
Anivesh
Legal Consultants
Indirect Tax Updates
From 01 July 2025 to 15 July
2025

Index

Important Case Laws

1. **TVL Sri Balaji Trading Company vs AC (ST) [Madras HC] [WP 21441 of 2025]**

   - Whether denial of Input Tax Credit (ITC) on the ground that the supplier, Hindustan Unilever Limited (HUL), is a 'fictitious and non-existent entity' is valid and whether such an order passed without considering the taxpayer's reply violates principles of natural justice.
   - The Hon'ble Madras High Court observed that the Department has erred seriously in branding HUL as a fictitious entity without proof. It has been further held that HUL is engaged in various businesses, and it cannot be simply alleged that they are "non-existent" without providing tangible evidence to support such a serious allegation. Accordingly, the impugned order was held as arbitrary and passed without proper application of mind, as the Department failed to consider the petitioner's detailed reply and supporting documents.

Important Case Laws

2. **Maxwell Engineering Solutions Pvt. Ltd. vs AC CGST&E [Gujarat HC] [R/SCA 6718 of 2025]**

- The Petitioner exported goods and claimed IGST refund under Rule 96 of the CGST Rules. Refund was denied on the ground that the Petitioner has availed concessional import benefit under Notification No. 79/2017-Customs, allegedly violating Rule 96(10) of the CGST Rules. During appeal, the Petitioner submitted EPCG Certificate and Bank Guarantee to prove that imports were capital goods, which are exempted from Rule 96(10) restrictions. The Appellate Authority refused to consider the additional evidence citing Rule 112 of the CGST Rules. Whether the Appellate Authority was justified in refusing to admit additional evidence (EPCG Certificate and Bank Guarantee) under Rule 112 of the CGST Rules, when such evidence was crucial and not previously requested by the adjudicating authority?
- The Hon'ble Gujarat High Court held that EPCG Certificate was never called for during the original proceedings. Clauses (a) to (d) of Rule 112(1) were not applicable since there was no refusal, no denial of opportunity, and no default by the Petitioner in the earlier stage. Hence, the Appellate Authority should have admitted and examined the additional evidence to decide the refund claim fairly. Accordingly, order passed by the Appellate Authority was set aside.

Important Case Laws

3. **Umicore Autocat India Private Limited vs UOI [Bombay HC] [WP No. 463 of 2024]**

- Whether the transfer of unutilized ITC from a Transferor Company registered in one State (Goa) to a Transferee Company registered in another State (Maharashtra) is valid under Section 18(3) of the CGST Act, 2017 and Rule 41 of the CGST Rules, 2017?
- The Hon'ble Bombay High Court held that Section 18(3) and Rule 41 has not imposed any state-specific restriction for ITC transfer. The intent of GST law is to avoid cascading of taxes and ensure seamless credit. The technical limitation of the GSTN portal cannot override statutory rights. The Bombay High Court emphasized literal interpretation and held that no legislative gap can be created by courts to deny benefit. Accordingly, the Court allowed transfer of IGST and CGST to the Petitioner.

Anivesh (ALC) Comments: Inter-State ITC transfer upon amalgamation is legally valid under Section 18(3) of the CGST Act, despite portal limitations. This judgment has held that distinct registration under Section 25(4) does not bar such ITC transfer when amalgamation is legally sanctioned.

Important Case Laws

4. **The Indian Institute of Information Technology Management [Kerala Advance Ruling] [AR No. KER/01/2025]**

- Whether the cancellation of pre-GST lease agreements and the refund of proportionate consideration for the unutilized lease period constitutes a 'supply' under Section 7 of the CGST Act, 2017 and thus attracts GST?
- The Kerala AAR held that leasing of land is a taxable supply under Schedule II, but cancellation of lease is not a taxable supply. In this case, there was no agreement for the lessee (IIITMK) to tolerate the cancellation in return for compensation. The refund is not consideration for a service, but a return of the unutilized lease amount. Hence, the cancellation and refund do not constitute 'supply' under Section 7 of the CGST Act. Therefore, no GST is payable on the refunded amount.

