S&S Tax Snippets

38th Ed.

Regulatory Updates

GST Updates:

Clarification regarding filing of appeal by department before GSTAT against the Orders passed by common Adjudicating Authority

In view of the clarifications sought for the purposes of review of the orders passed by the Appellate Authority in cases where Order-in-Original is passed by the Common Adjudicating Authority (CAA), it is clarified that the such Order-in-Appeal is required to be uploaded on the common portal and also be sent to Principal Commissioner or Commissioner of CGST Commissionerate having jurisdiction over CAA. Subsequently, the said Commissioner shall examine the said OIA and forward comments to jurisdictional CGST Commissioner. Accordingly, the said jurisdictional Commissioner shall be the Reviewing Authority under Section 112(3) of the CGST Act, and he may direct any subordinate officer for filing the appeal by the department.

Further, it is also clarified that separate appeals are required to be filed in respect of each taxable person. After such application to GSTAT, the jurisdictional CGST Commissioner shall intimate Principal Commissioner having jurisdiction over CAA.

Circular No. 256/02/2026-GST dated 25.07.2026

E-Way Bill enhancements kept on hold

Several enhancements in the e-way bill (EWB) portal, such as mandatory capture of "Ship-To GSTIN" in Bill-To Ship-To transactions and EWB closure functionality, were notified to be implemented from 01.08.2026 vide GSTN update dated 09.06.2026. The present advisory has been issued to clarify that the implementation of the said enhancements is kept in abeyance until further notice.

GSTN update dated 29.07.2026

Customs:

Revision in All Industry Rates (AIR) of Duty Drawback for certain jewellery products

The Central Government has amended Notification No. 77/2023-Customs (N.T.) dated 20.10.2023 by revising the AIR of duty drawback applicable to specified jewellery products under Chapter 71 of the Customs Tariff. The drawback cap specified in Column (4) of the Schedule has been revised for the following tariff items:

Tariff Item	Earlier Drawback Cap	Revised Drawback Cap
711301	773.17	1,851.99
711302	14,990.66	29,501.09
711401	14,990.66	29,501.09

Notification No. 64/2026-Customs (N.T.) dated 16.07.2026

S&S Case Roundup

Cases Handled by us

Sale of medicines at MRP to inpatients does not indicate collection of tax – Court grants interim relief

The Petitioner being a hospital raised a single bill for inpatient treatment including consultation, bed charges, surgery, diagnosis, medicines, consumables, implants. Medicines were billed at MRP with discount and were shown as separate line items in the invoices,

The department demanded GST under Section 76(1) of the CGST Act on medicines/consumables supplied to inpatients on the ground that the tax collected on medicines by Petitioner upon sale the medicines MRP on the ground that since the MRP charged was inclusive of taxes, the same was required to be deposited.

It was argued before the Court that the Petitioner does not charge GST separately and that MRP is charged for business uniformity. Further, that Section 76 comes into play only when tax is actually collected, however, no GST is collected in the present case since the principal supply being healthcare is exempt.

The Hon'ble Court observing that there exists conflict between composite exempt healthcare and separate sale of taxable medicines, granted stay on the Order.

WPA no.11903/2026, Calcutta High Court

Stays order passed pursuant to issuance of consolidated Show Cause Notice covering multiple tax periods – Court grants interim relief

The Hon'ble Madhya Pradesh High Court has granted interim stay on an adjudication order passed pursuant to a single Show Cause Notice issued under Section 74/74A of the CGST Act covering multiple assessment years.

The dispute pertained to the classification of animal feed supplements. While the petitioner classified the products under CTH 2309 as animal feed preparations eligible for exemption under Notification No. 2/2017-Central Tax (Rate), the Department sought to classify them under CTH 3004 as medicaments and raised GST demands under Sections 74/74A of the CGST Act.

The petitioner challenged the impugned order on the ground that the consolidation of multiple tax periods into a single show cause notice was contrary to settled judicial precedents. It was further contended that the invocation of the extended limitation period was unsustainable in the absence of any fraud, wilful misstatement or suppression of facts, particularly where the exemption had been claimed under a bona fide interpretation of the applicable notification.

Taking note of the submissions, the Madhya Pradesh High Court granted an interim stay on the impugned order, observing that the issue regarding the validity of consolidated show cause notices covering multiple assessment years requires consideration in light of the existing judicial precedents.

W.P 23980/2026, Madhya Pradesh High Court

Marketing and sales support services provided by Appellant is not in the nature of intermediary services

The Appellant in terms of International Service Agreement, Manufacturing Support Services Agreement and International Agreement with its group entities provided marketing and sales support services. The department confirmed the demand of Service tax on the said transaction alleging that the same are intermediary services and therefore are taxable within the territory.

