

S&S Tax Snippets

23rd Ed.



Regulatory Updates

GST Updates:

Advisory on reporting values in Table 3.2 of GSTR-3B

Advisory has been issued indicating that from November 2024 onwards, value of supplies auto-populated in Table 3.2 of the GSTR-3B capturing the details of inter-state supplies made to unregistered persons, composition taxpayers, and UIN holders is made non-editable. In case where modification/amendment is required in the auto-populated values, then the same has to be done through GSTR-1A for the same tax period.

Additionally, it is also clarified that since there is no cut-off date for filing GSTR-1A before filing of GSTR-3B, the said GSTR-1A can be filed after filing GSTR-1 and till the time of filing Form GSTR-3B.

Advisory dated 05.12.2025

Advisory on Auto suspension of GST registration due to non-furnishing of Bank Account details as per Rule 10A

An Advisory has been issued to clarify that in terms of Rule 10A of the CGST Rules, if a taxpayer fails to furnish bank account details within 30 days of registration, the system will automatically suspend the registration and same is available to be views in the portal.

It has been further intimated that once the bank account details are furnished, cancellation proceedings will automatically be dropped by the system. If the same is not dropped automatically, on the same day after adding the Bank details, the taxpayers can manually initiate the process using the facility of 'Initiate Drop Proceedings' made available in the portal.

Additionally, it is also clarified that furnishing of bank account details in case of OIDAR and NRTP taxpayers is mandatory only when they opt yes for representative appointed in India

Advisory dated 05.12.2025

FAQs issued by GSTN providing clarifications on GSTR-9/9C for FY 2024-25

GSTN was issued by FAQs on 04.12.2025 on annual return reporting for FY 2024-25 wherein it was clarified that in cases where GST is paid on RCM for the FY 2024-25 in GSTR3B of FY 2025-26, the RCM liabilities and ITC on the said transaction should be reported in GSTR9 of 2025-26.

It was also clarified that ineligible ITC of FY 2023-24 which was availed in FY 2024-25 needs to be reported in 6A1. However, ITC reversal of FY 2023-24, reported in GSTR 3B for FY 2024-25, need not to report in the Table 7 of GSTR 9 of FY 2024-25.

FAQs issued by GSTN, dated 04.12.2025

DGFT Updates:

DGFT notifies a list of empaneled Pre-Shipment Inspection Agencies (PSIAs)

The DGFT in exercise of their powers under Foreign Trade Policy, 2023 updated the list on PSIAs who have been recognized for the issuance of Pre-Shipment Inspection Certificates ('PSIC'), online through the DGFT portal. Further, conditions have been prescribed for all the PSIAs for compliance and approvals have been provided for addition of instruments.

Public Notice No.36/2025-26 dated 10.12.2025



S&S Case Roundup

Cases Handled by us

High Court dismisses Department's revision petition on Entry Tax over denatured ethyl alcohol

A Review Petition was filed by the Department, seeking revision of an order passed by the Division Bench, which was tagged along with Civil Revision Petitions challenging orders of the Karnataka Appellate Tribunal.

The batch of matters arose under the Karnataka Tax on Entry of Goods Act, 1979 (KTEG Act), where Revenue sought to levy entry tax on denatured anhydrous ethyl alcohol imported by oil companies for use in blended petrol. The High Court had earlier held that denatured spirit is distinct from ethyl alcohol, and since the applicable notification dated 30.03.2002 prescribed rates only for rectified spirit, neutral spirit and ethyl alcohol, no entry tax could be levied on denatured spirit. The same was reviewed by the Department.

It was argued for the assesseees that the petitions were barred by limitation, and no latitude could be given simply because the State was a party. On merits, it was argued that Entry 86 of Schedule-I to the KTEG Act clearly treats denatured spirit and ethyl alcohol as distinct commodities. Earlier notifications also prescribed different rates for the two, reiterating legislative intent to treat them differently. The Notification dated 30.03.2002 thus represented a conscious intent to omit denatured spirits. The distinction also appeared in technical standards like BIS certification. It was also argued that entry tax was already collected during sale of blended petrol, and levy at the point of entry would amount to double taxation.

