



Last fortnight saw the Hon'ble Supreme Court delivering its judgment in the WP filed by Madras Bar Association, challenging the validity of "Tribunal, Appellate Tribunal and other Authorities [Qualification, Experience and Other Conditions of Service of Members] Rules, 2020" As the broad contours on this issue have already been laid down by various previous decisions of the Apex Court, the limited role before the SC now to test the above rules, with reference to the law laid down in various previous cases. The major direction of the SC, to the Union Government to constitute "National Tribunals Commission" to supervise the appointments and other connected issues of the Tribunal, would go a long way in reigning in independence to the Tribunal. Advocates with 10 years of experience have been made eligible to be appointed as Judicial Members of all Tribunals, based on domain knowledge. Judicial supremacy in matters of appointment is ensured by giving a casting vote to the Chairman of the selection committee. It remains to be seen whether the fixed tenure of 5 years, off course with right to seek re-appointment, would invite younger talents to the Tribunal or not. The attitude of the Government in not adhering to repeated directions given by the Hon'ble SC in this matter and the pioneering efforts of MBA in continuously spearheading the cause of bringing in transparency and independence to the Tribunals is lauded by the Hon'ble SC in a single sentence, which reads as *"The Government is, accordingly, directed to strictly adhere to the directions given above and not force the Petitioner-Madras Bar Association, which has been relentless in its efforts to ensure judicial independence of the Tribunals, to knock the doors of this Court again"*.

We also congratulate Shri. Arvind Datar, Senior Advocate, who keeps this issue very close to his heart and continuously assisting the Hon'ble SC as an Amicus Curiae.

Table Of Content

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

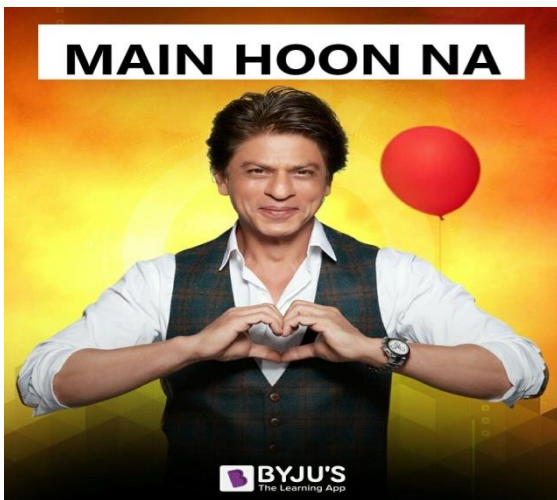




GST CASE LAWS

1 PV RAO 2020-TIOL-1984-HC-DEL-GST

Covid 19 cannot be a ground for seeking permission for recording of statement through video conferencing.



2 MUHAMMED KUNJU 2020-VIL-579-KER

Value of job worked goods, i.e. Job work charges shown in the Job worker's invoice and E-way Bill. No infirmity. Detention of goods lifted.

3 J F INTERNATIONAL 2020-VIL-564-MAD

Assessment solely based on deposition before investigating officers is not sustainable. The reply filed by the assessee should be considered.

4 KALA IMAGING WORLD 2020-VIL-557-KER

Request for cancellation of registration not allowed as wrong reason for cancellation was mentioned and the same could not be corrected. HC directs to amend the reason and cancel the registration.



Not only “Ease of doing business” but “Ease of closing business” also eludes businessmen.





GST CASE LAWS

5 SHRI SHYAMA BABA EDIBLE OILS 2020-VIL-567-MP

SCN sent by Email and not through the dashboard of the GST portal. Not a proper service as envisaged in the rules and hence order quashed.

7 B R SRIDHAR 2020-VIL-313-AAR

Sale of Flats received by the land owner from the developer, in pursuance of the Joint Development Agreement is not liable to GST in the hands of the Landowner, if such flats are sold after obtaining Completion Certificate.

6 IZ KARTEX 2020-TIOL-66-AAAR-GST

Maintenance and repair service by a foreign company to Indian Customer – GST is payable by the customer under reverse charge and not by the Indian branch of the foreign company, which did not provide the service.

8 MARKK BUSINESS PVT LTD 2020-VIL-312-AAR

Printing of Answer booklets and supplying to Educational Institutions is supply of goods and not supply of service.



**Will the applicant also award Marks to the candidates?
Their name suggests so.**





JEET & JEET GLASS AND CEMICALS PVT LTD 2020-VIL- 314-AAR

Making bullet proof vehicles on chassis supplied by customers is supply of service.



