

# S&S Tax Snippets

14<sup>th</sup> Ed.



# Regulatory Updates

## GST

### Updates:

**GST portal is now enabled to file appeal against waiver order (SPL-07)**

The taxpayers who have received Orders against the waiver applications filed in Form SPL-01/SPL-02 can now file an appeal in Form APL-01 against the said Orders of rejections passed vide SPL-07. The taxpayers may select order type as waiver application rejection Order and application type as Appeal to Appellate Authority while filing the Appeal.

It must be noted that there is no option to withdraw the appeal applications filed under waiver scheme in the portal. Further, if taxpayers intend to restore the appeal application which was withdrawn for filing the application, can do so by filing undertaking

**Advisory on reporting values in Table 3.2 of**

**GSTR-3B date dated 16.07.2025**

In view of several representations received from taxpayers citing difficulties in filing GSTR-3B, the implementation of earlier advisory indicating that inter-state supplies auto-populated in table 3.2 of GSTR-3B would be non-editable, was differed and was made editable.

The said change is now re-introduced on the GST portal and table 3.2 is made non-editable from July 2025. Therefore, any modification/amendment to the said values can be carried out by amending the corresponding values in respective tables of

**GSTR-1A or through from GSTR-1/IEF filed for GSTR-3A notices issued for filing of form GSTR 4 for subsequent tax periods**

**GST Advisory dated 19.07.2025**

Due to system related technical glitch, the notices for non-filing of Form GSTR-04 are being inadvertently issued to taxpayers whose registrations are cancelled prior to FY 2024-25. The said issue is being addressed, and appropriate

corrective measures are being taken by the

technical team. In the meantime, it is advised that the taxpayers whose registrations are cancelled may ignore these notices as no further action is required on their part in such cases.

**GST Advisory dated 20.07.2025**

## Customs & DGST

### Updates:

**Notification No. 20/2025-26: Amendment to FTP**

**Regarding QCO Imports under Advance Authorisation**

The DGFT has amended Para 2.03(A)(i)(g) of the Foreign Trade Policy (FTP) 2023 to revise export obligation (EO) timelines for Advance Authorisation holders importing inputs subject to Quality Control Orders (QCOs). The amendment clarifies that the 180-day EO period now applies only to chemical products notified by the Department of Chemicals & Petrochemicals (DCPC), excluding textile products previously covered. Imports under QCO exemption must comply with Para 4.40 of the Handbook of Procedures. The change is effective immediately and

approved by the Ministry of Commerce & Industry..

**Policy Circular No. 2/2025-26: Clarification on**

**Notification No. 20/2025-26 Date: 23rd June**

**Para 2.12 of Foreign Trade Policy, 2023**

**2025**

DGFT has clarified the interpretation of Para 2.12 of the Foreign Trade Policy (FTP), 2023, which permits clearance of goods imported/shipped/arrived prior to the issuance of an authorisation, provided the goods have not yet been cleared from Customs. It is now clarified that warehousing is not mandatory if the authorisation is obtained before Customs clearance, even if the shipment date (Bill of Lading) precedes it. This relaxation does not apply to 'Restricted' items or those routed through State Trading Enterprises (STEs) unless specifically permitted. The clarification aims to ease compliance and reduce import costs.

**Policy Circular No. 2/2025-26 Date: 22nd July 2025**

## **Circular No. 19/2025-Customs: Continuation of Online Application Facility under MOOWR Scheme**

CBIC has extended the use of the existing Invest India portal for submission of applications under the MOOWR Scheme (Sections 58 & 65 of the Customs Act, 1962) until 31st October 2025. This decision follows the withdrawal of Circular No. 18/2025-Customs and is aimed at ensuring operational continuity and ease of access for applicants. Applications submitted through the portal will be processed as per current legal provisions. It is further indicated that a new electronic application model is under development, with implementation details to be notified separately..

## **S&S Case Roundup** Cases Handled by us

### **High Court stays Revision Order holding the Petitioner ineligible to claim ITC**

The Petitioner, engaged in the trading and exporting of used and new heavy machinery equipment and their spare parts, filed refund applications for claiming refund of the unutilized ITC.

