S&S Tax Snippets

32nd Ed.

Regulatory Updates

Customs:

Handling of Export Cargo Containers Returned to India due to Strait of Hormuz Disruptions under Section 143AA of the Customs Act, 1962

Due to disruption in the maritime routes by way of closure of the Strait of Hormuz has resulted in diversion and return of export cargo from international water/ Indian waters. In light of such disruptions, the CBIC has prescribed a streamlined procedure for handling export cargo containers that are offloaded at intermediate foreign ports (such as Sri Lanka) and subsequently returned to India.

Key clarifications include:

- Filing of a Sea Arrival Manifest (SAM) by the shipping line/authorized representative due to changes in vessel and shipment details.
- Verification of container particulars and seal integrity, especially for RFID e-sealed containers, by matching with Shipping Bills and ICES records.
- Waiver of Bill of Entry filing for re-imported containers, subject to intact seals and successful verification.
- Cancellation of Shipping Bills/LEO through the prescribed EDI module.
- Permission for "back to town" movement as per earlier circulars.
- 100% examination mandated where seals are tampered, with standard re-import procedures applicable.

Additionally, field formations must ensure recovery of export incentives (such as IGST refund, drawback, etc.) where already disbursed.

This relaxation is applicable until 30th April 2026, balancing trade facilitation with revenue safeguards.

Circular No. 21/2026-Customs 15.04.2026

Extension of Deferred Payment of Customs Duty benefits to 'Eligible Manufacturer Importer' (EMI)

CBIC has extended the deferred payment of Customs duty facility to Eligible Manufacturer Importers (EMIs) effective 1 April 2026. This allows qualifying importers to pay customs duty at a later date instead of at the time of clearance, improving cash flow and speeding up imports.

To be eligible, importers must meet conditions such as being a manufacturer (or job-work model), having valid IEC & GST registration, sufficient import activity, turnover above ₹5 crore, and a clean compliance record.

The facility will be available till 31 March 2028 and operates under the Deferred Payment of Import Duty Rules, 2016.

Public Notice No.03/2026-27 dated 10.04.2026

DGFT:

DGFT activates online module for post export EPCG scrip

The DGFT has introduced an online module on the DGFT portal for issuance, re-issuance, and extension of validity of Post Export EPCG Duty Credit Scrips. It addresses difficulties faced by authorization holders in utilizing manually or offline issued scrips by Regional Authorities (RAs).

The new system enables issuance of electronic Post Export EPCG scrips and facilitates exchange of data between DGFT and ICEGATE, thereby improving the utilization process for exporters. Under the mechanism, the concerned RA will examine online requests, generate the scrip digitally, and transmit it electronically to ICEGATE.

The Trade Notice outlines three scenarios:

1. Where the Post Export EPCG authorization has not yet been closed in the system, applicants may apply online for closure with supporting documents. Upon approval, the electronic scrip will be generated and transmitted to ICEGATE.

2. Where closure was approved and the scrip generated online, but the scrip was either not transmitted to ICEGATE or expired before transmission, applicants must raise a Service Request Ticket on the DGFT portal. Once approved, the existing scrip will be retransmitted with a revised validity period.

3. Where authorization stands closed but no scrip was generated, or a manual scrip was issued, applicants may submit an online Service Request Ticket with closure details, utilization status of any manual scrip, and supporting documents. Upon RA approval, an electronic scrip for full or partial value will be issued and transmitted.

Trade Notice No. 2/2026-27, dated 21.04.2026

S&S Case Roundup

Cases Handled by us

Duty on debonding of inputs and capital goods payable at rate and value prevailing on date of debonding

The issue before the Supreme Court was concerning the applicable duty rate when an Export Oriented Unit (EOU) exit the scheme. The Company herein was engaged in manufacturing high-pressure cylinders, had imported and procured capital goods duty-free under exemption notifications. Upon receiving approval to debond, it paid duty at the rate prevailing on the date of debonding on the depreciated value. The Department contended that duty should instead be levied at the rate applicable on the date of import and no depreciation benefit must be extended and consequently raised a demand for differential duty.

The Company challenged this demand before the CESTAT, arguing that the relevant date for determining the duty rate should be the date of debondingw235, when the goods are effectively cleared into the Domestic Tariff Area.

The CESTAT ruled in favour of the Company, holding that in terms of Section 15(1)(b) of the Customs Act, the applicable duty rate is the one prevailing on the date of debonding for both imported and indigenously procured capital goods. Aggrieved by this decision, the Department has filed appeals, raising the core issue of whether duty should be levied based on the date of import or the date of debonding. However, the Supreme Court dismissed the appeal of the Department.

