S&S Tax Snippets

34th Ed.

Regulatory Updates

GST:

Creation of GSTAT Benches

For the purpose of hearing various matters, 3 categories of Benches have been created with Category No. I covering misclassification of goods or services, wrongful applicability of the notification, incorrect determination of time and value of supply, excess availment of ITC, incorrect admissibility of ITC etc., Category No. II covering issues relating to the registration, denial of facility under composition scheme, issues relating to provisional assessment and refunds etc., and Category No. III including issues relating to seizure, Orders relating to rectification, provisional attachment of property, compounding of offense and any other matters not specifically covered in Category I and II.

Further, the members of each State Bench assigned to hear matters under the aforesaid categories have also been indicated.

Office Order No. 3/GSTAT/PB/2026 dated 14.05.2026

Extension of relaxation in scrutiny of Appeals before the GST Appellate Tribunal

Considering the difficulties faced by the Appellants in filing appeal before the GST Appellate Tribunal owing to initial phase of filing the appeals, the guidelines under office Order no. 16/2026 dated 20.01.2026 and Instructions dated 10.03.2026 are directed to be followed by the scrutiny officers till 31.12.2026 for ease of filing the appeals by the Appellants. Office Order No. 16/2026 dated 20.01.2026 provided that the registry shall keep a lenient view during the scrutiny of appeal documents and defects not affecting the merit of the case shall not be raised.

Further, Instructions dated 10.03.2026 provided that in case the Appellant prefers Appeal by attaching a scanned copy of certified OIO, OIA and if the scrutiny officer is satisfied from the endorsement made therein by the authorities, then flag shall not be raised for certified copy of the OIO or OIA.

GST Instruction dated 14.05.2026

Enhancements in the e-Way Bill (EWB) Portal

The GSTN, through an advisory dated 21 May 2026, has proposed enhancements to the e-Way Bill (EWB) system aimed at improving data quality, traceability, and operational efficiency. One of the key changes relates to Bill-To Ship-To transactions, where taxpayers will be required to mandatorily capture the "Ship-To GSTIN" in the EWB. This measure is intended to strengthen tracking of goods movement, enhance accuracy of transaction data, and reduce inconsistencies between GST returns and e-Way Bill records.

In addition, GSTN has proposed the introduction of an EWB Closure functionality, which would allow taxpayers to voluntarily close e-Way Bills in specified circumstances. The feature is expected to address practical issues arising where goods are not ultimately transported or where transactions are cancelled after the EWB generation. The advisory also sets out proposed implementation timelines and urges taxpayers, ERP providers, and other stakeholders to undertake necessary system upgrades and preparedness measures in advance of rollout.

GSTN Update dated 21.05.2026

GSTN mandates filing of Annexure-B for accumulated ITC refund applications through standardised offline Excel utility

The GSTN has deployed standardised Annexure-B Offline Utility on the GST portal, replacing the earlier practice of uploading Annexure-B in PDF format. The change applies to refund applications involving accumulated ITC under four categories:

(i) exports of goods or services without payment of tax (except electricity), (ii) supplies to SEZ units or SEZ developers without payment of tax, (iii) ITC accumulated due to inverted tax structure, and (iv) export of electricity without payment of tax.

The offline utility is in Excel format and requires taxpayers to enter invoice-wise details of inward supplies HSN/SAC-wise, segregating each invoice into separate line items based on HSN/SAC codes and categories of input supply, being inputs, input services, and capital goods.

Where a single invoice covers multiple categories or HSN/SAC codes, it must be split into separate line items with invoice value and tax amounts proportionately distributed. Each offline utility file accommodates up to 10,000 entries, and up to 25 files may be uploaded per refund application, permitting a maximum of 2,50,000 line items per application. Invoices beyond this limit may be submitted as supporting documents in PDF format.

The utility contains two tables, being Table 1 for reversal details and Table 2 for HSN/SAC-wise inward invoice details claimed in GSTR-3B. ITC reversals under Rules 38, 42, and 43 of the CGST Rules and Section 17(5) are to be reported as per the corresponding month's GSTR-3B.

