



Shri. R. K. Jain, Bhishm Pitamah of indirect taxes, who incidentally had his office in Bhishm Pitamah Marg New Delhi is no more. The void left by him is hard to be filled up. A doyen in the field of indirect tax reporting, a fearless whistle blower whose only aim is to bring in transparency and dignity to the CESTAT and other judicial forums, father of “Excus” the most user friendly search tool and a humane human who always welcomed even the newest and youngest guests to his office with lot of sweet not only in his words but also in plates. He revolutionized article writing in the field of indirect taxes and encouraged many to pen down articles.

Let us pray that his legacy and values are cherished and carried forwarded.

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GST CASE LAWS

1 Bajaj Finance Ltd 2020-TIOL-AAAR-GST

Interest for delayed payment of EMI is not liable to GST and eligible for exemption.



But if you delay the payment of EMI your credit rating would go down!

2 Mansarovar Motors Private Limited 2020-VIL-524-MAD

Interest on gross tax liability or net tax liability - Issue finally settled.



What's the “net” effect of this whole litigation?

3 Vinaar Homes Pvt Ltd 2020-TIOL-1847-HC-DEL-ST

Even after introduction of GST, power to audit Service Tax period is not wiped off, due to the saving clause.



Why fear audit?

4 Heritage Lifestyles and Developers and Private Ltd 2020-TIOL-1875-HC-MUM-GST

Bombay High Court holds that finding of the IT Grievance Redressal Committee would be a mere technicality which cannot come in the way of substantial justice and therefore directs Revenue to accept the TRAN-1 and grant due Input Tax Credit.





GST CASE LAWS

5 Sidhart Mandavia 2020-TIOL-1861-HC-MUM-GST

There is no provision under GST law to block the Import Export Code of the taxpayer. Bank account of only the "taxpayer" against whom proceedings are pending can be attached and not his joint bank accounts with others.

6 Jinmagal Corporation 2020-VIL-311-AAR

Long term lease premium for leasing of plot of land for commercial purpose is liable to GST.

7 Dream Road Technologies Private Limited TS-974-AAR-2020-NT

Haryana AAR held that purchase of motor vehicles for leasing makes it eligible for ITC in terms of Section 17(5)(a) of CGST Act, 2017 as further supply includes leasing.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS - 16.10.2020 to 31.10.2020

NO	DATE	GIST
81	10.11.2020	Seeks to notify amendment carried out in sub-section (1), (2) and (7) of Section 39 vide Finance (No.2) Act, 2019, w.e.f 10.11.2020
82	10.11.2020	The due dates for filing GSTR-3B in a staggered manner for assessee having the turnover less than ₹5 crores has been incorporated in Rules 60 and 61. Insertion of Rule 61A prescribing the manner of opting for quarterly returns, deletion of reference to Notification 02/2019 - Central Tax (Rate) from Rule 62.
83	10.11.2020	Due date for filing of GSTR-1 returns extended to 11 th of succeeding month for monthly filers and 13 th of the succeeding month for quarterly filers.
84	10.11.2020	Notify class of persons under proviso to section 39(1), who can file quarterly returns.
85	10.11.2020	Notify special procedure for making payment of 35% as tax liability in first two months by the quarterly return filers.
86	10.11.2020	Notification 76/2020 - Central Tax prescribing the due dates for filing GSTR-3B till March 2021 has been rescinded
87	10.11.2020	The due date for filing ITC-04 for the period July - September 2020 has been extended till 30 th November 2020
88	10.11.2020	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr from 01st January 2021.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX CIRCULARS - 16.10.2020 to 31.10.2020

NO	DATE	GIST
143	10.11.2020	Provisions relating to Quarterly Return Monthly Payment Scheme – explained.



Circular inviting applications from officers of State Govt. / UT with legislature for appointment on deputation basis in the GST Council Secretariat, New Delhi

Link:

<http://gstcouncil.gov.in/sites/default/files/vacancy%20circular%20for%20gst%20website.pdf>

Upon successful generation of IRN, details of such e-invoices will be auto-populated in respective tables of GSTR-1.

Link:

<https://www.gst.gov.in/newsandupdates/read/414>

Auto-populated Form GSTR 3B (PDF) for the taxpayers, from the month of October 2020 onwards.

Link:

<https://www.gst.gov.in/newsandupdates/read/410>

How filing of
GSTR-1
became
easier

System-computed liability PDF for GSTR-3B introduced while filing of GSTR-1 (monthly)

Auto-populated GSTR-3B PDF introduced

SIMPLIFIED
GST
RETURN

Auto-drafted Input Tax Credit statement called GSTR-2B for filing of GSTR-3B





CUSTOMS

CASE LAWS

1 M/s ANKIT AGARWAL 2020-TIOL-1573-CESTAT-KOL

Department was under the fallacy that an investigation would end, once foreign marks are found on gold. The onus is on the revenue to prove the smuggled nature of gold.

