



# INDIA TRADE AND TAX SCAN

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## WELCOME TO OUR TRADE AND TAX NEWSLETTER

We are pleased to present the fifth 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.

### Not an April Fool's Joke



President Trump in his address has said:

*"It's very unfair. India charges us auto tariffs higher than 100%. This is happening by friend and foe. This system is not fair to the United States and never was.*

*And so on April 2, I wanted to make it April 1, but I didn't want to be accused of April Fool's day. April 2, reciprocal tariffs kick in."*

*"The unbridled exercise of the power to arrest without a warrant can result in arbitrariness and errors in decision making process. The arrest is to be made on the formulation of the opinion by the Commissioner, which is to be duly recorded in the reasons to believe."*

**Radhika Agarwal v. Union of India – SC Judgement**

**TAX TRIVIA**

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- Limitation of two years prescribed by Board for claim of refund of TDS is ultra vires
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- Gujarat HC holds assignment of leasehold rights to third party-assignee constitutes transfer of interest in immovable property, not a supply of service.
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## I. TAX UPDATES

### DIRECT TAX

#### Trump administration withdraws commitment to OECD global tax deal

The Trump Administration has formally directed a withdrawal of the United States' commitment to the OECD Global Tax Deal, also known as the two-pillar solution for Global Minimum Tax. The new US administration views the Deal as infringing on U.S. sovereignty and economic policy.

#### Guidance on Principal Purpose Test

CBDT has issued a detailed Circular providing guidance on the application of the Principal Purpose Test (PPT) under India's Double Taxation Avoidance Agreements (DTAAs). The Principal Purpose Test aims to prevent abuse of treaty provisions and ensure that the treaties are aligned with their original intent of facilitating genuine cross-border transactions while avoiding revenue leakage. Treaty benefits will be denied in cases where arrangements are primarily intended to secure tax advantage. The PPT will apply prospectively from the date of coming into force of the Multi Lateral Instrument (MLIs).

*CBDT Circular No. 01/2025 dated 21 January 2025*

#### Appeals against orders under section 201 would be covered under e-Appeals Scheme

CBDT has clarified that orders u/s 201 of the Income Tax Act shall not be considered as assessment orders. Therefore, appeals against orders under section 201 of the Act shall be decided by Joint Commissioner (Appeals) under the e-Appeals Scheme, 2023.

*CBDT Order F. No. 225/17/2025-ITA-II, Dated 28-1-2025*

#### Press Release giving Summary of changes in Income Tax Bill 2025

Income Tax Bill 2025 was introduced by the Finance Minister in Parliament on 13th February 2025 to replace the extant Income Tax Act, 1961. In a Press Release, also dated 13th February 2025, CBDT outlined the core principles and approaches in drafting the new Bill as under:

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## WHAT'S INSIDE

- Kerala High Court rules that issuing of a common Show-Cause Notice for multiple years is in violation of principles of natural justice
- High Courts cannot condone delay in filing appeal beyond time limit prescribed under CGST Act
- Karnataka HC holds that providing Set Top Boxes to subscribers amounted to 'transfer of right to use goods for a consideration'; confirms levy of VAT on sale of STBs

### CUSTOMS

- CESTAT rules that proper office must issue speaking order, where it seeks to revise the self-assessment by the importer
- Delhi High Court quashes IGST levy on re-import of goods sent abroad for repair and re-conditioning

### III. INTERNATIONAL TRADE BRIEF

- Textual and structural simplification for improved clarity and coherence.
- No major tax policy changes, to ensure continuity and certainty.
- No modifications of tax rates, preserving predictability for taxpayers.
- Eliminating intricate language to enhance readability.
- Removing redundant and repetitive provisions for better navigation.
- Reorganizing sections logically to facilitate ease of reference.

The new Bill on its enactment by the Parliament is expected to come into force from 1st April 2026.

## INDIRECT TAX

### CUSTOMS

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

Customs (On-Arrival Movement for Storage and Clearance at Authorised Importer Premises) Regulations, 2025 have been introduced for system based automated clearances. Under the regulations, Authorised Importers shall be given automated permission for storage by the Customs Automated System. The Authorised importers eligible for this facility are:

- a. Authorised Economic Operators with Tier II or Tier III status
- b. License bonded Private warehouse and special warehouses
- c. License bonded warehouses for manufacturing and other operations
- d. Importer of goods classified under headings 8517-8548

Regulations will come in force from a date to be notified by the Government.