Uploaded invoices will be validated against GSTR-2B, with invoices pertaining to periods up to October 2024 not being subject to GSTR-2B validation.

GSTN Update dated 18.05.2026

Functioning of GST Appellate Tribunal Bengaluru Bench

It has been Notified that the Bengaluru Bench of the GST Appellate Tribunal (GSTAT) has formally commenced its functioning from a temporary premises at Ground, 3rd and 5th Floor, NACIN, No. 40, HMT Factory Main Road, Jalahalli, Bengaluru – 560013.

The Bench shall hear appeals filed under the CGST Act and KGST Act arising from the jurisdiction of Karnataka State and that henceforth, all appeals, applications, and proceedings pertaining to the said jurisdiction to be instituted before GSTAT, Bengaluru Bench.

Public Notice No. 01/2026 dated 27.05.2026

Cess:

Amendments to Rule 35 of the HSNS Rules, 2026

Amendment has been made to Rule 35(3) of the HSNS Rules, 2026 and the requirement of quarterly transfer of cess to the Health Security se national Security Cess Fund by Department of Revenue is omitted. Further, the Budget division, Department of Economic Affairs is no more empowered to decide the activities, schemes and programmes and inter-se allocations of cess for designated purposes. The same is now vested with the Department of Expenditure, Ministry of Finance.

Additionally, the transfer of amount to the HSNS Cess Fund and maintenance of Ledger as per the amended provisions shall be as per the accounting procedure formulated by the Office of Chief Controller of Accounts (Finance) instead of the Principal Chief Controller of Accounts, CBIC.

Notification No. 03/2026 - HSNS dated 20.05.2026

Customs:

Import policy of silver bars tightened; ITC HS codes 71069221 and 71069229 moved from "free" to "restricted"

The Central Government has amended the import policy of silver bars under ITC (HS) codes 71069221 and 71069229 of Chapter 71 of ITC (HS) 2022, Schedule I (Import Policy) with immediate effect.

The notification covers two categories of semi-manufactured silver bars: bars containing 99.9 percent or more by weight of silver falling under ITC

(HS) code 71069221, and silver bars falling under ITC (HS) code 71069229. Both categories were previously importable freely subject to RBI regulations only. With immediate effect, the import policy for both codes has been revised from "Free" to "Restricted", and imports shall henceforth be subject to Policy Condition No. 7 of Chapter 71 of ITC (HS) 2022, Schedule I (Import Policy).

Policy Condition No. 7 provides that imports by 100% Export Oriented Units and units located in Special Economic Zones shall not be subject to the restrictions under Para 6.01(d) of the FTP 2023 and Rule 27 of the Special Economic Zones Rules, 2006 respectively, provided the imported goods are not sold into the Domestic Tariff Area. Imports under the schemes for export of Gems and Jewellery under Chapter 4 of the FTP, 2023 are also exempt from these restrictions.

The practical effect of the notification is therefore that general commercial importers of silver bars will henceforth require prior authorisation or a licence to import, while EOU and SEZ units importing for export purposes, as well as Gems and Jewellery exporters operating under Chapter 4 of the FTP, continue to enjoy unrestricted access subject to the conditions noted above.

Notification No. 17/2026-27 dated 16.05.2026

India Notifies Rules of Origin under India-Oman CEPA

CBIC has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and Oman) Rules, 2026, vide Notification No. 48/2026-Customs (N.T.) dated 29.05.2026, effective from 01.06.2026, which establish the framework for determining eligibility for preferential tariff treatment under the India- Oman CEPA.

Under Rule 4 & 5, a product shall qualify as originating if it is either wholly obtained or produced in a Party or satisfies the applicable Product Specific Rules (PSRs) prescribed in Annexure-B. The Rules permit computation of value addition through either the build-up or build-down method, while introducing a de minimis tolerance of up to 10% for non-originating materials.

Further, Rule 8 permits bilateral cumulation, enabling originating materials from one Party to be treated as originating in the other Party when used in further production. To prevent evasion, Rule 7 specifies a list of minimal or insufficient operations, such as repackaging, labelling, simple assembly, and dilution, which by themselves shall not confer originating status.

