S&S Tax Snippets

12th Ed.

Regulatory Updates

GST Updates:

Corrigendum issued to clarify amendments to Rules and Forms under GST Appellate Tribunal Procedure Rules, 2025

The corrigendum introduces clarificatory amendments to certain rules and forms under the GSTAT Procedure regulations, 2025. In Rule 115(1) of Chapter XIV, a clarification is made to specify that the said rule shall have an overriding effect on any other regulation as provided in Chapters I to XIV, except in cases where there is a specified direction from the President of GSTAT. In the schedule of fees for interlocutory applications, the reference to "Rule 118(2)" is corrected to "Rule 119(2)". In GSTAT FORM-05, the citation "See rule 6 and 81" is amended to "See rule 81". Lastly, Rule 103(5) is amended to state that every order should bear the seal of the Appellate Tribunal unless the same is an order passed online and digitally signed.

Reviewing, Revisional and Appellate Authority for orders passed by Common Adjudicating Authority

Corrigendum No. G.S.R. 389(E) dt. 18.06.2025 to Notification No. G.S.R. 256(E) dt. 24.04.2025

In pursuance of designation of the Common adjudication authority in respect of the SCNs issued by DGGI, the authorities for review, revision and appeal have also been designated as follows:

• Review under Section 107 and Revisional power under Section 108 of the CGST Act - The Principal Commissioner or Commissioner of Central Tax under whom the CAA is posted.

• Appeal procedure under Section 107 of the CGST Act – Commissioner (Appeals) corresponding to the territorial jurisdiction of the Principal Commissioner or the Commissioner of Central Tax under whom CAA is posted.

• Department's representation in Appeals - The Principal Commissioner or Commissioner of Central Tax under whom the CAA is posted.

Circular No. 250/07/2025-GST dt. 24.06.2025

Advisory for filing pending returns before the expiry of 3 years

In line with the GSTN update dated 07.06.2025, as per Finance Act, 2023 read with Notification No. 28/2023-Central Tax dated 31.07.2023 implemented with effect from 01.10.2023, the taxpayers shall not be allowed to file returns such as GSTR-1, GSTR-3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR 7, GSTR 8 and GSTR 9 after the expiry of a period of 3 years from the due to furnishing the returns. The same is implemented on the GST portal from July 2025.

Launch of E-Way Bill 2.0 Portal with Real-Time Interoperability and Dual-Platform Functionality Effective from 1st July 2025

GSTN Advisory dt. 18.06.2025

GSTN has announced the rollout of the E-way Bill 2.0 portal (https://ewaybill2.gst.gov.in), w.e.f. 01.07.2025, designed to function in real-time inter-operability with the existing E-Way Bill 1.0 portal. This aims to enhance system resilience, ensuring that taxpayers and transporters can seamlessly perform all core functions—such as generation, updation, cancellation, and extension of E-Way Bills—across either portal, regardless of origin. The system ensures instantaneous data synchronization, supports API-based integration, and mitigates operational disruptions arising from technical outages. Additional features include the ability to auto-populate E-Way Bills from E-Invoice data, create consolidated E-Way Bills, and update Part-B details (vehicle/transporter) with full interoperability. Users may also cancel, reject or extend the E-Way Bill from any portal.

Handling of inadvertently rejected records on IMS

GSTN update dt. 16.06.2025

In case where the Invoice Management System (IMS) wrongly rejects invoices / debit notes / Electronic Commerce Operator documents, the recipient can request the supplier to report the said documents in same returns period's GSTR-1A or respective amendment table of subsequent GSTR-1/IFF, thus enabling the recipient to avail ITC basis amended record. Similarly, credit can also be reversed with respect to credit notes.

It is also clarified that in cases where the supplier had furnished an original record in GSTR-1/IFF but the said record was rejected wrongly by the recipient in IMS, the supplier may re-furnish the same record in GSTR-1A of the same tax period or in the amended table of GSTR-1 in any subsequent period, then the liability of supplier will not increase as amendment table take delta value only. Hence, the differential liability increase will be zero.

Customs and DGFT updates:

GSTN update dt. 19.06.2025

Extension of ICETAB (Indian Customs Electronic Tablet) for Paperless Export Examination and Clearance

The Central Board of Indirect Taxes and Customs (CBIC), through Circular No. 17/2025-Customs dated 19.06.2025, has extended the use of ICETABs to export examination and clearance processes effective from 19.06.2025. Following the successful implementation for import consignments, examining officers can now access shipping bill details, RMS instructions, and supporting documents digitally, eliminating the need for paper documents. Officers can also upload examination reports and four images of the cargo directly into the e-Sanchit system. In exceptional cases, manual reporting requires prior approval. Commissioners are to monitor implementation weekly, and stakeholders must be informed and supported accordingly.

