



sima

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NEWS HIGHLIGHTS >>>

- ❖ EXORBITANT HIKE IN PREMIUM OPPOSED
- ❖ US TEAM DEVELOPS FABRICS TO AUTOMATICALLY COOL OR INSULATE
- ❖ SUSTAINABLE COTTON CHALLENGE SPURS SHIFT IN MARKET
- ❖ VIETNAM IMPROVES LOCALIZATION RATIO IN TEXTILES, GARMENTS

REPRESENTATIONS >>>

- ❖ The Association has written a letter communication dated 25.2.2019 to the Chairman, VOC Port Trust, Tuticorin stating that the Port has the potential to at least double the volume if coastal movement cost and services are made attractive. As a result of the efforts made by SIMA, Ministry of Shipping and the Port, coastal movement of cotton is gradually improving. However, it was pointed out that existing infrastructure facilities and terminal operators are not encouraging the coastal cargo. There is an abnormal delay in unloading containers in the terminals. It was mentioned that because of this abnormal delay most of the mills in Coimbatore Region prefer Cochin port instead of Tuticorin port. Further, various charges which are levied like service charges for LCL, 20' and 40' containers, GSP charges, certificate of origin, clearance expenses are high. It is to be noted that for transportation of yarn from Coimbatore to Colombo, the logistic cost is around 55,000 (INR). Considering the logistic cost (road transportation – Rs.26,000/-) from mills in Coimbatore to port destination (VOC port) and Ocean Freight from Tuticorin to Colombo (Rs.20,000/-), the port handling charges and other expenses is around Rs.9,000/- which is very high. Therefore, it was requested to make a study and take necessary efforts to reduce the logistic cost. The empty container movement is also adding high cost in the logistic expenses. The port authorities were requested to consider the storage of empty containers at appropriate places so as to enable the exporters to make use of the containers for their export at a competitive price.
- ❖ The Association has sent a representation dated 28.2.2019 to the Insurance Regulatory Development Authority of India submitting its objections against the directive for exorbitant insurance premium hike by the General Insurance Corporation (GIC). It was mentioned that textile

industry has been running with wafer thin margin. The huge hike in insurance premium will still burden the textile industry. It was pointed out that the huge premium will only discourage the textile mills for under cover and will sure be a heavy loss to those industries, in case of any occurrence.

- ❖ The Association has submitted its comments with regard to consultative paper for issue of Tariff Order for power and related issues to the Secretary, Tamil Nadu Electricity Regulatory Commission, Chennai on 28.2.2019.

TEXTILE SCENE

Suresh Prabhu interacts with textile trade & export bodies

- ❖ The Union minister of commerce & industry and civil aviation Suresh Prabhu recently interacted with the trade associations and export promotion organisations across India regarding the launch of Outreach Programme. As many as 92 trade bodies across the country participated in the video conference, discussing the innovative and pro-industry initiative. The Synthetic & Rayon Textiles Export Promotion Council (SRTEPC) has welcomed the Outreach Programme launched by the minister recently. "This innovative initiative of the government will be helpful for the stakeholders from all corners of India to participate and directly convey their concerns to the ministry. It will also be helpful to establish a dialogue between the government and the industry," SRTEPC chairman Narain Aggarwal stated.

During the interaction, the minister mentioned that the GST issues are taken up with the ministry of finance which is likely to come up with positive announcements for the exporters. "The government is giving special focus on the MSMEs by ways of introducing various encouraging schemes including the recent 100 Days Outreach Programme and introduction of up to Rs 1 crore loan within 59 minutes. The government is positive to consider export credit in the category of priority sector lending. Another initiative taken by the government is to improve the logistics of the country for facilitating greater trade. The initiatives taken by the government such as Make in India, Ease of Investment, Government -e - Marketing (GeM), establishment of two mega convention centres, setting up of standards, start dialogue with EU for concluding India – EU FTA, working with WTO, research inputs from IIFT & IIM, etc. were also highlighted by the Minister. He informed about the improvement made by India to 77th position in the Ease of Doing Business ranking.

The Minister informed that exports have been growing for the last three years. He said start-up India is the largest programme in the world for new business ventures and the Government is making all efforts to remove unnecessary hurdles. "The initiatives taken by the government will help in improving India's exports, specially from the small and medium units," concluded Aggarwal.

MEETINGS

Session on “GST Updates” held at SIMA

A session on “GST Updates” was conducted at the Association on 22.2.2019 to explain the Updates on GST front. Mr.K.Senthil Kumar, Superintendent, GST Policy Headquarters, Coimbatore has handled the session on behalf of the department. Mr.Vishal Poddar, Chartered Accountant, further explained the participants on the updates and clarified the doubts raised by the participants.



Speakers on the dais at GST session



Participants at the session

Highlights of the 13th TAMC meeting

- ❖ The 13th meeting of the Technical Advisory – Cum – Monitoring Committee (TAMC) under Amended Technology Upgradation Fund Scheme (ATUFS) was held at 3.00 pm on 23rd February 2019 under the Chairmanship of Shri Sanjay Sharan, Textile Commissioner at the Office of the Textile Commissioner. On behalf of CITI/ SIMA, Dr K Selvaraju, Secretary General, SIMA attended the meeting.