Commissioner of Customs and Service Tax Visakhapatnam v. Sahuwala Cylinders Pvt Ltd. Civil Appeal No. 723/2021 and 6333/2021, Supreme Court

Karnataka High Court grants stays Order on the issue of whether 'healthcare services' provided in an online mode would be entitled to avail the exemption extended to healthcare services under GST

The Petitioner is primarily engaged in the business of providing health care services through medical clinics and online doctor consultations. The Department had passed an Order under Section 74 of CGST Act, 2017 and raised a demand against the petitioner on the ground that Petitioner is not a "clinical establishment" or "authorised medical practitioner" as required under Entry 74 of Notification No. 12/2017-CTR dated 28.06. 2017 and therefore cannot avail benefit of the concessional rate of GST. The existing procedure for filing of Bills of Entry by SEZ units and all other compliance requirements under the SEZ Act, 2005 and SEZ Rules, 2006 remains unchanged. In addition, the specific compliance requirement as prescribed by Notification No. 11/2026-Customs, dated the 31st March, 2026, will have to be followed for availing

Aggrieved by the impugned Order, the Petitioner filed a writ petition before the Hon'ble High challenging the same. It was submitted that all the healthcare services provided by the Petitioner are performed by the authorized medical practitioners. The doctors treat and provide consultation to the users of the Petitioner in the same manner the services are provided to the walk-in patients seeking physical consultation. Further it was submitted that, the Notification is required to be interpreted keeping in mind the advancement of technology. In this regard, reliance was placed on Telemedicine Practice Guidelines 2020, issued by the Medical Council of India, which recognises technological advancements in health care delivery and to provide a comprehensive framework for medical practitioners to render consultation, diagnosis, and treatment through telemedicine platforms.

Further, it was pointed out to the Hon'ble Bench that for the earlier period the Petitioner had approached the Hon'ble Court on the same issue and considering the submissions made the Petitioner, the very same bench had granted an interim order of stay against the impugned order. Considering the submissions made, the Hon'ble court granted an interim order of stay against the impugned orders for subsequent periods as well.

Qikwell Technologies India Private Limited v. Deputy Commissioner of Commercial Taxes (Audit)- 3.8 in W.P.No.10665/2026, W.P.No.10706/2026, W.P.No.10501/2026, W.P.No.10363/2026, W.P.No.10590/2026, Karnataka High Court

Scientific Determination Required- High Court Orders De Novo Consideration in Excise Case

The Hon'ble High Court of Karnataka, partly allowed the appeal filed by the Appellant, and set aside the orders of the CESTAT and the Commissioner, remanding the matter for fresh adjudication.

The dispute concerned classification of the Assessee's micronutrient products, whether they qualify as "fertilizers" under Heading 3105 (nil duty) or as "Plant Growth Regulators" (PGRs), attracting tariff rate of duty. The issue had earlier reached the Supreme Court, which remanded the matter with a limited direction to determine whether the presence of Nitrogen (0.31%) in the product is an "essential constituent" or merely added as a pretense to claim classification as fertilizer.

Pursuant to remand, the Commissioner concluded that Nitrogen was artificially introduced without any chemical reaction and thus a pretense, classifying the product as PGR. This conclusion was drawn without examining the process of manufacture undertaken. This view was affirmed by the CESTAT. The Assessee challenged the same, contending that the Commissioner failed to comply with the Supreme Court's directions and ignored expert findings and prior classification.

The High Court held that the Commissioner's conclusions lacked proper evidentiary basis and were not supported by credible expert opinion. It observed that the enquiry mandated by the Supreme Court required technical expertise, which was inadequately addressed. The Court further noted that reliance on reports not aligned with the remand directions rendered the findings unsustainable.

M/S. Karnataka Agro Chemicals v. CCE, Central Excise Appeal No. 5 Of 2024 (Excise), High Court of Karnataka

Courtroom Updates

High Court quashes SCN under Section 76 of CGST Act holding tax was already remitted by a different registration (vertical) of the Petitioner

The Petitioner, GAIL, engaged in natural gas trading and transmission, held separate GST registrations in Tamil Nadu for its trading and transmission verticals. While sale of natural gas attracted VAT, transmission services were exigible to GST. The Petitioner's transmission vertical paid GST on transmission charges, and raised invoice on the trading vertical, which recovered the same from customers as reimbursement. An SCN issued under Section 76 CGST Act sought recovery of approximately INR 15 crores alleging tax collected but not paid to Government.

