S&S Tax Snippets

37th Ed.

Regulatory Updates

GST Updates:

GSTAT Introduces Token Generation Mechanism for Timely Filing of Appeals under Section 112 of the CGST Act

The president of the GSTAT has issued an advisory to introduce a new feature for filing of an appeal under Section 112 of the CGST Act which is the token generation mechanism in order to facilitate timely filing of appeals. Taxpayers intending to file an appeal before the GSTAT and those facing technical difficulties on the GSTAT e-filing portal, may generate a token by submitting basic appeal details on or before 31.07.2026. A token generated within the prescribed timeline will be treated as compliant with the statutory time limit for filing the appeal, provided the complete appeal is filed within 60 days from the date of token generation

Order No. 156/2026 bearing F. No. ADM-ADMI/40/2026-AR-PRGSTAT/601/10/07/2026 dated 10.07.2026

Customs:

CBIC empowered to extend two-year time limit under Notification No. 8/2016-Customs for re-export of duty-free event imports

The Central Government has issued Notification No. 28/2026-Customs, amending Notification No. 8/2016-Customs. The amendment introduces flexibility by empowering the CBIC to extend the prescribed two-year time limit under Condition (6) of the notification for re-export of duty-free imports for events specified in Schedule-II of Notification No.8/2016-Cus.

Under the newly inserted proviso, where an importer demonstrates sufficient cause, the CBIC may extend the two-year period by such further period as it considers appropriate in a particular case.

The amendment provides relief in cases where compliance with the original two-year timeline was not possible due to genuine circumstances. Importers seeking such relief will need to establish sufficient cause before the CBIC, which will exercise its discretion on a case-by-case basis.

Notification No. 28/2026-Customs dated 10.07.2026

CBIC Introduces Self-Certification Framework for Origin Declarations under the India–UK CETA.

India and United Kingdom have entered into the India-United Kingdom Comprehensive Economic and Trade Agreement ("*the Agreement*"). Consequent to the same, CBIC has notified the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic and Trade Agreement between the Government of the Republic of India and the Government of the United Kingdom of Great Britain and Northern Ireland) Rules, 2026 ("*CETA Rules 2026*"), which shall come into operation from 15.07.2026. The CETA Rules 2026 provides the legal framework for determining the origin status of goods traded under the Agreement.

The CBIC vide Circular No. 33/2026-Customs dated 13.07.2026, has operationalised the self-certification framework for origin declarations under the Agreement w.e.f. 15.07.2026. The Agreement by replacing the traditional Certificate of Origin regime, permits UK exporters or producers to issue self-declared Origin Declarations which can be used for claiming preferential tariff benefits. Such Origin Declarations shall relate only to a single shipment and shall be valid for twelve months from the date of its completion.

Additionally, Trade Notice No. 11/2026-27 has been issued providing for the electronic filing and issuance of Preferential COO. The said trade notice lists out the documents/details required along with the procedure and also lays down the key points to be noted by the authorized agency and the guidelines to be followed by all IEC holders and associated applicants.

Notification No. 62/2026-Customs (N.T.) dated 03.07.2026 and Circular No. 33/2026-Customs, F. No. 15021/71/2026-ICD-CBEC dated 13.07.2026 read with Trade Notice No. 11/2026-27 dated 13.07.2026.

Customs duty exemptions for certain goods

Amendment has been made to Notification No. 45/2025-Customs dated 24.10.2025 to provide exemption for cells, flexible printed circuit assembly, blacklight unit, frame and Anisotropic Conductive film used in the manufacture of display assemblies for automotive, medical or industrial applications.

Further, Notification No. 57/2017-Cus dated 30.06.2026 has also been amended to insert entry 6K providing exemption for the several goods for use in manufacture of Inductor coil module used in cellular mobile phones for wireless charging such as Nan o-Crystalline assembly, E-Shield, PET Liner, PC Shim, Main stranded Coil and BCF coil and NdFeB magnets.

Additionally, amendment has also been made to Notification No. 25/2002-Customs dated 01.03.2002 to grant exemption to multiple goods such as Automatic Feeding and Blending System, High Vacuum Pump, Separator coating machine etc imported for use in manufacture of the Lithium Ion Cell.