Extension of Validity of NOC for Alcoholic Beverages Bottled in Origin and in Bulk

Circular No. 17/2025-Customs dt. 19.06.2025

In line with FSSAI Order dated 13.06.2025 issued under File No. TIC-B05/1/2021-IMPORTS-FSSAI, it has been decided that imported consignments of alcoholic beverages bottled in origin and in bulk, containing more than 10% alcohol and having no declared expiry date, shall be issued a No Objection Certificate (NOC) under the FSS (Import) Regulations, 2017, which shall remain valid for a period of 365 days. In cases where such consignments remain in the Customs area beyond the 365-day period, re-validation of the NOC may be permitted upon payment of the prescribed visual inspection fee, subject to successful visual inspection.

Instruction No. 19/2025-Customs dt. 20.06.2025

Amendment in Import Policy for Precious Metal Compounds under CTH 2843 – Imports Now Restricted

The Directorate General of Foreign Trade (DGFT), exercising powers under Sections 3 and 5 of the Foreign Trade (Development and Regulation) Act, 1992, read with the Foreign Trade Policy 2023, has amended the import policy for items falling under Chapter Heading 2843 of ITC (HS) 2022, Schedule I. The policy status for various items including colloidal precious metals (of gold and silver), silver compounds (such as silver nitrate), gold compounds, and other amalgams and compounds of precious metals has been revised from “Free” to “Restricted” with immediate effect. As a result, imports of these items will now require prior authorization from the DGFT. This amendment introduces enhanced regulatory oversight on the import of precious metal-based chemicals and compounds and has been issued with the approval of the Minister of Commerce and Industry.

Amendment in Export Obligation Period for QCO-Regulated Imports under Advance Authorisation – Textile Sector Aligned with General Policy

Notification No. 19/2025-26 dt. 17.06.2025

The DGFT has amended Para 2.03(A)(i)(g) of the FTP to revise the Export Obligation (EO) period applicable to imports under Advance Authorization subject to mandatory Quality Control Orders (QCOs). The amendment removes the earlier 180-day EO restriction for textile products notified by the Ministry of Textiles, aligning them with the general EO period prescribed under Para 4.40 of the Handbook of Procedures. However, the 180-day EO condition continues to apply for chemical products notified by the Department of Chemicals and Petrochemicals (DCPC). The amendment is effective immediately and has been issued with the approval of the Minister of Commerce and Industry.

S&S Case Roundup

Cases handled by us

Court stays order passed pursuant to the SCN which is barred by limitation

The Petitioner challenged orders passed on the strength of an SCN issued for the period 2020-21, on the ground that it was barred by limitation. It was argued that the Order must be passed within 3 years from the due date of filing the annual return for the relevant period and SCN must be issued 3 months prior to the expiry of the last date to issue the Order. In the present case, the SCN was barred by limitation as per Section 73(2) of the CGST Act. Considering the submissions made, the Hon'ble High Court granted stay on the Order.

WP No. 15217/2025, Karnataka High Court

High Court grants stay in case relating to project generating carbon credits

The Petitioner, an NGO, was involved in a project to assist farmers in cultivation by providing education, equipment and support. The project was funded by a company that was interested in obtaining the carbon credits generated from the crops.

A Writ Petition was filed challenging the Order of the AAAR which had ruled that the Petitioner was engaged in supply of agriculture-related services to farmers, and carbon credit related services to company. Hence, there cannot be a composite supply of agricultural support services to the company. It was submitted that the farmers were merely a beneficiary to the transaction and as per the GST Act, only the company is a recipient of the supply, since the company is liable to pay consideration to the Petitioner. The Court granted stay on any demand of interest on the amount of tax paid by the Petitioner under protest.

W.P. No. 15217/2025, Andhra Pradesh High Court

Benefit of Notification No. 25/1999-Cus is available for parts of relay in the absence of controlling features in the relay manufactured

The Appellant had been importing parts/components and claiming benefit of exemption available under Sl. No. 122 of Notification No. 25/1999-Cus dt. 28.02.1999 declaring the same as parts for manufacture of "relays".

The department demanded differential tax alleging that the goods manufactured by the Company are not mere 'relays' but are 'intelligent electronic devices' (IED) falling under CTH 9032, which covers automatic regulating or controlling flow of electricity instruments and apparatus, and hence, not eligible to the exemption.

The Tribunal, upon examining the device manufactured by the Company, held that the same does not control the flow of electricity and is different from IEDs which are complex industrial devices.

The terminology 'control' used in the catalogues of goods is in relation to the protection function of the relay.

Further, for the goods to be classified under CTH 9032, the feature of controlling the flow of electricity must be present, which is absent the present case.

The Tribunal held that merely on the ground that the goods manufactured has other function does not negate the fact that the primary function of the devices remains to be that of a relay.

