



**sima**

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## NEWS HIGHLIGHTS >>>

- ❖ TANGEDCO URGED TO DISTRIBUTE POWER SHORTAGE EQUALLY
- ❖ CURTAIN RAISER PROGRAMME FOR TEX TN 2019 LAUNCHED
- ❖ US POLYESTER YARN MAKERS ALLEGED DUMPING FROM CHINA, INDIA
- ❖ TEXTILE MILLS URGED NOT TO PANIC ON COTTON STATUS

## REPRESENTATIONS >>>

- ❖ Chairman of the Association vide a representation dated 4.10.2018 sent to the Hon'ble Minister for Textiles, Smt Smriti Zubin Irani made an appeal for policy intervention required for ginning sector and for the supply of clean cotton and branding of Indian cotton textile products.
- ❖ Vide a letter dated 20.10.2018 sent to Shri D Chattopadhyay, Under Secretary to the Government of India, Ministry of Power, New Delhi, the Association submitted its comments / suggestions for the proposed draft Amendment in Electricity Act, 2003.
- ❖ The Association has sent a representation dated 30.10.2018 to the Chairman, TANGEDCO appealing to distribute the shortage equally among all the consumers. The representation was made in the context of two hours load shedding even in dedicated feeders in Tamilnadu.

## MEETINGS >>>

### Curtain Raiser Programme to TEX TN 2019 launched

- ❖ The Curtain Raiser Programme for the Tamilnadu Global Textile Expo (TEX TN 2019) was held on 26<sup>th</sup> October 2018 at Hotel Le Meridien, Coimbatore.



Hon'ble Minister, Mr. S P Velumani addressing the meeting



Hon'ble Minister, Mr. O.S.Manian addressing the meeting



SIMA Chairman offering felicitations



CITI Dy. Chairman offering felicitations



Hon'ble Ministers inaugurating the event



Participants at the event

- Honourable Minister for Municipal Administration, Rural Development and Implementation of Special Programmes Department, Thiru. S.P. Velumani and Honourable Minister for Handlooms and Textiles jointly inaugurated the exclusive logo and the Website for the Global Textile Expo. Later, they also released the Short film for the Global Textile Expo.
- In his Welcome Address, Mr.S.Munianathan, IAS., Director of Handlooms & Textiles, Tamilnadu stated that textile industry is the backbone of the economy of the Tamilnadu as it provides employment, brings foreign exchange and the Government wants to encash these advantages for the growth of the entire textile value chain and therefore was taking efforts. It is in this background the Government took the decision to conduct TEX TN 2019 event at Coimbatore.
- Mr.Kumar Jayant, IAS., Principal Secretary to Government, Handlooms & Textile Department spoke about the TEX TN 2019. He said that since

Coimbatore is not only known for textiles, but also for existence of other industries and therefore, the city was chosen for the conduct the event. He was confident that TEX TN 2019 would bring a new trend with large scale Buyer-Sellers of the stakeholders. He said that Tamilnadu was leading in India in textile business. The Government wants this to take the same across the world and with this aim only, the event is being conducted with the active support and assistance of the industry Associations. He quoted that as how a leader struggles always, the textile industry in Tamilnadu being the leader has to compete by keeping the industry growing with innovations and running. He felt that one of the lacunas for the industry is the skill of the labour. He wanted the industry to upskill the labour and go up in the value chain. He expressed the Government's readiness to extend all support for the skill development and funds would not be a problem for the Government on this score. He said that it is for the industry to take initiative in this endeavour. Further he wanted the machinery industry in Coimbatore to concentrate on producing the stitching machines and other machines required for the knitting industry as most of these machines were being imported.

