

# S&S Tax Snippets

6<sup>th</sup> Ed.



# Regulatory Updates

## Customs Circular

### Clarification on concessional BCD for camera modules in mobile phones

The circular clarifies the scope of camera modules eligible for the concessional 10% Basic Customs Duty (BCD) under entry 5A of Notification No. 57/2017-Customs dt. 30.06.2017. Camera modules, used in manufacturing mobile phones, include components like lenses, sensors, FPCB assemblies, and brackets. If imported as a complete assembly, they will continue to attract the concessional BCD rate. However, if imported separately, the individual components will attract standard BCD rates. The module's essential character, as determined by Rule 3(b) of the General Rules of Interpretation (GRI) of the Harmonized System, must align with that of a camera module. Parts that merely add strength, protection, or stability without enhancing functionality are still considered part of the camera module.

*Circular No. 08/2025-Customs, dt. 24.03.2025*

## GST Notification

### Assessee not required to pay tax demanded for the period not covered under Section 128A of the CGST Act to avail the benefit of amnesty scheme

Amendment has been made to Rule 164 of the CGST Rules which mandated payment of entire tax demanded with respect to order involving multiple periods part of which is covered under the amnesty scheme. By virtue of the above amendment, the assessee is not required to pay the demand of tax for the period not covered under the amnesty scheme provided under Section 128 of the CGST Act. Further, in case where an appeal is filed by the assessee, instead of withdrawing the said appeal, they may intimate the relevant authority that they do not wish to pursue the appeal remedy for the period covered under the amnesty scheme and considering the said request, the relevant authority may pass orders for the remaining periods.

*Notification 11/2025-Central Tax dt. 27.03.2025*



## GST Circular

### Clarification on various issues related to availment of benefit of Section 128A of the CGST Act

It is clarified that the cases where the payment of tax has been made through Form GSTR-3B prior to issuance of the demand notice/adjudication order before 1st November 2024 shall also be eligible for benefit of the amnesty scheme under Section 128A of the CGST Act subject to verification of the officer.

Further, clarification is also issued with respect to amendment made to Rule 164 of the CGST Rules on non-requirement of payment of demand of tax for the period not covered under Section 128A of the CGST Act in cases of SCN/Order involving multiple periods. Additionally, in line with the same, clarification issued vide point no. 6 in para 4 of the Circular No. 238/32/2024-GST dated 15.10.2024 is withdrawn.

*Circular No. 248/05/2025-GST dt. 27.03.2025*

## GST Advisory

### Issues in filing applications (SPL-01/SPL-02) under waiver scheme

An advisory has been issued in light of the issues faced by the assesseees in filing the application for availment of benefit of waiver under Section 128A of the CGST Act. It has been clarified that the assesseees can file an application in Form SPL-01 and SPL-02 till 30.06.2025. It is also advised that in case difficulties are faced by the assesseees in making payment, the payment towards the demand may be made vide Form GST DRC-03 within 31.03.2025.

*Advisory dt. 21.03.2025*

# S&S Case Roundup

Cases handled by us

## Court directs Department to issue separate Orders for each AY for availment of amnesty scheme

The Petitioner had challenged a consolidated Order imposing tax demand covering multiple assessment years.

The Hon'ble Karnataka High Court, while deciding the Writ Petition filed against the said order relied on the earlier decisions and held that such an order is not sustainable in law and remitted the matter back to the department with direction to pass individual orders for each financial year within 28.09.2025. This order of the Court permitted the Petitioner to avail the benefit of the amnesty scheme under Section 128A of the CGST Act. Further, liberty was also reserved in favour of the Company to take legal recourse for the period not covered under the amnesty scheme.

