

S&S Tax Snippets

21st Ed.



Regulatory Updates

GST Updates:

Amendments to CGST Rules to enable grant of registration electronically

Rule 9A has been introduced vide CGST (Fourth Amendment) Rules, 2025 to enable grant of registration electronically. As per the said provision, based on data analysis and risk parameters, registration is granted electronically on the common portal within 3 working days from the date of submission of application. The said provision is applicable for normal registration, registration to person required to do deduct amounts towards TDS or TCS, and assignment of unique identity number.

Further, Rule 14A has been inserted to provide for registration for taxpayers having monthly output tax liability below threshold of 2.5 Lakhs per month. As per the said provision, any person who has made application for registration and determines that the output liability is below the threshold, can exercise option to obtain registration under this Rule. A person obtaining registration under this rule will not be eligible to obtain another registration in the same State or Union Territory. Additionally, as per the said Rule, the registered person who intends to withdraw from this option, can file an application in Form GST REG-32 electronically subject to the conditions specified, and the upon verification, the proper officer shall issue Form GST REG-33 allowing the application for withdrawal.

Accordingly, in line with the above, Form REG-32 and REG-33 have been inserted, and appropriate amendments have been made to other Rules and Forms with respect to registration.

Notification No. 18/2025-Central Tax dt. 31.10.2025

Customs & DGST Updates:

Introduction of Customs (Voluntary Revision of Entries Post Clearance) Regulations, 2025 and relevant guidelines

In exercise of the powers conferred under Section 157(1) and Section 18A(1) of the Customs Act,

1962, the CBIC has introduced the new regulations to enable importers/exporters to voluntarily revise the entries already made in relation to goods, after customs clearance by way of an electronic application w.e.f. 01.11.2025 with the objective to incentivise voluntary compliance.

The CBIC has also issued detailed guidelines in respect of new facility provided for importer/exporter. The guidelines address verification and re-assessment process, payment of duty, exceptions, application process and fee charge for filing application in the case of revision of entries.

Notification No.70/2025-Customs (N.T) dt. 30.10.2025 read with Circular No.26/2025-Customs dt. 31.10.2025

DGFT issued a clarificatory circular on the redemption of Advance Authorizations impacted by the erstwhile Rule 96(10) of the CGST Rules

The Directorate General of Foreign Trade has issued a Policy Circular No. 07/2025-26 dated 11th November 2025, as certain exporters are facing difficulties in obtaining redemption of Advance Authorizations (AAs). It was clarified that the Export Obligation Discharge Certificate (EODC) shall not be withheld, provided all the requirements are duly fulfilled in the following cases:

- i. Payment of IGST in Cash: If at the time of clearance of import consignments under the AA Scheme during the period 13th October 2017 to 09th January 2019, the IGST has been paid in cash.
- ii. Non-Availing of Duty Exemptions: The exemption from IGST, Compensation Cess, 3or other levies except the Basic Customs Duty has not been availed by the applicant.
- iii. Compliance with Pre-Import Condition: The prescribed pre-import and other procedural requirements under the Scheme have been complied with by the applicant.

Policy Circular No. 07/2025-26, dated 11.11.2025..

S&S Case Roundup

Cases Handled by us

High Court directs department to grant refund along with interest, where the refund application for tax collected at source (TCS) was pending for 5 years

The Petitioner was engaged in the business of selling goods through E-Commerce platform and the E-Commerce operator collects TCS at 1% which in turn is reflected in the electronic cash ledger of the Petitioner. In the terms of the provisions of the CGST Act, the Petitioner claimed refund of the said amount by filing the requisite application. Subsequently, there was change in the jurisdiction, wherein the Petitioner was assigned to the State and the said application was kept pending in spite of multiple communications and requests by the Petitioner. Therefore, neither an Order was passed rejecting the refund nor the amount was credited back to the electronic cash ledger of the Petitioner.

The Hon'ble High Court considering the other refund applications allowed for the subsequent period noted that the said refunds are sanctioned by the Central Tax officer and therefore, directed the Central Tax officer to grant of the refund along with the applicable interest.

M/s. Tech Connect Retail Pvt Ltd vs. Union of India, WP No. 22652/2025, Karnataka High Court

High Court grants stay against the SCN issued for multiple assessment years

A consolidated SCN was issued for multiple assessment years under Section 74 of the CGST Act and the same was challenged by way of Writ Petition. It was argued that such a notice was issued in contravention of the provisions of CGST Act, specifically Section 74(10) of the CGST Act, which expressly states that each assessment year has a separate limitation period that begins independently. Therefore, each assessment year should be considered and taxed independently. Consequently, the Department's issuance of a single SCN covering multiple tax periods is contrary to the express provisions of law. Considering these submissions, the Hon'ble High Court granted a stay on the SCN.