The highlights of the meeting are as follows:-

- ✓ The Cabinet Committee had approved Rs.17,822 crores to meet the committed liabilities of all old schemes including Rs.5151 crores for A-TUF Scheme.
- ✓ Out of Rs.5151 crores allotted for A-TUF Scheme, less than Rs.6 crores has been disbursed under A-TUFS though UIDs have been issued for subsidy amount of Rs.1862 crores.
- ✓ The volume of inspection and clerical work have increased by several folds under A-TUFS and the officials of the Office of the Textile Commissioner are not in a position to cope up with the work. They are also not in a position to guide the mills, financial institutions and the machinery manufacturers for enlistment etc., process the applications on time, etc., due to staff shortage. Hence, practically no disbursement

is taking place with regard to A-TUFS for several thousands of units that have come into operation. This will be taken up at the forthcoming IMSC meeting scheduled on 27th February 2019 at New Delhi by CITI / SIMA.

- ✓ NABCONS could not complete the study and most of the cases wherever they submitted accounts, the Office of the Textile Commissioner has observed numerous discrepancies and therefore, has not approved the submitted documents.
- ✓ The studies on various types of committed liabilities are given below:-
 - 5585 cases were reported under M-TUFS had partial claims pending. It is informed that more than 80% of the cases closed the loan and got the subsidy. Under these lists, the balance cases are due to wrong claims made by the banks and the committed liability for the 12th plan period needs to be ascertained;
 - For 336 left out cases under M-TUFS list I, liabilities for 12th plan period were not provided by the banks. This includes CCI cotton dispute cases, as they were blacklisted and could not upload the liabilities.
 - For 2196 list II cases under M-TUFS, banks made wrong claims and the Office of the Textile Commissioner had collected the data, reconciled and submitted the same to IMSC that got approved.
 - For 878 R-TUFS cases, the banks failed to claim the capital subsidies for some cases and for several cases, they claimed partial subsidy
 - Except 5585 cases referred above, for all other cases, the Committees formed by the Office of the Textile Commissioner had already finalised the liabilities and should be reviewed immediately. These issues will be taken up at the forthcoming IMSC meeting.

Other highlights of the meeting are as follows:-

- ✓ For certain units that had obtained UIDs under Energy Saving category and disqualified at the time of inspection are liable to take action, cancel the UID and they need to apply for fresh UIDs as per the guidelines. Considering the fund availability, it was proposed to condone such cases.
- ✓ Condonation of timeline, UIDs and JIT - Out of 1595 cases, 335 cases could not re-submit UID application within two months. For 450 cases, banks could not submit the applications within four months and 804 cases could not apply for JIT. The major reasons for the delay were only external factors like i-TUFS software problem, enlistment of machinery under the list, inadequate staff strength of the Office of the Textile Commissioner for JIT inspection and assisting the mills, etc. Therefore, the Committee decided to recommend to IMSC for condonation of delay.

- ✓ For certain cases that migrated from RR-TUFS to A-TUFS, there are issues like mismatch of term loan, sanction communication date with the sanction communication letter by the lending agencies and sanctioned loan amount in the application or the lending agencies could not edit the same under i-TUFS. The Committee deliberated the same and decided to get a letter from the lending agencies at the level of ED with the justifications and wrong entries could be corrected suitably and allow all such units.
- ✓ The Committee deliberated and approved to recommend for condonation to IMSC for the following types of cases:-
 - JIT extension through online i-TUF software portal
 - JIT reports submitted by OTXC after prescribed time limit due to software issues
 - Recommendations of Technical Committee relating to inclusion of various machinery under eligible list
- ❖ Chairman of the meeting wanted to verify and make further study before recommending the subsidiary units of various machinery manufacturers under the eligible list of bench marked machinery under A-TUFS.
- ❖ With regard to the issue of an individual machinery manufacturer importing various segments/ components of machineline and selling in their names need to be further studied. The Committee felt that this might give room for import of certain sub-standard machines especially from countries like China and become eligible if such cases are allowed. The Committee felt that as per the guidelines, it is very difficult to discriminate between the manufacturers and the Government to impose the guidelines on all the machinery manufacturers and therefore, not in a position to help even the branded machinery manufacturers wherever they are not able to provide the specified document under the ATUFS guidelines.

Progress of TUFS.

a. Fund allocation and Expenditure under TUFS in 2018-19

				Rs. in Crore	
Sr. No.	Scheme	Allocation	Claim sent to MoT	Fund Released	
1.	MTUFS	610.72	20.20	20.20	
2.	RTUFS		100.56	100.56	
3.	RRTUFS		324.88	324.88	
4.	ATUFS		25.08	5.02	
5.	PDC (MMS)		117.55	117.55	
TOTAL			588.27	568.21	

b. ATUFS (position as on 16.02.2019):

The total subsidy cap available - Rs. 5151 Crore

Sr. No.	Description	Total cases	Subsidy Amount (Rs. in Crore)
1	UIDs applications received at TXC level	8643	2517.74
2	UIDs issued	6838	1862.47
3	UIDs returned for rectification	691	208.09
4	UIDs under scrutiny	1087	411.87
5	UID Cancelled	27	35.29

c. Progress of SPELSGU under ATUFS (position as on 16.02.2019):

(Rs. in Crore)

Segment Name	From 13.01.2016 to till date		
	No. of Applications	Total Project Cost	Subsidy Amount
Exclusive Garmenting/Made up (15% CIS)	1301	2293.7	227.4
Multi activity With Garment/Made up in one segment	746	11262.34	707.14
Other	6596	27998.23	1583.2
Grand Total	8643	41554.28	2517.74

Highlights of the 3rd IMSC meeting

- ❖ The third meeting of the Inter Ministerial Steering Committee (IMSC) of Amended Technology Upgradation Fund Scheme (A-TUFS) was held on Wednesday, 27th February 2019 at Udyog Bhavan, New Delhi under the Chairpersonship of the Hon'ble Union Textile Minister, Smt Smriti Zubin Irani. Senior officials of the Ministry of Textiles attended the meeting.

