



# INDIA TRADE AND TAX SCAN

## WHAT'S INSIDE

### I. TAX UPDATES

#### DIRECT TAX - Notifications & Circulars from CBDT

- CBDT extends date for filing belated/revised returns to 15.01.2025
- CBDT extends due date for DTVS scheme payment from 31-12-2024 to 31-01-2025
- CBDT launches campaign in cases of income/transaction mismatch
- CBDT modifies Vivad se Vishwas Scheme and issues new FAQs

#### INDIRECT TAX - Notifications & circulars from CBIC

#### CUSTOMS

- Generation of electricity not permitted in a Customs warehouse
- Online Challan Facility for ICEGATE portal
- Out of Charge to be issued for Tier 2 and 3 AEOs on automated basis
- Functionality to be established for Import of LED Chips
- Exemption on Yellow Peas extended till February 28, 2025
- Procedure for routine sampling and testing of all varieties of rice prior to export discontinued

#### GOODS AND SERVICES TAX

- Circulars

#### GST COUNCIL MEETING UPDATES

- Rate reduction for the following goods and services
- GST Exemption on goods and services
- GST rate enhancement on goods and services
- Key legislative changes recommended by the Council

### II. SPOTLIGHT ON JUDICIAL PRONOUNCEMENTS

#### DIRECT TAX - International Tax Cases

- Switzerland suspends Most Favoured Nation (MFN) treatment for India

contd.

## WELCOME TO OUR TRADE AND TAX NEWSLETTER

We are pleased to present the fourth edition of our Trade and Taxation Newsletter, sharing important updates, key developments, and practical insights on trade and taxation, all tailored to help you stay ahead in an ever-changing regulatory environment.

We hope you find this newsletter useful and informative, and we look forward to your continued engagement.

While addressing criticism on GST, the Hon'ble Finance Minister Nirmala Sitharaman remarked,



*"Even I come from a middle-class family that lived on salaries. Do you think I don't understand these things?"*

TAX TRIVIA



### Sustainability and Tax

Reena Asthana Khair (Senior Partner)  
interviewed by Nishant Arora (Partner)



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## WHAT'S INSIDE

- Fee for Technical Services provided outside India by Non-resident not taxable Transactions between Head Office and Project Office are international transactions
- Preparatory or auxiliary activities not forming core business do not constitute PE
- Payment to US resident for warehousing space in US is not taxable in India
- Requirement to file Form 67 for foreign tax credit is only a directory requirement

### DIRECT TAX - Income Tax Cases

- Notices to company dissolved by order of NCLT is invalid
- A search case can be reopened under section 147 if conditions are satisfied
- Interest on refund is payable up to the date of refund
- Admission made in statement under section 132(4) has evidentiary value
- Expenses relating to security transactions are deductible against capital gain
- Loss incurred in Forward Foreign Exchange contracts is short term capital loss
- In a case of amalgamation consideration paid by assessee in excess of fair value of net assets eligible for depreciation on goodwill
- Severance compensation for loss of employment is capital receipt

### INDIRECT TAX - GOODS & SERVICES TAX

- Specific exclusion of telecommunication towers from 'plant and machinery' does not make it immovable property
- Delhi HC quashes Order passed u/s 73 for non-application of mind
- Karnataka HC quashes Order blocking the Electronic Credit Ledger for lack of pre-decisional hearing
- Refund of voluntary payment of amount as IGST cannot be denied on limitation
- Madras High Court allows re-credit of service tax paid under reverse charge as ITC in ECrL
- Delhi HC quashes 12-year-old SCN Proceedings for Inordinate Delay
- SC settles 15-year-old dispute over classification of Coconut oil- emphasizes classification basis intended use of product rather than size of packaging
- After Karnataka, Patna, Allahabad and Kerala High Courts, Telangana High Court also upholds validity of notification extending limitation for issuance of orders under Section 73 of CGST Act

contd.

## I.TAX UPDATES

### DIRECT TAX - Notifications & Circulars from CBDT

#### **CBDT extends date for filing belated/revised returns to 15.01.2025**

CBDT extends due date for filing belated and revised returns of income for resident individuals for Assessment years 2024-25 to 15-01-2025.

#### **CBDT extends due date for DTVSV scheme payment from 31-12-2024 to 31-01-2025**

CBDT has extended the due date for availing benefits of Vivad Se Vishwas Scheme from 31st December 2024 to 31st January 2025.

*[CBDT Circular No. 20 of 30th December 2024]*

#### **CBDT launches campaign in cases of income/transaction mismatch**

As part of a special campaign, CBDT is sending informational messages via SMS and email to individuals who are likely to have taxable income or who have entered into significant high-value transactions but have not filed their returns of income for the respective years. The campaign is also targeting cases where there is large mismatch between high value transactions entered by the taxpayer and the income disclosed in the return filed by them for the financial years 2023-24 and 2021-22.