On delay, the Court held that the review petition was delayed by 374 days and the revision petitions by 680 days, and that the explanations offered only narrated administrative movement of files and reflected a lack of diligence. Relying on the Hon'ble Supreme Court's decision in *Shivamma (Dead) by L.Rs. v. Karnataka Housing Board, Civil Appeal No. 11794/2025*, Court held that condonation of delay would mean according special treatment to the State. Hence, the delay was not condoned.

On merits, the Court reaffirmed that Entry 86 of the First Schedule to the KTEG Act treats denatured spirit and ethyl alcohol as distinct goods. In the absence of a rate for denatured spirit under the 2002 notification, the charging provision fails, and no entry tax could be imposed. The Court further held that review jurisdiction cannot be used to re-argue the case on merits, when no error was apparent on the face of the record. Hence, the Review Petition and Civil Revision Petitions were dismissed.

Asst. Commr. of Commercial Taxes v. IOCL, Review Petition No. 447/2024, Karnataka High Court

Karnataka High Court grants stay on SCN proposing to recover the ITC availed on construction related inputs

The Petitioner being a sole proprietorship concern exclusively engaged in the development, construction and eventual leasing of commercial immovable property. An SCN was issued under Section 74 of the CGST Act, 2017 denying the ITC availed on construction-related inputs, including steel and other allied materials.

High Court sets aside bond enforcement order passed in violation of the principles of natural justice

A Writ petition was filed before the Hon'ble High Court challenging the same, wherein it was contended that controversy stood conclusively settled by the judgment of the Hon'ble Supreme Court in Safari Retreats, wherein it was authoritatively held that construction undertaken for the purpose of letting out commercial premises does not amount to construction "on own account."

It was submitted that such premises constitute the very apparatus through which the taxable business of leasing is carried on and, applying the functionality test, qualify as "plant" for the purposes of Section 17(5)(d) of the CGST Act, 2017, thereby entitling the assessee to avail ITC on inputs used in such construction. It was further submitted that even the subsequent amendment to Section 17(5)(d) introduced vide the Finance Act, 2025 does not alter the legal position, inasmuch as the embargo on ITC continues to apply only where construction is undertaken for own use. Since the Petitioner's construction was admittedly carried out solely for the purpose of leasing and not for self-occupation or own use, the availability of ITC remained unaffected even post-amendment.

Considering the submissions made, The Hon'ble High Court admitted the Writ Petition and passed an interim order granting stay on any further proceedings.

W.P. No. 37440/2025, Karnataka High Court

The Petitioner, a Public Sector Undertaking, 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 informed the Department that it was unable to locate any details of such imports or exports and requested details from the Department to comply with the investigation. Despite this, a Bond Enforcement Order was passed on 08.09.2025, which was challenged before the High Court.

It was argued 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 Ld. Judge, considering the above submissions, was pleased to allow the Writ Petition and set-aside the Bond Enforcement Order, directing the Department to furnish a copy of the bond and other information to enable the Petitioner to file a response.

Bharat Electronics Ltd. v. Asst. Commr. of Customs, W.P. No. 33714/2025, Karnataka High Court

High Court sets aside time-barred draft assessment order

The Petitioner, a manufacturer and developer of medical devices such as X-Ray systems, is engaged in sale of goods in the domestic and international markets. During assessment of the Petitioner's Income Tax Returns for the Assessment Year 2020-21, the Assessing Officer made a reference to the Transfer Pricing Officer ("TPO") under Section 92CA of the Income-tax Act, 1961 ("Act").

A subsequent reference was made by the TPO for Exchange of Information with the Foreign Tax and Tax Research wing. The proceedings culminated in a draft assessment order dated 30.09.2024 passed by the Assessing Officer under Section 144C of the Act.

It was argued on behalf of the Petitioner that the impugned draft assessment order was squarely barred by limitation under Section 153 of the Income Tax Act, 1961. It was argued that even after considering the extensions provided under Section 92CA read with Section 153 of the Act, the limitation period for Assessment Year 2020-21 expired on 31.12.2023. The impugned order was issued only on 30.09.2024, i.e., with a delay of nine months, and was therefore liable to be set-aside.

