

# S&S Tax Snippets

26<sup>th</sup> Ed.



# Regulatory Updates

## GST Updates:

### Lenient Scrutiny of Appeals Filed on the GSTAT Portal

Order No. 2711-15 dated 20.01.2026 issued by the Principal Bench of the GSTAT, directs the registry to adopt a lenient approach in scrutinizing appeal documents and raise defects of substances over defects of form, considering the difficulties faced by the appellants for filing of appeals on the GSTAT Portal. Accordingly, for the next six months defects which do not affect the merits of the case should not be raised.

Further, it was also clarified that digitally generated documents through GSTN System need not be certified and scanned copy of physical documents are only required to be signed.

*Office Order F.No. GSTAT/Pr.Bench/Portal/125/25-26/2711-15 dt. 20.01.2026*

### CBIC extends export incentives to postal shipments

The CBIC has extended export-related benefits under the Duty Drawback, Remission of Duties and Taxes on Exported Products (RoDTEP) and Rebate of State and Central Taxes and levies (RoSCTL) schemes to exports made through the postal mode in electronic form with effect from 15.01.2026.

The said measure aims to provide a level playing field for exporters using postal channel and to create a conducive and inclusive ecosystem for the growth of cross-border e-commerce and in order to operationalize these benefits, amendments are made to the Postal Export (Electronic Declaration and Processing) Regulations, 2022.

*Press Release dated 16.01.2026*

### Advisory on RSP-Based valuation of Notified Tobacco Goods under GST

In the backdrop of Notification No. 19/2025-Central tax and 20/2025-CT dated 31.12.2025 prescribing Retail Sale Price based valuation for specific tobacco and tobacco related products, advisory has been issued on the valuation and reporting mechanism for the same.

Accordingly, formula has been prescribed for calculating the Tax amount as  $(RSP \times \text{GST rate in \% of applicable taxes}) / (100 + \text{Sum of applicable tax rate})$ . Further, the deemed taxable value would be  $RSP - \text{Tax Amount}$ .

Further, in view of the existing system constraint wherein the sum of taxable value and tax amount cannot be greater than the total invoice value, which is the scenario in the RSP based valuation, it is advised that the tax payers report the net sale value in the taxable value field, the tax amount shall be reported in accordance with the RSP-based valuation formula and the total invoice value to be reported as the sum of net sale value and the tax amount.

Additionally, it is also clarified that the above reporting method is extended only for HSNs notified in the aforesaid Notifications and is only devised as a trade facilitation measure without any dilution of statutory provisions or legal requirements.

*GST Advisory dated 23.01.2026*



# S&S Case Roundup

Cases Handled by us

## Order Rejecting Refund of Anti-Dumping Duty quashed and remanded for fresh consideration on merits

A Writ Petition was filed before the Hon'ble High Court of Madras, challenging the Order rejecting the Petitioner's request for amending 25 Bills of Entry for purpose of refund of the Anti-Dumping Duty ("ADD") under Section 149 of the Customs Act, on the basis that no ADD was leviable on the goods imported by the Petitioners, as the same were not included in the Notification No. 35/2018- Customs (ADD) dated 09.07.2018 and accordingly sought for refund of the ADD paid by Petitioner under protest. The Department rejected the refund on the grounds, that the test report indicates only certain properties, which does not establish that the imported yarns were outside the ambit of Notification No. 35/2018.

It was submitted that the Yarns imported by the Petitioner are in the nature of Adhesive Activated Yarns with denier higher 1000 and Yarns with High Modulus Low Shrinkage ("HMLS") properties which do not fall within the purview of the Notification No. 35/2018, and therefore, ADD will not be leviable on the goods imported by the Petitioner. It was further stated that test reports which were available at the time of imports confirms that the imported goods falls within these exclusions, and therefore ADD was not leviable. The Hon'ble High Court observed that the Petitioner's contentions were not considered, and no personal hearing was given to the Petitioner to present their

documentation and explanations before passing the rejection Order. Consequently, the Hon'ble High Court quashed the Order and remanded the matter back to the respondent for fresh consideration on merits after providing an opportunity of personal hearing.

*Mehler Engineered Products India Pvt. Ltd. v. Dy. Commr. of Customs, W.P. No. 18723/2023 and WMP No. 17970/2023, Madras High Court*

## High Court of Madras questions inordinate delay in finalization of provisional assessments and directs time-bound finalisation

Writ Petitions were filed before the Hon'ble High Court of Madras, challenging the inordinate delay on the part of the Customs Department in finalising provisional assessments in relation to 32 Bills of Entry, despite provisional release of the goods and arbitrary encashment of one of the bank guarantees without any prior notice. In this regard it was submitted that despite passing of 11 years from the date of provisional release of the goods, the Respondents have not passed the final assessment orders which is a statutory obligation under Section 18(2) of the Customs Act and is to be completed within reasonable time in terms of circulars and regulations. It was also brought to the notice of the Court that the requisite documentation for finalization of the assessments were already submitted by the Petitioner.