The initiative is part of e-Verification Scheme, 2021 to persuade individuals who may not have fully disclosed their income in their returns of income to take corrective steps by voluntarily filing 'updated' returns for FY 21-22 by March 31, 2025 or revised/ belated returns for FY 2023-24 by December 31, 2024.

*[PIB release dated 17th December 2024]*

#### **CBDT modifies Vivad se Vishwas Scheme and issues new FAQs**

Direct Tax Vivad Se Vishwas Scheme 2024 was introduced to expedite resolution of income-tax disputes pending in appeals as of July 22, 2024. Now, CBDT has issued Guidance Note 2/2024 modifying and clarifying eligibility of various type of disputes pending in appeals which can be resolved under the Scheme. Key clarifications are as follows:



## WHAT'S INSIDE

### CUSTOMS

- Apex court rules that the subsequent purchaser of car not liable to pay Customs duty
- Refund of CVD/SAD paid towards fulfilment of export obligation eligible under GST's transitional provisions

### III. INTERNATIONAL TRADE BRIEF

- Appeals against Intimation under section 143(1) and cases set aside in appeal will be eligible under the Scheme
- The Scheme envisages settling disputes in full and not in part. Therefore, whatever issues are pending in an appeal are to be settled in full.
- In cases of transfer pricing adjustments, secondary adjustment under section 92CE provisions will be applicable for assessment years commencing after 1st April 2016.

*[CBDT Circular No. 19 of 2024, dated 16-12-2024]*

## INDIRECT TAX - Notifications and circulars from CBIC

### CUSTOMS

#### Generation of electricity not permitted in a Customs warehouse

The Central Government has prohibited any process or operations in a Customs warehouse which would result in generation / supply of electricity from goods imported for solar power generation projects.

*[Notification No. 86/2024-Customs (N.T.) dated December 16, 2024]*

#### Online Challan Facility for ICEGATE portal

The ICEGATE E-payment platform has been enabled to generate a challan for making voluntary payments by the importer through the portal, pursuant to an investigation, pre-deposit against appeals, penalty, interest, etc. However, this facility cannot be used for payment of customs duties for clearance of live consignments.

*[CBIC Circular No. 27/2024- Customs dated December 23, 2024]*

#### Out of Charge to be issued for Tier 2 and 3 AEOs on automated basis

Issuance of Out of Charge for Bills of Entry filed by an AEO registered as Tier 2 or Tier 3, will be automated on web-based registration, except for goods selected for examination, those requiring Participating Government Agency (PGA) related NOC, where assessment is not complete, or authentication of Bill of Entry by way of OTP is not complete for duty deferment.

*[Circular No. 01/2025 - Customs dated January 01, 2025]*



## Functionality to be established for Import of LED Chips

Depending on the application, LED chips can be classified under CTH 8535, 8541 and 9404. Accordingly, importers are required to upload Catalogue/ Technical Write-up/ End use/ Product Data Sheet/ User manual etc., to classification of LED chips.

*[Public Notice No. 20/2024 dated December 21, 2024]*

## Exemption on Yellow Peas extended till February 28, 2025

Import of Yellow Peas into India is exempted from payment of Basic Customs Duty and AIDC. Bills of lading issued on or before February 28, 2025, will be eligible for exemption.

*[Notification No. 49/2024- Customs dated December 26, 2024]*

## Procedure for routine sampling and testing of all varieties of rice prior to export discontinued

Consequent to withdrawal of export duty, and export of rice other than broken rice is free for export, the practice of drawing samples and testing the consignments for export before issuance of Let Export Order has been discontinued.

*[Public Notice No. 24/2024 dated December 04, 2024 – Vishakhapatnam port]*

## GOODS & SERVICES TAX

### Circulars

By Circular No. 243/37/2024-GST dated December 31, 2024, clarity on treatment of vouchers under GST, has been provided.

- **Transactions in Vouchers:** Vouchers may either be recognized as pre-paid instruments (money) or actionable claims. In both cases, transactions in vouchers are not treated as a supply of goods or services, though GST applies to underlying goods/services purchased using vouchers.

- **Distribution Models:** When vouchers are distributed on a principal-to-principal basis, trading margins are not subject to GST. However, commissions/fees earned by agents/distributors on behalf of issuers are taxable as services.
- **Additional Services:** GST is applicable to charges for services like advertising, co-branding, or customer support provided to voucher issuers.
- **Unredeemed Vouchers (Breakage):** Amounts from unredeemed vouchers are not considered a supply and are exempt from GST.