- In his felicitation address, Mr.T.Rajkumar, Deputy Chairman, CITI, said that the TEX TN 2019 is the Government event and the industry would extend its support. He said that as pointed out by the Principal Secretary, Tamilnadu stands first in the textiles and appreciated the Government for coming forward to conduct the event in January 2019.
- In his felicitation address, Mr.Ujwal Lahoti, stated that TEXPROCIL was happy to associate with PDEXCIL in organizing the International Textile Export during January 27-29, 2019 with the active support of the Tamilnadu Government and Ministry of Textiles & Ministry of Commerce. Since more than 50% of the spinning capacity is located in Tamilnadu and sizable capacity in knitting and garmenting, he felt that it was appropriate decision of the Government to hold the event in Coimbatore. He said TEXPROCIL & PDEXCIL together undertake to bring over 200 buyers from overseas and create business opportunities for the Indian textile entrepreneurs. He committed participation of 200 exporters in the event and exhibiting their textile products and buyers are eagerly looking forward to visit Coimbatore. He further stated that some of the buyers have already booked flight tickets for visiting Coimbatore and was confident that more would come to India.
- In his felicitation address, Mr.Raja M Shanmugam appreciated and thanked the Government of Tamilnadu for the initiatives taken for the maiden event. He stated that Tamilnadu has 55% spinning capacity of the country as well as 50% knitting capacity. He stated that Tirupur was aiming to achieve a business size of Rs.1.00 lakh crore in few years from the present business size of Rs.43,000 crore. He mentioned that agriculture sector lost its prime position as the largest employment provider due to mechanization. However, the textile continues to give more employment as the mechanization can be done only to some extent.
- SIMA Chairman, Mr.P.Nataraj, in his felicitation address thanked the Tamilnadu Government for choosing Coimbatore as the place for holding the TEX TN 2019 and granting Rs.2.00 crore for the same. He further

thanked the Government for fixing up the responsibility of conducting the event with SIMA along with the support of other textile Associations. Since textile plays a vital role in the economy of Tamilnadu by providing employment of lakhs of people, TEX TN 2019 would be very much helpful. He informed that TEXPROCIL and PDEXCIL together would bring more than 200 foreign buyers for the event. Therefore, he appealed to all the stakeholders to participate in the event and derive benefit out of the same.

- Former Chairman, PDEXCIL, Mr.M.Duraiswamy stated that actually PDEXCIL was planning to hold the event during January 2019 independently. At the request of the SIMA office-bearers and former Chairman, Mr.T.Rajkumar, PDEXCIL decided to join with the event.
- In his address, Mr.O.S.Manian, Hon'ble Minister for Handlooms & Textiles has stated that the Government's support was not only for the weavers, but also for other segments so that the benefit reached the consumers of both domestic and international buyers. Considering the demand of the industry, the Government decided to conduct TEX TN 2019 during January 27-29, 2018 and based on this event, the Curtain Raiser programme was conducted. He expressed his gratitude to the industry for showing the support and encouragement. He said that after agriculture, the textile industry the second largest employment provider in the country has been growing day-by-day in respect of production and exports. He stated that the Government is ready to extend the support to resolve the problems if the industry faces any hindrances in its way. He informed that for the first time such an event is being organized by any State Government. He sought the support of the industry for the successful conduct of the TEX TN 2019. With regard to demands of the exporters, he said that the Hon'ble Chief Minister had already written to the Central Government and also presented the matter personally. He said that all the major demands on GST issues have been resolved by the Government by taking up the matter at the every GST Council meeting.
- In his inaugural address, Mr.S.P.Velumani, Honourable Minister for Municipal Administration, Rural Development and Implementation of Special Programmes Department, Government of Tamilnadu has stated that Tamilnadu textile industry continues to be the first and it is the backbone of the States' economy. He thanked the Government for choosing Coimbatore to conduct the event. He was also thankful to the Hon'ble Chief Minister for granting Rs.2.00 crores. He stated that many GST related issues were taken up by the State government and most of them were resolved. He requested the industry to put up any issue which remain unresolved so that the Government would take up the same with the Centre.

Mr.K.Karnan, Additional Director, Handlooms & Textiles Department, Government of Tamilnadu proposed the vote of thanks.

