S&S Tax Snippets

39th Ed.

Regulatory Updates

Customs Updates:

Extension of Compliance Timeline for Television Sets under BIS Standards

The Central Board of Indirect Taxes and Customs, vide Instruction No. 14/2026-Customs dated 07.08.2026, has extended the due date for implementation of the compliance requirements applicable to "Television Sets" at Sl. No. 64 of the Schedule to the Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2021 for compliance with IS 18112:2022. The same was originally to take effect from 26.07.2026 in terms of Notification S.O. 4182(E) issued by the Ministry of Electronics and Information Technology (MeitY), which has now been extended to 26.01.2027.

Instruction No. 14/2026-Customs [F. No. 450/51/2018], dated 07-08-2026

DGFT

DGFT integrates licence-wise voluntary duty payment details for paperless processing of EODC applications

With the aim to facilitate a seamless, digital and paperless mechanism for processing EODC applications under various schemes, DGFT has undertaken an initiative to integrate licence wise voluntary duty payment data received from Customs/ICEGATE with the DGFT online system. In terms of the present trade notice, voluntary duty payment received from Customs/ICEGATE can be viewed through BO portal (by the regional authorities) and Customer Portal (by the user).

Further, instructions are provided to Authorisation Holders to enter correct details of Licence number, IEC in respective columns of ICEGATE while making payment. Additionally, in case of any discrepancy in the said data, the same can be brought to the notice of the DGFT through support channels such as Help desks, toll free help lines, email inquiries.

Trade Notice No. 15/2026-27 dated 05.08.2026

DGFT introduces inventory-based Cross-Border E-Commerce export framework under Foreign Trade Policy, 2023.

The DGFT has introduced an Inventory-based Cross-border E-Commerce Facilitation Framework under the Foreign Trade Policy, 2023, with immediate effect. The framework seeks to facilitate e-commerce exports through an inventory-based model under which a registered Exporter-on-Record ("EOR") holds export-dedicated inventory, undertakes export-related activities and exports goods to overseas buyers.

Under the framework, an EOR must hold a valid IEC and GSTIN and be registered with DGFT. The EOR may procure goods from Sellers-on-Record ("SOR"), who are Indian GST-registered entities supplying Indian-origin goods against confirmed export orders. The goods procured against such orders constitute "Export Inventory" and must be separately identified, segregated and digitally tracked.

Importantly, title to the goods can pass from the SOR to the EOR only against a confirmed export order from an overseas buyer. Speculative transfer of title or accumulation of inventory without a confirmed export order is not permitted. Further, the EOR is required to make payment to the SOR within seven days of acceptance or deemed acceptance of the goods, irrespective of whether payment has been received from the overseas buyer.

The framework also provides that the EOR will be entitled to claim applicable Export Rebates and Refunds ("ERR"), including Duty Drawback, RoDTEP and RoSCTL. Where such benefits are claimed, the EOR is required to apportion and disburse the Seller-attributable benefits among the relevant SORs in proportion to the FOB value of their goods forming part of the export consignment, after permitting retention of an administrative charge.

Notification No. 27/2026-27, Dated 05.08.2026

S&S Case Roundup

Cases Handled by us

Common portal not notified for the communication of Orders/Notices

A Writ Petition was filed challenging the Order uploaded in the 'Additional Notices/Orders' tab of the GSTN portal as being not communicated properly. The Hon'ble Court while relying on its earlier decision in ***Luxmi Traders v. Union Territory of Chandigarh & others, CWP No. 27139/2025 & Ors***, held 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 waybill and for carrying out such other functions.

Further, upon verification of all the Notifications it was observed that the Notification provides for various functions under CGST Rules, however, does not notify the portal for effecting service of the SCN/Order. Therefore, though Section 169 of the CGST Act states that uploading in portal as one of mode of service, the same cannot be treated as valid service of Orders/Notices. Consequently, the Hon'ble Court permitted the Writ Petitioner to file appeal challenging the said Order.

Narayana Hrudayalaya Ltd v. Excise and Taxation Officer & Anr, CWP no. 16177/2025 Punjab & Haryana High Court

Karnataka High Court Upholds utilization of GST ITC for Section 35F Pre-Deposit before CESTAT

A Writ Petition was filed before the Hon'ble High Court of Karnataka challenging an interim Order wherein the tribunal refused to recognise payment of pre-deposit under Section 35F of the Central Excise Act through utilisation of transitioned CENVAT credit. The petitioner had made a pre-deposit of ₹79,77,301 by debiting the Electronic Credit Ledger through Form GSTR-3B. The CESTAT rejected the payment, relying on the CBIC Instruction dated 28.10.2022, which stated that pre-deposit was required to be made in cash.

