

# DA TAX UPDATE INDIRECT TAX

An E-Tax update from  
**Darda Advisors LLP**

Fortnightly update – February 2025  
Issue - 72

**Goods and Service Tax**

**Customs and Others**



## Goods and Service Tax

### HC Directs Timely Adjudication in GST Dispute Over ITC Claims

Orissa HC addressed a dispute where Vedanta Ltd. reported a discrepancy in its GST annual return for July 2017–March 2018. Despite providing explanations, the tax authorities issued a show-cause notice on August 5, 2024, invoking the extended period of limitation for a sum of ₹8.02 crore, alleging wrongful ITC availing. The court allowed Vedanta to respond, including raising the limitation issue, and directed the authorities to pass an order by February 5, 2025. The petitioner was advised to seek further legal remedies post-order.

*Vedanta Ltd. Vs. Union of India & Ors. - Orissa HC Decision (2025-TIOL-200-HC-ORISSA-GST)*

### HC Upholds GST Penalty for Intentional E-Way Bill Discrepancy

The appellant challenged a 200% penalty under Section 129(3) of the West Bengal GST Act, 2017, imposed due to discrepancies between the E-way bill and the delivery challan. The adjudicating authority found that the mismatched documents indicated an intent to conceal the actual recipient and evade GST. Despite an initial remand by a Single Judge for reconsideration, the penalty was reaffirmed. The Calcutta High Court upheld the penalty, ruling that the mismatch was intentional and not inadvertent, dismissing the appeal.

*Mohammad Shamasher vs. The State of West Bengal & Others (M. A. T. 108 of 2024 with CAN 1 of 2024 with CAN 2 of 2024)*

### HC Sets Aside GST Registration Cancellation, Allows Revocation Upon Compliance

The petitioner's GST registration was canceled due to non-filing of returns for over six months under Section 29(2)(c) of the CGST Act, 2017. Despite a show cause notice, the petitioner neither replied nor appeared for the hearing. Later, after business revival post-COVID-19, the petitioner attempted to seek revocation but missed the deadline. The Gauhati High Court set aside the cancellation order, directing the GST authorities to reconsider the revocation upon payment of all outstanding dues, ensuring compliance with the GST regime.

*Moni Kanta Das vs. Union of India & Others (WP(C)/341/2025)*



## Goods and Service Tax

### High Court Sets Aside ITC Denial Due to GSTR-2A Mismatch

The Jharkhand High Court ruled that Input Tax Credit (ITC) cannot be denied solely based on discrepancies between GSTR-3B and GSTR-2A. The petitioner was not granted a hearing by the Appellate Authority, violating Section 107(8) of the Jharkhand GST Act. Additionally, the appellate order lacked reasoning as required under Section 107(12). The Court set aside the orders of both the Primary and Appellate Authorities, remanding the case for fresh consideration while awarding ₹25,000 as costs to the petitioner.

*Mukesh Kumar Singh vs. The Commissioner, Jharkhand Goods and Services Tax W.P (T) No. 3141 of 2024*

### High Court Disposes of Writ on ITC Blocking Under Rule 86A, Cites Revenue Security

The Orissa High Court addressed the petition challenging the blocking of Input Tax Credit (ITC) under Rule 86A of the Orissa GST Rules, 2017. The petitioner argued that negative blocking of ITC was an appropriation device, which was not allowed under the rule. The Court referred to the Telangana High Court's judgment in *Laxmi Fine Chem*, which held that negative credit entries are not permissible. The Court concluded that blocking serves as a security measure for revenue, and any blocking automatically ends after one year, enabling the dealer to access the ITC. The petition was disposed of without

further action.

