

# DA TAX ALERT INDIRECT TAX

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

August 2024

Issue: 51

**GST COMPLIANCE  
CALENDER**

**GOODS AND  
SERVICE TAX**

**CUSTOMS AND  
OTHER**

**DA NEWS**

# PREFACE

We are pleased to present to you the Fifty-First 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 July 2024.

During the month of July 2024, there were certain changes under Goods and Service Tax, Customs and other; key judgments and rulings such as Procedural Irregularity Cannot Bar Legitimate Export Incentives; IGST Refund Denial Quashed and High Court Clarifies Customs Duty Exemption and SWS Levy Issues

In the Fifty-First 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 July 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

August  
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



# Communication of Orders via Common Portal

## DA Insights:

*It highlights the importance of timely access to the portal by taxpayers to avoid procedural challenges and emphasizes the retrospective clarification of the portal's functions under the CGST Rules.*

### **Issue:**

Whether the common portal notified under Section 146 of the CGST Act can be used for the communication of orders, notices, and other documents to the assessee.

### **Legal Provisions:**

Section 146 and 169 of the CGST Act, 2017

### **Observation and Comments:**

The High Court held that the common portal could be used for communicating orders, notices, and other statutory documents. The Court emphasized that Section 169, when read with Section 146, allows the portal to perform this function. The Court also noted an amendment to the notification under Section 146, which retrospectively clarified that the portal could be used for all functions under the CGST Rules, dating back to June 22, 2017. The petitioner's appeal was dismissed, upholding the Single Judge's decision to relegate the petitioner to an alternative appeal remedy.

*Sunil Kumar K vs. The State Tax Officer [TS-422-HC(KER)-2024-GST]*

# Issuance of GST Scrutiny Notice in Form ASMT-10 and Its Role in Adjudication

## DA Insights:

*This ruling clarifies that while scrutiny notices serve an important role in the GST framework, their absence does not invalidate subsequent adjudication proceedings. It underscores the discretionary nature of the scrutiny process and the flexibility afforded to tax authorities in initiating adjudication based on various sources.*

### **Issue:**

Whether the issuance of GST scrutiny notice in Form ASMT-10 under Section 61 is a mandatory prerequisite for adjudication proceedings.

### **Legal Provisions:**

Section 61, 73 & 74 of the CGST Act, 2017

### **Observation and Comments:**

The High Court held that issuing a GST scrutiny notice in Form ASMT-10 under Section 61 is not a mandatory prerequisite for adjudication proceedings. The Court emphasized that scrutiny under Section 61 does not constitute an assessment or reassessment, and adjudication may be initiated based on audit, inspection, or other sources of information. The Court clarified that the scrutiny process under Section 61 is at the discretion of the proper officer and not an obligatory step. The Court set aside the assessment orders as the adjudication was done without considering the assessee's reply and acknowledged the assessee's willingness to pay a portion of the disputed tax demand.

[Mandarina Apartment Owners Welfare Association \(MAOWA\) vs. Commercial Tax Officer, \[TS-424-HC\(MAD\)-2024-GST\]](#)

# Procedural Irregularity Cannot Bar Legitimate Export Incentives; IGST Refund Denial Quashed

## DA Insights:

*This ruling emphasizes the importance of substance over form in tax law, particularly in the context of export incentives. It reinforces the idea that procedural errors should not be allowed to defeat the purpose of tax reliefs designed to promote international trade*

### **Issue:**

Whether a procedural mistake in claiming a refund under an incorrect rule should prevent the rightful refund of IGST paid on exports.

### **Legal Provisions:**

Rule 96 and Rule 89 of the CGST Rules, 2017 and Section 16(3) of the IGST Act, 2017

### **Observation and Comments:**

The High Court addressed a situation where the Assessee, a 100% Export Oriented Unit, mistakenly claimed a refund of IGST paid on capital goods and inputs used for export under Rule 96 instead of the correct Rule 89. The court acknowledged the procedural error but emphasized that it should not obstruct the rightful grant of export incentives, especially since the exports were genuine and the refund claims were supported by shipping bills.

The court highlighted the principle that procedural rules are intended to aid justice rather than hinder it, referencing the Supreme Court's decision in *Commissioner of Sales Tax vs. Auriaya Chamber of Commerce*, which stated that procedural rules are "hand-maids of justice, not its mistress." The High Court recognized that the Assessee was indeed eligible

for the refund under Rule 89, given the inputs were received under the relevant CBEC notifications.

Moreover, the court took note of the fact that at the time the Show Cause Notice was issued, there was no mechanism for reversing the excess refund claimed, which the Assessee later rectified by remitting the necessary amounts. The court set aside the original order denying the refund and directed the adjudicating authority to reassess the case, taking into account amendments to Rule 96(5A) and instructions issued by the CBIC. The adjudicating authority was instructed to issue a fresh order within three months.

[\*Shobikaa Impex Pvt Ltd vs. Union of India & ors. \[TS-425-HC\(MAD\)-2024-GST\]\*](#)

# Interim Relief Granted Against Extension of Limitation Period for GST Demand Notice; No Coercive Action Ordered

## DA Insights:

*This ruling is significant for taxpayers as it challenges the extension of statutory limitations during the pandemic and raises broader questions about the interpretation of 'force majeure' in tax law.*

### **Issue:**

Whether the extension of the limitation period under Section 168A of the CGST Act, citing the COVID-19 pandemic as a 'force majeure' event, is valid and if coercive action can be taken based on notifications issued under this extension.

