

# Info Capsule

Friday  
September 02, 2022

**President :** CS Devendra V. Deshpande

**Vice President :** CS Manish Gupta

## ❖ **Business and Economic News**

### **50% directors of Unitech board resign (September 02, 2022)**

Over two years after the Supreme Court ordered an overhaul of the Unitech board, half the directors have resigned due to a lack of progress in the delivery of flats to over 1000 homebuyers, some of whom booked these apartments more than a decade ago.

*For details:*

<https://timesofindia.indiatimes.com/business/india-business/50-directors-of-unitech-board-resign/articleshow/93938066.cms>



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## ❖ **Indirect Tax**

### **Goods and Services Tax**

#### **Guidelines for launching of prosecution under the Central Goods & Services Tax Act, 2017 (Instruction No. 04/2022-23 GST Investigation dated September 01, 2022)**

Prosecution should normally be launched where amount of tax evasion, or misuse of ITC, or fraudulently obtained refund in relation to offences specified under sub-section (1) of section 132 of the CGST Act, 2017 is more than Five Hundred Lakh rupees. However, in following cases, the said monetary limit shall not be applicable:

- (i) Habitual evaders: Prosecution can be launched in the case of a company/taxpayer habitually involved in tax evasion or misusing Input Tax Credit (ITC) facility or fraudulently obtained refund. A company/taxpayer would be treated as habitual evader, if it has been involved in two or more cases of confirmed demand (at the first adjudication level or above) of tax evasion/fraudulent refund or misuse of ITC involving fraud, suppression of facts etc. in past two years such that the total tax evaded and/or total ITC misused and/or fraudulently obtained refund exceeds Five Hundred Lakh rupees. DIGIT database may be used to identify such habitual evaders.
- (ii) Arrest Cases: Cases where during the course of investigation, arrests have been made under section 69 of the CGST Act.

*For details:*

<https://taxinformation.cbic.gov.in/view-pdf/1000439/ENG/Instructions>

### ❖ *International Business News*

#### **India is new major player in Russian oil market once dominated by China (September 01, 2022)**

India has pushed into a corner of the Russian oil market once dominated by China, taking a record number of shipments of a Far Eastern grade as the fallout from Moscow's invasion of Ukraine reshapes trade flows. Six vessels hauling Russian crude known as ESPO were headed to refiners in the South Asian nation in August, according to traders and shipbrokers. That's the highest number of cargoes purchased by India since the stream was introduced, and accounts almost one-fifth of available monthly shipments.

*For details:*

[https://www.business-standard.com/article/international/india-is-new-major-player-in-russian-oil-market-once-dominated-by-china-122090100583\\_1.html](https://www.business-standard.com/article/international/india-is-new-major-player-in-russian-oil-market-once-dominated-by-china-122090100583_1.html)

### ❖ *Terminology for today*

#### **GST Suvidha Provider (GSP)**

GST Suvidha Provider (GSP) refers to third-party applications that assist the taxable person in accessing the GST portal in an enriched manner by being more user-friendly and customer-centred.

### ❖ *Market Watch*

<b>Stock Market Indices as on 02.09.2022</b>	
S & P BSE Sensex	58803.33 (+36.74)
Nifty 50	17539.45 (-3.35)

<b>Foreign Exchange Rates as on 01.09.2022</b> <i>(<a href="https://www.geojit.com/currency-futures">https://www.geojit.com/currency-futures</a>)</i>			
<b>INR / 1 USD</b>	<b>INR / 1 EUR</b>	<b>INR / 1 GBP</b>	<b>INR / 1 JPY</b>
79.42	79.64	92.44	0.57

## ❖ Pronouncement

<b>August 26, 2022</b>	<b>Sundaresh Bhatt, Liquidator of ABG Shipyard (Appellant)</b> <b>vs.</b> <b>Central Board of Indirect Taxes and Customs (Respondent)</b>	<b>Supreme Court of India, Civil Appeal No. Civil Appeal No. 7667 of 2021</b>
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### Issue:

- Whether the provisions of the IBC would prevail over the Customs Act, and if so, to what extent?
- Whether the Respondent (Central Board of Indirect Taxes and Customs) could claim title over the goods and issue notice to sell the goods in terms of the Customs Act when the liquidation process has been initiated?

### Observation:

The Hon'ble Supreme Court of India *inter-alia* observed that the IBC would prevail over The Customs Act, to the extent that once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.

Further, the Hon'ble Supreme Court of India observed that (i) Once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act. (ii) After such assessment, the respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down, in strict compliance of the time periods prescribed under the IBC, before the adjudicating authority. (iii) In any case, the IRP/RP/liquidator can immediately secure goods from the respondent authority to be dealt with appropriately, in terms of the IBC.

For details:

<https://ibbi.gov.in/uploads/order/3e757794a8ff5f880b0ee07005ee4133.pdf>

**Prepared by Directorate of Academics**

For any suggestions, please write to [academics@icsi.edu](mailto:academics@icsi.edu),

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