

S&S Tax Snippets

13th Ed.



Regulatory Updates

DGFT

Updates:

DGFT Issued Public Notice notifying three new Standard Input Output Norms under chemical and allied product group

The Directorate General of Foreign Trade (DGFT), under the Ministry of Commerce & Industry, issued Public Notice No. 14/2025-26 dated 8th July 2025, notifying three new Standard Input Output Norms (SIONs) under the Chemical and Allied Product Group (Product Code 'A'). Acting under Para 1.03 of the Foreign Trade Policy 2023, the DGFT introduced SION Nos. A-3687, A-3688, and A-3689 for export products—Azithromycin Dihydrate, Aldehyde C10 (Capric Aldehyde), and Ceftazidime Powder for Injection (1000 mg), respectively. The notified norms permit defined quantities of key input imports, such as Azithromycin Amine, Fatty Alcohol C10 (98% purity), and Ceftazidime Bulk Sterile, proportionate to the export output. This notification aims to facilitate exporters with clearer operational norms and promote compliance under the EPCG and Advance Authorisation Schemes. The notice reflects the DGFT's ongoing efforts to streamline

Courtroom Updates

Eligibility to ITC cannot be questioned using Public Notice 14/2025-26 dated 08.07.2025 revisionary powers under Section 108

The Petitioner challenged a revision order issued under Section 108 of the CGST Act which placed an order granting refund of amounts laying in its Electronic Cash Ledger in abeyance on the grounds that the Petitioner had incorrectly utilized ITC.

The Delhi High Court observed that amounts in the cash and credit ledgers both represent tax paid and are treated on par as far as refund is concerned.

The Court observed that there was no prima facie conclusion in the revision order that the refund order was either illegal, improper or prejudicial to

the interest of the Revenue. Further, the revisional authority could not doubt the ITC in exercise of powers under Section 108 as the allegation of improper utilization of ITC is distinct and unconnected with the refund order. On revenue appeal, the Supreme Court found no grounds to interfere with the order of the High Court.

Union of India v. HCC VCCL JV, SLP (C) Diary No. 4669/2025, Supreme Court notified after availing Karasamadhana Scheme waiver

The assessee, a civil works contractor, was assessed under Section 39 of the KVAT Act for claiming labour deductions and TDS credit without submitting books of account. The Authority raised a tax demand with interest and penalty. On appeal, the First Appellate Authority partly allowed the claim. The assessee availed the Karasamadhana Scheme, 2021 for waiver of interest and penalty which was granted.

In 2024, the Revisional Authority initiated suo motu revision under Section 64(1) of the KVAT Act and restored the original assessment. The Court held that once the benefit under the Scheme is granted, no revision can be initiated against such order, unless it was already pending when the scheme came into effect. Since no revision was initiated at that time, the Court set aside the revision order.

Prakar Land Developers v. Addl. Commr. of Commercial Taxes, S.T.A. No. 8/2025, Karnataka High Court

The Petitioner claimed ITC for FY 2017-18 on invoices from a supplier whose GST registration was later cancelled for lack of genuine business activity. The department issued SCN under Section 73 without prior DRC-01A intimation, and subsequently an order requiring the Petitioner to reverse ITC and pay penalty.

The Court upheld the order, holding that in terms of Section 16(2)(c), ITC cannot be claimed if the supplier has not paid tax to the government. The burden of proof under Section 155 lies on the

claimant, and the Petitioner failed to establish receipt of goods or tax payment by the supplier. The Court distinguished the judgement in **Suncraft Energy Pvt. Ltd. v. Assistant Commissioner**, noting that the supplier was conclusively found to be bogus after Department investigations. However, the penalty was set aside as the Department had failed to issue intimation in Form GST DRC-01A.

R V Enterprises v. State of Gujarat, R/Special

Tenant Application No. 2013/2023, Gujarat High Court
Which was fixed when the levy did not exist

The Petitioner owned a hotel which was rented out to the J&K Police Department for housing Central Security Forces at a rate (INR 300 room per day) fixed by a Rent Assessment Committee in 2013. GST was not applicable on hotel rooms with declared value of less than INR 1000 per day until July 2022. Post this period, the Department demanded GST on rent accommodation services rendered by the Petitioner.

Without disputing the liability to pay tax, the Petitioner approached the High Court seeking a direction for the J&K Police Department to reimburse the Petitioner for the tax amount.

The Court considered that since the rent agreement had been fixed prior to the introduction of GST and the tax exemption for low tariff rent accommodation services had been withdrawn, the tenant must reimburse the Petitioner for the GST paid.

Affiliation is a service in furtherance of providing education and hence not leviable to tax
Prudhvi Bank v. Union of J&K, W.P.(C) No. 1454/2024, J&K High Court

The Assessee University was engaged in imparting higher education to students and granted affiliation to various colleges for which they collected affiliation fees. The department opined that the amount so collected by the Assessee were taxable. The Hon'ble CESTAT

relying on the decision of the of Hon'ble Supreme Court in case of Principal Additional Director General & Ors. vs. M/s. Rajiv Gandhi University of Health Sciences [SLP (Civil) Diary No.59470 of 2024 dated 24.01.2025] held that the activity of the University granting affiliation to a private college is a service in furtherance of providing education and therefore not leviable to service tax.