### Government preparing sectoral export strategies: Minister

- ❖ The government is preparing sectoral export strategies and project specific strategies, commerce and industry minister Suresh Prabhu has said. Commodity and territory specific strategy is also being prepared, he said at the 'Exports Summit – Brining in a new wave of growth' organised by the Confederation of Indian Industry (CII) in New Delhi. Despite global headwinds, India's exports have been constantly rising for the last one year, the minister said. "We must now achieve more. India's export must drive India's growth story," he added. Stating that export has to be a combined effort, Prabhu said that for the first time, the Central government has prepared a complete plan of action for all the exporting ministries and has taken several measures to increase exports domestically. A think tank has been set up for the first time. "We are looking at boosting trade with smaller countries and explore new territories like Africa which has 54 countries but accounts for only 8 per cent of exports from India," the minister added. The minister mentioned that global disruptions present opportunities to increase Indian exports. Touching on China the minister said that both countries working together to resolve issues relating to market access. Alok V Chaturvedi, director general of foreign trade, DGFT talked about the \$100 billion additional export strategy which includes Champion products strategy of \$76.56 billion for 178 products, market retention strategy for 197 products for more than \$15 billion, 310 promising products with diversification and penetration strategy for \$21 billion. Sharing the new initiatives by DGFT, he said, a lot of actions have been taken including immediate IEC via email, MEIS sanction within 24 hours, eMEIS scrips, demat of MEIS scrips, EPCG licenses, anytime anywhere online export related courses, and more. Addressing the summit, Rakesh Bharti Mittal, president, CII, said that India currently ranks at 146 out of 190 economies in the 'Trading Across Borders' parameter of the Doing Business index. There is massive scope for reduction in the transaction costs and dwell time. Equally important is to think around new transformational policies, including exchange rate strategy, WTO-compatible export subsidies, Centre-state export strategies, and market promotion strategies and trade-related infrastructure. Sanjay Budhia, chairman, CII National Committee on EXIM & managing director, Patton International Ltd, while presenting the export industry concerns, said boosting exports is key to checking trade deficit and there is need to look at more ways to lower imports. Majority of the costs like raw material, shipping charges, warehousing and other related services are denominated in foreign currency or at Import Parity Price. Raw material prices have increased 35 per cent. Similarly, there is need of policy reform for a sizeable growth of SEZs which contribute 25 per cent of Indian exports.

## GLOBAL TEXTILE SCENE

### Zimbabwe's textile industry targets 35,000 jobs in five years

- ❖ The Zimbabwe Clothing Manufacturers' Association (ZCMA) plans to employ 35,000 people in the next five years, largely because of the sector's revival and promotion of value addition. The country's clothing and textile industry collapsed primarily due to competition from imported goods, obsolete machinery and lack of working capital to upgrade. Compared to 6,700 at present, the nation's clothing and textile industry used to employ over 35 000 around two decades back. Briefing deputy minister for industry and commerce Raj Modi in Bulawayo recently, ZCMA chairman Jeremy Youmans said tackling the problem of raw materials would take time and nobody is going to invest in the textile industry until the country has got a ready market to deliver, according to a Zimbabwean newspaper report. Recently €1.2 million was made available out of the Common Market for Eastern and Southern Africa for the cotton chain and the money just got tied up in bureaucracy, he lamented.

### US polyester yarn makers allege dumping from China, India

- ❖ Two major US synthetic yarn producers—Unifi Manufacturing, Inc (Unifi) and Nan Ya Plastics Corporation, America (Nan Ya)—have filed petitions alleging that dumped and subsidised imports of polyester textured yarn from China and India are causing material injury to the domestic industry. The petitions have been filed with the US department of commerce. “The purpose of these petitions is to establish conditions of fair competition in the US market. The petitioning domestic producers are asking the US government to investigate the dumping, subsidies and injury and to impose anti-dumping and countervailing duties on the imports of polyester textured yarn from the subject countries,” Kelley Drye & Warren LLP, who represent the petitioning companies, said in a press release. Unifi manufactures polyester textured yarn at its production facilities in Yadkinville, North Carolina, and Madison, North Carolina, where the company employs approximately 1,100 and 470 people, respectively. Nan Ya manufactures the said yarn at its production facility in Lake City, South Carolina, where it employs approximately 900 people. The petitions, also concurrently filed with the United States International Trade Commission (USITC), allege that producers in China and India are dumping polyester textured yarn in the US market at sizeable margins (China – up to 68 per cent; and India – between 40 per cent and 130 per cent). The petitions also allege that the Chinese polyester textured yarn industry benefits from at least 20 different Chinese government subsidies, and that the Indian polyester textured yarn industry benefits from at least 38 different Indian government subsidies. The allegations identify a number of significant national and regional programmes, including preferential export financing, export loans, and export credits; preferential income tax treatment; tax exemptions, rebates, and credits on inputs and capital goods used in the production of polyester textured yarn; the provision of goods and services by the governments for less than adequate remuneration; and grants for polyester textured yarn