2 M/s SEASWAN SHIPPING AND LOGISTICS 2020-TIOL-1857-HC-MAD-CUS

The Tribunal should make endeavor to decide the appeals on merits, as far as possible rather than taking a pedantic approach of dismissing the appeals on the ground of delay, unless there is a gross delay, and no sufficient reason is made out.

3 M/s SHREE CHAMUNDA ENTERPRISES 2020-TIOL-1584-CESTAT-MUM

In any judicial/ quasi judicial proceedings, the affected party has the right to lead the evidence in the manner which suits to him best. Any order which is contrary to this basic principle has to be more considered and reasoned.

4 CISCO SYSTEMS INDIA PVT LTD 2020-TIOL-1597-CESTAT-DEL

When an appeal is filed against an assessment order, any duty paid has to be treated as duty paid under protest and in such a case the limitation of six months for filing a refund claim from the date of payment of duty, would not arise as per the second proviso to section 27 (1) of the Customs Act .





CUSTOMS

CASE LAWS

M/s S K FREIGHT LINES PVT LTD AND ANOTHER 2020-TIOL- 1888-HC-MUM-CUS

Any order withdrawing a benefit must provide the reasons for such withdrawal and hence, non-furnishing of reasons would vitiate such an order. The order should speak for itself.

INTERGLOBE AVIATION LIMITED 2020 (11) TMI 151 - CESTAT NEW DELHI

Absence of mention of IGST and Compensation Cess in column (3) under serial no. 2 of the Exemption Notification 45/2017 Cus would mean that only the Basic Customs Duty on the fair cost of repair charges, freight and insurance charges are payable and IGST and Compensation Cess are wholly exempted.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATIONS TARIFF- 01.11.2020 to 15.11.2020

NO	DATE	GIST
42	11.11.2020	Exemption given for i)..... Chip on Film; (ii)... Printed Circuit Board Assembly (PCBA); (iii).. Cell (glass board/substrate). for use in the manufacture of LCD and LED TV Panels vide Sl.no. 515B of Notification No. 50/2017-Customs is modified from Nil to 5% BCD

CUSTOMS CIRCULARS & INSTRUCTIONS- 01.11.2020 to 15.11.2020

NO	DATE	GIST
49	03.11.2020	ROSL replaced by RoSCTTL and in respect of pending applications for ROSL with MOT duty scrips would be issued by DGFT and recovery action if any would be initiated by DGFT for such scrips.
50	05.11.2020	Policy and Guidelines for setting up of Inland Container Depots (ICDs), Container Freight Stations (CFSs) and Air Freight Stations (AFSs)





ANTI-DUMPING NOTIFICATIONS 01.11.2020 to 15.11.2020

NO	DATE	GIST
35	10.11.2020	Imposition of Anti-Dumping Duty on flax fabrics (having flax content of more than 50%) imported from China and Hong Kong for a period of 5 years
36	11.11.2020	Notification 27/2015 Cus (ADD) imposing anti-dumping duty imposed on "Acrylic Fibre" originating in or exported from Thailand rescinded
37	11.11.2020	Impose definitive anti dumping duty on Clear Float Glass originating in or exported from Malaysia for five years





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 PRATHAMESH DREAM PROPERTIES PVT LTD 2020- TIOL-1887-HC-MUM-ST

Once an appeal is pending as on 30.06.19, which was subsequently dismissed for some defect - SVLDRS declaration can be filed under Litigation Category and not under Arrears category.

2 MICROSOFT INDIA R AND D PVT LTD 2020-TIOL-1575-CESTAT- BANG

Not only "despatch" but also "delivery" of order to be proved to compute limitation for filing appeal.

3 M/S DLF ASSETS PVT. LTD 2020 (11) TMI 35 - CESTAT NEW DELHI

Services provided to SEZ units are exempted under SEZ Act. Hence, conditions imposed through the notifications issued under Finance Act, 1994 are not relevant.

4 SANJIV KUMAR MITTAL 2020 (11) TMI 241 - DELHI HIGH COURT

Any show cause notice issued to the assessee-company during the adjudication proceedings does not amount to notice to the petitioner in his personal capacity and hence attachment of his personal bank account for recovery by the respondents is in violation of principles of natural justice.





FROM OUR KNOWLEDGE HOUSE

ARTICLES

All about QRMP
By G Natarajan, Advocate

https://taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&newsid=39754





CONTACT



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



044-24811147



mail@swamyassociates.com

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- Coimbatore
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