Rajeev Gandhi Proudyogiki Vishwavidyalay v.

The Principal Commissioner of Central Tax, Supply of services by a Company incorporated S.T.A. No. 50713/2019, CESTAT, Delhi in India to a subsidiary incorporated outside

India qualifies to be export of services

The Petitioner was engaged in supply of office support services, management consultancy services etc., to its group companies outside India and considered the said supply as export of services and applied for refund of unutilized ITC. The department passed an order rejecting the refund on the ground that the Petitioner and the recipient of services are mere establishment of distinct person and that the Petitioner is acting as an agent of the group company while providing the services.

The Hon'ble High Court relying on *Circular No. 161/2017/2021 dated 20.09.2021* held that the Petitioner and the recipient incorporated outside India are not merely establishment of distinct persons in terms of explanation 2 to Section 8 of the IGST Act and that the services provided by the Petitioner qualify as export of services.

Kerala High Court set aside the confiscation of Sundyne Pumps and Compressors India Pvt Ltd v. Union of India, W.P. No. 15228/2023, Bombay High Court

Kerala High Court in their recent judgement have discussed on the legality of issuing a proper notice under Section 169 of the CGST Act. Petitioner challenged the confiscation of his truck, claiming he was not served any notice



prior to the confiscation order. Department argued that notice was given via WhatsApp, which the petitioner denied on the ground that the same was not a valid service under Section 169 of the CGST Act. The Court held that WhatsApp is not a valid mode of service and emphasized that prior notice and an opportunity to be heard are mandatory under Section 130. The court, also place reliance on precedents, such as *M/s Lakshay Logistics v. State of Gujarat in Special Civil Application No. 11369 of 2020(Gujarat High Court)* and *M/s. Poomika Infra Developers, Erode and others v. State Tax Officer and others in WP Nos. 33562/2024 (Madras High Court)* and quashed the confiscation proceedings and remanded the matter back to the authorities.

GST order quashed for merely copying the Mathai M.V v. Senior Enforcement officer, W.A. SCN without providing an independent No. 973/2025, Kerala High Court reasoning for passing the order.

High Court in the case set aside a GST order for non-application of mind and violation of principles of natural justice. The petitioner challenged an order, arguing that the adjudicating authority had merely copied allegations from the SCN without independently addressing their detailed responses, legal precedents, or a relevant Board Circular. The Court found that the adjudication order was a mere "cut and paste" of the SCN and did not reflect any meaningful analysis or reasoning as mandated under Sections 73(9) and 75(6) of the CGST Act. It emphasized that the term "consider" in the statute implies deliberate and careful evaluation, not mere transcription. Due to the failure to examine the petitioner's submissions or provide an adequate basis for the decision, the Court quashed the impugned order and remanded the matter for fresh adjudication.

Madras High Court strikes down Notification No. 9/2023 and 56/2023 on the ground that they are illegal and violative of Article 14.

Madras High Court examined the validity of GST Notifications Nos. 9/2023 and 56/2023 issued under Section 168A of the CGST Act, which extended the time limits for issuing orders under Section 73(10) for FYs 2017-18 to 2019-20. The petitioners challenged these on the ground that the conditions for invoking "force majeure" were absent. The Court held that Section 168A, as an exception to the general limitation framework, must be strictly interpreted, and the government's administrative shortcomings, such as IT issues or staffing gaps, did not qualify as "force majeure". Since these factors were not considered by the GST Council, their recommendation itself is void, rendering the notifications invalid. The Court further ruled that Notification No. 56/2023-CT, based solely on a GST Implementation Committee recommendation and ratified later by the GST Council, was also void as the mandatory requirement of a prior GST Council recommendation under Section 168A was not met, violating the principle of non-delegation. Additionally, the Court also clarified that the Supreme Court's exclusion of limitation period under Article 142 operates separately from Section 168A's extension power. The court have referred to the Supreme Court Suo Moto order which has excluded the period from 15.03.2020 to 28.02.2022 for computing limitation and have held that the impugned notifications have arbitrarily curtailed the limitation period granted by the Supreme Court vide the Suo Moto order hence making the same manifestly

Gujarat High Court sets aside Appellate Authority's order for unjustified rejection of IGST refund claim under Rule 96(10)

The Gujarat High Court quashed the order passed by the Appellate Authority under Section 107 of the CGST Act, rejecting the petitioner's IGST refund claim on the ground of availing benefit under Notification No. 79/2017-Customs. The Appellate Authority refused to consider additional evidence—specifically, the EPCG Certificate and Bank Guarantee citing Rule 112 of the CGST Rules. The Court held that since the Adjudicating Authority had not called upon the petitioner to furnish these documents during the original proceedings, none of the restrictive clauses (a) to (d) under Rule 112(1) were attracted. The Court emphasized that the EPCG Certificate was crucial to determine whether the imports were capital goods falling within the exception to Rule 96(10). Consequently, the Appellate Authority was directed to consider the additional evidence and issue a fresh de novo order within twelve weeks. The writ petition was accordingly disposed of..

Maxwell Engineering Solutions Pvt. Ltd. v. Assistant Commissioner of Central GST & Excise, R/SCA No. 6718 of 2025, Gujarat High Court

THANK YOU

**For further queries/information please get in
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