On behalf of the industry, Mr.Sanjay K Jain, Chairman, CITI, Dr K Selvaraju, Secretary General, SIMA, Mr.S.Balaraju, Executive Director, SRTEPC, Dr S Sunanda, Secretary General, CITI, Mr.S P Katnauria of SRTEPC, Dr S K Sundararaman, President, ITTA, Mr.Purushotham Vanga, immediate Past President, PDEXCIL attended the meeting.

The highlights of the meeting are as follows:-

- Consequent to the observations made by CAG and PAC while inspecting 3000 projects, the Ministry of Textiles (MoT) had to revise the guidelines to curb misuse of the scheme and ensure proper disbursement of the subsidies. A-TUFS guidelines, though they are cumbersome to implement, the Government is constrained to follow certain protocols to prevent any misuse. The industry expressed the difficulties in implementing certain guidelines, delay in finalizing the

eligible machinery under the indicative list of A-TUFS, i-TUFS software problems, delay in joint inspection due to inadequate strength, etc., it was decided to condone all the delayed cases, except the delay caused by the units themselves.

- The joint inspection will be carried out for all the TUFS claims including the older schemes, video record of JIT inspection carried out and uploaded within 24 hours of inspection without any editing. In case, the machinery got replaced that were purchased under the old schemes, the units have to provide necessary commercial documents and bank documents to prove that the machinery was purchased, installed and used. The MoT advised to encourage certification on par with the vision of the Hon'ble Prime Minister and enable Ease of Doing Business so that the industry would be in a position to provide necessary documents without any harassment. The MoT will monitor the performance of the officials of the Regional Office of the Textile Commissioner and prevent any inspector raj or harassment. The MoT will come out with proper protocol for joint inspection.
- Preference will be given for technical textiles and care will be taken to ensure that the investments are disbursed equally amongst all the sectors, especially the weaker sectors and emerging sectors.
- In case of committed liabilities of M-TUFS, M-TUFS List-I cases, M-TUFS List-II cases, R-TUFS and M-TUFS left out cases including CCI dispute cases would be reviewed by an Internal Committee headed by Secretary (Textiles) and considered for disbursement of subsidy. The joint inspection might also be conducted, if required.
- The industry indicated that except the committed liability issue of M-TUFS, for all the left out cases, the Committee constituted by MoT had already finalised the committed liabilities and therefore, the same could be considered immediately and the subsidy could be disbursed. Considering the strong observations made by PAC and CAG, the MoT may not take immediate decision on this matter. Since NABCONS study could not come out without any strong recommendations, the same has been dropped.
- Certain modifications and clarifications in the revised guidelines were considered and approved. However, the onetime correction of UID was not considered. It is essential to prepare a detailed representation and take up the matter again with the Ministry. The Secretary (Textiles) would review and consider only cases which had problem due to banks or the JIT.
- IMSC approved inclusion of standalone embroidery units under A-TUFS.
- With regard to inclusion of certain machinery that have combinations of two or more machines manufactured by different manufacturers, the

same would be considered based on the purpose, segment, type of products, etc. Considering the need in technical textiles segment for such machinery, the enlistment will be made immediately for technical textiles especially for products for which HSN Codes have already been announced.

- IMSC considered the representations sent by SIMA for the technical textiles UID left out cases under R-TUFS and decided to recommend to Cabinet for consideration.
- Since the definition for MSMEs would be changed based on sales turnover, the IMSC wanted to restrict the investment cap to prevent the interests of small scale units especially, the powerloom segments.

GLOBAL TEXTILE SCENE

CHIC China trade fair to display latest fashion in March

- ❖ CHIC China international fashion fair will host 1,365 national and international exhibitors from 16 countries from March 12-14, 2019. It will be held at 117,200 square metres of exhibition space at the National exhibition and convention centre in Shanghai. It is recognized as the promoter and partner of the Chinese fashion industry and market development. The designer section Impulses is fully booked, CHIC-TAILORING celebrates its premiere at the upcoming CHIC and presents high-quality bespoke collections; GREEN FASHION is a key topic at the fair, with more and more manufacturers presenting sustainable collections in all segments of CHIC. In particular, the manufacturers of baby and children's clothing are expanding their ecological offer to meet the consumer demand such as CHIC-KIDZ exhibitor Grass And Wood Dyeing Alliance that is famous for its environmental dye technique offering healthy clothing for the cherished youngest generation. CHIC-KIDZ will also be presented for the first time as a separate section at CHIC as show-in show.

In five halls, North hall and halls 1 to 4, more than 1,300 exhibitors at CHIC will present themselves in dedicated areas: Urban View, New Look, Heritage, Impulses, Fashion Journey, Superior Factory, Secret Stars, Shanghai Bag, and Future Link as well as the five shows-in-show, CHIC-Young Blood, CHIC-KIDZ, CHIC-TAILORING, Preview in China, and PH-Value. The Italian pavilion will present 23 Italian brands of garments, bags, shoes, and accessories: In addition, Calpierre, Eddydaniele, Evaluna, Di Franco, Duedi', Leble', and Raffaele D'amelio participate as individual exhibitors in a separate area. As part of the foreign trade fair programme of the Federal Ministry for Economic Affairs and Energy, carried out by Messe Düsseldorf, the German companies will present themselves under the roof 'Made in Germany', for the first time with Vocier, exclusive travel baggage solutions for business travellers, and menswear label Fynch-Hatton.

