

DA TAX UPDATE INDIRECT TAX

An E-Tax update from
Darda Advisors LLP

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Issue -62

Goods and Service Tax

Customs and Others

Goods and Service Tax

HC Invalidates Recovery Proceedings Against Former Company Director, Upholds Constitutional Rights

The High Court in Bombay ruled in favor of Prasanna Karunakar Shetty, who sought to quash an order of attachment and a notice for attaching his bank account from the State Tax Officer. The court found that Shetty was not given a show cause notice or heard before the attachment orders, which directly affected his property rights. The court concluded that the order was illegal and could not be sustained, allowing the petition for reliefs.

Prasanna Karunakar Shetty vs. State of Maharashtra [WP No. 3098 of 2024]

Quashing of Proposed GST Registration Cancellation Notice Due to Premises Discrepancy

The petitioner is suing a court for canceling their GST registration due to a surprise visit by an officer. They claim they were not found at the premises and requested a revisit. The court agrees and orders a 30-day adjudication, a personal hearing, and a fresh visit to confirm their presence. The respondent denies any prior notice was issued.

SLG Trading Co vs. Sales Tax Officer Class II [W.P.C 5269/2024]

Judicial Review of GST Assessment Order Due to Reporting Discrepancies

M/s. Oasys Cybernetics Private Limited contests an assessment order for GST discrepancies in 2017-18. The company, a supplier of point of sale machines, received a show cause notice for discrepancies between GSTR 3B returns and GSTR 2A. The company provided a certificate from a Chartered Accountant, but the officer reversed the credit without proper examination and rejected it without explanation.

Oasys Cybernetics Private Limited vs State Tax Officer [W.P.No.9624 of 2024]

HC Extends Mohit Minerals Precedent to CIF and FOB Contracts; Quashes SCN

The Bombay High Court has dismissed a show cause notice demanding GST on ocean freight for goods transported outside India. The court followed the Gujarat High Court's precedent in Mohit Minerals, which declared a notification as ultra vires of the IGST Act. The court clarified that the notification covers both CIF and FOB contracts, rendering the show cause notice without jurisdiction.

Agarwal Coal Corporation Pvt Ltd vs. The Assistant Commissioner of State Tax [W.P.N 15227/2023]

Goods and Service Tax

HC Orders Quashment of Assessment Order and Notices Due to Lack of Signature

Metalica Metals vs. The Deputy State tax Officer & Ors.[W.P.N 9458/2024]

The writ petition, filed before the High Court by the petitioner, contested an assessment order issued on 08.12.2023. The crux of the petitioner's argument revolved around the absence of the first respondent's signature on both the assessment order and the show cause notice, claiming it rendered the order void and arbitrary. Moreover, the petitioner challenged the validity of notifications, alleging they exceeded legal authority and contravened constitutional provisions.

Silver Oak Villas LLP vs. The Assistant Commissioner (ST) & Ors. [W.P.N 6671/2024]

HC Grants Opportunity to Contest GST Demand Over Return Mismatch

The Madras High Court (HC) quashed a demand order due to a mismatch between GSTR 3B and GSTR 1 and GSTR-3B and GSTR-2A. The court remanded the matter for reconsideration and provided an opportunity for the assessee to contest the tax demand. The HC argued that the summary of the show cause notice did not address the issue of E-way bill verification and directed the Revenue to grant a personal hearing and pass a fresh order.

GST Updates

Advisory on Reset and Re-filing of GSTR-3B of some taxpayers

The GST Council's Grievance Redressal Committee has identified discrepancies in the GSTR-3B returns of certain taxpayers, particularly in the fields of Input Tax Credit (ITC) availment and payment of tax liabilities. To rectify this, affected taxpayers have been notified via email and their dashboards have been updated to allow them to re-file their GSTR-3B within 15 days. Taxpayers facing difficulties can contact their jurisdictional tax officer or use the GST grievance redressal portal for assistance.