Circular No. 242/36/2024-GST, dated December 31, 2024, provides that suppliers must include the recipient's State name on tax invoices for services such as OIDAR (Online Information and Database Access or Retrieval), online money gaming, and other digital services like OTT platforms and e-magazines. This ensures the place of supply is accurately determined as the recipient's location, facilitating proper tax allocation to the respective State. Failure to record the recipient's State name may result in penalties under Section 122(3)(e) of the CGST Act.

Circular No. 241/35/2024-GST dated December 31, 2024, clarifies that goods are deemed "received" by the dealer for input tax credit (ITC) purposes when handed over to the transporter, as per Section 16(2)(b) of the CGST Act. This provision applies regardless of the physical location of the goods, provided delivery is made under the recipient's direction. In Ex-Works contracts, ITC eligibility arises when ownership transfers at the supplier's location, subject to the condition that goods are used for business purposes and other requirements under Sections 16 and 17 of the CGST Act. Non-compliance, diversion, or loss of goods may disqualify ITC eligibility.

Circular No. 240/34/2024-GST, dated December 31, 2024, clarifies that input tax credit can not be used by electronic commerce operators (ECOs) to pay tax on specified services (e.g., restaurant services) under section 9(5), and tax must be paid entirely through cash ledger. No proportionate reversal is required for these specified services.



## GST COUNCIL MEETING UPDATES

The 55th GST Council Meeting was held on December 21, 2024, when following recommendations were made:

### Rate reduction for the following goods and services

- To support economically weaker sections of society, the GST rate on Fortified Rice Kernels supplied through the Public Distribution System has been proposed to be reduced to 5% from 18%. Additionally, certain food inputs under Chapters 19 to 21, used for preparing meals distributed freely under various government welfare schemes to support EWS have also been extended the concessional GST rate of 5%.
- Benefit of IGST exemption on import of defence equipment such as systems, sub-systems, parts, sub-parts, tools, test equipment, software for assembly/manufacture of Long-Range Surface-to-Air Missile (LRSAM) Assembly systems which lapsed in July 2024, has been extended for a further period of 5 years- till July 2029.

### GST Exemption on following goods and services

- Gene therapy is proposed to be made fully exempted from GST, making cancer treatment less expensive.
- GST is proposed to be exempted on contributions made by general insurance companies from third-party motor vehicles premium, collected by them to Motor Vehicle Accident Fund which is used for providing compensation/ cashless treatment to victims of road accidents.
- It has been proposed that taxpayers registered under the composition levy scheme be excluded from scope of Sl. No. 5AB introduced in Notification No. 13/2017-CT, by which renting of immovable property for commercial purposes from unregistered person to registered person was made taxable under reverse charge. The exclusion has been given retrospective effect from October 10, 2024, i.e. the date from which Sl. No. 5AB was made effective.

- It has been proposed to clarify that GST is not payable on penal charges levied by banks/ NBFCs on borrowers for non-compliance with loan terms.
- It was proposed to clarify that the RBI regulated payment aggregators come within the meaning of an 'acquiring bank' and shall be eligible for GST exemption under Sl. No. 34 of Notification No. 12/2017- CTR dated 28.06.2017. Vide Sl. No. 34, services by an acquiring bank to any person in relation to settlement of an amount upto Rs. 2000 in a single transaction through credit card, debit card, or other payment card is exempt. However, such exemption does not extend to payment gateways and fintech services not involving settlement of funds.

### GST rate enhancement on following goods and services

- Rate on sale of old and used vehicles, including EVs, has been increased from 12% to 18% on supplier's margin, i.e. the difference between purchase price and selling price, and not on the entire value of vehicle. Further, GST is not applicable if the seller is an unregistered person, so this will mainly impact the profits of businesses dealing in sale of refurbished and used vehicles.
- W.e.f April 1, 2025, restaurant services in hotels proposed to be taxed at 18% GST with ITC if the accommodation rate exceeds Rs. 7,500 per unit in preceding FY, otherwise, it will be taxed at 5% without ITC. Further, hotels can avail the option to pay GST on restaurant services at 18% with ITC or at 5% without ITC, by submitting a declaration to that effect before the start of the financial year or upon registration.
- Supply of sponsorship services by body corporates which was subject to taxation under reverse charge, is proposed to be taxed according to forward charge mechanism.