The Hon'ble Court, after considering the submissions, observed that there was an inordinate and unexplained delay on the part of the Respondents in passing final assessment orders, notwithstanding the provisional release granted in 2014 and

directed the Department to pass final assessment orders by adhering to the principles of natural justice within six weeks from the date of receipt of the order based on the documents furnished by the Petitioner at the time of granting provisional release of goods and no additional documents shall be called for.

*TVS Motor Company Ltd. v. Commr. of Customs, W.P. No. 27921/2022, Madras High Court*

**High Court of Karnataka, at Dharwad and Kalaburgi grant stay in Writ Petitions challenging the constitutional validity of Section 3A of the Central Excise Act, 1944 and notifications levying excise duty based on manufacturing capacity on tobacco products.**

Numerous Writ Petitions were filed before the Hon'ble High Court of Karnataka, at Dharwad and Kalaburgi challenging the capacity-based assessment of the tobacco products under Section 3A of the Central Excise Act, 1944 and the Notifications issued under Section 3A notifying the goods and prescribing rate of tax and rules.

It was submitted that the power to levy Excise Duty comes from Article 246 of the Constitution of India read with Entry 84 of the List-I to the Seventh Schedule to the Constitution of India. However, entry 84 empowers for the levy of Excise duty only on the goods manufactured or produced in India. The capacity-based assessment under Section 3A is a levy of excise duty on deemed manufacturing which is not permissible as per the Constitution. It was further argued that the challenge to the Constitutional validity of Section 3A is already pending before the Hon'ble Supreme Court

wherein the Supreme Court has granted stay in favour of the Petitioner who is also part of the batch of transfer petitions pending before the Hon'ble Apex Court.

The Hon'ble High Court considering the submissions made with respect to the power to levy excise duty on deemed manufacture and pendency of transfer petitions before the Hon'ble Apex Court, stayed the operation of Section 3A and the Notifications issued under Section 3A which will come into force w.e.f., 01.02.2026.

*W.P. No. 100220/2026, High Court of Karnataka, Dharwad*

**High Court stays orders confirming tax demand on export of services**

The Petitioner being involved in provision of the market research and post-sales support services to its foreign Affiliate received an Order confirming the demand of tax on the said transaction stating that services provided by the Petitioner is in the nature of intermediary and that the Petitioner is acting as intermediary between the foreign Affiliate and its customers and facilitating the services between them. Therefore, the place of supply for the services provided by the Petitioner is in India and does not qualify as export of services.

In a Writ Petition filed before the Hon'ble High Court it was argued that the activity undertaken by the Petitioner is not in the nature of intermediary and therefore the place of supply is governed under Section 13(2) of the Integrated Goods and Services Tax Act, 2017 and since the recipient of the said services is the foreign Affiliate outside India, the

place of supply would be outside India. Specific reliance was placed on Circular No. 159/15/2021-GST dated 20.09.2021 and judgment in case of *Columbia Sportswear India Sourcing Pvt Ltd v. UOI (2025) 30 Centax 373 (Kar.)* wherein a similar transaction was examined and held that the same does not amount to intermediary services. In light of the same, the Hon'ble High Court granted stay on the Orders confirming the demand of tax.

*W.P. No. 1839/2026 and others,*  
*Karnataka High Court*

## Courtroom Updates

### **Supreme Court sets aside High Court's analysis on refund of pre-deposit under Section 54 of the CGST Act**

The Petitioner before the High Court had discharged pre-deposit for the maintenance of an Appeal. The Appeal was allowed and Form GST APL-04 dated 10.02.2022 was issued. The Petitioner applied for refund of the pre-deposit on 11.09.2024, which was rejected on the grounds that the period prescribed under Section 54(1) of the CGST Act had lapsed.

The Jharkhand High Court set aside the refund rejection and directed the Department to refund the pre-deposit to the Petitioner along with interest on the grounds that the two-year limitation under Section 54 of the GST Act is directory and not mandatory. It observed that denial of refund of a statutory pre-deposit after the appeal had been allowed, would amount to unauthorized retention of money in violation of Article 265 of the Constitution.

Revenue filed an SLP on the limited point that the refund was required to be sanctioned under Section 107(6) read with Section 115 of the Jharkhand GST Act, and that the High Court had undertaken an unnecessary exercise in

interpreting Section 54 of the CGST Act.

