



As every GST Council meeting is a mini budget, followed by host of notifications and circulars, the Budget presented by the Hon'ble FM on 1<sup>st</sup> Feb is insipid in so far as GST is concerned. Amendment to Section 16 of the CGST Act enables availment of ITC on the basis of debit notes, irrespective of the period to which the debit note pertains.

Abolition of Dividend Distribution Tax is sure to boost the market sentiments. A scheme similar to Sabka Vishwas is being brought in respect of Income Tax disputes also but the scheme does not seem to be not so liberal like its indirect tax counterpart.

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## GST CASE LAWS

### 1 SHAPOORJI PALLONJI AND COMPANY PVT LTD 2020-TIOL-03-AAR-GST

Completion and finishing services and common amenities are to be treated as composite supply along with construction services.

### 2 KEYSIGHT TECHNOLOGIES INTERNATIONAL INDIA PVT. LTD. 2020 (1) TMI 633 - AAR - HARYANA

Electricity Charges claimed by the lessor from lessee is not liable to GST, to the extent electricity is procured from the grid. For Electricity generated through DG sets, 18 % GST is payable, treating it as composite supply.



**Pleasant shock!**

### 3 CHOWGULE INDUSTRIES PVT LTD 2020-TIOL-05-AAR-GST

ITC eligible for Demo cars purchased by Dealers.

### 4 M/S DABUR INDIA LTD. 2020 (1) TMI 707 - ALLAHABAD HIGH COURT

The invocation of the general entry called “others” by the petitioner is clearly misconceived, since the product in question is covered by a specific description in the heading under which the product has been classified. The court upheld the order of AAAR classifying Odomos (product in issue), under HSN 38089191 of Chapter 38 of the Customs Tariff Act, 1975.



**Call a mosquito as mosquito and not as an insect capable of flying and biting!**



## 5 MOHIT MINERALS PVT LTD 2020-TIOL-164-HC-AHM-GST

Levy of IGST on importers on CIF imports, in respect of ocean freight paid by the overseas exporter is ultra vires.

"NO SERVICE TAX OR GST  
ON OCEAN FREIGHT  
FOR CIF IMPORTS"  
- Gujarat High Court



## 6 Sutherland Global Services Private Limited TS-971-HC- 2019(MAD)-NT

Madras HC admits Revenue's appeal against order allowing transition of Education & Krishi Kalyan Cess and grants stay



**Alas for Sutherland!**

## 7 ION TRADING INDIA PRIVATE LIMITED 2020 (1) TMI 1124

Collection of insurance premium from employees, for coverage of the health of their parents is not liable to GST in the hands of the employer.

## 8 AWAS BANDHU 2020-TIOL-24- AAR-GST

Activity of Printing Question Papers is not supply of goods but supply of services.



**What about the activity of leaking the question paper? Goods or Service or good service?**

## 9 Adani Wilmar Ltd. vs. Baljit Agro Tech Pvt. Ltd. & Anr TS- 33-HC-2020(DEL)-NT

Parting with the right over brand name to claim GST exemption, would make you defenceless in trademark disputes.





## NOTIFICATIONS & CIRCULARS

### CGST CIRCULAR – 16.01.2020 to 31.01.2020

NO	DATE	GIST
131/1/2020	23.01.2020	<p>Standard Operating Procedure (SOP) to be followed by exporters.</p> <p> <b>Is it a soap or soup?</b></p>



## The GST Taxpayers can file their GSTR-3B Returns in a Staggered Manner.

**Link:**

<https://pib.gov.in/PressReleaseDetail.aspx?PRID=1600249>



## GSTN issues User Manual and FAQ's on New returns Dashboard

**Link:**

<https://www.gst.gov.in/help/newreturns>



## FinMin summons Infosys on GST Tech Glitches



**Hope the summons is delivered without any glitches.**



Late night hearings by CIT (Appeals) reduce working efficiency, resulting to misleading order.



Bhutan introduces GST.



**Beware : You shall not covet your neighbour's wife!**



CBIC extends the due date for filing of GSTR-9 & 9C in staggered manner.





## CENTRAL EXCISE AND SERVICE TAX CASE LAWS

### 1 GE T and D India Ltd 2020-TIOL-183-HC-Mad-ST

Notice pay collected from employee, quitting before the notice period is not liable to Service Tax.



"NO SERVICE TAX ON NOTICE PAY"  
- Madras High Court

### 2 Bhuwalka Pipes Pvt Ltd 2020-TIOL-112-CESTAT-Bang

Cenvat credit is allowable in respect of rent paid on premises leased for use as guesthouse & for back office purpose.

### 3 Oucik Heal Technologies Ltd 2020-TIOL-189-CESTAT-Del

Transfer of right to use software against licence fee is deemed sale and not liable to Service Tax.