Notification No. 25-27/2026-Customs dated 08.07.2026

Grant of drawback under Section 74 or refund under Section 27 of the Customs act, 1962 in cased where import duty has been paid through Duty Credit Scrips

The CBIC has issued clarification with respect to representation made by the trade and industry regarding the difficulty faced in case of drawback under Section 74 or refund under Section 27 of the Customs Act, 1962 where the duty was paid in full or part through duty credit scrips at the time of import. The field formation was following different practice in the above scenario whereas in some cases, the drawback scrips were recredited and in some cases the refund has been issued in cash. In this regard, the CBIC issued the following clarification:

Sl No.	Scenario	Mode of Drawback under section 74 or the refund under Section 27
1.	Duty has been paid through scrip(s) at the time of import	Granted through re-crediting the scrip(s).
2.	duty has been paid through RoDTEP/ RoSCTL Scrips at the time of import	Granted through re-credit into the electronic credit ledger of the IEC holder which may be used for regeneration of e-script(s).
3.	Import duty paid through legacy schemes such as MEIS, SEIS, etc.,	Granted by issuance of a re-credit Certificate for revalidation of duty credit scrips from DGFT containing the details of the scrip utilised, the date of import of the goods subsequently re-exported, and the amount debited at the time of import.

Circular No. 30/2026-Customs dated 03.07.2026

Format for issuance of deficiency memo

CBIC issued a circular introducing the format for the issuance of Deficiency Memo under Section 74 of The Customs Act, 1962 after noticing that there is no form prescribed for the issuance of Deficiency Memo for processing duty drawback claims under Section 74.

The form prescribed captures the basic details such as details to be provided for processing draw back claim, which includes copy of shipping bills, export invoice and packing list, export bill of lading, copy of the Bill of Entry, Import invoice, Import packing list, evidence of payment of duty at the time of import, self declaration for not claiming IGST amount paid on re-export of goods etc.

Circular No. 31/2026-Customs dated 03.07.2026

S&S Case Roundup

Cases Handled by us

Karnataka High Court stays order disallowing ITC on marketing and promotional activities

The Petitioner, a supplier of textiles and apparel, supplied goods to the head office of a franchisee under a Master Franchisee Agreement. The goods were stock-transferred to branch offices, which sold them at discounted or clearance prices as per the Petitioner's pricing instructions. The branch offices subsequently raised invoices on the Petitioner for the differential amount, treating the same as consideration for marketing and promotional services. While proceedings were initiated against the branch offices for issuing invoices without an underlying supply, proceedings under Section 74 of the CGST Act were initiated against the Petitioner to deny ITC on those invoices alleging that the branch offices had issued invoices without any actual supply of services and, consequently, the Petitioner had wrongly availed ITC.

It was submitted on behalf of the Petitioner that the issue of proceeding spanning multiple financial years, is already pending before the Supreme Court. . It was further argued that the transaction involved an underlying supply which qualified as a supply under Entry 5(e) of Schedule II, with the branch offices agreeing to tolerate losses arising from discounted sales in return for compensation.

It was also argued that invocation of Section 74 was impermissible as the legal interpretation was clarified through various CBIC circulars, which indicated that there was no suppression.

The Hon’ble Court, considering the submissions made, was pleased to grant interim stay of the effect of the impugned order.

W.P. No. 19539/2026, Karnataka High Court

Courtroom Updates

Exemption provided under Karnataka Sales Tax Act, 1957 is applicable only to the Sugar produced or manufactured in India in terms of Amendment made in 2001

The batch of Civil Appeal has been filed before the Hon'ble Supreme Court challenging order passed by the Division Bench of the Hon'ble High Court of Karnataka wherein the retrospective amendment made in the year 2001 to the exemption entry in fifth schedule to the Karnataka Sales Tax Act, 1957 which restricts the exemption provided to sugar produced or manufactured in India with effect from April 1998 was upheld. Prior to the amendment, the sugar was exempted from payment of Sales Tax in terms of Section 8 of the Karnataka Sales Tax Act, 1957 read with Schedule 5 irrespective of its origin.

The Assessees argued that prior to 2001, the exemption applied to "sugar" simpliciter, without any domestic restrictions and the amendment was a substantive withdrawal of exemption, and enforcing it retrospectively on completed transaction where tax was never collected imposed an oppressive, unexpected, and unconstitutional direct burden on the assessees. On the other hand, the Revenue argued that the Legislature possesses full competence to retrospectively amend fiscal statutes and withdraw or restrict exemptions based on policy and the exemption was always intended for domestic sugar subjected to additional excise duties, not imported sugar. Furthermore, hardship to an assessee cannot invalidate a competent taxing statute once a legal fiction of retrospectivity is explicitly enacted.