The Hon'ble Supreme Court agreed that the refund relates to Section 107(6) read with Section 115 and hence, the High Court's exercise of interpreting Section 54 in the context of mandatory limitation was set aside. The Supreme Court directed the amount to be refunded to the assessee.

*State of Jharkhand v. BLA Infrastructure Pvt. Ltd., Civil Appeal No. 170/2026, Supreme Court of India*

### **Supreme Court permits raising of issue of non-issuance of SCN in adjudication**

Gold bars were seized from a foreign national (Petitioner) at the IGI Airport, Delhi. The Petitioner contended that the seizure was illegal as no valid show cause notice (SCN) under Section 124 read with Section 110(2) of the Customs Act, 1962 had been served within the mandatory six-month period, entitling her to unconditional release of the gold.

The Delhi High Court had dismissed a writ petition and subsequent review petition, holding that the SCN dated 03.07.2023 was validly served by email within six months of seizure (21.01.2023). It accepted service through a Gmail sent to the email address provided by the petitioner herself, rejecting the argument that service was invalid for non-compliance with the Government of India's Email Policy.

Before the Supreme Court, the core issue in the SLP filed by the Petitioner was whether the SCN had in fact been issued and served within the statutory six-month period prescribed under Section 110(2). However, the Supreme Court noted that adjudication proceedings were still pending before the competent authority.

The Supreme Court granted liberty to the petitioner to raise all contentions before the Adjudicating Authority, including the plea that no valid SCN was issued within time, which would mandate return of the seized gold. The Authority was directed to examine such plea

independently, without being influenced by the High Court's observations, and to conclude proceedings expeditiously.

*Elena Shvedova v. UOI, SLP (Civil) Diary No. 50643/2025, Supreme Court of India*

### **Mere Booking of Foreign Speakers does not amount to Event Management under Service Tax**

The issue under consideration before the Court was whether the fee paid by the Assessee to the speakers, through their booking agents for Hindustan Times leadership Summit is liable to Service Tax under RCM under category of 'Event Management Service' under Sections 65(40) and 65(41) read with Section 65(105)(zu) of the Finance Act.

The Hon'ble Court while examining the agreements in light of the definition of 'event manager' under Section 65(41) and 'event management' under Section 65(40) of the Finance Act held the services rendered by the agents to the assessee were in the nature of booking the speakers for the event to be organized by the Assessee. The contracts were entered into with the agents qua each speaker laying down the modalities of his/her visit and consideration for the same. Such services cannot be equated with "event management service" which has been statutorily defined to mean "any service provided in relation to planning, promotion, organizing or presentation of any arts, entertainment, business, sports, marriage or any other event and includes any consultation provided in this regard". The contract of the assessee with the booking agents was not for "management of an event" but for booking of the speaker. Therefore, set aside the Orders challenged thereon.

*H T Media Limited v. Principal Commissioner, Delhi, Civil Appeal No. 23525/2017, Supreme Court of India*

### **High Court sets aside penalty order in a case of sale in the course of import**

The Petitioner supplied medical equipment to a Kerala hospital pursuant to purchase orders that expressly mandated procurement only from Siemens, Germany, and prohibited supply from Indian stock. The equipment was imported solely to fulfil this contract, with the foreign supplier's documents linking the import to the hospital's order. While the petitioner filed a Bill of Entry and subsequently sold the goods domestically, it disclosed the transaction in its returns and claimed exemption under Section 5(2) of the CST Act as a "sale in the course of import".

Department imposed a penalty on the petitioner under Section 67 of the KVAT Act for the assessment year 2016-17, on the ground that the transaction was not eligible for exemption. It was argued that filing BoEs by the Petitioner and clearance for home consumption constituted a break in the chain. Hence, exemption benefit could not be availed by the Petitioner.

The High Court found that the purchase order, import, and sale were inextricably linked. Relying on earlier decisions, the Court held that Section 5(2) was attracted. It further ruled that penalty was unsustainable since there was full disclosure and no suppression, and the adjudication authorities themselves had accepted the exemption.

*Siemens Ltd. v. STO, WP(C) NO. 34538/2018, Kerala High Court*



### **Coercive recovery under Section 75 of the Act cannot be invoked for recovery of interest arising from wrong utilisation of ITC**

The Petitioner is a scrap dealer, who for business purposes purchases scrap from the Indian railways. In respect of such purchases, the Petitioner is liable pay tax under reverse charge mechanism. The Respondent alleged that the Petitioner has wrongly availed and utilised ITC to adjust payment of such RCM liability instead of payment in cash. Accordingly, the Respondent demanded payment of tax from the Petitioner. Despite the petitioner indicating to the Respondent that payment of tax was made through DRC-03 and requested for defreezing of bank account, the Respondent invoked Section 79 of the CGST Act to recover interest on delayed payment of tax amounts from the Petitioner's bank, which was paid by the Bank.

