

S&S Tax Snippets

27th Ed.



Regulatory Updates

GST Updates: Amendments made vide Finance Act, 2026:

Amendment to Section 15 and Section 34 of the CGST Act

Section 15(3)(b) of the CGST Act which provides for the post sale discount has been amended to mandate the reversal of ITC attributable to such discount by the recipient of supply wherever credit note is issued by the supplier after effecting the supply. Further, the existing requirement of prior agreement has also been done away with the said amendment.

Parallel amendment is made to Section 34 of the CGST Act to include the reference of the post-sale discount provided under Section 15(3)(b) of the CGST Act indicating the same as one of the scenarios for raising the credit note.

Amendment to 54 of the CGST Act

Section 54(6) of the CGST Act is amended to enable the provision of provisional refund by the officer in cases of claim of refund on account of unutilized ITC due to inverted duty structure situations.

Section 54(14) of the CGST Act is amended to provide for the refund claimed on account of goods exported out of India even though the said refund claim is less than one thousand rupees.

Amendment to Section 101A of the CGST Act

Sub-Section (1A) to Section 101A of the CGST Act has been inserted to empower any existing authority on recommendation of the Council to hear appeals under Section 101B till the National Appellate Authority for Advance ruling is constituted.

Amendment to Section 13 of the IGST Act

Section 13(8)(b) of the IGST Act has been omitted which prescribed the place of supply for intermediary services as location of supplier of

Services. Consequently, the place of supply for intermediary services will now be governed as per the default rule under Section 13(2) of the IGST Act wherein the place of supply is the location of recipient of services.

Customs:

Amendments made vide Finance Act, 2026:

Amendment to Section 1, Section 2 and Section 56A of the Customs Act

Section 1 of the Customs Act was amended and Section 56A of the Customs Act was inserted with an aim to expand the territorial scope of the Customs Act beyond the territories of India, specifically to cover fishing and fishing-related activities by Indian flagged vessels beyond India's territorial waters which is intended to benefit the shipping industry as the fish harvested by Indian-flagged fishing vessel may be brought into India without payment of duty.

Consequently, Section 2 of the Customs Act was amended to insert definition for "Indian-flagged fishing vessel" and "international courier terminal"

Amendment to Section 28 of the Customs Act

Section 28(6)(i) of the Customs Act was amended to substitute the words "be deemed to be conclusive as to the matters stated therein" to "be deemed to be conclusive as to the matters stated therein and penalty so paid under sub-section (5), on determination under this sub-section, shall also be deemed to be a charge for non-payment of duty" By virtue of the amendment, the penalty paid under sub-section (5) of section 28, on determination under sub-section (6) thereof, shall be deemed to be a charge for non-payment of duty.

Amendment to Section 28J of the Customs Act

Section 28J (2) of the Customs Act originally prescribed the time limit for validity of an Advance

Ruling issued under the Customs Act to be three year or until there was a change in the law or on the facts based on which the ruling was issued, whichever was earlier. The amendment to this Section extended the validity period of Advance Rulings issued under the customs advance ruling mechanism from three years to five years.

Amendment to Section 67 of the Customs Act

Section 67 of the Customs Act was substituted to simplify the process of removal of warehoused goods to another warehouse by eliminating the present practice of seeking prior permission from the Customs Officer in case of removal of goods from one warehouse to another.

Amendment to Section 84 of the Customs Act

Section 84 of the Customs Act was amended by substituting the words "*the examination*", in clause (b) to "*the custody, examination*" which the intention to provide powers to the CBIC with respect to the Custody of the goods imported and exported by post or courier

For updates relating to the Customs Notifications refer to our Budget updates on Indirect tax at [Budget 2026-2027](#).

Central Excise:

Levy of NCCD on tobacco and tobacco products

The Finance Act, 2001 introduced levy of National Calamity Contingent Duty (NCCD) on the goods falling under Seventh Schedule to the Finance Act, 2001 at the rate specified under the said schedule. As per said schedule the rate of NCCD was fixed at 25% and the same has been revised to 60% in terms of Clause 142 read with Sixth Schedule to the Finance Bill, 2026.

Further, the Notification No.01/2026-CE dated 01.02.2026 was issued under Section 5A of the

Central Excise Act, 1944 which provides that the effective rate of NCCD would be 25% w.e.f, 01.05.2026

Clause 142 to Finance Bill, 2026

Notification No. 01/2026-CE dated 01.02.2026

Revised valuation of Compressed Natural Gas (CNG)

Post budget 2026, Notification has been issued which prescribes the valuation mechanism for the determination of excisable value of CNG blended with Biogas or Compressed Biogas. As per Notification No.02/2026-CE dated 01.02.2026 the excisable value of CNG should exclude the value of Biogas or compressed Biogas involved in the CNG and the CGST, SGST and IGST payable on the CNG. To this extent Explanation 3 has also been inserted in the said notification wherein it is clarified that the Central Tax, State Tax and Union Territory Tax refers to Central Goods and Service Tax Act, 2017, respective State Goods and Services Tax Acts, 2017, Union Territory Goods and Services Tax Act, 2017 and Integrated Goods and Services Tax Act, 2017

Further, earlier Notification No.5/2023-CE dated 01.02.2023 has been rescinded vide Notification No.03/2026-CE dated 01.02.2026 which provides for the exemption on the component of Central Tax (CGST), State Tax (SGST) and Union Territory tax (IGST) involved in the CNG from the levy of excise duty.