The Department sought to revise the refund orders under Section 108 of the CGST Act, 2017, by alleging that the Petitioner had not provided documentation to prove movement and export of goods, and hence, the Petitioner was not eligible to claim ITC in respect of the input transactions.

It was submitted before the Court that the Order went beyond the scope of Section 108 of the Act, as the ITC eligibility cannot be disputed in revisionary proceedings initiated against refund sanction order and if the department were of the view that ITC is not eligible, then the Department ought to have initiated proceedings under

Section 73 of the CGST Act, 2017, and not under Section 108 of the Act.

The Court was pleased to admit the Writ Petition and grant an interim order of stay in favour of the Petitioner.

### **W.P. No. 20937, 20945/2025, Karnataka High Court**

### **Service Tax Not Payable on Central Rights Income and Payments to Foreign Players**

Appellant, a franchisee of the IPL, received revenue from BCCI as its share in Central Rights Income and made payments to foreign players engaged under professional contracts. The Department demanded service tax on the Central Rights Income under the category of Business Support Services (BSS) and on the fees paid to foreign players under Reverse Charge Mechanism (RCM) as Business Auxiliary Services (BAS), alleging promotional elements. Business activities involved in the said transactions.

The Tribunal held that Central Rights Income arises out of a revenue-sharing arrangement between BCCI and the franchisee and does not constitute a service transaction. It further held that payments to players were for playing cricket and that any incidental promotional obligations could not be separately taxed, particularly in the absence of a clear valuation mechanism. Following earlier rulings, the Tribunal held that no service tax was payable and allowed all appeals.

### **CESTAT Grants Partial Relief to KSCA – Holds Royal Challengers Sports Pvt. Ltd. v. Commr. of No Service Tax on Member Services, Allows Service Tax, Final Order Nos. CENVAT Credit, and Rejects Extended 20923-20932/2025, CESTAT, Bangalore.**

### **Limitation for Advertisement and Renting of immovable property Services**

Appellant, Karnataka State Cricket Association (KSCA), was issued service tax demands under multiple categories, including club or association services, sale of space or time for advertisement, and renting of immovable property, along with denial of CENVAT credit on LED scoreboards



The Tribunal held that no service tax is leviable on services provided to its members, in line with the Supreme Court decision in the case of Calcutta Club. It also allowed CENVAT credit on the LED scoreboard, noting there was no double benefit availed by the Association. Regarding the other two categories—advertisement and renting of immovable property—the Tribunal upheld the taxability in principle but held that the extended period of limitation was not invocable.

**Karnataka State Cricket Association v. Commr. of Service Tax, Final Order No. 21048/2025,**

## Courtroom Updates

### Review maintainable on grounds raised in pleadings, even if not orally argued

The Petitioner's writ challenging penalty imposed under the CGST was dismissed by the High Court. A review application filed contending that the penalty was not justified was also dismissed on the grounds that this contention was not raised during oral arguments at the writ stage.

Before the Supreme Court, the taxpayer argued that the ground on penalty, though not elaborated orally, was included as a ground in the memorandum of writ petition, which constitutes 'sufficient grounds' for review.

The Hon'ble Supreme Court observed that a party is entitled to seek review of a ground that was taken in the memorandum of the writ petition, even if it was not argued orally. The High Court must have considered the review petition regarding imposition of penalty, and related issues of interest on such penalty, on merits. Hence, the order dismissing the review application was quashed and the High Court was directed to decide the arguments raised in review regarding non-consideration of its submissions on the issue of penalty, on merits.

### Regulatory function of CERC not exigible to GST

The DGGI had issued a notice to CERC, alleging that the fees received for regulatory functions were liable to tax as support services to electricity transmission and distribution services. The Central Electricity Regulatory Commission (CERC) argued before the High Court that they discharge statutory functions and are not engaged in trade or commerce.

The High Court held that activity of granting of licenses for electricity transmission or distribution, as a regulator, by the Central Electricity Regulatory Commission (CERC), does not constitute "business" under GST. It observed that CERC acts as a tribunal, discharging quasi-judicial functions, and the issuance of licenses cannot be considered an activity in furtherance of business.

