

# **Indirect Tax Updates**

## **From 1<sup>st</sup> November 2025 to 15<sup>th</sup> November 2025**

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# Important Case Laws

## 1. Sterling and Wilsom Private Limited vs. State of U.P. [Allahabad HC: Writ Tax No. 5714/2025]

*Replies submitted by email as instructed in SCN not considered by Department amounts to breach of natural justice.*

The issue was whether the ex-parte assessment order passed under Section 74 of the UPGST Act was valid when the Petitioner had already submitted replies to the SCN via email, as expressly required by the SCN, and whether ignoring those replies amounted to violation of natural justice?

The Andhra Pradesh High Court held that SCNs themselves required replies to be submitted to the officer's email ID, not through the GST portal. The Petitioner complied exactly with the instructions and sent detailed replies to the specified email. The Adjudicating Authority failed to consider replies and wrongly recorded that no reply had been filed. Passing an ex parte order in such circumstances constituted procedural error and violation of natural justice. Rejection of the rectification application under Section 161 of the CGST Act was also unsustainable. The High Court set aside the ex parte order and the rectification rejection order. Hence, the matter was remanded back for fresh adjudication, permitting the Petitioner to file replies again on the portal and in physical form.

# Important Case Laws

## 2. Varian Medical Systems International India Pvt Ltd vs. UOI [Delhi HC: W.P. (C). 5273/2025]

### *Premature SCN before pre-SCN reply is against the principles of natural justice*

The issue was whether the SCN issued under GST was valid when it was issued before the time for replying to the pre-SCN had expired and whether audit report was issued beyond the limitation period prescribed under Section 65 of the CGST Act?

The Hon'ble Delhi High Court held that pre-SCN dated November 25, 2024 gave the Petitioner time till November 28, 2024 to file its reply. However, the Department issued the SCN on November 27, 2024, one day before expiry of reply time which was held this was a clear violation of principles of natural justice. SCN was set aside and the proceedings were restored to the pre-SCN stage, permitting the Petitioner to file its reply afresh.

# Important Case Laws

## 3. Kamnath Pvt Ltd Vs. STO [Gujarat HC: R/Special Application No. 1231 of 2024]

**Minor delay in payment caused by genuine technical difficulties condoned to uphold the scheme's objective of expeditious dispute resolution**

The issue was whether the delay of 2 days in depositing the last installment under the Vera Samadhan Yojna (Amnesty Scheme) caused by technical glitches in the online VAT portal can be condoned, especially when the Petitioner had already paid all other instalments within time and clearly intended to avail the scheme?

The Hon'ble High Court held that the objective of the Amnesty Scheme is expeditious settlement of old disputes and bringing revenue to the Government. The Petitioner showed bona fide efforts to make payment, delay occurred due to departmental portal technical issues. Hence, no dispute regarding Petitioner's compliance intent and delay of 2 days is condoned and hence, the order rejecting Amnesty benefit is quashed and set aside.

**Anivesh (ALC) Comments:** Various courts have consistently held that provisions of amnesty schemes must be construed liberally to achieve objective of such schemes to reduce litigation.

# Important Case Laws

## 4. Business Aircraft Management Services vs. State of Karnataka [Karnatka HC: W.P.N. 24010/2025]

### *Service is invalid if Notices delivered in Junk Folder*

The issue was whether an ex-parte order passed under Section 73 is valid when the taxpayer claims non-receipt of notices because they landed in the email Junk folder?

The Hon'ble Karnataka High Court held that the Petitioner has not responded to ASMT-10, DRC-01A, or SCN because all notices were delivered to the Junk folder, not appearing in the inbox. The Court accepted this explanation as a reasonable and bona fide cause for not replying and accordingly, the Court allowed the petition and set aside the order, remitted the matter to the Department for fresh reconsideration from the show-cause notice reply stage within three months, with liberty to submit replies and documents, and held remand amount subject to final outcome.

**Anivesh (ALC) Comments:** The judgment indirectly puts responsibility on GST authorities to ensure that notices are properly served and actually reach the taxpayer. Just sending an email is not sufficient if there is evidence it did not reach the inbox.

