

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

Fortnightly update – May 2023

Issue -50

Goods and Service Tax

Customs and Others

Goods and Service Tax

Union of India vs Cosmo Films Limited [2023-VIL-47-SC]

The impugned judgments [invalidation of pre-import condition] of the Gujarat High Court are set aside. However, since the respondents were enjoying interim orders, till the impugned judgments were delivered, the Revenue is directed to permit them to claim refund or input credit.

Gajraj Vahan Private Limited Vs The State Of Jharkhand [2023-VIL-295-JHR]

Circular No. 162/18/2021-GST dated 25.9.2021 issued by the CBIC on the clarification in respect to refund of tax - further, vide Notification No. 35/2001-Central Tax dated 24.9.2021, Sub-Rule (1A) of Rule 89 of CGST Rules 2017 has been inserted, which is a benevolent provision for extension

of limitation of refund in case of wrong deposit. Refund of excess CGST paid shall be considered by the authorities in light of the latest circular.

Gameskraft Technologies Private Limited vs DGGI [2023-VIL-291-KAR]

The subject Online/ Electronic/ Digital Rummy game and other Online/ Electronic/ Digital games played on the Petitioners' platforms are not taxable as 'Betting' and 'Gambling' as contended by the respondents under the CGST Act and Rules.

Lodha Roadways vs State of Tamil Nadu [2023-VIL-285-MAD]

It is not for the transporter to make a submission under section 129, and seek the release of the conveyance.

Goods and Service Tax

M/s Godrej Properties Limited [2023-VIL-87-AAR]

The applicant is not liable to charge GST on sale of plot, if the booking of plot, receipt of consideration and agreement for sale is entered as well as sale deed is executed after the release certificate.

Nandini Ashram Trust [2023-VIL-86-AAR]

Exemption under Notification No 9/2017- Integrated Tax (Rate) dated 28 June 2017 is only available when rooms let out are located within the precincts of a religious place.

Customs & Others

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

The basic premise of Section 105 of the Customs Act, 1962 and search proceedings is the reasonable belief that some objective material exists on the official record to trigger searches. The person authorizing the search must express his satisfaction that the material is sufficient to conclude that search is necessary; further there should exist something to show what is such material.

Commissioner of Customs Vs Adani Power Maharashtra Ltd [2023-VIL-35-SC-CU]

Vide the impugned order the Tribunal held that there is no evidence to doubt the correctness of the transaction value declared

by APML/APRL, therefore, the declared value is required to be accepted under Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules 2007 read with section 14 of the Customs Act, 1962. The Hon'ble Court refused to accept the appeal against this order.

Commissioner of Customs vs LG Electronics India Pvt Ltd [2023-VIL-373-CESTAT-CHE-CU]

As regards the issue of unjust enrichment, Boards Circular only requires the statutory auditor / Chartered Accountant who certifies the importer's annual financial accounts under the Companies Act or any statute, to explain how the burden of 4% CVD has not been passed on by the importer and to fulfill the requirement of unjust enrichment

Import and Export data

Imports of April 2023 at \$ 66.40 B

Exports of April 2023 at \$ 65.02 B

		April 2023 (USD Billion)	April 2022 (USD Billion)
Merchandise	Exports	34.66	39.70
	Imports	49.90	58.06
Services*	Exports	30.36	24.05
	Imports	16.50	14.06
Overall Trade (Merchandise + Services) *	Exports	65.02	63.75
	Imports	66.40	72.11
	Trade Balance	-1.38	-8.37

Source : PIB

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