*[Customs Notification 11/2025 -Customs (NT) dated February 17, 2025]*

#### **Refund process for Customs duty automated**

An online processing and disbursal of Customs duty refund application has been developed and enabled on the Customs Automated System. Refund application will now be filed and processed on the ICEGATE portal itself. The Board has also removed the concurrent audit process of the refund claim and shifted to post audit process.

*[Circular No. 05/2025 dated February 17, 2025, and Public Notice No. 17/2025 dated March 07, 2025]*



### **AIDC rate on import of Bourbon Whisky reduced**

AIDC rate on import of Bourbon Whisky (CTH 2208 30 11 and 2208 30 91] reduced from 100% to 50% to strengthen the India-US ties.

*[Notification No. 14/2025 -Customs dated February 13, 2025]*

### **NOC for final quarantine clearance on import of pet dogs and cats available round the clock at the port of entry**

On import of pet dogs and cats, owners are required obtain a 'NOC' certificate from Animal Quarantine and Certification Service Station (AQCS) for final quarantine clearance. To facilitate the pet owners, the NOC by AQCS will now be issued round the clock at the port of entry, where the import of pet dogs and cats are allowed, i.e., Delhi, Bengaluru, Hyderabad, Kochi, Mumbai, Chennai and Kolkata.

*[Circular No. 07/2025- Customs dated March 05, 2025]*

### **Bengaluru Airport & Air Cargo notified**

Bengaluru Airport & Air Cargo notified for stocking, segregation, Joint Inspection and disposal of confiscated Unmanned Aircraft Systems (UAS)/Unmanned Aerial Vehicles (UAV)/ Remotely Piloted Aircraft Systems (RPAS)/Drones.

*[Circular No. 06/2025 - Customs dated March 04, 2025]*

### **Application fee for fixation of brand rate to be paid per application and not per Shipping Bill**

CBIC has clarified that the fee for extending the time for submission of an application for fixation of rate under the Customs and Central Excise Duties Drawback Rules, 2017, is to be paid per application rather than per Shipping Bill.

*[Public Notice No. 08/2025 dated January 21, 2025]*

### **Customs Officers allowed to modify particulars on EDI system for BOE of bulk and liquid bulk cargo**

The EDI system has been updated, allowing officers to modify the quantity, invoice number, freight, and miscellaneous charges during the final assessment of the Bill of Entry for bulk and liquid bulk cargo.

*[Public Notice No. 18/2025 dated February 13, 2025]*

### **Mandatory additional qualifiers made voluntary for import of diamonds weighing less than one carat**

As per Circular No. 21/2024-Customs dated October 30, 2024, the previously mandatory additional qualifiers for Synthetic or Reconstructed Diamonds (Lab-Grown Diamonds), such as scientific name, IUPAC names, and brand name, have now been made voluntary for diamonds weighing less than one carat. However, these qualifiers remain mandatory for Lab-Grown Diamonds weighing more than one carat.

*[Circular No. 03/2025 dated January 29, 2025]*

### **Rajkot International Airport appointed as a Customs port**

Rajkot International Airport appointed as a Customs port for unloading of imported goods and the loading of export goods or any class of such goods.

*[Notification No. 09/2025 - Customs (NT) dated February 07,2025]*

### **Virochannagar Ahmedabad, Kishangarh and Dhirpur Kurukshetra appointed as ICDs**

Virochannagar Ahmedabad, Kishangarh and Dhirpur Kurukshetra appointed Inland Container Depot for unloading of imported goods and the loading of export goods or any class of such goods.

*[Notification No. 01/2025 - Customs (NT) dated January 14, 2025, Notification No. 04/2025 - Customs (NT) dated January 17, 2025, and Notification No. 05/2025 dated January 28, 2025]*

## **GOODS & SERVICES TAX**

### **Notifications**

Contd.



## Late fee waived for delayed filing of GSTR 9C

Waiver of late fees has been granted for taxpayers who have not filed their reconciliation statement in GSTR-9C for the financial years 2017-18 to 2022-23, provided it is submitted by March 31, 2025. GSTR-9C is a reconciliation statement that must be filed along with the annual return, GSTR-9. Any late fee already paid for these years will not be eligible for a refund.

*[Notification No. 08/2025 – Central Tax, dated January 23, 2025]*

## Government introduced Rule 16A for a temporary identification number

Pursuant to recommendations of the 55th GST council, government has introduced Rule 16A, which provides that a temporary identification number may be granted to persons who are not required to register under the CGST Act but are required to make payment, by passing an order in FORM REG-12. Rule 87 (4) is also amended accordingly.