### **Legal Provisions:**

Section 168A of the CGST Act, Notification No. 9/2023-C.T. dated 31.03.2023 and Notification No. 56/2023-C.T. dated 28.12.2023

### **Observation and Comments:**

The Gauhati High Court granted interim relief in favor of the Petitioner, Niranjan Saha, who challenged the validity of two notifications that extended the limitation period for issuing demand notices under the CGST Act. The Petitioner argued that the COVID-19 pandemic should not be classified as a 'force majeure' event justifying such an extension. The court noted that this argument touches upon a critical interpretation of the law, specifically regarding the validity and applicability of Section 168A of the CGST Act.

The court also recognized that a similar constitutional issue concerning Section 16(4) of the CGST Act is currently under consideration by the Supreme Court in a related case. Given the pending nature of these connected issues, the High Court decided to list the matter alongside other similar cases scheduled for hearing on July 22, 2024.

Importantly, the court ordered that no coercive actions be taken against the Petitioner based on the impugned demand notices until the next hearing date. This order effectively pauses any enforcement actions that might otherwise have proceeded based on the extended limitation period, providing temporary relief to the Petitioner. The ruling underscores the court's careful approach in addressing statutory interpretations that may have far-reaching implications for taxpayers and the government's ability to enforce tax demands during extraordinary circumstances like the COVID-19 pandemic.

[\*Niranjan Saha vs. Union of India & ors. \[TS-431-HC\(GAUH\)-2024-GST\]\*](#)



# HC Allows ITC Mismatch Dispute to Proceed After 10% Pre-Deposit; Quashes Prior Order

## DA Insights:

*This case highlights the importance of ensuring taxpayers are fully aware of procedural changes in administrative systems like the GST portal. It also underscores the judiciary's role in balancing strict compliance with fairness, particularly in cases where taxpayers might be disadvantaged due to system redesigns.*

### **Issue:**

Whether the assessee, after facing multiple notices for an Input Tax Credit (ITC) mismatch, can contest the case despite non-compliance with earlier procedural notifications, and whether the previous assessment order should be quashed.

### **Legal Provisions:**

Section 73 of the CGST Act and Form GST DRC-07

### **Observation and Comments:**

The Madras High Court granted relief to the petitioner, Panjatcharam Kumaravel, allowing him to contest the ITC mismatch issue despite the issuance of multiple notices by the tax authorities. The court noted that the notices and orders, including the intimation notice, show cause notice, and reminder notice, were uploaded in the "View Additional Notices and Orders" tab on the GST portal. This change in the portal's dashboard design led to the petitioner missing these notices.

The petitioner argued that the errors in filing GSTR-3B returns during 2017-18 were inadvertent and that the ITC was mistakenly

reported under the wrong column. The petitioner only procured supplies from a registered person, which were not liable to reverse charge.

Recognizing the portal's redesign as a factor that may have contributed to the petitioner's lack of timely response, the court quashed the earlier order issued in Form GST DRC-07. However, this relief was conditional upon the petitioner making a 10% pre-deposit of the disputed tax amount within four weeks. The court directed the Assessing Officer to reissue the assessment order after providing the petitioner with a reasonable opportunity to present his case.

[Panjatcharam Kumaravel vs. The Deputy State Tax Officer \[TS-434-HC\(MAD\)-2024-GST\]](#)

# HC Quashes GST Registration Cancellation Due to COVID-19 Related Non-Filing; Remands for Re-Hearing

## DA Insights:

*This case underscores the judiciary's recognition of the challenges posed by the COVID-19 pandemic on compliance and procedural obligations. The ruling advocates for leniency and judicial intervention when taxpayers face genuine difficulties that hinder their ability to meet statutory requirements.*

### **Issue:**

Whether the cancellation of GST registration for non-filing of returns due to the accountant's illness was justified, and whether the delay in filing the appeal against this cancellation could be condoned.

### **Legal Provisions:**

Section 29(2) of the CGST Act

### **Observation and Comments:**

The Bombay High Court intervened in a case where the GST registration of Sambhaji Multi Services, a recovery agent, was cancelled due to failure to file GST returns for six consecutive months. The assessee cited the illness of their sole accountant, who was suffering from COVID-19, as the reason for the non-compliance. The assessee missed the deadline to respond to the Show Cause Notice (SCN) and did not attend the personal hearing, leading to the cancellation order by the State Tax Officer (STO).

The assessee filed a writ petition as the appeal filed against the cancellation was delayed, and the Appellate Authority lacked jurisdiction to condone the delay. The court noted that the primary issue was the failure to file returns, which resulted in the cancellation. The court also recognized that upholding the cancellation would prevent the assessee from continuing

their business and would necessitate applying for a new registration, which would be unjust.

Citing the decision in the SMT Ready Mix Concrete case and considering the exceptional circumstances brought about by the pandemic, the court decided to quash the cancellation order. The court remanded the case to the STO for re-hearing, directing the assessee to submit the pending returns and imposing a nominal cost of Rs. 5000 for the lapse.

