



INDIA TRADE AND TAX SCAN

WHAT'S INSIDE

I. TAX UPDATES

DIRECT TAX

- CBDT issues guidelines for compulsory selection of cases for scrutiny

INDIRECT TAX

CUSTOMS

- New maritime laws enacted by the Government – The Bills of Lading Act, 2025 and the Carriage of Goods by Sea Act, 2025
- CBIC establishes IMWG committee and issues guidelines for export of items suspected to be covered under the SCOMET list
- New points of entry and Authorised officers appointed under the FSSAI Act and regulations for food import
- BCD and AIDC on cotton exempted w.e.f. August 19, 2025, till September 30, 2025
- DGFT exempts imports of DIA from Customs duties, no exemption for IGST and Cess
- Benefits of exemption from payment of BCD and IGST on imports of publicity materials, ticket stocks, etc., extended to "Air Canada"

GOODS AND SERVICES TAX

- GOM agrees to two-slab GST structure at 5% and 18%; 40% to continue on 'sin goods'
- Parliament passes Online Gaming Act, prohibits games involving monetary stakes
- GST Appellate Tribunal appears to be finally in sight
- CBIC eases DIN requirement for documents issued through the GST Portal

II. SPOTLIGHT ON JUDICIAL PRONOUNCEMENTS

DIRECT TAX - International Tax Cases

- Enforceable operational control of non-resident over functioning of Indian entity constitutes its Fixed Place PE
- Payments to non-resident telecom operators for interconnect services not Royalty
- Payments to non-resident company for cloud computing services not Royalty
- Payments to US company for repair and maintenance of aircrafts not taxable as Fee for Included Services
- Payments to US company for use of online learning platform not taxable as Fee for Included Services

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WELCOME TO OUR TRADE AND TAX NEWSLETTER

We are pleased to present the eighth 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.

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WHAT'S INSIDE

- Payments by Insurance company to non-resident brokers for services outside India not taxable in India
- Rights entitlements are different from shares of the company which issues these
- Reimbursement of remuneration of seconded employees not taxable

DIRECT TAX - Income Tax Cases

- Section 50C cannot be invoked in the case of purchaser
- Section 153C and not section 148 to be invoked in search cases against third parties
- Circle rate enhanced after date of agreement to sell not relevant for section 50C
- Section 40(a)(ia) not applicable in case of short deduction of TDS
- Proceedings under section 153C without specifying year-wise incriminating material void ab initio
- ESOP expenses reimbursed to parent company on actual cost basis allowable
- Short term capital loss on which STT is paid eligible for set off against capital gain on which STT is not paid

INDIRECT TAX - GOODS & SERVICES TAX

- Apex Court holds summons is not initiation of proceedings under GST; allows summons to be issued by central authorities when a notice has already been issued by state authorities
- GSTAT passes its first Order, holds a Subway franchisee guilty of not passing rate cut benefit
- Final adjudication order is a substantive safeguard, not mere formality; ensures right to appeal
- Late replies to Notices must be considered, if filed before passing Order
- No IGST payable on secondment of foreign employees
- Bunching of GST Show Cause Notices for multiple years impermissible
- Payment under protest cannot be held 'voluntary payment' / 'admission of liability'
- Purchaser cannot be penalized for supplier's default; ITC cannot be denied solely because of retrospective cancellation of supplier's registration, without examining genuineness of transaction

INDIRECT TAX- CUSTOMS

- Apex Court admits the appeal of the Customs department challenging the CESTAT order exonerating Adani Enterprises of circular trading
- Delhi HC directs provisional release of "Monin" brand flavoured syrups and food products due to perishable nature of the goods

INDIRECT TAX- SERVICE TAX

- Apex Court dismisses appeal filed by the Customs department beyond 567 days against SpiceJet

contd.

I) TAX UPDATES

DIRECT TAX

CBDT issues guidelines for compulsory selection of cases for scrutiny

Central Board of Direct Taxes has issued guidelines for compulsory selection of returns for Scrutiny during F.Y. 2025-26. These cover following types of cases:

- (a) Cases pertaining to survey under section 133A
- (b) Cases pertaining to Search & Seizure before 01.04.2025
- (d) Cases related to registration/ approval under various sections of the Act
- (e) Cases involving addition in earlier years on a recurring issue of law or fact
- (f) Cases related to specific information of tax evasion

Selection of other cases for scrutiny will be done through the Computer Assisted Selection System (CASS) only.

CBDT Notification F.No.225/37/2025/ITA-II, dated 13 June 2025

INDIRECT TAX

CUSTOMS

New maritime laws enacted by the Government – The Bills of Lading Act, 2025 and the Carriage of Goods by Sea Act, 2025

On August 8, 2025, the Ministry of Law and Justice ushered in a significant reform of India's maritime legal regime by notifying the *Carriage of Goods by Sea Act, 2025* and the *Bill of Lading Act, 2025*. These enactments repeal two colonial-era statutes—the *Indian Carriage of Goods by Sea Act, 1925* and the *Indian Bills of Lading Act, 1856*—and replace them with a modern framework better suited to contemporary international trade practices. The *Carriage of Goods by Sea Act, 2025* codifies the responsibilities, liabilities, rights, and immunities of carriers in relation to goods transported by sea from any Indian port to any port, whether within India or abroad. It mandates that every bill of lading or similar document of title issued in India must expressly state that it is subject to the Act, thereby ensuring uniformity and legal certainty. Importantly, in respect of bulk cargo, where the weight specified in the bill of lading has been certified by an independent third party, the bill will not constitute prima facie evidence against the shipper for receipt of goods by the carrier, limiting disputes over weight discrepancies. The Act also introduces clear provisions on loss, damage, and recovery procedures, including strict notice periods and a one-year limitation



WHAT'S INSIDE

III. INTERNATIONAL TRADE BRIEF

- US tariffs on Indian exports
- India-UK Free Trade Agreement
- Digital currency - A step towards regulatory framework in US
- Ministry of Finance imposed duty goods
- Duties recommended by the Ministry of Commerce on products

for claims, while recognising the growing role of digital documentation and electronic bills of lading.

