



Wishing you all a very happy and satisfying new year.

The new year has begun with lot of optimism, with the news of GST revenues touching an all time high ever since July 2017. At the same time, honest taxpayers are also concerned with the probable mis-use of draconian measures introduced recently, similar to those of the physical control regime. Though the same is aimed at checking the unscrupulous flock, the huge unguided discretion vested upon the field officers is bound to create friction in doing business.

Rules should be made for the honest taxpayers with exceptions for fraudulent elements, whereas the present trend suggests that rules are made for the fraudulent elements and honest taxpayers are only exceptions.

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GST CASE LAWS

1 BHARAT FORGE LTD 2020 (12) TMI 746 - ALLAHABAD HIGH COURT

Petitioner lost the tender, by quoting a different HSN attracting higher GST rate. HC directs the railways to mention HSN while issuing tender, to create level playing field for all bidders.

2 METENERE LTD 2020 (12) TMI 790 - ALLAHABAD HIGH COURT

Confiscation of goods under Sec. 130, due to non-maintenance of records as per Section 35 is not justifiable in the absence of intent to evade tax. Duty demand can be made only under Sections 73 or 74.

3 ROYALE EDIBLE COMPANY 2020-VIL-649-KER

Balance in Electronic Cash Ledger, due to deduction of TDS, claimed as refund, which was rejected on the ground that TDS was properly deducted. HC deprecates the mis-understanding of the provisions and orders refund.

4 SAHIBABAD PRINTERS 2020-VIL-632-ALH

No person can reply to a silent show cause notice.



Silent Show Cause Notice cannot lead to a Speaking order!





GST CASE LAWS

5 AJE INDIA PVT LTD 2020-VIL-654-BOM

Provisional attachment of Bank account is not warranted in case of alleged misclassification.

6 BON CARGOS PRIVATE LIMITED 2020-VIL-655-KER

When goods of the same consignor covered by different invoices are consigned together in one vehicle, the value for the purpose of E way bill will be the total value of all invoices.

7 RATAN INDUSTRIES LIMITED 2020-VIL-651-ALH

Service of SCN to a wrong Email address is no service and leads to violation of principles of natural justice.

8 SS INDUSTRIES 2020-VIL-658-GUJ

HC directs the Govt. to prescribe guidelines/procedures for invocation of Rule 86A, providing for blocking of credit as this rule could be misused and create irreversible detrimental effect on business.



9 AMOGH RAMESH BHATWADEKAR 2020 (12) TMI 786 – AUTHORITY FOR ADVANCE RULING, MAHARASHTRA

Online games is a service, taxable @ 18 % .





GST CASE LAWS

10 BHARATHIYAR UNIVERSITY 2020(12) TMI 793 – AUTHORITY FOR ADVANCE RULING, TAMILNADU

Services of affiliation provided by University to colleges is liable to GST.

11 SUMEET FACILITIES LIMITED 2020(12)748 - AUTHORITY FOR ADVANCE RULING, TAMILNADU

Supply of services relating to waste collection, segregation, treatment, transportation and disposal is not eligible for exemption as it is not provided to specified recipients.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS - 16.12.2020 to 31.12.2020

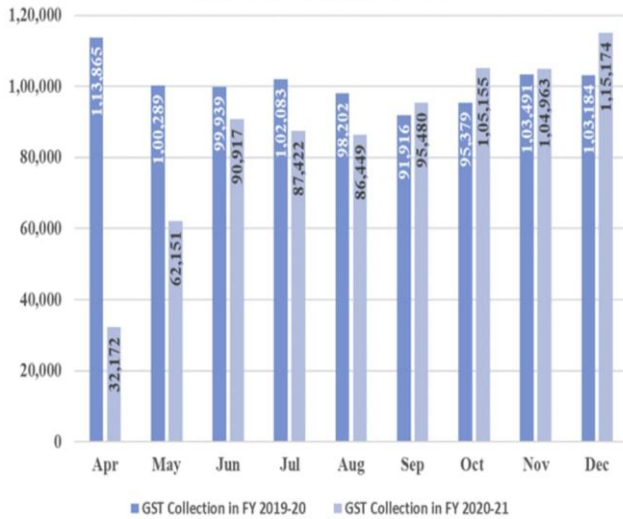
NO	DATE	GIST
92	22.12.2020	Seeks to bring into force Sections 119,120,121,122,123,124,126,127 and 131 of Finance Act, 2020(12 of 2020) with effect from 01.01.2021.
93	22.12.2020	Seeks to waive late fee for delay in filing return by dealers who opted for Composition scheme in FORM GSTR-4 in for tax payers located in UT of Ladakh for Financial year 2019-20.
94	22.12.2020	Seeks to amend the CGST Rules, 2017, bringing in various restrictions relating to Registration, taking and availing ITC.
95	30.12.2020	Seeks to extend the time limit for furnishing of the annual return for the financial year 2019-20 till 28.02.2021.





