

S&S Tax Snippets

20th Ed.



Regulatory Updates

GST Updates:

Designation of certain officers as proper officers under Section 74A, Section 75(2) and Section 122 of the CGST Act

In exercise of the powers conferred under Section 2(91) of the CGST Act, Additional or Joint Commissioner of Central Tax, Deputy or Assistant Commissioner of Central tax and Superintendent of Central Tax has been designated as proper officers for various functions under Section 74A, Section 122 of the CGST Act and Rule 142(1A) of the CGST Rules. Further, the Circular also prescribes the monetary limits for issuance of SCN, Orders under Section 74A and Section 122 of the CGST Act.

Additionally, the Circular also provides detailed instructions for determining the proper officer when subsequent statements raise the total tax demand beyond the initial officer's competency limit, mandating that a corrigendum must be issued to make the SCN and statement answerable to the higher-ranked, competent officer.

Circular No. 254/11/2025 dt. 27.10.2025

Customs & DGST Updates:

Amendments to Existing Customs Exemption Notifications

In exercise of the powers conferred under Section 25(1) of the Customs Act, 1962, the Central Government has issued Notification No. 44/2025–Customs dated 24.10.2025, amending existing exemption notifications, namely Notification Nos. 11/2018–Customs, 8/2020–Customs, 11/2021–Customs, and 52/2017–Customs. The amendments have been introduced to align the tariff item references, serial numbers, and descriptions of goods with the revised Customs Tariff Schedule notified vide Notification No. 45/2025–Customs dated 24.10.2025.

The changes update tariff classifications, substitute or omit certain serial numbers, and revise item

Notification No. 20/2025-26, dt. 23.06.2025

descriptions and conditions to ensure consistency, clarity, and uniform application of exemptions across various categories such as food preparations, electronic components, vehicles, precious metals, and project imports. The amendments are of a technical nature and do not alter the scope of existing exemptions. The Notification is effective from 01.11.2025.

Notification No. 44/2025–Customs, dt. 24.10.2025

Customs Mega Notification: Introduction of Updated Tariff Structure

In exercise of the powers conferred by Section 2 of the Customs Tariff Act, 1975, the Central Government has issued Notification No. 45/2025–Customs dated 24.10.2025, revising and substituting the First Schedule to the Customs Tariff Act, 1975. The revised tariff integrates new product categories, modifies existing subheadings, and removes obsolete entries to ensure clarity, global uniformity, and accurate trade classification. It aims to simplify customs assessment, enhance compliance with international standards, and facilitate smoother trade operations. The Notification is brought into effect from 01.11.2025.

Notification No. 45/2025–Customs, dt. 24.10.2025

Pilot Launch of Bharat Aayat Niryat Lab Setu – Digital Platform for Streamlined Testing and Certification of Export and Import Commodities

To strengthen India's trade facilitation ecosystem and promote faster, transparent, and paperless certification for export and import commodities, the Directorate General of Foreign Trade (DGFT) has announced the pilot launch of the Bharat Aayat Niryat Lab Setu, a digital platform integrating accredited testing and inspection agencies across India under a single window system, accessible at <https://trade.gov.in/pages/labsetu>.

The initiative aims to streamline the process of testing and certification by digitally connecting exporters, importers, and testing agencies through a unified online interface. It seeks to reduce delays, improve traceability and transparency, and enhance

global trust in India's quality infrastructure. During the pilot phase, existing manual processes may continue in parallel to ensure a smooth transition and feedback-based improvements.

Trade Notice: No. 14/2025-26, dated 27.10.2025.

Clarification regarding the applicability of the restriction on Silver Jewellery

In pursuance of the representations made on the applicability of the restrictions imposed under Notification No. 34/2025-26 dated 24.09.2025 to imports by units located in SEZs, it is clarified that the restrictions imposed under the said Notification shall not apply to the imports of Silver Jewellery by 100% EOU, units located in SEZs and imports under Advance Authorization or Duty-Free Import Authorization schemes in terms of Para 6.01(d) of the FTP, 2023, Rule 27 of SEZ Rules, 2006 and Para 4.18(iv) of the FTP, 2023 respectively.