*M/s Atulya Minerals vs. Commissioner of State Tax, Cuttack W.P. (C) No. 1449 of 2025*

### High Court Grants Relief in GST Assessment Dispute, Allows Final Opportunity to Submit Documents

The Madras High Court addressed a petition challenging an order passed by the Assistant Commissioner (ST) relating to the GST assessment for the year 2019-20. The petitioner had filed a reply to the show cause notice but did not provide supporting documents, leading to the confirmation of the proposal. The Court allowed the petitioner one final opportunity to present their objections and supporting materials. It was ordered that the petitioner deposit 25% of the disputed tax within four weeks, and the impugned order was set aside pending the resolution of the objections.

*Jothi Virutchem Super Market vs. The Assistant Commissioner (ST), Villupuram [W.P. No. 2557 of 2025]*

## GST Notification/Circular/Instructions

### Procedure for Department Appeal Against Interest and/or Penalty under Section 128A of the CGST Act, 2017

The Central Board of Indirect Taxes and Customs (CBIC) has issued instructions clarifying the procedure for department appeals related to interest and/or penalty under Section 128A of the CGST Act, 2017. Section 128A provides for the waiver of interest or penalty for demands under Section 73 of the CGST Act for the financial years 2017-18, 2018-19, and 2019-20, subject to conditions. The Board has clarified that if a taxpayer has fully paid the tax amount but the department has filed or intends to file an appeal due to incorrect interest calculation or improper/non-imposition of a penalty, the taxpayer should not be denied the benefit of Section 128A. The intention of this provision is to reduce litigation. Therefore, proper officers are advised to withdraw such appeals if they have been filed or to accept the order under review if it meets the conditions of Section 128A.

*Instruction No. 02/2025 – GST, dated 7<sup>th</sup> Feb, 2025*



# GST Portal

## Advisory for GST Registration Process (Rule 8 of CGST Rules, 2017)

The advisory outlines the updated procedure for GST registration under Rule 8 of the CGST Rules, 2017. It details the steps for applicants opting and not opting for Aadhaar authentication.

### 1) Non-Aadhaar Authentication Applicants:

- Must visit the designated GST Suvidha Kendra (GSK) for photo capturing and document verification.
- A confirmation email will provide appointment details and required documents.

### 2) Aadhaar Authentication & Biometric Verification:

- Promoters/Partners must undergo biometric authentication and photo capturing at the GSK.
- If previously verified in another State/UT, only document verification is required.
- Primary Authorized Signatory (PAS) must also complete verification at GSK.

### 3) Non-Generation of ARN:

- If biometric authentication or document verification is not completed within 15 days, ARN will not be generated.
- Ensure Aadhaar details are accurate to prevent authentication failures.

## Advisory on Introduction of Form ENR-03 for Enrolment of Unregistered Dealers/Persons in e-Way Bill Portal for Generating e-Way Bill

A new process has been introduced for unregistered dealers to enroll in the e-Way Bill portal using Form ENR-03, effective from 11th February 2025. This enables unregistered dealers to generate e-Way Bills by obtaining a unique Enrolment ID, which will be used in place of GSTIN. To enroll, applicants must enter their PAN, address, and mobile number, which will be verified via OTP. After successful enrolment, they will receive a 15-character Enrolment ID. This ID can then be used to generate e-Way Bills by entering other relevant details



## Customs & Others

### HC Quashes DGFT Show Cause Notice in SFIS Dispute

Essar Shipping Ltd. challenged a Show Cause Notice (SCN) issued by the DGFT in January 2023. The SCN was based on alleged misstatements in the documents submitted by Essar under the "Served from India Scheme" (SFIS) for duty credit scrips. The Bombay High Court quashed the SCN, ruling that it was a circumvention of a previous judgment (Writ Petition No. 1335 of 2010), which had already settled the matter. The Court concluded that the issue had already been resolved and could not be reopened. The SCN was held to be unreasonable and arbitrary, and the petition was disposed of in favor of Essar.