WP No. 33274/2025, Karnataka High Court

High Court grants stay on Bond Enforcement Order passed after 20 years

The Petitioner was in receipt of communication in 2025 from the Customs Department seeking details of a re-export bond allegedly furnished by the Petitioner in 2005 for availing the benefit of Notification No. 158/1995-Cus, dated 14.11.1995 to re-export goods without payment of import duty within a period of 6 months.

The Petitioner had informed the Department that it was unable to locate any details of such imports or exports and requested details to assist with the investigation. Despite this, a Bond Enforcement Order was passed on 08.09.2025, which was challenged

before the High Court.

It was submitted before the Hon'ble Court that the said Bond Enforcement Order is untenable in law owing to lapse of over 20 years from when the bond was allegedly furnished by the Company. The Hon'ble Court was pleased to admit the Writ Petition and grant an interim order of stay in favour of the Petitioner.

W.P. No. 33714/2025, Karnataka High Court



Further regarding the limitation, the Court held that the extended 5-year period under the proviso to Section 73(1) could be invoked only upon proof of deliberate suppression or intent to evade tax. Since all transactions were through banking channels and properly recorded, no such intent existed.

Commissioner of Service Tax vs. M/s. Elegant Developers; Civil Appeal No. 11744-11745/2025; Supreme Court of India

The value of bought-out items cannot be added to the assessable value of boilers cleared in the Completely Knocked Down condition

The Supreme Court set aside a CESTAT order and held that the value of duty-paid bought-out items supplied directly to the buyer's site cannot be included in the assessable value of boilers cleared from the manufacturer's factory in Completely Knocked Down condition. The Court emphasised that excise duty is a tax on manufacture, and valuation under Section 4 of the Central Excise Act becomes relevant only after the existence of an excisable final product is established. Merely because an item appears in the Tariff does not make it excisable.

The Court held that boilers assembled and erected at the site become immovable property, incapable of being dismantled and reassembled without substantial damage, and therefore do not qualify as goods. Consequently, the contract value, which included bought-out items, could not be treated as transaction value for excise purposes. Since the bought-out items were never brought into the factory and no CENVAT credit was taken on them, their value could not form part of the assessable value.

Courtroom Updates

The Supreme Court holds that land transactions are not taxable as real estate agent services

The Apex court in their recent judgment dismissed an appeal filed by the department against a CESTAT decision quashing service tax demands on the assessee by holding that the activities engaged by the assessee did not fall within the scope of "Real Estate Agent" or "Real Estate Consultant" services under Sections 65(88), 65(89), and 65(105)(v) of the Finance Act, 1994.

The assessee in the instant case had entered into MoUs with Sahara India Commercial Corporation Ltd. to identify, acquire, and transfer land parcels at a fixed average rate. The Revenue treated these transactions as service-based facilitation, attracting service tax, alleging the assessee earned commission-like profits and suppressed facts.

The Court carefully examined the MoUs and held that the assessee operated as an intervening trader, bearing profit and loss risk based on land procurement prices, rather than providing any consultancy, facilitation, or agency service. There was no principal-agent relationship, no service charges or commission, and the essence of the transaction was sale of immovable property, which is expressly excluded from the definition of "service" under Section 65B(44)(a)(i).

The Court further ruled that the invocation of the extended period under Section 11A(1) was invalid, as there was no wilful suppression or intent to evade duty. Mere omission or interpretational disputes cannot justify extended limitation.

Lipi Boilers Ltd. vs. The Commissioner of Central Excise, Aurangabad; Civil Appeal No. 856-857/2021; Supreme Court of India

Supreme Court dismissed the Department's Appeal against the CESTAT judgment, holding that service tax cannot be demanded on free or discounted telecom services provided to employees

The Supreme Court dismissed an appeal filed by the department challenging the judgment of CESTAT, Chandigarh. In the CESTAT assessee challenged an order by the department on taxing the Call Free Allowance provided by assessee to its employees. The Department contended that these waivers constituted taxable consideration and demanded service tax on the same.

The Tribunal comprehensively analysed the matter and allowed the appeal, setting aside the entire demand. The tribunal hold that the CFA waiver is in the nature of a discount or concession that benefited the employees rather than constituting consideration flowing to the Assessee. The Tribunal rejected the department's argument that Airtel received "goodwill" as non-monetary consideration, stating that goodwill cannot be amortised to arrive at taxable value and that this ground was never part of the original show cause notice.

