from the concerned EDCs for purchase of power – updation – reg.
3)	55/2018	17.2.2018	All Member Mills	Open Auction for Sales of FP bales - reg
4)	55-A/2018	17.2.2018	Member Mills in Tamil Nadu	Quantum of Power required for the year 2018 -19 – confirmation- reg.
5)	56/2018	19.2.2018	All Member Mills	International Seminar on “GST, Block Chain, Business Analytics and Monetary Policy” on 21st February 2018 at Coimbatore
6)	57/2018	19.2.2018	All Member Mills	Minutes of second PRMC on High Speed Loom development at CMTI – reg
7)	58/2018	19.2.2018	Managing Directors of All Member Mills	Booking of Hotel Rooms for 9th Asian Textile Conference of CITI – 14th March 2018– reg
8)	59/2018	21.2.2018	All Member Mills	Direct yarn sale to consumers of Bhiwandi Market – reg
9)	59-A/2018	21.2.2018	Member Mills in Tamil Nadu	Accepting Adhaar as a documentary evidence to ascertain the age of the workers-Representation made to the Labour Secretary, Government of Tamil Nadu to amend the TN Factories Rules, 1950– reg
10)	59-B/2018	21.2.2018	Member Mills in Tamil Nadu	Purchase of power through Group Captive Mode for the year 2018-19 – reg.
11)	59-C/2018	21.2.2018	Member Mills in Tamil Nadu	CGP Writ Appeal before the Madurai Bench of Madras High Court Status – reg.
12)	60/2018	22.2.2018	All Member Mills	Request for policy intervention to boost Indian Textile Industry – reg
13)	61/2018	22.2.2018	Managing Directors / Directors of All Member Mills	Request for mobile numbers - reg
14)	61-A/2018	22.2.2018	Member Mills in Tamil Nadu	Amendment to the Tamil Nadu Contract Labour (Regulation and Abolition) Rules, 1975 – Notification – reg

15)	61-B/2018	23.2.2018	All Exporting Member Mills	MEIS - Reward column inadvertently ticked 'N' - Consideration - Reg.
16)	62/2018	23.2.2018	All Member Mills	Disposal of electrical items by M/s.Sree Ayyanar Spg & Wvg Mills Ltd
17)	63/2018	23.2.2018	All Member Mills	Buyer Seller Meet – Fabric, Garments & Made-ups organized by Regional Office of the Textile Commissioner at Bangalore - reg
18)	64/2018	24.2.2018	All Member Mills	GST – Non-utilisation of disputed credit which has been carried forward – Reg
19)	64-A/2018	26.2.2018	Member Mills in Kerala	Consumer Price Index Numbers for December 2017
20)	65/2018	26.2.2018	All Member Mills	Aadhar Enrolment and Updation – reg
21)	66/2018	26.2.2018	All Member Mills	Refund of IGST on Export– Invoice mismatch Cases –Alternative Mechanism with Officer Interface - reg
22)	66-A/2018	26.2.2018	Member Mills in Tamil Nadu	Proposed changes in wind banking period and restriction of less than 1MW consumers to avail power under Open Access – IWPA meeting - circular –reg
23)	66-B/2018	26.2.2018	Member Mills in Tamil Nadu	Revised power price quote from the Generators – draft reply to be sent - reg.
24)	67/2018	27.2.2018	All Member Mills	Weekly cotton prices - reg
25)	68/2018	28.2.2018	All Member Mills	Enhancement of minimum assurance amount under EDLI Scheme from 1.5 lakh to Rs.2.5 lakh – reg
26)	69/2018	28.2.2018	All Member Mills	Press release – EPFO – reduced interest rate of 8.55% on deposits – reg.
27)	70/2018	28.2.2018	All Member Mills	Release of subsidy under R-TUFS and RR-TUFS - reg.,