In view of the above submissions, the Hon'ble Judge was pleased to quash the impugned order and all consequential proceedings arising from the draft assessment order.

Wipro GE Healthcare Pvt. Ltd. v. DCIT, W.P. No. 29425/2024, Karnataka High Court

Karnataka High Court grants stay against order invoking extended period of limitation when issue pertained to eligibility to an Exemption Notification

The Petitioner is engaged in the business of clearing and forwarding, cargo handling, storage, packing, warehousing, freight forwarding, transportation and handling of cargos by sea/ air. During the relevant period, the Petitioner had availed the benefit under Sl. No 9(ii) of Notification No. 08/2017-IGST(Rate) and Sl. Nos. 20, 20A and 20B / Sl. Nos. 19, 19A and 19B of Notification No. 09/2017- IGST (Rate) ('**Exemption Notification**') for the services provided. Further, the Department in the present case, issued a Show Cause Notice and Order invoking extended period of limitation under Section 74 of the CGST Act in the absence of any fraud, wilful misstatement, or suppression of facts.

It was pointed out to the Hon'ble Court that Section 74 cannot be invoked wherein the issue pertains to eligibility to the Exemption Notification. In view of the submission made, the Hon'ble High Court of Karnataka admitted the Writ Petition and passed an Interim Order granting stay on any further proceedings.

W.P. No. 37149/2025, Karnataka High Court

High Court quashes Order-in-Revision passed under Section 108 revising audit report as being without authority of law

A Writ Petition was filed challenging an Order-in-Revision passed against a leading Engineering and Core Infrastructure Company under Section 108 of the CGST Act, 2017 revising an audit report issued under Form ADT-02

in terms of Section 65(6) of the CGST Act for the FY 2018-2019 on the ground that the said Order-in-Revision has been passed without authority of law and without jurisdiction.

It was contented that upon issuance of an audit report, the lawful course of action is to initiate proceedings under Section 73/74 of the CGST Act. However, in the present case, no such proceedings were initiated against the Petitioner and hence, the same deserves to be quashed. The Hon'ble Judge, after considering the aforesaid submission, that initiation of revisional proceedings without initiating proceedings under Section 73/74 of the CGST Act is impermissible in law and contrary to the statutory scheme under Section 65(7) of the CGST Act.

In view of the same, the writ petition filed by the Petitioner was allowed and the Hon'ble Judge quashed the Order-in-Revision passed against the Petitioner. Further, liberty was reserved in favor of the Department to initiate appropriate proceedings under Section 73/74 of the CGST Act in accordance with law and subject to all just exceptions and limitations.

Navayuga Engineering Company Limited v. Joint Commissioner of Commercial Taxes, WP. No.26955/2025, Karnataka High Court

High Court allows Writ Petitions against refund rejection order denying refund for amalgamated entity

Writ Petitions were filed challenging refund rejection orders, rejecting the refund of unutilized ITC of an entity that was acquired by the Petitioner.

The Petitioner had earlier challenged a refund rejection order, which was allowed on appeal. However, despite the expiry of 2 years, no refund was sanctioned. Hence, the Petitioner filed another refund application, which was rejected on the ground that the period of refund did not match the documents supplied.

It was argued that all relevant documents such as FIRC and BRCs were furnished along with the refund applications, and that the Petitioner had already succeeded in appeal. Hence, the impugned refund rejection orders must be set-aside, and the Petitioner is entitled to refund.

The Hon'ble Court allowed the Writ Petitions, quashing the impugned refund rejection orders, and holding that the Petitioner is entitled to refund in terms of the appellate order. The Department was directed to grant refund to the Petitioner, along with interest.

LSI India Research and Developers Pvt. Ltd. v. Asst. Commr. of Central Tax, W.P. No. 23921/2025, Karnataka High Court

Karnataka High Court sets-aside orders-in-appeal for non-consideration of submissions

A Writ Petition was filed against orders-in-appeal, dismissing the Petitioner's appeals against refund rejection orders. The Petitioner had sought refund for a transaction related to supply of goods from a non-taxable territory to a non-taxable territory, without the subject goods or services being received in India. However, the Petitioner had inadvertently issued a tax invoice and paid tax for the period.

