

# DA TAX ALERT INDIRECT TAX

AN E-TAX ALERT FROM  
**Darda Advisors LLP**

April 2024

Issue: 47

**GST COMPLIANCE  
CALENDER**

**GOODS AND  
SERVICE TAX**

**CUSTOMS AND  
OTHER**

**DA NEWS**

# PREFACE

We are pleased to present to you the Forty seven edition of DA Tax Alert, our monthly update on recent developments in the field of Indirect tax laws. This issue covers updates for the month March 2024.

During the month of March 2024, there were certain changes under Goods and Service Tax, Customs and other; key judgments and rulings such as Delhi HC Permits Rectification of Bonafide Invoice Filing Errors in Monthly Returns with No Revenue Loss and Consolidated notice providing multiple dates of hearing violates principles of natural justice

In the Forty seven edition of our DA Tax Alert-Indirect Tax, we look at the tumultuous and dynamic aspects under indirect tax laws and analyze the multiple changes in the indirect tax regime introduced during the month of March 2024.

The endeavor is to collate and share relevant amendments, updates, articles, and case laws under indirect tax laws with all the Corporate stakeholders.

We hope you will find it interesting, informative, and insightful. Please help us grow and learn by sharing your valuable feedback and comments for improvement.

We trust this edition of our monthly publication would be an interesting read.

Regards

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# GST COMPLIANCE CALENDAR

April  
2024

10

GSTR-7  
TDS Deductor

10

GSTR-8  
TCS  
Deductor

11

GSTR-1  
Normal Taxpayer

13

GSTR-1/6  
QRMP Taxpayer & Input  
Service Distributor

20

GSTR-5A  
OIDAR Service Provider

20

GSTR-3B  
Normal & QRMP Taxpayer

20

GSTR-5  
Non-Resident Taxable  
Person



# Remand to AAR Regarding Treatment of FTWZ as a 'Customs Bonded Warehouse' - AAAR

## DA Insights:

*This case underscores the importance of a comprehensive examination of all aspects raised by the appellant and the need for clarity regarding the classification of FTWZ units under relevant legislation.*

### **Issue:**

Whether the proposed activity of transferring goods within the Free Trade Warehousing Zone (FTWZ) constitutes a 'bonded warehouse transaction' under Schedule III of the CGST Act, 2017.

### **Legal Provisions:**

Section 101(1) of the CGST Act, 2017. Para 8(a) of Schedule III of the CGST Act, 2017. SEZ Act and Customs Act.

### **Observation and Comments:**

The Tamil Nadu Appellate Authority for Advance Ruling (AAAR) set aside the ruling of the Authority for Advance Ruling (AAR), which concluded that the transfer of goods within the FTWZ did not constitute a bonded warehouse transaction. The AAAR remanded the case back to the AAR for further consideration, highlighting that the AAR had not addressed all the contentions raised by the appellant.

The AAAR emphasized the need to determine whether the FTWZ could be classified as a customs bonded warehouse under either the SEZ Act or the Customs Act. Additionally, the AAAR instructed the AAR to examine whether the proposed activities fell under any specific entry in Schedule III of the CGST Act, 2017.

*In the matter of Haworth India Pvt. Ltd. [TS-747-AAAR(TN)-2023-GST]*

# Ancillary Charges Collected by DISCOMs and GST Implications - AAR

## DA Insights:

*This ruling provides clarity on the GST applicability of ancillary charges collected by electricity distribution licensees, emphasizing the distinction between naturally bundled services and ancillary services.*

### **Issue:**

Determining the GST applicability on ancillary charges collected by electricity distribution licensees, such as TANGEDCO, in connection with the distribution and supply of electricity.

### **Legal Provisions:**

Entry 25 of Notification No. 12/2017-CT (Rate), Circular No. 178/10/2022-GST, Notification No. 11/2017-CT(Rate), Section 2(76) of the Electricity Act, 2003, Section 2(30) of the CGST Act, 2017, Board's Circular No. 34/8/2018-GST.

### **Observation and Comments:**

The Tamil Nadu Authority for Advance Ruling (AAR) ruled that certain ancillary charges collected by electricity distribution licensees, such as TANGEDCO, are subject to 18% GST.

The AAR exempted charges like 'Network/Wheeling charge', 'Belated Payment Surcharge', and 'Dishonoured Cheque Service Charge' as they are naturally bundled with the main supply of electricity transmission.

However, charges such as harmonic compensation, capacitor compensation, and others were deemed as ancillary services and hence subject to GST at the rate of 18%.

The AAR rejected the argument that all services formed a composite supply, stating that they

were not naturally bundled with the main service of electricity transmission. The AAR cited relevant circulars and legal provisions to support its judgment and noted that the reliance on the Gujarat High Court decision was premature as the case was pending in the Supreme Court.

*In the matter of Tamil Nadu Generation and Distribution Corporation Ltd [TS-743-AAR(TN)-2023-GST]*

# HC: Petitioner's Appeal Against GST Registration Cancellation

## DA Insights:

*Lack of clarity and reasoning in cancellation orders can lead to judicial challenges and Adverse consequences on customers' input tax credit should be considered while canceling registration retrospectively and awareness of legal procedures, especially during exceptional circumstances like the pandemic, is crucial for taxpayers.*

### **Issue:**

Challenging the dismissal of an appeal for restoration of GST registration and the retrospective cancellation of GST registration.