Hence, it cannot be said that the goods manufactured by the Company fall under the CTH 9032. The Appellant was therefore found to be eligible for the benefit of the exemption granted by Notification No. 25/1999-Cus dt. 28.02.1999.

ABB India Pvt. Ltd. v. Commissioner of Central Tax, C.E.A. No. 20817/2018 and C.E.A. No. 20818/2018, CESTAT, Bangalore

Applicability of Rule 86A – Negative Blocking of Electronic Credit Ledger Held Impermissible; Supreme Court Upholds High Court's Ruling

The Hon'ble Delhi High Court had held that Rule 86A of the CGST Rules is not a machinery provision for the recovery of tax or dues but an emergent protective measure, intended solely to temporarily restrict the utilization of Input Tax Credit (ITC) where fraudulent availment is suspected. The Petitioner assailed the negative blocking of its Electronic Credit Ledger (ECL), asserting that such action had resulted in an impermissible negative balance. The Department contended that the blocking was a precautionary step to safeguard revenue. Relying upon the precedent laid down in ***Best Crop Science (P.) Ltd.,*** the Court held that Rule 86A does not contemplate disallowance of debit beyond the available ITC, nor can it be used to create a negative ledger position. It further held that such action cannot substitute adjudicatory proceedings under Sections 73 or 74 of the CGST Act. The writ petition was accordingly partly allowed, and the impugned order quashed to the extent of negative blocking. The Department's appeal against the said judgment was dismissed by the Hon'ble Supreme Court.

DGGI v. Super Products, SLP (Civil) Diary No. 21064/2025, Supreme Court of India

Eden Gardens not a 'public place'

The Kolkata Municipal Corporation demanded tax of INR 51.18 lakh from the Cricket Association of Bengal in 1996 for hosting a cricket event at the Eden Gardens Stadium. The demand was due to advertisements being displayed at an allegedly 'public place'.

The Court held that Eden Gardens Stadium is not a "public place" under Section 204 of the Kolkata Municipal Corporation Act. A Single Judge Bench had earlier quashed the demand notice, which the Division Bench upheld.

The Court held true public places must allow unrestricted access and recognized that advertisements were visible only to spectators. It also observed that the demand only gave two days' time for the CAB to respond and there was no opportunity for personal hearing.

The Calcutta Municipal Corporation v. The Cricket Association of Bengal, APO No. 243/2016, Calcutta High Court

Aviation coaching not a 'business' under VAT

The Petitioner was a DGC - registered institute offering courses like Commercial Pilot License and Aircraft Maintenance Engineering. The Petitioner challenged assessment orders taxing receipts from food supply and sale of application forms. The Department claimed that the institute was merely a coaching centre as the training followed DGCA-prescribed curriculum.

The Court quashed assessment orders imposing sales tax/VAT on an aviation training institute by holding that imparting specialized aviation training does not constitute "business" under the APGST and VAT Acts. The Court held that such training amounts to imparting education, which is not taxable. The Court relied on ***Gowtham Residential Junior College*** and ***University of Delhi v. Ram Nath***, to hold that incidental activities like providing food to students cannot be classified as commercial transactions.

Flytech Aviation Ltd. v. Asst. Commissioner CT, W.P. No. 11204/2008, Telangana High Court

Kerala High Court clarified the scope of rectification under Section 161 of CGST Act, 2017.

Kerala High Court, in its recent order, has held that the rectification under Section 161 of the CGST Act, within 6 months from the date of the order, cannot be rejected on the ground of limitation. The Petitioner in the instant case had received a show cause notice for discrepancies in FY 2017–18, which was resolved in their favour. However, a second officer issued a fresh show cause notice on the same matter, resulting in a contradictory adverse order.

The Petitioner promptly sought rectification, pointing out the duplication, but their request was rejected on the ground that the rectification application was not filed through the GST portal within six months. The Court held that the existence of two conflicting orders on the same issue constituted an error apparent on the face of the record and clarified that rectification under Section 161 could be initiated *suo motu* by the officer if such an error is brought to their notice. Since the error was pointed out within the statutory period, the Court quashed both the adverse order and the rejection order, upholding the first favorable assessment.

Winter Wood Designers & Contractors India Pvt. Ltd. v. State Tax Authorities, W.P.(C) No. 9086/2025, Kerala High Court

Calcutta High Court allows correction of inadvertent errors in ITC reversal in Form GST DRC-03

The Petitioners, engaged in the manufacture of poultry feed, had wrongly availed of ITC, which they later voluntarily reversed by filing Form GST DRC-03, as directed by the CGST anti-evasion wing. However, due to an inadvertent error, the reversal was shown under incorrect tax periods, i.e., instead of reversing the same for F.Y. 2017-2022, it was reversed for period 2018-2022 inadvertently omitting F.Y. 2017-18. Despite acknowledging the reversal, both the adjudicating and appellate authorities denied relief on technical grounds. The Court held that this was not a case of tax evasion but of wrongful ITC availment that was voluntarily corrected. The Court ruled that such inadvertent errors in DRC-03 forms are correctable and therefore set aside the orders passed by the lower authorities. The matter was remanded for fresh adjudication, and the recovery notice was quashed, directing completion of the process within 16 weeks.