Impulses, the design division of CHIC, occupies the entire Northern entrance hall with young talents such as Eva Xu, Haofei Guo, Liying Jiang, Yuhao who have already caused a sensation on an international level. Yichao Zhang was named one of China's top ten designers. Menswear segment Urban View registers a growing number of exhibitors, 185 brands in total. In the special exhibition area China Fashion Customisation Exhibition representative companies such as Evo Pai Te, Long Sheng, Matthew Perry, Jayne, and Micro will present themselves. For the first time more than 70 bespoke manufacturers will be exhibiting at CHIC in hall 3 including KuteSmart, DEEL KALL, Iwode, Longsailing, Dongting, SEAT, Saints Crocodile. Shirts will be presented by Tianchi, Paisley, Beikeman.

The new show-in-show CHIC-KIDZ will also be celebrating its premiere at the trade fair. The launch in March will see more than 50 exhibitors and brands. CHIC-Young Blood show-in-show is the platform for well-known Asian streetwear labels. Wookong, Pace, Jelly Lin, Coffee, CRUCIAL among a total of 61 brands use CHIC as an essential marketing platform.

Over 130 exhibitors will present the whole Heritage range: leather, fur and downwear. National group holdings from Xinji, Tongxiang, and Yuyao occupy the largest areas of hall 1. Future Link exhibitors like Brother, Bailian, Amiou, Ziri, Qi Zhirui, Pumpkin Technology, Le Baobao, Lichuan Audio, Guangzhou Changlong show innovative business solutions for the textile industry, from software technology to smart wear, logistics, intelligent printing. CHIC Talk provides visitors and exhibitors with expert speeches and seminars on the state of technology in the fashion business. CHIC Shows stage the latest fashion trends from Lishow Womenswear Original Design Release Show to 2019 Dalang Cup China Women's Fashion Design Contest and Yinji Fashion Show by Zhengzhou Yinji Department Store to the Overseas Brands Joint Release Show presenting the international design at CHIC.

The organisers of CHIC offer the international participants an extensive visitor marketing program for an efficient market entry. It ranges from a match-making in the run-up to the event in which a selected clientele of approximately 50,000 contacts are informed with detailed information about the brands at CHIC; visitors can arrange appointments with manufacturers beforehand via the homepage of the trade show; the CHIC App allows visitors to obtain targeted information about the fair offer on site

Vietnam improves localization ratio in textiles, garments

- ❖ Though poor supporting industries have been traditionally considered by experts as the major reason hindering Vietnam's path towards joining global supply chains, that no longer holds true for the textile and garment industry, thanks to policy measures and enterprises' preparations for free trade agreements (FTAs), which set high requirements on product origin. Vietnam had to import four-fifths of input materials and accessories for domestic textile and garment production in the past. That figure has fallen to 30-40 per cent now, according to a report in a Vietnamese newspaper.

According to Pham Tat Thang, a senior researcher at the ministry of industry and trade, the country's supporting industries for the textile and garment sector had witnessed slow growth until two years ago, but have now invested in strengthening themselves based on commitments made in FTAs. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), for example, sets the 'yarn forward' principle, and therefore, Vietnam has made bigger investments in yarn production projects to be eligible for preferential tariffs stipulated in the agreement.

Ho Chi Minh City-based Hung Xuong Chemicals has obtained Bluesign, an European certificate on environment-friendly products and workplace safety, which is considered a solution for sustainable textile production. Vietnam has also developed fabric manufacturing projects to satisfy the 'fabric forward' principle stipulated in the Vietnam-EU FTA. Problems still remain in setting up weaving, dyeing and trimming units close to each other because of reluctance of local authorities to offer land because of pollution and in production optimization—the scale of production now is not big enough to cut production costs.

US team develops fabric to automatically cool or insulate

- ❖ University of Maryland (UMD) researchers have created a fabric that can automatically regulate the amount of heat that passes through it. When conditions are warm and moist, such as those near a sweating body, the fabric allows infrared radiation, i.e., heat, to pass through. When conditions turn cooler and drier, the fabric reduces the heat that escapes.

The development was reported in the February 8 issue of the journal 'Science'. The researchers created the fabric from specially engineered yarn coated with a conductive metal. Under hot, humid conditions, the strands of yarn compact and activate the coating, which changes the way the fabric interacts with infrared radiation. They refer to the action as 'gating' of infrared radiation, which acts as a tunable blind to transmit or block heat. "This is the first technology that allows us to dynamically gate infrared radiation," said YuHuang Wang, a professor of chemistry and biochemistry at UMD and one of the paper's corresponding authors. The base yarn for this new textile is created with fibres made of two different synthetic materials—one absorbs water and the other repels it. The strands are coated with carbon nanotubes, a special class of lightweight, carbon-based, conductive metal.

