

S&S Tax Snippets

22nd Ed.



Regulatory Updates

Customs & DGST Updates:

CBIC issued a Circular regarding launch of SWIFT 2.0

Central Board of Indirect Taxes and Customs (CBIC) issued Circular No. 29/2025-Customs dated 21.11.2025 regarding Launch of SWIFT 2.0 and onboarding of AQCS, PQMS and FSSAI on SWIFT 2.0 as Single Touch Point for Trade for NOC Processing. SWIFT 2.0 is an upgraded, unified, and fully digital Single Window platform which is designed to provide a single touch point for importers, exporters, other stakeholders and all Partner Government Agencies in relation to all EXIM processes.

The following features will be incorporated under SWIFT 2.0:

- It enables importers and exporters to submit required data and documents to obtain No Objection Certificates (NOC) from PGAs directly thereby reducing physical touch point of interaction.
- Users get a unified dashboard to track queries, view history, and receive real-time SMS/email updates on NOC application status.
- The system supports online fee payments for PGA with digital receipts, provides notifications and tracking for scheduled inspections, and allows digital access to approved NOCs issued by PGAs.
- As more PGAs integrate into the platform, traders will gain a seamless, single-window experience without needing to use multiple PGA systems

Circular No. 29/2025-Cus, dt. 21.11.2025

Trade Notice regarding collection of information on export-related non-tariff measures

A Trade Notice has been issued pursuant to the Export Promotion Mission announced in the 2025-26 union budget. The DGFT has been undertaking mapping of mandatory and voluntary non-tariff measures including certifications, testing requirements, inspections, audits, labelling norms, and other regulatory compliance conditions

applicable to Indian exports across global markets as part of the Support for Export Quality & Technical Compliance initiative.

To build an accurate and actionable database, exporters, export promotion councils, commodity boards and industry associations are requested to furnish information on relevant non-tariff measures and certification requirements. These include name and nature of testing/certification, whether the same is mandatory, affected sectors, cost and validity period, list of labs/certifiers, any additional challenges faced in compliance. Such information must be communicated within 7 days (02.12.2025) through an online form.

Trade Notice No. 18/2025-26 dt. 25.11.2025

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

S&S Case Roundup

Cases Handled by us

High Court allows challenge to GST interest demand where tax was paid within due date but returns filed belatedly

The Petitioner challenged a notice calling upon the Petitioner to pay a sum as interest towards delayed payment of GST for the periods July 2017, August 2017, September 2017, and February 2018.

It was submitted that the payment of the tax was made by way of cash on or before the due date i.e., 20th of the succeeding / following month, and that the remaining portion was available in the Electronic Credit Ledger of the Petitioner by way of input tax credit, and, merely because the Petitioner filed belated returns, the Department cannot demand interest in relation to tax already paid within the due date.

It was submitted that the proviso to Section 50 of the CGST Act makes a

taxpayer liable to pay interest only in relation to delayed tax payment by way of cash through the cash ledger and the same would not be applicable to utilisation of credit from the Electronic Credit Ledger.

Based on various precedents cited, the Hon'ble Court was pleased to quash the notice as being issued without jurisdiction or authority of law, and contrary to the provisions contained in Sections 49 and 50 of the CGST Act.

Bangalore International Airport Ltd. v. UOI, W.P. No. 6502/2020, Karnataka High Court

High Court grants stays in matter where the demand was raised based on all India Trade Payables of all Business Verticals of the Company

The Petitioner challenged a notice issued against the Petitioner raising tax demand along with interest for the from Aril 2018 to March 2019.

It was submitted in the present case, an Audit was initiated by the department, in pursuance to which the Books of Accounts of the Petitioner was investigated. Subsequently, submissions were made by the Petitioner wherein all relevant documents requested for was submitted to the Department. Despite the submissions made by the Petitioner, a SCN was issued raising a demand based on all India figures of all business verticals of RELX India Pvt. Ltd. In this regard, it was submitted that demand notice issued against the Petitioner cannot be computed based on pan India figures of the entire entity of RELX reflecting the Balance Sheet for the relevant period as held by several High Courts and therefore the same is not sustainable. Further, it was submitted

that the impugned SCN issued under Section 74 is without jurisdiction and authority of law as there is no wilful suppression of facts as alleged by the Department. The Petitioner during audit investigation submitted all relevant documents pertaining to their business.

After considering the aforesaid submissions, the Hon'ble High Court admitted the writ petition and passed an interim order granting stay on any further proceedings till the next date of hearing.