*[Notification No. 07/2025 – Central Tax, dated January 23, 2025]*

- The CBIC has notified the effective date for certain rules in the Central Goods and Services Tax (Amendment) Rules, 2024:

With effect from February 11, 2025

(i) Currently, taxpayers are required to undergo Aadhaar authentication at the time of registration. With the insertion of a proviso to Rule 89(4A), applicants who choose not to opt for Aadhaar authentication must undergo physical verification. This process includes verifying original documents and capturing a photograph of the applicant (for individuals) or key persons such as the managing director, whole-time director, etc., in the case of non-individual applicants. The application will be considered complete only after successful verification. Failure to complete this verification may result in the application being deemed invalid.

(ii) CGST Rules amended to enable unregistered persons to generate e-way bill: Form GST ENR-03 has been introduced in the CGST Rules to enable unregistered persons to obtain a Unique Enrolment Number for generating e-way bill. Consequently, a proviso has been inserted in Rule 138(3) to clarify that after due verification of details furnished in Form GST ENR-03 either electronically or through facilitation centre, unregistered persons (URPs) will be granted a unique enrolment number.

With effect from April 01, 2025

(iii) ISD registration to be made mandatory for businesses receiving common input services - With Notification No. 16/2024-Central Tax (dated August 6, 2024), the Input Service Distributor (ISD) framework was made mandatory, effective from April 1, 2025. This change significantly impacts businesses that receive common input service invoices at a central location and distribute Input Tax Credit (ITC) across multiple branches. The procedure for distribution of credit by ISD under Rule 39 has been amended and will be effective from April 01, 2025. *[Notification No. 09/2025- Central Tax dated February 11, 2025]*

## Circulars & Instructions

### Clarification regarding the Amnesty Scheme

CBIC has issued a clarification regarding the Amnesty Scheme, stating that if the assessee has already paid the tax demand, they remain eligible for the scheme, even if the Department disputes the interest and/or penalty. In such cases, the assessee will receive a full waiver of interest and penalty.

*[Instruction No. 02/2025-GST dated February 07, 2025]*

### Penal charges levied by Regulated Entities (REs) such as banks and financial institutions for non-compliance with loan terms will not attract GST

Penal charges levied by Regulated Entities (REs) such as banks and financial institutions for non-compliance with loan terms will not attract GST. It has been clarified



that like liquidated damages, which are considered as payment for breach of contract and not a consideration for tolerating an act or situation, penal charges levied by REs will not be taxable.

### **Settlement of transactions up to Rs. 2000 by RBI regulated Payment Aggregators will be exempt from GST**

It has been clarified that settlement of transactions up to Rs. 2000 by RBI regulated Payment Aggregators will be exempt from GST under Sl. No. 34 of Notification No. 12/2017-CTR dated 28.06.2017. The Notification exempts services provided by 'acquiring banks' in relation to settlement of an amount upto INR 2000 in a single transaction transacted through a credit card, debit card, or other payment card services. The Circular clarifies that RBI regulated Payment Aggregators will fall within the definition of 'acquiring bank' and shall be eligible for the exemption. This exemption however is not available to Payment Gateway services which are entities that provide technology infrastructure to facilitate payment and are not involved in settlement of funds.

### **GST exempt on R&D services provided by government entities**

GST payment on research and development services provided by government entities, research associations, universities, colleges and other institutions against consideration received in the form of grants from government entities such as DRDO, CSIR, SERB was made exempt from GST with effect from October 10, 2024. Pursuant to such exemption, it has been clarified that GST payments for the past period i.e. July 01, 2017, to October 9, 2024, has been regularized on 'as is where is' basis.

### **Skilling services provided by National Skill Development Corporation (NSDC) exempt**

Skilling services provided by National Skill Development Corporation (NSDC) approved training partners was exempt from GST until October 10, 2024. Thereafter, the exemption was restricted to services provided by accredited training bodies recognized by

National Council for Vocational Education and Training (NCVET) only [Notification No. 08/2024 dated 08.10.2024]. However, the CBIC has reinstated the exemption w.e.f. January 16, 2025 [Notification No. 06/2025-CT (Rate) dated 16.01.2025], due to adverse impact on skilling sector and GST payment has been regularised on 'as is where is' basis for the interim period.

### **Tenant under composition scheme not liable to pay tax on renting of immovable property for commercial purposes**

W.e.f. October 10, 2024, a tenant registered under GST will be liable to pay tax on renting of immovable property for commercial purposes by unregistered landlord to registered tenant. W.e.f. January 16, 2025, if a tenant is registered under composition levy, no tax will be payable on such transaction. Consequently, payment of GST for such transactions has been regularized for the interim period on an 'as is where is' basis.