*Essar Shipping Ltd. vs Union of India & Others (Writ Petition No. 1960 of 2024)*

### High Court Reduces Penalty in SEZ Non-Compliance Case, Cites Financial Hardship

The petitioner challenged the penalty of ₹17.10 lakh imposed by the Development Commissioner-KASEZ and upheld by the Appellate Authority. The petitioner argued that they had achieved positive Net Foreign Exchange (NFE) as required under Rule 54(2) of the SEZ Rules and faced temporary non-compliance due to heavy rains in 2008-09. The Gujarat High Court observed that the

petitioner had indeed met the NFE requirement and that the penalty was unjustified. The court also considered the petitioner's financial hardships and insolvency proceedings. Accordingly, the penalty was reduced to a token amount of ₹10,000, payable within four weeks. The petition was partly allowed with this modification.

*AFCAN IMPEX PVT LTD vs. Directorate General of Foreign Trade [R/SCA No. 18493 of 2019]*

### HC Directs Customs to Release Bank Guarantee, Cites Non-Compliance with Earlier Order

M/s Om Gems & Jewellery challenged the final assessment order dated 23rd February 2024 and sought the release of a ₹22.07 lakh bank guarantee held by Customs. The Delhi High Court found that Customs failed to comply with its earlier order from December 2023, which mandated the release of the guarantee with 6% interest. The court ruled that the guarantee must be released within eight weeks, independent of the final assessment proceedings, and warned that the responsible officer would be held personally liable for non-compliance. The petition was disposed of with the option to appeal the assessment order.

*M/s Om Gems & Jewellery vs. Deputy Commissioner of Customs (Import) [W.P. (C) 6218/2024 & CM APPL. 25897/2024]*



## Customs & Others

### High Court Quashes Customs SCN for 15-Year Delay and Natural Justice Violations

The petitioners, engaged in the import and trade of paper, challenged the Show Cause Notice (SCN) dated 23rd May 2008 and the Order-in-Original dated 31st January 2024, alleging misdeclaration and undervaluation. They argued that the SCN was time-barred and that the final order was passed while their writ petition was pending, violating natural justice. The Delhi High Court found a 15-year delay in adjudication, citing precedents where such delays were impermissible. Consequently, the Court quashed the SCN and the Order-in-Original.

*Vijay Enterprises & Anr. vs. Principal Commissioner of Customs & Ors. [W P (C) 5809/2024 With W P (C) 15436/2023]*

### HC Quashes Show Cause Notice Due to Inordinate Delay in Adjudication

The petitioners, engaged in trading Galvanized Iron (GI) wires, challenged a Show Cause Notice (SCN) issued in December 2008 for alleged undervaluation. They argued that the proceedings were barred by limitation under Section 28(9) of the Customs Act, as the adjudication was delayed beyond the statutory period. The Department defended the delay, citing legal challenges and the matter being placed in the "call book." The Court, relying on precedents like

Swatch Group India Pvt. Ltd. and Vos Technologies India Pvt. Ltd., held that indefinite delays without valid justification were impermissible. It ruled that the statutory timelines must be followed and quashed the SCN.

*Tilak Raj Jain & Anr. vs. Additional Director General, Directorate of Revenue Intelligence [W P (C) 14922/2023]*

## Customs & Other Updates

### Seeking of Certificate of Origin in Export Documentation

This notice advises all exporters not to accept manually issued Certificates of Origin after the deadlines mentioned in the referenced Trade Notices, as such certificates will be deemed invalid. It also highlights that Indian Missions abroad are informing Trade and Customs authorities of partner countries about these guidelines, and manual certificates issued against these instructions will be rejected by the recipient country's Customs authorities. Exporters are encouraged to report any such violations to the Directorate through the provided email ([tradeconnect-dgft@gov.in](mailto:tradeconnect-dgft@gov.in)).

