

INDIRECT TAX DIGEST

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GOODS & SERVICES TAX



LEGISLATIVE UPDATES

ADVISORY

<p>GSTN Advisory¹</p>	<p>GSTN has released an advisory on payment of GST through Credit Card / Debit Card (issued by an Indian bank) and Unified Payments Interface. The facility is currently available in 10 States and will be introduced in the remaining states soon.</p>
<p>GSTN Advisory²</p>	<p>GSTN has issued an advisory for furnishing of bank account details under Rule 10A of the Central Goods and Services Tax Rules, 2017 (CGST Rules) as under:</p> <ul style="list-style-type: none"> ▪ Non-furnishing bank account details within the stipulated period would lead to <ul style="list-style-type: none"> - Suspension of GST registration after and issuance of intimation; and - Debarring the taxpayer from filing Form GSTR-1/IFF. ▪ The suspension is to be automatically revoked on furnishing bank account details. ▪ Failure to furnish the same after 30 days of the issuance of intimation, the GST registration may be cancelled by the Tax Authorities.

JUDICIAL UPDATES

[Comfort Shoe Components Vs. Assistant Commissioner, Vellore \[TS-694-HC\(MAD\)-2024-GST\]](#)

Issue

- Section 62(2) of the Central Goods and Services Tax Act, 2017 (CGST Act) provides that an Assessment Order (Best Judgement Assessment) passed under Section 62(1) **shall** be deemed to be withdrawn if the registered person furnishes the GST returns within 30 days from the date of service of such order³. Whether the time limit of 30 days is directory/ recommendatory or mandatory in nature?

Ratio

- The time limit of 30 days provided under Section 62(2) of the CGST Act appears to be directory in nature and if the Taxpayer was unable to file the GST returns for any reasons beyond its control, certainly the said delay can be condoned and thereafter the Taxpayer can be permitted to file returns after payment of interest, penalty, etc.
- At any cost, the right to file returns cannot be taken away stating that the Taxpayer has not filed a return within 30 days from the date of best judgement assessment order.
- Given that the Taxpayer has not filed any application for condonation of delay in filing returns, the Taxpayer was directed to file such application which shall be considered by the Tax Authorities and thereafter, the Taxpayer can be permitted to file revised returns.

¹ Dated 19 January 2024

² Dated 23 January 2024

³ **Editors Note:** Effective 1 October 2023 (after the period of dispute), the above time limit of 30 days is increased to 60 days

Vivek Narsaria Vs. State of Jharkhand & Ors. [TS-17-HC(JHAR)-2024-GST]

Issue

- Whether the parallel proceedings initiated by the State GST Department (State Authorities), Preventive Wing of CGST, Ranchi (Preventive Wing) and search proceedings by Directorate General of Goods and Services Tax Intelligence (DGGI) for the same issue viz., wrongful availment of ITC is valid?
- Whether the Taxpayer's bank accounts can be provisionally attached prior to any determination/ finding of any wrongful availment of ITC?

Ratio

- **Parallel proceedings by the State GST Department, Preventive Wing and DGGI:**
 - On perusal of Section 6(2)(b) of the CGST Act read with Circular nos.: F. No. CBEC/20/43/01 /2017 - GST dated 5 October 2018 (Circular dated 5 October 2018) and F. No. CBEC - 20/10/ 07/2019-GST dated 22 June 2020, it appears that it is a chain of a particular event happening under the GST law and every and any enquiry/investigation carried out at the behest of any Department is interrelated.
 - Since the proceedings at the instances of State Authorities or Preventive Wing or the DGGI are at an initial stage, it can be construed that the proceedings are inter-related. Further, considering that the proceedings by the State Authorities are prior in point of time, the State Authorities should continue with the proceedings.
 - Accordingly, the Preventive Wing and DGGI are directed to forward the records of the investigation carried out against the Taxpayer to the State Authorities.
- **Provisional attachment of bank accounts:**
 - Provisional attachment of bank accounts prior to any determination or finding of any irregular/ inadmissible/ wrong availment of ITC appears to be an 'arm twisting method' to make the Taxpayer succumb to the DGGI which cannot be the dictum of the CGST Act. Hence, the Tax Authorities are directed to immediately de-freeze the Taxpayer's bank accounts.

Eicher Motors Ltd. Vs. Superintendent of GST and Central Excise & Anr. [TS-19-HC(MAD)-2024-GST]

Issue

- Whether interest under Section 50(1) of the CGST Act be imposed on account of delayed filing of Form GSTR-3B if the amount of GST payable was already deposited in the Electronic Cash Ledger (ECL) through Form GST PMT-06 before the due date of filling Form GSTR-3B?