### 4 Intel Technology Pvt Ltd 2020-TIOL-175-CESTAT-Bang

So long as demands have not attained finality, same cannot be called as arrears which could be adjusted against the refund sanctioned.

### 5 Western Coalfields Ltd. 2019 SCC OnLine SC 241

Buyer of goods to claim refund within the time limit prescribed, though the duty was paid under protest by the manufacturer.



**And wait endlessly for the dispute to end!**



## **6 RAILWAY OFFICERS CLUB 2020- TIOL-197-HC-MAD-ST**

Madras HC follows SC's decision in Calcutta Club case and holds Railway Officers Club is not liable to pay Service Tax.

## **7 MESSRS SAL STEEL LTD. GUJ HC**

Levy of Service tax on importers on CIF imports, in respect of ocean freight paid by the overseas exporter is ultra vires.



## FROM OUR KNOWLEDGE HOUSE

### WRITE UP'S

**Action plan for Ocean Freight issue.**

<http://bit.do/Ocean-freight-actionplan>

**Tax-Free Goodbyes**

<http://bit.do/noticepay>

### GUEST COLUMN

**Note on Refund for Exports.**

**By. B Venkateswaran**

**IRS Retired**

**Assistant Commissioner of GST**

<http://swamyassociates.com/guest.htm>

### PRESENTATION

**New GST Returns & E-Invoices\_**

<http://swamyassociates.com/presentations.htm>





## Gujarat High Court holds IGST on ocean freight 'ultra vires'

### Levy not permissible under law

**SPECIAL CORRESPONDENT  
AHMEDABAD**

The High Court of Gujarat has declared the imposition of integrated goods and services tax (IGST) on ocean freight as ultra vires and held that such a levy was not permissible under the law.

The landmark judgment has brought about major relief to the importing community as this tax was mired in controversies leading to its challenge before the high court.

The court has junked two notifications levying the tax on the ground that they lacked "legislative competence" and held that no tax was leviable under the law.

"We have reached the conclusion that no tax is leviable under the integrated goods and services tax (IGST) Act 2017 on ocean freight for the services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India up to customs station of clearance in India and the levy and collection of tax of such ocean freight under the impugned notification is not permissible in law," stated the bench headed by Justice J.B. Pardiwala.

The petition, challenging the Centre's notification, was moved by coal importers who submitted IGST can be levied either on the service provider or service recipient, not on the importers who pay customs duty.

#### **Double taxation**

They also submitted that IGST on ocean freight amounted to double taxation and hence, unconstitutional.



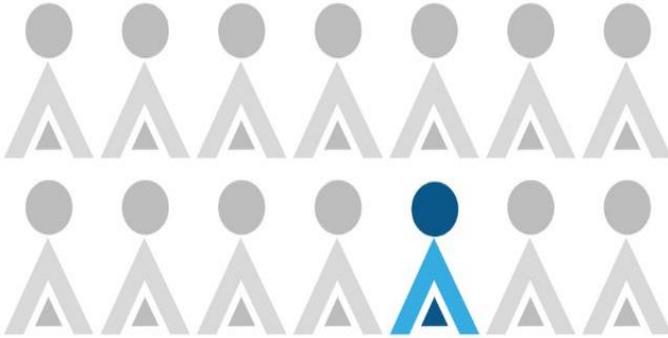
Welcoming the High Court's verdict, Abhishek Jain, tax partner, EY said: "This ruling fortifies the no-tax position adopted by various businesses, especially those engaged in supplies of GST-excluded and exempt goods, to whom the credit of GST paid on the said ocean freight is clearly not available. This ruling has been a matter of consideration for the GST Council as well and an explicit clarification on this aspect from the government should help end the ongoing litigation in various States on this aspect."

Explaining the judgment, G. Natarajan, advocate and senior partner of Swamy Associates, stated that in case of CIF (cost, insurance and freight) imports, the ocean freight is not paid by the Indian importer, but by the foreign exporter. The service is also provided by a foreign shipping line. In such a case, demanding service tax/GST for such transportation from the Indian importer is held to be extra-territorial and impermissible. Though this levy was introduced to create a level-playing field to the Indian shipping lines, the levy has been drafted so poorly, that it cannot withstand the judicial scrutiny.





# ANNUAL AWARD AT SA



## ANNUAL AWARD WINNERS



M. Nirmala



Maragatha Nithya



V. Subashree



Chitra Iyer



K. K. Roopaa



M. Nitin Chopra



T. Venugopala Swamy



Hemant Joshi



S.A. Hussainy



R. Renugan

To read more about it go to the link  
<http://bit.do/sa-annual-award-winners>



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