Goods and Services Tax Act, 2017. The respondents were allowed to pursue recovery actions according to the law, including retrospective cancellation if warranted.

### **Legal Provisions:**

Section 29(2) of CGST Act, 2017

### **Observation and Comments:**

The petitioner contested the dismissal of their appeal seeking restoration of GST registration and the retrospective cancellation of GST registration. The court noted that the orders lacked sufficient reasoning and detail. The petitioner had applied for cancellation of GST registration due to business closure, but subsequent notices and orders did not adequately inform the petitioner of the retrospective cancellation.

The court found that cancellation with retrospective effect requires objective criteria and cannot be merely based on non-filing of returns. Both parties desired cancellation of the registration, albeit for different reasons.

Therefore, the court modified the order to cancel the registration from the date of the petitioner's application for cancellation. The petitioner was directed to comply with necessary procedures under Section 29 of the Central

[Veetrag Traders vs. The Commissioner of SGST Delhi & Ors \[TS-158-HC\(DEL\)-2024-GST\]](#)

# Lack of Cross-Empowerment Notification Renders GST Proceedings Jurisdictionally Invalid - HC

## DA Insights:

*Clear jurisdictional delineation is crucial in GST proceedings to ensure fairness and avoid confusion. proper notifications for cross-empowerment are necessary to authorize authorities to conduct investigations or adjudications beyond their assigned jurisdiction. adherence to procedural requirements is essential to maintain the integrity of tax administration under GST.*

### **Issue:**

Jurisdictional dispute regarding the initiation of proceedings by Central and State GST Authorities without proper cross-empowerment notification.

### **Legal Provisions:**

Section 4 of the Central Goods and Services Tax Act, 2017 (CGST Act). Circular No. 01/2017-GST (Council) dated September 20, 2017. Section 3 and Section 4(1) and (2) of CGST Act and TNGST Act.

### **Observation and Comments:**

The Honorable High Court observed and held that:

The Court ruled on the issue of cross-empowerment and the jurisdiction of assessment proceedings initiated by Central and State GST Authorities. It found the proceedings initiated without jurisdiction, especially in the absence of a notification for cross-empowerment, except for the purpose of refund. The court emphasized the importance of proper delegation of powers under the GST enactments and highlighted the guidelines for division of taxpayers between the Centre and State Authorities.

It concluded that neither the Board nor the Government/Commissioner can appoint officers beyond those notified under Section 3 of the respective Acts. The court observed that the provisions aim to prevent interference by counterparts and ensure clear delineation of powers. Without a proper notification for cross-empowerment, officers cannot usurp the power of investigation or adjudication of taxpayers not assigned to them. The court directed the Central and State Authorities to initiate appropriate proceedings afresh in accordance with the law.

*[Tvl. Vardhan Infrastructure vs. The Special Secretary and Ors. \[TS-162-HC\(MAD\)-2024-GST\]](#)*



# Delhi HC Quashes Assessment Due to Non-Application of Mind on SCN-Reply Explaining ITC Claims

## DA Insights:

*Courts expect proper consideration and reasoning in assessment orders, especially when assessing replies provided by taxpayers. Adequate opportunity must be given to taxpayers to clarify responses or furnish additional documents if required and the judicial process aims for fair and thorough examination of submissions to ensure procedural fairness*

### **Issue:**

Challenging the order for non-application of mind on reply explaining Input Tax Credit (ITC) claims in the Show Cause Notice .

### **Legal Provisions:**

Section 73 of the CGST Act.

### **Observation and Comments:**

The petitioner contested the order dated 23.12.2023, which disposed of the Show Cause Notice proposing a demand against the petitioner. The court noted that despite the petitioner filing a detailed reply to the Show Cause Notice, the impugned order did not adequately consider it and was cryptic in nature.

The court found the observation in the impugned order unsustainable as it failed to address the merits of the petitioner's reply. It emphasized that the Proper Officer did not apply their mind to the reply submitted by the petitioner. Additionally, the court noted that the petitioner was not given an opportunity to clarify their reply or furnish further details/documents. Consequently, the court set aside the impugned order and remitted the matter to the Proper Officer for re-adjudication.

The Proper Officer was directed to intimate the petitioner about any required details/documents and allow them to furnish the requisite explanation and documents. Subsequently, the Proper Officer was instructed to re-adjudicate the Show Cause Notice, provide an opportunity for a personal hearing, and pass a fresh speaking order in accordance with the law within the prescribed period.

The court clarified that it did not comment on the merits of the contentions of either party, and all rights and contentions of parties were reserved. The challenge to Notification No. 9 of 2023 regarding the initial extension of time was left open.

*[Mother Dairy Fruit and Vegetable Pvt Ltd vs Sales Tax Officer \[TS-149-HC\(DEL\)-2024-GST\]](#)*

# HC Allows Vivo Mobile India's Writ Against Assessing Authority's Refusal to Apply Mind to Rectification Application

## DA Insights:

*Assessing authorities must diligently consider rectification applications and adhere to binding circulars or directives and retrospective application of court-declared laws highlights the importance of thorough examination of taxpayer issues and Compliance with judicial directives ensures fairness and legality in tax assessment proceedings.*

### **Issue:**

Challenging the Assessing Authority's refusal to apply mind to rectification application for deletion of penalty and interest.