The Hon'ble Supreme Court upon hearing the submissions made on behalf of both the sides upheld the validity of retrospective amendment confirming the demand of tax and restricted the interest liability only from the date of reassessment orders. The Penalty imposed by the revenue has been set side by the Hon'ble Supreme Court.

Asia Sugar & Chemical Co. v. The State of Karnataka & Ors. Civil Appeal No. 48/2009, Supreme Court of India

High Court quashes mechanical provisional attachment under Section 83

The Petitioner's bank account was provisionally attached under Section 83 of the CGST Act, 2017 by the DGGI through an attachment order. The Petitioner challenged the order before the High Court, contending that the attachment had severely disrupted its business operations, including payment of employee salaries.

The attachment order stated that the provisional attachment was necessary to protect the interest of government revenue under Section 83 of the CGST Act. However, no specific reasons or material demonstrating the formation of the requisite opinion by the competent authority were recorded.

The Petitioner argued that Section 83 confers a power that can be exercised only upon the competent authority forming an independent opinion that attachment is necessary to safeguard revenue. Relying on the Supreme Court's decision in ***Radha Krishan Industries v. State of Himachal Pradesh***, it was contended that the impugned order was passed mechanically without satisfying the mandatory statutory preconditions.

The Court held that the attachment order merely reproduced the statutory language without demonstrating that the competent authority had formed the requisite opinion and hence set aside the provisional attachment order and directed the bank to immediately de-freeze the Petitioner's bank account.

Shri Petro Chemical Mercantile Pvt. Ltd. v. UOI, Gauhati High Court

High Court sets aside penalty on suo motu adjustment of tax paid erroneously

The Appellant, a nationalised bank, paid service tax on profits earned from foreign exchange transactions pursuant to directions issued by the Department's audit team. Upon subsequently discovering that such profits were not liable to service tax, the Appellant filed a refund claim, which was rejected as time-barred. The Appellant suo motu adjusted the erroneously paid amount in its service tax returns. The Department treated the said adjustment as impermissible and raised a demand along with interest and penalty.

The Department contended that once the refund claim had been rejected and no appeal had been filed against such rejection, the Appellant could not unilaterally take credit of the amount through suo motu adjustment.

The Appellant argued that the tax had been paid on the instructions of the Department's audit team and that the levy itself was unsustainable, as profits from foreign exchange transactions were not taxable services.

The Court held that the Department could not retain tax which was never payable merely because the refund claim was rejected on limitation. The Court observed that the *suo motu* adjustment was only a technical correction made without *mala fide* intent and could not be treated as an impermissible act that could attract penal liability. Hence, the orders of the adjudicating authority and CESTAT were set aside, and the appeal was allowed.

State Bank of India v. Dy. Commr., CMA No. 1925/2019, Madras High Court

Appeal limitation period to be calculated from date of rectification order

The Petitioner challenged an assessment order dated 29.08.2024 by filing a rectification application under Section 161 of the CGST Act within the prescribed time. The rectification application was rejected on 24.11.2025, following which the Petitioner filed an appeal under Section 107 within three months. The appeal challenged the original assessment order instead of the rectification rejection order.

The Department contended that the appeal was barred by limitation as it was filed more than one year after the original assessment order. It further argued that since the appeal was filed after the rejection of the rectification application, the Petitioner ought to have challenged the rectification order rather than the original assessment order.

The Petitioner submitted that it had pursued statutory remedy by filing the rectification application within the prescribed period and filing the appeal after its rejection.

The delay was attributable to the pendency of the rectification proceedings, and the appeal should not be rejected on a technical defect in the memorandum of appeal.

The High Court held that the Appellate Authority had adopted a technical approach in dismissing the appeal as time-barred. Observing that the Petitioner had pursued statutory remedy and filed the appeal within three months of the rectification order, the Court held that the Appellate Authority should have permitted amendment of the appeal memorandum instead of rejecting it. The impugned order was set aside, and the matter was remanded for adjudication on merits.