The Hon'ble Tribunal relying on the definition of the intermediary services under 2(f) of the Place of Provision of Service Rules, Circular No. 159/15/2021-GST dated 20.09.2021 and following the decision of the Karnataka High Court in case of ***Amazon Development Centre India Pvt Ltd v. Additional Commissioner of Central Tax*** and other decisions, concluded that the services rendered by the Appellant therein cannot be termed as intermediary and hence the set aside the Order confirming the demand.

Cisco Systems (India) Pvt Ltd v. Commissioner of Central Tax, STA no.20743/2022 & Anr, CESTAT, Bangalore

Karnataka High Court strikes down the Health Security se National Security Cess Act, 2025 and rules made thereunder for violating Article 14 of the Constitution

In a landmark decision, the Hon'ble High Court allowed the Writ Petitions filed by the Petitioners engaged in manufacturers of pan masala, who had challenged the constitutional validity of the cess levied under the provisions of the Health Security se National Security Cess Act, 2025 and the rules made thereunder and quashed the same.

In the said Petitions, the Act and rules were challenged on the grounds that cess was levied per machine per month based on the machine's maximum production capacity on a slab rate basis, without considering the actual quantity of goods manufactured.

It was argued on behalf of the Petitioners that the Act was enacted beyond the powers conferred under Article 246A of the Constitution as pan masala was subject to GST, while cess under Article 271 can only be levied in addition existing duties levied under Article 269. It was further argued that the Act provides a slab rate for manufacturing capacity that treats machines with vastly different production capacity as the same for the purpose of the levy. It was also argued that the Act was arbitrary since a machine had to out of operation for a continuous period of 15 days to claim abatement of cess payable with respect to that machine.

The Department argued that the Parliament was competent to enact the legislation under Article 246(1) read with entry 97 of List-1 of the Seventh Schedule of the Constitution since the Act.

was intended to protect public health and ensure tax is not evaded. It was also argued that the levy was on the ownership of machines rather than deemed production capacity. It was argued that the slab rates were not arbitrary since most manufacturers had begun switching to higher capacity machines to ensure commercial viability of their pricing.

The Hon'ble High Court held that the liability of GST and cess was excessive since it exceeded the MRP of the pan masala under normal operating conditions. It noted that taxation statutes are not immune from the rigours of Article 14 and a lack of reasonable classification can be fatal to fiscal enactments. The Court held that the Act treated differently placed manufacturers equally since the levy was based on a slab rate, and machines capable of producing only 100 pouches per minute attracted the same levy as a machine capable of producing 500 pouches per minute, which constitutes hostile discrimination. The Court also held that the abatement mechanism was arbitrary since the 15-day threshold ignored genuine interruptions caused by factors such as machine breakdown, shortage of raw materials, etc., and that concerns regarding evasion cannot justify an arbitrary cut-off.

While the Court upheld the power of Parliament to enact a cess of this nature under its residuary legislative power, the scheme adopted by the Act and the rules and notifications framed thereunder were held to be arbitrary and were struck down in their entirety.

Dhariwal Industries Pvt. Ltd. v. UOI, W.P. No. 3157/2026, Karnataka High Court

Courtroom Updates

Supreme Court upholds constitutional validity of Section 16(2)(c) of the CGST Act

The Petitioners challenged the decision of the Hon'ble High Court of Gujarat upholding the constitutional validity of Section 16(2)(c) of the Central Goods and Services Tax Act, 2017, on the ground that a bona fide purchaser should not be denied input tax credit (ITC) merely because the supplier failed to deposit the tax collected from the purchaser. The Petitioners relied upon precedents under the VAT regime such as ***Sahil Enterprises*** to argue that denial of ITC in such circumstances was arbitrary and unconstitutional.

The Department submitted that the GST framework fundamentally differs from the Delhi VAT regime and that Section 16(2)(c) expressly makes actual payment of tax by the supplier a pre-condition for availing ITC. It further submitted that the CGST Act provides adequate safeguards by permitting re-availment of reversed ITC once the supplier discharges the tax liability under Sections 41, 73 and 74 of the Act.

The Court held that there is no parity between the provisions of the Delhi VAT Act and the CGST Act to extend the protection available to bona fide purchasers under the VAT Act to the GST regime. Accordingly, the Court agreed with the Gujarat High Court's ruling that Section 16(2)(c) is not violative of the Constitution and hence is not required to be read down.