***Shell India Pvt. Ltd v. Commr. of Central Tax, W.P. No. 4866/2025, Karnataka High Court***

## Stay granted by the High Court on a transaction of assignment of leasehold rights of constructed building

The Hon'ble Karnataka High Court granted stay on the show cause notice demanding tax on the assignment of leasehold rights of a constructed building. The Court relied on decision of the Gujarat High Court in case of ***Gujarat Chamber of Commerce and Industry v. UOI (2025) 26 Centax 150 (Guj.)***, wherein it was held that GST would not be leviable on assignment of leasehold rights of plots allotted by State and buildings constructed thereon, which are subsequently assigned to a third party on the ground that such assignment amount to assignment/transfer/sale of benefit arising out of 'immovable property'.

***W.P. No. 32534/2024, Karnataka High Court***

## No service tax on cricketing body – Doctrine of Mutuality and Sporting Exemption

The Revenue demanded service tax on receipts from hosting cricket matches and providing club facilities, alleging taxability under "Event Management Services" and "Club or Association Service" as per the Finance Act, 1994. The central issue was whether the State Cricketing Body, as an affiliate of the National Governing Cricket Body, was rendering taxable services or merely discharging sporting obligations.

The CESTAT held that KSCA does not function as an event manager but hosts matches in accordance with directives from its apex body. Applying the doctrine of mutuality, the Tribunal ruled that no service provider-recipient relationship exists, negating tax liability. In line with the Hon'ble Supreme Court's ruling in *Calcutta Club Limited (2019)*, the Tribunal held that services provided by the State Cricketing Body to its members are not taxable under "Club or Association Service".

***KSCA v. Commr of Service Tax, STA No. 27635/2013, CESTAT Bangalore***

## Stay granted against the Order passed relying on Notification No. 56/2023 dated 28.12.2023

The Hon'ble High Court of Bombay granted stay against the Order passed by the Department relying on extension of period of limitation for passing Order under Section 73 of the CGST Act vide Notification No. 56/2023 dated 28.12.2023. The High Court while granting stay relied on earlier interim orders passed by the Court in ***Evie Real Estate Pvt Ltd v. State of Maharashtra (WP No. 5146/2024)*** and ***NTT Data Business Solutions Pvt Ltd v. Union of India (WP No. 2616 of 2025)*** and others wherein the Hon'ble High Court had granted stay on the orders/notices issued relying on the above Notification.

***W.P. No. 24430/2024, Bombay High Court***

### Court sets aside Order passed without considering Circulars on GSTR 2A/3B

The Petitioner argued that the Dept. had not considered Circulars relied upon in its submissions, specifically Circulars 123/42/2019-GST, 183/15/2022-GST and 193/05/2023-GST which address the issue of GSTR 2A/3B mismatch.

The Court set-aside the Order and permitted the Petitioner one more opportunity to submit relevant documents and directed the Department to recompute liability basis the documents submitted, before end of March, so that the assessee may avail the benefit of the amnesty scheme.

*Puma Sports India Pvt. Ltd. v. UOI, W.P. No. 32571/2024, Karnataka High Court*

### Non-consideration of reply and denial of third PH opportunity warrants remand

The Court set aside an Assessment Order considering the as the Order was passed without due consideration of the reply filed by the Appellant and denial of a third opportunity for a Personal Hearing as the same constitutes a violation of the principles of Natural Justice and Section 75 of CGST Act.

*First Cars Pvt. Ltd. v. JCCT, W.P. 4419/2025, Karnataka High Court*

### Stay granted against rectification Order which reassessed the entire liability in rectification

Petitioner challenged an Order of rectification passed u/s. 69 of the KVAT Act which restricts scope of proceedings to rectification of errors apparent on the face of the record. It was argued that the rectification order under challenge prima facie exceeded the scope of the provision of rectification under the KVAT Act as the same in effect re-assessed the entire liability of the Company. Considering the same, stay was granted.

*W.P. No. 35681/2024, Karnataka High Court*

### Court issues notice on denial of export benefits to ITES provider

The Court issued notice on a petition challenging the denial of export benefits to an ITES provider. The Court observed that the issue pertains to whether such back-office support services qualify as “export of services” under Section 2(6) of the IGST Act, 2017. Further, the Court took note of the absence of a Tribunal, and the Petitioner’s compliance with statutory export conditions.