Advisory: Auto-populate the HSN-wise summary from e-Invoices into Table 12 of GSTR-1

GSTN has introduced a new feature on the GST portal that automatically populates the HSN-wise summary from e-Invoices into Table 12 of GSTR-1. This feature streamlines the process by directly transferring HSN data from e-Invoices to Table 12. However, users are advised to reconcile this auto-populated data with their records before final submission to ensure accuracy. Users should manually correct any discrepancies or errors in Table 12 before submitting the GSTR-1 to avoid inaccuracies in their filings.

Customs & Others

Madras HC Sets Aside Customs Order, Emphasizes Procedural Fairness

Mahaveer NX challenged an order dated 01.03.2024 before the Madras High Court, citing a breach of natural justice. The petitioner, engaged in importing and trading decorative balloons, argued that the order was invalid as it was served at a previous address despite communication of a change in address to the Deputy Commissioner of Customs. The Court found the order unsustainable due to the lack of reasonable opportunity provided to the petitioner and set it aside, remanding the matter for reconsideration.

Mahaveer NX Vs Principal Commissioner of Customs [WP No. 9071 of 2024]

CESTAT Hyderabad Rejects IGST Demand Under Extended Limitation Period

The appellant, who claimed exemptions from customs duty on imports under Advance Authorization, faced a dispute over IGST exemption entitlement. The Customs department argued that the appellant could only claim exemption under Notification No. 21/2015-Cus. The appellant argued that IGST payment would be offset by Input Tax Credit, resulting in a revenue-neutral situation. The Hyderabad Bench of CESTAT ruled that invoking the extended limitation period was unsustainable.

Himadri Speciality Chemical Ltd. Vs Pr. Commissioner of Customs Visakhapatnam [C.P.N 30069/2024]

Liability Discharged by Transferee: Non-Fulfillment of Obligation under Advance License by Transferor

The Madras High Court ruled that the liability arising from the non-fulfillment of obligations under an advance license by the transferor company does not get extinguished due to mergers or amalgamations. The court held that the transferee company is responsible for discharging the liabilities of the transferor company, even after a merger or amalgamation.

Integra Garments & Textiles Ltd vs. Union of India [W.P.No.430 of 2020]

HC: Provisional Attachment of Bank Account Illegal

The Bombay High Court ruled that the provisional attachment of a bank account by customs authorities was illegal. The court found that the procedure outlined in Section 110(5) of the Customs Act, 1962, was not followed, as there was no written order from the proper officer justifying the attachment.

Chokshi Arvind Jewellers Vs Union of India [W.P.N 2633/2024]

Customs & Others

CESTAT : Freight and Insurance Excluded from Excise Duty Assessable Value

In the case CESTAT Ahmedabad addressed the issue of whether freight and insurance charges should be included in the assessable value of goods for charging excise duty. The tribunal ruled in favor of the appellant, stating that these charges, collected separately from the price of goods, should not be part of the assessable value.

Panama Petrochem Ltd. Vs Commissioner of C.E. & S.T.-Daman [E. A.No. 10576 of 2016]

Printing Activity Not Subject to Excise Duty

In the case CESTAT Chennai examined whether printing activities constitute 'manufacture' and warrant Excise Duty. The tribunal ruled in favor of the appellant, stating that printing on paper or paperboard does not fundamentally alter its character, thus exempting it from Excise Duty.

Chromaprint (India) Pvt. Ltd. vs. Commissioner of GST & Central Excise [E. P. No. 41994/2014]

Import and Export data

Imports of March 2024 at \$ 73.12 B

Exports of March 2024 at \$ 70.21 B

		March 2024 (USD Billion)	March 2023 (USD Billion)
Merchandise	Exports	41.68	41.96
	Imports	57.28	60.92
Services*	Exports	28.54	30.44
	Imports	15.84	16.96
Overall Trade (Merchandise +Services) *	Exports	70.21	72.40
	Imports	73.12	77.88
	Trade Balance	-2.91	-5.48

Source : PIB

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