



With the dust on Sabka Vishwas settling down, the focus should now shift to GST for everyone - the tax payers, the taxmen and the practitioners. With GST revenue growth not upto expected levels and falling short of budget targets, we can expect more proactiveness from the Department in the coming days. While we complain about the restrictions imposed vide Rule 86 A and 36 (4), it is saddening to note that the route cause for such stiff provisions is the underlying extent of evasion and fake invoice rackets. If the Good Simple Tax is thus hijacked by few unscrupulous elements, the tax can never be good and simple.

Table Of Content

1	GST Case Laws
2	Notifications & Circulars
3	NEWS
4	The Legacy



GST CASE LAWS

1 SURESHBHAJ GADHECHA 2019 (12) TMI 1270 - GUJARAT HIGH COURT

SGST Authorities restrained from proceeding with investigation, as CGST authorities are already investigating the petitioner.



Problem of having been wedded to two wives!

2 TMA INTERNATIONAL PVT. LTD 2019 (12) TMI 1268 - DELHI HIGH COURT

When the AIR Drawback rate is the same “when Cenvat Credit was availed” and “not availed”, mere wrong mention as if Cenvat Credit had been availed, cannot disentitle the exporter from claiming IGST refund.



A treatise on export benefits!

3 SREE VARALAKSHMI MAHAAL LLP TS-1191-AAR-2019-NT

No ITC for construction of marriage hall, which would be rented out.



Marriages are made in heaven, i.e. outside the taxable territory!

4 ABBOTT HEALTHCARE PVT LTD 2020-TIOL-40-HC-KERALA-GST

Supply of various hospital equipments by one person, with obligation to purchase reagents / calibrators / disposals from another person, cannot constitute "composite supply". AAR Ruling set aside and matter remanded for fresh consideration.



Hard to decipher. Not only Doctor's prescription but also this business model.



5 M/S. SPECSMAKERS OPTICIANS 2020 (1) TMI 63

For supply between the same entity (distinct persons), if full ITC is eligible, any value can be adopted.



Vision restored!

6 M/s. SRI BHAGAWATHI CHEMICALS 2020-VIL-01- GSTAA

5 Eway bills generated by mistake for one invoice. Tax demand on all Eway bills set aside, as such generation was by mistake.

7 BINDAL SMELTING PVT LTD 2020- VIL-17-P&H

Power to attach bank account should be used sparingly only to protect the interest of revenue and not to ruin the business of a taxable person.



Sane advise. Anyone listening?



8 MEGHMANI ORGANICS LTD 2020-TIOL-64-HC-AHM-GST

Hearing granted on 08.07.2019 but order passed on 02.07.2019. Gross violation of principles of natural justice. Order quashed..



9 M/s JAI BABA AMARNATH INDUSTRIES 2020-VIL-18-ALH

High Court concerned over the delay in constitution of GST Tribunal (But the Madras High Court has already stuck down various provisions relating to setting up of the GST Tribunal).



Miles to go before I seek justice.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS – 16.12.2019 to 31.12.2019

NO	DATE	GIST
1	01.01.2020	<p>Various amendment made in the CGST Act vide Finance Act, 2019 have been brought into effect.</p> <p>(Brief note on the same can be found in the link:</p>
2	01.01.2020	<p>CGST (Amendment) Rules, 2020.</p> <p>Commissioner, on the recommendation of the GST Council has been empowered to extend the due date for filing TRAN-1 & TRAN-2 for taxpayers who have faced technical glitches while filing TRAN 1 & 2.</p> <p>Period of validity of SEZ to be provided during the SEZ registration under GST.</p> <p>New format of e invoice in FORM INV-01 has been provided.</p>
3	01.01.2020	<p>The due dates for following the Transitional plan for registered persons in UT of J&K and Ladakh further extended.</p>
4	10.01.2020	<p>The due date for the one-time amnesty scheme to file all FORM GSTR-1 from July 2017 to November, 2019, extended till 17th January, 2020.</p>
5	13.01.2020	<p>The Revisional Authority defined u/s 2(99) of the CGST Act, 2017 appointed.</p>



2nd National GST Conference of the Chief-Commissioners of Central Tax and Commissioners of State Tax came out with 9 major action plans for streamlining GST system.

