S&S Tax Snippets

24th Ed.

Regulatory Updates

GST Updates:

Order providing for the filing of appeals in staggered manner before GSTAT is revoked

Order No. 1499-1502 dated 24.09.2025 was issued directing that the appeals to be filed under Section 112 of the CGST Act arising out from Orders or decisions of the Appellate and Revisional Authorities under Section 107 and 108 of the CGST Act in a staggered manner. Further, in view of the current portal's capabilities, the said filing in staggered manner is dispensed with and the said Order dated 24.09.2025 has been revoked with effect from 18.12.2025.

Order No. 315/2025 dated 16.12.2025

Allotment of benches to Appointed members in GSTAT

With the approval of the Competent Authority, benches to appointed members in GSTAT have been allotted and members are directed to join the respective benches on 21.01.2026.

Office Order No. 03/2025 dated 26.12.2025

Advisory and FAQs on Electronic Credit Reversal and Re-claimed Statement & RCM liability/ITC Statement

Electronic credit reversal and re-claimed statement was introduced in 2023 to ensure correct and accurate reporting of reversed and re-claimed ITC, which captures the ITC temporarily reversed in Table 4(B)2 and its subsequent reclaim in Table 4(A)5 and 4(D)1. Similarly, RCM liability/ITC statement was introduced to ensure correct reporting of RCM liability, and the said statement captures RCM liability shown in Table 3.1(d) of GSTR-3B and its corresponding ITC claimed in Table 4A(2) and 4A(3) of GSTR-3B for each return period.

Presently, a warning message is received whenever taxpayer attempts to re-claim excess ITC in table 4(D)1 as against the available ITC reversal balance, but the taxpayer is allowed to file GSTR-3B. Similar warning appears when taxpayer in case of ITC claimed in Table 4(A)2 and 4(A)3 exceed the closing balance of RCM ledger plus the liabilities being reported in Table 3.1(d).

By way of the present advisory, it is informed to the taxpayer that shortly, negative values or availment of excess ITC over and above available balance, shall not be allowed in both the ledgers. In such cases, system will not allow taxpayer to file GSTR-3B unless reversal of such excess claimed ITC (in case of negative balance in electronic credit reversal and reclaimed statement) and till the payment of additional RCM liability equivalent to negative closing balance in Table 3.1(d) or reduction the ITC claimed in Table 4A(2) or 4A(3) to the extent of closing balance in the current return period (in case of negative balance in RCM liability/ITC Statement).

Advisory dated 29.12.2025

S&S Case Roundup

Cases Handled by us

High Court rules that data management services provided to Company situated outside India amounts to export of services

The Petitioner has entered into Master Service Agreement with its Holding Company to conduct clinical trials and allied data management services and declared it as export of services. However, the same was challenged by the department on the ground that the place of supply for the said services is in India and therefore the same does not amount to 'export of services'.

The Petitioner in the Writ Petition filed before the Hon'ble Court relied on Circular No.209/1/2018-ST dated 04.05.2018 wherein it was clarified that in the case of services on software involving testing, debugging, modification etc. i.e. customisation, adaptation, upgradation, enhancement, implementation of information technology software, the place of provision of service is the location of the recipient of the service.

The Hon'ble High Court on perusal of the master service agreement and relying on the said Circular held that the nature of services provided by the Petitioner amounts to data management services within the meaning of the said Circular and the place of supply for the same is the location of the recipient of services which in the present case is outside India. Further, the Hon'ble Court set aside the order passed by the department demanding tax on the said transaction treating it as intra-state supply instead of zero-rated supply.

M/s. IQUIA RDS (India) Pvt Ltd v. UOI & Ors, WP No. 31039/2024, Karnataka High Court

High Court quashes SCN seeking to levy GST on amounts recovered as liquidated damages by an NBFC from its Lending Service Providers

A Writ Petition was filed before the Hon'ble Karnataka High Court challenging a SCN issued by the DGGI that sought to levy GST on amounts recovered as liquidated damages by the Petitioner NBFC from its Lending Service Providers (**LSPs**). The Revenue alleged that such receipts constituted consideration for "tolerating an act" under paragraph 5(e) of Schedule II to the CGST Act, 2017. They further categorized the receipts as "deficiency service fees" and asserted that they amounted to consideration for tolerating non-performance.

