

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

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Issue -51

Goods and Service Tax

Customs and Others

Goods and Service Tax

Sona Metals Vs State Of Gujarat [2023-VIL-388-GUJ]

The Show cause notice lacks necessary details, making it difficult for the petitioner to respond effectively. The respondents have failed to provide specific reasons for cancellation of registration under Section 29(2) of the CGST Act, 2017. Both the show cause notice as well as the appellate order are quashed and set aside.

M/S Shree Ram Agrotech Vs The State Of Jharkhand [2023-VIL-387-JHR]

The reliance on the Form GST DRC-01 is insufficient since it does not specify the alleged violations or provide the petitioner with an opportunity to rebut the allegations. A summary show cause notice cannot substitute a proper show cause notice.

M/S Stallion Energy Private Limited Vs Union Of India [2023-VIL-374-GUJ]

It is the case of the petitioner that as per the provisions contained in section 107 of the Act, the petitioner is required to pre-deposit 10% of the amount of tax i.e. Rs.3,55,334/-. However, the respondents have recovered an amount of Rs.46 lakh and therefore it is prayed that the respondents be directed to refund the remaining amount. Such contention of the petitioner is misconceived in view of the provisions contained in Section 73(9) read with Sections 78 and 107 of the CGST Act. If the appeal filed by the petitioner is allowed by the Appellate Authority, it is always open for the petitioner to make such request before the Appellate Authority that direction be issued to the respondents to refund the amount. However, the present petition is misconceived and it is dismissed.

Goods and Service Tax

Gargo Traders v. The Joint Commissioner [WPA No. 1009 of 2022]

The HC held that a recipient of goods/services cannot be denied input tax credit (ITC) if the supplier becomes non-existent or their registration is retrospectively cancelled.

M/S Kaveri Exports [2023-VIL-97-AAR]

The turnover pertaining to sale of 'Duty credit scrips' should be reduced from the total turnover as defined under clause (112) of section 2 for computation of the Adjusted Total Turnover as per Rule 89(4) of CGST Rules, 2017

Customs & Others

M/S Kalinga Commercial Corporation Ltd Vs Commissioner Of Customs [2023-VIL-385-KAR-CU]

The issue was been examined by ADGFT and was held that there is no misuse of imported goods and the appellant had satisfied the actual user condition. Once at the instance of the customs authority, the Licensing authority initiates action, examines the factual position and holds the issue in favour of appellant; such finding is binding on the Customs authorities. The final order passed by the Tribunal imposing duty and interest on the assessee is set-aside.

M/S Rashi Peripheral Limited [2023-VIL-19-AAR-CU]

Since the matter of classification of of similar devices is pending

decision in the applicant's own case before an officer of Custom, the Authority for Advance Rulings refrain from passing a ruling in this case.

Baker Hughes Oilfield Services India Private Limited [2023-VIL-17-AAR-CU]

Activity of bringing goods from a Unit or Developer in SEZ to DTA is not covered under the definition of the term, 'import' under the SEZ Act, 2005, therefore such transfer from SEZ to DTA cannot be termed as 're-import'.

Import and Export data

Imports of May 2023 at \$ 70.64 B

Exports of May 2023 at \$ 60.29 B

		May 2023 (USD Billion)	May 2022 (USD Billion)
Merchandise	Exports	34.98	39.00
	Imports	57.10	61.13
Services*	Exports	25.30	25.13
	Imports	13.53	15.20
Overall Trade (Merchandise + Services) *	Exports	60.29	64.13
	Imports	70.64	76.32
	Trade Balance	-10.35	-12.20

Source : PIB

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