

What is the Effective Date of a Notification?

The Supreme Court has delivered an important ruling clarifying when a trade notification issued by the Directorate General of Foreign Trade (DGFT) acquires legal force?

The dispute arose in relation to Notification No. 38/2015–20 imposing Minimum Import Price (MIP) on certain steel products under the Foreign Trade (Development and Regulation) Act, 1992.

While the notification was uploaded on the DGFT website on 5 February 2016, it was published in the Official Gazette only on 11 February 2016.

Importers who had opened irrevocable Letters of Credit (LCs) between these two dates were denied transitional benefit by the authorities and the Delhi High Court.

Date of Judgment: 21 January 2026. Case: Viraj Impex Pvt. Ltd. v. Union of India & Ors.

Issue - Whether a DGFT notification becomes effective from:

- the date of website upload, or
- the date of publication in the Official Gazette, as mandated by the parent statute.

Supreme Court Ruling

- A DGFT notification acquires statutory force only upon publication in the Official Gazette, where the parent Act prescribes such publication.
- Website uploading or administrative circulation has no legal effect in curtailing rights or imposing obligations.
- The expression “date of this Notification” must be interpreted as the date of Gazette publication, not the date mentioned on the notification or the date of upload.

The Court emphasised that delegated legislation is “born in law” only upon Gazette publication, and any attempt to enforce it earlier would violate principles of natural justice, commercial certainty, and the rule of law.

Outcome

The Delhi High Court judgment dated 21 December 2018 was set aside.

- Importers who had opened irrevocable Letters of Credit prior to 11 February 2016 were held entitled to transitional protection under Para 1.05(b) of the Foreign Trade Policy (FTP) 2015–20.
- Minimum Import Price (MIP) could not be applied to such imports.
- The appeals were allowed, with no order as to costs.

Practical Takeaway

- Always verify the Official Gazette publication date before treating any trade restriction as effective.
- Review disputes or denied benefits where enforcement was based on website uploads or administrative notices.
- Consider reopening matters involving LC-based transitional protection.



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