### **Legal Provisions:**

Rule 142(5) of the Central Goods and Services Tax (CGST) Rules, 2017. CBIC Circular No. 26/2017 dated December 29, 2017.

### **Observation and Comments:**

Vivo Mobile India Pvt. Ltd. challenged the orders wherein the Assessing Authority (AA) refused to rectify the assessment order (AO) passed under Rule 142(5) of the CGST Rules, 2017.

The Allahabad High Court found the AA's approach "erroneous" as it refused to apply its mind on the correction application of the assessee for the deletion of penalty and interest. The court noted that the AA's unawareness of the binding direction via CBIC Circular No. 26/2017 could not justify the refusal to apply its mind. Considering the retrospective application of the law declared by the court, the court emphasized that the issue should have been examined seriously.

The assessee contended the refusal to allow availment of Input Tax Credit (ITC) and the denial of the correction application to delete the penalty and interest amount were contrary to the binding Circular. Referring to the decision in Harbir Singh Contractor, the court observed that the assessment orders were in contradiction with the court's dicta. Therefore, the court remanded the matter back to the AA to pass a fresh reasoned order dealing with the rectification application while keeping the disputed demand of tax and penalty arising from the two issues in abeyance.

[\*Vivo Mobile India Pvt. Ltd. vs. Joint Commissioner CGST & 4 Ors. \[TS-146-HC\(ALL\)-2024-GST\]\*](#)

# Delhi HC Clarifies Timeline for Issuing Registration Cancellation Order as Directory, Not Mandatory

## DA Insights:

*The distinction between mandatory and directory provisions in statutory interpretation is crucial in determining the consequences of non-compliance and Legislative intent plays a significant role in determining whether a provision is mandatory or directory and in the absence of specific consequences for non-compliance, courts may interpret a provision as directory rather than mandatory.*

### **Issue:**

Interpreting whether the lapse of a 30-day period for issuing an order for suspension or cancellation of registration under GST regulations results in forfeiture of the authority's right to pass such an order.

### **Legal Provisions:**

Rule 21 and Rule 22(3) of the GST regulations. Section 75 of the CGST Act.

### **Observation and Comments:**

The Delhi High Court clarified that the lapse of a 30-day period for passing an order for suspension or cancellation of registration cannot automatically result in the forfeiture of the authority's right to pass such an order. The court rejected the assessee's contention that authorities lost the right to pass an order after the 30-day period following the filing of the reply to the Show Cause Notice (SCN).

The HC analyzed Rule 21 dealing with 'Suspension of Registration' and Rule 22(3) dealing with 'Cancellation of Registration' to determine whether the expression "shall issue an order within a period of 30 days" is mandatory or directory.

It concluded that this expression cannot be construed as mandatory for proceedings under Rule 21 but directory for proceedings under Rule 20.

Additionally, the HC observed that there is no stipulation of automatic forfeiture of the right to pass an order in case of non-compliance with the timeline provided by Rule 22(3). Applying the test laid down in a Supreme Court decision, the HC considered whether non-compliance with the provision could render the entire proceedings invalid. Since there were no specified consequences for non-passing of an order within 30 days, the court inferred that the condition is directory rather than mandatory. Thus, the court disposed of the writ petition.

[Fayiz Nangaparambil vs. UOI & Anr. \[TS-141-HC\(DEL\)-2024-GST\]](#)

# Delhi HC Permits Rectification of Bonafide Invoice Filing Errors in Monthly Returns with No Revenue Loss

## DA Insights:

*This ruling sheds light on a notable gap in the existing GST legislation, wherein there are no explicit provisions allowing for the rectification of bonafide errors in GSTR-1 filings, particularly when such errors do not lead to any financial detriment to the government. The court's decision to permit rectification underscores the importance of addressing inadvertent errors to ensure the integrity and accuracy of GST filings.*

### **Issue:**

The crux of the matter revolves around the petitioner's plea for rectification of bonafide errors in their GSTR-1 filing for the fiscal year 2017-2018. This plea stems from the petitioner's assertion that these errors, arising from clerical mistakes, did not result in any loss of revenue to the government.

### **Legal Provisions:**

Guidelines issued by the State of Maharashtra in its Circular No. 02A of 2022

### **Observation and Comments:**

Upon careful consideration of the petitioner's plea and the circumstances surrounding the case, the court found merit in the argument. Acknowledging the bonafide nature of the errors and the absence of revenue loss, the court ruled in favor of the petitioner. Consequently, the court granted permission for rectifying the GSTR-1 for the specified period.

[NRB Bearings Ltd. VS Commissioner of State Tax \[TS-142-HC\(BOM\)-2024-GST\]](#)

## GST Notification / Circulars/ Guidelines/ Instructions

### **Guidelines for CGST field formations in maintaining ease of doing business while engaging in investigation with regular taxpayers**

The directive aims to streamline enforcement activities of CGST field formations concerning regular taxpayers while prioritizing ease of doing business. It outlines guidelines for initiating investigations, emphasizing the need for approval from the Principal Commissioner, especially in cases involving complex matters or significant entities. Collaboration between different investigating offices is encouraged to avoid duplication and ensure efficiency.

Moreover, specific procedures for interacting with listed companies or government entities are delineated to maintain transparency and fairness. The issuance of letters or summons must be precise and justified, avoiding vague language or fishing inquiries. Additionally, there are provisions for prompt resolution of grievances and timely closure of investigations to prevent malpractices and ensure accountability.