For claiming preferential tariff benefits, Rule 14 mandates submission of a Certificate of Origin, valid for twelve months, while Rules 15 to 21 prescribe detailed certification, documentation, record-keeping and importer-exporter obligations. The Rules also establish an extensive verification framework, permitting document-based verification, questionnaires and verification visits. Non-compliance may result in denial, suspension or withdrawal of preferential treatment under Rules 26, 28 and 29.

Notification No. 48/2026-Customs (N.T.) dated 29.05.2026

S&S Case Roundup

Cases handled by us

Service provided by a Hospital to a patient through another Hospital fall within the ambit of 'Healthcare Services'

The petitioner, engaged in the business of providing healthcare services, had entered into a Medical Services Agreement with another healthcare service provider, under which Petitioner provided doctors, specialists, technicians, and allied healthcare services to patients at the other healthcare service provider's hospital premises in

exchange for 75% of the gross revenue generated from patient care.

The Department raised a demand on the said services alleging that the arrangement is in the nature of "support services" taxable at 18% under SAC 9985 and issued show cause notices demanding GST, interest, and penalty. The Petitioner contended that the services rendered were purely healthcare services exempt under Notification No. 12/2017-CGST (Rate) dated 28 June 2017, and that the exemption could not be denied merely because services were routed through another hospital under a contractual arrangement. Reliance was also placed on Circular No. 32/06/2018-GST clarifying the GST exemption available to healthcare services.

The High Court analysed the substance of the Medical Services Agreement and observed that the petitioner was directly engaged in providing healthcare services through medical professionals and clinical infrastructure, rather than merely offering administrative or support functions.

The Court emphasized that healthcare services remain exempt irrespective of the commercial structure adopted between hospitals and held that the authorities could not indirectly tax, exempt healthcare services by reclassifying them as support services. Accordingly, the Court quashed the impugned show cause notices issued against the petitioner.

Healthcare Global Enterprises Ltd. v. Assistant Commissioner of Commercial Taxes and ors. WP No. 22236/2023, WP No. 23928/2023 and WP No.23931/2023, Karnataka High Court

Place of supply for wind blade repair services provided outside India shall be location of recipient situated outside India; Eligibility to claim ITC cannot determined in the refund proceedings

The Petitioner was mainly engaged in the business of manufacturing and supply of wind turbine blades and provided multiple services to its Holding Company such as repair services, R&D services, Engineering services, transport cradle rental and other services. Specifically, the repair services were undertaken at the foreign location of the recipient of service. The Petitioner also availed ITC on multiple inputs and consequently, claimed refund of unutilized ITC on account of export without payment of tax and the same were allowed by way of Order.

Subsequently, proceedings to recover refund were initiated, alleging that the place of supply for the repair services provided by the Petitioner is in India in terms of Section 13(3)(a) of the IGST Act and therefore, the conditions prescribed under Section 2(6) of the IGST for export of services is not satisfied. These were challenged before the High Court.

The Court after examining the facts, held that repair and installation services were undertaken by the Petitioner was outside India due to size of the wind blades and therefore, the place of supply was outside India in terms of Section 13(2) of the IGST Act. Further, with respect to the denial of ITC on royalty expenses, and other inputs availed by the Petitioner, the Court held that the said royalty was paid to the parent entity for licencing the right to manufacture and sell blades etc., and that the eligibility of the ITC cannot be questioned at the refund stage.

LM Wind Power Blades India v. Joint Commissioner of Central Tax GST Appeals, WP No. 16424/2022, Karnataka High Court

Courtroom Updates

High Court grants relief to assessee where details of import and supplies from SEZ were not reflected in GSTR-2A prior to August 2020

The Petitioner had challenged the Order confirming the demand of tax on multiple issues, mainly on excess availment of ITC on import and supplies from SEZ on the ground that the said transaction is not reflected in GSTR-2A.

It was argued on behalf of the Petitioner that during the relevant period of 2018-19, the Form GSTR-2A was designed to take in only details of suppliers in India and their supplies and not details relating to import of goods and services and SEZ procurements. In terms of the advisory dated 29.08.2020, import details and supplies from SEZ were reflected in GSTR-2A only from August, 2020. Further, the integration of ICE GATE portal and GSTN for such details was clarified in the press release dated 19.10.2021.