### Key legislative changes recommended by the Council

- It is recommended to amend section 17(5)(d) of the CGST Act to replace the phrase "plant or machinery"



- retrospectively w.e.f July 1, 2017. This amendment effectively overturns the recent decision of the Supreme Court in Chief Commissioner of Central Goods and Service Tax v. M/s Safari Retreats Private Limited, by which it was held that buildings may qualify as a plant, based on facts and circumstances, and shall be eligible for ITC under Section 17(5)(d) of CGST Act.
- The pre-deposit for filing appeals in cases where only penalty is imposed, proposed to be reduced from 25% to 10%. A new Section 112(8) is proposed to be inserted setting a 10% pre-deposit requirement for penalty cases before the Appellate Tribunal.
- It is proposed to insert section 148A in the CGST Act to enforce a Track and Trace Mechanism for certain commodities which are prone to tax evasion, by marking the goods with Unique Identification Markings (UIM) on either good themselves or their packaging. This could result in increased compliance for businesses dealing in these specified commodities who might have to implement systems for marking and maintaining UMIs.
- A new Rule 16A is also proposed to be inserted in CGST Rules, 2017, vide which tax officers will grant temporary identification numbers to individuals who aren't usually required to register but are engaged in taxable activities.
- It is proposed to insert clause (aa) in Entry 8 of Schedule III of CGST Act with retrospective effect from July 1, 2017, to clarify that supply of warehoused goods within the SEZs or Free Trade Warehousing Zones (FTWZs) to a person before exports or clearance to DTA will neither be treated as supply of goods nor services. This entry seeks to bring supply of warehoused goods within SEZ/FTWZ at par with treatment under GST where supply of goods from customs bonded warehouse before clearance for home consumption is neither treated as supply of goods nor supply of services and hence GST is not leviable.

## II. SPOTLIGHT ON JUDICIAL PRONOUNCEMENTS

### DIRECT TAX - INTERNATIONAL TAX CASES

#### Switzerland suspends Most Favoured Nation (MFN) treatment for India

The Tax Treaty between India and Switzerland was amended in 2010 to introduce an MFN clause. It provided that any reduction in tax rates on dividends, interest, royalties, or fees for technical services that may be agreed by India under a later treaty between India and an OECD country would also apply to India-Switzerland Treaty. Subsequently, India entered into Tax Treaties with Lithuania and Colombia in 2011. These Treaties provided tax rate of 5% on dividend incomes. Lithuania and Colombia joined the OECD in 2018 and 2020 respectively, whereupon the Swiss authorities applied lower tax rate of 5% under the MFN clause on dividend income arising to Indian companies in Switzerland. However, CBDT vide Circular No. 3 of 3rd February 2022 took a stand that MFN clause would apply only where the subsequent Treaty is between India and a State that was a member of the OECD on the date of signing of the treaty. It further stated that the benefit would be available only after a formal Notification is issued in this regard.

Supreme Court in the case of Nestle SA, upheld the Income tax department's stand that MFN clause required formal notification under section 90 of Income Tax Act. This meant that the benefit of lower tax would not be available to Swiss companies earning dividend income from India.

In consequence Switzerland has now decided to suspend the MFN treatment for Indian residents with effect from January 1, 2025, on the ground of reciprocity. The Indian tax residents will remain eligible for lower tax rate of 5% on dividend incomes for the years 2018 to 2024 under the MFN clause, but from 1st January 2025 onwards the applicable tax rate would be 10%.



Burden on Revenue to prove that AMP expenses constitute international transaction

Supreme Court dismissed Special Leave Petition against an order of Delhi High Court holding that where Revenue is unable to demonstrate by tangible material that there is an 'international transaction' between the Indian subsidiary and its foreign parent involving AMP expenses, it cannot proceed to determine ALP of such expenses by inferring existence of an international transaction.

*[Commissioner of Income-tax v. Whirlpool of India Ltd.]*

### **Fee for Technical Services provided outside India by Non-resident not taxable**

A Singapore company provided software, engineering and infrastructure service provided to Deutsche Bank outside India. The Delhi Tribunal held that payment made by the Indian company for these services will not be taxable in India in the hands of the non-resident recipient since the services were provided by the non-resident outside India and the contract for services was concluded outside India.

*[HCL Australia Services Pty Ltd. v. DCIT - IT APPEAL No. 2298 of 2024 (Delhi - Trib.)]*

### **Transactions between Head Office and Project Office are international transactions**

A Special Bench of Tribunal held that Project Office being Permanent Establishment of the non-resident in India is an 'enterprise'. Therefore, the transactions between the Project Office and its Head Office are 'international transactions', which require to be benchmarked at arm's length price.

*[TBEA Shenyang Transformer Group Company Limited v. DCIT; IT APPEAL No.581 (AHD) OF 2017]*

### **Preparatory or auxiliary activities not forming core business do not constitute PE**

In the case of Western Union Financial Services, a US based company engaged in providing money transfer services which had established a liaison office in India, Delhi High Court held that since the activities undertaken by the liaison office were preparatory or auxiliary in character not forming core business of assessee, the liaison office would not constitute a PE.