*Instruction No. 01/2023-24 – GST, dated 30<sup>th</sup> March, 2024*

## GSTN Portal Changes

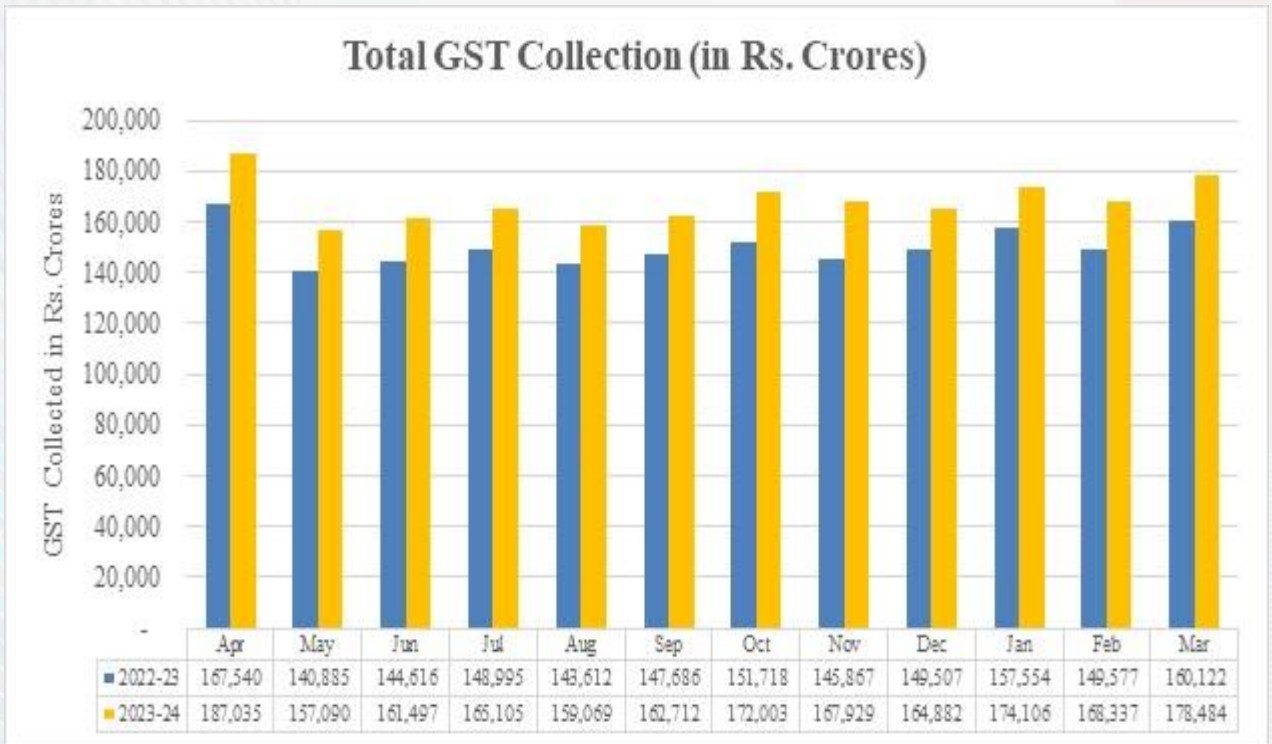
### **Advisory: Self Enablement For e-Invoicing**

1. If your turnover exceeds INR 5 crores in the financial year 2023-2024, you will be required to start e-Invoicing from the next financial year, i.e., from 1st April 2024 onwards
2. For those who meet the notification criteria but have not yet been enabled on the portal, you can self-enable for e-Invoicing by visiting <https://einvoice.gst.gov.in> and start reporting through any of the 4 new Invoice Registration Portals (IRPs) - from e-Invoice IRP 3 to e-Invoice IRP 6
  - a) <https://einvoice3.gst.gov.in>
  - b) <https://einvoice4.gst.gov.in>
  - c) <https://einvoice5.gst.gov.in>
  - d) <https://einvoice6.gst.gov.in>
3. To report e-Invoices through NIC IRP 1 & 2, taxpayers can self-enable at
  - a) <https://einvoice1.gst.gov.in>
  - b) <https://einvoice2.gst.gov.in>

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

The GST Council's Grievance Redressal Committee noticed discrepancies in GSTR-3B returns, specifically in ITC availment and tax liabilities. As a facilitation measure, affected taxpayers have been notified via email to re-file their returns within 15 days to correct the discrepancies. The affected returns are visible on their dashboards for re-filing. Taxpayers facing difficulties can contact their jurisdictional tax officer or raise a ticket on the GST grievance redressal portal for assistance.