REVENUE AND STATISTICS

Trends in GST Collection in Rs. crore



State-wise growth of GST Revenues during December 2020[1]

State	Dec-19	Dec-20	Growth
1 Jammu and Kashmir	409	318	-22%
2 Himachal Pradesh	699	670	-4%
3 Punjab	1,290	1,353	5%
4 Chandigarh	168	158	-6%
5 Uttarakhand	1,213	1,246	3%
6 Haryana	5,365	5,747	7%
7 Delhi	3,698	3,451	-7%
8 Rajasthan	2,713	3,135	16%
9 Uttar Pradesh	5,489	5,937	8%
10 Bihar	1,016	1,067	5%
11 Sikkim	214	225	5%
12 Arunachal Pradesh	58	46	-22%
13 Nagaland	31	38	23%
14 Manipur	44	41	-8%
15 Mizoram	21	25	21%
16 Tripura	59	74	25%
17 Meghalaya	123	106	-14%
18 Assam	991	984	-1%
19 West Bengal	3,748	4,114	10%
20 Jharkhand	1,943	2,150	11%
21 Odisha	2,383	2,860	20%
22 Chhattisgarh	2,136	2,349	10%
23 Madhya Pradesh	2,434	2,615	7%
24 Gujarat	6,621	7,469	13%
25 Daman and Diu	94	4	-96%
26 Dadra and Nagar Haveli	154	259	68%
27 Maharashtra	16,530	17,699	7%
29 Karnataka	6,886	7,459	8%
30 Goa	363	342	-6%
31 Lakshadweep	1	1	-32%
32 Kerala	1,651	1,776	8%
33 Tamil Nadu	6,422	6,905	8%
34 Puducherry	165	159	-4%
35 Andaman and Nicobar Islands	30	22	-26%
36 Telangana	3,420	3,543	4%
37 Andhra Pradesh	2,265	2,581	14%
38 Laddakh	0	8	
97 Other Territory	118	88	-25%
99 Center Jurisdiction	75	127	68%
Grand Total	81,042	87,153	8%

GST Revenue collection for December 2020 recorded all time high since implementation of GST.

₹ 1,15,174 crore gross GST revenue collected in December which is 12% higher than the GST revenues in the same month last year





- Centre may impose 18% GST on bitcoin trading
- Centre releases Rs. 42K Crores to States to meet GST compensation shortfall.

LINK:

<https://www.businesstoday.in/current/economy-politics/centre-may-impose-18-percent-gst-on-bitcoin-trading/story/426315.html>

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/15-12-2020_42k%20states.pdf

- CAIT urges FM to defer rollout of Rule 86B in GST. The rule mandates that businesses with over ₹50 lakh monthly turnover should pay at least 1% of their GST liability in cash.
- CBIC Extends date of compliance of Anti-profiteering probe till 31st March, 2021.

LINK:

<https://www.thehindu.com/business/Economy/cait-urges-fm-to-defer-rollout-of-rule-86b-in-gst/article33417790.ece>

CBIC Extends Date for Completion of Anti-profiteering Probes till March 31

Our Bureau

New Delhi: The Central Board of Indirect Taxes and Customs (CBIC) has extended deadline for completion of anti-profiteering investigations by authorities till March 31, 2021.

The apex indirect taxes body issued a notification to this effect on Tuesday. The deadline for completing these investigations was November 30.

Separately, CBIC has clarified that copies of invoices that do not have UIN (Unique Identification Number) be attested by the authorised representative of the UIN en-

tity, and the same should be submitted to the jurisdictional officer, pertaining to refund claims for FY21.

“It has been brought to the notice of the Board that the issue of non-recording of UINs has continued even after March 31, 2020. Therefore, it has been decided to give waiver from recording of UIN on the invoices issued by the retailers/suppliers,” the Board said in a circular issued by the GST policy wing on Tuesday.

The waiver will be subject to the condition that copies of such invoices should be attested by the authorised representative of the UIN entity and the same is submitted to the jurisdictional officer.



- Centre looks to curb frequent rate tweaks in GST as mop-up falls
- India Inc suggests bringing “power” under GST ambit.

