

S&S Tax Snippets

7th Ed.



Regulatory Updates

Customs Notifications

CBIC Constitutes 4 Interim Boards for Settlement Under Central Excise Act

Government Constitutes four Interim Settlement Boards under Central Excise Act

Vide Notification No. 02/2025-Central Excise (N.T.) dated 8th April 2025, the Ministry of Finance, exercising powers under Section 31A(1) of the Central Excise Act, 1944, for Settlement to adjudicate pending matters under Central Excise. These Boards, pivotal for expedited resolution and taxpayer facilitation, are headquartered in Delhi (Board-I), Kolkata (Board-II), Mumbai (Board-III), and Chennai (Board-IV). The notification, issued under the authority of the CBIC, signifies a structured and regionally balanced approach towards legacy dispute resolution.

Notification No. 02/2025-Central Excise (N.T.) dated 8th April 2025

DGFT Operationalizes 'Global Tariff and Trade' Helpdesk

To proactively address evolving global trade developments, DGFT has launched a Global Tariff and Trade Helpdesk aimed at assisting exporters and importers in navigating challenges such as import surges, dumping, EXIM clearances, supply chain disruptions, financial and regulatory issues, and compliance hurdles. The Helpdesk will also liaise with relevant Ministries and State agencies for inter-departmental resolution. Stakeholders can raise requests via the DGFT website (Services > Helpdesk > Global Tariff and Trade Issues) or reach out via dgftedi@nic.in or 1800-111-550. Status updates can be tracked online.

Trade Notice 01/2025-26 dated 11.04.2025

GST Advisory

Invoice number will be case insensitive in IRN Generation

An advisory was issued to inform that w.e.f. 01.06.2025 invoice/ document numbers reported in



any format would be automatically converted to uppercase making it as case-insensitive for the purpose of invoice reference number generation. This change has been implemented to ensure consistency and avoid duplication.

Advisory dated 04.04.2025

Changes in Table-12 of GSTR-1 and GSTR-1A

In line with the earlier advisory issued on 22.01.2025, an advisory has been issued for implementation of phase III of Table 12 of GSTR-1 and GSTR-1A from April 2025. By implementation of this, Table 12 has been bifurcated into two tables namely, B2B and B2C to report summaries of these supplies HSN wise separately in corresponding table. Additionally, the taxpayer will be able to choose HSN from the given drop down and need not enter the HSN manually.

Advisory dated 11.04.2025

Inter-state supplies auto-populated in Table 3.2 of GSTR-3B will be non-editable

An advisory has been issued that from April 2025 tax period, inter-state supplies auto-populated in Table 3.2 of the GSTR-3B return will be made non-editable and GSTR-3B shall be filed with auto-populated values as generated by the system only. Therefore, it has also been clarified that any modification/amendment required in auto-populated values of table 3.2 can only be done by amending the corresponding values in respective tables of GSTR-1A or through Form GSTR-1/IFF filed for the subsequent tax periods..

Advisory dated 11.04.2025

Stay granted on order confirming demand of tax on expenses incurred by the head office on behalf of branch offices

A Writ Petition was filed challenging the order confirming demand of tax on various issues, including cross-charging indirect expenses incurred on behalf of the branch offices, sponsorship services provided for skill development, on Director's fees and legal charges under RCM and ITC availed on CSR activities. It was submitted that the Petitioner has duly cross charged the expenses relating to the head office and that the Order has wrongly considered the global expenses for the purpose of cross charge. Further, the demand confirmed on Sponsorship services are not sustainable in view of Circular No. 116/35/2019 dt. 11.10.19 which clarified that mere display of donor's name does not amount to Sponsorship services. The Hon'ble High Court, after considering the above submissions, was pleased to stay the Order.

W.P. No. 977/2025, Karnataka High Court

Order confirming demand of differential tax on supply of parts of solar power based devices stayed

A Writ Petition was filed challenging an Order demanding differential tax on goods like electric inverters, fractional HP motors, and transformer parts, holding them taxable at 18% and not eligible for the concessional rate under Entry 234 of Notification No. 1/2017-CT(R) dt. 28.06.2017, alleging that the same applies only to Solar Power Generating Systems and related devices. It was argued before the High Court that the inverters convert DC to AC and the other goods are integral to the system covered under Entry 234, qualifying them for exemption. The High Court, considering the submissions, granted a stay on the Order.

W.P. No. 9686/2025, Karnataka High Court

Court grants stay on the Order passed basis Notification No. 54/2018-CT dated 09.10.2018

Writ Petitions were filed challenging orders and the vires of Notification No. 54/2018-CT dt. 09.10.18, wherein Rule 89(4B) of the CGST Rules mandated assesseees to claim refund under the said rule if the recipient received supplies from suppliers who availed benefits under specified Notifications or availed such benefits themselves.

It was argued that the Rule lacks mechanism for claiming refunds, making it arbitrary. It was contended that the Rule imposes an artificial restriction on refund claims and that the pre-GST regime did not require a one-to-one correlation between inputs and outputs to claim credit. Considering the submissions the Hon'ble High Court granted a stay on the Order.