### **GST rates on popcorn**

Ready to eat popcorn mixed with salt and spices, when unpackaged will attract 5% GST, and when sold as packaged and labelled, will attract 12% GST. Popcorn when mixed with sugar changes becomes sugar confectionary, thereby classifiable under HS 1704 90 90 and will attract GST @18%.

*[Circular No. 245/02/2025-GST dated January 28, 2025 & Circular No. 247/04/2025-GST dated February 14, 2025]*

## **II. SPOTLIGHT ON JUDICIAL PRONOUNCEMENTS**

### **DIRECT TAX - INTERNATIONAL TAX CASES**

#### **Secondment of employees to Indian subsidiary does not create a PE**

The Delhi High Court ruled that in a case where there was no evidence that the seconded employees were engaged in activities contributing to foreign principal's



global business, the secondment arrangement will not by itself create a Permanent Establishment of the foreign company in India. The court pointed out that collaboration between a foreign parent company and its Indian subsidiary does not automatically constitute a PE unless there is significant control or business execution by the parent.

*PCIT Vs Samsung Electronics Co. Ltd. (Delhi), ITA 1029/2018, Dated 15th January 2025*

### **An intangible property cannot constitute a Permanent Establishment**

Delhi High Court held that a software installed in the Liaison Office of a US company in India to facilitate transfer of information and funds cannot constitute a Permanent Establishment of the US company in India. Articles 5(1) and 5(2) relating to Fixed Place PE envisage tangible premises and establishments in which business activities may be undertaken. An intangible property lacks the physical attributes which underlie the concept of PE.

*DIT vs Western Union Financial Services Inc. (Delhi); ITA 1288/2006, Dated 18th December 2024*

### **Department to prove that obtaining treaty benefit was principal purpose of taxpayer**

The Delhi Tribunal held that where the taxpayer is a tax resident of any jurisdiction having a substantial presence there, it would not be open for tax authorities to recharacterize the nature of any income, unless it is proved that the arrangement entered into by the taxpayer is a sham. The onus to prove this would be on the Assessing Officer.

*SC Lowy P.I. (LUX) vs ACIT (Delhi-Trib), ITA No. 3568 of 2023 dated 30th December 2024*

### **Interest paid on ECB loans for business outside India not taxable in India**

Delhi High Court held that interest/premium remitted by assessee in respect of borrowings incurred for purpose

of business carried on outside India and for earning income from sources outside India, would not be taxable in India in view of the exception carved under section 9(1)(v)(b).

*Sun Pharmaceutical Industries Ltd. vs ITO W.P.(C) 8444 of 2018 dated 31st January 2025*

### **Reimbursement of salary to seconded employees is not FTS**

In a case of secondment of employees, by a foreign company to an Indian company, Karnataka High Court held that where there is evidence of employer-employee relationship between the Indian company and the seconded employees, the reimbursement by Indian company of salaries of the seconded employees to the foreign company, was not Fee for Technical Services. Therefore, the Indian company was not required to deduct tax under section 195 on it.

*DCIT vs Flipkart Internet Pvt Ltd. Writ Appeal No. 992/2023, 12th February 2025*

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

### **Reduction in share capital comes in the definition of 'transfer'**

Supreme Court held that reduction in share capital of a subsidiary company and subsequent proportionate reduction in shareholding of the parent company would be squarely covered within ambit of expression 'sale, exchange or relinquishment of asset' as per the definition of 'transfer' in section 2(47) of the Income Tax Act.

*PCIT vs Jupiter Capital (P.) Ltd. SLP No. 63 of 2025, Order dated 2nd January 2025*

### **Action under section 153C cannot be taken for years not pertaining to the seized records**

Section 153C of Income Tax Act provides that where in a search action, documents relating to a third party are seized, and based on these the concerned Assessing



Officer is satisfied that income of such third party has escaped assessment he can initiate action to assess the same. Delhi High Court had earlier held that where material alluded to only one year action under section 153C cannot be taken for other years. A Special Leave Petition filed by Revenue against the High Court order was dismissed by the Supreme Court.

*PCIT Dev Technofab Ltd. SLP (Civil) 53711 OF 2024 dated 6th January 2025*

### **Offence of failure to file return occurs on the day following the due date**

In a case of prosecution for non-filing of tax return under section 139(1), the Supreme Court held that the point in time when offence under section 276CC could be said to be committed is the day immediately following the due date for filing of return. The actual date of filing a belated return would not affect it.