The *Bill of Lading Act, 2025* complements this regime by vesting in consignees and endorsees all contractual rights and liabilities as though they were original parties, and by making bills of lading conclusive evidence of shipment against carriers. Together, these reforms strengthen accountability, reduce litigation, promote digitalisation, and align Indian maritime law with international conventions, significantly enhancing India's position as a reliable and modern trading hub.

CBIC establishes IMWG committee and issues guidelines for export of items suspected to be covered under the SCOMET list

DGFT has constituted an Inter-ministerial Working Group (IMWG), whose primary mandate relates to licensing recommendations, strategic risk assessment, and technical classification under SCOMET. In case of any ambiguity regarding whether a particular is covered under the SCOMET list, the final determination regarding the same will be made by the SCOMET cell at DGFT with the IMWG. The CBIC has recommended that the exporters should get this clarification in advance and prior to export to save unnecessary delays and cost.

A consolidated repository of various clarifications issued by SCOMET cell in respect of various items is available on CBIC website under the following link - <https://www.cbic.gov.in/entities/cbic-content-mst/MTcxMTI3>, which is updated periodically.

[Instruction No. 26/2025 - Customs dated August 14, 2025]

New points of entry and Authorised officers appointed under the FSSAI Act and regulations for food import

The CBIC has added 6 additional points of entry / port of import and Authorised officers (FSSAI officials and Customs officials) for food items, in addition to the already specified 159 entry points, as per the FSSAI Act, regulations and notifications.

The 6 additional points of entry and Authorised officers are:

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Sl. No.	Port Name	Port Code	State/UT	Authorized Officer
1	LCS Darranga	INDRGB	Assam	Superintendent/ Appraiser/Inspector/Examiner
2	SEZ – MEPZ SPECIAL ECONOMIC ZONE, CHENNAI	INMAA6	Tamil Nadu	Shri S. Pandiyaraja, Joint Director, Southern Region office, FSSAI
3	ICD RAIPUR	INRAI6	Chhattisgarh	Superintendent/ Appraiser/Inspector/Examiner
4	JUBILANT SEZ, VILAYAT GIDC, BHARUCH	INBHC6	Gujarat	Superintendent/ Appraiser/Inspector/Examiner
5	HBS SEZ PANOLI, BHARUCH	INPAO6	Gujarat	Superintendent/ Appraiser/Inspector/Examiner
6	BHUBANESWAR AIR CARGO	INBBI4	Orissa	Superintendent/ Appraiser/Inspector/Examiner

[Instruction No. 25/2025 - Customs dated August 06, 2025]

BCD and AIDC on cotton exempted w.e.f. August 19, 2025, till September 30, 2025

Imports of cotton, falling under CTH 5201, into India have been exempted from payment of Basic Customs Duty and Agriculture Infrastructure and Development Cess. The notification will come in force with effect from August 19, 2025, and shall remain in force up to and inclusive of September 30, 2025.

[Customs Notification No. 35/2025 dated August 18, 2025]

DGFT exempts imports of DIA from Customs duties, no exemption for IGST and Cess

DGFT has amended Para 4.61 and Para 4.63 of the Foreign Trade Policy 2023, with immediate effect, to exempt imports made under the Diamond Imprest Authorization (DIA) by an exporter with a Two Star Export House or above subject to certain conditions, from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty, Countervailing Duty, Safeguard Duty, Transition Product Specific Safeguard Duty, wherever applicable. Exemption from the whole of the Integrated Tax and Compensation Cess is not provided.

[DGFT Notification No. 25/2025-26 dated August 19, 2025]

Benefits of exemption from payment of BCD and IGST on imports of publicity materials, ticket stocks, etc., extended to “Air Canada”

By Notification No. 130/2010 - Customs dated December 23, 2010, exemption was granted to specified Airlines on imports of printed ticket stocks, Airway bills, printed materials bearing insignia, baggage tags and publicity materials. This exemption has now been extended to Air Canada from July 01, 2025.

[Customs Notification No. 32/2025 dated June 30, 2025]

GOODS & SERVICES TAX

GOM agrees to two-slab GST structure at 5% and 18%; 40% to continue on ‘sin goods’

This long-awaited reform of the GST framework, first introduced in 2017, will bring significant rationalisation of rates. Nearly 99% of items currently taxed at 12% will be reclassified under the 5% slab, while about 90% of goods and services in the 28% category will shift to 18%. The highest slab of 40% will continue to apply to ultra-luxury cars, tobacco, and other premium products. The reform is aimed at stimulating the economy, simplifying compliance, and ensuring wider access to goods and services at more affordable prices.