producers to assist in the development of export market and to protect against commercial risk. US polyester textured yarn imports from China and India have increased at an astounding rate over the last five years, growing from approximately 38.4 million pounds in 2013 to 68.9 million pounds in 2017 (an increase of approximately 79 per cent), the release said. “The substantial increase in unfairly-traded polyester textured yarn from China and India has harmed US manufacturers and their workers,” according to Paul Rosenthal of Kelley Drye & Warren LLP, counsel for the petitioning companies. “Trade relief is essential to ensuring that the domestic polyester textured yarn industry can recover from its injured and vulnerable state, thrive, and fairly compete.” Now, the US department of commerce will determine whether to initiate the anti-dumping and countervailing duty investigations, and the USITC will reach a preliminary determination of material injury or threat of material injury within 45 days from the date of filing. The entire investigative process, however, will take approximately one year, with final determinations of dumping, subsidisation, and injury likely occurring by the end of 2019. Polyester textured yarn, a synthetic multifilament yarn, is manufactured from polyester (polyethylene terephthalate). It is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fibre

## ECONOMY

### **Trade deficit with China causes loss of 3.4m US jobs: EPI**

- ❖ The growing goods trade deficit with China has cost 3.4 million US jobs between 2001 and 2007, according to a report by Economic Policy Institute (EPI). Losses occurred in all 50 states of the country and in every congressional district, with job losses in the hardest-hit states ranging from 2.57 per cent to 3.55 per cent of total state employment. The hardest-hit states include New Hampshire, Oregon, California, Minnesota, North Carolina, Rhode Island, Massachusetts, Vermont, Wisconsin, and Texas, as per the analysis by EPI senior economist Robert E Scott and research assistant Zane Mokhiber. “The US–China trade relationship needs to undergo a fundamental change,” said Scott. “Addressing unfair trade, weak labour, and environmental standards in China, and, especially, ending currency manipulation and misalignment should be our top trade and economic priorities with regard to China.” Supporters of China’s entry into the World Trade Organization in 2001 claimed that the move would create jobs and increase US exports to China. However, China has continued to engage in unfair trade practices, which have limited the growth of US exports. Meanwhile, growth in outsourcing by multinational companies has created a flood of Chinese imports into the US, leading to rapidly growing trade deficits and corresponding job loss. The US trade deficit with China has increased annually by \$18.3 billion, or 9.9 per cent, on average since 2001. Overall, the US goods trade deficit with China has grown by \$292.2 billion, to \$375.2 billion in 2017, says EPI. Scott and Mokhiber calculated the impacts of the trade deficit with China using a standard input-output

model including 205 US industries, which estimates the direct and indirect labour requirements of producing output in a given domestic industry. Job losses have occurred throughout the country and in every industry, but were concentrated in manufacturing, including sectors in which the US has traditionally held a competitive advantage. 2.5 million jobs, nearly three-fourths of the total jobs lost, were in manufacturing. “Trade with China has redistributed vastly more income from working Americans to those at the top, than it has created through any increases in economic efficiency,” said Scott. “The first priority for American trade and financial policy should be to eliminate the soaring trade deficits we have with China and other countries with persistent, global trade surpluses, by lowering the value of the dollar through currency realignment.” The impact of the trade deficit with China is not limited to direct job losses. Competition with low-wage countries drives down wages and reduces bargaining power for millions of workers throughout the US economy. Scott and Mokhiber find that trade with low-wage countries like China is largely responsible for reducing wages by nearly \$2,000 per worker per year, for all of the 100 million non-college-educated workers in the US. Most of that income was redistributed to corporations and to workers with college degrees at the top of the income distribution, adds the report.

## RAW MATERIAL FRONT

### Textile mills urged not to panic on cotton status

- ❖ The Indian Cotton Federation (ICF) has urged mills not to panic on negative reports on domestic cotton status, saying the situation is comfortable. According to ICF president J Thulasidharan, the area under cotton for the 2017-2018 season is around 124.29 lakh hectares and favourable monsoon and pest control measures are likely to result in higher production. Cotton availability in terms of quality and quantity would be much better during the current season, a top Indian business daily quoted him as saying. The damage due to pink boll worm would be lower compared to last year and the area under Bt cotton had increased to more than 12.5 per cent compared to 5-7 per cent earlier. Thulasidharan requested traders to avoid speculating on production estimates that lead to hike in domestic and international prices. Indian cotton prices are 10 per cent lower than international prices. The 26-28 per cent raise in minimum support price for cotton for the season and more area under cultivation are expected to yield more, he added.