Additionally, it was also contended that though the reconciliation was provided by the Petitioner on the same, the Authority failed to consider the same at each stage of the proceedings.

The Hon'ble Court set aside the Order to the extent of the above issue on excess availment of ITC relying on the press release dated 19.10.2021 and Advisory dated 29.08.2020 which clarified that the import details and supplies from SEZ was not reflected in GSTR-2A prior to August 2020.

Biocon Ltd. v. State of Karnataka and Ors., WP No. 11918/2024, Karnataka High Court

Supreme Court upholds 28% GST on bet value for online gaming, fantasy sports and betting

The Hon'ble Supreme Court decided a batch of matters involving multiple issues including the validity of levy of GST on supply of actionable claim, levy of GST on online gaming activities, validity of Rule 31A, 31B and 31C of the CGST Rules, retrospective applicability of the 2023 amendments and valuation for such actionable claims.

The Hon'ble Court held that once money or money's worth is risked upon an uncertain outcome, the activity acquires the character of betting and gambling, irrespective of whether the underlying game involves skill, chance or a combination thereof. Both Centre and State have the power to levy tax under Article 246A on the supply of actionable claim arising from the staking of money on uncertain outcomes. Upon application of the doctrine of 'res extra commercium', the Court held that no fundamental right to carry on trade or business can be claimed for activities in the nature of betting and gambling, and therefore held that the challenge to the provisions of the CGST Act on the basis of alleged violation of Article 19 of the Constitution of India fails.

Furthermore, relying on the decision in case of ***Sunrise Associates vs Government of NCT of Delhi and Skill Lotto solutions Pvt ltd vs. Union of India,*** the Court concluded that the Section 2(52) and Section 9(1) of the CGST Act which provides statutory framework to include actionable claims within the definition of 'goods' and subjects to levy of GST on actionable claims, is valid and expression 'supply' under Section 7 should receive purposive and expansive interpretation consistent with the constitutional and statutory architecture of GST.

The Court also examined the legal nature of actionable claim and the definition of actionable claim and concluded that the online gaming activities undertaken by the assessee amounts to supply of actionable claim.

Further, on the aspect of consideration, the Court observed that in the case of online gaming, the entry fee itself constitutes the stake amount and that Section 15(1), Section 15(4) and Section 15(5) of the CGST Act have to be read independently/harmoniously and the legislature possess competence to prescribe methodology for valuation as long as reasonable nexus exists with the taxable event. Basis the same, the Court also concluded that the valuation mechanism prescribed under Rules 31A, 31B and 31C of the Rules are valid. Furthermore, the Court also held that the fact that the valuation measure results in a higher tax incidence or may operate harshly in certain commercial situations does not by itself render the Rule unconstitutional, once the underlying levy and valuation framework bear nexus with the taxable event identified by the statute.

It concluded that there exists independent rule making power under Section 164 and Section 15(4) of the CGST Act and the absence of notification under Section 15(5) of the CGST Act identifying the relevant supply prior to amendment is not fatal to the validity of the Rules prescribing valuation. The amendments made in 2023 vide insertion of Rule 31B and 31C of the CGST Rules are also held to be retrospective since the same prescribes valuation and are not levy provisions *per se*. Therefore, the Court concluded that the gaming companies will qualify as supplier of actionable claims and tax has to be paid on the entire value of the bet not only on the entry fee or commission retained by the gaming companies.

Additionally, with regard to Casinos, the Hon'ble Court held that the valuation should be basis the aggregate value of the bets placed during the gaming transaction.

DGGI (HQS) v. Gameskraft Technologies Pvt. Ltd., CA No. 8241-8244/2026, Supreme Court

Supreme Court clarifies scope of "Manufacture" and whether they have Appellate Jurisdiction in disputes under Central Excise

The Supreme Court, in the present case, examined the scope of appellate jurisdiction under Sections 35G and 35L of the Central Excise Act, 1944, as well as the meaning of the term "manufacture" under Section 2(f) of the Act in the context of cutting and grooving Aluminium Composite Panels (ACP). The dispute arose from the Revenue's contention that the process of cutting, routing, grooving, bending and fixing ACPs for use as facade or cladding panels amounted to manufacture and consequently attracted excise duty.