*Vinubhai Mohanlal Dobaria v. CCIT, Civil Appeal No. 19771 2025, 7th February 2025*

### **Assessment on a non-existent company cannot be remedied under section 292B**

Delhi High Court held that assessment order in the name of a company which had got merged with another company as per scheme of amalgamation and was therefore non-existent, is a fatal flaw which cannot be salvaged by taking recourse to section 292B of the Act.

*PCIT vs HCP Petrochem (P.) Ltd. ITA 763 of 2018, order dated 12th February 2025*

### **Limitation of two years prescribed by Board for claim of refund of TDS is ultra vires**

Delhi High Court held that limitation of two years for claiming refund of excess TDS as prescribed in CBDT Circular No. 7/2007, of 23rd October 2007 is ultra vires the provisions of the Income Tax Act.

*Sun Pharmaceutical Industries Ltd. vs ITO W.P.(C) 8444 of 2018 dated 31st January 2025*

### **Issue of notice in the name of deceased person is void**

Delhi High Court held that issue of notice under section 148 in the name of deceased person is invalid. It cannot be saved by reference to sections 159 and 292BB, of the Income-tax Act, 1961.

*Lal Chand Verma v. Union of India W.P.(C) No. 8184/2023 dated 8th January 2025*

### **In IBC cases new tax demands prior to Resolution Plan cannot be considered**

The Delhi Bench of Tribunal held that once a Resolution Plan is approved by NCLT under section 31 of the Insolvency and Bankruptcy Code, new claims by Income Tax Department for dues arising prior to the effective date of the Resolution Plan stand extinguished to the extent provided in Resolution Plan.

*ACIT vs GAIL Mangalore Petrochemicals; ITA No. 2843 (Delhi-trib) of 2024, 8th January 2025*

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

### **Supreme Court upholds validity of arrest provisions under GST**

The Hon'ble Supreme Court of India, in the case of Radhika Agarwal v. Union of India, has reinforced legal safeguards to ensure that customs and GST officers do not misuse their arrest powers. The judgment can be summarized as follows:

a. The Supreme Court ruled that **customs officers are not police officers** as they lack investigative powers under the Criminal Procedure Code (CrPC) and primarily focus on tax enforcement rather than criminal law enforcement.

b. The Court further held that a Magistrate can authorize the detention of a person arrested under the Customs Act in customs custody. However, such **detention must comply with Section 167(2) of the CrPC**, which provides safeguards against detention beyond 24 hours.





c. Customs officers are required to **maintain detailed records of all proceedings** related to arrests and investigations. These records must include the name of the informant, the name of the accused, the nature of the information received, the time of arrest, seizure details, and statements recorded during the investigation. This requirement ensures transparency and accountability in enforcement actions.

d. The Court reaffirmed that the **grounds of arrest must be provided by the customs officer** to the arrestee, as mandated by Article 22(1) of the Constitution and Section 50 of the CrPC. This principle was also upheld in the recent ruling in *Arvind Kejriwal v. Directorate of Enforcement*.

e. The Court clarified that the GST Act is not a complete code for search, seizure, and arrest. In situations **where the GST Act does not explicitly provide procedural guidance, the provisions of the CrPC will apply.**

f. Certain **key conditions must be met before an arrest is made.** Material evidence must be available before taking an individual into custody. The reasons for arrest must be recorded in writing, and the arrest should be based on admissible evidence rather than mere suspicion. Additionally, the arrested person must be informed of the grounds for arrest immediately.

g. Under Section 104(1) of the Customs Act, customs officers have the power to arrest individuals for specific offences. However, **arrests must be based on reasonable belief supported by evidence, and mere suspicion is not sufficient.** The classification of offences into bailable and non-bailable, as well as cognizable and non-cognizable, must be carefully considered before making an arrest. Similar conditions apply to arrests under Section 69 of the GST Act.

h. The Supreme Court reaffirmed the rights of arrested individuals, which include the **right to be informed of the grounds of arrest** under Article 22(1) of the Constitution and Section 50 of the CrPC, the **right to consult a lawyer** (though not throughout interrogation), **the right to inform a relative or friend**

**of the arrest** under Section 50A of the CrPC, and the **right to reasonable care for health and safety in custody** under Section 55A of the CrPC.

i. The Court emphasized that arrests should not be used as a tool of coercion or harassment. Any threat of arrest for tax recovery purposes is illegal, and judicial review remains available to challenge unlawful or arbitrary arrests.

j. The Court also held that it is not necessary for assessment to be completed, for purpose of arrest.