Considering these factors, the Impugned Order was stayed, and further proceedings were halted.

*IQVIA RDA (India) Pvt. Ltd. v. JCCT, W.P. No. 32269/2024, Karnataka High Court*

## Courtroom Updates

### Right to correct mistakes stems from the right to carry on business

The Revenue filed an SLP before the Hon’ble Apex Court against the judgment of the High Court permitting Petitioner to amend GSTR-1 as the delay was bonafide and there was no loss of revenue. The Court dismissed the SLP observing that CBIC must re-examine the provisions and timelines fixed for correcting bonafide errors. Time-lines should be flexible as lapse/defect as inevitable. Right to correct clerical or arithmetical error is a right that flows from right to do business and should not be denied without good reasons.

The Court viewed that High Court decisions in *Bar Code India v. UOI* and *Yokohama India Pvt. Ltd. v. State of Telangana* do not lay down good law as the High Courts had denied the ability of the taxpayers therein to amend their returns after expiry of the limitation period stipulated in the GST Act. However, this was merely a dismissal of an SLP, and the Court did not go into merits of the matter, instead noting that these cases must be revisited by the SC in a later case.

*CBIC v. Aberdare Technologies Pvt. Ltd., SLP (Civil) Dairy No. 6332/2025, Supreme Court*

### **Substantive right to refund of excess ITC cannot be denied on procedural grounds**

The Petitioner filed a refund application on excess ITC accumulated due to supplies to SEZ unit without payment of tax. The Petitioner had inadvertently omitted 5 purchase bills and subsequently filed a second refund application under the "Any Other" category as refund application under "Supply to SEZ Unit without payment of Taxes" can only be claimed only once, as per paragraph 8 of Circular No. 125/44/2019 - GST dated 18.11.2019 which states that refund claims must be filed chronologically, meaning a taxpayer cannot file a refund claim under the same category for a previous period.

The Court held that since eligibility of the Petitioner to the refund is not contested, procedural requirements cannot extinguish a statutory substantive right to refund.

### ***ABN Industries v. UOI, Special Civil Application No. 10865/2023, Gujarat High Court***

### **September Return Filing Deadline to Be Considered as November 30 w.e.f. 01/07/2017**

A batch of cases containing 3 different facts were taken up by the Hon'ble Kerala High Court. Some suppliers paid GST but did not reflect it in their return; others received goods/services with valid invoices, but the supplier did not remit GST; a third group has invoices but lacks proof of payment or possession of goods.

The Court relied on the Order in W.P.(C) No. 31559/2019 dated 04.06.2024 to hold that ITC can be availed by taking benefit of Circulars No. 183/15/2022-GST dated 27.12.2022 and 193/05/2023-GST dated 17.07.2023.

The due date to furnish return under Section 39 was extended to 30 November from 30 September. Hence, where claim for ITC is made before 30 November for the period from 1.7.2017 till 30.11.2022, the same must be considered instead of 20 October which was the date to furnish returns u/s. 39 for September.

### ***Liz Enterprises v. State of Kerala, W.P.(C) No. 28287/2019, Kerala High Court***

### **Inordinate delay in adjudication is sufficient grounds to quash proceedings**

The Petitioner's goods were confiscated, and the Petitioner was issued SCN proposing to impose penalty for violating Central Excise Rules.

The proceedings were concluded after a delay of over 11 years. The Revenue submitted that the shift to the GST regime caused restructurings that made it difficult for the for the department to adhere to timelines. It further submitted that the COVID-19 pandemic further hampered the Department's functioning and the Petitioner's own delay in participating further added delays.

The Court observed that there is no justification for the delay between 2011-17 and hence quashed the proceedings.

### ***Paras Products v. Commr. CGST, W.P.(C) 6235/2023, Delhi High Court***

### **Redemption of mutual fund units does not attract reversal of proportionate CENVAT credit**

The Appellant availed CENVAT credit on common input services such as Chartered Accountant services, telephone services, Legal services, *etc.*, in relation to the redemption of mutual funds. The Department was of the view that the activity of redemption of mutual fund units is in the nature of 'Trading of Goods' which is an exempted service in terms of Section 66D(e) of the Finance Act, 1994 and hence requires reversal of proportionate credit on inputs.