The Court held that disputes relating to "taxability" or "excisability" are directly connected with determination of the "rate of duty" for the purpose of assessment and therefore fall exclusively within the appellate jurisdiction of the Supreme Court under Section 35L.

The Court further clarified that the insertion of Section 35L(2) by the Finance Act, 2014 was merely clarificatory and retrospective in nature, as it only made explicit what was always implicit in the statutory framework, that disputes concerning taxability or excisability are matters relating to rate of duty.

On merits, the Court reiterated the two-fold test for manufacture, firstly, whether a new and distinct product having a different name, character or use emerges and secondly, whether

the resultant product is marketable. Applying this test, the Court held that ACPs retained their essential identity even after cutting, grooving and bending. The process merely adapts the panels for installation and does not result in emergence of a commercially distinct commodity. Therefore, the activities undertaken by the assessee were held not to constitute 'manufacture' and are not liable to excise duty.

Alpuro Building Systems Pvt. Ltd. v. Commissioner of Central Excise, Civil Appeal No. 8030 of 2010, Supreme Court of India

Section 3 of CST Act prevails over Section 4; Co-mingling of gas during transportation cannot relocate situs of a concluded inter-state sale

The assessee was engaged in extraction of natural gas from offshore petroleum blocks off the coast of Andhra Pradesh and delivered it to buyers at Gadimoga, AP under Gas Sales and Purchase Agreements. Title, risk, and possession passed to buyers at Gadimoga, after which buyers independently transported the gas via RGTIL and GAIL pipelines through Gujarat to their facilities in Uttar Pradesh. The U.P. assessing authority levied VAT, treating the gas as unascertained goods appropriated only upon receipt at buyers' factories within the State.

The State contended that since natural gas is fungible and co-mingles in the common carrier pipeline, it constitutes unascertained goods ascertainable only at buyers' factories in UP, making Section 4 of the CST Act applicable and the sale intra-State. It further argued that Explanation 3 inserted into Section 3 by the Finance Act, 2016, which deemed gas sold or purchased and transported through a common carrier pipeline that becomes co-mingled and fungible, introduced into the pipeline in one State and taken out in another, to be a movement of goods from one State to another, operated only prospectively and had no application to the period under dispute.

The assessee argued that the Gas Sales and Purchase Agreements required inter-State movement under Section 3(a) of the CST Act, with title passing at Gadimoga. The inter-State movement was thus a direct consequence of the contract of sale between the assessee and its buyers, thereby satisfying all the requirements of an inter-State sale. Post-delivery co-mingling was a statutory compulsion under open-access pipeline regulations and could not relocate the concluded sale. The State's issuance of Form-C declarations acknowledged the inter-State character of the transactions.

The Supreme Court dismissed all appeals and confirmed the judgment of the Allahabad High Court. The Court held that Section 3 of the CST Act, being the primary provision governing inter-State sales, takes precedence over Section 4, which merely fixes the territorial situs of a sale and is subject to Section 3. Since the GSPA unambiguously fixed the delivery point at A.P., where title, risk, and possession passed to the buyers, the sale stood concluded in Andhra Pradesh and the consequent movement of gas to Uttar Pradesh constituted inter-State sale.

The Court further held that the co-mingling of gas in the common pipeline cannot alter the character of an already completed sale and cannot relocate its situs to Uttar Pradesh. On the question of Explanation 3, the Court held that it was clarificatory and not substantive in nature and therefore operated retrospectively.