*[Radhika Agarwal v. Union of India & Ors. - 2025 (2) TMI 1162 – Supreme Court (LB)]*

### **Gujarat HC holds assignment of leasehold rights to third party-assignee constitutes transfer of interest in immovable property, not a supply of service.**

In this case, GIDC had allotted a plot of land to the lessee who constructed a building and further assigned leasehold rights of the land along with building to third-party assignee. The issue for determination was whether the assignment of leasehold rights of the land along with building by the lessee to a third-party assignee is a transaction of sale or supply of goods or services under GST.

The High Court held that in the first transaction i.e. when the GIDC allots plot of land along with right to occupy, right to construct, right to possess on long term lease basis, it is a supply of service as right of ownership of land remains with GIDC and will revert back on expiry of the lease period. However, in second transaction, transfer/ assignment of leasehold rights of land and building by the lessee in favour of assignee, divests lessee of all the absolute rights in the property. The HC relied on definition of 'immovable property' under General Clauses Act, Registration Act etc. and observed that leasehold rights is nothing but benefits arising out of immovable property and assignment of such leasehold rights effectively amounts to transfer of "immovable property", hence outside the purview of GST.



Following this decision, the Gujarat HC in *M/S. Kabir Instrument and Technology v. Union of India & Ors.* [2025 (1) TMI 1307, pronounced on January 22, 2025] also quashed Show Cause Notice involving similar issue.

*[Gujarat Chamber of Commerce and Industry & Ors. v. Union of India & Ors. (TS-03-HC(GUJ)-2025-GST), pronounced on January 03, 2025]*

**Kerala HC validates cross-empowerment; holds SGST/UTGST officers as 'proper officers' under CGST Act**

On reference being made by a single judge in a Writ petition, the High Court of Kerala has held that officers of State GST department have jurisdiction as proper officers to issue Show Cause Notices under Section 74 of CGST Act. Referring to Section 6(1) of the CGST Act, the High Court observed that the legislature inherently allows for cross-empowerment of State and Union Territory GST officers and absence of a notification does not negate jurisdiction of SGST/UTGST officers to act under CGST Act unless specific conditions are imposed by such notification. The High Court dismissed the writ petition.

*[Pinnacle Vehicles and Services Private Limited vs The Joint Commissioner (Intelligence and Enforcement) & Ors (TS-23-HC(KER)-2025-GST); pronounced on January 15, 2025]*

**Kerala High Court rules that issuing of a common Show-Cause Notice for multiple years is in violation of principles of natural justice**

The Hon'ble Kerala High Court recently dismissed a Writ appeal filed by the revenue department and upheld the single judge's Order, directing the department to issue separate orders for separate assessment years. The HC held that issuing a common notice for multiple assessment years restricts an assessee's right and ability to respond effectively to contentions for all the years covered in the notice, since time limit for adjudication of the notice under

Section 74(10) is determined on the basis of the earliest year for which the notice has been issued. In the present case, a common show cause notice was issued for financial years 2017-18 to 2023-24. The HC observed that if the limitation period under Section 74(10) is about to expire only for the earliest year in the consolidated notice, the assessee should not be forced to follow the same deadline for all subsequent years. Doing so would be in violation of principles of natural justice by denying assessee adequate opportunity to cross examine witnesses or adduce evidence for other years.

*[Joint Commissioner (Intelligence & Enforcement) v. M/S. Lakshmi Mobile Accessories (TS-94-HC(KER)-2025-GST) pronounced on February 05, 2025]*

**High Courts cannot condone delay in filing appeal beyond time limit prescribed under CGST Act.**

The Delhi High Court dismissed a batch of writ petitions challenging the Appellate Authority's decision, to reject the petitioners' appeals as time-barred under Sections 107 of the CGST Act. The HC held that when a statute itself creates a special and independent regime with respect to limitation for filing appeals, general provisions of Limitation Act will not apply.

*[Addichem Speciality LLP vs Special Commissioner I, Department of Trade and Taxes and Anr. (TS-60-HC(DEL)-2025-GST), pronounced on February 11, 2025]*

**Karnataka HC holds that providing Set Top Boxes to subscribers amounted to 'transfer of right to use goods for a consideration'; confirms levy of VAT on sale of STBs**

Karnataka HC dismissed a batch of writ petitions filed by a group of digital cable service providers and held that providing set-top boxes (STBs) to subscribers for a consideration constitutes a taxable sale under the Karnataka Value Added Tax Act, 2003 (KVAT Act). The petitioner companies installed set top boxes at



premises of subscribers and collected subscription fees on which service tax was being paid. The HC observed that STBs are tangible movable property that enable access to cable services and will qualify as “goods” under the KVAT Act. Further, the HC relied on decision of Bharti Telemedia where it was held that the cost of STB is included in the activation charges/ subscription charges and observed that the transfer of right to use the STBs is for a consideration, thus leviable to sales tax.