The Hon'ble High Court held that Section 35F only prescribes the quantum of pre-deposit for maintaining an appeal but does not stipulate payment exclusively in cash. The Court further observed that under the erstwhile indirect tax regime, utilisation of CENVAT credit for pre-deposit had been recognised and that validly earned CENVAT credit constitutes a vested right preserved under Section 140 of the CGST Act.

The Hon'ble High Court relying on the decision in ***Yasho Industries Ltd. v. Union of India*** and ***Army Welfare Housing Organisation v. Union of India***, held that in the absence of statutory mandate requiring payment exclusively through the Electronic Cash Ledger, pre-deposit can validly be made by debiting the Electronic Credit Ledger It was further held that the CBIC Instruction dated 28.10.2022, being administrative instruction cannot override the statutory framework or curtail such vested entitlement. Accordingly, the Court allowed the writ petition, quashed the CESTAT's interim order and declared that the pre-deposit made through the Electronic Credit Ledger constituted valid compliance with Section 35F.

M/s. Shakti Enterprises v. Principal Commissioner of Central Tax, WP No. 1913/2026 Karnataka High Court

CESTAT clarifies valuation of excisable goods before and after 1 July 2000

The Hon'ble CESTAT has clarified the manner in which the assessable value of excisable goods is required to be determined for periods prior to and from 1 July 2000, in light of the directions of the Tribunal and the Hon'ble Supreme Court.

The appeals arose in the context of alleged undervaluation of excisable goods cleared by the Appellants to various dealers. The Department had sought to determine the assessable value by relying, inter alia, on statements of certain dealers and documents recovered from a depot.

For the period prior to 1 July 2000, the Tribunal held that the "normal price" under Section 4(1)(a) of the Central Excise Act, 1944, has to be determined on the basis of the evidence available in respect of the clearances made during the relevant period. Only where determination under Section 4(1)(a) is not possible can recourse be taken to Section 4(1)(b) and the Central Excise Valuation Rules, 1975.

Applying this principle, the Tribunal found that the Adjudicating Authority had incorrectly relied upon evidence recovered from a depot which was opened only on 1 April 2001 to determine the value of clearances made before 1 July 2000. The Tribunal held that such subsequent evidence could not be used to determine the normal price for the earlier period and consequently set aside the differential duty demands relating to the period prior to 1 July 2000.

For the period from 1 July 2000, the Tribunal noted that the valuation is governed by the "transaction value" regime. Where evidence establishes that a particular dealer or customer paid an amount over and above the invoice value, such additional consideration, together with the invoice value, is required to be taken as the transaction value for the transactions undertaken with that particular dealer or customer.

On penalty, the Tribunal held that for the period after 1 July 2000, the penalty could be reduced to 25% of the duty demanded, where the applicable duty and interest were paid within the prescribed period. In the present case, the penalties imposed on the Appellants were accordingly reduced.

M/s. CERA Boards & Doors V Commissioner of Central Tax, Central Excise Appeal No. 20390 of 2023, CESTAT, Bangalore.

Courtroom Updates

Supreme Court upholds applicability of the omission of Rule 96(10) of the CGST Rules for pending proceedings

A batch of Writ Petitions were filed before the Hon'ble Supreme Court challenging the judgment which held that omission of Rule 96(10) of the CGST Rules is applicable to every pending proceeding as on the date of omission.

The Hon'ble Supreme Court firstly noted that the said rule was omitted without saving clause. Further, the Court relying on the decision in case of ***Kolhapur Canesugar Works Ltd v. Union of India***, held that on omission of a rule without a saving clause, pending proceedings initiated under the omitted rule fails to continue. Additionally, the Court observed that the intention to omit the rule without any saving clause was to bring to end, the unnecessary complications once and for all and the intention cannot be to keep alive the unnecessary complications insofar as the pending proceedings are concerned.

Goodluck India Limited & Anr v. Union of India & Ors., SLP (C) No. 24550/2025, Supreme Court of India.