Parliament passes Online Gaming Act, prohibits games involving monetary stakes

While the Apex Court considers the applicability of GST on online gaming services, **the Lok Sabha has passed the Online Gaming Act**, introducing a comprehensive framework to regulate digital gaming in India. The legislation distinguishes between online games, online money games, and online social games. While online games broadly include those played on electronic or digital devices through the internet, whereas online money games—whether based on skill, chance, or both—requiring users to pay fees, deposit money, or stake valuables with the expectation of monetary rewards, are strictly prohibited. However, online social games, which involve no monetary stakes or winnings, will be permitted. The move aims to curb gambling risks while allowing recreational play.



GST Appellate Tribunal appears to be finally in sight

The Government recently appointed 52 judicial members and 33 technical members to the GST Appellate Tribunal (GSTAT). Justice (Retd.) Mayank Kumar Jain (ex-High Court Judge) joins as Judicial Member and Shri A. Venu Prasad (Retd. IAS) and Shri Anil Kumar Gupta (Retd. IRS) are appointed as Technical Members (State and Centre, respectively). While these initial appointments are a welcome measure, the industry awaits full operationality of the of all the state benches to tackle prolonged litigation, overburdening of High Courts, and denial of timely relief to taxpayers.

Notably, the principal bench of GSTAT has passed its first Order on August 05, 2025, against a subway franchisee in relation to an anti-profiteering matter. After September 30, 2024, the principal bench was authorized, to take up the pending anti-profiteering matters referred by the Competition Commission of India.

CBIC eases DIN requirement for documents issued through the GST Portal

CBIC has clarified that communications generated through the GST common portal, which already bear a verifiable Reference Number (RFN), do not require quoting of Document Identification Number (DIN). Since RFN itself is electronically verifiable on the GST portal, having both DIN and RFN on the same communication was creating duplication, and clarified to be unnecessary. Accordingly, CBIC has clarified that orders, notices, summons, and other communications issued via the GST portal with an RFN will be treated as valid communication even without a DIN.

[Circular No. 249/06/2025-GST, dated June 9, 2025]

II) SPOTLIGHT ON JUDICIAL PRONOUNCEMENTS

DIRECT TAX - INTERNATIONAL TAX CASES

Enforceable operational control of non-resident over functioning of Indian entity constitutes its Fixed Place PE

In a landmark judgment Supreme Court ruled that, enforceable control of the non-resident company over strategic, operational, and financial dimensions of the business of the Indian entity together with continuous presence and oversight by its employees over its functioning to ensure that its hotel operated efficiently, constitutes fixed place Permanent Establishment of the non-resident in India. The judgment expands the concept of 'fixed place PE' by holding that the fixed place need not be a particular defined or designated space. The Court held that functional presence of the non-resident on long term basis through frequent visits of its employees and use of premises of the Indian entity will be sufficient to show that the premises were in substance at the disposal of the non-resident, provided that the arrangement satisfies tests of stability, productivity, and dependence.

Hyatt International Southwest Asia Ltd. v. ADIT (SC) Civil Appeal Nos. 9766 to 9773 of 2025, July 24, 2025

Payments to non-resident telecom operators for interconnect services not Royalty

Supreme Court dismissed SLP against the judgment of Delhi High Court holding that payments made by the assessee to non-resident telecom operators for providing inter-connect services do not constitute royalty and tax was not deductible for remitting the same to the non-resident.

DCIT vs Maxis International SDN BHD, SLP (Civil) Diary No(S). 34066 of 2025, July 25, 2025



Payments to non-resident company for cloud computing services not Royalty

Delhi High Court held that the Indian users of cloud computing services provided by a US company did not acquire any right for commercial exploitation of the infrastructure and software of the US company. Therefore, charges paid by the Indian customers were merely for availing services provided by the US company using its proprietary equipment and other assets. The same cannot be considered as royalty under Article 12 of India- US Tax Treaty.

CIT v. Amazon Web Services Inc. (Del) ITA No. 150 /2025, MAY 29, 2025

Payments to US company for repair and maintenance of aircrafts not taxable as Fee for Included Services

Delhi High Court in the case of a US company providing maintenance and repair services to Indian aircraft operators, held that these services do not involve transfer of technology, know-how or skill, to the Indian customers. Therefore, the charges paid for the same do not come within the definition of Fee for Included Services (FIS) under Article 12 of India-US Tax Treaty.

CIT v. Goodrich Corporation - (Delhi)IT Appeal No. 173 of 2025 dated May23, 2025

Payments to US company for use of online learning platform not taxable as Fee for Included Services

Delhi High Court in the case of a US company providing online courses and degrees from leading universities through its global online learning platform, held that the assessee did not provide any technical knowledge, experience, skill, know-how etc. Therefore, the fee charged by it from the Indian users of its online learning platform were not chargeable to tax in India as Fees for Included Services (FIS) under India-US Tax Treaty.

Commissioner of Income-tax v. Coursera Inc. (Delhi) IT Appeal No. 157 of 2025, May 19, 2025

Payments by Insurance company to non-resident brokers for services outside India not taxable in

- India

Madras High Court in the case of an insurance company, held that since the company had paid reinsurance premium to non-resident reinsurers who were acting as independent brokers providing facilitation services outside India, the company was not required to withhold tax at source on these payments as these were not taxable in India. Therefore, such payments could not be disallowed under section 40(a)(i) of the Income tax Act.

PCIT v. Chola mandalam MS General Insurance. (Madras) T.C.(A). No. 193/2023 January 9, 2025

Rights entitlements are different from shares of the company which issues these

Income Tax Appellate Tribunal, Mumbai Bench held that Rights entitlement are not by themselves shares of the company that issues these. These only grant right to the shareholder to subscribe to new shares of the company but are different and distinct from shares. Therefore, short-term capital gains earned by assessee, a Saudi Arabian company, on sale of rights entitlement will not be covered by Article 13(6) of India-Saudi Arabia Tax Treaty. Such gain will be taxable only in Saudi Arabia.

