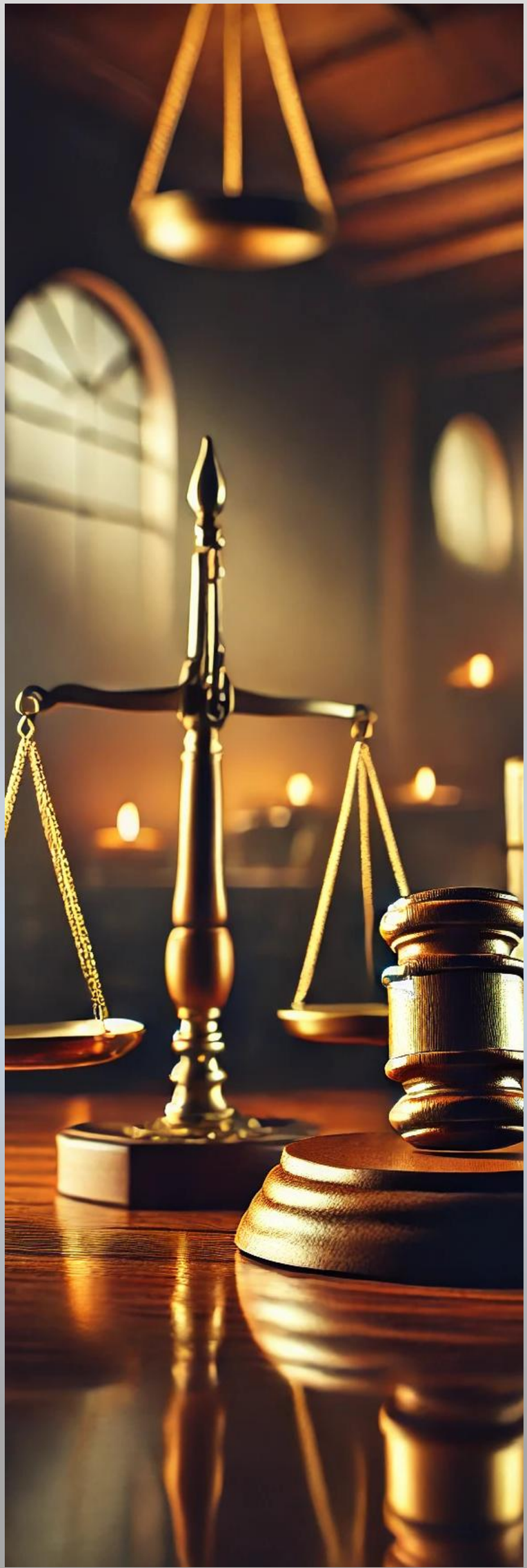
S&S Tax Snippets

29th Ed.



Regulatory Updates

Customs:

CBIC simplifies procedure for return of export cargo to Indian Ports from International Waters due to disruption in maritime routes and closure of Strait of Hormuz Disruption

The CBIC in exercise of the powers conferred under Section 143AA of the Customs Act, 1962, vide Circular No. 9/2026 Customs dated 08.03.2026, has prescribed a simplified procedure to be followed in order to facilitate trade and ensure expeditious handling export cargo returning to Indian ports due to the closure of the Strait of Hormuz affecting international shipping routes and export logistics.

In such exceptional situations, vessels returning with export cargo are generally required to berth at the same Indian port from which they departed. Where the vessel has not crossed Indian territorial waters and Export General Manifest (EGM) or Shipping Departure Manifest (SDM) has not been filed, containers may be offloaded without filing a Bill of Entry after verification of shipping documents and container seals. The Shipping Bills and Let Export Orders will be cancelled, and exporters may be granted "Back to Town" facility. In cases where EGM/SDM has been filed or the vessel had entered international waters but returned without calling at a foreign port, similar verification procedures apply and a system facility will be introduced to enable cancellation of Shipping Bills post-EGM in ICES, with details shared with relevant authorities. However, where the vessel has entered into International Waters and called at a foreign port without unloading cargo, the consignments will be treated as exported and a Sea Arrival Manifest must be filed. Field formations have also been directed to recover export incentives such as IGST refunds, and drawback manually if the same are already disbursed. The said relaxation is valid for 15 days from the date of the circular.