W.P. No. 11053/2025 and W.P. No. 10092/2025, Karnataka High Court

Order demanding tax on export of services stayed

Writ Petitions were filed challenging Orders confirming demand of tax on software services provided to the parent Company on the ground that the same is not in the nature of export, since the prototype hardware is made available by the recipient for providing such software services.

It was argued that the Order has been passed in contravention of Circular No. 118/37/2019-GST dt. 11.10.2019, which clarified that the place of supply of software by supplier located in the India to service recipient abroad, by using sample prototype hardware, is outside India, and hence export of services. Further, it was also submitted that the refunds were sanctioned considering the same as export of services which are not challenged by the department. The Hon'ble High Court considering the submissions made and the stay order granted earlier in the similar matters granted stay on the Orders.

W.P. No. 9472/2025, Telangana High Court

High Court directs that Joint Commissioner's objections to refund application must be withdrawn

The Hon'ble High Court observed that the Joint Commissioner had pointed out discrepancies in the refund application, which were responded to by the Petitioner, and accepted by the Asst. Commissioner. The Joint Commissioner had once again raised a discrepancy that was already addressed by the Petitioner. The Court directed that the Joint Commissioner withdraw his objections so that the Petitioner may be granted refund. The Court further allowed the Petitioner liberty to approach the department seeking for interest on the ground of delay in granting refund.

ABB Global Business Services and Contracting India Pvt. Ltd. v. JCCT (Appeals), W.P. No. 6263/2025, Karnataka High Court

Order demanding GST on IPR licensed from foreign entity stayed

Demand of GST on import of services was issued against a leading online healthcare service provider by adopting valuation of an earlier agreement, which was subsequently novated, and based on the revised value, GST was discharged. The department proposed to re-assess the tax by relying on Schedule-I and adopted the value of the earlier agreement without applying the Rules. The said demand order was challenged on the ground that the same lacked application of mind as it did not consider the reply of the assessee, placed reliance on an earlier agreement instead of a novated agreement, and took an inherently contradictory stand by relying on Schedule-I and determining liability on the consideration indicated in the agreement. The Hon'ble Court granted stay considering a similar matter for a previous FY of the Petitioner was stayed and ordered the matters to be tagged together.

W.P. No. 7851/2025, Karnataka High Court



High Court Grants Stay on GST Differential Tax Demand for Cloud Kitchen Services

An Order was issued to the Petitioner demanding differential tax, along with interest and penalty, on the ground that the cloud kitchen services undertaken by the Petitioner are in the nature of sale goods which are taxable at the rate of 18% and cannot be construed to be a supply of restaurant services, as classified by the Petitioner, which attracts a rate of 5% tax.

The Petitioner operates cloud kitchens with a structured businesses setup, including a warehouse for raw materials, a centralized kitchen for initial processing, and various cloud kitchen for final customization and delivery to customers.

It was argued on behalf of the Petitioner that the operational structure of the Petitioner falls under the services classification of restaurant services under SAC 9963, entitling the Petitioner to the GST rate of 5% rate without input tax credit, as clarified in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and Circular No. 164/20/2021-GST dated 06.10.2021.

The Hon'ble High Court considered the submissions of the Petitioner and was pleased to grant a stay on any actions that may be taken by the Department pursuant to the impugned Order.

W.P. No. 9593/2025, Karnataka High Court

Burden of establishing “most akin” test lies on Revenue for confiscation in Customs proceedings

The dispute involved classification of imported goods as Base Oil (alleged by Appellants) or High-Speed Diesel (HSD) as alleged by Revenue based on 3 test reports and export opinion. The Court observed that the reports and evidence were inconclusive and the burden of proof lay on the Revenue to prove that the imported goods were ‘most akin’ to HSD and not Base Oil under Rule 4 of the General Rules for Interpretation.

It was held that merely because some parameters matched HSD, the samples cannot be equated to HSD, and action cannot be taken against the taxpayer. The “preponderance of probability” test adopted by the High Court was not appropriate for classification.

Gastrade International v. Commissioner, Kandla, C.A. No. 4475/2025, Supreme Court of India

Service on GST portal not sufficient to meet test of PNJ

A batch of W.P.s were filed before the Madurai Bench of the Hon’ble Madras High Court, challenging the service of notices/orders made only on the portal and in alleged non-compliance of Section 169 of the GST Act.

The Court held that modes of service under Section 169(1)(a)-(c) of the Act should be read conjunctively. A reading of the sub-sections shows that the State is obliged to comply with clauses (a) to (c) alternatively and thereafter, comply with clauses (d) to (f). Posting of notices /orders on the portal, without other modes of service such as personal service, service by post, or service through email, would not satisfy the principles of natural justice. When the Act itself has contemplated physical modes of services, Rules cannot limit service to online modes.