It was argued that the Petitioner entered into MSAs with its LSPs, under which liquidated damages were recoverable solely upon breach or non-performance of contractual obligations.

It was argued that such recoveries were purely compensatory in nature, intended to indemnify losses suffered on account of breach, and did not constitute consideration for any independent or identifiable supply of service.

Reliance was placed on paragraphs 7.1 to 7.1.6 of Circular No. 178/10/2022-GST dt. 03.08.2022, wherein the Board has clarified that amounts received as compensation or liquidated damages for breach of contract do not amount to "consideration" unless they represent the very object of the contract or are linked to a separate taxable supply.

The Hon'ble High Court held that the transaction was squarely covered by paragraphs 7.1 to 7.1.6 of the Circular and were in the nature of compensation for breach of contract. It was further observed that where a Circular contains both general observations and specific clarifications, the latter must prevail, and that the Department cannot disregard binding instructions issued by the Board. Hence, the impugned SCN was quashed.

The Court also noted that the Petitioner had deposited a sum during investigation under protest. Relying upon its earlier decision in ***Ramesh Chand v. Union of India, W.P. No. 9890/2023***, the Court held that such payment could not be treated as voluntary and directed refund of the amount along with applicable interest.

Krazybee Services Pvt. Ltd. v. Addl. Director, DGGI, W.P. No. 16471/2024, Karnataka High Court

Karnataka High Court directs the adjudicating authority to consider the application for interest on belated refund of CENVAT credit of Service Tax, in a time bound manner

The Petitioner exported Information Technology, engineering, and related services to its overseas group entities without payment of service tax and accordingly, claimed refund of accumulated CENVAT credit. The refund claims were ultimately sanctioned pursuant to Orders-in-Originals and De Novo proceedings. These refunds were disbursed after considerable delay due to which the Petitioner filed multiple letters to the department pertaining to the relevant period, demanding interest on delayed refund under Section 11BB of the Central Excise Act, 1944.

The Hon'ble High Court of Karnataka upon perusal of the records, arguments advanced and submissions made, passed an order directing the Respondent(s) to consider the letters submitted and grant applicable interest on the refunds already processed, within a stipulated time frame.

Mercedes Benz Research and Development India Private Limited v. Assistant Commissioner WP. No. 38103/2025, Karnataka High Court

Karnataka High Court sets aside order passed without providing an opportunity of hearing

The Petitioner, engaged in the business of manufacturing, bottling, and supply of alcoholic beverages, challenged an order demanding tax, along with interest and penalty, on the grounds that the Petitioner had allegedly claimed ineligible ITC and had allegedly misclassified taxable supplies as exempted/non-GST supplies.

It was argued before the Hon'ble Karnataka High Court that the Department had failed to consider the Petitioner's reply or documents submitted in response to the intimation in Form GST DRC-01A, or to the SCN, and had not provided the Petitioner an opportunity of being heard. Further that Section 75(4) of the CGST Act, 2017 statutorily mandates an opportunity of hearing to be granted prior to passing an Order, which was not adhered to prior to passing of the impugned order.

The Hon'ble High Court was pleased to set aside the order and remanded the matter for reconsideration afresh in accordance with law. The Court also permitted the Petitioner to appear before the Department and submit additional documents and submissions.

Woodpecker Distilleries and Breweries Pvt. Ltd. v. Dy. Commr. of Commercial Taxes (Audit), W.P. No. 38171/2025, Karnataka High Court

High Court stays an Order in Original demanding tax on trading of Transferable Development Rights for a monetary consideration under the category 'Real Estate Services'

A Writ Petition was filed before the Hon'ble High Court of Karnataka challenging an Order-in-Original under Section 74 of the CGST Act, 2017 passed against a real estate Company demanding tax on the ground that the Company had failed to discharge applicable GST on trading of Transferable Development Rights ("**TDRs**") for monetary consideration by classifying the same as a supply of services under the category of "Real Estate Services".