The Petitioner contended that there was no retention or evasion of tax since the exact GST component collected from customers had already been remitted by its transmission vertical. The bifurcation into two registrations was only for administrative convenience. Section 76 applies only where tax is collected from another person and not paid to Government. Since payment was admittedly made, the notice lacked jurisdiction and effectively sought double taxation.

Revenue argued that separate GST registrations are "distinct persons" under Section 25(4), and the trading vertical had collected amounts representing tax without remitting them under its own registration. Since proceedings were only at show cause stage, GAIL should submit a reply before the adjudicating authority instead of invoking writ jurisdiction.

The High Court held that Section 76 targets situations where tax collected is wrongfully retained and not remitted to Government. In the Petitioner's case, the department itself acknowledged that the amount collected matched the GST already paid by the transmission vertical. Mere use of separate registrations within the same State could not justify invoking Section 76 or result in double taxation. Given the peculiar facts and the purely legal issue, interference was warranted, and the SCN was quashed.

GAIL (India) Ltd. v. Additional Commissioner, W.P. (MD) No. 13152/2020, Madras High Court

Cross-empowerment of officer is not valid in the absence of a recommendation of the GST Council

The Petitioners herein had challenged the impugned orders passed by the officer of State Tax on the ground that such officer is not the proper officer as defined under the provisions of Section 2(91) of the CGST Act, 2017.

The High Court observed that the provisions of the CGST Act and SGST Act are in pari materia. Further, Section 2(91) of the CGST Act defines a 'proper officer' and Section 6 of the UTGST Act, provides for authorisation of officer of State Tax or Union Territory Tax as proper officer in certain circumstances. From mere perusal of the provisions, it was held that such authorisation is subject to the condition that Government has notified such officer based on the recommendations of the GST Council as per Section 6 of the UTGST Act. Therefore, in the absence of such Notification, the officers cannot qualify as 'proper officers' as per Section 2(91) of the CGST Act, 2017.

Subhash Chandra Narendra Kumar Nahar v. The State of Madhya Pradesh and ors. WP No. 2510 of 2026, Madhya Pradesh High Court

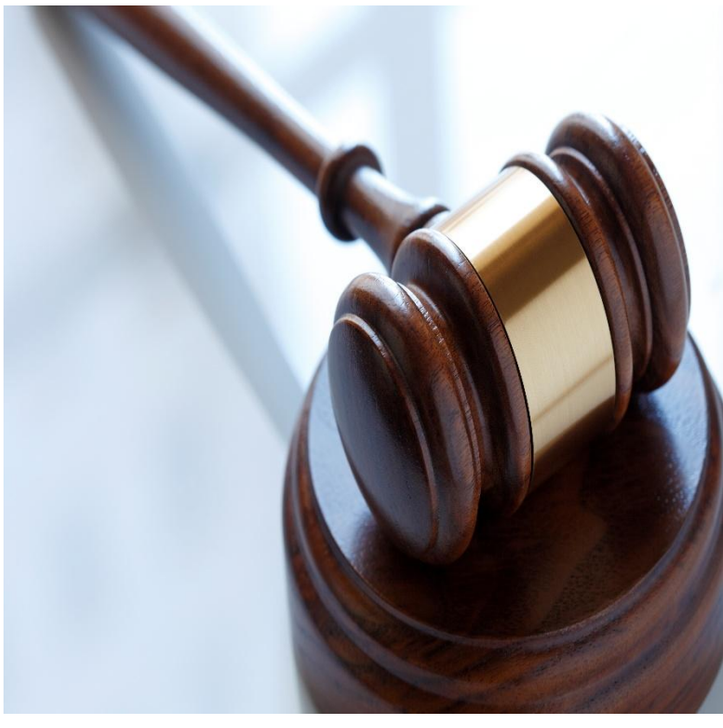
Substantive Right to Refund Cannot Be Defeated by Procedural Technicalities

The Hon'ble High Court of Bombay allowed a writ petition challenging rejection of a GST refund claim of ₹1.10 crore. The refund application for August 2022 was rejected by the Assistant Commissioner on the ground that the petitioner had already filed a prior refund application for the period July to September 2022, and hence a second application for an overlapping period was not maintainable.