The DGGI's SLP before the Supreme Court was dismissed, affirming that CERC's regulatory functions do not amount to business and are therefore not taxable.

### Proper officer is required to pass an order under Section 129(3) even after the payment Addl. Director DGGI. v. Central Electricity of the tax demand Regulatory Commission, SLP (C) Diary No. 32628/2025, Supreme Court of India

The Supreme Court passed a ruling in favor of the Appellant Assessee, holding that the Department's failure to pass a final order under Section 129(3) after the Appellant's payment of tax demand and release of goods was unjustified. Despite paying the tax demand to secure the release of goods, the Appellant had consistently objected to the demand.

The Court emphasized that payment of tax does not imply waiver or abandonment of the Appellant's right to contest the demand.

The Court emphasized that payment of tax does not imply waiver or abandonment of the Appellant's right to contest the demand. The Department's failure to pass a speaking order after considering the Appellant's response to the SCN violates principles of natural justice and deprives the Appellant of their right to appeal. The Court further directed that even if the proceedings are deemed concluded due to payment, the officer is still obligated to pass a final order in Form GST MOV-09 and upload a summary in Form GST DRC-07, ensuring the Appellant's right to appeal is preserved.

**ASP Traders v. State of Uttar Pradesh, Civil No hearing required in case of dismissal of Appeal No. 9764/2025, Supreme Court of rectification application**

**India**

The Madras High Court interpreted the third proviso to Section 161 which provides for rectification of errors that are apparent on the face of the record. The proviso states that taxpayers must be granted an opportunity to be heard if the rectification order adversely affects the taxpayer. The question before the court was whether hearing must be granted prior to rejection of the rectification as well.

The Court observed that the third proviso is triggered only when two conditions are fulfilled: (i) there must be a rectification, and (ii) that rectification must adversely affect a person. When the application is dismissed, the original order remains unchanged and hence, no rectification has occurred and the same cannot be considered to be adversely affecting the person. Therefore, the proviso cannot include instances of refusal of the authority to rectify.

Therefore, the writ appeal was dismissed. **Transfer of ITC between states for**

**amalgamating entities allowed**

**Union Textiles Mills Pvt. Ltd. v. STO, WA (MD) No.1821/2025, Madras High Court**

The Petitioner challenged the Department's denial of transfer of ITC from its group entity that had ceased operations in Goa and its assets

and liabilities were being transferred pursuant to an approved scheme of amalgamation to an entity in Maharashtra. The reason stated by the Department was that Form ITC-02 could not be used to transfer credit between states.

The Court held that the transfer of unutilized ITC between amalgamating companies registered in different States is not prohibited by Section 18(3) of the CGST Act and Rule 41 of the CGST Rules. It held that GST's objective is to allow credit to flow across the supply chain and that denial of ITC based on technical or jurisdictional grounds contradicts this purpose. The court directed the GST Network to facilitate ITC transfer from the transferor company in one State to the transferee company in another, after the Petitioner submitted that it would not press for the transfer of SGST ITC to a different state.

**No GST payable on secondment of foreign employees**  
**Umicore Autocat India Pvt. Ltd. v. UOI, W.P. No. 463 of 2024, Bombay High Court**

The Petitioner entered into direct agreements with seconded employees, who were placed on its payroll. The employees were subject to Indian laws, including TDS, and policies of the Indian Petitioner. The overseas group entity continued to provide benefits available to seconded employees in their home countries. The Department viewed this transaction as import of 'Manpower Supply Services', on which IGST is payable under RCM in light of the decision of the Supreme Court in CC, CE & ST, Bangalore v. Northern Operating Systems, Civil Appeal No. 2289/2021.

The Court observed that Circular No. 210/4/2024-GST dated 26.06.2024 clarified that import of services would not be taxable subject to the condition that no invoice is issued by the Foreign Supplier and the recipient Indian entity is eligible for entire ITC. It states that where the domestic taxpayer does not raise an invoice, the value of such services may be deemed nil and

proviso to Rule 28(1) of the CGST Rules. Further, under Schedule III of the CGST Act, services provided by an employee to the employer is deemed to be not a 'supply'. Even if the contrary is held, the Court noted that since full ITC is available, the transaction is revenue neutral.