Because materials in the fibres both resist and absorb water, the fibres warp when exposed to humidity, such as that surrounding a sweating body. That distortion brings the strands of yarn closer together, which does two things. First, it opens the pores in the fabric. This has a small cooling effect because it allows heat to escape. Second, and most importantly, it modifies the electromagnetic coupling between the carbon nanotubes in the coating. "You can think of this coupling effect like the bending of a radio antenna to change the wavelength or frequency it resonates with," a press release

from the university quoted Wang as saying. Depending on the tuning, the fabric either blocks infrared radiation or allows it to pass through. The reaction is almost instant, so before people realize they're getting hot, the garment could already be cooling them down. On the flip side, as a body cools down, the dynamic gating mechanism works in reverse to trap in heat. According to the Science paper, this is first textile shown to be able to regulate heat exchange with the environment. More work is needed before the fabric can be commercialized, but according to the researchers, materials used for the base fibre are readily available and the carbon coating can be easily added during standard dyeing process.

RAW MATERIAL FRONT

Egypt's cotton exports up 45% in Q1 2018-19: CAPMAS

- ❖ Cotton exports from Egypt increased to 128,300 metric quintals during September-November 2018, registering an increase of 45.1 per cent over exports made during the corresponding period of the previous agricultural year, the Central Agency for Public Mobilization and Statistics (CAPMAS) said in its quarterly newsletter for the first quarter of 2018-19. The consumption of cotton in the domestic market, however, fell to 25,700 metric quintals during the period under review, showing a fall of 42.2 per cent year-on-year, the newsletter said. The sharp drop in domestic consumption was due to suspension of manufacturing activities by some textile factories in the country. In December last year, the Egyptian government appointed an official steering committee to safeguard the future of the Egyptian cotton brand. Egyptian cotton fibres are considered by many to be the best because of their length, strength, and softness. The new steering committee, appointed by the minister of trade & industry, is responsible for the licensing and promotion of Egyptian cotton globally, as well as policing the integrity of the supply chain to ensure full compliance, traceability, and transparency. The Cotton Egypt Association (CEA) is also a part of the new structure.

Sustainable Cotton Challenge spurs shift in market

- ❖ The Sustainable Cotton Challenge is a catalyst to spur a shift in the market toward the use of more sustainable cotton. By committing to use cotton from the respective initiatives and standards, brands are ensuring that the intentions of their sustainable sourcing strategies are maintained and the integrity of their commitments are uncompromised. This first annual 2025 Sustainable Cotton Challenge Report has included information and statistics on the achievements and impacts that cotton programs are having on water, communities, soil quality, biodiversity and social considerations and regulations. The Challenge was formed in 2017 when the Prince of Wales convened a group of CEOs through the work of his International Sustainability Unit that existed to address critical challenges facing the world. Those original 13 CEOs committed to work together to accelerate the use of sustainable cotton, which paved the way for other

industry leaders to follow – resulting in now more than 39 companies committed to sourcing 100 per cent sustainable cotton by 2025. At the time of its inception, the Challenge was known as the 'Sustainable Cotton Communique' and its purpose was, and still is, to increase the uptake of organic and preferred cotton, therefore increasing the income of smallholder farmers, eliminating highly hazardous pesticides, eliminating or reducing the amount of pesticides and synthetic fertilizer used, reducing water use and improving water quality and soil health, which includes positive carbon impacts as a result of more sustainable practices. Today, 17 per cent of the world's cotton is more sustainable, stated the report. By 2025, it is the vision of this Challenge that more than 50 per cent of the world's cotton is converted to more sustainable growing methods. The report has set the base line for tracking progress for the 2025 Sustainable Cotton Project corporate participants and the sustainable cotton initiatives they have partnered with to advance on their journey

JUDGEMENTS

I-T - Once taxpayer revises his return, he can claim interest on refund only from date of revised return, since delay in claiming enhanced refund is attributable to him: HC

ERNAKULAM, FEB 27, 2019: THE ISSUE BEFORE THE DIVISION BENCH IS -Whether taxpayer is eligible to claim interest u/s 244 on income tax refund, only from the date of revised return and not original return, as the delay in claiming enhanced refund can only be attributable to the taxpayer himself. **YES IS THE VERDICT.**

Facts of the case:

Consequent to filing of its return, the assessee was issued with an order computing refund at Rs.34,53,882/-. Since there was no interest computed u/s 244, the assessee filed an application u/s 154, which was considered and an order was passed computing the interest from Apr 01, 2002 to Oct 31, 2006, on which later date the entire refund was effected. Subsequently, an assessment was completed u/s 143(3) r/w/s 147. The tax payable was as per Section 115JB, which exceeded the tax on the total income computed. The dispute arose when a rectification was made u/s 154 reducing the interest granted to the period between Aug 02, 2006 to Oct 31, 2006 @ 0.5%. This rectification order did not indicate as to why such a rectification was made. A representation was accordingly filed by the assessee which was however declined. Subsequently, an order came to be passed stating that the delay in granting refund was attributable to the assessee, and hence the interest was directed at a lower rate @ 5%.

High Court held:

++ in the present case, the assessee had filed Form-29B only on Sep 07, 2006. However, the question is as to whether in carrying out verification u/s 143(1) and processing the refund, the existence of Form-29B is essential or not. In the present case, though Form-29B was filed only on Sep 07, 2006, it is seen that an intimation u/s 143(1) was issued before that on July 20, 2003. A refund was also issued computing the tax payable u/s 115JB on Aug 03, 2006. Hence, it is very clear that the filing of Form-29B was not at all required for processing the return and granting the refund which had been done prior to such filing of statement in Form- 29B. Hence, the date of filing of Form-29B cannot at all be relevant for attributing delay on the part of assessee for processing of refund;

++ now, the question arises as to clause (b) of Section 244A. Admittedly, the assessee had filed the original return on Oct 29, 2002, which was processed and a refund of Rs.86,333/- issued on May 15, 2003. Subsequently, revised return was filed on Mar 22, 2004 claiming a refund of Rs.1,71,76,655/-. Hence, necessarily, the refund as now ordered by the AO can only relate back to the date of filing of revised return. The delay in claiming the enhanced refund can only be

attributable to the assessee and the same was claimed by a revised return only on Mar 22, 2004. Hence for an amount of Rs.1,70,90,322/-, the interest can be computed only from Mar 22, 2004.

