

# DA TAX UPDATE INDIRECT TAX

An E-Tax update from  
**Darda Advisors LLP**

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Issue -48

**Goods and Service Tax**

**Customs and Others**



## Goods and Service Tax

### **M/s Shiv Enterprises vs State of Punjab [2023-VIL-04-SC]**

Apart from the fact that the observations of the High Court is factually incorrect, even otherwise, it was premature for the High Court to opine anything on whether there was any evasion of the tax or not as the same was to be considered in an appropriate proceeding for which the notice was issued. The High Court has materially erred in entertaining the writ petition against the show cause notice and quashing and setting aside the same.

### **Deepa Traders vs Chief Commissioner of GST [2023-VIL-167-MAD]**

The errors committed by petitioner are clearly inadvertent and the rectification would enable proper reporting of the turnover and input tax credit to enable claims to be made in an appropriate fashion by

the petitioner and connected assessee. Respondents are directed to do the needful to enable uploading of the rectified GSTR-1.

### **Ravi Enterprises vs Commissioner of State Tax [2023-VIL-142-UTR]**

From scheme of the Rule 142 of CGST Rules, 2017 it is apparent that before issuing notice under Section 73, the person chargeable with tax is entitled to an intimation in Form GST DRC-01A so that he may respond to the intimation by filing his reply in part-B of the said Form. In the present case, the notice under Section 73(1) of GST Act and the intimation in form GST DRC-01A was uploaded simultaneously. Petitioner was denied a valuable right of filing his submission in response to the intimation in Form GST DRC-01A.

## Goods and Service Tax

### SE Forge Limited vs Union of India [2023-VIL-139-GUJ]

It was also the case of the petitioner that since it was a SEZ unit making zero rated supplies under the GST, was not in a position to utilize the credit of ITC of IGST from its ISD, which remained unutilized in electronic credit ledger and hence, the application to claim such refund was made.

### CJ Darcl Logistics Limited vs Union of India [2023-VIL-113-JHR]

It is settled principle of law that if an allegation or ground is not made at the time of issuance of show cause notice, the authority cannot go beyond the scope of show cause notice to create new ground at the later stage of adjudication.

### GSTN Portal Updates

GSTN has enabled e-invoice registration services with private IRPs viz. ClearTax, Cygnet, E&Y and IRIS Business Ltd.



## Customs & Others

### **Union of India vs Magnum Steel Ltd [2023-VIL-16-SC-CU]**

Although the power to search is wide, to do so validly, it is necessary that the conditions required by law i.e. officer concerned is to satisfy himself that there are reasons to believe, that the assessee was evading tax, to authorize a legal search should be available on the record.

### **Sentec India Company Pvt. Ltd. Vs Asst Commissioner of Customs [2023-VIL-87-DEL-CU]**

The petitioner's written request seeking refund of the balance amount was not an application under Section 27 of the Customs Act, but merely a request to the respondents to act in accordance with law and give effect to the appellate order. Once the order partly rejecting the refund application had been set aside, the

natural corollary would be to process the application and to grant the refund, if otherwise due. Respondent has misdirected itself in considering the petitioner's request for refund of the balance amount as a fresh application.

### **State of Karnataka vs Ecom Gill Coffee Trading Pvt Ltd [Civil Appeal No. 230 of 2023]**

The Supreme Court (SC) has set aside a Karnataka High Court order that allowed dealers to claim input tax credit (ITC) under the VAT VAT regime by producing invoices and cheque payments.

The SC allowed tax authorities' appeal against the High Court judgment. It said a dealer claiming ITC has to prove beyond doubt the occurrence of the actual transaction" and the "actual physical movement of the goods".

## Import and Export data

**Imports of February 2023 at \$ 65.85 B**

**Exports of February 2023 at \$ 63.02 B**

		February 2023 (USD Billion)	February 2022 (USD Billion)
Merchandise	Exports	33.88	37.15
	Imports	51.31	55.90
Services*	Exports	29.15	21.30
	Imports	14.55	12.97
Overall Trade (Merchandise + Services) *	Exports	63.02	58.46
	Imports	65.85	68.87
	Trade Balance	-2.83	-10.41

Source : PIB



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