

CORPORATE LAW-EFFECTIVE DATE OF NOTIFICATION

The general rule of interpretation dictates that the law¹ shall be effective as on the date of publishing the same in the official communication i.e. the Official Gazette. Additionally, majorly all the laws contains the enforcement date with the wording like “shall come into force on...”, if in case the date of effectiveness is different from the date of publishing in the Gazette, for example – recent notification² of Central Board of Direct Taxes regarding Income-tax (25th Amendment) Rules, 2021, was published in the Gazette on 31.08.2021, but Section 1(2), clarified the date of effectiveness of the amended rules shall be 01.04.2022, the relevant extract read as:

“(2) *They shall come into force on 1st day of April, 2022.*”

In *Union of India v. Param Industries Ltd.*³, the Hon’ble Supreme Court while deciding date of effectiveness of a notice under the Customs Act, has held that under Section 25(4) of the Act, requires the publication and offer for sale on date of receipt issued by Directorate of Publicity and Public Relation of Board, New Delhi shall be the date of effectiveness. However, the Hon’ble Madras High Court while deciding the matter, distinguished the *Param Industries Ltd.* (supra), as the dispute therein arose 2001 and therefore, there are marked differences in the practise of dissemination of statutory information in 2015. Further, the Hon’ble Court observed that the amended notification was published on the same date Official Gazette to the date of the notification and thereby shall be effective from such date and second limb of Section 25(4) was rendered vestigial on account of publication of the amendment notification on the website.

The above observation of the Hon’ble Madras High Court was on the writ petition titled as *Ruchi Soya Industries Ltd. v. Union of India*⁴, wherein the petitioner has challenged the reassessment of bill of entry dated 15.09.2015, on the ground that on the

¹ Refer Section 3(29) of the General Clauses Act, 1897.

² https://incometaxindia.gov.in/communications/notification/notification_95_2021.pdf

³ 2015 (321) E.L.T. 192 (S.C.)

⁴ 2021 (377) E.L.T. 432 (Mad.)

date of assessment, the applicable rate of duty was 7.5% and not 12.5% which was amended vide Notification No. 46/2015-Customs, dated 17.09.2015.

The reasoning of the Hon'ble Madras High Court was supported by Section 4 of the Information Technology Act, 2000. In light of the above said reasoning, the petitioner was directed to sought clarification from the National Company Law Tribunal on the issue of outstanding duty i.e. 'custom duty' to the government as operational debtor under Insolvency and Bankruptcy Code, 2016 as per the Corporate Resolution Plan, till then status quo to be maintained by the parties and on occasion of failure to secure appropriate clarification, the Respondents shall be eligible to recover the statutory due along with interest from the petitioner in accordance of law.

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⁵ Majesty legal is law firm, established in 2013 and aim of the present article is to provide recent legal development. The opinions presented in the article are personal in nature and not to be deemed as legal advice.