*[Director of Income-tax v. Western Union Financial Services Inc ITA No. 1288 of 200, 18 December 2024]*

### **Payment to US resident for warehousing space in US is not taxable in India**

In a case where an Indian resident paid warehousing charges to a non-resident warehouse service provider in USA for utilising warehousing space in the USA, the Delhi Tribunal held that since the non-resident had no business activity in India, payment made to it was not an income chargeable to tax in India.

*[Avtec Ltd. v. ACIT, LTU; ITA No.1009 (DELHI) of 2015; November 29, 2024]*

### **Requirement to file Form 67 for foreign tax credit is only a directory requirement**

Kolkata Bench of the Tribunal held that requirement to file Form 67 for claiming foreign tax credit (FTC) was only a directory requirement and not a mandatory requirement. Therefore, credit for taxes paid in Netherlands cannot be denied for delay in filing Form No. 67.

*[Surendra Kumar Goenka v. ADIT; IT APPEAL NO. 1831 (KOL) of 2024, 5 December 2024]*

## **DIRECT TAX - INCOME TAX CASES**

### **Notices to company dissolved by order of NCLT is invalid**

Delhi High Court held that once the Scheme of Arrangement under the Insolvency and Bankruptcy



Code was approved by NCLT resulting in dissolution of transferor companies by operation of law, notices or proceedings against a dissolved company or one which no longer exists in law, would invalidate proceedings beyond repair.

*[International Hospital Ltd. v. DCIT Circle 12; IT APPEAL NO. 116 OF 2023]*

**A search case can be reopened under section 147 if conditions are satisfied**

Delhi High Court held that where conditions for assuming jurisdiction under section 153C were not satisfied but those relating to reopening under section 147 were satisfied, the assessment can be reopened on the basis of information received from the Investigation Wing.

*[Principal CIT v. Agroha Fincap Ltd. IT APPEAL NO. 218 OF 2024; NOVEMBER 20, 2024]*

**Interest on refund is payable up to the date of refund**

Delhi High Court held that interest under section 244A of the Income Tax Act on refund requires to be calculated till the date funds are released to the assessee and not only up to the date of order granting refund.

*[Nokia Solutions and Networks India (P.) Ltd. v. Additional CIT - W.P.(C) 11071 OF 2019]*

**Admission made in statement under section 132(4) has evidentiary value**

Telangana High Court held that an admission made in a statement under oath recorded under section 132(4) of Income tax Act, has evidentiary value unless it is pleaded that the admission was obtained through force or coercion etc.

*[Smt. Konda Sanjeeva Rani vs. ACIT; ITTA 205 & 206 of 2007; December 9, 2024]*

**Expenses relating to security transactions are deductible against capital gain**

Delhi Tribunal held that in a case where the assessee was engaged in dealing in shares and securities etc., expenditure on Portfolio Management Service directly relating to the securities transaction was allowable in computing capital gains, but general expenses for running the business cannot be deducted while computing capital gains.

*[ACIT v. Vireet Investments (P.) Ltd.; IT APPEAL No. 938 (DEL) of 2024, NOVEMBER 6, 2024]*

**Loss incurred in Forward Foreign Exchange contracts is short term capital loss**

Mumbai Bench of the Tribunal held that in the case of a Foreign Portfolio Investor engaged in Forward Foreign Exchange contracts with a bank to hedge amounts invested in Indian securities, losses incurred on rollover and cancellation of such contracts, would be short-term capital loss eligible for carry forward.

*[ACIT v. Emerging Markets Ltd.; IT APPEAL No. 2670 (MUM.) of 2024 November 5, 2024]*

**In a case of amalgamation consideration paid by assessee in excess of fair value of net assets eligible for depreciation on goodwill**

In a case of amalgamation, the Mumbai Bench of Tribunal held that consideration paid by the assessee in excess of the fair market value of net assets taken over and recorded in the audited financial statements of assessee as goodwill, would be eligible for depreciation on goodwill.

*[Dow Chemical International (P.) Ltd. v. DCIT - IT APPEAL NO. 3772 (MUM.) of 2023, November 25, 2024]*

**Severance compensation for loss of employment is capital receipt**

The Ahmedabad Bench of Tribunal held that severance



compensation paid upon termination of employment due to acquisition of the employer company by another company, was for loss of employment and not for past services. Therefore, it would be a capital receipt and not income chargeable to tax under section 17(3).