Anivesh (ALC) Comments: Refunds received on cancellation of long-term pre-GST leases are not subject to GST where the cancellation is unilateral/statutory and not based on contractual tolerance or service arrangement.

Important Case Laws

5. M/s Schott Glass India Private Limited Vs UOI [Gujarat HC] [R/SCA No. 2457 of 2023]

- The Petitioner imported capital goods from Germany in 2009 and paid various customs duties. The imported goods were re-exported in December 2009 and February 2010 due to usability issues. Duty drawback was claimed under Section 74 of the Customs Act, which allows refund of duty on re-export of imported goods. Whether Petitioner can claim Duty Drawback for only Basic Customs Duty (BCD) or also for other duties such as CVD, SAD, and Cess?

- The Hon'ble Gujarat High Court held that 'Duty' means the duty of customs leviable under the Customs Act only, and not the additional duties like CVD, SAD, Cess, etc. payable under other statutes and are not part of 'Duty' for Section 74 of the Customs Act. Since the petitioner availed CENVAT credit on those components, allowing drawback on them would amount to double benefit, which is not permissible. Accordingly, Court directed that Drawback should be recomputed considering only BCD, excluding CVD, SAD, and Cess (on which CENVAT credit was availed).

Important Case Laws

6. **Commissioner of Customs ICD Patparganj & Other ICDS vs M/s Vardhman Sales Agency [CESTAT, Chandigarh] [Customs Appeal No. 60057 of 2025]**

- The Appellant has imported metal scrap through 93 Bills of Entry at ICD Piyala, Faridabad. The declared value at Rs. 35.56 crore, and self-assessed customs duty of Rs. 7.70 crore. The Customs Department reassessed the value to Rs. 43.38 crore, increasing the duty to Rs. 9.38 crore, resulting in a differential of Rs. 1.68 crore. The Appellate Authority allowed the appeal filed by Appellant.

- The Hon'ble CESTAT upheld order passed by Appellate Authority and observed that no cogent evidence provided by Department to reject declared value under Rule 12 of Customs Valuation Rules, 2007. Also, no relationship or under-invoicing was alleged. Acceptance of reassessed value under protest does not amount to waiver of legal rights. Proper officer failed to provide a speaking order justifying reassessment as required under Section 17(5) of the Customs Act. Accordingly, CESTAT confirmed that in absence of justified grounds or statutory compliance, reassessed values cannot be upheld. Declared transaction value was reinstated, and Revenue's appeal was dismissed.

Important Case Laws

7. <u>Uflex Limited vs CC (Import) - New Delhi [CESTAT, Delhi] [Customs Appeal No. 51897 of 2024]</u>

- The Appellant imported aluminum foil (6.3 microns thick) from China and wrongly self-assessed Anti-Dumping Duty (ADD) of Rs. 6.05 lakh and IGST of Rs. 1.08 lakh (Total: Rs. 7.14 lakh). As per Notification No. 51/2021-Cus (ADD), this specific foil was exempt from ADD. Uflex filed for reassessment and refund, but both were rejected by the adjudicating authority. Authority cited that reassessment must be done via appeal (Section 128, Customs Act). The question was whether time spent before an incorrect forum (original authority) can be excluded under Section 14 of the Limitation Act.
- The Hon'ble CESTAT held that re-assessment request was filed in good faith, and the original authority wrongly forwarded it instead of treating it as an appeal. Time spent in such proceedings qualifies for exclusion under Section 14 of the Limitation Act. Hence, appeal filed by the Appellant was allowed.

Important Case Laws

8. **Marcowagon Retail Private Limited vs UOI [Gujarat HC] [SCA No. 2234 of 2025]:**

- Whether penalty under Section 129(1)(a) of the CGST Act, 2017 is applicable @ 200% of tax on goods which were being transported for export (zero-rated supply) but were intercepted due to expired e-way bill?
- The Hon'ble Gujarat High Court held that 'tax payable' under Section 129(1)(a) implies legally enforceable tax liability; no such liability exists for zero-rated supplies. Since no tax was payable on the zero-rated supplies, the authorities were not justified in imposing a 200% penalty. Accordingly, penalty reduced to Rs. 25,000 under Section 129(1)(a) of the CGST Act.