Link: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1598653>

Data Sharing decision taken at 2nd National GST Conference Whilst Data Sharing (Makarandh Prasada, Advocate, Swamy Associates)

Even with a steady rise in GST collections, it looks like the Revenue is not going to slack or slowdown, in ways to augment revenue collection and to tackle the issue of fraudulently availed Input Tax Credit. Whilst December made us witness amendments to Rule 36 (4), Rule 86 (A) and the insertion of Clause (c) to Rule 138 (E), which put various restrictions on tax payers (do refer to our previous edition of TaxWiz for more information on these amendments), the New Year has started with the 2nd National GST Conference of the Commissioners of State Tax and Commissioners of Central Tax in New Delhi. The main aim of this conference was to plug revenue leaks and streamline GST system.

The main takeaways from this conference are that now CBDT, CBIC and the GSTN will share data on a quarterly basis. Data will be shared on cases involving evasion, fraudulent input tax credit, export/import, refunds and other such practices with the IT Department and they shall also be compulsorily be investigated from the IT Department as well.

Special emphasis was also laid on Input Tax Credit wherein the rising cases of illegally availed ITC were noticed, which has to be heavily clamped down. The use of machine learning and artificial intelligence was also pointed out for use to track patterns and early identification for proper enforcement.

The question that remains on everyone's mind now is how this data sharing MOU between all the revenue departments will be implemented without inconveniencing genuine tax payers.



Reimbursement of SGST payable to the State Government of Rajasthan & Madhya Pradesh on screening of Hindi film - Chhapaak (Hindi)



TN lost Rs 4,073 cr due to Centre's GST fund allocation formula: TN Governor.

GSTN has introduced Statistics column under downloads section for the taxpayers to access data.

Link: <https://www.gst.gov.in/download/gststatistics>

2 YEARS OF GST STATISTICS





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 AGRIMAS CHEMICALS LTD 2020 TIOL 04 CESTAT All

Packing material lying unused in factory for more than three years - as long as the same is not written off in books of account or removed from factory, CENVAT credit need not be reversed.

 **Old is gold. Neither write them off nor throw them out.**

2 M/s GEMINI EDIBLES AND FATS INDIA PVT LTD 2020 TIOL 26 HC Mad

Social Welfare Cess on imported goods cannot be debited against the scrip but to be paid only in cash.

3 M/s FEDERAL SECURITY PVT LTD 2020-TIOL-45-CESTAT-All

Activity of providing cash van with security guard is taxable under Cash Van Service & not under Security Service, as dominant service involved is transportation of cash in such vans

 **Transporting with security Vs Security while transporting!**

4 M/s RELIANCE INDUSTRIES LTD 2020-TIOL-79-CESTAT Mum

Prior to 01/10/2014 there was no time limit for taking cenvat credit - Taking credit after two years is not barred either by CCR or by Board Circulars



M/s VECTUS INDUSTRIES LTD 2020-TIOL-65-CESTAT-All

Amount paid as commission on sales to the Managing Director was also considered as salary income in his Income Tax return, which is conclusive. Hence, no Service Tax liability under RCM. Once the Director is an "employee" of the company, any amount paid to him, which is considered as his salary income, is not liable to Service Tax.



**It's the status that matters
and not the name.**

THE GREAT EASTERN SHIPPING COMPANY LTD 2019 TIOL-524-SC-CT-LB

Charter Party Agreement for transfer of tug to Port Trust authorities tantamount to deemed sale.

SWAMY ASSOCIATES & SABKA VISHWAS

No. of Declarations Filed	Demand	Payable Under SVLDRS	Already Paid	Balance Payable
1268	₹1332,36,29,390	₹640,24,29,025	₹583,65,78,940	₹272,86,35,124



CONTACT



#18, rams flats, ashoka avenue
directors colony , kodambakkam
Chennai - 600024.



044-24811147



mail@swamyassociates.com

WE ARE ALSO FOUND IN

- Coimbatore
- Bengaluru
- Hyderabad
- New Delhi
- Pune