[Sambhaji Multi Services vs. The Commissioner, State GST \[TS-436-HC\(BOM\)-2024-GST\]](#)

# HC Dismisses Plea to Defer GST Recovery Indefinitely Due to Non-Constitution of Tribunal

## DA Insights:

*This ruling reinforces the principle that courts are reluctant to grant interim relief when the petitioner has not challenged the merits of the underlying order. It also highlights the challenges faced by taxpayers due to the non-constitution of the GST Tribunal but clarifies that this alone does not justify indefinite deferral of recovery proceedings.*

### **Issue:**

Whether the High Court should indefinitely defer GST recovery proceedings due to the non-constitution of the GST Tribunal, without the petitioner examining their rights or challenging the underlying order.

granted when the petitioner has not engaged with the merits of their case.

### **Legal Provisions:**

Section 112 of the CGST/WBGST Act, 2017

### **Observation and Comments:**

The Calcutta High Court dismissed a petition by Anis Patel to delay GST recovery proceedings until the GST Tribunal's constitution. Patel argued that the court should delay the recovery of the Revenue's demand for April 2021 to March 2022 due to the absence of the Tribunal under Section 112 of the CGST/WBGST Act, 2017.

The court noted that a writ of prohibition is typically issued to prevent a tribunal from exercising jurisdiction it does not possess, and there was little scope for issuing such a writ. The court also clarified that the petitioner's right to appeal before the GST Tribunal remains intact until the Tribunal is constituted. The court concluded that interim relief should not be

[\*Anis Patel vs. Assistant Commissioner \[TS-440-HC\(CAL\)-2024-GST\]\*](#)

# HC Allows Advance Ruling Application for RCM Taxpayer

## DA Insights:

*It addresses a procedural gap where recipients under RCM were previously excluded from seeking advance rulings, thus ensuring clarity and consistency in tax obligations. The ruling emphasizes that the AAR's interpretation of "advance ruling" must align with the practical application of tax laws, acknowledging the deeming fiction under RCM.*

### **Issue:**

Whether a recipient of services liable to pay tax under the reverse charge mechanism (RCM) is entitled to seek an advance ruling.

### **Legal Provisions:**

Section 9(3), 95, 97, 98(2) and 98 (4) of the CGST Act

### **Observation and Comments:**

The Rajasthan HC observed that the Authority for Advance Ruling (AAR) erred in dismissing the application on the grounds that the applicant was not a "supplier." The HC noted that Section 9(3) of the CGST Act, which deems the recipient of goods or services as liable to pay tax under RCM, should extend the definition of "taxable person" to include such recipients. The court reasoned that the definition of "advance ruling" should encompass those liable for reverse charge tax, as they fall within the broader scope of "taxable person."

The HC highlighted that Section 95 begins with "unless the context otherwise requires," allowing flexibility in interpreting who can apply for an advance ruling. The court emphasized that a recipient liable under RCM is effectively deemed a supplier for tax purposes and thus eligible for an advance ruling. The court set

aside the AAR's decision and directed that the application be considered afresh under Section 98(4) of the CGST Act, given that the appeal process under Section 100 only applies to rulings under Section 98(4), not rejections under Section 98(2).

*Power Grid Corporation of India Ltd vs. State of Rajasthan & Ors. [TS-446-HC(RAJ)-2024-GST]*

## GSTN Portal Changes

### **Refund of Tax Paid on Inward Supply of Goods by Canteen Store Department (CSD) (FORM GST RFD-10A)**

As per Circular No. 227/21/2024-GST, issued by the GST Policy Wing on July 11, 2024, the GSTN has introduced an online facility enabling the Canteen Stores Department (CSD) to file refund applications using FORM GST RFD-10A on the GST portal. The process includes logging into the portal, selecting the relevant refund option, and submitting the refund application sequentially by tax periods. If no refund is to be claimed for a particular period, a NIL refund claim must be filed.

This procedure ensures that refunds for earlier periods are either claimed or marked as NIL, allowing subsequent claims to proceed. Detailed instructions on the filing process, including the selection of periods and input of invoice details, are provided to streamline the application. Any issues encountered can be reported through the Grievance Redressal Portal.

### **Advisory for FORM GSTR-1A**

The government has introduced FORM GSTR-1A, effective from August 2024, as an optional facility for taxpayers. This form allows taxpayers to add or amend details of supplies that were missed or incorrectly reported in FORM GSTR-1 for the current tax period, before filing FORM GSTR-3B. The changes made through FORM GSTR-1A will be reflected in FORM GSTR-3B for the same period, and the amended details will also affect the recipient's ITC in FORM GSTR-2B for the next tax period.

For monthly GSTR-1 filers, FORM GSTR-1A will be available from the due date of filing GSTR-1 until the filing of the corresponding GSTR-3B. For quarterly filers under the QRMP scheme, GSTR-1A will be available after filing GSTR-1 or from the due date until the corresponding GSTR-3B is filed. Notably, any corrections to the GSTIN of a recipient must be made in the subsequent tax period's FORM GSTR-1.

### **Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants in Uttarakhand**

Effective from July 28th, 2024, GST registration applicants in Uttarakhand must undergo Biometric-based Aadhaar Authentication and document verification as per amended Rule 8 of the CGST Rules, 2017. The GST Network (GSTN) has introduced a new functionality to facilitate this process. Applicants will receive an email after submitting Form GST REG-01, directing them either to complete OTP-based Aadhaar Authentication or to book an appointment for biometric verification at a designated GST Suvidha Kendra (GSK). For biometric verification, applicants must bring their appointment confirmation, jurisdiction details, original Aadhaar and PAN cards, and the original documents uploaded during the application. ARN will be generated after successful completion of the biometric and document verification process. GSKs will operate as per the state's administrative guidelines.