### US cotton regions now free of pink bollworm

- ❖ After more than 100 years, US cotton is free of the devastating pest-the pink bollworm. The pest has cost US producers tens of millions of dollars in yearly control costs and yield losses, which now will be saved. The eradication was possible due to rigorous control and regulatory activities carried out by several government agencies and farmers. Eradication of pink bollworm took years of committed research by Agricultural Research Service (ARS) of the US department of agriculture (USDA) and included planting transgenic cotton, using insect pheromones to disrupt mating, releasing sterile insects to prevent

reproduction, and extensive survey. Many of the research findings by ARS became management strategies used by USDA's Animal and Plant Health Inspection Service (APHIS) and cotton growers in their battle against pink bollworm. Besides USDA, state departments of agriculture, the US cotton industry, and growers also contributed in control and regulatory activities, which resulted in the US government lifting the quarantine for pink bollworm, Sonny Perdue, US secretary of agriculture said in a USDA press release. "Removing pink bollworm regulations eases the movement of cotton to market both domestically and internationally because farmers will have fewer restrictions to deal with, like fumigation requirements. This welcome development comes just as cotton harvest is in full swing across the southern United States," said Perdue. "Cotton growers were critical to this success, banding together to carry out a coordinated, multi-state programme and shouldering 80 per cent of the programme's cost. The coordinated effort demonstrates the value of partnership, investment, and putting our research close to and beside the farmers we serve." Pink bollworm was first detected in the US in Hearne, Texas, in 1917. Extensive efforts by the Cooperative Extension Service in coordination with individual producers eliminated the infestation in Texas and Louisiana in 1919. In the 1930's, the pest re-invaded the Rio Grande Valley of Texas. By the mid-1950's, the pest had spread to surrounding states and eventually reached California in 1963. In 1955, APHIS established domestic pink bollworm regulations. At the height of the programme, 10 states (Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, Texas, Nevada, Mississippi, and Missouri) were quarantined for this pest. Many of these infestations were suppressed through cooperative federal, state and industry programmes. By 2003, only Arizona, California, New Mexico, and Texas remained under regulation.

### **Record cotton production to drive West Africa exports**

- ❖ Cotton exports from West Africa for 2018-19 are projected to surpass last year's record, driven by record production, according to the US department of agriculture (USDA). West Africa comprises 12 cotton producing countries, namely Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Ghana, Mali, Niger, Nigeria, Senegal, and Togo. Of the 12 nations, Mali and Burkina Faso are the largest producers and are forecast to have record crops amid expanding area, the Foreign Agricultural Service of the USDA said in its monthly report 'Cotton: World Markets and Trade'. West Africa accounts for more than three-fourths of Africa's cotton exports. Nearly all of West African cotton is exported, as mills are sparse within the region, signifying the pivotal role that foreign demand plays for West African producers and merchants, the report says. South and Southeast Asia are the predominant destinations for West African cotton. It is due to the robust growth in consumption in these Asian regions. Bangladesh, the world's largest importer, has recently opted for greater supplies from West Africa over Central Asian origin. "Record exports in the midst of record global use in 2018-19 will underscore the importance of cotton as a vital cash crop for farmers and a prominent source of foreign currency for West African countries," the report concludes.

## JUDGEMENTS

### **I-T - When demand is under dispute and is subject to appellate proceedings, it cannot be enforced upon assessee: HC**

**MUMBAI, OCT 29, 2018: THE ISSUE BEFORE THE BENCH IS** - Whether when demand is under dispute and is subject to appellate proceedings, it cannot be enforced upon the assessee, as the same will defeat the purpose of right of appeal vested in assessee by virtue of Statute. **AND THE VERDICT IS YES.**

#### **Facts of the case**

For relevant AY, the assessee filed an appeal before the Commissioner (Appeals) challenging the demand raised in assessment order. The assessee also filed an application before the AO for stay of demand during pendency of appeal. However, the same was rejected with direction to the assessee that it should pay 20 % of the outstanding amount failing which collection and recovery would continue.

