

S&S Tax Snippets

30th Ed.



Regulatory Updates

GST Updates:

Designation of Judicial Members of GSTAT as Vice Presidents of the respective states

The Ministry of Finance, Department of Revenue issued an Office order dated 23.03.2026 wherein the President of India has designating 22 Judicial Members of Goods and Services Tax Appellate Tribunal as vice presidents of their respective State Benches of GSTAT in terms of Section 109(7) of the Central Goods and Services Tax Act, 2017.

Office Order No. 01/2026 dated 23.03.2026

Instruction on filing of appeal in the GST portal

It has been instructed that the appeal filed before the GST Tribunal in APL-05 should contain softcopies of the SCN, OIO, OIA, Statement of Facts and grounds of appeal. Additionally, copy of Authorization/Vakalathnama is required to be uploaded. Further, the payment of pre-deposit and court fee is made compulsory unless the said appeal is filed by the revenue.

Office Order No. 01/2026 dated 23.03.2026

Advisory on payment of pre-deposit while filing appeal before the first Appellate Authority

It was noted that any payment made through DRC-03 is not automatically recognized by the GST system against the specific demand ID for an OIO and therefore, the payments made vide DRC-03, are not considered by the system while calculating the pre-deposit required to be paid. In view of the same, it is advised that the payment must be linked to the respective demand ID by filing Form DRC-03A on the GST portal, which would enable the payment made through DRC-03, to be mapped to the corresponding demand order and post which the entry becomes available in the electronic credit ledger and will accordingly reflect while making payment of pre-deposit.

Advisory dated 14.03.2026

Karnataka Sales Tax Updates:

Reduction in the rate of Sales Tax on Liquefied Natural Gas

The Government of Karnataka vide Notification dated 24.03.2026 and corrigendum dated 27.03.2026 issued under Section 8A of the Karnataka Sales Tax Act, 1957 read with Section 21 of the Karnataka General Clauses Act, 1899 has reduced the rate of Sales Tax levied on Liquefied Natural Gas (LNG) under Section 5(1) of the Karnataka Sales Tax Act, 1957 from existing 14.34% to 5% with effect from 01.04.2026.

Notification No. FD 20 CSL 2026 dt. 24.03.2026 r/w

Notification No. FD 20 CSL 2026 dt. 27.03.2026

S&S Case Roundup

Cases Handled by us

CESTAT allows 57 appeals relating to demand of service tax on Venture Capital Fund Trusts on the expense incurred and carry income retained and distributed

The Hon'ble CESTAT allowed 57 appeals involving service tax demands raised on 11 Venture Capital Funds (VCFs) for various periods. The demands pertained to amounts retained by the Funds towards expenses, as well as sums allocated to Class C unit holders as return on investment (commonly referred to as carry income/interest).

In earlier litigation concerning a prior period, the Tribunal had, in 2021, upheld a similar demand of service tax in the hands of the Fund. However, on appeal, the Hon'ble Karnataka High Court reversed the Tribunal's decision, holding that a VCF is not a juridical person under the Finance Act.

The Court had observed that the trust structure operates merely as a pass-through for contributors' funds, and applying the doctrine of mutuality, the identity between the contributors and the fund cannot be segregated.

Accordingly, the Fund does not render any service, and there can be no service to oneself. The Department's SLP against this decision was subsequently dismissed.

In view of the issue having attained finality, the CESTAT held that the service tax demand could not be sustained against the Funds. Accordingly, the Tribunal allowed all 57 appeals, reiterating that a VCF structured as a trust was not liable to service tax during the relevant period

India Advantage Fund III v. Commr. of Service Tax, STA No. 21334/2017, CESTAT Bangalore

CESTAT allowed Appeal filed by the importer of Gold Dore Bars availing benefit under Notification No. 12/2012-Cus dated 17.03.2012

The Hon'ble CESTAT, Bangalore allowed the Appeal filed by the importer of Gold Dore Bars wherein the exemption benefit under Notification No. 12/2012-Cus dated 17.03.2012 on import of Gold Dore Bars from Ghana and Peru had been denied by the Principal Commissioner of Customs, Airport and Air Cargo Complex, Bengaluru on the ground that the importer failed to comply with Condition No.34(b) and (c) of the Notification i.e., with respect to imports from Ghana the packing list has not been prepared by the miner himself but by the exporters and with respect to imports from Peru the assay certificate has not been issued by the mining company or the laboratory attached to mining company.

In case of import from Ghana, where the miners who do not have facility to smelt the gold concentrate into Gold Dore Bar,

the same is done by government authorised exporters in the presence of miner. Such Gold Dore Bars are subsequently weighed and assayed by the miner based on which the packaging list is prepared by the miner. Further, with respect to imports from Peru, the order for the import of Gold Dore Bars is placed through service provider and the order is dispatched after the confirmation of order by the importer. The Miners themselves being exporters in Peru issued packing list and the assay certificate is issued by the facility located away from the mine.

