



**Anivesh**  
Legal Consultants

# **Indirect Tax Updates - February 16, 2025 to February 28, 2025**

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# GST Advisory

## 1. GST Advisory dated February 18, 2025:

- Biometric based Aadhar Authentication & Document Verification for the purpose of obtaining GST registration is available in Andaman & Nicobar Islands and Jharkhand from 15.02.2025.
- After the submission of the application in Form GST REG-01, the Applicant will receive either of the following links in the e-mail:
  - A Link for OTP-based Aadhaar Authentication OR
  - A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, The Applicant is required to choose an appointment for the biometric verification during the permissible period as indicated in the intimation e-mail.
- ARNs will be generated once the Biometric-based Aadhaar Authentication process and document verification are completed.

**Anivesh (ALC) Comments:** Such move aims to enhance security and prevent fraudulent registrations. Such functionality was earlier rolled out in Maharashtra and Lakshadweep from 08.02.2025.

# Important Case Laws

## 1. Radhika Agarwal vs. UOI [2025-VIL-11-SC]: Supreme Court

The Hon'ble Supreme Court has made the following observations while upholding constitutional validity of arrest provisions under Section 104 of the Customs Act and Section 69 of the CGST Act.

- The Officers can arrest individuals without a warrant in cases where the tax evasion or fraudulent credit exceeds Rs. 5 crores (under GST) or Rs. 50 lakh (under Customs for prohibited goods).
- The arrest must be based on credible material and must comply with constitutional safeguards.
- Article 246A grants Parliament the authority to legislate on GST, including ancillary powers such as arrest and summons.
- The Officer must record 'reasons to believe' which must be based on credible material.
- Sections 69 and 70 do not violate constitutional principles and fall within the doctrine of 'pith and substance.'
- Arrested individuals must be informed in writing about the grounds for their arrest.
- Courts should intervene only in cases of manifest arbitrariness, mala fide intent, or statutory non-compliance. The sufficiency of material or officer's subjective satisfaction is not reviewable at the investigation stage.

# Important Case Laws

## **Radhika Agarwal vs. UOI [2025-VIL-11-SC]: Supreme Court**

- The arrested person has the right to meet an advocate during interrogation, though only within visual but not hearing distance.
- The Court endorsed CBIC Instruction No. 02/2022-23 (GST-Investigation) dated 17.08.2022, requiring justification for arrests beyond legal pre-requisites, such as the risk of tampering evidence or absconding.
- Arrests can proceed if credible material establishes a non-bailable offense under Section 132(1)(a) (d) of the CGST Act.
- No mandatory adjudication or assessment order is required before initiating arrest.
- A taxpayer can seek anticipatory bail based on a reasonable apprehension of arrest, even without an FIR.
- Tax recovery requires adjudication and cannot be forced during investigation.
- Section 79 of the CGST Act allows recovery only after a 3-month period from an adjudication order.
- Voluntary payments under Section 74(5) (fraud cases) are permissible but must not be coercive.

# Important Case Laws

## Radhika Agarwal vs. UOI [2025-VIL-11-SC]: Supreme Court

### Anivesh (ALC) Comments:

- The Supreme Court delivered a balanced judgment that upholds the constitutional validity of arrest powers under the Customs Act and the CGST Act while reinforcing constitutional safeguards to protect personal liberty.
- It affirmed Parliament's legislative competence under Article 246A to enact criminal provisions for GST enforcement, dismissing vires challenges to Sections 69 and 70 of the CGST Act.
- The decision reinforces the legal framework post **Om Prakash**, ensuring that arrest powers under special statutes are exercised judiciously, with accountability, and without undermining the rule of law.
- Arrests for cognizable, non-bailable offences do not require prior adjudication but must be based on credible material and recorded reasons [Article 21 & Article 22] re-affirming restrictions in CBIC Instructions dated 25.05.2022 & 17.08.2022.
- The Court's emphasis on procedural compliance such as informing grounds of arrest, maintaining records, and adhering to **D.K. Basu** guidelines addresses petitioners' concerns about misuse, particularly coercion for tax recovery.
- By limiting judicial review to statutory compliance and rejecting scrutiny of evidence sufficiency, the judgment balances individual rights with the state's need to combat economic offences effectively.
- The recognition of anticipatory bail & directive against coercive tax collection strengthens protections for taxpayers.
- It sets a precedent for harmonizing enforcement mechanisms with constitutional rights, leaving room for future challenges to specific provisions like Section 135 while directing unresolved matters for final adjudication.

# Important Case Laws

## 2. M/s Zhuzoor Infratech Pvt. Ltd. Vs. Addl. Commr. [2025-VIL-166-ALH]: Allahabad HC

- The Allahabad High Court observed that mere technical error in the E-Way bill where the shipping address was wrongly mentioned should not lead to seizure of goods and hence, penalty cannot be made. Further, it has been observed that the e-way bill has not been cancelled within its validity and therefore, no adverse action can be taken against the Petitioner. Accordingly, proceedings initiated against the Petitioner was held to be not justified in eyes of law.