#### **The High Court held that,**

++ it is not disputed that in terms of Chapter XX styled as appeals and Revision, the order of the Assessing Officer is appealable under section 246(1). Once it is an appealable order and the appeal has been filed, it is pending, then, the assessee should have been given either an opportunity to seek a stay during the pendency of the appeal, which power is also conferred admittedly in the Commissioner or this Deputy Commissioner should have held the demand in abeyance as prayed by the assessee. He does neither, but proceeds to communicate to the assessee that his application for stay is dismissed. The assessee should pay 20 per cent of the outstanding amount as prescribed in some Circulars of the revenue and produce the challan and seek stay of demand again, failing which collection and recovery will continue;

++ if the demand is under dispute and is subject to the appellate proceedings, then, the right of appeal vested in the assessee by virtue of the Statute should not be rendered illusory and nugatory. That right can very well be defeated by such communication from the revenue/department as is disputed herein. That would mean that if the amount as directed by the communication being not brought in, the assessee may not have an opportunity to even argue his appeal on merits or that appeal will become infructuous, if the demand is enforced and executed during its pendency. In that event, the right to seek protection against collection and recovery pending appeal by making an application for stay would also be defeated and frustrated. Such can never be the mandate of law; In the circumstances, the petition is disposed of with directions that the Appellate Authority shall conclude the hearing of the appeal as expeditiously as possible and during pendency of these appeals, the assessee shall not be called upon to make payment of any sum, much less to the extent of 20 per cent under the Assessment Order/Confirmed Demand or claim to be outstanding by the revenue.

### **GST - Capital goods in transit - Section 140(5) of CGST Act does not violate Article 14 or 19(1)(g) of Constitution - It cannot be seen as taking away an existing right: HC**

AHMEDABAD, OCT 25, 2018: PETITIONER has prayed for a declaration that the action of the respondents in not allowing the credit of excise duty paid on capital goods which were in transit as on 01.07.2017 is violative of Article 14 and 19(1)(g) of the Constitution of India.

The petitioner's consequential prayer is that the respondents be directed to allow such credit to the petitioner.

The High Court noted that under the CGST Act, there are transitional provisions (section 140) to enable the assessee to avail the credit of duty paid on inputs which were in transit as on 01.07.2017. However, when it came to the question of taking credit of the duty paid on the capital goods in transit and received on or after 01.07.2017, no facility is provided to enable the assessee to claim credit of the excise duty paid on such capital goods. The petitioner inter alia submitted that once the duty was paid by the assessee upon purchase of capital goods, the same could be utilized for discharging assessee's liability of tax and this right, being a vested right cannot be taken away by the legislation. The counsel for the Revenue submitted that the Court cannot strike down a statutory provision merely on the opinion that the same is unreasonable or harsh.

After tracing the history of legislations granting the facility of taking credit on capital goods in terms of rule 57Q of the CER, 1944; rule 3 of the CCR, 2004 [both of which restricted credit to a maximum of 50% in the financial year in which the capital goods were received in the factory and the balance 50% in any subsequent financial year], the High Court adverted to the provisions of s.2(19) of the CGST Act, 2017 and sections 16, 17, rule 43 of the CGST Rules and after reproducing section 140 of the CGST Act, 2017, observed thus -

+ Sub-section (1) of section 140 enables a registered person, other than a person who has opted for payment of tax on composition basis, to carry forward CENVAT credit of eligible duties in relation to the period ending with the day immediately preceding the appointed day under the existing law in such manner as may be prescribed.

+ Sub-section (2) of section 140 provides that the registered person other than one opting to pay tax on composition basis shall be entitled to take in his electronic credit ledger, credit of unavailed CENVAT credit in respect of capital goods not carried forward in return furnished under the existing law as may be prescribed.

+ Sub-section (5) of section 140 allows a registered person, credit of eligible duties and tax in respect of inputs or input services which were received on or after the appointed day but on which the tax was paid earlier.

+ In absence of any matching provisions pertaining to capital goods, in a situation where the duty had been paid on purchase of goods prior to the appointed day but the goods were received on or after the appointed day, there would be no possibility of availing credit on such tax under the GST regime.

Is this demarcation unlawful?

++ The legislature, ..., made a clear and conscious demarcation between capital goods and inputs when it comes to availing credit of the duties paid on the goods which are in transit.