Udumalpet Sarvodaya Sangam v. The Authority, W.P.(MD). No. 26481/2024, Madras High Court

Proof of payment time limit not applicable for export of goods

The Petitioner, an exporter, undertook export of goods under LUT without payment of tax and claimed refund of accumulated ITC on compensation cess. The Department sought to deny the Petitioner’s refund application on the grounds that the multiple documents were not furnished, viz. receipt of payment within 180 days of export, proof of export within 90 days of invoice, declaration of non-prosecution, undertaking under proviso to Section 11(2) of the Cess Act and statement as per Para 43(C) of the 2019 Circular.

The Court observed that the receipt of payment within 180 days of export is not applicable for goods. Only reconciliation statement of shipping bill and export invoices is sufficient. Further, it was held that the 90-day time limit is not applicable for goods and only proof that the goods have been exported is required. The declaration, undertaking, and statement are not required as the exports are being made under LUT without payment of tax and there is no question of set-off or reversal of credit.

Tata Steel Ltd. v. State of Jharkhand, W.P.(T) No. 2900/2024, Jharkhand High Court

Refund of tax paid on mobilisation advance cannot be denied on the ground of time barred as tax was never leviable on such transaction

The Appellant mistakenly paid service tax on mobilization advances, which had been returned to the principal upon cancellation of the contract. Hence, the Appellant sought refund from the Department. The refund was denied by the Appellate authority on the ground that the claim was time barred under Section 11B of the Central Excise Act, 1944. The CESTAT observed that since the service was not provided, due to cancellation, no tax liability arose. The amount was paid as a deposit and not as tax. Hence, the restrictions under Section 11B will not apply.

Patel Engineering Ltd. v. Commissioner, S.T.A. No. 86361/2018, CESTAT Mumbai

Ownership of data essential for classification as OIDAR Services

The Appellant is an Internet Service Provider (ISP). Pursuant to an audit, the Department issued an SCN proposing that the services provided by the Appellant fall under 'Telecommunication Services' and is liable to pay duty. The Order-in-Appeal confirmed the demand under Online Information and Database Access Retrieval Services (OIDAR Services).

The Hon'ble Tribunal observed that to become taxable under the category of OIDAR the ownership of the data is essential. The Appellant only provides ISP and does not provide access to any data owned by it for consideration. Further, the CESTAT held that the Order goes beyond the scope of the SCN by confirming a classification that was never proposed in the SCN.

Bridgeview Broadband Network Pvt. Ltd. v. Commr. of CGST, Shimla, S.T.A. No. 60798/2013, CESTAT Chandigarh

High Court grants stay on the Order confirming the recovery of the refund sanctioned under Rule 96(10) of the CGST Act

An order was passed confirming the recovery of the refund sanctioned to the petitioner therein in terms of Rule 96(10) of the CGST Act. It was pointed out to the Court that SCN was issued and served on the Petitioner, however, before the final order was issued, Rule 96(10) was omitted from the statute book and therefore, the Department was not at all competent pass an order.

The Hon'ble High Court granted stay on the Order observing that since Rule 96(10) was omitted unconditionally, without any saving clause in favour of the pending proceedings, all actions from the date of such omission of rule must stop and therefore the action of the department passing the order invoking the said Rule is not justified.

Glen Industries Pvt Ltd. v. The Deputy Director, DGGI, WPA No. 3254/2025, Calcutta High Court

Validity of GST Classification in Land Plotting Activities

The Hon'ble High Court of Karnataka examined the question of whether the activity of land plotting, along with the provision of developmental amenities such as roads, drainage, electricity, and water supply, would be considered a taxable supply under the GST regime. The petitioner argued that such an activity should be classified as a mere sale of land, which is explicitly excluded from GST under Paragraph 5 of Schedule III of the CGST Act, 2017.

On the other hand, the Revenue contended that the petitioner was providing a composite service that included both land and developmental services, which would fall under the category of "construction services" and thus attract GST. The crux of the matter was whether the additional development activities could transform the transaction into a service, or if they remained incidental to the sale of land.

The Court held that the essence of the transaction was still the sale of land, and the provision of statutory and developmental amenities did not alter its nature. As a result, the Court ruled that the activity could not be subjected to GST. This decision reaffirms the sanctity of statutory exclusions under Schedule III, and clarifies that ancillary services cannot change the nature of a transaction that primarily involves the sale of land.

State of Kerala v. Chowdhary Rubber & Chemicals Pvt Ltd O.T.Rev. No. 106/2021, Kerala High Court

THANK YOU

For further queries/information please get in touch
with us



Prashanth S Shivadass
Partner

Ph No: 9810507391

Email: prashanth.shivadass@sdlaw.co.in



Rishab. J
Associate Partner

Ph No: 9741224346

Email: rishab.j@sdlaw.co.in



Shradha Rajgiri
Senior Associate

Ph No: 9901901512

Email: shradha.rajgiri@sdlaw.co.in



SHIVADASS & SHIVADASS[®]
— LAW CHAMBERS —

Level 3,
No. 4/2, Millers Road,
Bangalore - 560052