# GST Revenue Collection in March - Rs. 1,78,484 Cr.



Source: PIB



- [Tribunal Rules in Favor of M/s Nalco Water India Limited, Affirms CENVAT Credit Eligibility](#)
- [Upholding Procedural Fairness in Customs Appeals Amidst CBIC Guidelines](#)
- [Consolidated notice providing multiple dates of hearing violates principles of natural justice](#)
- [CESTAT Ahmedabad Ruling: Unsustainability of Import Value Enhancement Based on Consent Letter](#)
- [Delhi High Court Ruling: Implications for MEIS Benefits in JSW Steel Limited Case](#)
- [CESTAT Ahmedabad Ruling: Recovery of Customs Refund for Minor Discrepancies in Timber Log Imports](#)
- [Supreme Court Ruling: Rejection of Transaction Value for Imported Goods Due to Identical/Similar Goods at Higher Value](#)
- [Other Notifications/Circulars/Instructions](#)



# Tribunal Rules in Favor of M/s Nalco Water India Limited, Affirms CENVAT Credit Eligibility

## DA Insights:

*This ruling underscores the importance of adhering to the provisions outlined in the Cenvat Credit Rules, 2004, concerning the distribution and eligibility of CENVAT credit. It reaffirms the role of ISDs in facilitating the distribution of credit among manufacturing units and highlights the necessity of ensuring compliance with the specified conditions.*

### **Issue:**

The appeals revolve around the entitlement of M/s Nalco Water India Limited to claim CENVAT credit on input services distributed by their Input Service Distributors (ISD) during the disputed period from 2011-12 to 2017-18. The core issue pertains to whether the input services availed by the appellant were eligible for CENVAT credit, considering they were distributed by the ISD.

### **Legal Provisions:**

Rule 7 of the Cenvat Credit Rules, 2004, and Rule 9 of the Cenvat Credit Rules, 2004

### **Observation and Comments:**

Upon thorough examination of the submissions and perusal of records, the tribunal concluded that the appellant is indeed entitled to claim CENVAT credit on the input services distributed by their ISD. The tribunal emphasized that the appellant's Head Office, registered as an ISD, distributed the input service credit to the appellant's manufacturing units in proportion to their clearance during the respective periods. Notably, the tribunal found no grounds to question the admissibility of the CENVAT credit availed by the ISD.

It was deemed appropriate to consider the invoices issued by the ISD as valid documents for availing CENVAT credit under Rule 9 of the Cenvat Credit Rules, 2004.

The tribunal further highlighted previous rulings that underscored the role and legitimacy of ISDs in distributing CENVAT credit to manufacturing units. It was emphasized that the ISD's distribution of credit should not exceed the amount of service tax paid and should not pertain to services used exclusively in units engaged in the manufacture of exempted goods or providing exempted services. Given that these conditions were met, the tribunal concluded that the appellant had correctly availed the input service credit.

[M/s Nalco Water India Limited V/s Commissioner of CGST & Excise, Howrah \(Excise Appeal No.76050 of 2023\)](#)

# Upholding Procedural Fairness in Customs Appeals Amidst CBIC Guidelines

## DA Insights:

*The decision sets a precedent for similar cases and reaffirms the judiciary's commitment to upholding procedural fairness in administrative matters, regardless of prescribed monetary thresholds.*

### **Issue:**

The case pertains to an appeal before the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) Delhi, titled Commissioner of Central Excise & Customs vs. Century Metal Recycling Private Limited. The central issue revolves around the applicability of CBIC instructions concerning the monetary limit for filing appeals, with the respondent contesting the department's appeal below the prescribed threshold.

### **Legal Provisions:**

CBIC Instruction F. No. 390 dated 17.08.2011 amended on 30.12.2016

### **Observation and Comments:**

Upon careful consideration of the submissions and legal precedents, the Tribunal deliberated on the legality and enforceability of CBIC instructions in judicial proceedings. It emphasized that while these instructions are binding on departmental officers, they do not hold enforceability on courts or quasi-judicial bodies like CESTAT.

The Tribunal underscored the paramount importance of upholding principles of natural justice and providing fair opportunities for all parties to present their case.

It acknowledged the respondent's argument regarding the adherence to the prescribed monetary threshold for appeals, citing various legal precedents and interpretations in support of their contention.

The Tribunal's decision to remand the matter for fresh adjudication signifies its commitment to ensuring procedural fairness and equitable treatment for all parties involved. By hearing appeals below the monetary limit on their merits, the Tribunal upheld the principles of justice and fairness in administrative matters.

[Commissioner of Central Excise & Customs vs. Century Metal Recycling Private Limited \(Customs Appeal No. 51976 Of 2019\)](#)

# Consolidated notice providing multiple dates of hearing violates principles of natural justice

## DA Insights:

*CESTAT Chandigarh's ruling underscores natural justice's importance in administrative proceedings, stressing procedural fairness. By deeming the consolidated hearing notice unfair, it highlights the need for parties to have a fair chance to present their case. This decision reaffirms the imperative of following natural justice principles and upholding procedural norms and the rule of law in administrative adjudication.*

### **Issue:**

The recent ruling by the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) Chandigarh in the case of IND Swift Laboratories versus Commissioner of Central Excise and Service Tax has sparked discussions in legal circles, highlighting the importance of adhering to principles of natural justice in administrative proceedings.

### **Legal Provisions:**

Exemption vide Notification No.56/2002-CE dated 14.11.2002 and Notification No.01/2010-CE dated 06.02.2010

### **Observation and Comments:**

The central issue in the case revolves around the issuance of a consolidated hearing notice by the Commissioner (Appeals), providing multiple hearing dates in a single communication. IND Swift Laboratories contested this practice, arguing that it infringed upon their right to a fair hearing in accordance with principles of natural justice.

After careful consideration of the arguments presented by both parties, the tribunal sided with the appellant, IND Swift Laboratories.

It held that the consolidated hearing notice, which granted three hearing dates in one communication, violated the principles of natural justice. The tribunal emphasized the importance of affording parties adequate opportunity for a fair hearing without compromising procedural fairness.