*[Sudhakar Ratan Shanker Gautam v. ITO - IT APPEAL NO.1033 (AHD) of 2024]*

## **INDIRECT TAX - GOODS AND SERVICES TAX**

### **Specific exclusion of telecommunication towers from 'plant and machinery' does not make it immovable property**

The Delhi High Court, relying on the recent decision of the Supreme Court in Bharti Airtel's own case [2024 (11) TMI 1042 - SUPREME COURT] quashed show cause notices issued under CGST Act, denying the benefit of input tax credit under Section 17(5)(d) by treating telecommunication towers as immovable property, as input tax credit on construction of immovable property except 'plant or machinery' is barred. The Delhi High Court held that specific exclusion of telecommunication towers from the expression 'plant and machinery', under Explanation to Section 17(5)(d), will not lead to a conclusion that the telecommunication towers are immovable property. Further, it also observed that although the decision of Vodafone and Bharti Airtel was under Central Excise, the generic principles would apply to the concept of immovable property, considering which the Supreme Court have explicitly held that telecommunication towers are moveable property.

*[Bharti Airtel Limited Vs Commissioner, CGST Appeals-1, Delhi (TS-839-HC(DEL)-2024-GST)]*

### **Delhi HC quashes Order passed u/s 73 for non-application of mind**

The Delhi High Court quashed the order passed by the Assistant Commissioner, DGST under Section 73(9) of the CGST Act, 2017, criticizing the order for replicating "template language" and exhibiting an "abject non-

application of mind." Despite a detailed reply by the Petitioner, the adjudicating authority dismissed the reply as "not comprehensible" without substantive reasoning and confirmed demand under the show cause notice. The Hon'ble High Court relied on its own decision in Xerox India Limited [2024 (12) TMI 1283] where an identically worded order was issued and quashed due to non-application of mind. The High Court remanded the matter with directions to finalize the proceedings on basis of reply filed by the assessee. This is a welcome intervention by the judiciary, compelling the revenue department to adjudicate matters on merits.

*[Sarens Heavy Lift India Pvt Ltd v. The Assistant Commissioner DGST & Ors, 2025 (1) TMI 255 – Delhi High Court; dated December 04, 2024]*

### **Karnataka HC quashes Order blocking the Electronic Credit Ledger for lack of pre-decisional hearing**

The Karnataka High Court quashed an order, blocking the taxpayer's Electronic Credit Ledger (ECrL) under Rule 86A of the CGST Rules, by observing that the revenue authorities failed to grant a pre-decisional hearing and did not establish independent reasons for invoking Rule 86A. The High Court also observed that the Order was issued by placing reliance on upon reports of Enforcement authorities which is impermissible in law, since the same is on borrowed satisfaction. Rule 86A mandates that the revenue authorities must have sufficient material on record to believe that input tax credit available in the ECrL is fraudulently availed. Since the order merely stated that the supplier was non-existent or not conducting business from registered place of business without giving any other reasons, it was held liable to be quashed.

*[M/S Klassic Traders V. the Secretary to Government Department of Revenue New Delhi, Additional Chief Secretary to Govt. Finance Department, The Commissioner of Commercial Taxes, The Assistant Commissioner of Commercial Taxes Bengaluru; 2025 (1) TMI 251- Karnataka High Court]*



### **Refund of voluntary payment of amount as IGST cannot be denied on limitation**

The Hon'ble Gujarat High Court held that application filed for refund of GST paid voluntarily, in course of self-assessment, which was not required to be paid by the assessee, will not be covered by Section 54 of the CGST Act and the same cannot be rejected by the authorities on ground of limitation. In this case, while undertaking assessment of bill of entry, the assessee had paid excess amount as IGST, by mistake, in absence of any liability. The refund application was filed after four (4) years after an explanation regarding excess payment was sought by GST authorities.

*[Aalidhra Texcraft Engineers & Anr. vs. UOI; (TS-853-HC(GUJ)-2024-GST)]*

### **Madras High Court allows re-credit of service tax paid under reverse charge as ITC in ECrL**

The Madras High Court directed the revenue authorities to allow recredit of service tax paid under reverse charge as ITC in its ECrL. This tax was paid belatedly on 30.12.2017, for royalty services received from government for the period of 2016-17. However, due to introduction of GST, they could not avail CENVAT credit for the same. Assessee applied for refund under Section 142(3) of CGST Act which deals with transitional provisions for carrying forward credit, but the claim was rejected by authority. Considering difficulties arising out of implementation of GST regime in the initial period, the High Court has denied cash refund but allowed the assessee to take recredit as ITC in its ECrL.