The Department filed an SLP against the same before the Hon'ble Supreme Court of India, which was dismissed by the Apex court, stating that there is no reason to interfere with the CESTAT order, thereby upholding the order passed by the Hon'ble CESTAT of Chandigarh.

Commissioner of Central Excise & Service-Tax-Commissioner of Central Goods & Service Tax, Gurugram, Haryana vs. M/s. Bharti Airtel Ltd; Diary No. 49079/2025; Supreme Court of India

Karnataka High Court set aside the ITC reversal order for GSTR-2A & GSTR-3B mismatch

In the instant case, the Petitioner was issued with an order from the department directing the reversal of excess Input Tax Credit claimed due to a mismatch between GSTR-3B and GSTR-2A returns. The petitioner contended that the discrepancies were minor errors that arose from bona fide reasons, and that the adjudicating authority failed to follow the procedure prescribed under the Circular No. 183/15/2022-GST dated 27.12.2022, which applies when the difference between GSTR-3B and GSTR-2A is less than Rs. 5 lakhs.

The Court, post consideration of the submissions, held that the Circular, being clarificatory in nature, must be followed by authorities in all pending or ongoing adjudications for FY 2017-18 and 2018-19, and the adjudicating authority's failure to adhere to the Circular rendered the order unsustainable. The Court also noted that dismissal of the petitioner's appeal by the Appellate Authority on limitation grounds did not prevent the High Court from exercising its jurisdiction under Articles 226 and 227, as the appeal was never adjudicated on merits. Accordingly, both the adjudication and appellate orders were quashed, and the matter was remanded for fresh consideration in line with the Circular, granting the petitioner an opportunity to submit documents and be heard.

Guru Mahesh Medicals vs. Assistant Commissioner of Commercial Taxes; WP. No. 29754/2025; Karnataka High Court

Punjab and Haryana High Court rules against the Artificial Negative Blocking of ITC under GST

High court in the instant case dealt with the question of whether the tax authorities can block Electronic Credit Ledgers under Rule 86-A of the GST Rules beyond the available credit balance, creating negative balances. The Court after looking into the contentions made by the parties agreed with the Gujarat and Delhi High Courts'

interpretation that Rule 86-A in the case of Samay Alloys India Pvt. Ltd. Vs. State of Gujrat reported at 2022(2) TMI 843 and Kings Security Guard Services Pvt. Ltd. Vs. Deputy Director, Directorate General of GST Intelligence reported at 2024(12) TMI 1513, wherein the court holds that Rule 86-A only permits blocking of ITC actually available in the ECL at the time of the order.

The Court further held that the provision is a temporary protective measure, not a recovery mechanism and the words "credit of input tax available in the electronic credit ledger" plainly refer to credit presently existing, not previously availed amounts already utilized. Recovery of wrongly availed credit must follow proper procedures under Sections 73-74 of the CGST Act.

The Court set aside the impugned orders to the extent they blocked amounts exceeding available ITC, while keeping open the department's remedies for lawful recovery. The court further noted that the Delhi High Court's decisions in Kings Security Guards Services(supra) and Karuna Rajendra Ringshia (supra) were challenged before the Supreme Court through SLP(c) Nos. 014493/2025 and 017723/2025, which were dismissed on the ground that there is no case for interference made out under Article 136 of the Constitution. This Supreme Court endorsement strengthened the legal position that negative blocking is impermissible.

M/s. Shyam Sunder Strips and Ors. vs. Union of India and Ors.; CWP No. 23675/2025; High Court of Punjab and Haryana

Pre-deposit is not mandatory in cases where only a penalty is imposed without involving any demand for tax

The Petitioner's appeal was rejected on the grounds of delay and non-compliance with the condition of statutory pre-deposit. The Petitioner submitted that the appeal was filed within the condonable period of one month in terms of Section 107(4) of the CGST Act.

Further, the Petitioner contended that they are not liable to pay any pre-deposit in terms of Section 107(6) of the CGST Act as there was no requirement for making any pre-deposit in cases where the appeal was filed against an order pertaining only to penalty without involving any demand of tax.

The Hon'ble Court observed that Section 107(6) of the CGST Act was amended vide Finance Act, 2025, whereby a proviso was inserted with effect from 01.10.2025 mandating pre-deposit even in cases where only a penalty is imposed. It was held that the aforesaid proviso would not apply to the Petitioner's case as the said proviso was inserted after the appellate order was passed.

Barjinder Singh Kohli v. The Asst. Commr. of Revenue & Ors., WPA 19676/2025, High Court of Calcutta

GSTN is directed to modify the online portal to allow the filing of appeals even in cases where the disputed amount is shown as 'Nil', and that the date of personal hearing is never fixed before the date of filing the reply.

