

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

Fortnightly update – February 2023

Issue -47

Goods and Service Tax

Customs and Others

Goods and Service Tax

M/s Devki Products vs State of Gujarat [2023-VIL-125-GUJ]

Assuming that requirement of filing of the return and the consequences for non-filing of return for six months is apparent in statutory provision, the very nature of notice has been held by this Court in the decision of Aggrawal Dyeing as cryptic and unsustainable under law.

SR Sales Versus State Of UP [2023-VIL-123-ALH]

The presumption drawn by authorities cannot be accepted without there being any material on record that the petitioner had brought the goods twice. The proceedings has been initiated solely on the basis of presumption that goods having been brought into the State using two different vehicles by same e-way bill.

Sodhi Cargo Movers Pvt Ltd Versus State of Haryana [2023-VIL-119-P&H]

Since on the date of inspection and even before the Appellate Authority, invoices and GRs were never produced by the driver when the goods were checked - no case to quash the impugned order in appeal is made out

Rohit Enterprises Versus State Tax Officer [2023-VIL-117-BOM]

The right to carry on trade or profession cannot be curtailed contrary to the constitutional guarantee under Art. 19(1)(g) and Article 21 of the Constitution of India. If the person like petitioner is not allowed to revive the registration, the state would suffer loss of revenue and the ultimate goal under GST regime will stand defeated.

Goods and Service Tax

Mohan Agencies Versus State of UP [2023-VIL-114- ALH]

Once it has been laid down by way of a principle of law that assessee is not required to request for "opportunity of personal hearing" and it remained mandatory upon the Assessing Authority to afford such opportunity before passing an adverse order, the fact that the petitioner may have signified 'No' in the column meant to mark the assessee's choice to avail personal hearing, would bear no legal consequence.

Goods and Service Tax

49th GST Council Meeting Highlights

1. The Council adopted the report of GST Appellate Tribunal of the Group of Ministers with certain modifications
2. Extension of time limit for application for revocation of cancellation of registration from 30 days to 90 days and one time amnesty for past cases
3. Rationalisation of Late fee for Annual Return
4. Amnesty in respect of pending returns in FORM GSTR-4, FORM GSTR-9 and FORM GSTR-10
5. Council recommended to rationalize the provision of place of supply for services of transportation of goods by deletion of section 13(9) of IGST Act, 2017

GSTN Portal Updates

GSTN has enabled reporting of negative values in Table 4 of GSTR 3B.

Customs & Others

Jutla & Co. Vs Commissioner of VAT [W.P.(C) 771/2023]

Delhi High Court held that failure on part of the Objection Hearing Authority to pass an order does not automatically result in allowing refund under section 42(1) of Delhi VAT Act.

Sun Aviation Pvt. Ltd. Vs Commissioner of Customs [W.P.(C) 17189/2022]

Penalty order passed without issue of SCN has been set aside due to violation of natural justice principles.

Adani Wilmar Ltd Vs Commissioner of Customs [Customs Appeal No. 20277 of 2020]

Exemption notification gets effective only from date it got published in Official Gazette.

Import and Export data

Imports of January 2023 at \$ 66.42 B

Exports of January 2023 at \$ 65.15 B

		January 2023 (USD Billion)	January 2022 (USD Billion)
Merchandise	Exports	32.91	35.23
	Imports	50.66	52.57
Services*	Exports	32.24	21.63
	Imports	15.76	13.24
Overall Trade (Merchandise + Services) *	Exports	65.15	56.86
	Imports	66.42	65.80
	Trade Balance	-1.27	-8.95

Source : PIB

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