Ratio

- Filing of Form GSTR-3B is immaterial for payment of GST. Mere default on the part of the Taxpayer in filing Form GSTR-3B cannot postpone the utilisation of the GST amount already deposited into the Government's account.
- It cannot be contended that GST would be discharged by the Taxpayer only on debiting the ECL as the date of crediting the GST amount to the ECL would be the actual date of discharge of GST to the extent of the amount deposited. ECL is only a ledger to ensure that the tax liabilities are discharged on time as per the due date.
- The term 'prescribed period' used in Section 50(1) of the CGST Act refers to the last date of payment of GST in accordance with Section 39(7) of the CGST Act as per which the GST payable would be credited to the Government's account not later than the last date for filing the monthly returns.
- The decision in *RSB Transmissions (India) Ltd. Vs. Union of India & Ors.*⁴ relied upon by the Tax Authorities are not in line with the provisions of the CGST Act and CGST Rules, and hence, cannot be applied to the present case.
- In view of the above and relying on the decision in *Vishnu Aroma Pouching Pvt. Ltd. Vs. Union of India*⁵, it was held that interest is not payable in cases where the GST payable is already credited to the ECL/ Government's account within the prescribed period.

⁴ TS-248-HC-2019(TEL&AP)-NT

⁵ TS-543-HC-2020(GUJ)-NT

CUSTOMS



LEGISLATIVE UPDATES

NOTIFICATION

03/2024 - Customs ⁶	Amends the effective rate of Basic Customs Duty (BCD) on import of ' <i>Spent catalyst or ash containing precious metals</i> ' falling under HSN Code 7112 subject to certain conditions to 10% (from 9.17%).
04&05/2024 - Customs ⁷	<p>The following goods are exempted from the levy of Social Welfare Surcharge:</p> <ol style="list-style-type: none"> '<i>Spent catalyst or ash containing precious metals</i>' (HSN Code 7112) covered by Entry no:364A of Notification no:50/2017 - Customs dated 30 June 2017. '<i>Gold or silver findings</i>' (HSN Code 7113). '<i>Coins of precious metals</i>' (HSN Code 7118). <p>Further, the Agriculture Infrastructure and Development Cess is imposed on the above goods @ 4.53% (for Sl. No. 1) and 5% (Sl. Nos. 2 and 3).</p>
06/2024 - Customs ⁸	Exemptions / concessional rate of BCD on import of various products which were notified vide Notification no: 50/2017-Cus. dated 30 June 2017 were set to expire on 31 March 2024. The same has now been extended till 30 September 2024.
07/2024 - Customs ⁹	33 Notifications ¹⁰ issued under the Customs law <i>inter alia</i> providing a complete or partial exemption (as the case may be) from payment of Customs Duties were set to expire on 31 March 2024. While some of these exemptions / concessional rates were unconditional, certain others were subject to the fulfilment of various conditions and restrictions. These notifications have now been extended till 30 September 2024.
08&09/ 2024- Customs ¹¹	Amends the effective rate of BCD on import of specified parts/sub-parts used in the manufacture of cellular mobile phones to 10% and provides an exemption from BCD on import of goods used to manufacture certain spare parts, subject to fulfilment of certain conditions.
05&06/2024 - Customs (N.T.) ¹²	<ul style="list-style-type: none"> Notification no:18/2023 - Customs (N.T.) dated 30 March 2023¹³ which exempts certain classes of deposits from the applicability of Section 51A of the Customs Act, 1962 (Customs Act) stands extended till 29 February 2024 (earlier 19 January 2024). Similarly, Notification no:19/2022 - Customs (N.T.) dated 30 March 2022¹⁴ which exempts certain classes of deposits from the applicability of Section 51A of the Customs Act will now come into effect from 1 March 2024 (earlier, the same was to be effective from 20 January 2024).
07&08/2024- Customs (N.T.) ¹⁵	Allows exemption or concessional rate of BCD on import of goods used in the manufacture of wearable and hearable devices under Notification nos:11/2022 - Customs & 12/2022-Customs dated 1 February 2022 respectively during the period from 1 February 2022 to 27 April 2023, subject to certain conditions.
Corrigendum to 15/2023 - Customs (ADD) ¹⁶	Corrigendum is issued to Notification no:15/2023 - Customs (ADD) dated 22 December 2023 which imposes Anti-Dumping duty on ' <i>Industrial Laser Machines used for cutting, marking or welding operations</i> ', to <i>inter alia</i> amend the tariff entries and name of one of the producers.

⁶ Dated 22 January 2024
⁷ Dated 15 January 2024
⁸ Dated 29 January 2024
⁹ Dated 29 January 2024

¹⁰ Customs Notification nos:16/65, 80/70, 46/74, 248/76, 207/89, 134/94, 147/94, 148/94, 151/94, 152/94, 153/94, 39/96, 50/96, 51/96, 25/98, 25/99, 97/99, 25/2002, 113/2003, 30/2004, 45/2005, 81/2005, 102/2007, 26/2011, 23/2016, 05/2017, 16/2017, 29/2017, 30/2017, 32/2017, 37/2017, 49/2017, 52/2017.

¹¹ Dated 30 January 2024
¹² Dated 19 January 2024
¹³ Our summary of the Notification can be accessed [here](#).
¹⁴ Our summary of the Notification can be accessed [here](#).