On detailed hearing of the Appeal, the Hon'ble CESTAT held that the Appellant is eligible for the exemption available under Notification dated 17.03.2012 as the packing list has been issued "in accordance with" the mining Company in terms of Condition No. 34 (b) along with the assay certificate issued by the Exporter and the Laboratory attached to the mining Company in Peru situated at a distance cannot be construed as laboratory not attached to the mining company, who is also the exporter.

M/s Bangalore Refinery Private Limited v. The Principal Commissioner of Customs, Customs Appeal No. 20127/2022, CESTAT Bengaluru



CESTAT Bengaluru upholds classification of printed manuals and technical documents under CTH 4901, rejecting their classification under CTH 4911

An Appeal was filed by a leading Public Sector undertaking before the Hon'ble CESTAT Bengaluru challenging the Order rejecting the classification of printed material containing technical details on equipment, machine specifications, reports on the working/ management of the equipment, etc., pertaining to defence equipment imported by the Company under CTH 4901 99 00 as "Printed books, brochures, leaflets and similar printed matter whether or not in single sheets" and confirmed the demand reclassifying the same under CTH 4911 as "other printed matter" and consequentially denied the exemption benefit availed by the Company under the Notification No.12/2012 Cus dated 17.03.2012 and Notification No. 50/2017 Cus dated 30.06.2017.

In this regard, it was argued on behalf of the Company that, the imported goods are in form of printouts in a plastic or box file which merit classification under CTH 4901 99 00 and not under CTH 4911 99 00 as classified by the department. Alternatively, it was submitted on behalf of the Company that the value of the imported goods must be added to the transaction value of the imported equipment as the imported goods are required for the purpose of proper installation and operation of equipment and the same would not have any value on its own without the main equipment and accordingly, the Company would be eligible for benefit of exemption under Notification No. 19/2019 extended to the main equipment.

The Hon'ble CESTAT after considering the aforesaid submissions observed that the facts in the present case are similar to the decision in *M/s. Hindustan Aeronautics Limited v. The Principal Commissioner of Customs, Bangalore, Customs Appeal No. 20099 of 2021, 2024-VIL-1600-CESTAT-BLR-CU dated 17.09.2025* and hence set aside the entire demand interest and penalty by holding that imported technical documents are rightly classifiable under CTH 4901 99 00. Accordingly, the benefit of exemption Notification No.12/2012 and Notification No. 50/2017 are admissible.

M/s. Bharat Electronics Ltd. v. The Principal Commissioner of Customs, Customs Appeal No. 20124/2021, CESTAT Bengaluru

Courtroom Updates

Supreme Court clarifies "intended use" test for excise exemption

The assessee had procured Naphtha at nil duty under excise notifications that granted exemption when the goods were used in the manufacture of fertilizer/ammonia.

The Department had alleged that the said Naphtha had been used as fuel in a steam generation plant, which was used to support manufacturing of non-fertilizer products, and generation of electricity. Hence, a demand of excise duty, along with interest and penalty was raised by invoking the extended period of limitation.

The assessee argued that Naphtha was procured solely for producing fertilizer. However, use in a common boiler meant that precise amounts could not be traced. Regardless, the exemption was granted based on intended use, and not

actual end use. Furthermore, it was argued that the extended period of limitation cannot be invoked in cases where there was an absence of intention to evade duty, especially when the assessee is a government undertaking.

The Department contended that Naphtha was not exclusively used for fertilizers and was partly used for manufacturing chemicals and generating power in other units. Hence, demand was created on the proportionate amount of Naphtha not used solely to manufacture fertilizers.

The Hon'ble Court distinguished between intended use (at the time of procurement) and actual consumption, and noted that in integrated plants, end-use cannot be traced practically. However, this cannot be the basis to deny exemption. Furthermore, the Court accepted the assessee's arguments on invocation of extended period of limitation and revenue neutrality.

Rashtriya Chemicals and Fertilizers Ltd. v. CCE, Civil Appeal Nos. 2219-20 of 2013, Supreme Court of India

GST exemption not available for bank retirees group health insurance policies

The Petitioners, retired bank employees covered under group health insurance policies negotiated by the Indian Banks' Association, sought GST exemption under Notification No. 16/2025-Central Tax (Rate) dated 17.09.2025, contending that the exemption for health insurance should apply to them.

The Department argued that the exemption, based on GST Council recommendations, was restricted to individual and family health insurance policies, and expressly excluded group policies. The petitioners contended that they did not fall within the definition of "group" under the notification, as they had no common economic activity or purpose other than availing insurance.