Anivesh (ALC) Comments: Zero-rated exports are not liable to tax and hence, penalty under Section 129(1)(a) based on 200% of tax is unsustainable. In such cases, only a minimal penalty up to Rs. 25,000 may be levied for procedural violations like expired e-way bills.

Important Case Laws

9. **Daimler India Commercial Vehicles Private Limited vs The Commissioner of CGST & C.EX, Chennai Outer Commissionerate [CESTAT-CHE] [STA No. 41621 to 41625 of 2019]:**

- The appellant company was found liable for service tax under a reverse charge mechanism for "manpower supply services" provided by seconded expatriate employees.
- Despite the appellant having operational control, the Supreme Court's **Northern Operating Systems** judgment established that the foreign company remained the primary employer due to factors like: (a) the employees retaining their lien with the foreign company; (b) their terms of employment being governed by the foreign entity; and (c) their salary structure being based on their foreign company earnings.
- The court ruled that payments made by the appellant were "recoupment" of expenses rather than reimbursements, and the claim of revenue neutrality was rejected.
- Further, the extended period of limitation for demand was not applicable due to the absence of malafide intent.

Important Case Laws

10. **Middle East Hotel Company (P) Ltd vs The Commissioner of Central Excise, Customs & ST, Kerala [CESTAT-BLR] [STA No. 27915 of 2013]:**

- The Appellant claimed Cenvat credit based on hotel management services classified by their service provider (HHR) as "Management Consultancy Service", a classification HHR used for registration, tax payment, and return filing with departmental acceptance.
- The adjudicating authority reclassified the service as "Business Auxiliary Service", denying the appellant full Cenvat credit.
- The court held that jurisdictional officers at the service recipient's end cannot question a service classification already accepted at the provider's end. Since the original classification by HHR was done with departmental knowledge and acceptance, the appellant is entitled to the Cenvat credit, and the reclassification by revenue authorities to deny credit is invalid.

Press Release – GST

1. **Press Release dated 02.07.2025:** The Appointments Committee of the Cabinet (ACC), acting on the recommendations of the Search-cum-Selection Committee, has approved the appointment of three individuals as Technical Members (State) in the Goods and Services Tax Appellate Tribunal (GSTAT) for benches located in Uttar Pradesh.

   Anivesh (ALC) Comments: It signals positive intent at the end of the government to operationalize the GST Appellate Tribunal (GSTAT) as soon as possible. It is the need of the hour with lacs of cases piling up due to non-constitution of GSTAT till date.

Customs – Notifications

1. **Notification No. 22/2025-Customs (ADD) dated July 10, 2025:** Anti-Dumping Duty on 'Clear Float Glass' imported or originated from Malaysia continued to be levied till February 10, 2026.
2. **Notification No. 46/2025-Customs (N.T.) dated July 15, 2025:** Tariff value of import of goods such as specified edible oils, brass scrap, Areca Nut, gold, silver etc. amended w.e.f. July 16, 2025.
3. **Notification No. 6/2025-Customs (CVD) dated July 3, 2025:** Levy of Countervailing Duty imposed on import of 'Continuous Cast Copper Wire Rods' originating or exported from Indonesia, Malaysia, Thailand and Vietnam to be levied for a period of five years.
4. **Notification No. 23/2025-Customs (ADD) and Notification No. 24/2025-Customs (ADD), both dated July 15, 2025:** Name of Interested Party changed from 'Shandong Dongyue Chemical Co. Ltd' to 'Shandong Dongyue Refrigerants Co. Ltd' in relation to Anti-Dumping Duty levied on import of 'Hydrofluorocarbon (HFC) Component R-32' and 'Hydrofluorocarbon (HFC) Blends' originating in or exported from China PR vide Notification No. 75/2021-Customs (ADD) dated December 22, 2021 and Notification No. 76/2021-Customs (ADD) dated December 22, 2021.