¹⁵ Dated 24 January 2024
¹⁶ Dated 23 January 2024

JUDICIAL UPDATES

Seville Products Ltd. Vs. Commissioner of Customs Exports, Delhi [TS-20-SC-2024-CUST]

Issue

- Whether penalty under Section 112(a) of the Customs Act, 1962 (Customs Act) can be imposed on an exporter situated outside India (Taxpayer) and whether the Customs Act has extra-territorial operation?
- Whether penalty be imposed on the Taxpayer since the other co-Noticees in the same Show Cause Notice have settled the liability before the Settlement Commission?

Ratio

- **Ratio of the Delhi High Court:**
 - There is no merit in the contention that no penalty under Section 112(a) of the Customs Act can be imposed on the Taxpayer (being an overseas entity) and that the Customs Act does not have any extra-territorial operation. Given that the Taxpayer had conspired with the Indian importers who had cleared goods based on false invoices issued by the Taxpayer, it can be construed that the Taxpayer has committed the offence within the territory of India. Accordingly, the imposition of penalty under Section 112(a) of the Customs Act is valid.
 - Although the Show Cause Notice was issued to various notices, the proposal to impose penalties/liabilities is separate and severable. Discharge of liability by a Noticee (by either making payment without a contest or by settlement) would not absolve the other notices from their liability. Thus, the Taxpayer is not absolved from its liability because the other co-Noticees have approached the Settlement Commission and settled its liability.
- Against the aforesaid ruling, the Taxpayer had filed a Special Leave Petition before the Supreme Court. However, the Supreme Court declined to interfere with the order passed by the Delhi High Court.

FOREIGN TRADE POLICY



LEGISLATIVE UPDATES

NOTIFICATION

58/2023 ¹⁷	The import policy of 'Glufosinate Technical' falling under HSN Code 38089390 is revised from "Free" to "Prohibited". However, import shall be free if the CIF value is INR 1,289 or above per Kg. This will be effective from 25 January 2024 and the same shall be reviewed after a period of one year.
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PUBLIC NOTICE

38/2023 ¹⁸	Karnataka Small Scale Industries Association, Porbandar Chamber of Commerce & Industry, The Kashmir Chamber of Commerce & Industry and Eastern U.P. Chambers of Commerce & Industry are enlisted under Appendix 2E of the Foreign Trade Policy 2023 and authorised to issue Certificate of Origin (Non-Preferential).
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PRESS RELEASE

Press Release by Ministry of Textiles ¹⁹	The Rebate of State and Central Taxes and Levies Scheme for the export of apparel/ garments and made-ups has been extended till 31 March 2026 (earlier was 31 March 2024).
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¹⁷ Dated 23 January 2024

¹⁸ Dated 31 January 2024

¹⁹ Dated 1 February 2024

CENTRAL EXCISE / SERVICE TAX / VALUE ADDED TAX



LEGISLATIVE UPDATES

NOTIFICATION

04/2024 - Central Excise ²⁰	The concessional rate of excise duty available on specified High-Speed Diesel (HSD), (subject to certain conditions and restrictions) was set to expire on 31 March 2024. The same has now been extended till 31 March 2025. Further, the concessional rate of specified HSD/ biodiesels which was proposed to be introduced with effect from 1 April 2024 would now be introduced with effect from 1 April 2025.
ERTS(T)24/2023/15 (Meghalaya) ²¹	The applicable VAT on 'Diesel oil and other internal combustion oils' under the Meghalaya (Sales of Petroleum products including Motor Spirit) Taxation Act ²² would be the higher of INR 7.5 per litre or 5%.
EXN-T(10)-17/2022 (Himachal Pradesh) ²³	The third phase of the Himachal Pradesh Sadhbhawana Legacy Cases Resolution Scheme, 2023 is extended till 31 March 2024.

INDIRECT TAX NEWS FLASH



Hindu BusinessLine (23 & 29 January 2024)	<ul style="list-style-type: none"> ▪ Finance Ministry raises import duties on gold and silver, targets tax advantage ▪ In a setback to HUL, Nestle, Reckitt Benckiser, Et AL., Delhi HC upholds Anti-profiteering provisions under GST law.
Hindustan Times (27 January 2024)	<ul style="list-style-type: none"> ▪ Budget 2024 highlights: What do business leaders expect from FM Sitharaman?
The Telegraph (22 January 2024)	<ul style="list-style-type: none"> ▪ Industry keen on amnesty scheme in interim budget after slew of GST demand notices
Live Mint (25 & 27 January 2024)	<ul style="list-style-type: none"> ▪ Budget 2024 expectations highlight: ITR, GST, Online Gaming Player, Healthcare, and other sectors voice their wishlist. ▪ Budget 2024 expectations highlights: Housing, IT, Auto, FMCG, Agriculture, and other sectors share wishlist
Economic Times (19 January 2024)	<ul style="list-style-type: none"> ▪ Budget 2024 expectations live: Alcobev industry also expects a thing or two from Sitharaman

²⁰ Dated 25 January 2024

²¹ Dated 23 January 2024

²² Assam (Sales of Petroleum and Petroleum Products, including Motor Spirit and Lubricants) Taxation Act, 1955 as adapted and amended by the Meghalaya State Government.

²³ Dated 18 January 2024

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