### **Advisory on Changes in GSTR-8**

TCS rate has been reduced from 1% to 0.5% effective 10th July 2024, as per Notification No. 15/2024. The old rate of 1% applies to transactions from 1st to 9th July 2024. Systems should be updated to reflect the new rate from 10th July onwards. Due to ongoing updates for GSTR-8, filing for July 2024 will be available from 6th August 2024 midnight.

## GSTN Portal Changes

### Detailed Manual and FAQs on Filing of GSTR-1A

The Government has introduced Form GSTR-1A as per Notification No. 12/2024 dated July 10th, 2024. This form is available to taxpayers from the July 2024 tax period onward. GSTR-1A is an optional tool that allows taxpayers to add, amend, or rectify any details related to supplies that were either reported incorrectly or missed in the GSTR-1 of the current tax period. This can be done before filing the GSTR-3B return for the same tax period.

#### Key Points:

1. Availability: GSTR-1A becomes accessible after filing GSTR-1 for a given tax period or after the due date of GSTR-1, whichever is later.
2. Optional Facility: Filing GSTR-1A is not mandatory; it is an optional facility provided for corrections before GSTR-3B is filed.
3. Impact: Any changes made in GSTR-1A will directly affect the liability reflected in GSTR-3B for the same tax period.

#### Resources:

- Detailed Manual for Filing GSTR-1A: [User Guide for GSTR-1A](#)
- FAQs on Filing GSTR-1A: [FAQ Document](#)

These resources provide comprehensive guidance and answers to common questions related to the GSTR-1A filing process.

<b>Details of outward supplies of goods or services</b> GSTR1	<b>Amendment of outward supplies of goods or services for current tax period</b> GSTR-1A	<b>Auto Drafted details (For view only)</b> GSTR2A
Status- <span style="color: green;">Filed</span> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">VIEW</div> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">DOWNLOAD</div> </div>	<div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px; border: 2px solid red; display: inline-block;">PREPARE ONLINE</div>	<div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">VIEW</div> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">DOWNLOAD</div> </div>
<b>Auto - drafted ITC Statement for the month</b> GSTR2B	<b>Auto - drafted ITC Statement for the quarter</b> GSTR-2B <span style="color: yellow;">Quarterly View</span>	<b>Monthly Return</b> GSTR-3B
<div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">VIEW</div> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">DOWNLOAD</div> </div>	<div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">VIEW</div> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">DOWNLOAD</div> </div>	Due Date - <span style="color: green;">20/01/2023</span> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">PREPARE ONLINE</div> <div style="background-color: #1a3d4d; color: white; padding: 5px 10px; border-radius: 3px;">PREPARE OFFLINE</div> </div>

### Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants in Jammu & Kashmir and West Bengal

Biometric-based Aadhaar Authentication and document verification for GST registration is now available in Jammu & Kashmir and West Bengal. Applicants identified by the system will receive an email to either complete OTP-based authentication or book an appointment at a GST Suvidha Kendra for biometric verification and document checks. Follow the instructions in the email for the required process.

## GST Collection

Rs 1,82,075 crore gross GST revenue collected for July 2024

GST Gross and Net Collections (Amount in crores) - July 2024						
Particulars	Monthly			YTD		
	July 2023	July 2024	% Growth	July 2023	July 2024	% Growth
A	B	C	D = C/B-1	E	F	G = F/E-1
<b>A.1. Domestic</b>						
CGST	29,773	32,386		1,27,637	1,41,268	
SGST	37,623	40,289		1,59,155	1,74,808	
IGST	44,691	49,437		1,79,725	2,06,406	
CESS	10,939	11,923		43,366	47,571	
<b>Gross Domestic Revenue</b>	<b>1,23,026</b>	<b>1,34,036</b>	<b>8.9%</b>	<b>5,09,883</b>	<b>5,70,052</b>	<b>11.8%</b>
<b>A.2. Imports</b>						
IGST	41,239	47,009		1,57,018	1,64,756	
CESS	840	1,029		3,826	4,086	
<b>Gross Import Revenue</b>	<b>42,079</b>	<b>48,039</b>	<b>14.2%</b>	<b>1,60,844</b>	<b>1,68,841</b>	<b>5.0%</b>
<b>A.3. Gross GST Revenue(A.1+A.2)</b>						
CGST	29,773	32,386		1,27,637	1,41,268	
SGST	37,623	40,289		1,59,155	1,74,808	
IGST	85,930	96,447		3,36,743	3,71,161	
CESS	11,779	12,953		47,193	51,657	
<b>Total Gross GST Revenue</b>	<b>1,65,105</b>	<b>1,82,075</b>	<b>10.3%</b>	<b>6,70,727</b>	<b>7,38,894</b>	<b>10.2%</b>

[https://tutorial.gst.gov.in/downloads/news/approved\\_monthly\\_gst\\_data\\_for\\_publishing\\_july\\_2024.pdf](https://tutorial.gst.gov.in/downloads/news/approved_monthly_gst_data_for_publishing_july_2024.pdf)





# CESTAT Remands Customs Valuation Order for Procedural Lapses

## DA Insights:

*The tribunal's decision underscored the necessity of procedural compliance and fair adjudication in customs valuation matters, reinforcing that importers must be afforded clear reasons and an opportunity to contest valuation adjustments.*

### **Issue:**

Whether the customs authorities' reassessment of the declared value by Scion Spinners Pvt Ltd was valid, given the absence of a speaking order justifying the enhanced value.

to issue a speaking order within fifteen days and to provide a fair hearing to the appellants.