Policy Circular No. 06/2025-26 dt. 27.10.2025

S&S Case Roundup

Cases Handled by us

GST Compensation Cess cannot be charged on MRP

A Writ Petition was filed before the High Court challenging validity of Notification No. 2/2023-Compensation Cess (rate) dt. 31.03.2023 and Notification No. 3/2023-Compensation Cess (rate) dt. 26.07.2023 which imposes GST Compensation Cess at the rate of 56% on MRP instead of the transaction value prescribed under Section 15 of the CGST Act. It was contended before the Court that in terms of Section 8 of GST (Compensation to States) Act, value on which the Compensation Cess was levied and collected is the transaction value as provided under Section 15 of the CGST Act. Hence, Notification being a delegated legislation cannot override the parent Act and therefore ultra vires to

the parent Act.

The Hon'ble High Court observed that the Notification issued in terms of the powers conferred under parent Act cannot run counter to the said Act and therefore quashed the Notifications and held that the value on which Cess is to be paid has to be in terms of Section 15 of the CGST Act. Furthermore, the intention behind such notification of preventing revenue leakage, as forthcoming from GST Council Meeting, cannot be achieved through a mechanism which runs contrary to the express provision of law.

Ghodawat Packer Ltd v. Union of India, W.P. No. 106955/2023, Karnataka High Court

Courtroom Updates

Supreme Court affirms Gujarat High Court judgment on refund of unutilized compensation cess ITC on coal used for exported goods

The Supreme Court, in its recent judgment, have upheld the Gujarat High Court judgment on the refund of unutilised compensation cess. The Gujarat High Court held that an exporter is entitled to a refund of unutilized ITC of Compensation Cess paid on coal used in manufacturing goods exported on payment of IGST. The assessee had purchased coal by paying Compensation Cess under the GST and used it for producing goods that were exported. The refund of IGST on such exports was granted by the Customs authorities, but refund of ITC of the cess was rejected based on Circular No.125/44/2019, dated 18-11-2019 and Circular No.45/19/2018, dated 30-5-2018, which stated that such refunds were available only when exports were made without payment of tax.

The High Court ruled that the authorities had misinterpreted the circulars and the relevant statutory provisions. On a conjoint reading of Section 54(3) of the CGST Act, Section 16(3) of



of the IGST Act, and Section 11(2) of the Compensation Cess Act, the Court held that the assessee was entitled to a refund of unutilized ITC of cess, as no cess was payable on exports being zero-rated supplies. Accordingly, the Court quashed the rejection orders and directed the authorities to process and sanction the refund.

UOI v. Patson Papers Pvt. Ltd., S.L.P. Diary No. 49578/2025, Supreme Court of India

Intimation mandatory prior to recovery under Section 79 of the CGST Act for short payment of interest on delayed return filing

Department issued notices to the Petitioner HUF regarding short payment of interest on delayed payment of tax. Section 75(12) r/w/s 79 of the CGST Act were invoked, proposing recovery in case of non-payment of the differential interest amounts, without any assessment. A notice was subsequently sent to the Petitioner's bank to hold lien of the allegedly short-paid interest amount.

The Petitioner submitted that the Department cannot initiate any recovery proceedings without the issuance of an intimation contemplated in Rule 142B of the CGST Rules.

The Hon'ble Court held that on a conjoint reading of the provisions of the CGST Act and rules framed thereunder, the Department can recover interest only after issuance of an intimation in Form GST DRC-01D, which will be treated as a notice. The Court held that since such an intimation is an essential condition prior to initiating recover any amount payable under the Act, the notice in Form GST DRC-13 must be quashed. The Petitioner was directed to be given an intimation, along with an opportunity of reply and hearing, before proceeding with recovery.