Supreme Court holds that mere "Kitting" of imported photocopier modules does not amount to manufacture

The Hon'ble Supreme Court held that mere grouping, pinning and plugging of imported photocopier modules according to customer specifications does not amount to "manufacture" under Section 2(f) of the Central Excise Act, 1944, where no new and distinct commercial product emerges.

A batch of Writ Petitions were filed before the insofar as the pending proceedings are concerned. The dispute arose in respect of photocopier parts and modules imported in CKD/SKD condition and classified and assessed to customs duty as complete machines under Heading 8471. At its warehouses, Xerox India grouped the imported modules into sets based on customer requirements, which it referred to as "kitting". The Revenue contended that this activity amounted to manufacture and sought to levy Central Excise duty on the resultant photocopiers.

The Supreme Court reiterated that manufacture requires a transformation resulting in a new and distinct article having a different name, character or use, and that every process or change in a product does not necessarily amount to manufacture. The Court also noted that the transformed product must ordinarily be recognized as a distinct marketable commodity.

Applying this test, the Court found that the imported modules were merely unpacked, grouped, pinned and plugged according to customer specifications and were cleared in their original packing. No physical assembly of the machines was established to have taken place at the warehouse. Accordingly, the activity did not result in the emergence of a new commercial commodity and could not be treated as manufacture.

The Court further held that Note 6 to Section XVI of the Central Excise Tariff Act requires that the article presented must be incomplete or unfinished but having essential character of the complete article and secondly that the conversion of such article into complete article was carried out by the person sought to be charged. However, in the present case, either of which is established. The Supreme Court accordingly upheld the Tribunal's findings and dismissed the Revenue's appeals.

Commissioner Of Central Excise, Hyderabad-IV Vs M/S Xerox India Ltd. & Ors, Civil Appeal Nos. 5939-5941 of 2010, Supreme Court of India

Karnataka High Court reiterates rule of consistency in tax credit disputes.

The Hon'ble Karnataka High Court, in dismissed the Revenue's revision petition and held that the Revenue is bound by the rule of consistency where an assessee's methodology for computing input tax credit has been consistently accepted in the assessee's own cases for different assessment years.

The assessee, engaged in the manufacture and sale of aluminium extrusions, had claimed input tax rebate on furnace oil/fuel oil used in its manufacturing process under the Karnataka Value Added Tax Act, 2003. The dispute related to the methodology adopted for determining the admissible and inadmissible portion of the input tax credit, particularly where the finished goods were sold locally, exported, supplied inter-State or transferred outside the State.

The Revenue had challenged the assessee's methodology for the 2008-09 assessment year, even though the same methodology had been upheld by the Karnataka Appellate Tribunal for other assessment years, including 2006-07, 2007-08, 2009-10, 2013-14 and 2014-15. The Revenue had not challenged those orders and sought to question the methodology only for 2008-09, after a considerable lapse of time.

Relying on the principle laid down by the Supreme Court in Commissioner of Central Excise, ***Navi Mumbai v. Amar Bitumen and Allied Products Pvt. Ltd.***, the High Court observed that the Revenue cannot "pick and choose" the years in which it seeks to challenge an issue that has already been consistently decided in favour of the assessee. The Court accordingly held that the Revenue was bound by the rule of consistency and was estopped from taking a contrary stand for the assessment year in question.

Accordingly, without examining the merits of the methodology adopted for computation of input tax credit, the Court dismissed the Revenue's petition and confirmed the Tribunal's order in favour of the assessee.

Commissioner of Commercial Taxes, Bengaluru vs. Jindal Aluminium Ltd, Sales Tax Revision Petition No. 19 of 2020, decided on 30-6-2026, Karnataka High Court.

Punjab & Haryana High Court holds department cannot take an inconsistent view on classification of services as export or intermediary.

The Hon'ble Punjab and Haryana High Court held that the Department cannot deny refund of unutilized ITC by treating services as "intermediary services" for one tax period when it had treated the same services as export of services and granted refund for the periods immediately preceding and succeeding such period.

The petitioner provided information technology and business support services to its overseas parent company and claimed refund of unutilized ITC on the basis that the services constituted zero-rated export of services. The Department rejected the refund claim for January 2019 to March 2019, treating the petitioner as an "intermediary" under Section 2(13) of the IGST Act, thereby denying the benefit available to export of services.