It was argued before the High Court that

TDRs are right issued in the form of Development Rights Certificate by the Government to construct/develop a plot of land over and above the available Floor Space Index. It is a non-monetary consideration given to the landowners in lieu of compulsory acquisition of land which can either be utilized by such landowners or transferred to any other person in terms of Section 14B of the Karnataka Town and Country Planning Act,1961. It was further submitted that the Petitioner purchased TDRs from the landowners who transferred the same and sold the same to various builders for a monetary consideration by way of execution of conveyance deed. It was also submitted that no construction services were received for trading of TDR. Accordingly, transfer of TDRs, undertaken by the Company are akin to sale of land covered under the ambit of Entry 5 of Schedule III of the Act, which are not exigible to GST.

Further, it was submitted that the levy of tax on transfer of TDRs is also beyond the legislative competence of the parliament as the subject taxes on lands and buildings is covered under Entry No. 49 of State List of the seventh schedule of the Constitution of India. Furthermore, even assuming that TDRs are considered as benefit arising out of land, the meaning of term land includes benefit arising out of land and accordingly TDRs would fall under the ambit of sale of land in terms of Entry 5 of Schedule III of the Act.

In light of the above submissions, the Hon'ble Court was pleased to admit the Writ Petition, and grant an interim order of stay, staying the Order in Original passed against the Petitioner.

WP. No. 37815/2025, Karnataka High Court

Karnataka High Court grants stays GST demand on supply of COVID-19 vaccines

The Petitioner, a leading healthcare service provider was involved in supply of COVID-19 vaccines to its patients across the Hospitals. The department issued an Order creating a demand on the said transaction on the ground that the said activity does not fall under the ambit of 'Healthcare services' which is exempted by way of Notification. In a Writ Petition filed before the Hon'ble Court challenging the said order, it was contested by the Petitioner that supply of vaccines forms part of a composite supply where healthcare service is principal supply which is exempted and consequently, the supply of vaccines being ancillary to the same, are also exempted.

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

WP No. 38200/2025, Karnataka High Court

Courtroom Updates

Consolidated SCN issued covering the multiple FYs is not sustainable in the eyes of law

The Hon'ble High Court of Karnataka while disposing a Writ Petition filed challenging the SCNs issued for multiple financial years either under Section 73 or 74 of the CGST Act, has observed that a conspectus of the provisions of the CGST Act indicate that said Act, in its very architecture and statutory framework, is designed around financial-year-specific assessment, and every stage of the statutory process i.e., registration, maintenance of accounts, filing of returns, reconciliation, determination of liability, adjudication and

limitation, are all structured independently for each financial year. A consolidated show cause notice collapses this entire legislative framework, causing jurisdictional illegality.

The Hon'ble Court also relied upon decisions of the various High Court and recent decision of the Bombay High Court in case of ***Milroc Good Earth Developers v. Union of India*** (WP No. 2312/2025) wherein it was concluded that bunching of SCNs for multiple financial years frustrates the limitation scheme, prevents the assessee from giving year-specific rebuttals, and amounts to Jurisdictional overreach by the authorities.

In light of the same, the Hon'ble High Court quashed the SCNs. However, reserved the liberty in favour of the department to initiate appropriate proceedings in accordance with law.

M/s. Pramur Homes and Shelters v. UOI & Ors, WP No. 33081/, Karnataka High Court

Karnataka High Court reaffirms GST reimbursement to works contractors for pre-GST projects

In a series of Writ Petitions, the Karnataka High Court had reiterated that works contractors are entitled to reimbursement of the differential tax burden arising from the transition from the KVAT regime to GST. The petitions involved contractors who had entered into works contracts with State authorities prior to 1 July 2017, but where execution and/or payments extended into the GST period.

Relying on its earlier decision in ***Chandrashekaraiah & Ors. v. State of Karnataka, W.P. No. 9721/2019*** and subsequent judgments, the Dharwad bench of the Hon'ble Karnataka High Court reiterated that the tax component in a works contract is an independent statutory liability and not part of the contractor's profit. Any additional GST burden caused by the change in tax regime must therefore be borne by the employer-State or its agencies.