*[M/S Atria Convergence Technologies Ltd. & Ors. v. Deputy Commissioner of Commercial Tax & Ors. (2025 (2) TMI 883 – Karnataka High Court), pronounced on February 18, 2025]*

## INDIRECT TAX - CUSTOMS

### **CESTAT rules that proper office must issue speaking order, where it seeks to revise the self-assessment by the importer**

The CESTAT in an appeal held that insistence by the proper officer for adoption of a particular classification, is inappropriate, and contrary to the provisions of self-assessment and reassessment under Section 17 of Customs Act, 1962. CESTAT held the original order re-classifying the goods solely based on the classification proposed by the investigating agency, lacks legality as the proper officer did not pass a speaking order. CESTAT further held that it is mandatory for the proper officer pass a speaking order when it seeks to revise the importer's classification.

*[Daikin Airconditioning India Pvt Ltd Vs Commissioner of Customs (Import) TS-687-CESTAT-2024-CUST]*

### **Delhi High Court quashes IGST levy on re-import of goods sent abroad for repair and re-conditioning**

The Delhi High Court, in a case involving re-import of aircraft and its parts, that had been sent abroad for repairs, held that as the IGST had already been discharged on the value of repairs, the Customs Department's attempt to levy IGST a second time—

once by treating the transaction as an import of services and again as an import of goods was unjustified.

The Court held that a transaction cannot simultaneously be classified as both an import of services and an import of goods. It further ruled that the Department's attempt to recharacterize the supply or import of services as the supply of imported goods was unconstitutional. Additionally, the Court declared Notification No. 36/2021 unconstitutional to the extent that it seeks to impose an additional levy beyond the IGST under Section 5(1) by inserting the words "...tax and cess".

*[Interglobe Aviation Ltd Vs. Principal Commissioner of Customs ACC (Import), New Customs House & Others-Delhi High Court – Judgement pronounced on March 04, 2025]*

## III. INTERNATIONAL TRADE BRIEF

- India and the U.S. issue a Joint Statement following the visit by Prime Minister Modi to the US expressing mutual efforts to strengthen the India-U.S Comprehensive Global Strategic Partnership. The initiative aims to enhance partnership in defence, commerce, and technology.
- US issued a proclamation imposing a 25% ad valorem tariff on imports of Steel and articles and derivatives thereof from all sources, and Aluminium and articles and derivatives thereof from all sources, except Russia.
- DGFT notifies the procedure for implementing the 'diamond impost authorisation scheme' outlined in the Handbook of Procedure, 2023. [DGFT Public Notice No. 42/2024-25 dated January 21, 2025].
- Proportionate reduction in Average Export Obligation under EPCG Authorisation holder for exporters in specified sectors permitted where more than 5% of reduction in exports noticed compared to the previous year. [Policy Circular No. 11/2024-25 dated January 21, 2025]



- To alleviate difficulties in the process of closure of Advance Authorisation, due to inability of the system to capture complete details of description of shipping bills on account of space constraint in description columns in Shipping Bill, DGFT introduced alternative procedure. The Regional Authorities have been empowered to corroborate the description on the basis of self-attested copies of GST system generated e-invoices. [Trade Notice No. 32/2024-25 dated February 28, 2025]
- Guidelines for availing import authorisation for import of premium frozen duck meat into India notified. [Trade Notice 31/2024-25 dated February 13, 2025]
- Procedure for filing application for allocation of Tariff Rate Quota (TRQ) of Gold Bullion under India-UAE CEPA for FY 2025-26 notified. [Trade Notice 30/2024-25 dated February 12, 2025]
- Facility of online submission and online payments against Show Cause Notices and other proceedings under provisions of the FTD&R Act have been mandated. [Trade Notice 29/2024-25 dated February 11, 2025]
- Online module for filing Annual RoDTEP Return has been notified. [Trade Notice 27/2024-25 dated January 29, 2025]
- Exporters advised not to accept manually issued certificates of origin. [Trade Notice 28/2024-25 dated February 11, 2025]
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- Anti-dumping investigation concerning imports of Para Nitrotoluene (PNT) originating in or exported from the European Union terminated by the DGTR. [DGTR Termination Notification dated January 23, 2025]
- Anti-dumping duty investigation concerning imports of "Fasteners" originating in or exported from China PR terminated by the DGTR. [Final Findings dated February 7, 2025].
- **Amendment in export policy**