Tax can pierce, even where bullets cannot.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS – 16.11.2020 to 30.11.2020

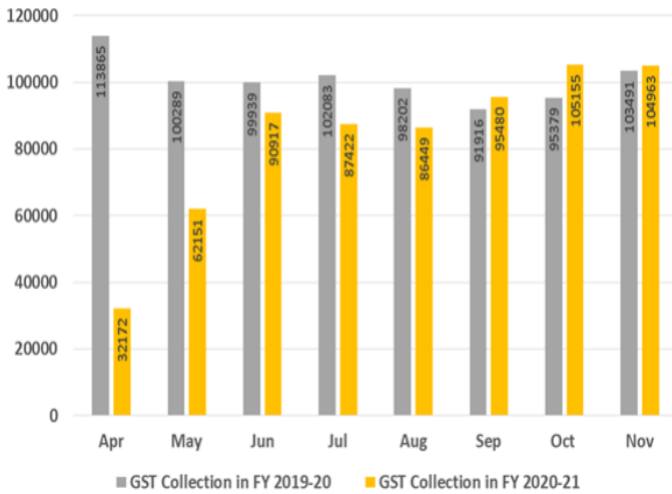
NO	DATE	GIST
89/2020	29.11.2020	Seeks to waive the amount of penalty payable by any registered person under Section 125 of the CGST Act, 2017 for non-compliance of the provisions of notification no 14/2020-CT dated 21/03/2020 relating to QR code on B2C invoices, upto 31.03.2021.





REVENUE AND STATISTICS

Trends in GST Collection in Rs. crore



Rs. 1,04,963 crore of gross GST Revenue collected in the Month of November 2020

The gross GST revenue collected in the month of November is **Rs. 1,04,963 crore** of which CGST is **Rs. 19,189 crore**, SGST is **Rs. 25,540 crore**, IGST is **Rs. 51,992** (including **Rs. 22,078 crore** collected on import of goods) and Cess is **Rs. 8242 crore** (including **Rs. 809 crore** collected on import of goods).

Table: State-wise GST collection for November 2020

State	Nov-19	Nov-20	Growth
Jammu and Kashmir	363	360	-1%
Himachal Pradesh	701	758	8%
Punjab	1375	1396	2%
Chandigarh	165	141	-14%
Uttarkhand	1280	1286	0%
Haryana	5904	5928	0%
Delhi	3995	3413	-15%
Rajasthan	3071	3130	2%
Uttar Pradesh	5678	5528	-3%
Bihar	1107	970	-12%
Sikkim	157	223	42%
Arnachal Pradesh	36	60	68%
Nagaland	23	30	31%
Manipur	35	32	-9%
Mizoram	17	17	0%
Tripura	51	58	13%
Meghalaya	117	120	2%
Assam	958	946	-1%
West Bengal	3460	3747	8%
Jharkhand	1720	1907	11%
Odisha	2347	2528	8%
Chhattisgarh	2176	2181	0%
Madhya Pradesh	2453	2493	2%
Gujarat	6805	7566	11%
Daman & Diu	101	2	-98%
Dadra & Nagar Haveli	145	296	105%
Maharashtra	15968	15001	-6%
Karnataka	6972	6915	-1%
Goa	342	300	-12%
Lakshadweep	2	0	-75%
Kerala	1691	1568	-7%
Tamil Nadu	6449	7084	10%
Puducherry	157	158	1%
Andaman & Nicobar Islands	25	23	-7%
Telangana	3349	3175	-5%
Andhra Pradesh	2230	2507	12%
Ladakh	-	9	
Other Territory	153	79	-48%
Centre Jurisdiction	95	138	45%
Grand Total	81674	82075	0.50%



- For all the taxpayer who's E-way bill generation facility has been blocked on the EWB Portal. The same can be unblocked by making an application online in Form EWB-05 from 28/11/2020.

LINK:https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Manual_ewaybill.htm

No Extra Compliance Burden if GST Turnover Displayed in 26AS

Our Bureau

New Delhi: There will be no extra compliance burden on taxpayers whose goods and services tax (GST) turnover is displayed in Form 26AS, the Department of Revenue said on Monday.

The facility has been made effective from this financial year onwards, in order to prevent underreporting of revenue by companies as compared to turnover reported in the GST returns and subsequent correct payment of income tax, said the department.

"There may be some differences in GSTR-3Bs filed and the GST shown in the Form 26AS but it can't happen that a person shows turnover of crores of rupees in GST and doesn't pay a single rupee of income

tax," the department said in a statement. "There are quite a few such cases that have been detected in data analytics."

The new Form 26AS has been introduced as a faceless hand-holding tool for taxpayers to e-file their income tax returns quickly. It also contains other information reported by reporting entities in the statement of financial transactions

such as information of cash deposits, withdrawals from saving bank accounts, sale or purchase of immovable property, time deposits and credit card payments.



Form 26AS has been introduced as a faceless hand-holding tool for taxpayers to e-file I-TRs

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/17-11-2020_26AS%20compliance.pdf

- From 1-1-2021, Government has mandated e-invoicing for the taxpayers with aggregate turnover exceeding Rs. 100 Cr. (in any preceding financial year from 2017-18 onwards).