Rejecting the contention of the Petitioners, the

Court held that the exemption was clearly intended only for individual policies, as evident from the GST Council recommendations and the language of the notification. It further observed that the policies were genuine group policies, issued through collective bargaining by the banks' association, conferring typical group benefits. Relying on IRDAI regulations, the Court observed that groups cannot be formed solely to obtain insurance. This implies the existence of a pre-existing relationship among members. Hence, the Court held that the petitioners were not entitled to the exemption from GST.

E. P. Gopakumar v. UOI, WP(C) No. 38316/2025, Kerala High Court

Karnataka High Court reads down Section 16(2)(c) of the CGST Act, 2017

The petitioner argued that the provisions impose an "impossible burden" by requiring recipients to ensure tax payment and return filing by suppliers, which is beyond their control. They contended that these provisions are arbitrary and violate Articles 14, 19(1)(g), 265, and 300A of the Constitution. Furthermore, ITC is a vested right that should not be denied due to the lapses or faults of the supplier.

The Department argued that ITC is a concession subject to statutory conditions, including the requirement that tax must be actually paid to the government treasury to prevent revenue loss.

The Court, following precedents from the Delhi, Gauhati (*National Plasto Moulding v. State of Assam, (2024) 21 CENTAX 182(Gau)*), and Tripura (*M/s Sahil Enterprises v. Union of India and others, WP(C) 688/2022 dated 06.01.2026*) High Courts, which had ordered that Section 16(2)(c) and Rule 36(4) be read down, held that these provisions should not be interpreted to deny ITC to *bona fide* recipients who have complied with all other conditions under Section 16(2) of the Act.

Consequently, it was held that the Department

cannot penalize a purchaser for the fault or non-payment of tax by the supplier in genuine transactions.

Instakart Services Pvt. Ltd. v. UOI, W.P. No. 4917/2021, Karnataka High Court

Rule 86A cannot be invoked against supplier in case of default of recipient

The petitioner challenged a show cause notice and consequential blocking of its Electronic Credit Ledger (ECL) under Rule 86A of the CGST Rules, 2017. The SCN alleged that the petitioner had issued invoices without actual supply, enabling its customer to fraudulently avail ITC.

The petitioner argued that Rule 86A can be invoked only where the assessee itself has fraudulently availed or is ineligible for ITC. It argued that it had paid output tax on supplies and that the allegation pertained solely to wrongful ITC availment by a recipient.

The Department argued that investigation against the petitioner's customer revealed fraudulent ITC claims. It contended that the matter involved factual disputes warranting adjudication and justified invocation of Rule 86A.

The Court held that Rule 86A can be invoked only where the taxpayer whose credit is blocked has itself fraudulently availed or is ineligible for ITC. In the present case, allegations were directed against the customer, not the petitioner. Accordingly, invocation of Rule 86A by the SCN was without jurisdiction

Sri Padmavathi Marketing v. Asst. Commr. of Commercial Taxes, W.P. No. 373/2026, Karnataka High Court

Section 54 limitation is mandatory. However, Writ remedy available to assesseees for belated refunds

The assessee, engaged in intermediary services, initially treated services as export and paid IGST.

Later, the supply was reclassified as intra-State and paid CGST and SGST. A refund claim under Section 54 of the CGST Act was filed but was rejected by authorities on the ground that the same is time-barred. The Single Judge allowed the writ, holding that the prescribed limitation period is directory.

On Revenue's Writ Appeal, the Department contended that the two-year limitation under Section 54 of the CGST Act, 2017 is mandatory and cannot be diluted. The refund claim was beyond both statutory and extended timelines under Rule 89(1A). Allowing belated claims would disrupt the time-bound GST framework and undermine provisions like Sections 73 and 74 of the Act.

The assessee argued that refund provisions became operational after insertion of Rule 89(1A) (w.e.f. 24.09.2021) and hence limitation is directory, tax paid without authority must be refunded (Article 265), and denial on technical limitation leads to unjust enrichment. Given double payment of tax, refund should be granted irrespective of delay.

The Court held that in the absence of enabling power either to condone the delay or to treat the period of two years as directory, Section 54 must be interpreted as mandatory. Usage of the word "may" cannot always be construed as directory and must depend on the context. However, in absence of any statutory mechanism to condone delay, taxpayers may invoke writ jurisdiction under Article 226. Courts may condone delay in deserving cases, subject to extension of limitation under Sections 73/74 to benefit Revenue.

Once condonation of delay is granted by the High Court, the claim would be treated as having been filed within limitation, enabling consequential benefits as well as exercise of appropriate powers by the proper officer under the Act.

Assistant Commissioner of Central Taxes v. Merck Life Science Pvt. Ltd., W.A. No. 110/2026, Karnataka High Court

THANK YOU

For further queries/information please get in touch
with us



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