Notification No.02/2026-CE dated 01.02.2026

Notification No.03/2026-CE dated 01.02.2026

Excise Duty on tobacco or tobacco refuse

Notification No.4/2026-CE dated 01.02.2026 has been issued which provides for the Nil rate of excise duty on unmanufactured tobacco or tobacco refuse, not bearing brand name and not packed for retail sale. Further the Excise Duty is leviable at 18% on Unmanufactured tobacco or tobacco refuse, excluding unmanufactured tobacco or tobacco refuse not bearing a brand name and not packed for retail sale.

Courtroom Updates

Supreme Court dismisses Revenue's SLP on commission earned by an Indian education consultant constituting export of services and not intermediary services

The Department filed SLP against a Delhi High Court judgment dismissing writ petitions against appellate orders granting GST refund to an education consultancy firm. The firm had entered into agreements with foreign educational institutions (FEIs) to counsel Indian students seeking admission abroad. Upon successful admissions, the respondent received commission from the FEIs in foreign exchange. Refund claims from the firm were rejected by the adjudicating authority on the ground that the respondent was an "intermediary" under Section 2(13) of the IGST Act and thus not providing export of services"

The High Court allowed the refunds, holding that the respondent provided services on its own account to foreign universities, which were the contractual recipients paying consideration. It was not arranging or facilitating supplies between two parties and therefore was not an intermediary. The services qualified as export of services, and refund was directed to be granted.

The Supreme Court, while dismissing the SLP observed that it is not inclined to interfere with the High Court's order. However, time to grant refund was extended by 2 months.

Commissioner of Goods and Service Tax, DGST Delhi v. Global Opportunities Pvt. Ltd., SLP(C) No. 2752/2026, Supreme Court of India



Supreme Court holds that courts cannot devise extra-statutory refund mechanisms

The Union of India challenged a Gujarat High Court's direction permitting the Respondent to the SLP to retain Rs. 19.28 crore refunded pursuant to invalidation of Entry 10 of Notification No. 10/2017-IT (Rate). The said entry deemed an importer of goods as the 'recipient of service' of transportation of goods by a foreign shipping line.

The notification had earlier been struck down by the Supreme Court in ***Union of India v. Mohit Minerals Private Limited***. The issue was whether the High Court could approve a mechanism whereby the respondent (Torrent Power Ltd.) could keep the refunded amount in a designated account and seek tariff adjustments through the electricity regulator to benefit consumers who bore the ultimate tax burden due to Notification No. 10/2017-IT (Rate).

The Supreme Court held that Section 54(5) of the CGST Act mandates credit of refundable amounts to the Consumer Welfare Fund unless the applicant proves it has not passed on the tax incidence. As the tax burden was passed on to consumers, the statutory exception did not apply. The High Court's refund mechanism was contrary to the statutory scheme. The impugned judgment was set aside, and the respondent was directed to transfer the amount to the Consumer Welfare Fund.

UOI v. Torrent Power Ltd., SLP(C) No. 13084/2025, Supreme Court of India

Madras High Court holds that affiliation fees collected by universities from colleges are taxable under GST

Petitioner University challenged notices issued under Section 74(5) of the CGST Act demanding tax on affiliation fees collected from affiliated. The Petitioner University contended that such fees were exempt under Notification No. 12/2017-CTR dated 28.06.2017 as services relating to admission and conduct of examinations by an educational institution.

Reference was made to the Division Bench of the Madras High Court due to conflicting decisions of Single Benches.

The Division Bench held that affiliation and inspection services are distinct from services relating to admission or conduct of examinations and therefore do not fall within the exemption under Entry 66 of Notification No. 12/2017. It held that the expression “services relating to admission to, or conduct of examination by, such institution” cannot be interpreted to include all activities carried out by a University.

The Court observed that affiliation is a statutory recognition granted to colleges upon satisfaction of prescribed infrastructural, academic, and regulatory rules. Inspection, grant of affiliation, and compliance verification are independent administrative and supervisory functions performed for consideration. These services are supplied by the University to affiliated colleges, and not to students, and are not connected with admission or conduct of examinations.

It was held that while affiliation may be a precondition enabling colleges to admit students, it would not fall under the scope of Entry 66. As per Circular No. 234/28/2024-GST dated 11.10.2024, the Court held that affiliation fees are liable to GST.