General Organization for Social Insurance v. ACIT - (Mumbai - Trib.) ITA1408 (MUM.) of 2025, May 22, 2025

Same view was taken by the Tribunal in the case of a tax resident of Ireland to whom India-Ireland Tax Treaty applied.

Vanguard Emerging Markets Stock Index Fund Vs ACIT (ITAT Mumbai) ITA No. 1277(Mum.) of 2025]

Reimbursement of remuneration of seconded employees not taxable

Delhi Bench of the Appellate Tribunal held that payment towards reimbursement of cost of seconded employee by the Indian entity to the US entity does not come within the definition of Fees for Included Services (FIS) as defined under Article 12 of India-US Tax Treaty.



Ernst & Young U.S. LLP v. ACIT, IT Appeal No.1243 (Delhi) of 2025 dated July 31, 2025

DIRECT TAX - INCOME TAX CASES

Section 50C cannot be invoked in the case of the purchaser

Supreme Court dismissed SLP against the judgment of Delhi High Court which had held that section 50C of Income tax Act relating to substitution of fair market value of property in place of declared sale consideration for the purposes of computation of capital gains arising to vendor, cannot be invoked in the case of purchaser.

Principal Commissioner v. Sharan Svadha LLP, SLP (Civil) Diary No. 23856/ 2025 JULY 2, 2025

Section 153C and not section 148 to be invoked in search cases against third parties

Supreme Court dismissed SLP against the judgment of Rajasthan High Court which had held that in cases of search and seizure where incriminating material showing escapement of income is recovered against a third-party, action to assess it can be taken only under section 153C of the Income Tax Act and not under section 148.

ACIT v. Pramod Jain SLP (Civil) Diary No. 24444/2025, JULY 17, 2025

Circle rate enhanced after date of agreement to sell not relevant for section 50C

Delhi High court in a case relating to computation of capital gain on sale of immovable property, held that if the Circle Rate for stamp duty purposes is enhanced after the execution of the agreement to sell, then the enhanced rate will not be relevant for determining its fair market value under section 50 C of Income Tax Act.

PCIT v. Thomson Press (India) Ltd. ITA No. 192/ 2025 JULY 2, 2025

Section 40(a)(ia) not applicable in case of short deduction of TDS

Section 40(a)(ia) of Income Tax Act provides that where a taxpayer has not deducted TDS in respect of any expenditure on which such TDS was deductible, then the expenditure will not be allowed as a deduction against its taxable income. Uttarakhand High Court held that the provision applies only to cases of non-deduction of TDS and not to cases where TDS was short deducted.

CIT Vs Samsung Heavy Industries Company Limited ITA NO. 10/2024, JULY 10, 2025

Proceedings under section 153C without specifying year-wise incriminating material void ab initio

Chennai Bench of Appellate Tribunal declared assessment proceedings void ab initio in a case where the Assessing Officer had invoked powers of section 153C of the Income Tax Act by recording a satisfaction note without specifying therein year-wise incriminating material and instead merely mentioning various assessment years and total estimated undisclosed income.

Rangamani Krishnan v. DCIT, IT Appeal Nos. 453, (Chny)/2025, JULY 17, 2025

ESOP expenses reimbursed to parent company on actual cost basis allowable

Appellate Tribunal Mumbai Bench held that payments made by the assessee company to its parent in respect of Employee Stock Option Plan and International Stock Ownership Plan in respect of its employees on actual cost basis will be an admissible deduction in computing its taxable income for the relevant previous years.

Procter & Gamble Hygiene and Health Care Ltd. vs NFAC, ITA No. 3518 (Mum.)/2025 JULY 31, 2025

Short term capital loss on which STT is paid eligible for set off against capital gain on which STT is not paid

Appellate Tribunal Mumbai Bench held that short term capital loss arising on sale of securities on which Securities Transaction Tax (STT) was paid can be set off against short term capital gain on which STT is not paid.



Eastspring Investments India Equity Open Ltd Vs DCIT ITA No.1219 (MUM)/2025, MAY 9, 2025

INDIRECT TAX - GST CASES

Apex Court holds summons is not initiation of proceedings under GST; allows summons to be issued by central authorities when a notice has already been issued by state authorities

While interpreting provisions regarding cross empowerment of state and central GST officers under Section 6 of the CGST Act, the Hon'ble Supreme Court has recently held that issuance of summons cannot be construed as initiation of proceedings under GST.

In the present case, the state GST authorities issued a show cause notice to the Petitioner under Section 73 of CGST Act, thereby initiating proceedings. Subsequently, the Central GST officers conducted a search at the petitioner's premises, seized certain gadgets and documents, and issued multiple summons to the Petitioner. Aggrieved, the Petitioner filed a writ petition challenging the parallel proceedings initiated by central authorities by issuing summons, which was dismissed.

On appeal before the Apex Court it was observed that issuing summons is merely a step in an inquiry or investigation to gather information, while initiation of any proceedings as contemplated under Section 6(2) of the CGST Act refers to formal commencement of adjudicatory proceedings through issuance of a show cause notice. Until the notice is issued, the department retains the discretion not to initiate proceedings. The Court further noted that that the bar under Section 6(2) is on initiation of parallel proceedings on same subject matter. However, at summons stage it cannot be predicted that subject matter of the proceedings will be identical. The Court also laid down certain guidelines for cases where after the commencement of an inquiry or investigation by one authority, another inquiry or investigation on the same subject matter is initiated by a different authority, further validating it to be permissible. Accordingly, the petition was dismissed.