++ This section (140 of CGST Act, 2017) consciously does not provide any such facility in relation to the capital goods in transit. This demarcation itself would not be artificial, arbitrary or in any manner, discriminatory.

++ The capital goods and inputs used in manufacturing process have always been treated differently and distinct treatment have been given under the earlier statutes.

++ If the legislature, therefore, was of the opinion that in relation to capital goods in transit, duty paid before the appointed date cannot be claimed as a credit in the GST regime, we do not find that the distinction is in any manner artificial or arbitrary.

++ To bring in the element of discrimination in terms of Article 14 of the Constitution, the onus would be on the petitioner to establish that the persons or things treated differently form a homogeneous class.

++ In the present case, the source of the petitioner's grievance or dissatisfaction is that the inputs and capital goods are treated differently. When we find that the inputs and capital goods form different and distinct classes, the question of sub-classification or artificial demarcation would not arise.

++ To us it appears that, the suggestion of the respondents is that unlike inputs, the capital goods which can be in the nature of plant and machinery including highly sophisticated specially designed and manufactured machines, may take much longer time for delivery and installation after the orders are placed by the manufacturers and, the legislature was not inclined to keep the issues of migration of tax credits and pending claims open for indefinite period of time.

Following decisions of the apex court were also relied upon by the High Court -

++ R.K.Garg - 2002-TIOL-1706-SC-IT-CB - held that every legislation particularly in economic matters is essentially empiric and it is based on experimentation.

++ Jayam & Company - 2016-TIOL-128-SC-VAT - held that it is not the right of the "dealers" to get the benefit of ITC but its a concession granted by virtue of section 19.

++ Godrej & Boyce Mfg. Company Pvt. Limited - [1992] 3 SCC 624 - Supreme Court had upheld a rule which restricted availment of MODVAT Credit to six months from the date of the documents

specified in the proviso. The contention that such amendment would take away an existing right was rejected.

++ Reliance Industries Limited - 2017-TIOL-360-SC-VAT - Held and observed that how much tax credit should be given and under what circumstances, is a domain of a legislature.

++ ALD Automotive Pvt. Ltd. - 2018-TIOL-385-SC-VAT -Held that the conditions under which the concessions and the benefits is given is always to be strictly construed.

Conclusion: Statute (s.140) in any manner does not violate Article 14 or 19(1)(g) of the Constitution. It can also not be seen as taking away an existing right to claim CENVAT Credit of the duty paid on capital goods. Even in the earlier statute right to claim credit of duty paid would arise or accrue only upon receipt of such capital goods at the place of manufacturer.

The petition is dismissed.

### **A win for bank in suspected cheque case**

A bank is not called upon to be “overtly suspicious” when a cheque is presented before it. “The standard of care expected from a banker in collecting the cheque does not require him to subject the cheque to a minute and microscopic examination. The collecting bank has its remedies against its clients for indemnification by asking them to return the money. In turn, the clients have remedies against the drawer of the cheque or her customer to recover the amount from them as per law,” the Delhi High Court stated in its judgment in the case, Adya Global Export Inc Vs Canara Bank. In this case, the firm, which exports basmati rice, presented a cheque, issued by a US branch of Bank of America, to Canara Bank. The amount was paid and the rice consignment was sent to Uganda. Later, it was found that the cheque was tampered with. The bank demanded the money back and it started litigation at several levels. The High Court dismissed the appeal of the firm against the Order of the debt recovery tribunal, stating that the bank was not negligent in this case.

## 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	27.10.2018	20.10.2018	13.10.2018	05.10.2018	28.09.2018	21.09.2018	14.09.2018
ICS-101 (Bengal Deshi (RG) / Assam Comilla)	42800	42800	41900	40700	43800	43700	43700
ICS-201 (Bengal Deshi (SG))	43300	43300	42400	41200	44300	44200	44800
ICS-102 (V-797)	NA	NA	NA	NA	33000	33100	33400
ICS-103 (Jayadhar)	NA	NA	NA	NA	36500	36500	36600
ICS-202 (J-34)	NA	NA	NA	NA	43800	44200	45000
ICS-105(LRA-5166)	44300	43800	44700	42300	44000	44400	45200
ICS-105 (H4-Mech 1 - Guj)	NA	NA	NA	NA	45300	45600	46300
ICS-105 (Shankar – 6 (Guj))	46600	46600	46700	45000	46600	46800	47500
ICS-105 (Bunny / Brahma)	47100	46500	46800	NA	47200	47200	48000
ICS-107 (DCH 32)	57500	58100	58600	NA	58400	57900	59000