W.P. No.35541/2025, Karnataka High Court

High Court admits the matter on the issue of refund of payment made under protest during investigation

The Petitioner in this matter sought for refund of the tax, interest and penalty paid under protest during the investigation of the matter.

It was submitted that during the search and seizure operations on account of the investigation into clandestine supply of cement initiated by the DGGI, tax along with interest and penalty was collected from the Petitioner under extreme fear, duress, coercion and threat of immediate re-arrest. Further, reference was drawn to various letters submitted by the Company, wherein it was specifically mentioned that under the threat of arrests, the present payments are made by the Company.

Appreciating the submissions made on behalf of the Company, the Hon'ble Bench was pleased to admit the matter.

W.P. No. 108817/2025, Karnataka High Court

Courtroom Updates



Mere non-payment or short payment of tax or evasion of tax itself is not sufficient to invoke the extended period of limitation under Section 74 of the CGST Act

SCNs were issued to the assessee without any allegation of fraud, wilful misstatement or suppression of facts. Thereafter orders were issued to the assessee when the assessee failed to respond to the said SCNs.

The Hon'ble Court observed that since the SCN in the present case does not allege that the assessee was guilty of fraud, wilful misstatement or suppression of facts, Section 74 could not have been invoked. Presence of one or all the three elements is a sine qua non for taking action under Section 74 of the CGST Act. It was also noted that non-payment or short payment of tax or even evasion of tax by itself is not sufficient and they must be by reason of the elements specifically set out in Section 74 of the CGST Act. It was held that if there is no suppression or wilful misstatement or fraud, the extended period of limitation will not be available

Neyamo Enterprise Solutions Pvt. Ltd. v. Commercial Tax Officer; WP(MD) Nos. 30453-30458/2024, Madras High Court

Refund application for IGST paid instead of SGST cannot be barred by limitation

The Petitioner, under the Bonafide belief that the services provided to the foreign entity qualified as export of services, paid IGST in GSTR-3B returns. Later, after realizing that the services provided were intra-state supply and not inter-state supply, paid SGST and filed refund application seeking refund of the IGST paid. But the same was rejected on the ground that the applications were time barred under Section 54 of the CGST Act.

It was observed by the Hon'ble High Court that a plain reading of Section 77(1) of the CGST Act

indicates that the taxpayer who pays tax to the Central Authority by oversight, inadvertently and erroneously, would be entitled to refund of the amount of taxes so paid and a similar provision exists in the IGST Act also. It was also noted that the time limit under Section 54 of the CGST Act and Rule 89(1A) of the CGST Rules have been held to be directory and not mandatory. The orders holding that the refund claim is barred by limitation were set aside by the Hon'ble Court holding that the same are not barred by limitation. Further, the matter was remitted back for passing appropriate orders on the refund application filed by the Petitioner.

Merck Life Science Pvt. Ltd. v. UOI & Ors., WP No. 27259/2024, High Court of Karnataka

Tax dues cannot be recovered after CIRP/Corporate Debtor sold as a going concern

During the process of liquidation, the Petitioner's Company was sold as a going concern. The sale was confirmed by the NCLT and was observed that the sale of a corporate debtor as a going concern is akin to a de-facto CIRP. Subsequent to this sale, a notice was issued to the Petitioner demanding for tax dues.

It was held by the Hon'ble Court that upon successful completion of a CIRP or upon a corporate debtor being sold in liquidation as a going concern on a "clean state" basis, all the past dues of the corporate debtor shall stand frozen and extinguished. It was also held that the order of priority for distribution of assets in liquidation under Section 53 of the Insolvency and Bankruptcy Code, 2016 cannot be overridden, and the operational creditors such as the CGST authorities in the present case, cannot jump the queue in contravention of the priorities enumerated in Section 53 of IBC. The order

passed by the CGST authorities demanding tax dues from the Petitioner Company is quashed by the Hon'ble Court holding that a buyer of a corporate debtor as a going concern should not be saddled with past dues.

Rabirun Vinimay Pvt. Ltd. & Anr. v. UOI, WPA 27722/2024, Calcutta High Court

High Court invalidates negative blocking of ECL

A batch of Writ Petitions were filed challenging the negative blocking of Electronic Credit Ledgers (ECL) under Rule 86A of the CGST Rules. It was submitted by the Petitioners that blocking of ECL in excess of credit actually available is untenable in law as Rule 86A only permits blocking of existing credit when conditions such as ineligibility, fraud, or non-receipt of goods are met, and does not authorize over-blocking or creation of negative balance in the ECL.