The Hon'ble Tribunal relied on an Order by the Tribunal in the Appellant's own case for the period from April, 2015-16 to hold that redemption of mutual funds cannot be considered 'Trading of Goods'. It was also observed that redemption could not be considered a "service" as defined under Section 65B(44) of the Act as no action is being done towards a recipient for consideration.

### ***Siegwerk India Pvt. Ltd. v. Commr. of CGST, Service Tax Appeal No. 52949/2019, CESTAT Delhi***

### **ITC cannot be denied for subsequent cancellation of supplier's GST registration**

The Court held that ITC cannot be denied to a purchaser if the selling dealer's registration was valid at the time of the transaction.

Under Sections 16 and 74 and Rule 36 of the GST Act and Rules, ITC eligibility is determined by fulfilling the prescribed conditions and having valid documents (tax invoice, GSTR-3B, and GSTR-2A). Since the selling dealer was registered during the transaction and filed returns, the subsequent cancellation does not invalidate ITC. Authorities should verify details on the portal rather than penalizing purchaser for seller's cancelled registration.

*Solvi Enterprises v. Addl. Commr., Writ Tax No. 1287/2024, Allahabad High Court*

### **Benefit of exemption notification cannot be denied on the basis of subsequent amendment to Section**

The Petitioner was granted an exemption vide Notification No. F-10/101/2006/CT/V/(94) dt. 07.11.1997 basis the investment of the Company and benefit of the same was with effect from 07.11.1997 under CST Act. Thereafter, in 2002, Section 8 of the Act was amended to mandate production of C-form for availing the benefit of the same and Notification dated 31.10.2006.

In a Writ Petition filed by the Petitioner, the question arose as applicability of the 2006 Notification. The Court observed that the Company was granted an absolute exemption vide Notification dated 07.11.1997 which is a vested right which could not be unilaterally taken away by the state without revoking the earlier exemption Notification and providing the opportunity of hearing. The Court held that 2006 Notification is not applicable to the Petitioner and that the exemption is applicable to the petitioner without submitting C Forms.

*Godawari Power and Ispat Ltd. v. State of Chattisgarh, WPT No. 133/2016, Chhattisgarh High Court*

### **CAG objection under Section 25A is also subjected to limitation under Section 25(1), Kerala VAT Act**

The Court held that re-assessment u/s. 25A of the Kerala VAT Act, 2003 (KVAT Act) cannot proceed if barred by the limitation u/s. 25(1). Even if the Revenue issues a notice invoking Section 25A based on a CAG report, it does not extend the limitation period.

Section 25A, despite its non-obstante clause, only provides an additional ground for re-assessment if the CAG objection is lawful. The AO must strictly follow the time limits prescribed under Section 25(1) to ensure fairness in taxation. Ignoring the limitation period would violate the Rule of Law. Therefore, if the CAG report is received after the limitation period, it cannot justify re-assessment. Consequently, notices or proceedings initiated beyond the prescribed time were quashed by the Court.

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

### **No penalty can be imposed on the SEZ unit for negative NFE caused due to natural calamities**

The Petitioner could not achieve positive NFE for a year as the goods lying in the godown were severely damaged on account of heavy rains and cyclone and the goods being not worthy of the export, were sold in DTA. Subsequently, with an extension of three months, the Company achieved positive NFE. However, a penalty was imposed on the Petitioner for not achieving the positive NFE, and the same was challenged by the Petitioner. The Hon'ble High Court considering the case of the Petitioner set aside the penalty imposed on the Petitioner and imposed a token penalty of Rs. 10,000/- for failure to achieve positive NFE.

*Afcan Impex Pvt. Ltd. v. DGFT, Special Civil Appeal No.18493/201, Gujarat High Court*

# THANK YOU

For further queries/information please get in touch  
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