*[M/S. SRC Projects Private Limited v. The Assistant Commissioner of GST and Central Excise, Salem; 2025 (1) TMI 296 – Madras High Court]*

### **Delhi HC quashes 12-year-old SCN Proceedings for Inordinate Delay**

The Delhi High Court recently quashed a SCN issued under section 73(4B) of Finance Act, 1994 in 2011 as well as the Order passed pursuant to it in 2023 for

unreasonable delay in adjudication proceedings. The HC referred to its recent decision in Vos Technologies [2024 (12) TMI 624 – Delhi HC] and held that the prolonged delay of 12 years in adjudication of SCN was unjustified, and even if delay is being caused on account of assessee's repeated adjournment requests, the department always has an option of bringing the proceedings to finality by passing an order ex-parte. But delay was because of matter being remained in the call book for many years, which as a practice is in contravention of various circulars issued by the Board on this point. The High Court quashed the Order and held assessee to be entitled to consequential refund along with interest.

*[M/S Bhandari Builders Private Limited v. Union of India & Ors.; 2025 (1) TMI 67 – Delhi High Court]*

### **SC settles 15-year-old dispute over classification of Coconut oil- emphasizes classification basis intended use of product rather than size of packaging**

Reference was made to the larger bench of Supreme Court pursuant to divergent views of a division bench on classification of coconut oil as 'edible oil' under CTH 1513 or 'hair oil' under CTH 3305. The Apex court rejected the revenue department's reliance on the 'common parlance test' to claim that since pure coconut oil is often used as hair oil, it should invariably be classified as hair oil. For classification as hair oil under CTH 3305, oil must be in packaging that clearly states the product's intended use to be cosmetic, as is the requirement under Explanatory Notes to Chapter 33. Since specific heading exists under CTH 1513 for 'coconut oil' along with other oils, it will be classified under Chapter 15 unless the product is being marketed as for cosmetic use and satisfying conditions under Explanatory Notes to Chapter 33. Accordingly, the Court dismissed the revenue's appeal with no costs.

*[Commissioner Of Central Excise, Salem v. M/S. Madhan Agro Industries (India) Private Ltd; 2024 (12) TMI 1022 – Supreme Court (LB)]*



## After Karnataka, Patna, Allahabad and Kerala High Courts, Telangana High Court also upholds validity of notification extending limitation for issuance of orders under Section 73 of CGST Act

The Telangana High Court has concurred with the Patna and Allahabad High Court, to uphold the validity of the various notifications issued for extending the time limit under Section 73(10), for passing orders under Section 73(9). On the contention raised by the assessee, that some notifications seek to extend time limit under earlier notifications and not under the Section per se, the Hon'ble High Court held that Section 168A is wide enough and use of the words 'under the Act' also includes notifications issued under the Act. Therefore, extension of time limit by amending notifications is in valid exercise of power under Section 168A of CGST Act.

*[Brunda Infra Pvt. Ltd and Ors vs The Additional Commissioner of Central Tax (TS-01-HC(TEL)-2025-GST)]*

## INDIRECT TAX - CUSTOMS

### Apex court rules that the subsequent purchaser of car not liable to pay Customs duty

The Apex Court has dismissed the order of the Kerala High Court demanding Customs duty for import from a subsequent purchaser of car. The Apex Court held that the purchaser does not fall under the definition of an "importer" as provided under the Customs Act, as he is not the owner, beneficial owner or any person holding himself out to be an importer, during the time between the time of importation of the car till the time it is cleared for home consumption. The Apex Court clarified that the possessor of the car can be made liable only when the owner of the goods at the time of import is not known.

*[Nalin Choksey Vs the Commissioner of Customs, Kochi TS-605-SC-2024-CUST]*

## Refund of CVD/SAD paid towards fulfilment of export obligation eligible under GST's transitional provisions

The Telangana High Court upholds the order of the CESTAT, Hyderabad allowing the refund of the CVD/SAD paid post advent of GST, for regularisation of the shortfall in fulfilment of export obligation. The High Court affirms that the importer was entitled to claim credit of the amount paid after the CVD /SAD under the erstwhile law. However, after the advent of GST, the importer could not avail this benefit. Accordingly, in terms of the transitional provisions under GST, the High Court allowed the claim of refund for credit eligible to the importer of the CVD /SAD paid by them.

*[Principal Commissioner of Customs Vs. Granules India Ltd. TS-630-HC-2024 (TEL)- CUST]*

## III. INTERNATIONAL TRADE BRIEF

- Foreign Trade Policy 2023 amended to introduce trade facilitation measures with an option available to the Central Government for consultation with relevant stakeholders such as exporters/importers/industry experts to seek their views, suggestions, comments or feedback and also providing the mechanism on best endeavour basis, to inform reasons for not accepting views, suggestions, comments or feedback concerning the formulation or amendment of the Foreign Trade Policy. *[DGFT Notification dated January 2, 2025]*
- DGFT launches revamped Preferential Certificate of Origin (eCoO) 2.0 System with features such as Multi-User Access, E-Signature Options, Integrated Dashboard and Cost Sheet Digitization. The new system to be implemented from December 21, 2024. *[DGFT Trade Notice No. 23/2024-25 dated December 6, 2024]*
- India and Kuwait signed four Memorandum of Understandings in the areas of defence, sports and cultural cooperation during recent visit of Prime Minister to the Gulf nation.