Bombay Art v. UOI, R/Special Civil Application No. 16855/2024, Gujarat High Court

Only officer having jurisdiction over warehouse can initiate proceedings

IOCL imported petroleum products and filed into-bond BoEs with Customs House, Vadinar for

warehousing at their private licensed tanks. The goods were allowed to be warehoused on execution of a bond under Section 59(2) of the Customs Act, 1962. IOCL subsequently executed a bond u/s. 67 of the Act and filed ex-bond BoEs to transport the goods to refineries in Mathura, Koyali and Panipat on payment of duty assessed by the proper officer at each refinery. The Department alleged that the value adopted was required to be enhanced by adding various expenses. The Commissioner having jurisdiction over Vadinar Port passed an order confirming the differential duty, along with the interest and penalty.

On appeal, the Tribunal held that the Commissioner at Vadinar Port does not have jurisdiction to demand differential duty on goods cleared from a warehouse located in another Commissioner's jurisdiction.

The High Court agreed with the Tribunal's interpretation that only the officer having jurisdiction over the respective refineries/customs house would have jurisdiction to demand differential duty on the imported goods cleared to the said refineries, through the respective customs houses.

Commissioner of Customs (Preventive) v. IOCL, R/Tax Appeal No. 1417/2008, Gujarat High Court

Sperate GST is payable on auction sale by container freight states, along with IGST and BCD paid as import duty

Petitioners are container freight stations governed by the Customs Area Regulations, 2009, issued by the Customs Department. The Petitioners are permitted to auction goods which are not cleared/claimed within 30 days of unloading under Section 48 of the Customs Act, 1962. During the auction, the Petitioners have to pay all statutory dues, including IGST, and BCD

for the importation of goods, and GST on the supply of the said goods to the successful bidder.

A Public Notice was issued stating that the bid value on unclaimed cargo is cum-duty value, including customs duty and IGST, and no other GST (like SGST) can be demanded from the bidder, as the same would amount to double taxation. The Petitioners challenged the said public notice, as the Department issued notices, alleging the Petitioners to be in breach of the public notice by collecting GST from the bidder.

The Court observed that once the goods are sold by the Petitioner, it is a supply under GST, and the purchaser cannot be treated as an importer. The Court quashed the public notice on the ground that the Joint Commissioner of Customs does not have jurisdiction to direct the Petitioners not to collect GST.

National Association of Container Freight Stations v. Joint Commr. of Customs, W.P. No. 11222/2022, Madras High Court

Unregistered partnership firm can enforce statutory rights under GST

The Petitioners in the instant case writ petition on the maintainability of a writ petition filed by an unregistered partnership firm challenging GST assessment orders. The petitioners, an unregistered partnership firm, challenged an order along with the Notifications No. 40/2021-Central Tax and 40/2021-State Tax. The Department, against the same, raised a preliminary objection regarding maintainability, arguing that Section 69(2) of the Indian Partnership Act, 1932 bars unregistered firms from filing suits or proceedings.

However, the Delhi High Court held the petition maintainable, relying on Supreme Court precedents in the case of *Haldiram Bhujawala v. Anand Kumar Deepak Kumar reported at (2000) 3 SCC 250* and *Shiv Developers v. Aksharay Developers & Ors. reported at 2022 SCC OnLine 114*, which established that Section 69(2) does not bar suits by unregistered firms when enforcing statutory or common law rights. Since

the firm was registered under CGST Act and paying taxes, it could enforce statutory rights despite being an unregistered partnership. The court in the instant case directed the petitioners to file an appeal by November 30, with the requisite pre-deposit, which would be adjudicated on the merits without dismissal on limitation ground.