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

Source: CAI

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

Count	27.10.2018	20.10.2018	13.10.2018	05.10.2018	28.09.2018	21.09.2018	14.09.2018
<b>Hank Yarn</b>							
20s	219	219	219	219	219	219	219
30s	236	236	236	236	236	236	236
40s	259	259	259	259	259	259	259
60s K	254	254	254	254	254	254	254
60s C	327	327	327	327	327	327	327
80s C	401	401	401	401	401	401	401
<b>Cone Yarn</b>							
20s	220	220	220	220	220	220	220
30s	225	225	225	225	225	225	225
40s	230	230	230	230	230	230	230
60s K	285	285	285	285	285	285	285
60s C	315	315	315	315	315	315	315
80s C	375	375	375	375	375	375	375

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

## CIRCULARS ISSUED DURING THE FORTNIGHT

S.No	Cir No.	Date	To	Subject
1)	304/2018	17.10.2018	All Member Mills	Weekly cotton prices for 8.10.2018 to 14.10.2018 – reg
2)	305/2018	23.10.2018	All Member Mills	Weekly cotton prices for 15.10.2018 to 20.10.2018 – reg
3)	305-A/2018	23.10.2018	Member Mills in Tamilnadu	Increase of power cost by 0.40 Paise by Power producers unavoidable—reg
4)	305-B/2018	24.10.2018	Member Mills in Tamilnadu	Highlights of the meeting of the TN State Commission for Women – reg.
5)	305-C/2018	24.10.2018	Member Mills in Tamilnadu	E-tax issue before the Hon'ble Supreme Court of India – reg.
6)	305-D/2018	24.10.2018	Member Mills in Tamilnadu	Madurai Bench Order copy on CGP – reg
7)	305-E/2018	26.10.2018	Member Mills in Tamilnadu	Supreme Court order dismissing the TANGEDCO's appeal against the TNERC order in DRP No.21 of 2011 of not to impose penalty for those consumers who had provided advance declaration and obtained quota from the TANGEDCO - reg.
8)	305-F/2018	26.10.2018	Member Mills in Tamilnadu	Working instruction issued by CE/NCES for the TNERC Wind Energy Order No:6, dated 13/04/2018—reg
9)	305-G/2018	26.10.2018	Member Mills in Tamilnadu	High Court final order allowing 2% CST benefit for purchase of HSD Oil – reg
10)	306/2018	27.10.2018	All Member Mills	Workshop on GST Annual Return on 17th November 2018 at SIMA – reg
11)	307/2018	29.10.2018	All Member Mills	Draft Indian Standard Specification for Cotton Knitted Sports Shirts – Comments sought by BIS – reg
12)	307-A/2018	29.10.2018	All Textile Mills in Tamil Nadu & All Textile Associations In Tamil Nadu	Highlights of the Curtain Raiser Programme as a prelude to TEX TN 2019 held on 26th October 2018 at Coimbatore
13)	308/2018	30.10.2018	All Member Mills	Weekly cotton prices for 22.10.2018 to 27.10.2018 – reg
14)	308-A/2018	30.10.2018	Member Mills in Tamilnadu	Pooled Cost of Power Purchase for the year 2018-19 – reg
15)	308-B/2018	31.10.2018	Member Mills in Tamilnadu	Holidays – Public Holidays under Negotiable Instruments Act, 1881 for the State Government Offices and all Commercial Banks including Co-operative Banks in Tamil Nadu for the year 2019 – Reg
16)	309/2018	31.10.2018	All Member Mills	Clarification on certain issues related to refund - reg.
17)	309-A/2018	31.10.2018	Member Mills in Tamilnadu	Representation to CMD TANGEDCO to avoid load shedding in the dedicated feeder – reg
18)	310/2018	31.10.2018	All Member Mills	ESIC Office Memorandum - eligibility conditions for availing super specialty treatment by the Insured Persons (IPs) and their family members

**SIMA Fortnightly wishes a  
Happy Diwali for its readers**