State of U.P. v. Reliance Industries Ltd., Civil Appeal No. 3910 of 2016, Supreme Court

Rajasthan HC Upholds GST on Construction Services under Build Operate Transfer (Toll) Road Projects

The Hon'ble High Court has upheld a GST demand of over ₹16.36 crore, ruling that road construction services executed under a Build-Operate-Transfer (BOT) Concession Agreement are fully taxable. Under the Build-Operate-Transfer (BOT) Concession Agreement, the transaction is between the National Highways Authority of India (NHAI) and the main contractor (Concessionaire) for physical construction of the Highway, and NHAI "pays" for the highway infrastructure by granting the developer a right of way, a site license, and the exclusive commercial right to collect tolls from commuters over a 45-year period.

The petitioner/concessionaire argued that because its sole consideration was the right to collect tolls it is explicitly exempt from GST under Entry 23 of Notification No. 12/2017-Central Tax (Rate). Therefore, the transaction should not attract tax. The court held that the agreement constitutes a classic "barter" transaction under Section 7 of the CGST Act. Further, it was held that the concessionaire provides a taxable "works contract" service to the NHAI, and in return, receives a non-monetary consideration in the form of site licensing and toll collection rights.

The High Court clarified that while toll collection simpliciter from road users is exempt under Heading 9967, this exemption cannot be stretched to cover toll rights granted as a commercial reciprocal payment for underlying construction services.

The Hon'ble court aligning with the decision of the Telangana High Court in the case of ***GMR Pochanpalli Expressways Limited v. Additional Director, DGGI and Ors., Writ Petition No. 16266/2023,*** held that GST is not exempted for the toll being collected pursuant to the construction of roads, as well as toll, forming part of the deferred annuity payment for construction services.

CG Tollway Ltd. v. Union of India and ors., Writ Petition No. 15048/2025, Karnataka High Court

Calcutta High Court on omission of Rule 96(10) of CGST Rules - all pending proceedings extinguished

The petitioner, a manufacturer and exporter of chemical products, availed refund of IGST for the period October 2017 to March 2022 by exporting finished goods under Advance Authorisation licenses against payment of IGST, while simultaneously importing inputs duty-free under exemption notifications.

The department alleged double benefit in contravention of Rule 96(10) of the CGST Rules, and passed an order confirming the demand along with interest and penalty. The petitioner challenged the order on the ground that Rule 96(10), being the very foundation of the proceedings, had been omitted by Notification No. 20/2024-Central Tax dated 08.10.2024, prior to passing of the impugned order.

The petitioner contended that once a rule is omitted, it is obliterated from the statute book as completely as if it had never been enacted, and no proceedings can be concluded on the basis of such omitted rule. Reliance was placed on judgments of the Bombay High Court in ***Hikal Limited v. Union of India,*** and Gujarat High Court in ***Addwrap Packaging (P.) Ltd. v. Union of India***, which held that omission of a rule, unlike repeal of a statute, does not attract the saving provisions of Section 6 of the General Clauses Act, and all pending proceedings therefore stand lapsed.

The department contended that the refund was wrongfully obtained during the subsistence of Rule 96(10), the show-cause notice was also issued

while the rule was in force, and since the omission by Notification No. 20/2024 was prospective and contained no saving clause operating retrospectively, the impugned order was valid.

The Court quashed the impugned order and held that upon omission of Rule 96(10) of the CGST Rules by Notification No. 20/2024, the foundational basis of the entire proceedings ceased to exist. Following the Supreme Court's decisions in ***Rayala Corporation (P) Ltd. and Kolhapur Canesugar Works Ltd.,*** the Court held that Section 6 of the General Clauses Act applies only to repeals of Central Acts or regulations and not to omission of rules. Since no saving clause was incorporated in the notification, all pending proceedings including undisposed show-cause notices and orders not yet attaining finality stood lapsed and could not be sustained.

Techno Waxchem Pvt. Ltd. v. UOI, WPA No. 13772/2025, Calcutta High Court

Bombay High Court Upholds Retrospective Benefit of Amended Inverted Duty Refund Formula

The petitioner is engaged in metro rail construction works, who had discharged GST at 12% on output supplies while procuring inputs taxed at 18% and 28%, resulting in accumulation of input tax credit under an inverted duty structure. Refund claims filed for the period from May 2018 to March 2021 were rejected on the ground that the amended refund formula was applicable only to applications filed on or after 5.07.2022, in line with Circular No. 181/13/2022-GST.

