



The last few days of the fortnight was filled with hopes, despairs and what not as to whether the due date for filing GST Annual returns would be extended or not. If the time and energy wasted by all concerned on this squabbling was put to some effective use, the GDP of our country might have inched up few points. Why there is so much hullabaloo among professionals whenever any due date is approaching? Why should we wait for such extensions and fret about it? What is the big deal even if the returns are filed with a few days delay with appropriate late fee? Will all the annual returns be filed by 31<sup>st</sup> October and no one would hope for any further extension?

What is required is all-round change in the mindset.

## Table Of Content

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



## GST CASE LAWS

### 1 LM Wind Power Blades India Pvt. Ltd TS-802-HC-2020(BOM)-NT

Detention of vehicles for discrepancy in E Way bill. Assessee has paid entire IGST liability. Further paid 10 % pre deposit while filing first appeal and another 20 % pre deposit, contemplating to file second appeal, though the Tribunal is yet to be constituted. Despite the above, the Bank Guarantees furnished by them were encashed. In effect the department realised much more than what the tax payer has to pay, even if he loses his case. At last Bombay High Court comes to the rescue of the taxpayer.



**Ease of doing business!**

### 2 Jay Mills 2020-TIOL-1602-HC-MAD-GST

Refund rejection is without recording any reasoning. Authorities expected to pass speaking orders. Matter remanded to pass fresh orders.



**The direction is to adjudicating authority or GSTN portal as adjudication is more mechanised now.**

### 3 Gujarat State Petronet Limited TS-730-HC-2020(GUJ)-NT

The time limit to file appeal would start only from the date of uploading of the order in GST portal.



**Sometimes portalisation helps!**





## GST CASE LAWS

### 4 Transtonnelstroy Afcons Joint Venture

#### 2020-TIOL-1599-HC-MAD-GST

Retrospective amendment to Rule 89 (5) denying inverted rate structure refund for input services upheld by Madras High Court.



Madras HC refuses to follow the **Very Kind and Considerate Footsteps** of Gujarat HC.

### 5 Best seller 2020-TIOL-1592-HC-KERALA-GST

Watches valued at around Rs.4.5 lakhs, bought at a discounted price of Rs.8.99 and GST paid thereon by the seller. Consignment detained for lack of Eway bill. Kerala HC holds that since the actual sale value is much less than Rs.50,000 E Way bill is not required.



The assessee is not "Best Seller" but "Best Purchaser".

### 6 Datacon 2020-VIL-277-AAR

AAR holds services of scanning answer sheets, attendance sheets, etc. in connection with the examinations conducted by Bihar School Educational Board are exempted from GST.



What about the services provided by those who "help" the students to pass exams?

### 7 Mother earth environ 2020-VIL-274-AAR

The "Pit" constructed by Solid Waste Management Service provider for Landfilling of treated waste, is a "civil structure" and not a plant and machinery and no ITC available in respect of construction of such pit.



The "Pit" is not a plant in pith and substance.





## GST CASE LAWS

### 8 Midcon Polymers 2020-TIOL-260-AAR-GST

Notional interest on refundable deposit obtained for renting of immovable property service shall be included in the value of service, if it has influenced the rent amount.



**How to decide whether it has influenced or not?**

### 9 Vijay Baburao Shirke TS-815-AAAR-2020-NT

Prize money won by horse owners in horse race is not liable to GST



**If liable, who has to obtain registration?  
Horse or the owner?**

### 10 CIAL Duty Free and Retail Services Ltd. (CDRSL) 2020-VIL-463-KER

Duty free shops are eligible to claim ITC refund as the goods sold to international passengers amount to export.

### 11 Bandai Namco India Private Limited 2020-TIOL-47-AAAR-GST

Difference between amusement park and amusement facility.



**Amusing!**

### 12 Manufacturer trade association 2020-TIOL-1610-HC-DEL-GST

GST Council's recommendations are mere recommendations only and not binding on the Govt.