Circular No. 9/2026 Customs [F.No.450/23/2026-CUS IV], dated 08.03.2026

Waiver of Fees for Amendment or Cancellation of Export Documents due to Force Majeure Situation

The CBIC, vide Circular No. 10/2026 Customs dated 10.03.2026, has provided relief to exporters in light of the exceptional situations affecting global logistics, the Board has clarified that where amendment or cancellation of export documents becomes necessary solely due to force majeure circumstances, the proper officer may allow such amendment or cancellation without charging the prescribed fee under the Levy of Fees (Customs Documents) Regulations, 1970. Such situations may include cancellation or rescheduling of vessels or flights, suspension of cargo services by carriers, operational disruptions at ports or airports, or other comparable circumstances beyond the control of exporters. Exporters or authorised Customs Brokers must submit a request to the jurisdictional Deputy/Assistant Commissioner of Customs along with supporting evidence such as communications from shipping lines, airlines, or port authorities. The relaxation applies to export consignments handled at all customs stations in India, including seaports, airports, ICDs and CFSs, and will remain in force for 15 days from 10.03.2026.

Circular No. 10/2026 Customs dated 10.03.2026

DGFT:

DGFT issued Trade Notice for the launch of Credit Assistance for E-Commerce Exporters under Export Promotion Mission

Directorate General of Foreign Trade (DGFT) has issued a Trade Notice in terms of which the Credit Assistance is provided to the E-Commerce Exporters under Export Promotion Missions (EPM). The objective of this initiative is to enhance access to working capital for MSMEs involved in the international value chain through e-commerce. As per the trade notice dated 06.03.2026, the credit guarantee cover will be available to the banks for extending credit assistance to the MSMEs in the form of Cash Credit, Overdraft or other modes. The credit assistance also backed by the interest subvention. The Credit assistance is being operationalized on pilot basis through Exim Banks.

The Credit assistance involves Direct E-commerce Credit Facility; and Overseas Inventory E-Commerce Credit Facility.

Presently the guidelines issued under this trade notice is placed for the stakeholders' comments and suggestions for the period of 30 days from the date of issuance of the trade notice.

Trade Notice No. 31/2025-26 dated 06.03.2026

S&S Case Roundup

Cases Handled by us

Karnataka High Court holds that the solar inverters are part of solar power generating system and are eligible for concessional rate of GST of 5%

A Writ Petition was filed challenging the Order-in-Appeals confirming the demand of differential tax holding that the solar inverters supplied by the Petitioner to the companies engaged in Solar power generating system is not eligible for the concessional rate of 5% tax under entry 234 of the Notification No. 1/2017-CT(R) dated 28.06.2017 on the ground that the said inverters are mere electrical inverters which can be used for both as part of solar power generating system and as a regular inverter.

The Hon'ble High Court held that the purchase orders and invoices submitted by the Petitioner clearly indicates that the Petitioner has supplied the said solar inverters for the purpose of manufacture of the solar power-based devices and solar power generating system. Further, the Court also observed that the benefit of the exemption is not restricted to supply of entire solar power system but also extended to supply of parts. Therefore, the solar inverter being part of solar power generating system, the supply of solar inverters is eligible for the concessional rate of tax under the notification.

Additionally, it was also observed that the solar inverters along with other parts of the system are assembled together to form solar power generating system and that the phrase 'in any manner' as given under the definition of 'manufacture' under Section 2(72) of the CGST Act, can be construed to include assembly of parts as well.

Furthermore, the Hon'ble Court also held that the usage of solar inverters is restricted as part of solar power generating system and cannot be put to any other use and hence concluded that the intended usage of the solar inverters is always as parts of solar power generating system and in this regard, the Hon'ble Court relied on the decision of the Supreme Court in case of ***State of Haryana v. Dalmia Dadri Cement Ltd*** (Civil Appeal Nos. 937/1975).