It was argued that the Department had failed to consider that the transaction was a supply of goods from one non-taxable territory to another, and the goods had never entered India. Hence, the transaction could not be taxed in India. Hence, the amount paid by mistake is liable to be refunded to the Petitioner. It was also argued that a credit note is not a requirement in the present case as the transaction itself is outside the purview of GST, rendering Section 34 of the CGST Act, 2017 inapplicable.

The Hon'ble Court held that the appellate authority has not recorded any findings on merits and has summarily rejected the appeals of the Petitioner. Thus, the orders-in-appeal were set-aside, and the matter was remanded to the appellate authority for reconsideration.

ABB India Ltd. v. Joint Commr. of Commercial Taxes, W.P. No. 17412/2025, Karnataka High Court

Courtroom Updates

Supreme Court dismisses SLP against Delhi High Court order permitting consolidated SCN in cases where fraud is alleged

The Hon'ble Supreme Court dismissed the Appellant's SLP against a judgment of the Delhi High Court holding that e-mail service of personal hearing notices constituted sufficient service under Section 169(1)(c) of the CGST Act, 2017, and that Show Cause Notice spanning several tax periods may be issued where fraudulent availment ITC is alleged.

The High Court relied on its decisions in *Rishi Enterprises through its Proprietor v. Additional Commissioner Central Tax, W.P. (C) 4374/2025*,

for the former, and *Ambika Traders v. Additional Commissioner, W.P.(C) 4853/2025*, for the latter. In *Ambika Traders (supra)*, the Delhi High Court had held that in cases relating to availment of ITC, considering the maze of transactions and due to the fact that the transactions may be spread over several years, issuance of a consolidated notice for multiple Financial Years would be permissible and tenable.

On both questions, the Delhi High Court found no jurisdictional errors or violation of the principles of natural justice. On appeal, the Hon'ble Supreme Court found no good ground or reason to interfere with the judgment passed by the High Court.

Mathur Polymers v. UOI, SLP(C) Diary No. 50279/2025, Supreme Court of India

Lessee sub-letting hostel to students held eligible for exemption available for lease of residential dwellings

An owner of a property had leased out residential property to the Respondent, who subsequently sub-let the property as hostel for students and working professionals. The question before the Hon'ble Supreme Court was whether the Respondent was eligible to an exemption granted for renting of residential dwelling for use as a residence under Entry 13 of Notification No. 9/2017 dated 28.06.2017.

The High Court had allowed the Respondent's Writ Petition against a negative order of the AAAR, holding that the exemption was available as the property was used as a residential dwelling by students and working professionals.

The Hon'ble Supreme Court observed that Entry 13 does not prescribe any condition that the lessee must itself use the property as residence for the exemption to apply. Since the property is used as a residential dwelling, the exemption would be available, irrespective of whether the lessee or sub-lessee uses it as a residence. It observed that 'hostel accommodation' meant long-term stay for students and working

professionals and is hence a 'residential dwelling' for the purposes of the Notification. It further observed that Entry 13 is activity specific, and not person-specific. Hence, the fact that the lessee was a company, and not an end-user (students), was not relevant for eligibility to the exemption. Hence, the Court did not find reason to interfere with the High Court's order and dismissed the Revenue's appeal.

State of Karnataka v. Taghar Vasudeva Ambrish, Civil Appeal No. 7846/2023, Supreme Court of India

Situs of trademarks for taxation follows the owner

The Appellant had sold the trademark 'Crocini' through a Brand Acquisition Agreement to a UL-based purchaser. The Department treated it as a local sale liable to 4% sales tax under the Schedule of the Bombay Sales Tax Act, 1959. The Tribunal dismissed the appeal, leading to a second appeal before the Bombay High Court.

The Appellant submitted that the trademark, being intangible, followed the situs of its owner under the principle *mobilia sequuntur personam* and thus, assignment to a UK-based assignee should qualify as an export under the CST Act.