Bhandari Scrap Traders v. UOI., SLP (C) No. 23931/2026, Supreme Court of India

Supreme Court upholds non-taxability of assignment of long-term leasehold rights

The Hon'ble Supreme Court has dismissed the appeal filed by the department against the decision of the Gujarat High Court which held that the assignment/transfer of long-term leasehold rights of the plot of land allotted by GIDC to the lessee-assignor in favour of third-party assignee is not liable to GST.

The Union of India v. Gujarat Chamber of Commerce & Industry & Ors., SLP (C) No. 24635-24683/2026, Supreme Court of India

Supreme Court clarifies taxability of CNG marketing arrangements under the Service Tax Regime

The Supreme Court held that the arrangement between Mahanagar Gas Limited (MGL) and BPCL/HPCL for the sale of Compressed Natural Gas (CNG) constituted a principal-agent relationship and not a principal-to-principal sale. The Court observed that ownership and control over the CNG remained with MGL throughout the transaction. MGL retained the authority to fix prices, regulate supply, maintain equipment, and require the return of unsold CNG upon termination of the agreement. Further, BPCL and HPCL merely facilitated the sale of CNG by providing retail outlets, infrastructure, manpower, and other operational support, for which they received a commission linked to the quantity of CNG sold.

Accordingly, the Supreme Court held that the activities undertaken by BPCL and HPCL amounted to Business Auxiliary Service under Sections 65(19) and 65(105)(zzb) of the Finance Act, 1994, and restored the service tax demands raised by the Revenue, setting aside the CESTAT's order.

Commissioner of Service Tax, Mumbai v. Bharat Petroleum Corporation Ltd. & Ors. (Civil Appeal Nos. 2471–2473 of 2015, Supreme Court of India

High Court allows refund of accumulated ITC despite principal input and output attracting same GST rate

The Petitioners, manufacturers of combed cotton yarn, claimed refund of accumulated unutilized ITC under Section 54(3) of the CGST Act, 2017 on account of an inverted duty structure. While

The principal input (raw cotton yarn) and the output product (combed cotton yarn) both attracted GST at 5%, other inputs such as chemicals, consumables and packing materials were taxed at 12% and 18%, resulting in accumulation of unutilized ITC. The refund claims were rejected on the ground that the principal input and output were taxed at the same rate.

The Petitioners argued that Section 54(3)(ii) of the CGST Act does not distinguish between principal and ancillary inputs and permits refund wherever ITC accumulates because the rate of tax on inputs exceeds the rate of tax on output supplies. They relied on various High Court decisions holding that the benefit cannot be restricted only to the principal input.

The Department contended that, in view of Circular No. 135/05/2020-GST dated 31.03.2020, no refund was admissible where the principal input and the output supply attracted the same rate of tax. It further argued that no inverted duty structure existed since the value of outward supplies exceeded the value of the inputs.

The High Court held that Section 54(3) of the CGST Act does not differentiate between major and minor inputs and that refund cannot be denied merely because the principal input and output attract the same rate of tax. The Court observed that the higher GST paid on other inputs had resulted in accumulation of unutilized ITC, which was refundable in accordance with the formula prescribed under Rule 89(5). Accordingly, the refund rejection orders were quashed, and the Department was directed to process and sanction the refund with interest.

Vindhya Spinning Mills Pvt. Ltd. v. Asst. Commr. of CGST and Central Excise, W.P. (MD) No. 16757/2025, Madras High Court

High Court prescribes five-year outer limit for completion of suo motu revisionary proceedings under KVAT Act

The assessees, engaged in gold and diamond jewellery business, challenged orders passed by the Suo Motu Revisional (SMR) Authority under Section 64 of the Karnataka Value Added Tax Act, 2003 (Act), contending that the revision proceedings were barred by limitation. The issue before the Court was whether the four-year limitation under Section 64(3) of the Act required only initiation of revisionary proceedings or also required completion of the proceedings within the same period.

The assessees submitted that both the issuance of notice and the passing of the revisional order had to be completed within four years from the date of the order sought to be revised. They contended that permitting long delays after calling for records would result in arbitrary exercise of power and cause prejudice to taxpayers who are statutorily required to preserve books of account only for 5 years.

The Department submitted that the limitation requirement was satisfied once the revisional authority called for records/initiated proceedings within four years, and that no statutory time limit existed for passing the final revisional order. It argued that adopting such an interpretation would amount to rewriting the statute.

The Court held that a notice calling for records from the assessee, within four years of the order, is valid initiation of revisional proceedings. However, it held that proceedings cannot remain pending indefinitely. On a combined reading of Sections 32 and 64 of the Act, the Court held that the revisional proceedings must be concluded within a reasonable period, which cannot exceed five years from the date of the order sought to be revised (i.e., within one year after the limitation for initiation of revision expires.