The Hon'ble High Court of Andhra Pradesh allowed the Writ Petition on the grounds that provisions of Section 75(12) of the Act is available only where a registered person has clearly disclosed their tax liability in the GST returns filed under Section 39 of the CGST Act, and such tax liability has not been discharged. In the present case, the wrong utilisation of ITC by the Petitioner could only be adjudicated in terms of provisions of Sections 73/74 of the Act and the coercive process under Section 75(12) of the CGST Act cannot be used under such circumstance. Accordingly, the recovery process initiated under Section 79(1)(c) of the Act was set aside and the court directed refund interest recovered.

*M/s. Sona Enterprises v. Assistant Commissioner of Central Tax & Ors., W.P. No. 15151/2023, Andhra Pradesh High Court*

### **Mandatory time gap between issuance of a show cause notice and passing of an Order under Section 73 of the Act**

The Hon'ble High Court relying on the decision of the division bench in *C.H. Robinson Worldwide Freight India Pvt. Ltd. v. Addl. Commr., CGST-Delhi-South* and *The Cotton Corporation of India v. Asst. Commr.*, held that the time gap of three months between the issuance of a SCN under Section 73(2) of the Act and the passing of the order under Section 73(10) of the Act is mandatory

The High Court observed that the time gap of three months is necessary as multiple activities are to be performed in the intervening period which includes following principles of natural justice, fulfilment the requirements of Sections 73(3) and 73(5) i.e issuance of notice indicating the details of demand opportunity to pay the tax demanded, facility of obtaining at least three adjournments for personal hearing in cases where there is possibility of an adverse order being passed. Accordingly, the Hon'ble High Court quashed and set aside a SCN and an Order consequent to the SCN as the time gap was only about 2 months and 24 days. The matter was remanded back for fresh consideration in accordance with law.

*A. M. Marketplaces Pvt. Ltd. v. UOI, W.P. No. 7942/2025, Bombay High Court*

### **The law laid down by the Supreme Court in Mohit Minerals applies retrospectively**

A Writ Petition was filed before the Hon'ble High Court of Calcutta wherein an Order confirming the demand of IGST on ocean freight under reverse charge was challenged. The said Order was passed ignoring the plea of the Petitioner on the applicability of the decision of the Hon'ble Supreme Court in *UOI v. Mohit Minerals (P) Ltd (Civil Appeal No. 1390/2022)* passed post commencement of the audit proceedings, and amendment in the Notification. Further, it was concluded in the order that the

relevant period for the Order is 2017-18 and that CBIC has freed the importer from payment of IGST on ocean freight service with effect from 01.10.2023.

The Hon'ble High Court while setting aside the said order held that the view of the officer is fundamentally wrong and that it is a settled position of law that a judgment of a Constitutional Court declaring a law applies retrospective unless expressly made prospective, whereas a statute applies prospectively unless it is expressly made retrospective.

*Sunrise Timply Co. Pvt. Ltd v. UOI, WPA 10415/2025, Calcutta High Court*

**The Authority is liable to refund the amount paid under protest along with interest if the issue is decided in the favour of Assessee**

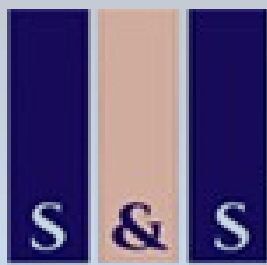
The Petitioner had paid IGST on Ocean Freight under protest and subsequent to the decision of the Hon'ble Apex Court in *UOI v. Mohit Minerals Pvt Ltd (Civil Appeal No. 1390/2022)*, sought refund of the said amount which was granted. However, Petitioner sought for interest on the said refund which was not granted by the Authorities and the same was challenged by way of the Writ Petition.

The Hon'ble High Court relying on the decision in case of *Jupiter Comtex Pvt Ltd v. UOI (Special Civil Application No. 1280/2024)*, observed that when the levy of the tax is found to be illegal and unconstitutional by quashment of statutory notifications, interest is liable to be paid on the amount of refund, even as the statute is silent regarding award of interest with respect to such eventuality. It was held that the Petitioner is entitled to interest at the rate of 6% per annum from the date of deposit under protest.

*Pradeep Phosphates Ltd v. Additional Commissioner, GST (Appeals) & others, WP (C) No. 11618/2024, Calcutta High Court*

# THANK YOU

For further queries/information please get in touch  
with us



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