The online portal did not allow the Petitioner to file the statutory appeal as it was showing the disputed tax amount as 'Nil'. The Petitioner contended that its right to file a statutory appeal against the order passed under Section 74 of the CGST Act cannot be denied for the reason of the disputed amount of tax deposited prior to the impugned order being passed. The Hon'ble Court held that an appeal is a creature of statute and once the statute has provided the aggrieved party the right to appeal, that right cannot be denied on technicalities or procedural rules. Further, the Hon'ble Court directed the GSTN to modify the online portal to allow the filing of appeals even in cases where the disputed amount is shown as 'Nil', with a note that the issue of maintainability of the appeal shall be examined by the appellate authority and the Petitioner was directed to file the Appeal through physical mode.

The Hon'ble Court observed that the date of personal hearing was being fixed before the date of filing reply and that the said issue is easily resolvable by making a modification to the portal. Since the law necessarily requires that the date of filing the reply and the date of personal hearing may not be the same, there may be a minimal gap between the two dates.

M/s Agarwal Aromas Pvt. Ltd. v. UOI and Ors., Writ Tax No. 5151/2025, High Court of Allahabad

Allahabad High Court Quashes a second SCN issued against the assessee on the ground that a change in law does not enable revenue authorities to initiate fresh proceedings on an issue which was decided earlier under the previous regime

In the recent Allahabad high court judgment, the court quashed a second SCN issued on 2021 under the CENVAT Credit Rules by the department, post the dispute, which was regarding the utilization of Additional Excise Duty credit was already adjudicated through an earlier SCN issued in 1998 under the MODVAT scheme.

The said issue of availment of Additional Excise Duty under the MODVAT scheme was decided vide an order by the CESTAT Delhi bench in 2000, and further an appeal filed on the same by Revenue was rejected by the High Court in 2016, and the matter attained finality. Despite this, the Revenue issued a second SCN in 2005 under the newly introduced CENVAT scheme, alleging ineligibility of AED utilisation. The Court held that once the issue had been conclusively decided under the MODVAT scheme, a mere change in statutory regime could not give the department a fresh cause of action.

Modi Rubber Limited vs. Union Of India and Ors; Writ Tax No. 872/2021; High Court of Allahabad

CESTAT Delhi Rules that an Exporter is eligible for Duty Drawback once the goods leave India

In the instant case, the CESTAT Delhi Bench allowed an appeal filed by exporters by setting

aside the disallowance of the duty drawback worth Rs. 31.66 lakh relating to nine consignments of ladies' garments exported under the Indo-Russian trade protocol. The Duty drawback was earlier denied on the ground that the goods, though shipped from India, were delivered in Dubai instead of Russia, allegedly violating RBI Circular No. 30/1993 dated 28.09.1993, which restricted third-country exports financed through Russian state credit.

The Tribunal held that under the Drawback Rules, export is complete once goods cross Indian borders to a place outside India, irrespective of the ultimate delivery destination. Since the remittances were duly received in India through authorized channels, the exporter could not be denied duty drawback. It further ruled that applying Rule 16A of the 1995 Drawback Rules retrospectively to shipments made in 1993-94 was impermissible. Thus, the CESTAT quashed the confiscation order and the appropriation of the refunded amount and restored the exporter's entitlement to duty drawback.

M/s. Texcomash Export & Sh. N.K. Rahgarhia vs. Commissioner of Customs, New Delhi; Customs Appeal No.724/2005I; CESTAT, New Delhi

Availment of credit on raw materials and job work does not amount to double availment

The Appellant, in this instant case, receives raw materials and, upon performing the quality checks, clears the same for job work for carrying out the operations of blending, grinding and addition of additives. The case of the Department is that the Appellant availed CENVAT credit at the



time of original receipt of raw materials and again availed CENVAT credit based on the job worker's invoice, which included the value of the raw materials, which amounts to double availment of credit on the same inputs.

The Tribunal held that Rule 4(5)(a) of CCR 2004 allows sending of inputs to job workers without reversal and contemplates re-availment of credit when input/intermediate goods are received back after payment of duty by the job worker. Further, the job worked goods undergo an additional process for them to be cleared as a finished good in the market for sale on payment of duty. Since the Appellants are availing credit on the intermediate goods, they are eligible for credit on the goods returned; the allegation was not sustainable, and the Orders were set aside by the Tribunal.

Proventus Life Sciences Pvt. Ltd. v. Commr. of GST and C.Ex., Chennai E/41469/2019 CESTAT, Chennai

THANK YOU

For further queries/information please get in touch
with us



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