Relying on the Gujarat High Court's decision in ***Ascent Meditech Ltd v. Union of India Special Civil Application No. 18317/2023.,*** which was subsequently affirmed by the Supreme Court, the Bombay High Court observed that the amendment was introduced to remove anomalies in the refund formula identified by the Supreme Court in ***VKC Footsteps.***

The Court held that the amendment harmonized the computation mechanism and merely clarified the existing legal position. Consequently, the Court quashed the refund rejection orders and directed that the amended formula be applied even to refund applications filed prior to 5.07.2022, provided they were filed within the statutory limitation period under Section 54 of the CGST Act. The ruling reinforces taxpayers' entitlement to refunds arising from inverted duty structures and rejects a purely prospective application of the amended formula.

CHEC-TPL line 4 joint venture v. Union of India, WP No. 2583/2025, Bombay High Court

Importer's Right to Challenge Reassessment Despite Acceptance of Customs Valuation

In a significant ruling on customs valuation and reassessment, the Hon'ble CESTAT held that an importer does not lose the statutory right to challenge enhancement of assessable value merely because it had submitted a letter accepting the reassessment proposed by customs authorities.

The appellant/importer had imported polyester knitted fabrics and filed Bills of Entry based on the negotiated invoice prices agreed with foreign suppliers. During assessment, the customs authorities sought to enhance the declared transaction value relying primarily on import data available in the National Import Database. To avoid delays in clearance of consignments, the appellant/importer furnished written letters accepting the enhanced valuation.

Subsequently, the appellant/importer challenged the reassessment orders before the Commissioner (Appeals). However, the appeals were rejected on the ground that the importer had voluntarily accepted the enhanced value and waived its right to contest the reassessment.

Setting aside the impugned orders, the Hon'ble CESTAT held that Section 17(5) of the Customs Act, 1962 only permits waiver of a speaking order by the proper officer and does not extinguish the importer's substantive right to appeal against reassessment. Further, Rule 12(2) of the Customs Valuation Rules, 2007 merely requires communication of grounds for doubting the declared value and does not contemplate any waiver of appellate remedies.

The Court further observed that acceptance letters obtained under commercial pressure or to secure expeditious clearance cannot be treated as abandonment of legal rights. It was also held that enhancement of value based solely on NIDB data, without independent corroborative evidence, is unsustainable in law.

M/s Jai Mata Di Trading v. Commissioner, Customs, Noida, Customs Appeal No.70515 of 202, CESTAT Allahabad

Police department providing security to banks not liable to service tax

The assessee, a Department of Police, was providing security to various banks pursuant to an arrangement with them. Revenue took the view that such service amounted to Security Agency Service taxable under Section 65(94) of the Finance Act, 1994 with effect from 16.10.1998. An order was passed confirming the demand of service tax, and the same was upheld by the Commissioner (Appeals).

The appellant contended that the issue was no longer res integra having been settled by the Tribunal and various High Courts in favour of police departments in identical situations. It was submitted that the services rendered by the police are in discharge of sovereign functions and not in the nature of services rendered for consideration in a commercial sense.

Reliance was also placed on CBEC Circular No. 89/7/2006 dated 18.12.2006, which clarified that activities performed by sovereign public authorities in the nature of statutory obligations are not exigible to service tax. The appellant relied on a catena of decisions including the Supreme Court's affirmance in Commissioner v. Dy. Commissioner of Police, Jodhpur and several Tribunal decisions.

The Tribunal allowed the appeal and set aside the impugned order, holding that the issue was squarely covered by a consistent line of authority. Following earlier orders, the Tribunal held that a police department, being an agency of the State Government, cannot be considered a person engaged in the business of providing security services and accordingly does not fall within the definition of "security agency" under Section 65(94) of the Finance Act, 1994. Since the fees collected by the police department were charges prescribed for performing a statutory function and were deposited into the government treasury, the activity was not liable to service tax.

Department of Police v. Commissioner of Central Excise, GST, Service Tax Appeal No. 51870/2017, CESTAT, Chandigarh

THANK YOU

For further queries/information please get in touch with us

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