Customs – Instructions

1. **Instruction No. 20/2025-Customs dated July 1, 2025:** The Officers are being informed about Notification No. 21/2025-26-Customs dated June 27, 2025 issued by DGFT, Ministry of Commerce. Vide such Notification, Import of specified flax, jute, and bast fibre products from Bangladesh not allowed from any land port on India-Bangladesh border. However, it is allowed only through Nhava Sheva Seaport. Also, such restriction is not applicable on goods transited from Bangladesh to Nepal/Bhutan through India, however, such goods cannot be re-exported to India.

2. **Instruction No. 21/2025-Customs dated July 2, 2025:** The Officers are being informed about the CBIC Instruction No. 14/2023-Customs dated April 17, 2023 and Central Pollution Control Board (CPCB) letter F. No. CP-20/10/2024-UPC-II-HO-CPCB-HO-Part(3) dated June 13, 2025 wherein it was mentioned that importers of plastic raw material is required to take registration under 'Centralized EPR Portal for Plastic Packaging' before clearing consignments of plastic raw material.

Customs – Instructions

3. **Instruction No. 22/2025-Customs dated July 09, 2025:** The Officers are being informed about Notification No. 18/2025-26 dated June 17, 2025 and Corrigendum dated June 25, 2025 issued by DGFT, Ministry of Commerce wherein Import policy of specific items covered under Chapter 71 of ITC (HS) 2022 such as Palladium, Rhodium, and Iridium, osmium, and ruthenium alloys would be considered as 'restricted' if import of such goods consist gold of more than 1% by weight.

4. **Instruction No. 23/2025-Customs dated July 15, 2025:** The Officers are being informed about Order bearing F.no. S-20011/15/2024-TECH dated July 11, 2025 issued by the Deputy Secretary, Ministry of Steel and Instruction No. 16/2025-Customs dated June 18, 2025 regarding the mandatory adherence to Indian Standards for imported steel and steel input materials. However, exemption is provided in the following cases:

   - Imported steel products with a Bill of Lading indicating a "shipped on board" date on or before July 15, 2025, are exempt from the mandatory input steel adherence requirement.
   - Input steel for the final products supplied by Integrated Steel Plants (ISPs) after verification of such licenses by BIS.

Foreign Trade Policy Notices

1. **Trade Notice No. 07/2025-26 dated July 02, 2025:** Procedure prescribed for filing application for obtaining Import Authorisation for import of Low Ash Metallurgical Coke subject to Country-wise Quantitative Restrictions:

   - The importers required to submit online applications on the DGFT website for import under specific ITC (HS) Codes, with a limit of three applications per importer, each specifying a single supplier country.
   - The applicants need to provide specific information and documents, including steel manufacturing capacity, monthly Met-Coke requirements, in-house production, existing stock etc.
   - A Special Exim Facilitation Committee will review applications and allocate quantities.
   - The import utilization will be monitored and allocations to be adjusted based on actual import.

2. **Trade Notice No. 07/2025-26 dated July 14, 2025:** Stakeholders are requested to submit proposals, views, suggestions, comments, and feedback on the Draft Management System Requirements within 10 days from the issuance of this Trade Notice for Internal Compliance Programme (ICP) for Dual-use items (SCOMET) which have been formulated and are enclosed as an Annexure to the said Trade Notice. Submissions may be made *via* email to scometdgft@gov.in. Basis the recommendations, or inputs, the amendments will be made in the draft ICP.

Foreign Trade Policy Notices

3. **Policy Circular No. 1/2025-26 dated July 15, 2025:** Organic textiles do not fall within the scope of the National Programme for Organic Production (NPOP) accreditation categories. NPOP is limited to crop production, livestock, food processing, and related agricultural activities. Therefore, there is no requirement of Transaction Certificates from NAB-accredited bodies under the NPOP framework for Organic textiles. Instead, exporters must provide valid Transaction Certificates from certification bodies designated through Textile Exchange, Global Organic Textile Standard, or as required by buyers at the time of export.

4. **Public Notice No. 14/2025-26 dated July 8, 2025:** Three new Standard Input Output Norms (SIONs) i.e. A-3687, A-3688, and A-3689 for specified products under the 'Chemical and Allied Product' category are being notified.

THANK YOU

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