

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

Fortnightly update – January 2023
Issue -45

Goods and Service Tax

Customs and Others

Goods and Service Tax

Manoj Kumar Sah Versus The State Of Bihar [2023 (1) TMI 791 - Patna High Court]

The least, the authority ought to have at least referred to the contents of the show cause and the response thereto, which was not done. Not only the order is non-speaking, but cryptic in nature and the reason of cancellation not decipherable therefrom.

CG Associates, Versus State Of Chhattisgarh [2023 (1) TMI 790 - Chhattisgarh High Court]

High Court remanded back the application for fresh consideration for reimbursement of additional tax liability incurred towards payment of GST to the respondents.

M/s. DCM Shriram Limited Versus State Tax Officer [2023 (1) TMI 788 - Madras High Court]

It would have been an entirely different matter, had the respondents suspected the transaction as being a method to avoid tax. However, what has transpired is that the respondents have simply lost sight of the bill to – ship to mode of doing business. The impugned order is set aside

Rekha Saxena Versus Commissioner Of Central Goods And Services Tax [2023 (1) TMI 732 - Delhi High Court]

The orders cancelling registration are a serious matter, they impact the registrants, and therefore, the concerned officer should carefully pen down the orders, and not rely on the system generated orders.

Goods and Service Tax

M/s. Om Sakhi Construction Versus The Assistant Commissioner [2023 (1) TMI 677 - Madras High Court]

There is nothing to demonstrate that when the audit under Section 65 has been kick started by way of a notice, show cause notice under section 74 is impermissible. Therefore, it is not necessary to even dilate on the principles governing interference by a writ Court qua show cause notice

M/S. SUZLON ENERGY LTD., VERSUS THE COMMERCIAL TAX OFFICER [2023 (1) TMI 676 - MADRAS HIGH COURT]

As the Order is not under challenge before this Writ Court, the questions as to whether this Order will apply, whether it would pass muster qua Rule making powers under parent Statute and whether

the Revenue has to file a writ petition within prescribed time (limitation). Matter remanded back.

Pamm Advertising And Marketing Versus The Union Of India [2023 (1) TMI 579 - Patna High Court]

This Court, notwithstanding the statutory remedy, is not precluded from interfering where, ex facie, it is opined that the order is bad in law. This is for two reasons- (a) violation of principles of natural justice, i.e. Fair opportunity of hearing. No sufficient time was afforded to the petitioner to represent his case; (b) order passed ex parte in nature, does not assign any sufficient reasons even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee. The order, ex parte in nature, passed in violation of the principles of natural justice, entails civil consequences.

Goods and Service Tax

Circular No. 190/02/2023- GST dated 13 January 2023

CBIC clarified that GST is not applicable on accommodation provided by Air Force Mess to its personnel and also no GST is payable on incentive paid by MeitY to banks for promotion of RuPay cards and BHIM UPI transactions.

Circular No. 189/01/2023- GST dated 13 January 2023

CBIC clarified applicability of GST on multiple goods including on milling of dal/chilka, carbonated drinks along with levy of compensation cess on SUVs and others.

Customs & Others

Samrah Gold Factory Limited Versus The Commissioner Of Customs [2023 (1) TMI 696 - Allahabad High Court]

There was no discretion with the tribunal to condone the pre-condition of mandatory deposits on the ground of undue hardship. As far as lack of jurisdiction to issue show cause notice is concerned, the said issue could have been considered once the appellants were able to maintain their appeals by making mandatory pre-deposits before the CESTAT.

M/s. Raj Traders Versus Commissioner Of Customs [2023 (1) TMI 395 - CESTAT Mumbai]

In the present case there is no denial of the fact that the appellant was not in position to file the refund claims within the prescribed period of limitation for

the reason that the documents on the basis of which these refund claims were to be filed were under seizure and were seized prior to the expiry of the period of limitation. Both the lower authorities have observed that the refund claims could have been filed without these documents on the basis of the book of accounts maintained by the appellant.

Circular No. 01/2023 – Customs dated 11 January 2023

Customs has made suitable changes to the valuation rules prescribed under Customs Act which are to come into effect from 11 February 2023.

Import and Export data

Imports of December 2022 at \$ 73.80 B

Exports of December 2022 at \$ 61.82 B

		December 2022 (USD Billion)	December 2021 (USD Billion)
Merchandise	Exports	34.48	39.27
	Imports	58.24	60.33
Services*	Exports	27.34	25.98
	Imports	15.56	14.94
Overall Trade (Merchandise + Services) *	Exports	61.82	65.25
	Imports	73.80	75.27
	Trade Balance	-11.98	-10.02

Source : PIB

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