### **Legal Provisions:**

Section 14,17(2),128 of the Customs Act, 1962

### **Observation and Comments:**

The CESTAT Mumbai found that the customs authorities failed to provide a speaking order justifying the reassessment of the declared value of polyester spun yarn imported by Scion Spinners Pvt Ltd. According to Section 17(5) of the Customs Act, any deviation from the declared value must be accompanied by a clear, reasoned explanation. The tribunal noted that the absence of such a justification violated procedural requirements and deprived the appellants of a fair opportunity to contest the valuation.

Scion Spinners Pvt Ltd had argued that the reassessment lacked procedural due diligence and was contrary to the Customs Act and Valuation Rules. The tribunal observed that acceptance of duty payments did not negate the right to challenge the valuation under Section 128, which allows appeals regardless of payment status. The CESTAT Mumbai remanded the case to the customs authorities, directing them

*Scion Spinners Pvt Ltd vs. Commissioner of Customs (Imp) [Customs Appeal No. 86441 of 2014]*

# CESTAT Rules IC-Codecs Classifiable Under Heading 8542, Exempt from Customs Duty

## DA Insights:

*Companies importing specialized electronic components should ensure that their goods are classified correctly according to HSN Explanatory Notes to avail of relevant exemptions. The decision reinforces the need for adherence to detailed tariff descriptions and supports the rights of importers in challenging incorrect classifications.*

### **Issue:**

Whether IC-Codecs imported by Samsung India Electronics Pvt Ltd should be classified under Customs Heading 8542 39 90 to avail of the customs duty exemption, as opposed to the classification under Heading 8517 62 90 as determined by the Principal Commissioner of Customs.

### **Legal Provisions:**

Exemption Notification dated 01.03.2005 and Section 28(1) of the Customs Act, 1962.

### **Observation and Comments:**

The CESTAT Delhi reviewed the appeal by Samsung India Electronics Pvt Ltd challenging the classification of their imported goods, IC-Codecs. The Principal Commissioner of Customs had previously classified these goods under Customs Tariff Item (CTI) 8517 62 90, leading to a demand of customs duty and integrated goods and service tax amounting to Rs. 1,89,05,965.

Samsung India argued that their goods, IC-Codecs, should be classified under CTI 8542 39 90 based on the Explanatory Notes to the Harmonized System Nomenclature (HSN) for

Heading 8542. The tribunal observed that IC-Codecs, as imported, were in the form of rolls or un-diced wafers, which aligns with the description under Heading 8542. This heading covers monolithic integrated circuits, and IC-Codecs fit this classification.

The CESTAT Delhi agreed with Samsung's position, ruling that the imported IC-Codecs were correctly classifiable under Customs Heading 8542, specifically under CTI 8542 39 90. This classification entitles Samsung to the exemption from customs duty under the Notification dated 01.03.2005, which covers goods falling under Heading 8542.

The tribunal set aside the earlier classification and demand for customs duty and GST, emphasizing that the correct classification under Heading 8542 provides for an exemption from such duties.

[Samsung India Electronics Pvt Ltd vs. Commissioner of Customs \[Customs Appeal No. 51172 of 2020\]](#)

# HC Directs Processing of SAD Refund Claim Despite Circular Restrictions

## DA Insights:

*This ruling underscores the significance of adhering to statutory notifications over circulars that may impose restrictive conditions. Companies relying on export incentives like DEPB scrips can use this ruling to challenge restrictive refund policies and ensure compliance with established notifications.*

### **Issue:**

Whether the Customs Authorities are obligated to process the refund claim of 4% Special Additional Duty (SAD) filed by Elite Green Pvt Ltd, considering the annulment of Circular No.18/2013-Cus, which imposed additional restrictions on SAD refunds.

### **Legal Provisions:**

Notification No. 102/2007-Cus. and Circular No. 18/2013-Cus.

### **Observation and Comments:**

The High Court reviewed the case involving Elite Green Pvt Ltd, which had filed for a refund of 4% Special Additional Duty (SAD) on imported goods. Elite Green utilized DEPB scrips to pay both the basic customs duty and SAD. According to Notification No. 102/2007-Cus, importers are eligible for a refund of SAD upon proof of VAT payment. However, Circular No.18/2013-Cus, issued on April 29, 2013, restricted the refund of SAD to payments made in cash, excluding payments made through DEPB scrips.

The Delhi High Court had previously annulled Circular No.18/2013-Cus, recognizing DEPB scrips as valid for SAD payments. The Kerala High Court emphasized that, following the annulment

of the circular, the original conditions of Notification No. 102/2007-Cus should be adhered to. It directed the Customs Authorities to process Elite Green's refund claim in accordance with the Notification, which permits refunds of SAD paid through DEPB scrips.

The judgment reinforces that procedural changes introduced by circulars cannot override statutory provisions and that authorities must follow the original notification terms for processing refunds. The Kerala High Court's decision mandates the Customs Authorities to process the refund claim based on the provisions of the Notification.