Drawing upon legal precedents and statutory provisions, the tribunal underscored the necessity of procedural regularity in administrative proceedings. By setting aside the impugned order and remanding the case for fresh consideration, the tribunal reaffirmed the primacy of fair procedures in adjudicatory processes.

[IND Swift Laboratories Vs Commissioner of Central Excise And Service Tax \(Excise Appeal No. 60091 of 2023 \[SM\]\)](#)

# CESTAT Ahmedabad Ruling: Unsustainability of Import Value Enhancement Based on Consent Letter

## DA Insights:

*Adhering to due process, especially in valuing imported goods, is essential for legality and fairness in customs proceedings. The tribunal stressed proper valuation methodology as per law, emphasizing contemporaneous value adoption. It also highlighted the importance of assessing factual context to avoid inadvertent errors in determining liability for penalties or fines.*

### **Issue:**

The issue before the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) Ahmedabad was the validity of enhancing the import value of Rubber Processing Oil (RPO) based solely on consent letters from the importer's directors, without following due process of law as outlined in Section 14 of the Customs Act read with Customs Valuation Rules, 2007.

### **Legal Provisions:**

Section 14 of the Customs Act and Customs Valuation Rules, 2007

### **Observation and Comments:**

The tribunal observed that the enhancement of the import value was solely reliant on consent letters from the directors of the appellant. However, it noted the absence of adoption of any contemporaneous value or adherence to the prescribed valuation methodology under Section 14 read with the Customs Valuation Rules, 2007. Consequently, the tribunal held that the enhancement of value lacked legal sustainability in the present case.

Furthermore, regarding the incorrect mention of the country of origin, the tribunal referred to its

precedent set in the case of Agarwal Industrial, wherein it was established that the importer cannot be penalized for such errors. Thus, considering the overall circumstances and the possibility of incorrect declaration regarding the country of origin in the Country of Origin Certificate, the appellant was absolved of any liability for penalty or fine.

[Rajkamal Industrial Pvt Ltd Vs C.C.-Kandla \(CUSTOMS Appeal No. 10368 of 2015- DB\)](#)

# Delhi High Court Ruling: Implications for MEIS Benefits in JSW Steel Limited Case

## DA Insights:

*This judgment highlights the importance of considering the intent of exporters to claim MEIS benefits and the need for flexibility in addressing inadvertent errors in shipping bills. It underscores the significance of procedural fairness in the administration of trade-related schemes and emphasizes the role of courts in ensuring exporters are not unduly deprived of entitled benefits due to technicalities.*

### **Issue:**

The issue in the case of JSW Steel Limited & Anr. Vs Union of India & Ors. was whether the exporters were entitled to Merchandise Exports from India Scheme (MEIS) benefits despite procedural errors in the shipping bills.

### **Legal Provisions:**

Foreign Trade Policy, 2015- 2020

### **Observation and Comments:**

The court observed that the petitioner, JSW Steel Limited, had inadvertently marked 'N' instead of 'Y' in the reward column of the shipping bills, leading to the denial of MEIS benefits. However, the court considered previous judgments and rulings that showed leniency in granting MEIS benefits in cases of procedural errors.

In particular, the court referenced the case of Jubilant Biosys Limited vs. Directorate General of Foreign Trade and Others, where it was decided that corrections to shipping bills could be made manually post Electronic General Manifest (EGM) filing. Taking this into account, the court ruled in favor of JSW Steel Limited, allowing them to rectify the errors in their shipping bills and claim MEIS benefits.

*[JSW Steel Limited & Anr. Vs Union of India & Ors. \(W.P.\(C\) 3663/2021\)](#)*

# CESTAT Ahmedabad Ruling: Recovery of Customs Refund for Minor Discrepancies in Timber Log Imports

## DA Insights:

*The case underscores the significance of CA-certified stock reports and adherence to notification guidelines in customs refund cases. It highlights that minor discrepancies or procedural issues should not lead to the recovery of refunds if supported by proper documentation and certification.*

### **Issue:**

The issue in the case of Santosh Timber Trading Co Ltd Vs C.C. (CESTAT Ahmedabad) pertains to the recovery of customs refund due to minor discrepancies in timber log imports.

### **Legal Provisions:**

Notification guidelines such as para 2(b) of Notification 102/2007.

### **Observation and Comments:**

CESTAT observed that the mere conversion of imported timber logs into sawn timber does not negate the entitlement to the customs refund. Additionally, the appellant, not being a registered dealer or manufacturer, was not obligated to issue invoices as per para 2(b) of Notification 102/2007. CESTAT emphasized that compliance with this requirement was not necessary for non-registered entities, as established by precedents.

Furthermore, CESTAT noted that minor discrepancies in descriptions and documentation, such as the absence of Bills of Entry numbers on invoices, should not invalidate the refund claim, especially when supported by a Chartered Accountant-certified stock report.

*[Santosh Timber Trading Co Ltd Vs C.C. \(CUSTOMS Appeal No. 11344 of 2014-DB\)](#)*

# Supreme Court Ruling: Rejection of Transaction Value for Imported Goods Due to Identical/Similar Goods at Higher Value

## DA Insights:

*The case underscores the importance of thoroughly examining the goods and considering past imports when determining the assessable value of imported goods. It highlights the authority's discretion to discard the transaction value if there is evidence of undervaluation or similarity to previous imports.*

### **Issue:**

The issue in the case pertains to the determination of the transaction value of imported goods, specifically camera stabilizer devices, which were alleged to be undervalued.

