



The first fortnight of November has been judicially very active, Hon'ble Supreme Court delivering several landmark judgements, paving way for construction of Ram Mandir in Ayodhya; paving for better administration of temples of Demigods of Justice, viz., Tribunals, by striking down the controversial Rules relating to appointment of Chairpersons/Members of the Tribunal; opening up a new Chapter in transparency in subjecting CJI himself to RTI; dowsing the din and dust over Rafale jets; referring the Sabarimala God issue to a bench of Seven Lords, etc.

Those who are in GST field having been burning their mid night oil with the hair splitting Rule 36 (4) during this fortnight. When massive changes in GSTR 9 / 9 C forms are brought about, they ran out of oil but thank God it dawned by then.

Simplified form with extended due date is sure to see a surge in filing.

Table Of Content

1	GST Case Laws
2	Notifications & Circulars
3	NEWS
4	The Legacy
5	From our Knowledge House



GST CASE LAWS

1 M/s. Sutherland Global Services Pvt Ltd. 2019-TIOL-2516-HC-MAD-GST

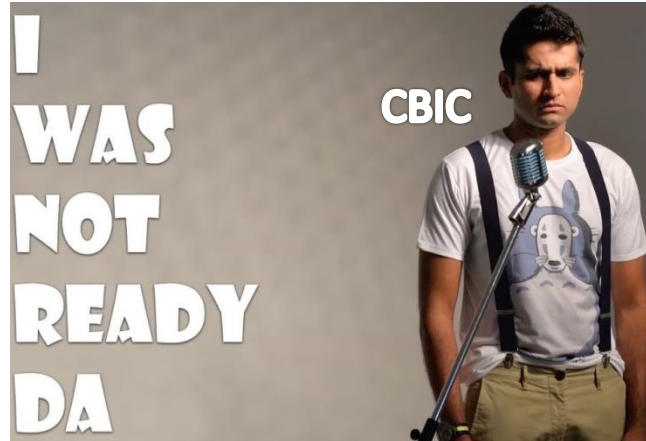
Education Cess, Secondary and Higher Education Cess and KKC to be available as Transitional credit, albeit the retro amendments to Section 140 – Holds Madras HC.



**(Article on this decision
Our Knowledge House)**

Link:

<http://bit.do/SA-Rejoice-In-Sutherland>



2 Adfert Technologies Pvt Ltd. Vs. UOI, 2019-TIOL-2519-HC-P&H-GST

Transitional Credit is vested right and cannot be denied for non-filing of Tran-1 or on procedural grounds. The Hon'ble High Court referred the decision of Siddhartha Enterprises (Guj HC) , Krish Automotors (Delhi HC), and distinguished Willowoods Chemicals(Guj HC) .



No TRAN? No Problem!

3 M/s Hatsun Agro Products Ltd, 2019-TIOL-370-AAR-GST

The ice creams, chocolates, ice cream cakes and pizza cakes made as per orders of the customers and served in IBACO outlets qualifies as composite supply u/s 2(30), and taxable at 5%, without ITC.



Cool!



4 M/s Kwality Mobikes Pvt Ltd, 2019-TIOL-391-AAR-GST & Santosh Distributors 2019-TIOL-433-AAR-GST

Commercial Credit Notes without GST impact can be issued for Post-Sales discount. Recipient need not neither pay GST thereon nor reverse any proportionate credit.

 **God damn circular No. 105/24/2019**

5 M/s Prestige South Ridge Apartment Owners Association, 2019-TIOL-343-AAR-GST

The AAR Karnataka, held that RWA shall pay GST on the whole amount if the monthly contribution exceeds Rs. 7500/-.

 **Missed by a Whisker!**
Link:

<http://bit.do/SA-IO-TVH-Lumbini>

6 Jakap Metind Pvt Ltd 2019-TIOL-2586-HC-AHM-GST

Retaining transitional credit due to assessee is violative of Article 265 of the Constitution of India.

 **Its time to Trash TRAN.**



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7 M/S. Kannangayathu Metals, 2019 (11) TMI 473 – Kerala High Court


There cannot be a mechanical detention of a consignment solely because the driver of the vehicle had opted for a different route, other than what is normally taken by other transporters of goods covered by similar e-Way bills.