The Court had followed State Government circulars dated 03.01.2020 and 14.12.2020, which prescribe a detailed methodology for segregating pre-GST and post-GST work and calculating tax liability. The Hon'ble Court issued directions for contractors to submit representations, for State authorities to decide expeditiously, and for GST authorities to refrain from taking coercive action against the Petitioner.

N.R. Kulkarni NRK Construction Company v. UOI, W.P. No. 145682/2020, Karnataka High Court at Dharwad

High Court Quashes SCN seeking to recover erroneous refund by applying the principle of *res judicata* as the eligibility of the refund was already adjudicated by the Appellate Authority

The Orissa High Court quashed a demand-cum-show cause notice seeking recovery of an allegedly erroneous refund of unutilized ITC claimed by the Petitioner pursuant to exports without payment of tax.

The Petitioner was granted refund of the ITC vide a speaking order. Subsequently, the Commissioner passed a review order and directed filing of a departmental appeal under Section 107(2) of the CGST Act, 2017. The appeal was dismissed by the Additional Commissioner (Appeals), who upheld the refund on merits, including eligibility, limitation, and permissibility of clubbing tax periods.

Despite this, the Joint Commissioner issued a demand-cum-show cause notice under Section 73 proposing recovery of the same refund, along with interest and penalty. The said SCN relied heavily on the review order passed by the Commissioner.

The Hon'ble Court held that the review order was an administrative order that stood exhausted once the appeal was filed and decided. Initiation of Section 73 proceedings on identical issues amounted to an attempt to rely on an administrative order to nullify a binding quasi-judicial appellate order.

The Court held that the Joint Commissioner had overstepped his jurisdiction by differing with the

of the Appellate Authority, thereby committing an error of record, and the decision to revive the review order of the Commissioner by invoking Section 73 is tainted as he cannot sit over the quasi-judicial decision of the Appellate Authority in the appeal under Section 107.

The Court while applying the principles of *res judicata* and *issue estoppel* also observed that the act of adjudication on the same subject by way of fresh SCN without due deference to the *quasi-judicial* Appellate Order is unconscionable. Hence, the impugned SCN must be set aside.

Auroglobal Comtrade Pvt. Ltd. v. Joint Commissioner, GST & CE., W.P.(C) No. 35050/2025, Orissa High Court

Allahabad High Court remands matters where communications were only uploaded on the GST common portal

A batch of Writ Petitions challenged adjudication orders passed under the CGST Act, 2017 on the grounds that Department communications, such as SCNs or orders, were not physically served, and were merely uploaded on the common portal. The Petitioners contended that mere uploading of notices and orders on the portal does not amount to "communication" for the purposes of Section 107. In the absence of actual or constructive service, limitation could not commence. It was argued that the Petitioners became aware of the orders only when recovery proceedings were initiated, by which time the statutory limitation period for filing appeals had expired.

The Department argued that electronic service through the portal is expressly recognised under Section 169(1)(d) of the CGST Act, 2017 and constitutes valid service. Since the orders were uploaded, the Petitioners were deemed to have been served. Further, it was argued that the Writ Petitions could not be maintained due to availability of an appellate remedy.

The Court held that electronic service, including uploading on the common portal, is permissible as the option is provided under Section 169 of the Act. However, the deeming fiction of service under Section 169(2) and (3) does not apply to service through electronic modes. Mere uploading cannot trigger limitation under Section 107 as there is an absence of a mechanism to establish when notices or orders were actually accessed by the assessees.

The Court thus held that the adjudication orders be set aside, subject to deposit of 10% of the disputed tax, and matters were remanded for fresh adjudication after proper service and opportunity of hearing.