## NOTIFICATIONS & CIRCULARS

### CENTRAL TAX NOTIFICATIONS - 15.09.2020 to 30.09.2020

NO	DATE	GIST
66	21.09.2020	Time limit for issuing invoices in case of goods being sent or taken out of India on approval basis for sale or return, which falls between 20.03.2020 to 30.10.2020 extended to 31.10.2020.
67	21.09.2020	GSTR-4-July 17 to March 19, if filed between 22.09.2020 to 31.10.2020 Where tax is payable - Late fee payable in excess of Rs.250 waived. Where tax is not payable - late fee fully waived.
68	21.09.2020	GSTR-10 – July 17 to March 19, if filed between 22.09.2020 to 31.12.2020, late fee payable in excess of Rs. 250 waived.
69	30.09.2020	Due date for filing Annual Return GSTR 9 and 9C for the FY 2018-19 extended to <b>31.10.2020</b>
70	30.09.2020	E invoicing mandatory for taxpayers having an aggregate turnover of more than Rs. 500 Crores in any preceding financial year from 2017-18 onwards for their B2B and export transactions with effect from 01.10.2020.
71	30.09.2020	QR code requirement in B2C invoices for taxpayers having an aggregate turnover of more than Rs. 500 crores in any preceding financial year from 2017-18 onwards to be effective from 01.12.2020.
72	30.09.2020	Mandatory QR code for e-invoice. Commissioner empowered for providing exemption from e invoicing to a class of specified taxpayers for a specified period.





## NOTIFICATIONS & CIRCULARS

### CENTRAL TAX RATE NOTIFICATIONS - 15.09.2020 to 30.09.2020

NO	DATE	GIST
04	30.09.2020	Exemption granted on services with respect to outward transportation of goods (Freight Charges for Export) by air and sea extended up to 30th September, 2021.



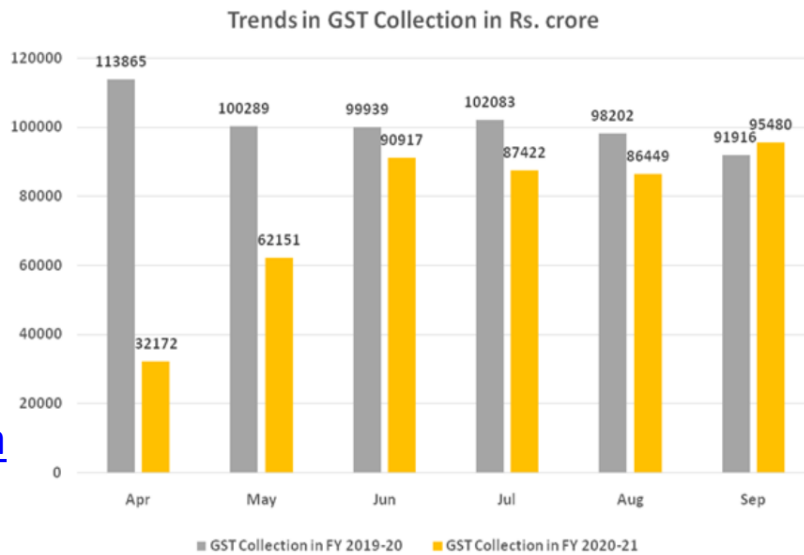
Regular invoices issued instead of e-invoice during October 2020 is deemed to be valid if IRN is obtained from the e invoicing portal within 30 days from date of issue of invoice and no penalty is imposable.

### Increasing Trend In GST Collection.

₹ 95,480 crore gross GST revenue collected in September 2020.

**Link:**

<https://pib.gov.in/PressReleasePage.aspx?PRID=1660608>



### **Chennai Customs** @ChennaiCustoms · Sep 15

Chennai Air Customs seized 3440 tablets of psychotropic drugs under NDPS Act, 1985 at FPO. 2340 tablets of Methylphenidate, 600 tablets of Zolpidem and 500 tablets of Clonazepam were recovered from postal parcels destined for Florida, USA. One pharma wholesaler arrested.





# CUSTOMS

## CASE LAWS

### 1 M/S COCHIN AIR CARGO CLEARING HOUSE 2020 (9) TMI 1121 - KERALA HIGH COURT

No one can be compelled to implement Tribunal's order when the statutorily granted time for filing an appeal against the said order is not over.

### 2 APEEJAY INFRA-LOGISTICS PRIVATE LIMITED 2020-TIOL-1618-HC-Del-Cus

The reading of instructions F.No.434/17/2004-Cus.IV dated 12.09.1995 and Circular No.128/95-Cus dated 14.12.1995 makes it clear without any ambiguity that the benchmark at Clauses 1(ii) and (iii) have to be taken into consideration cumulatively in order to be eligible to claim exemption or waiver of CRC.

### 3 M/S GS CHATHA RICE MILLS & ANOTHER 2020 (9) TMI 903 - SUPREME COURT

Notification 5/2019 was uploaded in the e-gazette at a specific time and date and cannot apply to bills of entry which were presented on the customs automated EDI system prior to such specified time.