The Revenue contended that the trademark's registration in India and the consideration received in Indian rupees rendered it a taxable local sale. Considering judgements of the Bombay High Court in ***Mahyco Monsanto v. UOI, W.P. No. 9175 2015***, and the Kerala High Court in ***Lal Products v. Intelligence Officer, W.P. (C) No. 13408/2009***, the Court held that the situs of an intangible asset like a trademark follows the owner. Upon assignment, all rights of the Indian assignor stood extinguished, and the trademark moved to the UK. Registration in India did not affect this transfer. Consequently, the transaction qualified as an export of goods under the CST Act.

Duphar Interfran Ltd. v. State of Maharashtra, Sales Tax Reference No. 9/2012, Bombay High Court

Section 16(2)(aa) of the CGST Act, 2017 read down

A Division Bench of the Gauhati High Court examined the constitutional validity of Section 16(2)(aa) of the CGST Act, 2017, which makes a recipient's entitlement to input tax credit (ITC) conditional upon a supplier furnishing invoice details in his Form GSTR-1, resulting in reflection in the recipient's GSTR-2A/2B.

The Petitioner contended that this provision unfairly restricts a *bona fide* purchaser's vested right to ITC solely due to the supplier's non-compliance, despite tax having been paid by the supplier.

The Court observed that Section 16(2)(aa) imposes an onerous and impossible burden on the purchasing dealer, as recipients have no statutory mechanism to compel suppliers to file returns. Hence, the purpose of the GST law, i.e., to prevent the cascading effect of tax, would be defeated if ITC is denied to a *bona fide* purchaser for the sole reason of supplier's non-compliance.

However, the Court noted that the purpose of Section 16(2)(aa) is to prevent fraudulent ITC claims and promote compliance of sellers, the provisions is not being held unconstitutional. It instead read-down the Section to the extent the purchaser be given an opportunity to prove his bona fides through documents, such as invoices. The Court also noted that the provision is to be read down till the time CBIC introduces a mechanism that does not place a *bona fide* purchaser's ITC claim on supplier's compliance, which is outside the purchaser's control.

Mcleod Russel India Ltd. v. UOI, W.P. (C) NO. 5725/2022, Gauhati High Court



Place of supply for inter-state transactions depends on the destination of goods

The Petitioner had supplied goods from Karnataka to various states. The Department issued an SCN, raising CGST and SGST demand on the allegation that the transaction was an intra-state supply. Despite the Petitioner having discharged IGST liability on the supply, the Department demanded CGST and SGST in relation to the same transaction.

The SCN placed reliance on dealership agreements and tax invoices to conclude that the Petitioner lost title over goods upon handing them over to the common carrier. Hence, the taxable event arose within the state of Karnataka. Hence, it was alleged that IGST liability would not arise, and the same was an intra-state transaction, attracting CGST and KGST liability.

The Court held that the place of supply of goods would have to be determined considering the place where the movement of goods terminates for delivery to the recipient, and not at the place where the movement of goods originates, or where goods are handed over to the common carrier. It also noted that the Department did not dispute that the ultimate destination of the goods was outside Karnataka.

The court held that, considering that the petitioner has already paid IGST, any additional amount sought to be demanded from the petitioner would amount to double taxation. The Court observed that since IGST was paid, the situation was revenue neutral.

Toyota Kirloskar Motor Pvt. Ltd. v. UOI, W.P. No. 6126/2024, Karnataka High Court

High Court of Delhi quashes proceedings under Rule 96(10) of CGST Rules

Rule 96(10) of the CGST Rules imposed restrictions on exporters claiming IGST refunds, creating complications for businesses availing exemptions under specific notifications. The rule was challenged by various petitioners, including M/s Vinayak International Housewares Pvt Ltd.

wherein it was argued that the rule was unconstitutional and contrary to Section 16 of the IGST Act, 2017. The GST Council, in its 54th meeting had recommended the omission of Rule 96(10), citing its unnecessary complexity and lack of intended benefits. Subsequently, Notification No. 20/2024 was issued on 08.10.2024, officially omitting the rule. However, the omission was deemed prospective, leading to disputes over its applicability to pending proceedings.