[M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate & Anr., (2025 (8) TMI 991 - Supreme Court); pronounced on August 14, 2025]

GSTAT passes its first Order, holds a Subway franchisee guilty of not passing rate cut benefit

The Order emanated from a consumer complaint, pursuant to which, an investigation was launched by the Directorate General of Anti-profiteering (DGAP), and a notice was issued to M/s Urban Essence – a franchisee of M/s Subway India. It was observed that the unit sale prices of various products of assessee remained unchanged, even after GST rate on restaurant services was reduced from 18% to 5% (without benefit of ITC), because the assessee had increased the base prices of different items supplied as part of restaurant service to make up for denial of ITC post GST reduction. Accordingly, the Tribunal held that the assessee has denied benefit of tax reduction to the customers and profited a sum of Rs. 5,47,005. The Tribunal directed the assessee to deposit this amount to the consumer welfare fund.

[Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs Versus Urban Essence, (2025 (8) TMI 1123 – GSTAT New Delhi; pronounced on August 05, 2025]

Final adjudication order is a substantive safeguard, not mere formality; ensures right to appeal

The Supreme Court has held that a final speaking Order must be passed in case of detained goods, even when tax and penalty are paid by assessee for release of the said goods. In the present case, a consignment of goods was detained and a notice was issued to the appellant under Section 129(3) of the CGST Act. The appellant filed a detailed reply, denying all allegations. However, in view of business exigencies, the appellant also deposited tax and penalty amount, as specified in the notice, through DRC-03, to secure release of the goods. The goods were released, but no final order under Section 129(3) was passed thereafter. The appellant filed several letters to the department, requesting for issuance of the Order so that they may pursue their statutory remedy of appeal, but the Department denied, holding that since voluntary payment was made by appellant and goods were released, proceedings were deemed to be concluded. Aggrieved, the appellant filed a writ petition before the Allahabad High Court, but the same was dismissed. The Supreme Court set aside the Order and held that



every show cause notice must culminate in a final reasoned final order. Payment made under protest to obtain release of goods, especially when a reply denying the allegations of notice has been filed, cannot be construed as admission of liability. The officer has a statutory duty to pass a formal Order of demand and upload it along with summary of the Order in Form DRC 07 on the portal. Further, the apex court also emphasized that the right of appeal under Section 107 arises only against an order. Failure to pass a speaking order frustrates this appellate remedy, which is violative of principles of natural justice, and may offend Article 265. The Court therefore directed the officer to pass a reasoned order under Section 129(3) after hearing the appellant and to upload the summary in DRC-07 within one month.

[ASP Traders vs. State of U.P. & Ors. (TS-653-SC-2025-GST); pronounced on July 24, 2025]

Late replies to Notices must be considered, if filed before passing Order

The Calcutta High Court has recently held that a reply to show cause notice must be considered even if filed after the time limit prescribed in the Notice, provided the same was filed before adjudication Order was passed. In the present case, the adjudicating authority passed a demand Order without taking into consideration the reply filed by the Petitioner, holding that it was filed after the time of 30 days prescribed in the notice. The Petitioner challenged this Order before the appellate authority, which dismissed the appeal. The High Court, set aside the Order and held that the detailed reply filed by the Petitioner should have been considered by the adjudicating authority while passing the Order, since the same was filed before disposal of proceedings. Accordingly, the High Court remanded the matter for re-adjudication on merits, with directions to give the Petitioner a fair of opportunity of representation.

[Nanda Kishor Saha v. The Union of India & Ors.; (TS-676-HC(CAL)2025-GST), pronounced on July 16, 2025]

No IGST payable on secondment of foreign employees

The Karnataka High Court has held that secondment of employees by a foreign group company to its Indian affiliate does not amount to taxable supply of manpower services and thus is not liable to IGST under reverse charge. In the present case, the overseas group companies of the Petitioner deputed certain employees in India for a fixed tenure. The petitioner had executed employment contracts with these expats and they worked under their exclusive administrative and functional control. During the term of secondment, the expats were placed on the payroll of the Petitioner who paid the salaries directly to the employees, barring a few components, such as social security contributions or benefits mandated under laws of home country, which were paid by the foreign group company and later reimbursed by the Petitioner. Despite this, the department raised an IGST demand of nearly ₹58 crores, alleging import of manpower services by Petitioner, taxable under GST.

The High Court distinguished the present case from the Hon'ble Supreme Court's ruling in Northern Operating Systems on facts, and observed that in secondment agreements, certain factors need to be considered on factual basis, such as, 'who bears the economic burden and controls long term employment', 'how salary is paid directly by the Indian entity or via the foreign company', and 'whether the secondee is absorbed into the Indian organization or reverts to the foreign entity post-assignment'.

It was held that the arrangement reflected a genuine employer-employee relationship, covered under Schedule III of the CGST Act. Referring to the CBIC Circular No. 210/4/2024-GST, the high court clarified that when no invoice is raised by the domestic entity for services rendered by foreign affiliate, and full credit is available to domestic entity, the taxable value is deemed to be 'Nil'. The High Court quashed the Order holding that the secondment arrangement does not give rise to any tax liability under GST.