### 4 JR ROADLINES PVT LTD 2020 (9) TMI 856 - CESTAT AHMEDABAD

Only because the containers do not have repeated use, the containers which are otherwise durable in nature, benefit of exemption Notification No. 104/94-Cus dated 16/03/1994 cannot be denied.







# CUSTOMS

## CASE LAWS

### 5 J.SHEIKPARITH V. COMMISSIONER OF CUSTOMS W.P. No.315 of 2020 MADRAS HIGHCOURT

High court quashes the SCN which was not adjudicated within the time limit prescribed under Customs Act - Sec. 28 (9).





## IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

### CUSTOMS NOTIFICATIONS – TARIFF 15.09.2020 to 30.09.2020

NO	DATE	GIST
35	30.09.2020	Govt notifies 5% Customs duty on open cell for LED/LCD TV panels.
F.No.450/61/2020-Cus.IV		CBIC extends time limit till Dec 31 for compliance under Central Excise, Customs & Service tax.

### CUSTOMS NOTIFICATIONS –NON- TARIFF 15.09.2020 to 30.09.2020

NO	DATE	GIST
90	17.09.2020	CBIC modifies Bill of Entry (Forms) Regulations 2020; notifies new Forms I, II & III.
94	30.09.2020	CBIC amends Sea Cargo Manifest & Transshipment Regulations

### DGFT NOTIFICATIONS - 15.09.2020 to 30.09.2020

NO	DATE	GIST
33	28.09.2020	Insertion of Policy Condition regarding import under all HS codes in Chapter 72, 73 and 86 of ITC (HS), 2017 to require compulsory registration under Steel Import Monitoring System (SIMS)





## IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

### CUSTOMS CIRCULARS & INSTRUCTIONS- 15.09.2020 to 30.09.2020

NO	DATE	GIST
42	29.09.2020	Provisional Assessment under Section 18 - Circular 38/2016-Cus amended - all class of importers, including Authorised Economic Operators (AEO) to furnish 100% of differential duty as a security i- rule 5 or rule 6(1)(a) or 6(1)(b) of CAROTAR, 2020.
43	30.09.2020	Implementation of the Sea Cargo Manifest and Transshipment Regulations.





## CENTRAL EXCISE AND SERVICE TAX CASE LAWS

### 1 M/s LANCOR HOLDINGS LTD 2020-TIOL-1426-CESTAT-MAD

When Service provider and service recipient merge into a single entity, Service Tax paid on advances is nothing but a deposit and refund thereof is not hit by limitation.



**Pre wedding promises cannot be enforced after marriage!**

### 2 LAXMI EXPORTS 2020-TIOL- 1451-CESTAT-AHM

The deduction named as commission from the invoice, given by seller to buyer is nothing but "discount" and no "commission agent" service is involved, attracting Service tax.



**What's in name? That we call a rose, by any other name would smell as sweet.**

### 3 M/s HINDUSTAN ZINC LTD 2020- TIOL-1439-CESTAT-DEL

Maintenance of residential colony, which is situated in industrial area not catered by Municipal authorities - Entitled for Cenvat Credit.

### 4 M/s JSW STEEL LTD 2020-TIOL- 1566-HC-MAD-CX

When the assessee followed the advice by department, later the department cannot turn around and allege suppression of facts.

### 5 M/s K7 COMPUTING PVT LTD 2020-TIOL-1453-CESTAT-MAD

Sale of anti-virus software is sale of goods and not liable to Service Tax





## FROM OUR KNOWLEDGE HOUSE

### VIDEO LINK

**GST - Is it Really Good & Simple - Business Line Knowledge Series – Adv. S. Jaikumar**

[https://youtu.be/jm\\_eWKUEtMM](https://youtu.be/jm_eWKUEtMM)

### ARTICLES

**Extensions - benevolent or belligerent - G. Natarajan**

<https://www.swamyassociates.com/downloads/2020/Extensions%20-%20benevolent%20or%20belligerent%20-%20G.%20Natarajan.pdf>

**'Global IDT Chronicles': VAT Treatment of Employee Recoveries: An Insight into Global Scenario – Part I – Sindhu Mangat Adv.**

<https://www.swamyassociates.com/downloads/2020/VAT%20Treatment%20of%20Employee%20Recoveries%20-%20Global%20scenario%20-%20Part%201.pdf>





## CONTACT



#18, Rams Flats, Ashoka Avenue  
Directors Colony , Kodambakkam  
Chennai - 600024.



044-24811147



[mail@swamyassociates.com](mailto:mail@swamyassociates.com)

### WE ARE ALSO FOUND IN

- Coimbatore
- Bengaluru
- Hyderabad
- New Delhi
- Pune