ABB India Limited vs. Joint Commissioner of Commercial Taxes (Appeals-6) & Anr, WP No. 9686/2025 & others, Karnataka High Court

Kerala High Court holds that the tax with respect to the 50% credit lapsed under Section 17(4) of the CGST Act for banks can be capitalized in the books of accounts and depreciation can be claimed

The Petitioner, being a Banking Company, for the purpose of availing the ITC opted for Section 17(4) of the CGST Act and availed 50% ITC and reversed the remaining 50% ITC. To the extent of the remaining 50% ITC which was lapsed, the Petitioner capitalized to the respective assets and claimed depreciation on the assets under Income Tax Act, 1961.

The department issued a SCN for wrongful availment of ITC on the ground that the since the Petitioner claimed depreciation on the tax component, after availing the option under Section 17(4) of the CGST Act, the Petitioner became ineligible to claim ITC for the entire tax component in view of the restrictions specified under Section 16(3) of the CGST Act.

The Hon'ble High Court held that in terms of Section 16(3) of the CGST Act, the prohibition contemplated is in respect of the tax component for which depreciation is claimed and is not to the extent of other portion of the tax component and that the expression 'the said tax component' in the said Section provides a clear indication of the same. Therefore, such restriction cannot be brought into force in respect of the portion of ITC for which no depreciation is claimed as contemplated under Section 17(4) of the CGST Act.

Further, it was also held that once the credit is availed in terms of Section 17(4) of the CGST Act, the rest ITC lapses and therefore the said unavailed ITC cannot have the nature of a tax component and subsequently, the same shall not attract the prohibition under Section 16(3) of the CGST Act.

Additionally, it was also observed that the 50% of ITC, for which no credit is available, is to be treated at par with the value of exempt supplies under Section 17(2) of the CGST Act and therefore, when the depreciation claimed for exempt supplies does not attract prohibition contemplated under Section 16(3) of the CGST Act, the restriction as alleged by the department on availment of ITC in respect of unavailed portion of ITC under Section 17(4) of the CGST Act is unreasonable.

South Indian Bank vs. Joint Director, DGGI & Anr, WP(C) no. 29087/2025 & others, Kerala High Court

Courtroom Updates

Calcutta High Court Division Bench affirms that clause (d) of proviso to Rule 5(1) of the W.B. Central Excise (Change in Management) Rules, 2009 is to be read to prevent discriminatory treatment

The Department filed an appeal before the Division Bench of the Calcutta High Court against a ruling of the Single Judge that held clause (d) of the proviso to Rule 5(1) of the West Bengal Central Excise (Change in Management) Rules, 2009 was unconstitutional, as it denies private limited companies the same treatment given to public limited companies by clause (e) to the same proviso.

The licence holder operated a hotel in Kolkata and held excise license under the Bengal Excise Act, 1909. Originally a private limited company, which was deemed to be a public limited company due to an amendment to the Companies Act, 1956. In 2022, the license holder was again converted into a private limited company. The Department questioned why the license holder's name changed during license renewal and ultimately demanded fees under Rule 5(1) on account of change in management and status of the company, as new directors were inducted.

Rule 5(1) requires payment of 1.5 times the initial licence grant fee for change in management of a license. The proviso grants certain exemptions. Clause (d) states that death of director(s) of a private limited company is a valid reason for exemption, while clause (e) also

includes change in management in the usual course of business of a public limited company.

The licence holder filed a W.P., challenging the demand and constitutional validity of clause (d) to the proviso to Rule 5(1), and sought refund of payments made under protest. The Single Judge held that clause (d) is unconstitutional and observed that if the provision is "read up", the exemption for a private limited company would be equal to that of a public limited company.

The Division Bench held that in even in matters of the grant of a licence, the State cannot act arbitrarily. There is no rational nexus between the difference in treatment afforded by clauses (d) and (e) and the object sought to be achieved. It noted that Rule 4 places both types of companies on equal footing in relation to change in management, approval, regularization, etc. As the rules distinguish between voluntary change of management, and cases of business-exigency driven changes, there is no rational basis to discriminate between private and public companies.