VAT - Material event for levy of penalty is not failure to carry TDF, rather failure to prove that goods are for interState sale: HC LB

ALLAHABAD, FEB 20, 2019: THE ISSUE BEFORE THE LARGER BENCH IS - Whether mere failure to carry Transit Declaration Form, will not ipso facto attract penalty, unless the person charged of the wrong doing is unable to lead evidence to rebut the presumption of intra State sale. YES IS THE VERDICT.

Facts of the case:

The present reference had been made to the Larger Bench, noticing divergence of opinion between judgements of two Co-ordinate Benches in M/s Prakash Transport Corporation Vs. CCT, 2013 UPTC 1456 and M/s S.B. International Gularbhoj Vs. The Commissioner, Commercial Tax, Lucknow 2013 UPTC 1144.

In case of M/s Prakash Transport Corporation, a vehicle carrying the goods was seized by the mobile squad of the commercial tax department of the State on account of non-production of transit declaration form. In response to show cause notice, the noticee produced a TDF downloaded from the official website of Department. The authorities however, refused to place reliance upon the same, as according to them, the TDF should have been carried by the driver alongwith him. Since he failed to carry the same, consequently, it was presumed u/s 52 of U.P. VAT Act r/w Rule 58 that the goods were meant for sale within the State. Resultantly, a seizure order exercising power u/s 48/50/51 r/w Rule 58 was passed. When the matter reached High Court, the Single Judge deciding the validity of the seizure order held that the authorities had no power to seize the goods for non-production of TDF, though the same may attract penal consequences. In this Case, the Court decided the matter in reference to an identical circular dated July 30, 2009 issued by the Commissioner, Commercial Tax U.P. and held that there was no provision under the Act which empowers the authorities to seize the goods in default of production of TDF, albeit it could be made a ground for imposing penalty. In taking such a view, the Court also held that in the present era of globalization, checking of vehicles or goods during transport results in hindrance in trade and commerce though it may be necessary to check evasion. The Court also took into consideration the practical aspect that drivers/vehicle owners were mostly illiterate persons and were not amply equipped to download the TDF.

Similarly, in case of M/s S.B. International also, the driver of the vehicle failed to produce TDF at the time vehicle was intercepted by the authorities. Here also, it was treated to be a violation of the mandatory provisions of Section 52 r/w Rule 58. In response to show cause notice, the vehicle owner produced the TDF generated two days after the interception of the vehicle. As in case of M/s Prakash Transport, the authorities did not accept the same but treated the non-production of TDF at the time of interception as a violation of the mandatory provisions of Section 52 r/w Rule 58 and directed for seizure of the goods. However, in this case, the seizure order was given a seal of approval by this Court. The Court also held that there was no dispute that the provisions of the Act requiring TDF to accompany the driver/vehicle owner was mandatory, consequently, TDF generated two days after the goods were intercepted would be of no consequence and accordingly, the seizure of the goods was held to be valid.

HC Larger Bench held,

++ the basic issue which falls for consideration in the present reference is, whether in the absence of TDF form being produced by the driver/owner, the authorities are justified in drawing a conclusion that sale had taken place within the State and there was an effort to evade the tax liability inviting seizure and penalty provisions. Section 28-B of the U.P. Sales Tax Act, which was subject matter of challenge in Sodi Transport case, contained a similar rule of evidence by providing that driver or other person in charge of the vehicle coming from outside the State shall obtain transit pass from the first check-post and surrender the same at the time of exit from the State, 'failing which it shall be presumed' that the goods carried thereby have been sold within the State. The Supreme Court in this case held that it only raises a rebuttable presumption. The authority before levying the tax has to arrive at a conclusion by a judicial process that the goods have been sold inside the State and in doing so, it may where the presumption contained under

the Act and the Rules had not been successfully rebutted, be justified in imposing tax and penalty by treating the sale to have taken place within the State. This pronouncement by the Apex Court, clinches the issue and does not leave room for any further discussion. Section 54 of the U.P VAT Act stipulates that "Where the driver or person in charge of the vehicle, as the case may be, (i) fails to carry documents referred to in Section 52 and also fails to prove that goods carried in his vehicle are meant for delivery to dealers or person outside the State, he is liable to a penalty specified therein, in addition to the tax, if any, payable by him. The liability to pay penalty arises not merely for failure to carry documents referred to in Section 52, but when the driver or person in charge of the vehicle also fails to prove that goods carried in his vehicle are meant for delivery to dealers or persons outside the State. It is beyond any pale of doubt that failure to carry documents including TDF ipso facto does not attract penalty but only when the person charged of the wrong doing is unable to lead evidence to rebut the presumption;