LINK:https://tutorial.gst.gov.in/downloads/news/Updatesonei nvoicing_16112020.pdf



- NK Singh bats for restructuring GST rates

“Perhaps the NITI Aayog can be restructured or a revamped Centre-States council or a different structure all together (is needed)... for the dialogue between the centre and states to continue”

-N.K.Singh

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/20-11-2020_nk%20singh.pdf

- GST registration may be linked to biometrics.



LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/23-11-2020_biometric.pdf

- Telangana opts for Centre's GST borrowing plan.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/20-11-2020_nk%20singh.pdf

- Law panel of GST body draws plan to tackle fake invoice menace

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/23-11-2020_fake%20invoice%20plan.pdf

- CBIC's newly launched guidebook aims to facilitate the successful implementation of the Faceless Assessment initiative.

LINK:https://www.cbic.gov.in/resources/htdocs-cbec/deptt_offcr/Guidebook_Faceless_Assessment_29Oct2020.pdf;jsessionid=F636A01653993



CUSTOMS

CASE LAWS

1 ACCRETE SHIPPING SERVICES 2020-TIOL-1952-HC-KERALA- CUS

Principles of natural justice violated since no notice proposing to disagree with the Enquiry Officers Report was issued to the CHA.

3 PATWARI CLOTHING PVT LTD 2020-TIOL-1993-HC MAD-CUS

Denial of request for cross examination need not be challenged separately and challenging the consequent Order-in-Original would suffice.

2 NAUTILUS METAL CRAFTS PVT LTD 2020-TIOL-1980-HC-DEL- CUS

Show cause notice was for “availing special MEIS benefit fraudulently by mis-declaration and forgery of documents” when the exporter has not at all claimed any MEIS benefit. SCN and the order are set aside and JDFT to pay cost to the noticee.

4 GSP SHIPPING AND LOGISTICS AGENCY 2020 (11) TMI 592- CESTAT KOL

There was lapse on the part of the Customs Broker, but the same has not caused the commission of offence by the importer. Penalty should be proportionate to the offence committed. Revocation of license set aside while up-holding the forfeiture of security deposit.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATIONS – TARIFF 16.11.2020 to 30.11.2020

NO	DATE	GIST
43/2020	26/11/2020	The rate of BCD of 44% on Crude Palm Oil reduced to 27%.

CUSTOMS NOTIFICATIONS – NON-TARIFF 16.11.2020 to 30.11.2020

NO	DATE	GIST
109/2020	27/11/2020	CBIC hikes tariff value of edible oils but reduces same for gold & silver.

CUSTOMS CIRCULARS & INSTRUCTIONS- 16.11.2020 to 30.11.2020

NO	DATE	GIST
19/2020	18/11/2020	CBIC clarifies that a strict compliance of the legal prohibitions in force in regard to imports/exports from/to North Korea must be followed and in case of bonafide errors in data entry, the Customs clearance shall be allowed only after amending the data entry.
51/2020	20/11/2020	Further clarification on availment of exemption on temporary import of durable Containers.





ANTI-DUMPING NOTIFICATIONS - 16.06.2020 to 30.06.2020

NO	DATE	GIST
38/2020	19/11/2020	Notification No. 56/2015-Customs (ADD) dated 4th Dec, 2015 has been amended wherein the levy of Anti-Dumping duty on Phthalic Anhydride originating in or exported from Japan and Russia has been extended, up to 31.01.2021.
39/2020	26/11/2020	Notification No. 51/2015-Customs (ADD), dated 21st October, 2015 has been amended to extend the levy of ADD on imports of 'Fully Drawn or Fully Oriented Yarn/Spin Drawn Yarn/Flat Yarn of Polyester' originating in or exported from China PR & Thailand, upto 31.12.2020.
40/2020	27/11/2020	Anti-dumping duty imposed on import of Flouroelastomers (FKM) from China .
41/2020	27/11/2020	Levy of Anti-dumping duty on import of Front Axle Beam & Steering Knuckles from China meant for heavy/medium commercial vehicles extended till 31.01.2021.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 PARLE INTERNATIONAL LTD 2020-TIOL-2032-HC-MUM-SX

Adjudication of SCN after 13 years. The delay is enormous and the court is not bound by the “Call Book” syndrome. Orders quashed.

3 CONTINENTAL PETROLEUM LTD 2020 (11) TMI 534-CESTAT NEW DELHI

Collection and incineration of hazardous waste would not be covered under “Cleaning Service” or under any other taxable service.

2 BENGAL BEVERAGES PVT LTD 2020-TIOL-CESTAT-KOL

Whole time director is an employee of the company and hence, the remuneration paid to him is not liable to Service Tax.





Guest Column

**QRMP – A boon or bane? By
B. Venkateswaran, Assistant
Commissioner of GST
(Retired)**

<https://www.swamyassociates.com/downloads/2020/QRMP%20BOON%20OR%20BANE%20-%20BV.pdf>





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