[Alstom Transport India Ltd. vs. Commissioner of Commercial Taxes & Ors. (TS-647-HC(KAR)-2025-GST); pronounced on July 15, 2025]

Bunching of GST Show Cause Notices for multiple years impermissible

The Madras High Court recently set aside a single assessment Order confirming tax demand of about Rs. 30 crores, along with interest and penalty, passed for six separate financial years (2017-18 to 2022-23). It was held that issuing a common show cause notice covering multiple financial years and passing a single adjudication order for such periods is impermissible under GST law and amounts to jurisdictional overreach. The High Court observed that the statute provides a clear bar for issuance of single show cause notice and thereafter Order for multiple years, since, each financial year is treated as a separate tax period under GST law. Issuance of notice is based on filing of monthly or annual return. No return is filed for more than one financial year; therefore, no show cause notice can be issued for more than one financial year. It was also highlighted that the limitation period for issuing Order under Section 73(10)/74(10) applies separately for each year, reinforcing the requirement of individual assessment Orders.

The High Court further noted that bunching multiple years prejudices the assessee's right to file year-specific replies, contest demand for specific years while settling others, or explore other remedies like compounding or amnesty schemes year-wise.

[R A and Co vs The Additional Commissioner of Central Taxes, South Commissionerate; (TS-644-HC(MAD)-2025-GST); pronounced on June 21, 2025]

Payment under protest cannot be held 'voluntary payment'/'admission of liability'

In a recent ruling, the Himachal Pradesh High Court has clarified that payment made under protest cannot be treated as an admission of liability under GST. In the present case, an audit memo was issued to the Petitioner, informing them about alleged wrongful availment of ITC. The Petitioner filed a detailed reply to the audit observations, along with requisite documents, however, notice was issued, directing the petitioner to reverse the alleged wrongful ITC along with interest and penalty.

Due to continuous pressure from the state tax authorities, the Petitioner reversed the ITC under protest through DRC 03. Despite this, the Commissioner, State Taxes and Excise passed an Order under Section 74, imposing interest and penalty, without determining tax demand, by treating the amount deposited under protest, to be an admitted liability.

The High Court held that deposit under protest cannot be voluntary payment towards admitted liability, because the necessary corollary of deposit under protest is that the amount has been deposited without admitting the liability and inherent therein is his right to challenge the order. Setting aside the Order, the High Court directed the authorities to issue a fresh Order limited to the disputed tax amount, to enable the Petitioner to challenge it before the Appellate Authority.

[Shyama Power India Ltd. vs. State of H.P. & Ors. (TS-555-HC(HP)-2025-GST); pronounced on June 19, 2025]

Purchaser cannot be penalized for supplier's default; ITC cannot be denied solely because of retrospective cancellation of supplier's registration, without examining genuineness of transaction

The Allahabad High Court recently quashed an Order denying ITC to the petitioner, where the petitioner had rightly paid tax against valid invoices, but the supplier had not deposited the same with the government. The Petitioner, a registered supplier, availed services of recharged coupons from M/s Bharti Airtel Ltd. against valid invoices and claimed credit against the same. However, citing Section 16(2)(c) of the CGST Act, the department denied the credit to petitioner on the ground that Bharti Airtel had not deposited the corresponding tax with the government.

The High Court quashed the Order and held that under CGST Act, a purchaser cannot compel the seller to file returns and deposit the tax amount with government, therefore, purchasing dealer cannot be left at the mercy of the selling dealer. It was observed that once the purchaser has acted diligently and in good faith, it is the department's responsibility to proceed against the defaulting supplier.



Soon after, a similar view was taken by the Himachal Pradesh High Court as well, where it quashed an Order denying ITC to the petitioner solely on the ground that the GST registration of the supplier had been cancelled retrospectively, post supply of goods. It was held that before taking any action, authorities must first verify the genuineness of the transaction and examine all relevant documents, which was not done in the present case. The matter was remanded back to the Adjudicating Authority for fresh consideration after giving the petitioner a proper hearing.

[R.T. Infotech. Vs Additional Commissioner Grade 2 And 2 Others (TS-501-HC(ALL)-2025-GST); pronounced on May 30, 2025];
[M/s Himalaya Communication Pvt. Ltd. v. Union of India and Others (2025 (6) TMI 586 - Himachal Pradesh High Court); pronounced on June 06, 2025]

INDIRECT TAX - CUSTOMS

Apex Court admits the appeal of the Customs department challenging the CESTAT order exonerating Adani Enterprises of circular trading

The Apex Court has admitted the Customs department challenging the CESTAT, Ahmedabad order, that exonerated Adani Enterprises of being involved in mis-declaration of FOB value and circular trading of Cut and Polished diamonds and gold jewellery and abuse of benefit arising out of the target plus scheme.

Stemming from the same DRI investigation, an adjudication order was passed in favour of another importer, Samir Vora, wherein it was held that there was no inter-relationship between Indian exporters and overseas entities, effectively whittling down the allegation of circular trading. The adjudication order was affirmed by the Apex Court. The CESTAT followed this Order in the case of Adani Enterprises.

[Commissioner of Customs, Ahmedabad Vs. Adani Enterprises Ltd.]

Delhi HC directs provisional release of “Monin” brand flavoured syrups and food products due to perishable nature of the goods

The Delhi High Court has passed an Order, directing the Customs department to provisionally release

imported consignment of ‘Monin’ brand flavoured syrups and food products, observing that the “question as to whether there is under-declaration or not is yet to be adjudicated. The High Court held that at this stage, the goods cannot be permitted to be seized perpetually especially considering that these are perishable goods.” The shipments made by M and V Marketing and Sales Pvt Ltd., were seized by the DRI, and detained under seizure memos. M and V Marketing and Sales, deposited Rs. 3.75 crore under protest and sought provisional release u/s 110A of Customs Act.