✓ It is in consonance with various other judgments which lays emphasis on limitation period for filing appeal starting from actual and effective date of communication of order to taxpayer.

# Important Case Laws

## 5. Korfex Industries Pvt Ltd Vs. State of Rajasthan [Rajasthan HC: Civil WP No. 12230/2025]

### ***GST detention to remain valid if taxpayer is involved in fake ITC***

The Petitioner challenged the GST department's detention of its goods and vehicle. Petitioner argued that all documents (e-invoice, e-way bill) were in order and the goods had already reached its factory. GST officers issued MOV-02 treating the goods as "in transit" and moved the truck 250 km away to Jaipur. The Petitioner claimed the detention was illegal, time-barred, and contrary to Rules. Dept alleged Petitioner was running a large fake ITC racket with over 49 bogus suppliers and had availed over Rs.100 crore fake ITC through sham entities. Driver's statement also showed the goods were loaded from unknown persons.

Hon'ble Rajasthan HC acknowledged some procedural lapses by officers in issuing MOV forms and handling verification timelines. Despite procedural lapses by officers, the Court held the documentation was not genuine, indicating sham transactions and directed authorities to proceed under Section 130 and other applicable GST provisions. Accordingly, writ petition filed by the Petitioner was dismissed.

**Anivesh (ALC) Comments:** It is an important judgment as it empowers dept to not strictly follow the rules where serious offences are involved like bogus transactions. However, validity of such power the extent to which rules can be liberally followed by GST dept must be examined by SC as it is a very important issue.

# Important Case Laws

## 6. M/s Gunnam Infra Projects Private Limited vs. UOI [Karnataka HC: W.P. N. 17779 of 2025]

***Payments made under duress during inspection cannot be treated as 'voluntary'.***

The issue pertains to whether payments made by the Petitioner during inspection by GST Intelligence and Anti-Evasion officers allegedly under duress and threat of adverse consequences can be treated as voluntary payments under Section 74(5) of the CGST Act. Refund applications were rejected through deficiency memos on the ground that no documents were submitted to prove coercion.

The Hon'ble Karnataka High Court held that the Petitioner had submitted all the required documents, and the refund applications could not be rejected through deficiency memos. Relying on Supreme Court and High Court precedents, the Court ruled that payments extracted during investigation cannot be construed as voluntary self-ascertainment under Section 74(5) of the CGST Act. The deficiency memos were quashed, and the Department was directed to process the refund, noting that recovery without adjudication is unconstitutional and contrary to GST law.

**Anivesh (ALC) Comments:** The judgment strongly protects taxpayers from forced payments during investigation by GST Intelligence/Anti-Evasion teams. Any payment made under pressure, threat, or fear cannot be treated as voluntary under Section 74(5) of the CGST Act.

# Important Case Laws

## 7. CMA CGM Logistics Park Dadri Pvt. Ltd. vs. CC, Noida [CESTAT Allahabad: Customs Appeal No. 70764 of 2025]

### *Levy of Cost Recovery Charges held as ultra vires*

The issue was whether the Appellant is entitled to waiver and refund of CRC [Cost Recovery Charges; payable by a Custodian for the custom staff deployed at its CFS] for the period April 2009 to November 2015?

The Hon'ble CESTAT held that CRC exemption once granted must apply from the date of the custodian's application, not merely from the date of the order. There is no statutory authority under Sections 141 or 157 to levy CRC. Thus, any CRC collected by Customs has no authority of law. Since CRC was never legally leviable before or after 2009, the Appellant is entitled to refund of all CRC ever paid, including Rs. 3.13 crores deposited during 2009–2015.

# Important Case Laws

## 8. M/s Texcomash Export vs. CC [CESTAT Delhi: Custom Appeal N. 724 of 2005]

### ***Export is complete once goods leave India, regardless of final destination***

The issue was whether the Appellant was entitled to duty drawback for 9 export shipments of ladies' garments even though the goods did not ultimately reach Russia and were allegedly over-invoiced?