Bharathidasan University v. Joint Commissioner of GST, W.P.(MD) No. 27453/2025, Madras High Court

No GST on transfer of going concern

The R&D business undertaking of the Petitioner Company located in the State of Andhra Pradesh was transferred to the Bangalore unit of the same Petitioner Company along with assets and liabilities of the R&D Unit as a going concern for Zero Consideration under the business transfer agreement. Subsequent to the business transfer the Petitioner approached the Advance Ruling authorities on the question that whether the transfer of business as going concern amount to

supply of goods or supply of services or supply of goods and services, whether the present transaction is covered under Sl. No.2 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 i.e., the service by way of transfer of going concern which is exempted from payment of GST and whether the ITC pertaining to Andhra Pradesh branch can be transferred to Bangalore branch. The Authority for advance ruling held in favour of the Petitioner i.e., the transfer of going concern is covered under the above exemption entry and the unutilised ITC can be transferred to Bangalore unit.

The Deputy Commissioner of Central Tax being aggrieved by the above ruling filed an Appeal before the Appellate Authority for Advance Ruling which held that the above transaction is supply of goods which is subject to GST and the unutilised ITC cannot be transferred to Bangalore Unit. The Hon'ble High Court while setting aside the Ruling passed by the Appellate Authority for Advance Ruling held that the GST is applicable only on the sale in the course of furtherance of business and not sale of the business itself. The transfer of entire R&D Unit as a going concern including assets and liabilities amounts to sale of business itself which is not subject to GST. With respect to transfer of ITC same was allowed in case of CGST and IGST credit. However, with respect to transfer of APGST credit to Bangalore unit under KGST Credit, the direction is given to place this issue before the authorities under Karnataka GST Act, and the Andhra Pradesh GST Act, for consideration as it is contended by the department that the credit earned under APGST Act cannot be transferred to KGST Act.

M/s Shilpa Medicare Ltd v. UOI, W.P. No. 15995 of 2021, Andhra Pradesh High Court

From FY 2024–25 onwards, all proceedings under the GST law must be initiated under Section 74A of the CGST Act.

The Madras High Court set aside an assessment order issued under Section 74 of the CGST Act for the FY 2024-25 and remanded the matter back. The High Court observed that, Sections 73 and 74 of the CGST Act has been omitted with effect from 01.04.2024 from FY 2024-25 and for FY 2024-25 onwards a proceeding could only be initiated only under Section 74A of the CGST Act. Without considering the statutory changes, the Respondent had issued a SCN and subsequently passed an assessment order under Section 74 of the CGST Act, which is without any jurisdiction.

Accordingly, the High Court set aside the impugned order and remanded the matter for fresh consideration. The High Court directed the Petitioner to treat the assessment order issued under Section 74 of the CGST as a SCN issued under Section 74A and file reply along with supporting documents within a period of four weeks, after which the Respondent would grant an opportunity of personal hearing and pass orders on merits.

Baskar Selvakumar v. The Assistant Commissioner of CGST and Central Excise, W.P.(MD)No.2625 of 2026 & W.M.P(MD)No.2210 of 2026

Computation of Limitation period for filing of an Appeal under Section 107 of the CGST Act excludes the time Spent in Rectification Proceedings

The Hon'ble High Court of Gujarat quashed and set aside an order rejecting the appeal filed by the Petitioner in Form GST APL-01 under Section 107 of the CGST Act read with Rule 108 of the CGST Rules on the grounds of delay. The Respondent rejected the appeal as being time-barred, as the same was filed beyond the statutorily provided period of 120 days (three-months+ one-month condonable period) from the date of the order. It was contended on behalf of the Petitioner that the Respondent had failed to consider the fact that limitation period to file an appeal would start only from the date of rejection of

rectification application, consequently, there is no delay in filing of an appeal. Thus, the Respondent was in error while rejecting the appeal filed by the Petitioner on the ground's limitation.

The Hon'ble High Court observed that although a delay beyond 120 days cannot be condoned by the High Courts while exercising jurisdiction under Article 226 of the Constitution of India, in the present case a rectification application filed under Section 161 of the CGST Act against the Order has a direct impact on the computation of limitation for filing of an appeal under Section 107 of the CGST Act and the Respondent ought to have taken into account the impact of the rectification proceedings on the limitation period before rejecting the appeal filed by the on the grounds of delay.

Accordingly, since there was no delay in filing of an appeal by the Petitioner, the Hon'ble High Court by quashing the impugned order and remanding the matter for fresh adjudication on merits held that where a rectification application under Section 161 of the CGST Act is filed against an Order, the limitation period for filing of an appeal against the said Order under Section 107 of the CGST Act shall be computed excluding the time period from the date of filing of rectification application to the date of disposal the same. The Respondent, therefore, ought to have taken into account the impact of the rectification proceedings on the limitation period before rejecting the appeal.

New Kailash Suppliers v. State of Gujarat & Ors. SCA No. 9540 of 2025 also see M/S Vyas Traders v. Additional Commissioner, Grade-2 And Another Writ Tax No. 1054 of 2025



THANK YOU

For further queries/information please get in touch
with us



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