<b>Product</b>	<b>Change in export policy</b>
All products	The Schedule II (Export Policy) of ITC(HS), 2022, in sync with the Finance Act, 2024 including updated general notes to export policy notified. [DGFT Notification No. 50/2024-25 dated January 13, 2025]



Agarwood chips and powder, agar oil	State-wise annual export limits for Agarwood chips and powder obtained from artificially propagated sources increased from 25000 kgs to 151080 kg.  Further, state-wise annual export limits for agar oil increased from 1500 kgs to 7050 kgs subject to policy conditions as specified. <i>[Notification No. 52/ 2024-25 dated January 20, 2025]</i>
Wheat Flour (Atta) with Millets	Standard Input Output Norm (SION) E-136 amended to allow the export of Wheat Flour (Atta) with Millets. <i>[DGFT Public Notice dated February 7, 2025]</i>
De-oiled Rice Bran	Export of de-oiled Rice Bran prohibited till September 30, 2025,
Broken Rice	Time period for export to Senegal through NCEL has been extended for 1 month up to February 28, 2025
Raw Hair	Export policy amended from restricted to prohibited. However, export free if the FOB value is USD 65 or above per KG.

• Amendment in import policy

<b>Product</b>	<b>Change in import policy</b>
Tur/ Pigeon peas	Extension of free import policy extended up to March 31, 2026. <i>[Notification No. 51/2024-25 dated January 20, 2025]</i>
Platinum covered under ITC (HS) 71101110, 71101120 and 71101900	Import Policy of revised from "Free" to "Restricted" except for platinum alloy of 99% or more purity by weight of Platinum. <i>[Notification No. 60/2024-25 dated March 5, 2025]</i>



Calcined Petroleum Coke (CPC) and Raw Petroleum Coke (RPC)	Procedure for applications for allocation of quantities for use in the Aluminium Industry during FY 2025-26 by the eligible industry notified. <i>[Public Notice No. 48/2024-25 dated February 12, 2025]</i>
Glufosinate and its salts (Purity – Minimum 95% w/w)	Import free for CIF value Rs. 1289/- per kg and above, whereas restricted for CIF value below Rs. 1289/ kg. <i>[Notification No. 54/2024-25 dated January 24, 2025]</i>
Patrol or surveillance boat, air-cushion vehicle, remote-operated vehicle	Import policy revised from restricted to free with immediate effect. <i>[Notification No. 55/2024-25 dated January 29, 2025]</i>
Vintage Motor Vehicle	Classification of vintage motor vehicle has been revised to align with the Central Motor Vehicles Rules, 1989. <i>[Notification No. 58/2024-25 dated February 7, 2025]</i>

- 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
Countervailing Duty	Saccharin in all its forms"	China PR	Notification No. 01/2025-Customs (CVD) dated February 25, 2025	20% of duty
Anti-dumping duty	"Trichloro Isocyanuric Acid"	China PR and Japan	Notification No. 01/2025-Customs (ADD) dated March 7, 2025	276-986 USD/ MT
Anti-dumping duty	"Aluminium foil upto 80 microns, excluding aluminium foil below 5.5 microns for non-capacitor application"	China PR	Notification No. 02/2025-Customs (ADD) dated March 17, 2025	619-873 USD/ MT

Contd.



Anti-dumping duty	"Vacuum insulated flask and other vacuum vessels, of stainless steel"	China PR	Notification No. 03/2025-Customs (ADD) dated	1732 USD/ MT
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- Duties recommended by the Ministry of Commerce on following products:

Type of Duty	Product	Country/s	Final Findings Date	Range of duties
Anti-Dumping	'Glufosinate and its salt'	China PR	February 10, 2025	2998 USD/MT
Anti-Dumping	"Textured Tempered Glass"	China PR and Vietnam	February 10, 2025	570-664 USD/MT
Anti-subsidy	"Textured Tempered Glass"	Vietnam	February 11, 2025	593-664 USD/ MT
Anti-Dumping	"Titanium dioxide"	China PR	February 12, 2025	460-681 USD/MT
Sunset review Anti-dumping	"Sodium Citrate"	China PR	February 12, 2025	96.05-152.78 USD/MT
Anti-Dumping	'Azo Pigment'	China PR	March 12, 2025	513-1811 USD/MT
Anti-Dumping	"Vitamin - A Palmitate"	China PR, European Union and Switzerland	March 10, 2025	0.87-20.87 USD/KG

- Anti-dumping investigation initiated by the Ministry of Commerce:

Type of Duty	Product	Country/s	Date of Initiation
Anti-Dumping	"Poly Vinyl Chloride (PVC) Paste Resin"	European Union and Japan	January 24, 2025





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