The Hon'ble CESTAT held that Export is complete once goods leave India. Under Drawback Rules, export is equal to taking goods to a place outside India. The rules do not require the goods to reach a specific foreign destination. Therefore, export was complete when goods reached Dubai, a place outside India. RBI released remittances from the State Credit account. This confirms valid export; the department's claim that proceeds were not received is incorrect. Circular No. 30/1993 restricting third-country exports does not appear in Drawback Rules. Non-compliance with such a circular cannot deny drawback. Hence, the Appellant is entitled to drawback for all nine consignments of ladies' garments.

# Important Case Laws

## 9. ICICI Bank Ltd. vs. CST [CESTAT Mumbai: ST Appeal N. 85423 of 2017]

### *Indian banks not recipients of foreign bank services*

The issue was whether Indian banks (such as ICICI Bank), acting as advising/collecting banks in export-import transactions, are liable to pay service tax under RCM on foreign bank charges deducted by overseas banks while processing export or import remittances?

The Hon'ble CESTAT held that Indian banks acts only as an agent of Indian Customers. The Hon'ble CESTAT reaffirmed that in export/import remittance settlement and Foreign banks deduct charges from the remittance of the exporter/importer. Indian banks act only as an agent of their Indian customers. There is no flow of consideration from the Indian bank to the foreign bank. Therefore, the Indian bank cannot be treated as service recipient. Since there is no service provided to the Indian bank, and no consideration flows to the foreign bank from the Indian bank, the foreign bank charges cannot be taxed under RCM.

# Important Case Laws

## 10. M/s Boston Scientific India Pvt Ltd vs. CCE [CESTAT Chandigarh: ST Appeal N. 60438 of 2021]

### ***Cost-sharing reimbursements to foreign group companies are not ‘consideration’ for any taxable service***

The issue was whether cost-sharing and reimbursement of expenses paid by the Indian entity to its foreign group companies for participating in overseas events/conferences amounts to provision of ‘Business Support Service’ (BSS) or any taxable service, & whether such reimbursements can be treated as ‘consideration’ under service tax laws?

The Hon’ble CESTAT held that when the group entities merely share common expenses on a cost-to-cost basis for their collective benefit, no service is provided by one entity to another. Therefore, no service tax is payable on such arrangements. Reimbursement of event expenses is not consideration for any service, particularly for the period prior to May 14, 2015, when reimbursable expenses were not included in the definition of “consideration”. Hence, the demand based on reimbursable amounts was unsustainable. Even if considered a service, the events occurred outside India, so the performance-based tax rules render them non-taxable. Since tax was already paid with interest before SCN, there was no basis for further demand of tax.

**Anivesh (ALC) Comments:** It is a very important judgment in GST as various GST officers are raising demands on sharing of expenses on the ground that they constitute a taxable service. Even though provisions of Service Tax law and GST law are not similar in this case; the principles followed in this case should apply in GST law as well.

# Important Case Laws

## 11. Agratas Energy Storage Solutions Private Limited Vs. State Tax Officer [AAR Gujarat: Advance Ruling No. GUJ/GAAR/R/2025/46]

### **ITC on lease of industrial land is fully blocked under Section 17(5)(d) of the CGST Act**

The issue was whether ITC of GST paid under RCM on annual lease rental for industrial land leased from the Government of Gujarat is available when the applicant uses the land for Construction of a factory building, period before and after construction and Repairs, maintenance, renovation of the building and vacant portion of the land where no construction occurs.

The Hon'ble Gujarat AAR held that ITC is not admissible on GST paid on lease rental for the land in any scenario. Leasing services are considered used for construction of immovable property blocked under Section 17(5)(d) of the CGST Act, as the purpose of lease is industrial construction. Construction includes renovation, repairs, and additions if capitalized. Even vacant land is part of the industrial lease and hence, ITC remains blocked.

**Anivesh (ALC) Comments:** It is a complex issue requiring detailed deliberations in HCs as well as Supreme Court of India. It is possible to take an argument that lease rent paid for land (when such land can be used for multiple uses including construction of building) cannot be said to be directly used in construction of immovable property and therefore, its ITC cannot be blocked in Section 17(5)(d) of the CGST Act.