The Customs Department allowed release on condition of bond for full assessable value of Rs 43.21 Crores (approx.) and asked M and V Marketing and Sales to execute bank guarantee/security deposit of Rs 21 crores, relying on para 2 of CBIC Circular No. 35/2017-Cus.

Before the High Court, M and V Marketing and Sales, contended that the said Circular has been declared ultra vires by the co-ordinate bench in the case of *My Name Pvt. Ltd., Shanus Impex and S.K. Overseas*. It was further argued that seized goods being perishable, and conditions for release being onerous, the entire business is likely to be jeopardized. The Customs department controverted these submissions, by stating that the imported goods have been under-valued and they need to secure fines and penalty.

However, considering that goods are perishable in nature, the High Court opines that approach followed in *Rocktek Infra Services Pvt Ltd.* and *B.M.S. Enterprises*, regarding conditions for release, deserves to be followed, wherein it was held that the conditions in the provisional release order deserve to be relaxed inasmuch as the entire business of a company is likely to be jeopardised if such onerous conditions are imposed. Hence, the High Court relaxes the conditions by directing the Petitioner to (i) furnish bond for full assessable value that is to be executed, (ii) furnish bank guarantee that was reduced to 50% of differential duty (not 50% of value). The High Court additionally, directed that the deposited amount of Rs. 3.75 crore be retained in FD.

[M and V Marketing and Sales Pvt Ltd Vs Intelligence officer DRI HQRS New Delhu and Ors. Dated August 07, 2025]



INDIRECT TAX - SERVICE TAX

Apex Court dismisses appeal filed by the Customs department beyond 567 days against SpiceJet

The Apex Court on the grounds that the Customs department's appeal was filed beyond a period of 567 days delay, dismissed the same and affirmed CESTAT decision to drop Rs. 4 crores Service Tax demand against M/s SpiceJet Ltd. The CESTAT in its order dismissed the demand for Service Tax, in respect of excess baggage charges recovered from passengers and allowed Rs. 21.55 crores as CENVAT credit.

[Commissioner, CGST and Central Excise New Delhi Vs. M/s Spicejet Ltd dated August 11, 2025]

III) INTERNATIONAL TRADE BRIEF

US tariffs on Indian exports

- The President of United States invoking his authority under the International Emergency Economic Powers Act ("IEEPA") by Executive Order dated July 31, 2025, imposed tariff of 25% effective August 7, 2025. The tariff has been imposed on the pretext that India continues to buy oil from Russia.
- Thereafter, on August 6, 2024, US imposed additional tariff of 25% on goods exported from India effective from August 27, 2025. These tariffs are not leviable on goods facing action under Section 232 of Trade Expansion Act, 1962 and products such as steel, aluminium, pharmaceuticals, semiconductors, critical minerals etc.
- The increased tariff will not have effect on goods loaded onto a vessel at the port of loading and in transit on the final mode of transit prior to August 27 and also entered for consumption into the United States prior to September 17.
- The sectors which are most affected by the increased tariff are textile, gems and jewellery, leather and chemicals. For instance, ready-made garments exporters will lose to its peers in Bangladesh and Vietnam which face lower tariffs.
- The US Government imposed 25% ad valorem duty under Section 232 of the Trade Expansion Act of 1962 on certain imports of steel articles and derivative steel articles from all countries including India, effective June 23, 2025. Further, list of items facing duty has been expanded to include locomotives, motorcycles, truck trailers and certain car parts, as well as numerous household appliances, such as refrigerators, dishwashing machines, stoves and ovens, laundry machines and microwaves.

India-UK Free Trade Agreement

- India and the United Kingdom have signed the Comprehensive Economic and Trade Agreement (CETA) which provides duty-free access to 99 per cent of India's exports to the UK, covering nearly 100% of the trade value.
- Exports in sectors such as textiles, leather, marine products, gems and jewellery, and toys as well as high-growth sectors like engineering goods, chemicals, and auto components to get benefit under the free trade agreement.
- Key sectors such as dairy, cereals, fruits, vegetables, edible oils, oil seeds have been excluded to protect interest of Indian MSMEs and farmers.
- To further enhance export of service from India, mobility for professionals across IT, healthcare, finance, and education and entry for contractual service suppliers, business visitors, intra-corporate transferees, and independent professionals have been eased and streamlined.
- Some of the prominent features of the free trade Agreement are comprehensive tariff elimination, simplified rules of origin, boost for services and professional mobility, removal of double social security contribution convention etc.