R. R. Gold Palace Pvt. Ltd. v. ACCT, STA No. 3/2023, Karnataka High Court

Common portal not notified for the communication of Orders/Notices

A batch of Writ Petitions were filed before the High Court challenging the notices/orders uploaded in the 'Additional Notices/Orders' tab as being not communicated properly.

The Hon'ble Court noted that Section 169 of the CGST Act recognizes that making the notices/orders available in the common portal is one of the modes of service. Further that, Section 146 of the CGST Act which refers to the Common portal requires the Government on recommendation of the GST Council to notify the Common portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions.

The Hon'ble Court referring to all the Notifications issued under Section 146 of the CGST Act concluded that the common portal has not been notified for serving the notices/orders to the assessees and therefore, the communication through Common portal is not valid service. Additionally, the Court noting the difficulty in accessing the 'Additional Notices/orders' remanded the matters by way of either granting time to reply to notices or filing appeals against the Orders.

Luxmi Traders v. Union Territory of Chandigarh & others, CWP No. 27139/2025 & Ors, Punjab and Haryana High Court

Calcutta High Court clarifies that limitation under Section 73 applies to passing of order, not its service

The Calcutta High Court clarified that the limitation prescribed under Section 73(10) of the CGST Act, 2017 applies to the issuance (passing) of the adjudication order and not to its service upon the taxpayer.

The dispute arose where the adjudication order under Section 73(9) was digitally signed on 30 April 2024, i.e., within the extended limitation period notified under Section 168A of the CGST Act, whereas the summary of the order in Form GST DRC-07 was uploaded on the GST portal on 1 May 2024. The petitioner contended that since the order was served after the expiry of the limitation period, the proceedings were time-barred.

Rejecting the contention, the High Court held that the statutory scheme distinguishes between the issuance of an order and its service. While Section 73 prescribes a limitation period only for the issuance of the adjudication order, Section 169 separately governs the modes of service. Accordingly, an order that is duly passed within the prescribed limitation remains valid even if it is uploaded or served subsequently. However, such an order becomes enforceable only upon its service in accordance with Section 169.

M.M. Motors v. Senior Joint Commissioner of Revenue, WPA No.8929 of 2025, Calcutta High Court

CESTAT holds freight concession under Railway Wagon Investment Scheme not liable to service tax

The Appellant, a cement manufacturer, procured railway wagons under the Liberalized Wagon Investment Scheme (LWIS) to transport its own goods. In return for investing in wagons, the Appellant received freight concessions from the Railways. The Department alleged that by permitting the Railways to use the wagons, the Appellant had provided "Supply of Tangible Goods for Use" service and that the freight concession constituted consideration for such taxable service.

The Appellant argued that it had not rendered any service to the Railways and had merely invested in wagons for transporting its own

Goods. It submitted that the Railways continued to provide transportation services to the Appellant, while the freight concession was only an incentive reducing the freight payable and not consideration for any independent service.

The Department contended that the ownership and maintenance of the wagons remained with the Appellant while the Railways used the wagons for transportation and that the freight concession represented consideration for supplying tangible goods for use.

The Tribunal held that no taxable service had been rendered by the Appellant to the Railways. It observed that the transportation service was provided by the Railways to the Appellant and that the freight concession was a policy incentive linked to investment in railway infrastructure and was not consideration for any service. Since the essential elements of a taxable service, including an identifiable service provider-service recipient relationship and consideration, were absent and hence the demand was set aside.

Ultratech Cement Ltd. v. Commr. of Central Tax, Service Tax Appeal No. 27580/2013, CESTAT Hyderabad

Interactive Flat Panel Display Assembly is classifiable under CTH 8471 41 90 as ADPM

The Appellant imported Display Assembly of 75 inch in SKD form claiming 'nil' rate of BCD. However, department sought to re-classify the same under CTH 8528 attracting BCD of 10%.

Upon perusal of the Tariff entries and HSN explanatory Notes, the Tribunal observed that machines which are freely programmed in accordance with the need of the user, capable of executing any application/program stored in its memory, have an OPS slot for installation of operating software satisfy all the conditions under Chapter note 5(A) to Chapter 84. On an application of the same to the machine imported by the Appellant, it was concluded that the flat panel display satisfies all the conditions prescribed under the said note 5(A) and accordingly classifiable as Automatic Data Processing Machine (ADPM) under CTH 8471.