Bambino Agro Industries Ltd. v. State of U.P., Writ Tax No. 2707/2025, Allahabad High Court

Andhra Pradesh High Court held that GST will not be applicable on interest/penalty charged for delayed payment recovered by chit fund company

The Petitioner, a chit fund company engaged in the business of running chit funds schemes. The conduct of the chits is regulated by the Chit Fund Act, 1982 read with the Andhra Pradesh Chit Funds Rules, 2008. In certain circumstances, if subscribers fail to pay the necessary chit instalments, to ensure that the chit schemes do not fail, an additional amount is collected by the Petitioner for delayed payment which is termed as interest/late fee/penalty.

The Petitioner had approached the Authority for Advance Ruling, to have clarity on whether any GST is payable on such interest/penalty for delay in payment of subscription amount. The Authority for Advance Ruling held that the additional amount being charged on delayed payment, which is termed as interest, late fee and penalty, would have to be treated as a part of the value of service and the GST would be liable on such amounts charged on delayed payment.

Aggrieved by the Order, the Petitioner approached the High Court wherein it was submitted that the interest collected by a chit fund company from defaulting subscribers would be treated as debt and interest payable on such debt would not attract GST. The Respondent

on the other hand, argued that the even interest and penalty paid on any defaulting payment of instalments would have to be treated as a fee and as part of the consideration paid for supply of the services and therefore, such interest and penalty would also been exigible to tax.

The High Court relying on the decision of the Supreme Court in the case of ***Oriental Kuries Limited Vs. Lissa &Ors [(2019) 19 SCC 732]***, wherein it was held that chit amount paid out to a prized subscriber, is in the nature of grant of a loan and the same can be recovered by the foreman by treating the same as a debt. In view of this, the interest or penalty recovered by a foreman, on account of defaulting payment of instalments, cannot be treated to be a service fee or another charge and hence would not be exigible to tax under the GST Act.

Ushabala Chits Private Limited v. The Commissioner of State Tax and ors. WP. No. 14745/2021, Andhra Pradesh High Court

GST refund cannot be denied on export of services by treating the services as 'intermediary services'

The Petitioner is an education services company which provides subcontracted services to its overseas parent entity. The Petitioner filed refund application treating the services as exports. The Respondent denied the refund application of the Petitioner alleging that the services provided by the Petitioner relating to student recruitment and facilitation of overseas education is in the nature of intermediary services and hence cannot be treated as 'export of services'.

The High Court took note of several recent judgments, including those of the Karnataka High Court itself held that subcontracted services to the overseas qualify as export of services and are eligible to refund of accumulated ITC. Further, the High Court also took into consideration that the Petitioner had already received favorable order in its own case before the Bombay High Court and Rajasthan High Court as well as from the Tribunal that the Petitioner was not acting as an intermediary.

In view that the issue is squarely covered by various precedents, the High Court quashed the impugned order and directed the Respondents to grant refund in favour of the Petitioner.

IDP Education India Pvt. Ltd. v. Union of India and ors. WP. No. 16975/2023, Karnataka High Court

The Madras High Court held that seized currency must be returned in the absence of issuance of SCN

The Petitioner herein contented that Indian currencies were seized by the Respondents under Section 110 of the Customs Act. It was submitted that as per Section 110(2), the Respondent has to issue a SCN within 6 months or extend the period of issuance by another 6 months and in the absence of both the Respondents will have to return the seized currencies to the Petitioner.

The Respondent contented that the currencies seized by them from the Petitioner does not fall within the definition of 'things' as provided under Section 110(1) and accordingly, no SCN was required to be issued to the Petitioner within the stipulated time.

In view of the submissions, the High Court observed that there is a clear distinction between Section 110(1) and Section 110(3). Section 110 (3) of the Customs Act, 1962 deals only with documents and 'things' relevant to any proceedings under the Customs Act, 1962 which has no specific time limit for issuance of SCN unlike Section 110(2). In the present case, the High Court held that since the Department has affected the seizure under Section 110, the said seizure of Currencies will only fall under Section 110(1) and therefore, necessarily Section 110(2) must be strictly followed. Therefore, in the absence of SCN and in view of the precedents of various High Courts given in similar matters, it is held that the Respondent must return the currencies seized.

Vikram Jain v. Principal Commissioner of Customs, WP. No. 10428/2025, Madras High Court

THANK YOU

For further queries/information please get in touch with us

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