The petitioner contended that the Department had itself granted refund for the same services for June 2018 to December 2018 and April 2019 to December 2019, as well as January 2020 to March 2020, by treating the petitioner as an exporter and the service not being in the nature of intermediary service. The Department did not dispute that the services were identical or that the earlier refund orders had not been challenged.

The Court held that once the Department had consistently treated the petitioner as an exporter of services and granted refund for the same nature of services both before and after the disputed period, it could not deny the benefit for the intervening period without any material demonstrating that the nature of services had changed so as to bring the petitioner within the definition of an intermediary. The rejection of the refund was therefore held to be illegal and arbitrary. Accordingly, the Hon'ble High Court set aside the impugned order and directed the Department to release the refund along with applicable interest within four weeks.

Cvent India Private Limited Vs Assistant Commissioner of CGST, Gurugram, Punjab and Haryana High Court, CWP No.22461 of 2023.

Karnataka High Court holds that GST is not applicable on Compensation for Compulsory Acquisition of Land

The Hon'ble High Court of Karnataka in the present Writ Petition examined whether GST could be deducted from compensation paid for compulsory acquisition of land. In the present case, the petitioner's land acquired by the government for widening the Mysuru–Madikeri Highway. A compensation of ₹1,21,33,938 was awarded to the Petitioner in lieu of the acquisition. The authorities deducted ₹18,39,252, i.e. GST at 18%, from the compensation payable. The petitioner filed the present writ Petition challenging the deduction on the grounds that compulsory acquisition of land does not constitute a supply of goods or services and, therefore, cannot attract GST.

In this regard, the High Court observed that an immovable property cannot be regarded as "goods". Further, in the present case there is neither supply of goods nor services but an expropriation of property of a citizen using statutory power. Accordingly, such acquisition cannot fall within the scope of "supply" under the GST law. The Court also observed that the respondents had failed to identify any provision under the GST laws authorising levy of GST on acquisition of land or structure and had consequently acted in excess of their powers.

Accordingly, the Court quashed the award to the extent it provided for deduction of GST and directed refund of ₹18,39,252 along with interest at 15% per annum from the date of the award until payment along with costs.

Smt. P.S. Shamala v. Deputy Commissioner & Ors., W.P. No. 12641 of 2026 (LA-RES), Karnataka High Court.

Corporate Guarantee constitutes “agreeing to the obligation to do an act”, distinct from actionable claim and outside the purview of Schedule III exclusion

A batch of Writ Petitions were filed challenging the validity of levy of GST on Corporate Guarantee by contending that it was in the nature of ‘actionable claim’ covered under Schedule III of the CGST Act and vires of Rule 28(2) of the CGST Rules which prescribed value of services in a transaction involving Corporate Guarantee introduced on 26.10.2023 and it was further sought to declare the said and Section 15(4) of the CGST Act as ultra vires to Article 14, 19(1)(g) and 265 of the Constitution of India.

The Hon’ble upheld the levy of tax at a corporate guarantee constitutes "agreeing to the obligation to do an act," since the holding company is legally bound toward its subsidiary for repayment of the loans and accordingly, it was concluded that the activity constituted a "supply of services.". Specifically on the argument of it being in the nature of ‘actionable claim’ it was held that since corporate guarantee is a contingent, secondary, non-transferable liability, it is distinct from an actionable claim which is a direct, transferable debt under Section 3, Transfer of Property Act. While dealing with the validity of Rule 28(2) of the CGST Rules, the Court applied the "reading down" doctrine, and upheld Rule 28(2) as intra vires but directed that the words "whichever is higher" to be read down, since taxpayers must retain the option to pay GST on actual consideration or at 1% of the value of the corporate guarantee, where actual consideration was not available.

Additionally, the Court further held that the Circulars are only clarificatory/administrative and don't independently create levy. Since "whichever is higher" was read down, the same would alter the FAQs of the Circulars. Lastly, the Court held that the guarantees executed before 26.10.2023 [when Rule 28(2) was notified] cannot be taxed retrospectively, as the same would in violation of Articles 14 and 19(1)(g) of the Constitution of India. However, it was concluded that levy gets attracted from 26.10.2023 in case the guarantees continue.

Torrent Power Ltd v. Union of India, S.C.A. No. 12175 of 2024, Gujarat High Court

THANK YOU

For further queries/information please get in touch with us

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