The Hon'ble High Court referred to the Kerala High Court's decision in *Sance Laboratories Pvt. Ltd. v. UOI, (2024) 23 Centax 435 (Ker.)*, which declared Rule 96(10) unconstitutional for imposing restrictions not contemplated under Section 16 of the IGST Act. The Delhi High Court concurred, emphasizing that the rule created arbitrary constraints on IGST refunds. The Hon'ble Court, relying on the Supreme Court's judgment in *Kolhapur Canesugar Works Ltd. v. UOI, (2000) 2 SCC 536*, concluded that the omission of Rule 96(10) applies to all pending proceedings. It held that unless transactions are "past and closed," the benefit of the rule's omission must extend to ongoing cases, quashing the proceedings.

Vinayak International Housewares P Ltd vs. Union of India, WP (C) 3154/2023, High Court of Delhi

Delhi HC quashes refund rejection premised on excess ITC without adjudication

The Petitioner had filed the petition challenging the refund rejection order rejecting the refund applications filed for refund in terms of the shipping bills uploaded on the ICEGATE portal. The same were rejected by the Respondent contending that in comparison between GSTR 3A and 3B for FY 2019-20, excess ITC has been availed.

The Hon'ble Court, in this case, noticed that no notice under Section 73 or Section 74 of the CGST Act was issued by the Department and a notice under Rule 92(3) of the CGST Rules, 2017 cannot be used to stop refunds when there is no

discrepancy in the refund being claimed. The Hon'ble High Court set aside the order and further directed the Respondent to pay the entire IGST refund to the Petitioner along with applicable interest.

Stanlee (India) Enterprises Pvt. Ltd. v. The Commissioner of CGST, Delhi, WP (C) No. 5370/2025, High Court of Delhi

Section 74 cannot be invoked by the Department without establishing fraud, wilful misstatement, or suppression of material facts

In the present case, a Show Cause Notice ('SCN') was issued against the Petitioner under Section 74. The Petitioner is a limited Company engaged in the supply of tyres, tubes and flaps. During the relevant period, due to a confusion regarding supply of the goods and application of rate of tax, they had paid reduced tax rate. Subsequently, when the confusion was clarified, the Petitioner voluntarily paid the differential tax and communicated the same to the Department.

The court examined the issue as to whether there is any fraud, wilful misstatement or suppression of materials facts involved in the petitioner's case, so as to attract the provisions of Section 74. Upon examination, it was observed that the Petitioner had an inclination to make payment of the tax dues which depicts that there was no malafide intent viz., fraud, wilful misstatement. In view of this, the court held that notice issued under Section 74 without fulfilling the ingredients of the said Section is liable to be quashed.

MRF Ltd. v. Additional Director DGGI, Delhi Zonal Unit, WP. No. 15222/2022, Madras High Court

Larger Bench of the CESTAT rules that refund of Education and Krishi Kalyan Cess not permitted

The Larger Bench of the CESTAT, Delhi, considered the question of whether the Appellants were eligible for refund of accumulated unutilized balance of Education Cess, Secondary & Higher Education Cess, and Krishi Kalyan Cess under Section 142(3) of the

CGST Act, 2017.

The CESTAT found that Section 140 of the CGST Act and its Explanations explicitly excluded these cesses from the definition of "eligible duties and taxes" for transition to the GST regime. The appellant's reliance on *Eicher Motors* and *Slovak India Trading* was distinguished, as those cases concerned credits that were otherwise utilizable.

Relevant precedents, including *Cellular Operators Association* and *Banswara Syntex*, held that no provision existed under the previous law to merge blocked cesses with excise/service tax or claim their refund. The Madras High Court's decision in *Sutherland Global Services* was relied upon by the CESTAT, to reiterate the Madras High Court's finding that the cesses became "dead CENVAT credit" and hence could not be refunded.

The CESTAT also held that since the cesses were blocked on 01.03.2015, and 01.06.2015, refund claims had to be filed within one year of Section 11B of the Central Excise Act, 1944. The appellant's claim, filed on 11.10.2021, after an attempt to transition through TRAN-1 in 2017, was time-barred.

Kei Industries Ltd. v. Commr. of CGST, Excise Appeal No. 50090/2024, CESTAT Delhi, LB

THANK YOU

For further queries/information please get in touch
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