Kamdhenu Udyog Pvt. Ltd.. V. Deputy

Omission of Rule 96(10) of CGST Rules, 2017 with prospective effect *vide* Notification No. 20/2024-Central Tax, dt. 08.10.2024, would apply to all pending proceedings and cases

The Petitioners, in the instant case, challenged the validity of Rule 96(10) of the CGST Rules, 2017 along with the show cause notices and Order-in-originals passed by the Department authorities.

The Department had passed the said Orders by invoking Rule 96(10), for rejecting the refund claims of Petitioners.

During the pendency of the instant matter, the government, in line with the recommendation made by 54th GST council meeting held on 09.09.2024, issued Notification No. 20/2024-Central Tax, dt. 08.10.2024 wherein *vide* Rule 10 of the notification, the Government omitted Rule 96(10) of CGST Rules with prospective effect.

The question that was posted for adjudication before the court was whether Notification No. 20/2024 would apply to proceedings which were already pending before the Court or any other proceedings pending for adjudication.

The Court relying on various decisions of the Apex Court observed that 'omission' would be included in the interpretation of word 'repeal' and hence omission of Rule 96(10) would amount to repeal without any savings clause. Therefore, the omission of Rule 96(10) would apply to all proceedings /cases/ petitions which are pending for adjudication either before the High Court or before the Department authorities.

It was specifically indicated that no further proceedings are required to be carried forward and the taxpayers would be entitled to maintain refund claims of IGST paid on export of goods.

Addwrap Packaging Pvt. Ltd. v. Union of India, Special Civil Application Nos. 22519, 22507

Reservation Services provided to Air India is not taxable as OIDAR under RCM

A Larger Bench of the CESTAT was constituted to decide whether services provided by foreign-based Computer Reservation System (CRS) companies to Air India could be taxed under OIDAR services on a reverse charge basis.

The Tribunal held that such services do not fall under OIDAR, as the CRS companies did not provide new data or information to Air India, rather, they facilitated the booking of airline tickets by using Air India's data.

The Tribunal emphasized that ownership of the data is central to determining OIDAR applicability, and since the data already belonged to Air India, the services merely enabled broader outreach to travel agents through CRS infrastructure.

The Tribunal also clarified that prior decisions in ***British Airways v. Commissioner of Central Excise (Adjudication), Delhi*** and ***Jet Airways (I) Ltd. v. Commissioner of Service Tax, Mumbai,*** which held such services as OIDAR, were incorrect as they failed to consider this key principle.

The Tribunal also upheld the Bangalore CESTAT judgment of ***United Telecom Limited vs. Commissioner of Service Tax, Bangalore,*** which held that the services provided by CRS companies to the appellant would not be taxable under the category of OIDAR services as the ownership of data is the major factor to determine the taxability of the said under OIDAR.

Air India Ltd. v. Commissioner (Adjudication),

Foreclosure and seizure charges not 'consideration'

The Appellant collected seizure and foreclosure charges from clients due to non-payment of loans for vehicles, and pre-mature closure of loans, respectively. The Department sought to levy service tax on these charges by including them to the taxable value of "Banking and Financial Services" of the Appellant.

The CESTAT held that the charges were not in the context of banking/financial services and there was no element of consideration for providing any additional taxable service. The Tribunal relied on the judgements of the Hon'ble Supreme Court in ***CST v. Bhayana Builders*** and ***UOI v. Intercontinental Consultants and Technocrats,*** wherein it was held that the amount charged must have a nexus with the taxable service and must be a consideration for service provided to become part of the taxable value. The CESTAT in Repco Home Finance Ltd. also found that foreclosure charges are not leviable to service tax. Hence, the appeals were allowed.

Bajaj Finance Ltd. v. Commissioner of Service Tax, Pune, S.T.A. No. 85897/2017, CESTAT Mumbai

THANK YOU

For further queries/information please get in touch with us

Prashanth S Shivadass

Partner

Ph No: 9810507391

Email: prashanth.shivadass@sdlaw.co.in

Rishab. J

Associate Partner

Ph No: 9741224346

Email: rishab.j@sdlaw.co.in

Shradha Rajgiri

Principal Associate

Ph No: 9901901512

Email: shradha.rajgiri@sdlaw.co.in

SHIVADASS & SHIVADASS®
LAW CHAMBERS

Level 3,
No. 4/2, Millers Road,
Bangalore – 560052