++ a plain reading of Rule 6(7) would show that driver or person in charge of a vehicle even if carrying documents referred in Section 52 (Rule 58), is found not to carry such goods outside the State, he would be subjected to assessment and penal proceedings. Thus, the material event for imposition of tax or penalty is not failure to carry the documents referred in Section 52, but failure to prove that goods were meant for delivery to dealer or person outside the State. There is not much dispute between the parties that the presumption contained u/s 52 and Rule 58 is rebuttable and it is open to the person against whom the rule of presumption is applied to lead evidence and prove that the sale had not taken place nor is intended to take place within the State. The more contentious issue between the parties is whether the authorities could seize goods for the mere fact that the driver was not carrying TDF during transit of goods through the State. According to the Revenue's counsel, as soon as a vehicle is intercepted without the driver carrying the prescribed documents including TDF, a presumption arises that the consignment was meant for sale within the State, and the authorities get invested with the power to seize goods in exercise of power u/s 50(4) of the VAT Act. On the other hand, according to the assessee's counsel, since the presumption is rebuttable, therefore, there is no power of seizure, though it may attract penalty. Alternatively, even if power of seizure would be exercised at the stage of detention of goods during transit, the presumption is rebuttable. If in response to show cause notice issued u/s 50(4), it is proved by cogent evidence that the sale is not meant to take place within the State, the authorities do not have power to seize the goods;

++ the provision of Section 50 provides that any person importing goods into the State by road could do it after obtaining a declaration in prescribed form. The declaration could be obtained from the AO having jurisdiction over the area, where his principal place of business is situated or, in case there is no such place, where he ordinarily resides. The provision also facilitates, in the alternative, downloading of the declaration form from the official website of the department. Sub-section (3) of Section 50 invests the authority with the power to stop the vehicle, keep it stationary for so long as may be necessary, search the vehicle and inspect the goods and all documents referred to in the preceding sections and compel the driver or person in charge of the vehicle to give his name and address and the names and addresses of the owners of the vehicles and of the consignor and consignee of the goods. Sub-section (4) confers power upon the officer making the search or inspection to seize the goods after giving him opportunity of hearing if he finds that a person is transporting or attempting to transport any goods to which the section applies without being covered by the proper and genuine documents referred to in the preceding sections. As already noted, where a vehicle coming from any place outside the State and bound for any other place outside the State is found not to carry the documents prescribed u/s 52 and Rule 58 by the Commissioner it is assumed that the goods carried thereby are meant for sale within the State by the owner or person in charge of the vehicle. This would invest the authorities with the power to invoke Section 50, drawing an inference that the goods are meant for sale within the State. Once again, the officer inspecting the goods in transit is invested with the power to seize goods, if he finds that the documents in respect of the consignment is false, bogus, incorrect, incomplete or invalid. These powers are wide enough to empower the officer making search of goods in transit to seize the goods where TDF is not being carried by the driver or the owner of the vehicle. It would be a case where incomplete or invalid documents are carried during transit;

++ it is noteworthy that the provisions of seizure of goods both in respect of a dealer as well as a driver or a person in charge of a vehicle, are not in themselves penal or confiscatory in nature but to secure the interest of the revenue in case ultimately penalty is levied on such person. The same is clear from Section 48(7) which restricts the power of the officer seizing the goods to demand an amount not exceeding such amount as would be sufficient to cover the penalty likely to be imposed and on deposit whereof in cash, the goods so seized are to be released in favour of the person concerned. Before the goods are seized, as provided u/s 50(4), the person concerned has to be given an opportunity of hearing. A similar hearing is also stipulated under Rule 55(2)(b). The order of seizure could only be passed if the concerned officer is satisfied after giving opportunity of hearing that goods were being so transported in an attempt to evade assessment or payment of tax due or likely to be due under the Act. Likewise, under Rule 55(2) the officer concerned is empowered to inspect the documents and records relating to goods carried and if on such examination, the officer finds or has reason to believe that any such documents in respect of any consignment is false, bogus, incorrect, incomplete or invalid, the officer shall issue notice to the driver or person in charge of vehicle or vessel why the goods should not be seized. At this stage, it is apposite to note the penalty provision, i.e. Section 54, which again embodies the principles of natural justice by conferring right in favour of the person concerned to a reasonable opportunity of hearing before penalty is imposed in addition to tax, if any. The penalty could only be imposed if the driver or person in charge of the vehicle, though found not carrying the documents referred in Section 52, fails to prove that the goods carried in his vehicle are meant for delivery to dealers or persons outside the State. Once the scheme of the Act reveals that the seizure is not automatic but a result of quasi judicial process where decision is taken consistent with the principles of natural justice after recording satisfaction regarding infraction of the provisions of the Act or an attempt to evade payment of tax, it follows as a necessary corollary that the presumption contained under Section 52 and Rule 58 would also be rebuttable at such stage, otherwise providing hearing would be an empty formality and eyewash;

++ hence, the observations made in M/s Prakash Transport Corporation that good cannot be seized for non-production of TDF was confined to the facts of that case, but cannot be approved as laying down any general principle of law. Again, the observations made in M/s S.B. International were based more on concession of the parties than laying down any law of general application. Thus, none of the these judgments lay down any general proposition of law to be treated as a precedent and therefore, no question of conflict arises between the two judgments. Further, the provision relating to carrying of TDF is a machinery provision. The production of TDF during transit is mandatory in the sense that it thereby denudes the authorities of their power to draw presumption under Section 52/Rule 58. Absence of the same does not mandatorily lead to the conclusion that goods are meant for sale within the State. It only gives rise to a rebuttable presumption.