One E Store Pvt. Ltd. v. Asst. Commr., W.P. No. 17308/2026, Telangana High Court

High Court of Madras holds that Assistant Commissioner lacks jurisdiction to adjudicate show cause notices issued by the DGGI

A Writ Petition was filed before the Hon'ble High Court of Madras challenging the Order

-in-Original passed by the Assistant Commissioner for adjudicating Show Cause Notice issued by the Directorate General of GST Intelligence ('DGGI'). The Hon'ble High Court of Madras relying on the Notification No. 2/2022-Central Tax dated 11.03.2022, held that an Assistant Commissioner lacks jurisdiction to adjudicate show cause notices issued by the DGGI and only an Additional Commissioner or Joint Commissioner is competent to adjudicate such notices. Accordingly, the Order-in-Original passed by the Assistant Commissioner suffers from procedural irregularity and has been passed in violation of the aforesaid notification. Therefore, the Order-in-Original is quashed, and the matter was remanded to the competent authority for fresh adjudication on merits in accordance with law.

Kay ARR Engineering Services v. Assistant Commissioner of GST & Central Excise, Coimbatore, W.P. No.5854/2025 and W.M.P. No.6437/2025, Madras High Court

Jurisdictional facts such as Fraud, wilful misstatement or suppression of facts is sine qua non for invoking Section 74

The High Court while deciding a batch of 250 matters involving the invocation of longer period of limitation under Section 74 of the CGST Act has held that the jurisdiction under Section 74 can be invoked by proper officer where it appears to proper officer that tax was either not paid or short paid to erroneously refunded or where ITC was wrongly availed or utilized by taxpayer by reasons of fraud or any wilful mis-statement or suppression of fact to evade tax. Such Notices issued should state the reasons for invoking Section 74.

Further, it was also observed that such reasons for invoking are not required to be specified in cases where the same are already communicated in ASMT-10, ADT-02 or ADT-04 or in an inspection while conducting the Audit.

Fastenex Pvt Ltd v. State Tax Officer, WP No. 35967/2024, Madras High Court

Procedural defect in pre-deposit challan cannot defeat refund claim after successful appeal

The assessee used Form GST DRC-03 for paying the pre-deposit under Section 35F of the Central Excise Act for filing an appeal in a Service Tax matter. After succeeding in appeal, it sought refund of the pre-deposit with interest. The refund was rejected on the ground that DRC-03 is a GST challan and not the prescribed form for Service Tax deposits.

The Department argued that the pre-deposit was made through an incorrect challan and, therefore, was not a valid Service Tax pre-deposit eligible for refund. It relied on procedural requirements governing the mode of payment and challenged the Order-in-Appeal granting refund.

The assessee argued that the amount had been duly credited to the Government account and the appeal had been admitted without objection on the mode of deposit. It was entitled to refund with interest under Section 35FF since it succeeded in appeal. The assessee further relied on CBIC Circulars and judicial precedents recognizing that procedural defects in the mode of deposit cannot defeat substantive rights.

The CESTAT upheld the refund, holding that once the appeal had been admitted and decided in the assessee's favour, the validity of the pre-deposit could not subsequently be questioned merely because it was made through Form GST DRC-03. It was observed that DRC-03 was only a mode of depositing money in the Government account and that the Department's refusal to grant refund was contrary to binding CBIC Circulars and judicial discipline.

Commr. CGST v. Toyo Engineering India Pvt. Ltd., Service Tax Appeal No. 86647/2023, CESTAT Mumbai

Country of Consignment and Country of Origin are different and the restriction on exemption benefit based on country of origin cannot be denied assuming the Country of Consignment as same as Country of Origin

The Assessee who is engaged in the manufacture, importing and selling of lifesaving and diagnostic medical equipment, devises, diagnostic kits, drugs etc. challenged the order passed by the Principal Commissioner demanding Customs Duty along with interest and penalty. The Appellant imported medical equipments from their group entity located at USA from the port at USA and availed exemption benefit in terms of Notification No. 50/2017-Cus dated 30.06.2017. The exemption benefit provided under Notification dated 30.06.2017 was restricted for the goods originating from USA vide Notification No. 17/2019-Cus dated 15.06.2019. Even though the goods were imported from USA the country of origin of such goods was Canada or Japan.

The Department relying on the bill of entries filed by the Assessee in terms of which the goods were shipped from USA and the country of consignment is shown as USA contended that the goods are originating from USA hence the same is not eligible for exemption benefit without considering the Certificate of Origin filed by the assessee.