## 3. M/s Satyanarayana Medical Distributors Vs. Assistant Commissioner of State Tax Intelligence and Others [Writ petition No. 35710/2022]: Andhra Pradesh HC

- The Andhra Pradesh High Court held that issuance of tax intimation notice under Rule 142 (1) A of the CGST Rules is mandatory for period prior to October 2020 under the un-amended rules. Accordingly, Order passed by the Department was set aside.

# Important Case Laws

## 4. M/s Computer Task Information Technology Service Pvt. Ltd. Vs. Assistant Commissioner of Custom and Central Tax [2025-VIL-171-TEL]: Telangana HC

- The Telangana High Court held that Order received through e-mail is valid mode of service of order under GST laws. Accordingly, the Petitioner was instructed to file appeal before Appellate Authority against Order passed by Department.

## 5. TVL HI Version Vs. The Commissioner of Commercial Tax [2025-VIL-176-MAD]: Madras HC

- The Madras High Court held that the 60-day time limit to file GST returns specified under Section 62(2) of the CGST Act is directory and not mandatory. The delay in filing returns can be condoned if the Petitioner provides sufficient reasons. Accordingly, the Petitioner was directed to file an application of condoning delay in filing GST returns and thereafter, can file GST returns if such application is considered by the Department.



# Important Case Laws

## 6. AB Engineering Enterprises Vs. The State of Bengal [2025-VIL-189-CAL]: Calcutta HC

- The Calcutta High Court held that Rule 142(2B) amended vide Notification No. 12/2024 dated July 10, 2024 has allowed payment made by Form DRC-03 as valid mode of payment against demand proposed under notices and Order. Accordingly, the Court directed the Petitioner to make application in Form DRC-03A electronically for which payment of demand has been made via DRC-03 so that same can be credited in electronic liability register in Form GST PMT-1 against debit entry created for such demand.

**Anivesh (ALC) Comments:** The said judgment is in line with Circular 224/18/2024-GST dated 11.07.2024 wherein it was clarified that if payment has been made by any taxpayer inadvertently through Form GST DRC-03 against any demand/order, they can subsequently link such DRC-03 to the corresponding demand/order through Form GST DRC-03A.

# Important Case Laws

## 7. STS-KEC (JV) Vs. The State Tax Officer [2025-VIL-191-MAD]: Madras HC

- The Petitioner was assigned with works contract by RVNL for construction of road bed, platforms, bridges etc. During FY 2018-19, the Petitioner paid concessional rate GST @12% in terms of Notification No. 3(v)(a) of Notification No. 11/2017, which covers original works pertaining to railways.
- The Madras High Court held that phrase “pertaining to” in Notification No. 11/2017 has wide meaning covering activities related to railways. RVNL functions as an extended arm of the Ministry of Railways and the works executed by the Petitioner are integral to the development of rail infrastructure and hence, the Petitioner is not liable to pay tax @18% for providing such services.
- There is no definition for ‘railway’ under the GST Act. The definition of ‘railway’ under the Indian Railways Act, 1989 cannot be imported into the GST law. If the legislature intended to refer to the definition of ‘railways’ as contained under the Railways Act, 1989, it would have done so expressly.

# Important Case Laws

## 8. Green Filed Agrotech Vs. The State of West Bengal [2025-VIL-190-CAL]: Calcutta HC

- The Calcutta High Court held that appeal filed beyond period of one month of prescribed period under Section 107 of the CGST Act can be condoned under Section 5 of Limitation Act, 1963. Further, it has been held that Appellate Authority must consider delay condonation applications and apply judicial discretion, emphasizing that technical limitations should not override substantive justice. Consequently, the Court restored the appeal and directed the Department to hear the case on merits.

Same ratio followed by Madras HC in Tvl. Cheenais Pet Vs. State Tax Officer [2025-VIL-177-MAD]

**Anivesh (ALC) Comments:** This ruling is contrary to rulings passed by Other High Courts. Various High Courts has dismissed writ filed by taxpayers solely on the ground that limitation Act cannot prevail over CGST Act and hence, delay cannot be condoned beyond one month specified under Section 107 of the CGST Act.

# Important Case Laws

## 9. High Tech Ecogreen Contractors LLP [2025-VIL-193-GAU]: Gauhati HC

- The Petitioner challenged the validity of Rule 36(4) of the CGST Rules, 2017 on the ground that it derives power from Section 43A(4) of the CGST Act, 2017 which was never notified for enforcement by the Central Government.
- The Gauhati High Court upheld the validity of Rule 36(4), stating that it is not linked to Section 43A, which was omitted from 01.10.2022 and never enforced. Instead Rule 36(4) is associated with Section 16 of the CGST Act. The Court emphasis that Section 16 and Section 43A operate on different principles clarifying that Rule 36(4) is not based on Section 43A, which was never operational.