**Alstom Transport India Ltd. v. Commr. of Commercial Taxes, W.P. No. 1779/2025, Karnataka High Court, VAT leviable on supply of medicines along with health care services**

The Petitioner hospital challenged imposition of VAT on supply of medicines and consumables used for treatment of patients. The Petitioner argued that healthcare is a composite service, and not a sale under 2(23) of the Gujarat VAT Act, 2003.

The Court observed that treatment of patients is a 'service' along with sale of goods such as of medicines, consumables, prosthetics, etc., which forms a composite service akin to a works contract, which has a broad definition. The Court held that such arrangements attract sales tax or VAT on the deemed sale of movables after the 46th Constitutional Amendment. It further observed that works contracts can cover different forms of contracts that have a service and transfer of property in goods components, and the State is permitted to bifurcate such contracts to levy tax on the goods component. Hence the writ petitions were dismissed.

**Minor clerical error in the dispatch location in Bankers Cardiology Pvt. Ltd. v. Commr. of Commercial Tax, R/Special Civil Application No. 16927/2011, Gujarat High Court**

Goods to Himachal Pradesh, accompanied by a tax invoice and e-way bill, when the goods were intercepted and seized by the department. The department imposed a tax demand and penalty, alleging that the goods were loaded from Nagpur, whereas the e-way bill mentioned Chandrapur as the place of dispatch.

The Petitioner argued that Chandrapur is their principal place of business, and Nagpur is an additional place of business, and the error occurred due to a technical glitch.

The Court held that apart from the clerical error in the dispatch location, no discrepancies or tax evasion were found regarding quantity, quality, etc. The Court ruled that a mere clerical error in the e-way bill does not amount to tax evasion, and the incorrect entry of the dispatch location does not impact the nature of the supply. Therefore, no tax demand and penalty can be imposed on the Petitioner.

**Saumya v. Union of India, Writ Tax No. Customs Department cannot re-determine FOB value. 664/2025, Allahabad High Court**

Appellants exported garments and claimed export benefits under the DEPB scheme. The Department rejected the declared FOB value on the grounds that the Appellant was over-valuing exports to avail excess drawback and DEPB benefits. The FOB value was re-determined under Section 14 of the Customs Act and ordered for recovery of excess drawback and DEPB benefits.

The Tribunal held that export benefits are notified as percentage of FOB value and not of assessable value. FOB is the transaction value which is decided by parties to the contract. A stranger to the contract cannot determine or change the FOB value. The Tribunal held that this power to re-determine FOB value is not conferred under the Customs Act, and allowed the appeals.

**The Tribunal is barred from rehearing the Mahir Fashions (P) Ltd. v. Commr. of Customs, Customs Appeal No. 832/2011, CESTAT, New Delhi order in the same matter.**

The Tribunal dismissed the appeal, holding that it had become functus officio after the High Court confirmed its order upholding the reduced

penalties. The penalties under Sections 76 and 78 of the Finance Act, 1994, are directly linked to the tax demand under Section 73, and the dismissal of the revenue's appeal against the reduction of penalties by both the Tribunal and the High Court had attained finality. The doctrine of merger applies, meaning the Tribunal's order has merged with the High Court's order, and reconsidering the demand on merits could lead to a contradictory conclusion.

Furthermore, the appellant's failure to disclose the full litigation history, particularly the High Court's order, constitutes suppression of material facts. Consequently, the Tribunal is barred from interfering with the Commissioner (Appeals) order to the extent it has been implicitly upheld by the High Court. The appeal was dismissed due to the Tribunal's lack of jurisdiction and the appellant's suppression of material facts, preventing them from benefiting from their own wrongdoing.

***Software Technology parks of India v. Commissioner of Customs & Central Excise, Noida; Service Tax Appeal No. 74/2009, CESTAT Allahabad***

### **Transfer of ITC between states for amalgamating entities allowed**

The Petitioner challenged the Department's denial of transfer of ITC from its group entity that had ceased operations in Goa and its assets

# THANK YOU

For further queries/information please get in  
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