 **Wherever you go our squad follows!**



8 M/s. Children of The World India Trust 2019 (10) TMI 1137 AAR, Maharashtra

No GST on adoption fees paid by prospective adoptive parents as kids are not goods.

 **Kids are not goods. But certainly they are good!**
Happy Children's Day!




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NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS– 01.11.2019 to 15.11.2019

NO	DATE	GIST
52-55 /2019	14.11.2019	Due dates for filing GSTR-1, 3B and 7 for taxpayers in J&K extended.  Special status extended to J&K. Not the special status under Article 370!
56/2019	14.11.2019	Amendments in FORMS relating to Refunds, GTSR-9 & 9C. (Note on this notification – Refer GST Alert at our Knowledge House)

CGST CIRCULARS – 01.11.2019 to 15.11.2019

NO	DATE	GIST
122/2019	05.11.2019	Generation and quoting of Document Identification Number (DIN) on all important departmental communications. Applicable to Excise, Customs and Service Tax as well.
123/2019	11.11.2019	Clarifications regarding the 20% ITC availment restriction in terms of Rule 36(4). (Article on the circular – http://bit.do/SA-All-about-Rule-36-4)



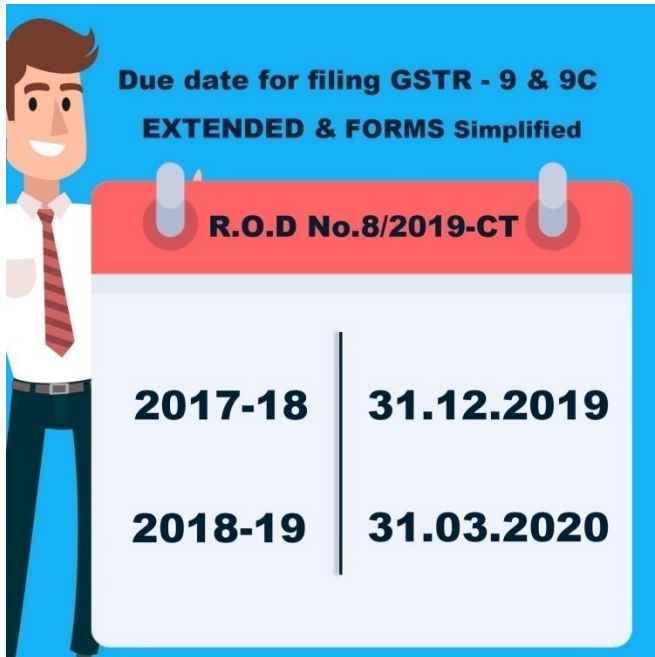
Amidst the dark and dust of refund regime, there lies a ray of hope from down South

The Commissioner of Commercial Taxes Tamil Nadu has over-ruled the frivolous C&AG objections and directed the sanction of refunds in accordance with the spirit of LAW.



The free man is he who does not fear C&AG.

Link: <http://bit.do/SA-TN-Comm-Walks-Extra-mile>



GST Council has released the Agenda, Decision and Minutes of its 36th Meeting held on 27.7.2019

(The documents can be found in the link:

<http://www.gstcouncil.gov.in/36th-gst-council-meeting>)

The Government has issued guidelines for GST Practitioners Examination.

<http://www.cbic.gov.in/resources/htdocscbec/Guidelines-approved.pdf>



The Government has issued guidelines for GST Practitioners Examination.

<http://bit.do/SA-Guideline-On-GST-Practitioners>



CBIC has launched the DIN search engine to verify the genuineness of all communications issued by the department.

Link:

<https://www.cbicddm.gov.in/MIS/Home/DINSearch>

CBIC Retweeted



Nirmala Sitharaman
@nsitharaman

Congratulations [@cbic india](#) #transparency "any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned above shall be treated as invalid&shall be deemed to have never been issued."