# GST Advisory

1. **Key Features on GST Portal Advisory dated November 1, 2025:** Simplified GST Registration Scheme introduced to reduce compliance burden and promote ease of doing business for small taxpayers:

## **Eligibility:**

- Taxpayers whose monthly output B2B total GST liability does not exceed Rs. 2.5 lakh.
- Only one registration per State/UT under this rule for a PAN.
- Applicants selecting this scheme must choose “Yes” under *Registration* while filing REG-01 [*Rule 14A*].
- Mandatory Aadhaar authentication for the Primary Authorized Signatory and at least one promoter/partner.
- Registration will be granted within 3 working days from ARN generation, subject to successful Aadhaar verification.

## **Conditions for Withdrawal from Scheme:**

- All returns from the date of registration to the withdrawal application date must be filed.
- Minimum return filing requirement: 3 months of returns if withdrawing before April 1, 2026 and one tax period if withdrawing on/after 1 April 2026.
- No pending amendment/cancellation application for the registration under Rule 14A.
- No pending or initiated proceedings under Section 29 for cancellation.

# Customs Notifications

1. **Notification No. 48/2025-Customs dated November 14, 2025:** Nil duty on import of Cane Molasses under HS code 1703 10 00. Also, concessional duty structure for various edible oils revised and specifically imposes 15% import duty on virgin olive oil.
2. **Notification No. 73/2025-Customs (N.T.) dated November 4, 2025:** Transhipment of Cargo to Nepal under Electronic Cargo Tracking System Regulations, 2019 amended. Regulation 3 of the Transhipment of Cargo to Nepal under Electronic Cargo Tracking System Regulations, 2019 to include additional multi-modal routes for cargo transhipment from India to Nepal. The added routes include rail to Batnaha (India) followed by road to Biratnagar (Nepal), and rail to the Indian Customs Yard, Joghani (India), then road to Biratnagar (Nepal). Such changes are effective from the date of publication and aim to enhance customs tracking on these routes.
3. **Notification No. 31/2025-Customs (N.T) dated November 14, 2025:** Tariff values for various imported commodities including edible oils, brass scrap, gold, silver, and areca nuts revised w.e.f. November 15, 2025.

# Customs Notifications

4. **Notification No. 31/2025-Customs (ADD) dated November 7, 2025:** Anti-dumping Duty imposed on import of Woven Fabric commonly known as ‘Flax Fabric’, originating in or exported from China PR and Hong Kong, under tariff heading 5309 for period of five years.
5. **Notification No. 32/2025-Customs (ADD) dated November 12, 2025:** Anti-dumping Duty imposed on import of ‘Hot Rolled Flat Products of alloy or non-alloy steel’ originating in or exported from Vietnam, under tariff headings 7208, 7211, 7225 and 7226 for period of five years.

# Customs Instructions

1. **Instruction No. 31/2025 dated November 3, 2025:** Officers are being informed about additional point of entry for imported food i.e. Air Cargo Complex, Kannur International Airport (Kerala), increasing the total to 166 authorised food import entry points.
2. **Instruction No. 32/2025 dated November 10, 2025:** Officers are being informed about DGFT Notification No. 44/2025-26 dated October 15, 2025 has amended the ITC (HS) 2022 – Schedule I (Import Policy). Such amendments align the Import Policy with the changes in Finance Act, 2025 (No. 7 of 2025).

# Foreign Trade Policy Updates

1. **Notification No. 47/2025 dated November 04, 2025:** Export policy for Red Sanders wood (log form & roots) of cultivation origin from private/patta land is amended. Export is restricted and permitted only under a Restricted Export Authorisation along with strict documentation and verification conditions introduced.
2. **Policy Circular No. 7/2025-26 dated November 11, 2025:** Clarification issued on the redemption process for Advance Authorisations affected by the erstwhile Rule 96(10) of the CGST Rules. Such procedure to be applicable on import made between October 13, 2017, and January 9, 2019, where IGST was paid in cash under the Advance Authorisation scheme. The circular addresses situations where Applicants paid IGST, Compensation Cess, or other levies (except Basic Customs Duty) without claiming exemption. It states that in such cases, the Export Obligation Discharge Certificate (EODC) should not be withheld, provided other conditions are met. Such measure aims to facilitate trade and resolve issues related to previous tax and foreign trade rule changes. The circular does not pertain to artificial intelligence.

# THANK YOU

See You Next Time

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