The Hon'ble Tribunal after examination of the documents produced such as manufacturer invoices raised on the group company in USA, corresponding bill of lading, etc. held that when the Appellate produced sufficient evidence to establish that the goods were not originated from USA and in the absence of any contrary evidence the exemption benefit cannot be denied.

Siemens Healthcare Pvt Ltd v. Principal Commissioner of Customs (Air Cargo Complex) New Delhi, Appeal No. C/51304/2023, CESTAT, New Delhi

Excess pre-deposit paid at the first appellate stage due to reduced tax demand post adjudication can be adjusted towards the pre-deposit requirements under Section 112 of the CGST Act

An Appeal was filed before the Hon'ble GSTAT, Cuttack Bench challenging the requirement of making an additional statutory pre-deposit before the GSTAT after the First Appellate Authority had substantially reduced the original tax demand. In this regard, the appellant submitted that the 10% pre-deposit made by the Appellant at the first appellate stage on the original disputed tax amount exceeded the pre-deposit required to be paid for filing an appeal before the GSTAT under Section 112 of the CGST Act.

The Hon'ble GSTAT Cuttack Bench relying on the decision of the Hon'ble High Court of Jharkhand in the case of M/s Ashirwad Food Industries v. Union of India, W.P.(T) No. 469/2026 held that no additional pre-deposit is required to paid by the Appellant at the time of filing an appeal before the GSTAT where the pre-deposit made at the first appellate stage exceeds the statutory requirement prescribed under Section 112 of the CGST as a result of reduction in the original tax demand by the First Appellate Authority.

Manoranjan Dash v. Commissioner, Odisha, Commissionerate of CT GST & Ors., APL/D1/CTT/2026, GSTAT Cuttack

Proportionate ITC allowed for QIP-related services rendered by a merchant banker

The Appellant, a listed entity engaged in the manufacture of refractory products, undertook a Qualified Institutional Placement (QIP) in accordance with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 to raise capital through the issuance of equity, debentures, or other securities to qualified institutional buyers, for the purpose of repaying its debt. The Appellant engaged a merchant banker as the Book Running Lead Manager in accordance with the SEBI Regulations to provide advisory services, prepare documentation, identify investors, and undertake other activities, for a fee computed as a percentage of the funds raised through the QIP. A portion of the engagement also related to raising funds for investment in the Appellant's wholly owned subsidiary to enable repayment of the subsidiary's borrowings.

The Appellant availed ITC on the services received from Merchant Banker and approached the AAR seeking a ruling on the eligibility of such credit. It contended that the services were received in the course or furtherance of business, qualified as input services having a direct nexus with its business operations, and satisfied all the conditions prescribed under Section 16 of the CGST Act, 2017. The Haryana AAR held that the Appellant was not entitled to ITC on the ground that the services were not received in the course or furtherance of business.

In appeal, the Appellant relied upon decisions such as ***Coca Cola v. CCE (2009)*** and ***Cinemax India v. UOI (2011)*** on the interpretation of the expression furtherance of business", as well as pre-GST decisions allowing credit on fund-raising expenses, including ***Commr. v. Hinduja Global Solutions (2022) and Krenex Microsystems v. Commr. (2016)***..

The AAAR, following the principles laid down under the service tax regime, held that expenditure incurred for raising funds bears a "nexus with business activities, and that the same principle continues to apply under GST. It observed that the definition of "business" under the CGST Act is wide, and that services received in connection with the QIP were used in the course or furtherance of the Appellant's business, since repayment of debt is integral to the financial health and business operations of an enterprise.

However, the AAAR held that the portion of the merchant banker's services attributable to investment in the Appellant's wholly owned subsidiary was not eligible for ITC. It observed that such investment primarily serves to acquire or maintain corporate control, and that the subsidiary, despite being wholly owned, is a distinct legal entity. Accordingly, the economic benefit of those services accrued to the subsidiary in relation to its own corporate restructuring and repayment of borrowings, rather than to the Appellant's business. Consequently, only proportionate ITC attributable to the Appellant's own QIP-related activities was held to be admissible.

In re: Rhi Magnesita India Ltd., Order-In-Appeal No. HAAAR/2023-24/05, AAAR Haryana

THANK YOU

For further queries/information please get in touch with us

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