Amit Kumar Basau & Anr. v. Sales Tax Officer Class II AVATO Ward 13, W.P.(C) 15327/2025, Delhi High Court

Consolidated show cause notices covering multiple Financial Years quashed as jurisdictional overreach

Bombay High Court in the instant case dealt with the issue of whether consolidated show cause notices covering multiple financial years are permissible under the CGST Act. The Petitioners, partnership firms engaged in real estate development projects, challenged show cause notices issued for financial years 2017-18 to 2023-24 demanding GST on construction services. The Department raised multiple demands through a single consolidated notice spanning multiple financial years.

The petitioners contended that the CGST Act mandates separate assessments for each tax period, as defined in Section 2(106) of the CGST Act as the period for which returns are furnished, which aligns with financial years. They argued that consolidated notices frustrate the limitation scheme under Sections 73(10) and 74(10), which prescribe time limits separately for each financial year, and prevent assesses from providing year-specific rebuttals.

The Bombay High Court, following decisions from the Madras High Court in the case of *Ms R A And Co vs. The Additional Commissioner of Central Taxes, W.P.No.17239 of 2025* and *M/s. Tharayil Medicals v/s. The Deputy Commissioner WA No. 627 of 2025* by the Kerala High Court held that the statutory scheme treats each financial year as a separate unit with distinct limitation periods. The court ruled that clubbing

multiple financial years in a single show cause notice constitutes jurisdictional overreach and violates statutory safeguards. Consequently, the consolidated show cause notices were quashed and set aside as being without jurisdiction and void ab initio.

Milroc Good Earth Developers & Anr. v. Union of India & Ors., Writ Petition No. 2203/2025; Bombay High Court

Payment made during search and seizure in the absence of issuance of DRC-04 is involuntary and is liable to be refunded

The Petitioner had approached High Court seeking refund of the amount paid during the search and seizure by the department. The court held that the Petitioner's payment of ₹10 crores to GST authorities during a search and seizure was involuntary and illegally obtained. The Court noted that there was neither prior notice, demand, or quantification of tax liability, nor any acknowledgment provided in Form DRC-04 as required under Rule 142(2) of the CGST Rules.

The Court further observed that since all business records were seized, the petitioner could not have conducted self-ascertainment under Section 74(5) of the CGST Act. The payment made in Form DRC-03 lacked details of tax, interest, and penalty, and official instructions barred officers from collecting payments during searches. The court emphasized that it was implausible for a taxpayer under investigation to voluntarily admit liability under Section 74. Consequently, the ₹10 crores collected during the raid was deemed unlawful, arbitrary, and without jurisdiction. Therefore, the court ordered that the amount be refunded to the petitioner with interest.

Sri J Ramesh Chand v. Union of India & others, WP No.9890/2025, Karnataka High Court

Section 142(5) of the CGST Act overrides the limitation period in Section 11B(1) of the Central Excise Act, 1944

The Appellant had paid service tax in respect of invoices issued to a pharma company in the FY

2015-16, for providing IT infrastructure and networking services. The Appellant had raised invoices and paid service tax in advance at the commencement of the contract itself. The said contract stood terminated with effect from 31.08.2017.

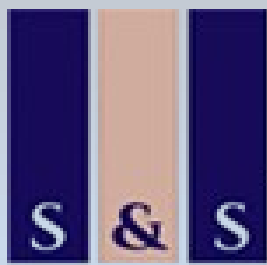
Consequently, the Appellant filed a refund claim under Section 142(5) of the CGST Act, for the excess service tax paid. The claim was rejected by the adjudicating authority, which had found that the limitation period prescribed under Section 11B(1) of the Central Excise Act, 1944 had expired.

The Hon'ble Tribunal found that the issue was no longer res integra pursuant to a series of decisions wherein it was held that the assessee could not be expected to comply with the limitation period in Section 11B(1) as it the taxpayer could not know if or when the transaction would be cancelled. Further Section 142(5) of the CGST Act overrides all provisions, except Section 11B(2), which does not contain a limitation period.

Frontier Business Systems Pvt. Ltd. v. Commr. of Central Tax, S.T.A. No. 20180/2022, CESTAT Bangalore

THANK YOU

For further queries/information please get in touch
with us



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