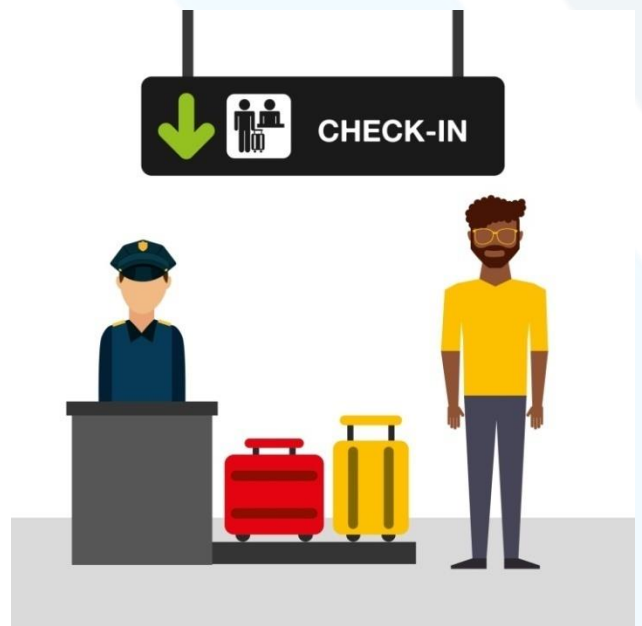


Do you think filing of return in New Returns format (ANX-1, ANX-2) is optional now? They will hunt you down to reach their target!

Link: <http://bit.do/SA-Target-New>Returns>

Finance Minister Launches two new IT Initiatives –

ICEDASH & ATITHI for improved monitoring and pace of Customs clearance of imported goods and facilitating arriving international passengers.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 In Re. M/s. Ocean Interiors Ltd.-2019-TIOL-3212-CESTAT-MAD

The Chennai bench of the CESTAT has held that once VAT is paid as per the VAT Act, by determining the value of goods as per the established principles under VAT law and Service Tax was paid on the remaining value, the same cannot be disputed and Service Tax cannot be demanded under Composition scheme (upto 30.6.12) and under Rule 2 A (ii) of Valuation Rules (post 01.07.2012)



This or that, Not both!

2 Venkatraman Guhaprasad- 2019 TIOL 3235 CESTAT -MAD , Photon Interactive Pvt Ltd. 2019-TIOL-3284-CESTAT-MAD

Limitation for claiming refund u/s 11B of CEA, is not applicable for claiming refund of ST paid by mistake.



Folly is not doomed forever!

3 Superintendent of Police - 2019 11 TMI 250 CESTAT- New Delhi

Police providing security services upon specific request (say by banks) against payment of charges would not attract Service Tax, as the police cannot be said to be “engaged in the business of providing security”.



Don't like me? None of my business.





4 M/s Amit Metaliks Ltd., 2019-TIOL-3177-CESTAT-KOL

Compensation for cancellation of contract is not liable to Service tax as it is in the nature of actionable claim.



So is the case with liquidated damages, on which demands are being raised?

5 Pacific Harish Industries Ltd, , 2019 TIOL 3208 CESTAT Ahemdabad

The disentitlement to CENVAT Credit, of any taxes paid against allegations of fraud suppression etc is not applicable to Service Tax paid under reverse charge mechanism, as the challan based on which such credit is claimed is not prohibited under Rule 9(1)(bb).

6 M/s Petronet LNG Ltd. V. Principal Com of ST, 2019-TIOL-3157-CESTAT-DEL

Allowed loss, while processing the goods supplied by principal is not a "consideration".



Ruling of Kangaroo Court, nay, Kangaroo Country's Court applied.

7 Vibhutigudda Mines Pvt Ltd 2019 TIOL 3197 CESTAT Bangalore

Cenvat credit is admissible even in respect of exempted goods, if such exempted goods are exported. .



All is fair in love, war and Exports.

8 Shri Ramesh Chandra Jaiswal 2019 TIOL 3203 CESTAT Allahabad

Without Examination- in-Chief, Statements cannot be held to be admissible.





ARTICLES

Rejoice in Sutherland	http://bit.do/SA-Rejoice-In-Sutherland
All about Rule 36 (4)	http://bit.do/SA-All-about-Rule-36-4

GST ALERTS

Tabular representation on Changes made in FORM GSTR-9 & 9C	http://bit.do/SA9-9C-Tabulated-Form
Note on Changes in FORM GSTR-9 & 9C	http://bit.do/SA-Note-on-9-9C





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