### **Legal Provisions:**

Section 129 (A) of the Customs Act, 1962

### **Observation and Comments:**

The Supreme Court observed that the appellant, a regular importer of camera stabilizer devices, imported a consignment under a Bill of Entry. Upon examination, it was alleged that the goods were undervalued, leading to the detention of the goods for further investigation.

The adjudicating authority rejected the declared assessable value and assessed the value of the imported goods at a higher amount. The Commissioner of Customs (Appeals) allowed the appellant's appeal, but CESTAT restored the order-in-original, finding the goods to be identical or similar to those imported earlier.

The Supreme Court upheld the decision of CESTAT, noting that the goods were indeed identical or similar to previous imports.

The Court reviewed the evidence and concurred with CESTAT's finding that the transaction value of the imported goods should be discarded due to this similarity.

The Court highlighted that cogent reasons were provided in the order-in-original to justify the rejection of the transaction value and the assessment of the goods at a higher value. The factual findings rendered by CESTAT were deemed to be after a detailed consideration of the material on record.

*[Global Technologies and Research Vs Principal Commissioner of Customs \(CIVIL APPEAL NO. 9385 OF 2022\)](#)*

## Customs Notification / Circulars / Guidelines / Instructions

### **Streamlining Export-Import Processes: DGFT's Digitization Directive**

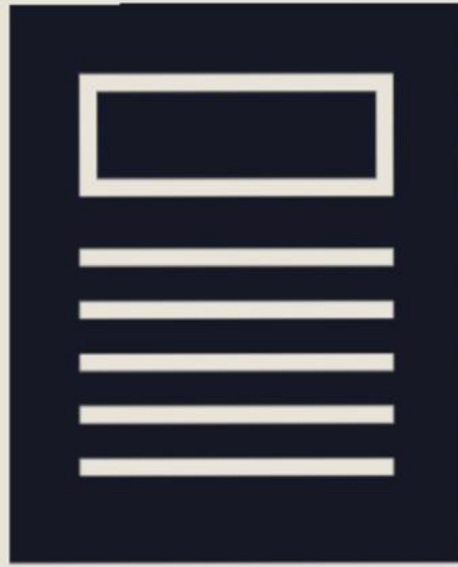
The Directorate General of Foreign Trade (DGFT) has implemented digitization measures to streamline export and import processes, enhancing efficiency, transparency, and accountability. A significant number of Aayat Niryat Forms (ANFs) and Appendices have been digitized, necessitating online submission of related applications via the DGFT website, eliminating the need for physical or soft copies.

Importer-Exporter Code (IEC) details, Registration-cum-Membership Certificates (RCMCs), and Micro, Small, and Medium Enterprises (MSMEs) status are accessible online through DGFT systems. While some ANFs and Appendices require professional certification, ongoing efforts are underway to enable digital certification directly on the DGFT website.

It's reiterated that no hard or soft copies of digitized documents need to be submitted to DGFT (HQ) or Regional Authorities, and there's no requirement to upload them alongside online applications. All deficiency letters and correspondences must be handled exclusively online, with physical paper responses not accepted.

*Trade Notice No. 01/2024-25- DGFT, dated 2<sup>nd</sup> April, 2024*





# DA NEWS

*Driven by Quality, Powered by Ideation*

# Goods and Services Tax

- Over ₹1,000-crore GST fraud in Telangana unearthed by CT department
- Insurance cos plan to file writ petition seeking GST clarity
- Heavy industries ministry weighs reduction of GST on flex fuel vehicles
- Zomato gets GST penalty notice of ₹8.6 crore from Gujarat's Deputy Commissioner of State Tax
- Now, GST probe into big corporates, major MNCs needs a 'written approval'