*[Elite Green Pvt Ltd vs. Under Secretary \(Customs-III/VI\) \[WA No. 1630 of 2023\]](#)*

# HC Orders Expedient Resolution for Re-Export of Mislabeled Goods

## DA Insights:

*This decision highlights the importance of prompt customs action, particularly for perishable goods. It reinforces that customs authorities must act swiftly to address issues related to mislabeled or incorrect goods to prevent loss or spoilage.*

### **Issue:**

Whether the customs authorities must promptly address the re-export request for goods mislabeled as green pepper, considering the perishable nature of the goods and the delay in response to the petitioner's representation.

### **Legal Provisions:**

Regulations governing re-export of goods

### **Observation and Comments:**

The Madras High Court reviewed the case involving Indian Overseas Trading Corporation, which had imported two containers of goods labeled as green pepper (fresh) under Bill of Entry No. 3619859 dated 23.05.2024. Upon inspection, customs authorities found that the containers also contained black pepper. The petitioner, under the bona fide belief that the goods matched the invoice and related documents, sought permission to re-export the goods on 21.06.2024 due to the mislabeling.

The petitioner presented documents including the packing list, commercial invoice, and phytosanitary certificate, all describing the goods as green pepper. They argued that their belief in the nature of the goods was reasonable and highlighted the urgency due to the perishable nature of the items.

The court emphasized the need for expedient action due to the goods' perishable nature and the significant delay caused by the lack of response from customs authorities. It directed the customs authorities to process the re-export request

promptly and resolve the matter without further delay. This ruling underscores the need for timely action in cases involving perishable goods and ensures that procedural delays do not hinder the re-export process.

*[Indian Overseas Trading Corporation vs. Principal Commissioner of Customs \[W.P.No. 18308 of 2024\]](#)*

# CESTAT Rules on Cash Refund of CENVAT Credit Post-GST Implementation

## DA Insights:

*It highlights the need for a seamless transition between the old and new tax regimes, ensuring that credits accrued before GST can still be claimed in cash. The decision reinforces the importance of maintaining fair practices in tax credit adjustments and refunds during significant regulatory changes.*

### **Issue:**

Entitlement of Shakti Pumps (I) Limited to a cash refund of CENVAT credit on Countervailing Duty (CVD) and Special Additional Duty (SAD) paid after the implementation of GST.

### **Legal Provisions:**

Countervailing Duty (CVD) and Special Additional Duty (SAD) regulations

### **Observation and Comments:**

In the case of Assistant Commissioner (Review) Vs Shakti Pumps (I) Limited, the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), Delhi addressed the issue of whether Shakti Pumps was entitled to a cash refund of CENVAT credit on Countervailing Duty (CVD) and Special Additional Duty (SAD) paid after the implementation of GST on July 1, 2017.

Shakti Pumps (I) Limited, a manufacturer of submersible pumps, had previously claimed CENVAT credit under the Central Excise regime. With the onset of GST, the Central Excise and Service Tax laws were integrated into the CGST framework, requiring businesses to adjust to the new tax regime. Shakti Pumps sought a cash refund of CENVAT credits for duties paid under the old system, arguing that the transition to GST warranted such refunds.

The tribunal evaluated whether the refund of

CENVAT credits on CVD and SAD, which were paid before the GST implementation, could be claimed in cash under the new CGST provisions. The CESTAT Delhi determined that businesses were indeed entitled to such refunds, considering that the transition to GST did not negate the right to claim credits from the previous system. The decision reaffirmed that the changes in tax regimes should not adversely affect the credits earned under the old system, ensuring fairness in the transition process.

[\*Assistant Commissioner \(Review\) Vs Shakti Pumps \(I\) Limited \[Excise Appeal No. 51131 of 2020\]\*](#)

# High Court Clarifies Customs Duty Exemption and SWS Levy Issues

## DA Insights:

*This ruling reinforces the need for a precise understanding of the notifications and statutory provisions related to customs duties and exemptions. It emphasizes that exemptions must be explicitly stated and not inferred from general notifications.*

### **Issue:**

Interpretation of customs duty exemptions and the applicability of the Swachh Bharat Cess (SWS) in the context of notifications issued under Section 25(1) of the Customs Act.

### **Legal Provisions:**

Section 25(1) of the Customs Act, 1962 and Section 110 of the Finance Act

### **Observation and Comments:**

In the case of Gemini Edibles and Fats India Pvt. Ltd Vs Union of India (Through its Secretary), the Madras High Court addressed several key issues regarding customs duty exemptions and the implications of Special Warehousing Scheme (SWS) levies.

**1) Notification Interpretation:** The court clarified that a notification issued under Section 25(1) of the Customs Act does not automatically grant an exemption from customs duty. It is crucial to examine the substance of the notification to determine its actual implications for duty exemptions.

**2) Scope of Notifications:** The court observed that Notifications Nos. 24 and 25 of 2015, which were cited in the dispute, cannot be interpreted as exempting goods from SWS levies. These notifications refer specifically to Section 25(1) of the Customs Act and do not mention Section 110 of the Finance Act, under which the SWS is levied.

**3) Nature of Duty Scrips Debiting:** The court held that the debiting of duty scrips is not merely

an administrative procedure but constitutes a method of duty payment. Thus, the argument that there is no levy or collection of customs duty due to this process was rejected.