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	22.02.2019	15.02.2019	08.02.2019	01.02.2019	25.01.2019	19.01.2019	12.01.2019
ICS-101 (Bengal Deshi (RG) / Assam Comilla)	39500	40200	40400	40400	40400	39800	40400
ICS-201 (Bengal Deshi (SG))	40000	40700	40900	40900	40900	40900	40900
ICS-102 (V-797)	30500	30000	30000	29900	29500	29000	30000
ICS-103 (Jayadhar)	36400	36200	36500	36500	36800	36800	37000
ICS-202 (J-34)	41200	41400	41200	41500	41500	41600	41400
ICS-105 (LRA-5166)	42100	42400	42200	42800	42600	42600	42400
ICS-105 (H4-Mech 1 - Guj)	40900	40500	41800	41700	41900	42100	42100
ICS-105 (Shankar – 6 (Guj))	41800	41700	42200	42400	42600	42700	42600
ICS-105 (Bunny / Brahma)	43100	43000	43300	43800	44200	44500	44300
ICS-107 (DCH 32)	52600	52100	50000	54000	55200	55200	55000

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

Source: CAI

Cotton Yarn (Rs/Kg – Taxes Extra)

Count	22.02.2019	15.02.2019	08.02.2019	01.02.2019	25.01.2019	19.01.2019
Hank Yarn						
20s	219	219	219	219	219	219
30s	236	236	236	236	236	236
40s	259	259	259	259	259	259
60s K	254	254	254	254	254	254
60s C	327	327	327	327	327	327
80s C	401	401	401	401	401	401
Cone Yarn						
20s	220	220	220	220	220	220
30s	225	225	225	225	225	225
40s	230	230	230	230	230	230
60s K	285	285	285	285	285	285
60s C	315	315	315	315	315	315
80s C	375	375	375	375	375	375

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

CIRCULARS ISSUED DURING THE FORTNIGHT

Sl. No.	Cir.No.	Date	To	Subject
1	51/2019	18.2.2019	All Member Mills	Reduced ESI contribution – Draft notification – reg
2	52/2019	18.2.2019	All Member Mills	Disposal of machinery by M/s. Salem Kanda Textile Mills Pvt Limited
3	53/2019	18.2.2019	All Member Mills	Cash compensation for the unemployed Insured Persons under ATAL BEEMIT VYAKTI KALYAN YOJANA Scheme for limited period - reg.
4	54/2019	18.2.2019	All Member Mills	Weekly cotton prices for 11.2.2019 to 16.2.2019 – reg
5	55/2019	19.2.2019	All Member Mills	Discontinuation of physical copy of Advance / EPCG Authorization issued from 1.3.2019 onwards, for EDI ports
6	55-A/2019	19.2.2019	Member Mills in Tamilnadu	Shipping Summit & Interactive Session on 27.2.2019 at VOC Port, Tuticorin
7	55-B/2019	19.2.2019	All Member Mills	CEA Notification for the maintenance of harmonics at 11/22 KV – reg
8	56/2019	20.2.2019	All Member Mills	Circulars issued on certain issues by Central Board of Indirect Taxes & Customs
9	57/2019	21.2.2019	All Member Mills	Extension of time for filing GSTR 3B for the month of January 2019
10	58/2019	22.2.2019	All Member Mills	Proposed rate of Interest on the EPF accumulations for the year 2018 - 2019 - reg
11	59/2019	23.2.2019	All Member Mills	ASHA Weekly Report for Global Yarn Markets as on 18.2.2019– reg
12	60/2019	23.2.2019	All Member Mills	ESIC - proposals to improve its service delivery mechanism – reg
13	60-A/2019	23.2.2019	Member Mills in Kerala	Consumer Price Index Numbers for December 2018
14	60-B/2019	23.2.2019	Member Mills in Tamilnadu	TNERC – Dismissal of 13(f) Memo batch matter. - Appeal – reg
15	61/2019	25.2.2019	All Member Mills	Export by SEZ/EOU directly to foreign consumer on behalf of DTA Unit eligible for MEIS benefit – reg
16	62/2019	25.2.2019	All Member Mills	Highlights of the 13th TAMC meeting held on 23.2.2019 at Mumbai
17	63/2019	25.2.2019	All Member Mills	Minutes of the 13th TAMC meeting held on 23.2.2019 at Mumbai
18	63-A/2019	25.2.2019	Member Mills in Andhra Pradesh	APERC Power Tariff Order for the year 2019-20 – reg
19	64/2019	26.2.2019	All Member Mills	Weekly cotton prices for 18.2.2019 to 23.2.2019 – reg

20	65/2019	27.2.2019	All Member Mills	PPT made at the Session on “GST Updates” held on 22.2.2019 – reg
21	65-A/2019	27.2.2019	Member Mills in Tamilnadu	TNPCB – Textile and Tannery CETPs guidelines for transfer of shares among the CETPs for various reasons – clarification on applicability of Environmental clearance G.O. – reg
22	65-B/2019	27.2.2019	Member Mills in Tamilnadu	TNPCB order on the installation of Mechanical Evaporator and Agitated Thin Film Dryer (ATFD) in the textile dyeing process - irrespective of trade effluent generation – reg
23	65-C/2019	28.2.2019	Member Mills in Tamilnadu	Half a day interactive session on AMR Project organised by IWPA on 3rd March 2019 at SIEMA Building, Coimbatore - reg.
24	66/2019	28.2.2019	All Member Mills	Launching of Comprehensive Scheme for Development of Knitting & Knitwear Sector on 28.2.2019
25	67/2019	28.2.2019	All Member Mills	Highlights of the 3rd IMSC meeting held on 27.2.2019 - reg