Digital currency - A step towards regulatory framework in US

- The US Government provided much awaited clarity on cryptocurrencies as it is poised to bring digital currencies under regulatory framework. As part of same, on July 18, 2025, passed Guiding and Establishing National Innovation for U.S. Stablecoins Act ("GENIUS Act, 2025"). With the new law, Stablecoins, a type of cyptocurrency, would require tokens to be backed by liquid assets, such as US dollars and short-term Treasury bills, and for issuers to publicly disclose the composition of their reserves every month.
- Further, the US is in the process of enacting two more laws Digital Asset Market Clarity Act of 2025 and Anti-CBDC Surveillance State Act. While the Clarity Act aims to create a wider regulatory framework for digital assets, compliance mechanism etc and ACBDC Act aims to prohibit US central bank to issue digital currency. These regulations collectively will shape cryptocurrency ecosystem and will boost trust and adoption amongst various stakeholders such as miners, investors, traders, crypto-exchange etc.
- India restart talks with Russia-led Eurasian Economic Union (EAEU) comprising Armenia, Belarus, Kazakhstan, Kyrgyz Republic, apart from Russia.
- Import of certain items of Jute under ITC HS 2022 from Bangladesh to India restricted from any land port but allowed only from Nhava Sheva Port [DGFT Notification No. 24 /2025-26 dated August 11, 2025]
- Country-wise Quantitative Restrictions (QR) on import of Low Ash Metallurgical Coke valid upto 30.06.2025, have been extended for a further period of six months, i.e. from 01.07.2025 to 31.12.2025 [DGFT Notification No. 22 /2025-26 dated June 30, 2025]
- Minimum Import Price (MIP) @ Rs. 20.108 per MT on import of Disodium Carbonate (Soda Ash) has been extended upto 31.12.2025. [Notification No. 23/2025-26 dated June 30, 2025]
- During the month of June DGTR initiated various Anti-dumping/ Countervailing duty investigations concerning imports of Jute products, Virgin Multi-layer Paperboard, Bromo OTBN, Linear Low-Density Polyethylene" (LLDPE), Methyl Acetoacetate "Para-Tertiary Butyl Phenol"

Type of Investigation	Products
Original Anti-dumping investigation	<p><i>From China PR</i></p> <ol style="list-style-type: none"> 1. "Thermoplastic polyurethane (TPU)-based Surface/Paint Protection Film 2. Faced Glass Wool 3. Stainless-Steel Seamless Tubes and Pipes 4. 4-(Bromomethyl)-2'- cyanobiphenyl" also known as "Bromo OTBN 5. "Para-Tertiary Butyl Phenol" - China PR and Taiwan 6. Para Nitrotoluene (PNT) from the European Union 7. Virgin Multi-layer Paperboard from Indonesia 8. Linear Low-Density Polyethylene (LLDPE) - State of Kuwait, Malaysia, the Sultanate of Oman, the State of Qatar, the Kingdom of Saudi Arabia, and the United Arab Emirates

Sunset review of Anti-dumping duty	Fluoroelastomer, Faced Glass Wool, and Methyl Acetoacetate from China PR
Mid-term review Anti-dumping investigation	Jute Products from Bangladesh and Nepal
Countervailing duty investigation	Textured Tempered Coated and Uncoated Glass from China PR

• Ministry of Finance imposed duty on the following goods

Type of Duty	Product	Country/s	Customs Notification No. & Date	Range of duties
Anti-dumping duty	Insoluble Sulphur"	China PR and Japan	No. 13/2025- Customs (ADD) dated June 6, 2025	259-358 USD/MT
Anti-dumping duty	Vitamin-A Palmitate	China, the European Union, and Switzerland	No. 14/2025- Customs (ADD) dated June 6, 2025	USD 0.87 per KG to USD 20.87 per KG.
Anti-dumping duty	Aluminium foil upto 80 microns	China PR	No. 15/2025- Customs (ADD) dated June 19, 2025	479-721 USD/MT
Anti-dumping duty	Acetonitrile	China, Russia and Taiwan	No. 16/2025- Customs (ADD) dated June 19, 2025	USD 202 per MT to USD 481 per MT
Anti-dumping duty	Pretilachlor in any of its forms and its intermediate – 2, 6-Diethyl-n-(2-propoxy-ethyl) Aniline (PEDA)	China	No. 17/2025- Customs (ADD) dated June 19, 2025	1,246.9-2017.9 USD/MT

Anti-dumping duty	Potassium Tertiary Butoxide (KTB) Sodium Tertiary Butoxide (STB)	China and the United States of America	No. 20/2025- Customs (ADD) June 24, 2025	Nil-1710 USD/MT
Anti-dumping duty	Plastic Processing Machines	China	No. 21/2025- Customs (ADD) dated June 26, 2025	0-53%
Anti-dumping duty	Linear Alkyl Benzene (LAB)	Iran and Qatar	Notification No. 18/2025- Customs (ADD) June 23, 2025	14-62 USD/MT
Anti-dumping duty	Aniline	China PR	Notification No. 25/2025- Customs (ADD) July 18, 2025	36.9-121.9 USD/MT
Anti-dumping duty	Black Toner in powder form	China PR, Malaysia and Taiwan	Notification No. 26/2025- Customs (ADD) August 4, 2025	159-1568 USD

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

Type of Duty	Product	Country/s	Final Findings Date	Range of duties
Anti-dumping Duty	Woven fabric (having more than 50% Flax content), commonly known as "Flax Fabric	China PR and Hong Kong	August 8, 2025	1.14-2.36 per Mtr./USD



Anti-absorption review	Untreated Fumed Silica	China PR	August 11, 2025	Nil-1,296 USD/MT
Anti-dumping investigation	Hot-rolled flat products of alloy or non-alloy steel	Vietnam	August 4, 2025	Nil-121.5 USD/MT
Anti-dumping investigation	Acrylic Fibre	China PR, Peru, and Thailand	August 18, 2025	34-920 USD/MT
Anti-dumping investigation	"Liquid Epoxy Resins"	China PR, Korea RP, Saudi Arabia, Taiwan, and Thailand	August 18, 2025	37-483 USD/MT



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