The Department argued that Rule 86A grants broad power to protect revenue and allows blocking "up to the amount of fraudulent or ineligible ITC involved," regardless of current ledger balance.

The Hon'ble High Court agreed with the holding of the Gujarat High Court in *Samay Alloys India Pvt. Ltd v. State of Gujarat, R/Special Civil Application No. 18059/2021*, and Delhi High Court in *Best Crop Science Pvt. Ltd. v. Principal Commr., W.P.(C) No. 10980/2024*, among others, which were upheld by the Hon'ble Supreme Court in *SLP(C) Nos. 014493/2025* and *017723/2025*. Further, the Hon'ble Court disagreed with the reasoning in contrary rulings of the Allahabad, Calcutta and Andhra Pradesh High Courts.

It was thus held that the impugned orders are unsustainable to the extent that they disallow debit from ECL of the Petitioners in excess of ITC available therein at the time of passing of the order.

Shyam Sunder Strips v. UOI, CWP No. 23675/2025 (O&M), Punjab & Haryana High Court

Recording of 'reasons to believe' in writing is mandatory to block ITC under Rule 86A

The Appellant challenged the blocking of the ITC on the ground that the same is without jurisdiction and grossly illegal in the absence of 'reasons to believe' recorded in writing. The Department argued that 'reason' was mentioned as 'Supplier found non-functioning' and communicated to the Petitioner.

The Hon'ble High Court considering the observations of the Apex Court in the case of *State of Uttar Pradesh v. Aryaverth Chawal Udyog, (2015) 17 SCC 324*, held that the reason mentioned by the Department does not fulfil the requirement under Rule 86A(1) as it does not reflect any application of mind to reach such conclusion. In view of this, the Hon'ble High Court set aside the action of the Department and directed the Department to unblock the ITC.

Pilcon Infrastructure Pvt Ltd V. State of U.P. And Another Writ Tax No. 4654/2025, Allahabad High Court

GST authority does not have jurisdiction for work made under VAT regime, merely because payment was made subsequently under GST regime

The petitioner challenged the Order under Section 73 of the CGST Act involving work contract executed by the Petitioner for the AY 2015-16 and AY 2016-17. The Petitioner submitted that recipient of the service deducted the VAT and deposited the same while making payment to the Petitioner.

The Department argued that there is mismatch of the return filed by the Petitioner in GSTR-3B and the Form 26AS and that certificate provided by the recipient of service of the work contract is not sufficient evidence to indicate no supply under GST regime.

The court in this regard held that as per the original records summoned by this court and the records placed by the Petitioner that work contract was allotted for AY 2015-16 and AY 2016-17. The fact that payment has been made

subsequently, after implementation of GST, cannot be reason for GST authorities to assume the jurisdiction. In view of the above, the impugned orders were quashed.

Vimalesh Kumar Contractor v. State of UP, Writ Tax No.1021/2025, Allahabad High Court

Information from the internet cannot be used in the absence of supporting technical evidence.

The Appellant challenged denial of exemption on imported microphones and receivers used in the manufacture of Printed Circuit Board Assemblies (PCBA) for mobile phones granted by Notification No. 57/2017-Cus.

The Department alleged that microphones and receivers were excluded by virtue of Serial No. 18 (exclusion of microphone, wired headset, and receiver) inserted on 02.02.2018 and contended that the imported goods were liable to duty.

The Tribunal observed that the amendments introduced on 02.02.2018 did not modify Serial No. 6 of the notification, which continued to extend exemption to inputs and parts used for manufacturing PCBA of mobile phones. Serial No. 18 was held to apply only to independently imported microphones, wired headsets and receivers, and not to items imported as parts for PCBA manufacture.

The subsequent amendment did not alter the substantive scope of the exemption. Further, the Explanation inserted on 02.02.2018 was expressly confined to charger/adaptor PCBAs and not mobile phone PCBAs.

The Tribunal also rejected the Department's reliance on information downloaded from the internet to conclude that microphones and receivers were not part of PCBA. In the absence of any technical evidence in the SCN, such conclusions were held untenable, particularly when the appellant had furnished a Chartered Engineer's certificate supporting their claim.

Oppo Mobiles India Pvt. Ltd. v. Principal Commr. of Customs, Customs Appeal No. 51026/2020, CESTAT Delhi

THANK YOU

For further queries/information please get in touch
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