# Important Case Laws

## 10. M/s Battre Electric Mobility Pvt Ltd Vs. CC [2025-VIL-245-CESTAT-DEL-CU]: Delhi CESTAT

- Appellant imported various parts of e-Scooty and classified them under CTI 8708 9900, paying BCD at 15%. The Department alleged that the goods were correctly classifiable under CTI 8711 60 20 attracting BCD at 100%. The Principal Commissioner held that the imported items deserved classification under CTI 8711 60 20 as e-Scooty in CKD form applying GRI 2(a).
- The Tribunal held that each Bill of Entry must be assessed individually and there is no provision in Customs Act to combine goods imported under multiple Bills of Entry to decide the classification.
- The Tribunal held that neither Section 25 of the Customs Act nor the notification requires the importer to claim the exemption in the Bill of Entry as a pre-condition to enjoy its benefit. An unconditional exemption notification falls under the 'Except as otherwise provided' clause of Section 12, the charging section, and therefore, the charge of duty gets reduced as per the notification, irrespective of whether it was claimed in the Bill of Entry or not.

# Customs Notifications

## 1. Notification No. 11/2025 – Custom (NT) dated February 17, 2025:

- Customs (On-Arrival Movement for Storage and Clearance at Authorised Importer Premises) Regulations, 2025 will get effective from date to be notified.
- Such regulations introduced to streamline the custom clearance process for eligible importers, allowing faster and efficiently clearance of goods.

## 2. Notification No.12/2025 – Custom (NT) dated February 17, 2025: Tariff value of various goods such has Edible Oils, Brass Scrap, Areca Nuts, Gold, Silver etc. amended.

## 3. Notification No.15/2025 – Custom dated February 20, 2025: Import of Ships, vessels, boats and other floating structures (excluding vessels and other floating structures are imported for breaking up) falling under Headings 8901 and 8906 to CTA can now be imported without any condition w.e.f. 20.02.2025.

## 4. Notification No.1/2025 – Custom (CVD) dated February 25, 2025: Levy of CVD @ 20% on the CIF value on import of all forms of saccharin from China PR for five years.

# Customs Circulars

## 1. Circular No. 04/2025 – Customs dated February 17, 2025:

- Introduction of ‘Ekal Anubandh’ project to simplify trade processes by replacing multiple transaction wise bonds with a single All-India Multipurpose Electronic Bond (SEB) with end-to-end automation.
- The objective of such project is to reduce paper work and to make trade more efficient.
- Importer and Exporter will now have an option to submit a SEB instead of submitting separate bonds with security.
- Procedure of Bank Guarantees also streamlined.
- SEB under ‘Ekal Anubandh’ project to be implemented through detailed advisories being issued by DG Systems in a phased manner.

**Anivesh (ALC) Comments:** The introduction of Ekal Anubandh is a game changer for businesses. By simplifying the bond submission process and reducing paper work involved, such initiative will not only streamline operations but also make trade more efficient and easier. The shift to such electronic platform is welcome step towards fostering transparency and boosting India’s position as a global trade hub.

# Customs Circulars

## **2. Circular No. 05/2025 –Customs dated February 17, 2025:**

- Introduction of Automation in refund application and processing system for Customs Duty refunds.
- Refund applications can now be filed electronically through the ICEGATE portal as per Customs Refunds Application (Form) Regulations, 1995.
- Applicant can file refund application manually till 31.03.2025 unless allowed by commissioner.
- Applicant will receive Unique Application Reference Number (ARN) upon successful filing and status of applications will be available on ICEGATE dashboard.
- Proper Officer will scrutinize applications and communicate deficiencies within 10 days, ensuring that all queries are raised in single instance.
- The requirement of Concurrent Audit of refund claim are being eliminated, and shifting all refund audits to post-audit mechanism.
- Refund amounts will be electronically credited to the Applicant registered bank account through PFMS system.



# Customs Instructions

## 1. Instruction No. 01/2025 – Customs dated February 28, 2025:

- Exporters were denied in All Industry Rate (AIR) of Duty Drawback claims when some inputs used in manufacturing export goods were either not duty paid or were paid at concessional rates.
- Accordingly, the CBIC has given instructions the Department to follow the Circular No. 19/2005- Customs dated 21.3.2005 wherein it has been clarified that AIR duty drawback rates are determined based on average duties paid on inputs. When calculating these rates, the weighted average consumption of imported and indigenous inputs from a representative cross-section of exporters is considered, without investigating whether specific manufacturers used exempted inputs.

**Anivesh (ALC) Comments:** Such instruction aims to streamline the duty drawback process and ensure consistent application of existing regulations across all customs jurisdictions.

# Foreign Trade Policy

## 1. Trade Notice No. 32/2024-25 dated February 28, 2025

- DGFT has addressed the problem faced by exporter while closing Advance Authorizations. It has been noticed the system cannot capture complete descriptions of export items which has exceeded 120 characters.
- Accordingly, the Department has directed the Regional Authorities to corroborate the complete export item descriptions using self-attested copies of GST system-generated e-invoices when such character limit problems occur.
- The Exporters are therefore required to upload the e-invoice and other relevant documents for redemption/EODC of Advance Authorizations.

**Anivesh (ALC) Comments:** Certainly, this move will provide relief for Advance Authorizations holders who were facing technical difficulties and not able to mention complete description of export item while filing redemption/closure applications.

# THANK YOU

See You Next Time



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