The Court held that Section 54(1) of the CGST Act does not impose any bar on filing multiple refund applications, particularly where a claim was omitted earlier due to inadvertence. It was undisputed that the second application was filed within the prescribed limitation period of two years. Therefore, denying the claim solely on the ground of a prior application was unjustified.

The Court emphasized that procedural or technical considerations cannot defeat substantive rights, especially when statutory conditions are satisfied. It rejected the department's attempt to rely on circulars to impose restrictions not contemplated by the statute. Further, the Court held that principles akin to res judicata are inapplicable to refund claims for distinct periods. Accordingly, the impugned order was quashed, and the refund application was restored for fresh consideration on merits, with all contentions, including interest, kept open.

Valmet Flow Control Pvt Ltd v. Union of India & Ors., W.P. No. 14685/2025, High Court of Bombay



Recovery of tax under Section 79 without prior Notice is valid when the same has attained finality.

The Petitioner herein has challenged the Notice issued by the Department on the ground that the without initiation action of adjudication as provided under Section 73/74, the Notice under Section 79 of the CGST Act, 2017, which provides for recovery of tax, is invalid. The Petitioner placing reliance on the decision of ***M/s. RAMMS India Pvt. Ltd., Vs. The Deputy Commissioner of Commercial Taxes in WP No.34270 of 2025*** and ***M/s. Galaxy International Vs. Union of India and others in WP No.11399 of 2024*** contented that the Department cannot call for remittance of tax dues under Section 79 of the CGST Act without issuance of a Notice.

The Department on the other hand had contended that according to Section 79 of the CGST Act, 2017 recovery of the tax dues can be initiated from third parties from whom money is due or may become due, which is payable to the defaulting dealers. The provision does cast any impediment upon the authorities to issue a Notice to the defaulting dealers.

The High Court held that the cases relied upon by the Petitioner are distinguishable to the facts of the present case. In the present case, the assessment order passed against the Petitioner has attained finality. Further, the Petitioner has not challenged the assessment order passed by the Department. In such circumstance, there is no illegality in issuing the Notice under Section 79 of the CGST Act for recovery of tax dues.

V.V.S. Enterprises v. State of Andhra Pradesh and ors. WP No. 6645/2026, Andhra Pradesh High Court

High Court defines the scope of Judicial Review in GST Advance Rulings

The appellant, engaged in the manufacture and sale of cut tobacco products, disputed the classification of its product under the GST regime. While the appellant claimed classification under CETH 2401 20 90, the department classified it under CETH 2403 99 10 as "manufactured chewing tobacco." The Authority for Advance Ruling (AAR) and subsequently the Appellate Authority for Advance Ruling upheld the department's view. The writ petition challenging these orders was dismissed by the Single Judge.

On appeal, the High Court reiterated that an advance ruling, once sought and obtained, is binding on the applicant and the jurisdictional officer under Section 103 of the CGST Act. It further emphasized that judicial review under Articles 226/227 is limited, with the Court primarily examining the decision-making process rather than the merits. Interference is warranted only in cases of jurisdictional error, violation of natural justice, error of law, or perversity.

However, the Court noted that in a similar case involving identical processes, it had classified such products under CETH 2401 20 90. Allowing conflicting classifications for similarly placed assessees would result in unequal tax treatment, violating the principle of equality. To avoid such inconsistency and arbitrariness, the Court set aside the impugned advance ruling orders and the order of Single Judge. Accordingly, the writ appeal was allowed.[3.1][K3.2]

Arumugam, Proprietor M/S Kavi Cut Tobacco v. The Commissioner of GST & Central Excise, W.A.(MD)No.1988 of 2025, High Court of Madras

Re-import of Goods Exported Under LUT: No IGST Payable Beyond ITC Reversal

The Petitioner, a spice exporter, re-imported 20 pallets of curcumin after the US buyer rejected the goods due to a 50% tariff hike. Customs assessed IGST of Rs. 1.03 Cr on the re-imported goods under the Bill of Entry, treating it as a taxable event.

The High Court held that the exporter's IGST liability is confined to reversal or refund of input tax credit availed at the time of export under LUT. If no ITC refund was availed, as certified by the jurisdictional assessing officer, the goods can be cleared without IGST. The Court set aside the assessment and directed the FAG Officer to reconsider after the petitioner submits the required certificate, with any liability limited to the ITC amount plus applicable interest.

Nar Spice Products vs. Union of India W.P.(C) No. 5465 of 2026, Kerala High Court

THANK YOU

For further queries/information please get in touch with us

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