Trade Notice No. 28/2024-25-DGFT, dated 11<sup>th</sup> Feb 2025

### Mandatory Online Submission and Payments for Show Cause Notices under FTD&R Act

This Trade Notice informs all stakeholders that DGFT has digitized the Enforcement-cum-Adjudication process and related actions under the Foreign Trade Development and Regulation (FTDR) Act. Effective immediately, replies to Show Cause Notices and other requests related to adjudication, appeal, and review must be submitted online via the DGFT portal—paper-based submissions will no longer be accepted. Additionally, any penalties levied under the FTDR Act must be paid online through the relevant ECA/Appeal or Review file. To ensure proper accounting, the Miscellaneous payments feature should not be used.

Trade Notice No. 29/2024-25-DGFT, dated 11<sup>th</sup> Feb 2025

### Customs (On-Arrival Movement for Storage and Clearance at Authorised Importer Premises) Regulations, 2025

The Central Board of Indirect Taxes and Customs (CBIC) has introduced the Customs (On-Arrival Movement for Storage and Clearance at Authorised Importer Premises) Regulations, 2025, under the Customs Act, 1962. These regulations allow authorised importers with Tier II or III AEO status to move imported goods directly to designated premises for storage and clearance. Importers must register with the Commissioner of Customs and declare their intent in the Bill of Entry. The process includes automated permission for movement unless flagged for scanning, pending approvals, or intelligence alerts. The authorised importer must ensure safe storage, proper record-keeping, and clearance within 15 days. Non-compliance may lead to suspension, penalties, or revocation of authorization.

Notification No. 11/2025- CUSTOMS (N.T.), dated 17<sup>th</sup> Feb 2025



## Customs & Other Updates

### Introduction of Single Unified Multi-Purpose Electronic Bond (Ekal Anubandh)

The Central Board of Indirect Taxes & Customs (CBIC) has introduced the "Ekal Anubandh" project to streamline trade processes by implementing a **Single All-India Multipurpose Electronic Bond (SEB)**. This initiative aims to replace multiple transaction-wise bonds at different ports with a unified electronic bond, reducing administrative burdens and enhancing efficiency.

#### Key Features of SEB:

- Importers/exporters can electronically submit a single bond covering multiple obligations at any port via **ICEGATE**.
- The bond allows for adding new obligations or amounts later as needed.
- Digital execution and payment of **stamp duty** are enabled through integration with **NeSL** (National E-Governance Services Limited).
- End-to-end **electronic Bank Guarantee (e-BG)** linking and verification with issuing banks.
- Eliminates the need for **physical notary verification** due to secure digital execution.

#### Advantages:

- Saves time and costs by eliminating **manual, paper-based processes**.
- Improves security and transparency by allowing real-time tracking of bonds and guarantees.
- Encourages a **paperless, eco-friendly, and efficient** trade environment.

Circular No. 04/2025-Customs, dated 17<sup>th</sup> Feb 2025

### Automation of Refund Application and Processing in Customs

The CBIC has introduced an automated system for filing, processing, and disbursing Customs duty refunds via ICEGATE, reducing manual paperwork and processing time. Applicants can now file refund claims online, request reassessment, and receive direct bank transfers for approved refunds. A Unique Application Reference Number (ARN) will be generated for tracking, and all communication, including approvals and deficiencies, will be electronic. Concurrent audits have been replaced with post-audit selection for efficiency. The manual refund process will be phased out by March 31, 2025, with full digital implementation from April 1, 2025. Customs officers must assist stakeholders in transitioning to the new system.

Circular No. 05/2025-Customs, dated 17<sup>th</sup> Feb 2025



## Import and Export data

**Imports of January 2025 at \$ 77.64 B**

**Exports of January 2025 at \$ 74.97 B**

		January 2025 (USD Billion)	January 2024 (USD Billion)
Merchandise	Exports	36.43	37.32
	Imports	59.42	53.88
Services*	Exports	38.55	31.01
	Imports	18.22	14.84
Total Trade (Merchandise + Services) *	Exports	74.97	68.33
	Imports	77.64	68.72
	Trade Balance	-2.67	-0.39

Source : PIB



# Darda

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