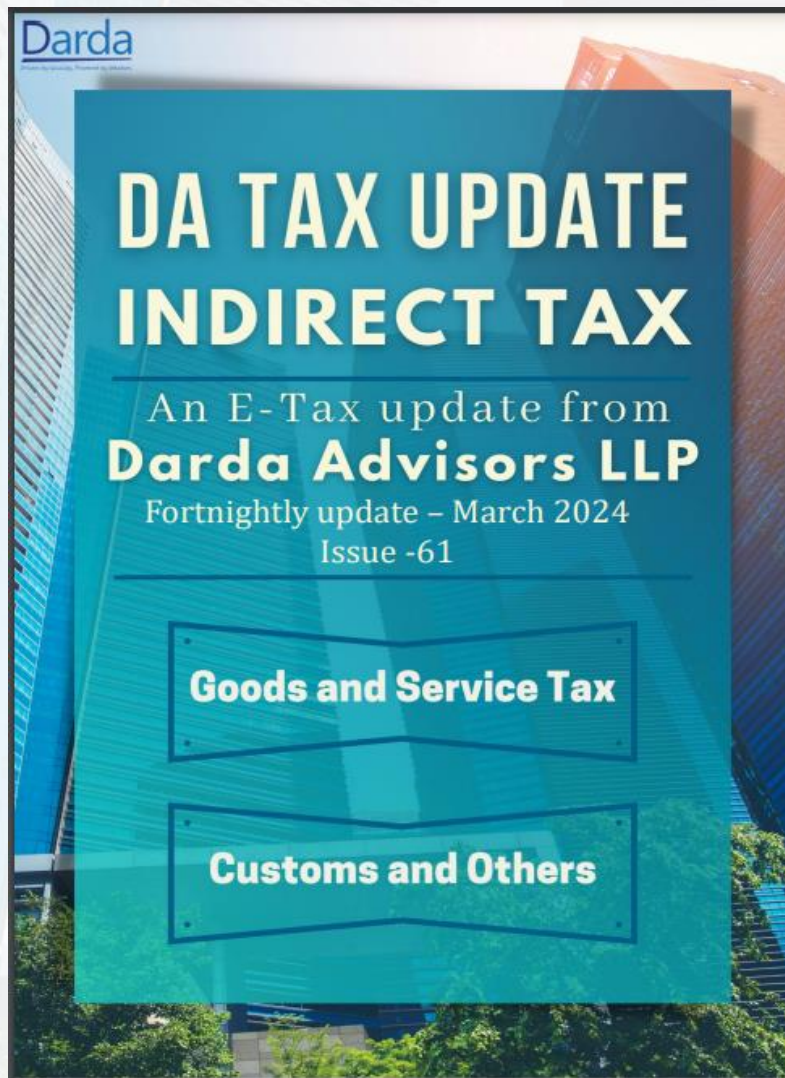
# Customs and other

- Indian Newspaper Society Appeals Government to Lift 5% customs duty on newsprint amidst global supply chain challenges
- WTO extends e-commerce customs duty moratorium despite opposition from developing countries
- Exclusive: Norway grants 98% of Indian exports zero customs duties under TEPA
- Delhi HC exempts customs levies on rare disease drugs

# DA Updates and Articles for the month of March 2024

DA - Indirect Tax Fortnightly Update – March 2024

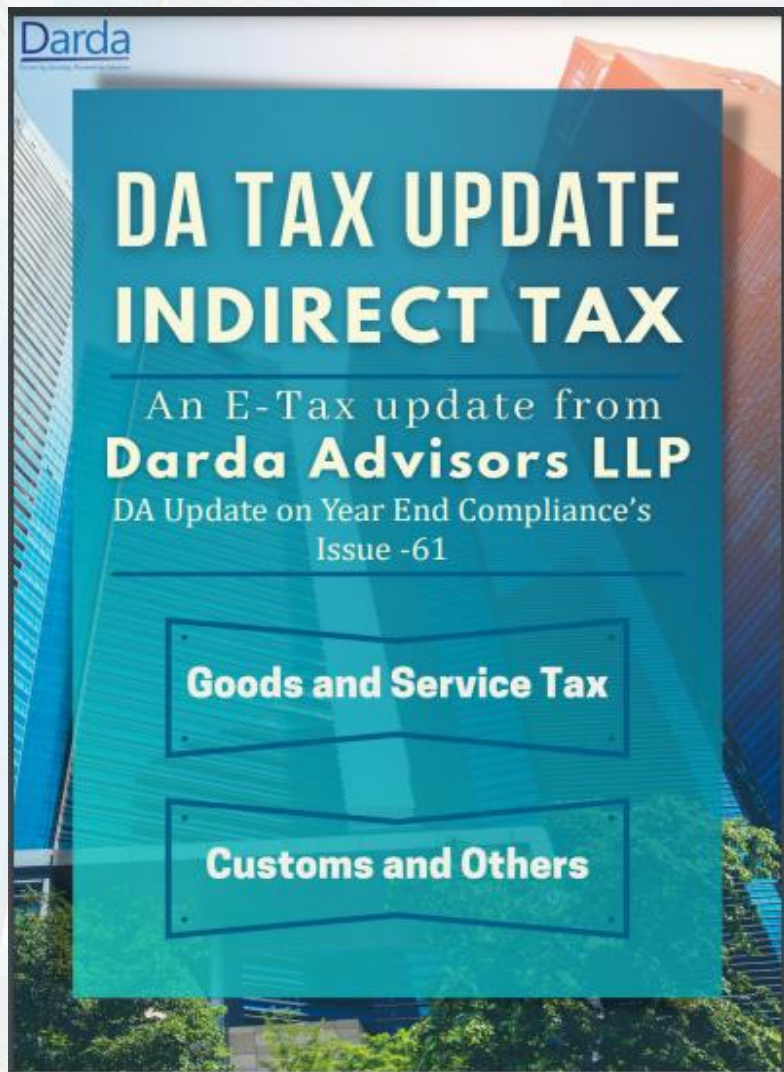
[https://dardaadvisors.com/wp-content/uploads/2024/03/DA-Indirect-Tax-Fortnightly-Update\\_March-2024..pdf](https://dardaadvisors.com/wp-content/uploads/2024/03/DA-Indirect-Tax-Fortnightly-Update_March-2024..pdf)



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DA - Indirect Tax Update On Year End Compliance's

<https://dardaadvisors.com/wp-content/uploads/2024/03/DA-Indirect-Tax-Update-Year-End-Compliances-F...pdf>



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DA Newsflash: Revamped Pharmaceuticals Technology Upgradation Assistance Scheme

<https://www.linkedin.com/pulse/da-newsflash-revamped-pharmaceuticals-technology-upgradation-m3lcc/?trackingId=wcusmlet4CA3Qz20POhJdQ%3D%3D>

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DA Newsflash: India-EFTA Trade and Economic Partnership Agreement

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