**4) Relevance of Duty to Consolidated Fund:** The fact that customs duty does not form part of the Consolidated Fund of India was deemed irrelevant in determining the nature and scope of exemption notifications. The court maintained that the nature of the exemption and levy must be based on the actual provisions and not on how the duty is accounted for.

[Gemini Edibles and Fats India Pvt. Ltd Vs Union of India \(Through its Secretary\) \[W.A. Nos. 830 and 831 of 2020\]](#)

## Customs Notification / Circulars / Guidelines / Instructions

### **Procedures for Provisional Attachment of Bank Accounts Under Section 110(5)**

This instruction details the procedure for the provisional attachment of bank accounts under Section 110(5) of the Customs Act, 1962. It requires a written order from the proper officer, approved by the Principal Commissioner of Customs, with reasons for the attachment. The order must be served to the bank and account holder, and include a Document Identification Number (DIN). Extensions of the attachment period require a hearing for the account holder. Investigations and adjudications should be completed swiftly to achieve the attachment's goals.

*[Instruction No. 19/2024 - Customs, dated 22nd July, 2024](#)*

### **Amendment to Duty-Free Import Limits for Commercial Samples**

The Ministry of Finance issued Notification No. 29/2024-Customs, amending Notification No. 154/94-Customs dated July 13, 1994. The amendment increases the duty-free import limit for commercial samples from Rs. 1,00,000 to Rs. 3,00,000 under S.No. 3, condition (v), clause (A), sub-clause (b). This change, effective from July 24, 2024, aims to facilitate easier importation of commercial samples, enhancing trade and industry benefits.

*[Notification No. 29/2024 - Customs, dated 23rd July, 2024](#)*

### **Extension of Re-Import Period and New Provisions for Aircraft Lubricants and Fuel**

The amendment extends the re-import period from three years to five years, effective July 24, 2024. It introduces new provisions specifying no drawback or refund on lubricating oil in aircraft engines at departure and sets conditions for non-aviation fuel, including consistency in quantity and duty rates for re-imported fuel. These changes aim to streamline the re-import process for aircraft-related goods.

*[Notification No. 39/2024 - Customs, dated 23rd July, 2024](#)*

## DGFT Notification / Circulars / Notices

### **Amendments to the Export Promotion Capital Goods (EPCG) Scheme**

The Directorate General of Foreign Trade (DGFT) issued Public Notice No. 15/2024-25, amending Chapter 5 of the Handbook of Procedures (HBP) 2023 concerning the EPCG Scheme. The key amendments include

- Extended installation certificate submission period from six months to three years.
- Updated export obligation extension fees.
- Introduced new composition fee provisions.
- Aims to reduce compliance and enhance business ease.

*Public Notice No. 15/2024-25 - DGFT, dated 25th July, 2024*

### **Introduction of Online Verification for DGFT Documents Using UDIN**

The Directorate General of Foreign Trade (DGFT) introduced an online facility for verifying the authenticity of electronically-issued documents such as Licenses and Certificates. This system uses a Unique Document Identification Number (UDIN), which is located at the top-right of each document. Stakeholders can verify documents by entering the UDIN on the DGFT website without needing specific login credentials. This initiative aims to streamline verification processes and ensure the authenticity of both electronic and paper copies of DGFT-issued documents.

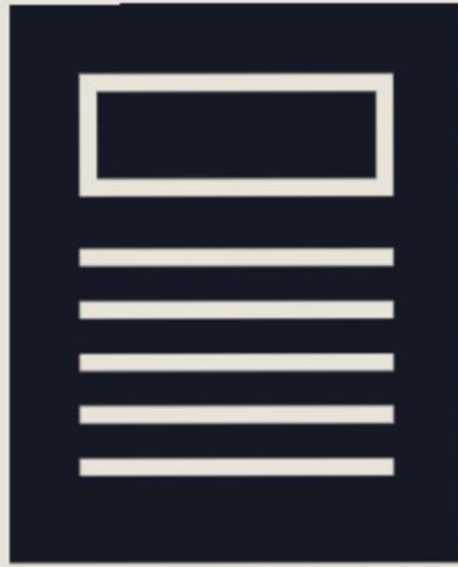
*Trade Notice No. 09/2024-25 - DGFT, dated 23rd July, 2024*

### **Launch of Steel Import Monitoring System (SIMS) 2.0**

The Directorate General of Foreign Trade (DGFT) has announced the launch of the Steel Import Monitoring System (SIMS) 2.0, effective from July 25, 2024, at 2:00 PM. This updated system, accessible at <https://sims.steel.gov.in>, will replace the current SIMS 1.0, which will be discontinued immediately. Importers are required to use SIMS 2.0 for all new applications, although applications submitted through SIMS 1.0 can still be viewed or downloaded from the DGFT website until further notice. A dedicated helpdesk for SIMS 2.0 is available for support via phone or email.

