

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

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Issue -42

Goods and Service Tax

Customs and Others

Goods and Service Tax

M/S Hero Motocorp Ltd. Versus Union Of India & Ors. [2022 (10) Tmi 677 - Supreme Court]

It is further to be noted that this Court has also consistently held that when an exemption granted earlier is withdrawn by a subsequent notification based on a change in policy, even in such cases, the doctrine of promissory estoppel could not be invoked. It has been consistently held that where the change of policy is in the larger public interest, the State cannot be prevented from withdrawing an incentive which it had granted through an earlier notification.

M/S Swaroop Art Versus Union Of India [2022 (10) Tmi 675 - Rajasthan High Court]

It cannot be denied that the petitioner herein would not be able

to continue with his business in absence of GST registration and thus, would be deprived of his livelihood which amounts to violation of right to life and liberty as enshrined in Article 21 of the Constitution of India.

M/S Samridhi Enterprises Versus The State Of Jharkhand [2022 (10) Tmi 671 - Jharkhand High Court]

The demand of tax, interest and penalty has been confirmed without proper enquiry. Failure to issue the mandatory Show Cause Notices under Section 73/74 of the JGST Act along with summary Show Cause Notice under Rule 142(1) goes to the root of the matter and vitiates the entire proceeding and violates principles of natural justice. The law is now no more res integra that the show cause notice under Section 73/74 is mandatory in nature.

Goods and Service Tax

**M/S. Aref Abdul Sattar
Textiles Pvt. Ltd Versus
The Deputy Commissioner
[2022 (10) Tmi 505 -
Telangana High Court]**

On going through the impugned order, we are of the view that the same is not at all a speaking order. No reasons have been assigned for rejecting the refund application of the petitioner.

Customs & Others

M/S. Sanathan Textile Pvt. Ltd. Versus Union Of India [2022 (10) Tmi 471 - Bombay High Court]

The intention of the Central Government while framing EPCG Scheme was to permit import at zero customs duty. Accordingly, by Notification No. 16/2015-Cus dated 1st April 2015 goods covered by valid authorisation issued under the EPCG Scheme in terms of Chapter 5 of the Foreign Trade Policy were exempted from the whole of the additional duty leviable under Section 3 of the Customs Tariff Act. When the GST regime came into force, Section 3 of the Customs Tariff Act came to be amended by insertion of Sub Section (7) and Sub Section (9) that provided for levy of Integrated Tax and Goods and Services Compensation Cess.

Hindustan Unilever Limited Versus The Union Of India [2022 (10) Tmi 268 - Bombay High Court]

While considering application under Section 149 of the said Act, if the goods have been cleared for home consumption, which in this case has been, the proper officer has to only consider the documentary evidence which was in existence at the time the goods were cleared and nothing more. There is nothing to indicate in the impugned order that petitioner had not submitted the documentary evidence which was in existence at the time the goods were cleared. Such a ground has also not been taken when petitioner had approached this Court in the earlier round and, therefore, in our view, there cannot be any impediment to grant petitioner's request for amending the bills of entry.

Import and Export data

Imports of September 2022 at \$ 76.26 B

Exports of September 2022 at \$ 61.10 B

		September 2022 (USD Billion)	September 2021 (USD Billion)
Merchandise	Exports	35.45	33.81
	Imports	61.16	56.29
	Trade Balance	-25.71	-22.47
Services*	Exports	25.65	21.61
	Imports	15.10	12.58
	Net of Services	10.56	9.03
Overall Trade (Merchandise+ Services) *	Exports	61.10	55.42
	Imports	76.26	68.87
	Trade Balance	-15.16	-13.44

Source : PIB

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