

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

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Issue -56

Goods and Service Tax

Customs and Others

Goods and Service Tax

Shree Jeet Transport Vs Union of India [WPT 117/2022]

The Court ruled that providing diesel for free by the service recipient to the GTA service provider must be included in the GST value. The court held that since transportation relies on fuel supply, it is a crucial component for the GTA's business survival, and even if provided free of cost, diesel must be considered for GST valuation. The court rejected reliance on a circular and reinstated the initial order stating that diesel, though provided free, should be added to the GST value.

Daksh Enterprise Vs Commissioner Of State Tax [SCA No 14852/2022]

In a recent judgment, the Court addressed a critical issue involving natural justice principles in the context of a Goods and Services Tax (GST) matter. The case, Daksh Enterprise vs. Commissioner of State Tax, highlights the importance of granting an opportunity of hearing before passing an order in Form GST DRC-7.

Deepak Sales Corporation Vs Union of India [CWP No.283/2023]

The High Court clarified that interest and penalties under Section 50 of the CGST Act should be imposed only when excess input tax credit (ITC) has been utilized, not just claimed or reflected in the electronic ledger. The court ruled in favor of the taxpayer, Deepak Sales Corporation, stating that since the excess ITC was corrected before utilization, the demand for interest and penalty was untenable. This decision provides relief to taxpayers who promptly rectify errors in claiming ITC.

Umiya Industries vs Superintendent of Goods and Services Tax [SPA No. 17836 of 2023]

The High Court quashed and set aside the show cause notice and order of cancellation of Umiya Industries' registration due to violation of principles of natural justice. The petitioner argued that the notice and order were vague and cryptic, and that the respondent had not been conducting business since long. The court cited the precedent of Aggarwal Dyeing and Printing Works vs. State of Gujarat, which outlines the procedure for GST registration cancellation.

Goods and Service Tax

Association of Technical Manufacturers and Processors vs Union of India [W.P.(C) 5933/2019]

The petitioners challenge a circular from the Tax Research Unit (TRU) classifying polypropylene woven and non-woven bags as plastic bags under the Customs Tariff Act, 1975. The court ruled that the TRU lacks authority to issue such circulars under the Central Goods & Services Tax Act, 2017, and the classification issue cannot be resolved through a circular. The court granted the writ petition.

GST Updates

CBIC Enforces Biometric Aadhaar Authentication for GST in Andhra Pradesh

CBIC has issued a notification regarding biometric-based Aadhaar authentication for GST registration in the State of Andhra Pradesh. Previously, the same requirement was notified for the States of Gujarat and Puducherry. However, the government has now extended this mandate to include Andhra Pradesh as well.

Notification No. 54/2023- Central Tax, dated 17th November, 2023

Advisory for the procedures and provisions related to the amnesty for taxpayers who missed the appeal filing deadline for the orders passed on or before March 31, 2023

The GST Council recommended amnesty for taxpayers who couldn't file an appeal against a demand order. Government issued Notification No. 53/2023, allowing appeals to be filed on the GST portal by January 31, 2024. Taxpayers must make payments against the demand order using the 'Payment towards demand' facility.

ITC Reversal on Account of Rule 37(A)

Taxpayers are required to reverse Input Tax Credit (ITC) availed on invoices or debit notes under Rule 37A of CGST Rules, 2017. Suppliers must provide details in GSTR-1/IFF by September 30th, following the end of the financial year. ITC must be reversed by November 30th. The amount has been computed and communicated to the recipient via email. Taxpayers are advised to reverse ITC before November 30th, 2023, in Table 4(B)(2) of GSTR-3B.

Advisory for Online Compliance Pertaining to ITC mismatch -GST DRC-01C

GSTN has developed a feature to generate automated intimations in Form GST DRC-01C, allowing taxpayers to explain differences in input tax credit (ITC) in GSTR-2B statements and returns. This feature compares ITC declared in GSTR-3B/3BQ with available ITC in GSTR-2B/2BQ for each return period. If the claimed ITC exceeds the available ITC, taxpayers must file a response using Form DRC-01C Part B.

Customs & Others

Tata Steel Ltd. Vs Commr. of Customs [CA No . 75188/2015]

The CESTAT Kolkata held that imported assemblies, sub-assemblies, components, and sub-components under the EPCG scheme are considered allowed spares under the Foreign Trade Policy. Tata Steel Ltd., the appellant, faced a show cause notice alleging evasion of customs duty through sham agreements related to imported equipment for blast furnaces. The tribunal concluded that the spares imported under EPCG were allowed under the Foreign Trade Policy, and Customs cannot question it when the Directorate General of Foreign Trade (DGFT) is satisfied with the imports.

C.C. Ahmedabad Vs Reliance Industries Limited [CAN. 10267 of 2021]

CESTAT Ahmedabad ruled in favor of Reliance Industries Limited, excluding ship demurrage charges from customs duty valuation. The decision aligns with the Orissa High Court's ruling, emphasizing

judicial discipline and legal nuances in international trade, providing guidance for businesses.

Commissioner of Customs Bangalore Vs Shiva Analyticals [CAN. 6708/2013]

The Supreme Court of India ruled in the case of Commissioner of Customs Bangalore vs. Shiva Analyticals (India) Limited, allowing Shiva Analyticals to claim a 100% customs duty exemption on imported capital goods. The exemption required fulfilling export obligations and selling final products outside the Domestic Tariff Area. The court ruled in favor of Shiva, suggesting a proportion based on export commitment fulfillment.

Customs & Others

Top Forty Suspension (P) Ltd. Vs Commissioner of Central Excise [EPN. 811/2009]

The CESTAT Chandigarh ruled that penalty under Section 112 cannot be imposed on EOUs as the goods are not held liable for confiscation. The appellants, a 100% EOU, faced a show-cause notice for alleged non-fulfillment of export obligations, and the tribunal held that penalty cannot be imposed on EOUs for failure to achieve positive Net Foreign Exchange. The decision clarified that penalty under Section 112 is not applicable unless goods are liable for confiscation, and conditions for penalty under Section 114A do not exist in this context.

Pidilite Industries Ltd Vs Commissioner of Central Excise [EPN. 86829/2013]

The CESTAT Mumbai addressed the rejection of a refund claim for accumulated CENVAT credit on exports. The rejection was based on exceeding the time limit and lack of justification for the credit's non-utilization. The tribunal ruled that while Section 11B of the

Central Excise Act stipulates a relevant date for refunds, the CENVAT Credit Rules, 2004, and the relevant notification do not prescribe a time limit. The decision emphasizes harmony with the overall procedure and highlights that the sanctioning authority cannot impose conditions beyond the specified ones, ensuring a fair evaluation of refund claims.

Import and Export data

Imports of October 2023 at \$ 79.35 B

Exports of October 2023 at \$ 62.26 B

		October 2023 (USD Billion)	October 2022 (USD Billion)
Merchandise	Exports	33.57	31.60
	Imports	65.03	57.91
Services*	Exports	28.70	25.30
	Imports	14.32	13.51
Overall Trade (Merchandise + Services) *	Exports	62.26	56.90
	Imports	79.35	71.42
	Trade Balance	-17.08	-14.52

Source : PIB

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