- European Union and four Mercosur countries (Brazil, Argentina, Prague, and Uruguay) finalised negotiations for a groundbreaking partnership agreement which will provide opportunities in the field of geopolitical, economic, sustainability and security cooperation
- Country wise Quantity Restriction imposed on import of low ash metallurgical coke for a period of six months, effective from January 1, 2025, upto June 30, 2025. [DGFT Notification No. 44/2024-25 dated December 26, 2024]
- SION/Adhoc norms in respect of Menthol, earlier suspended by the DGFT have been re-instated with immediate effect. [DGFT Public Notice 35/2024-25 dated December 24, 2024]
- Minimum Import Price of Rs. 20,108 per MT is imposed on Disodium Carbonate (Soda Ash) covered under Chapter 28 of ITC (HS) 2022, Schedule-I (Import Policy), up to 30th June 2025. [DGFT Notification No. 46/2024-25 dated December 30, 2024]
- Minimum Export Price (MEP) on Natural Honey is extended beyond 31st December 2024 till 31st December 2025. [DGFT Notification No. 45/2024-25 dated December 30, 2024]
- Standard Input Output Norm for export of Propionic Anhydride under Chemical & Allied Product Group has been notified. [DGFT Public Notice No. 34/2024-25 dated December 17, 2024]
- Restricted import policy of synthetic knitted fabrics extended from January 1, 2025, to March 31, 2025, as minimum import price of 3.5 USD and above per kg fixed.[DGFT Notification No. 49/2024-25 dated January 4, 2025].
- DGTR terminates Anti-Dumping Investigation concerning imports of “Saccharin” originating in or exported from China PR.
- DGTR initiates various trade remedy investigations:

Type of Investigation	Product	Country/s	Date of Initiation
Safeguard	Non-Alloy and Alloy Steel Flat Products	All countries	December 19, 2024
Anti-Dumping	4,4 Diamino Stilbene 2, 2 Disulphonic Acid (DASDA)	China PR	December 27, 2024
Countervailing duty	Calcium Carbonate Filler Masterbatch	Vietnam	December 27, 2024

Anti-Dumping	“Monoisopropylamine” (MIPA)	China PR	December 30, 2024
Sunset review Anti-Dumping	‘Toluene Di-Isocyanate’ (TDI)	European Union and Saudi Arabia	December 30, 2024
Anti-Dumping	Sulphenamides Accelerator	China PR, European Union and United States of America	December 31, 2024
Anti-absorption review investigation of anti-dumping duty	‘Untreated Fumed Silica’	China PR	December 31, 2024

- Duties imposed or extended by the Ministry of Finance on import of the following products:

Type of Duty	Product	Country/s	Customs Notification No. & Date	Range of duties
Anti-Dumping	Textured Tempered Coated and Uncoated Glass”	China PR and Vietnam	26/2024-Cus (ADD) dated December 4, 2024,	565-677 USD/ MT
Anti-Dumping	Telescopic Channel Drawer Slider	China PR	27/2024-Cus (ADD) dated December 18, 2024	Nil-422 USD/ MT
Anti-Dumping	Digital Offset Printing Plates	China PR, Japan, Korea RP, Vietnam, and Taiwan	28/2024-Cus (ADD) dated December 26, 2024	Nil-0.77 USD/SQM



- Duties recommended by the Ministry of Commerce on following products:

Type of Duty	Product	Country/s	Final Findings Date	Range of duties
Anti-Dumping	Trichloro Isocyanuric Acid	China PR and Japan	December 10, 2024	276-986 USD/ MT
Anti-Dumping	vacuum insulated flask and other vacuum vessels, of stainless steel	China PR	December 19, 2024	1732 USD/MT
Anti-dumping	Soft Ferrite Cores	China PR	December 23, 2024	Nil to 35% of CIF
Anti-dumping	Poly Vinyl Chloride Paste Resin	China PR, Korea RP, Malaysia, Norway, Taiwan & Thailand	December 24, 2024	Nil-707 USD/ MT
Anti-dumping	Roller Chains	China PR	December 26, 2024	Nil-6.34% of CIF
Anti-dumping	Acrylic Solid Surfaces	China PR and Japan	December 26, 2024	Nil-0.18 USD/KG
Anti-dumping	Halobutyl-Rubber	Japan, Russia, Singapore, the United Kingdom and the United States of America	December 28, 2024	215-1487 USD/ MT



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