*Trade Notice No. 10/2024 - 25 - DGFT, dated 25th July, 2024*





# DA NEWS

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# Goods and Services Tax

- Easier compliance in focus as GST completes 7 years
- Relief for industry as govt cracks down on GST demand notices
- After 7-year wait, GST Appellate Tribunal may finally be operational soon
- Infosys gets demand notice for GST evasion of over Rs 32,000 crore
- Budget 2024: No GST demand notice to be issued beyond 42 months from the due date of filing annual return; Know how it will help you

# Customs and other

- Gold and silver to become cheaper, customs duty cut to 6%
- 150% customs duty on lab chemicals alarms scientists
- Budget 2024: Imported phones may become cheaper on 5% customs duty cut
- Customs duty exemption on lithium, cobalt to aid growth of EV sector: Auto Inc
- Budget 2024: Doctors welcome decision to exempt 3 cancer drugs from custom duty

# DA Updates and Articles for the month of July 2024

**DA Newsflash (FEMA): Update on Draft Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2024**

**Link:** <https://www.linkedin.com/pulse/da-newsflash-fema-update-draft-foreign-exchange-management-8vixc/?trackingId=Hrar321Sdn7e14qOLA5kOg%3D%3D>

**DA Newsflash (Customs) : Extension of RoDTEP Scheme to SEZ Units**

**Link:** <https://www.linkedin.com/pulse/da-newsflash-customs-extension-rodtep-scheme-sez-units-xeyrc/?trackingId=XYZSSujsdXHd4bbNgHKgVg%3D%3D>

**DA Newsflash: Supreme Court Ruling on the Nature of Royalty Payments**

**Link:** <https://www.linkedin.com/pulse/da-newsflash-supreme-court-ruling-nature-royalty-payments-ifztc/?trackingId=pejCN9Y37KOqx1MrPjNSRg%3D%3D>

# DA Updates and Articles for the month of July 2024

**🚀 Union Budget 2024 Webinar Video: Key Insights and Highlights 🚀**

<https://www.linkedin.com/pulse/union-budget-2024-webinar-video-key-insights-highlights-hekgc/?trackingId=WSsf%2FF5ojuBKmdn1XWRN4Q%3D%3D>

The screenshot shows a LinkedIn article preview. At the top left is a logo for 'DA TAX ALERT' with 'INDIRECT TAX' and 'Darda Advisors LLP' below it. To the right of the logo is the text 'DA Tax Alert'. Below this is a large image featuring a magnifying glass over a white surface. On the left side of the image, the text 'FROM THE UNION BUDGET 2024 WEBINAR VIDEO' is written vertically. On the right side of the image, the text 'KEY INSIGHTS AND HIGHLIGHTS' is written in large, bold, black letters. Below the image is a light blue banner with the text '🚀 Union Budget 2024 Webinar Video: Key Insights and Highlights 🚀'. Underneath the banner, it says 'Darda Advisors LLP on LinkedIn • 1 min read'. At the bottom of the preview, there is a line of text: 'Hope you are well and Safe! We're thrilled to share the remarkable success of recent webinar on the ...'.

# DA Updates and Articles for the month of July 2024

Vineet Suman Darda has been invited as a speaker for the Analysis of Union Budget 2024 event by The Institute of Cost Accountants of India

[https://www.linkedin.com/posts/darda-advisors-llp\\_analysis-unionbudget2024-costaccountants-activity-7222563940730331136-aUrn?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/darda-advisors-llp_analysis-unionbudget2024-costaccountants-activity-7222563940730331136-aUrn?utm_source=share&utm_medium=member_desktop)



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**  
(Statutory Body under an Act of Parliament)  
**HYDERABAD CHAPTER**



The Chairperson and Members of the Managing Committee cordially invite you to the programme on

**"Analysis of Union Budget 2024"**

**Chief Guest**



**Smt. Namrata Singh, I.R.S**  
Deputy Director  
Enforcement Directorate, Hyderabad Zonal Office

**Guest of Honour**



**Shri Animesh Garg, I.R.S**  
Deputy Commissioner of Customs  
Air Cargo Commissionerate, Dept of Revenue, Bangalore

**Special Invitees**



**CMA Dr. K Ch A V S N Murthy**  
Central Council Member – ICMAI



**CMA Vijay Kiran Agastya**  
Regional Council Member – ICMAI



**CMA Lavanya KVN**  
Regional Council Member - ICMAI

**Speaker**



**Shri Vineet Suman Darda**  
Strategic Management and Tax Advisor  
Global Trade and Indirect Tax Expert  
Venue: Hotel Taj Mahal, Narayanguda, Hyderabad

**TWO CPE HOURS**

**Date & Time**  
27th July 2024,  
06:00 PM to  
08:30 PM

**Dinner Follows**



**CMA Dr. LAVANYA KANDURI**  
Chairperson



**CMA D. V. RAM BABU**  
Vice - Chairman



**CMA KHAJA JALAL UDDIN**  
Secretary



**CMA KIRTI GUPTA**  
Treasurer

**Behind every successful business decision, there is always a CMA**

# Darda

Driven by Quality, Powered by Ideation

Darda Advisors LLP offers a wide range of services in the tax and regulatory space to clients in India with professionals having extensive consulting experience. Our approach is to provide customized and client-specific services. We provide well-thought-out strategies and solutions to complex problems in tax and regulatory matters. Our service offerings are:

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- Start-Up India and MSME Services



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- Financial Advisory Services
- Accounting Advisory Services
- RBI Services



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### Delhi-NCR

N 93, Ground floor, Mayfield garden, Sector 51, Gurgaon, Haryana - 122018

### Bhilwara

Moti Chambers, 62&63, Sancheti Colony, Pur Road. Bhilwara - 311001, Rajasthan

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