Additionally, the Tribunal also held that the proposals in the Finance Bill, 2025 and Circular dated 07.04.2025 issued by Ld. Technical officer cannot be construed as Circular issued by CBIC in terms of the Section 151A of the Customs Act and thus has no sanctity in law. The Tribunal also noted that the changes proposed vide Finance Bill, 2025 can only have prospective effect and cannot be made applicable to past imports.

Promark Techsolutions Pvt. Ltd v. Principal Commr. of Customs Import IDC TK, Customs Appeal No. 51715/2025, CESTAT New Delhi

CESTAT holds that eligibility of ISD Credit cannot be re-examined at the recipient unit

The Mumbai Bench of the CESTAT held that the eligibility of CENVAT credit distributed by an Input Service Distributor (ISD) cannot be re-examined at the recipient manufacturing unit.

The Department sought to deny CENVAT credit availed by the appellant on the ground that the underlying input services lacked the requisite nexus with the manufacture of dutiable goods. Since the credit had been distributed through an ISD, the Department initiated recovery proceedings against the recipient manufacturing unit.

Allowing the appeal, the Tribunal observed that under the CENVAT Credit Rules, 2004, the ISD is responsible for availing and distributing eligible input service credit. Once such credit is validly distributed, the recipient unit is only required to ensure that it has been utilised in accordance with the Rules. Therefore, unless there is a violation of the conditions governing the utilisation of credit by the recipient, the Department cannot question the original eligibility of the credit at the recipient's end. Any dispute regarding the admissibility of the distributed credit must be examined in proceedings against the ISD and not against the recipient unit.

Hindustan Coca-Cola Beverages Pvt. Ltd. v. Commissioner of CGST & Customs, Goa, Excise Appeal No. 85815 /2022, CESTAT Mumbai

CESTAT allows CENVAT Credit on Countervailing Duty (CVD) paid at concessional rate

The Hyderabad Bench of the CESTAT held that CENVAT credit cannot be denied merely because the Countervailing Duty (CVD) on imported goods was paid at a concessional rate.

The dispute arose when the appellant imported steam coal and availed CENVAT credit of the CVD paid at concessional rates of 1%/2% under Notification No. 12/2012-Cus. The Department denied the credit on the ground that steam coal was exempt from central excise duty under Notification No. 1/2011-CE, and therefore the concessional CVD paid on imports was not eligible for credit.

Allowing the appeal, the Tribunal held that where multiple exemption notifications are available, an importer is entitled to opt for the notification that is most beneficial. It further observed that Rule 3 of the CENVAT Credit Rules, 2004 grants credit based on the nature of the levy, namely, additional duty of customs (CVD) under Section 3 of the Customs Tariff Act and not on the rate at which such duty is paid. Since the appellant had fulfilled all the statutory conditions for availing credit, the Department could not deny the benefit solely because the CVD was discharged at a concessional rate.

India Cements Ltd. v. Principal Commissioner of Central Tax, Tirupati-GST, Excise Appeal No. 30049 of 2019, CESTAT, Hyderabad

AAAR holds Government-funded healthcare services exempt from GST despite payments through PSU

The Appellant operated Government Urban Health and Wellness Centres and Polyclinics under a Government healthcare programme in Uttarakhand, providing diagnosis, treatment, medicines and other healthcare services free of cost through registered clinical establishments. Although the services were funded by Government grants, the consideration was routed through a Government PSU acting as the executing agency. The AAR held that the services were taxable, treating the PSU as the recipient of the supply as the contract and payment were between the Appellant and the executing agency, the Appellant was rendering taxable services to the PSU rather than exempt healthcare services to patients.

The Appellant submitted that the exemption under Entry 74 of Notification No. 12/2017-CT(R) depends on the nature of the services and not on the identity of the person making payment. It argued that the PSU functioned as an implementing agency for disbursing Government grants, while the actual beneficiaries were patients receiving healthcare services free of cost through registered clinics.

The AAAR held that the exemption under Entry 74 cannot be denied merely because the consideration is paid by an implementing agency rather than directly by patients. It observed that the true character of the transaction must be determined from the nature of the services rendered, which involved diagnosis, treatment and care through clinical establishments under a government health programme. Hence, the AAAR ruled that the transaction is covered by Entry 74 of the Notification as the AAR had placed undue emphasis on the contractual payment structure, instead of the essential nature, intention and substantive character of the transaction.

In re: Indovation Healthcare LLP, Appeal No. UKGSTARA-02/13.04.2026/01/2026-27, AAAR Uttarakhand

THANK YOU

For further queries/information please get in touch with us

SHIVADASS & SHIVADASS®
LAW CHAMBERS

Level 3,
No. 4/2, Millers Road,
Bangalore – 560052
admin@sdlaw.co.in | +91 80437 79955