However, the Division Bench also noted that "reading up" or "reading down" provisions is an interpretation device to avoid sticking down laws, and the provision cannot be both stuck down as unconstitutional and read up to grant parity with clause (e) simultaneously. Taking into the account the exemption is beneficial, the Court held that justice would be served if clause (d) is read with the same exemption given in clause (e) regarding involuntary change in management.

State of W.B v. New Kenilworth Hotel Pvt. Ltd., FMA No.226 of 2024, Calcutta High Court

Bombay High Court holds that there is no scope for consolidating tax periods in GST SCNs

The Petitioners challenged Show Cause Notice issued under Section 74 of the CGST Act, 2017 for the period 2018 to 2023, and contended that clubbing of multiple tax periods is impermissible as per the Bombay High Court's Division Bench ruling in ***Milroc Good Earth Developers v. UOI***, W.P. ***No. 2203/2025*** and ***Rite Water Solutions Ltd v. Joint Commr., W.P. No. 466/2025***, which have since been reiterated in other judgments.

The Department argued that the Division Bench of the Hon'ble Delhi High Court in ***Mathur Polymers v. UOI, W.P.(C) No. 2394/2025***, had held that in cases involving allegations of fraudulent availment of ITC, where the transactions are spread across several years, a consolidated SCN may be required to establish the illegal modality adopted by assessees. It was further held that the language of the legislation does not prevent issuance of consolidated SCN.

The Department further argued that the aforesaid decision was tested before the Hon'ble Supreme Court in SLP(C) Diary No 50279/2025, wherein the Supreme Court declined to interfere. Hence, the law laid down by the Delhi High Court has attained finality.

The Bombay High Court held that while the judgment has attained finality, the doctrine of merger would not apply as the SLP was dismissed in limine and not on merits. The Court highlighted various aspects such as the GST scheme being based on annual returns for each financial year, limitation being based on the due date for furnishing returns, and the fact that consolidation would collapse the years referred to in Sections 73(10) and 74(10), harming the ability of taxpayer to respond year-by-year, all of which were discussed in ***Milroc (supra)*** and ***Rite Water (supra)***, were not considered by the Delhi High court.

Since the Hon'ble Supreme Court has not stayed or overruled the subsequent judgments of the Bombay High Court, lower authorities are bound by the ruling in ***Milroc (supra)*** and ***Rite Water (supra)***. Since the Department has indicated their intention to challenge the aforesaid decisions, liberty was granted to the Department to revive the W.P. if the Hon'ble Supreme Court overrules the said decisions

Rainbow Greeners Nagpur v. State of Maharashtra, W.P. No. 7945/2025, Bombay High Court

Time limit to distribute credit by ISD is linked to eligibility to credit, and the same month when invoice is received

Petitioners challenged SCNs and the validity of Rule 39(1)(a) of the CGST Rules, 2017, for the periods prior to 01.04.2025 and after. For the prior period, it was argued that the stipulation on the ISD to distribute credit in the same month as the date of the underlying invoice did not derive power from Section 20 of the CGST Act, 2017, (i.e., prior to its amendment). For the subsequent period, it was argued that the condition is impossible to fulfil and is arbitrary and unreasonable as the ISD has to determine which recipient unit the invoice is attributable to, whether the credit is eligible or ineligible, and whether statutory conditions are fulfilled for each invoice. It was therefore argued that the provisions should be interpreted to refer to credit that fulfil the requirements of Section 16 of the Act.

The Court held that ITC distribution cannot be triggered due to receipt of invoice alone. The phrase "credit available for distribution" refers to ITC that becomes legally available only after conditions in Section 16(2) of the Act are fulfilled. It held that harmonious interpretation requires that Rule 39(1)(a)'s stipulation of credit being distributed "in the same month" must be considered as referring to credit that becomes legally available under Section 16 of the Act. Hence, the SCNs must be reconsidered in light of the above ruling.

Reliance Jio Infocomm Ltd. v. UOI, W.P. No. 27038/2025, Madras High Court

THANK YOU

For further queries/information please get in touch with us

Level 3,
No. 4/2, Millers Road,
Bangalore – 560052
admin@sdlaw.co.in | +91 80437 79955