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/18-12-2020_Centre%20looks%20to%20curb.pdf

- Centre inserts a cash clause in GST system to curb fake invoicing.

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/24-12-2020_false%20invoicing.pdf

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/22-12-2020_GST%20ambit.pdf

- In person verification is must for GST Registration.

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/24-12-2020_GST%20registration.pdf

- Ignore prompt on liability for inward supplies attracting reverse charge in table – 3.1 (d)
- Webinar for taxpayers on recent changes in process of Registration on GST Portal. (On 05.01.2021 in English and On 07.01.2021 in Hindi)

LINK:

<https://www.gst.gov.in/newsandupdates/read/429>

LINK:

<https://www.gst.gov.in/newsandupdates/read/435>

- Electronic Paperless Gate Pass by Customs to promote Social Distancing during COVID 19.



PAPERLESS CUSTOMS TO PROMOTE SOCIAL DISTANCING IN TIME OF COVID-19


CBIC introduces *electronic Communication of PDF based Gate pass and eOOC (electronic Out of Charge) copy of Bill of Entry (BoE) to Customs Importers/Brokers

• SIMPLIFY IMPORT CLEARANCE PROCESS • REDUCES HUMAN INTERFACE
• EXPEDITE CUSTOMS CLEARANCE • REDUCE TRANSACTION COST



- PROMOTES DIGITISATION
- TRANSPARENT
- FACELESS
- SIMPLIFIED

*Electronic delivery of these documents to importers & customs brokers made effective from 15th April, 2020

 @cbic_india  @cbicindia  www.cbic.gov.in

- CBIC has eased accreditation requirement for MSME AEO T1 & T2 certification.

Ministry of Finance
Government of India

Authorised Economic Operator (AEO) Certification for MSMEs
CBIC has eased the accreditation requirements for MSMEs AEO T1 & T2 certification

Benefits of AEO Certification

- 1 Faster clearance
- 2 Deferred Payment of Duty
- 3 MRA recognition
- 4 Facility of Direct Port Delivery (DPD)/ Direct Port Entry (DPE)
- 5 Waiver of full or part of the Bank Guarantee requirements
- 6 Waiver of Merchant Overtime Fees (MOT)
- 7 Faster disbursal of drawback amount
- 8 Fast tracking of refunds and adjudications
- 9 Access to Client Relationship Manager

For more details:
<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-54-2020-updated.pdf>


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- Seizure of 4842 Grams of Gold, totally valued at Rs. 2.47 Crores at Trichy International Airport by the Officers of Trichy Customs (Preventive) Zone on 29.12.2020. Four persons arrested.

**# TRICHY CUSTOMS (PREVENTIVE) AT WORK
AIU TRICHY**

SEIZURE OF 4842 GRAMS OF GOLD VALUED AT RS.2,46,94,200/- WHICH WAS CONCEALED IN LUGGAGES BROUGHT BY FIVE PAX.

#INTERCEPTED





CUSTOMS

CASE LAWS

1 M/S PERFECT CARGO AND LOGISTICS 2020 (12) TMI 649 - CESTAT NEW DELHI

When the IE Code/Number was provided and before this code was issued a background check of the said importer/exporter is undertaken by the Customs Authority, there should be no doubt about the identity of the said exporter. It would be too onerous to expect a Customs House Agent to inquire into what is stated in the documents when there is a presumption that an appropriate background check is done by the Customs Authorities.

3 M/S. INGRAM MICRO INDIAN PVT. LTD 2020 (12) TMI 870 - CESTAT NEW DELHI

The classification of goods has to be done in accordance with the terms of Headings and any relative Section or Chapter Note and not on the basis of any Exemption Notification.

2 M/S SHUBHAM CHEMICALS & SOLVENTS LTD 2020 (12) TMI 711 - CESTAT NEW DELHI

While there was scope for addition of notional charges in the assessable value under the un-amended section 14 of the Customs Act, but after the actual sale price concept was introduced in the year 2007 on the basis of GATT guidelines and section 14 of the Customs Act was amended in 2007, any inclusion of notional charges seems to have lost its relevance and only actual cost incurred by the buyer is required to be considered.

4 SHRI SWARUP MONDAL 2020 (12) TMI 919 - CESTAT KOLKATA

Any order passed by the adjudicating authority without supplying the relied upon documents along with the Show Cause Notice is bad in law.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

ANTI-DUMPING NOTIFICATIONS – 16.12.2020 to 31.12.2020

NO	DATE	GIST
48/2020	30.12.2020	Levy of anti-dumping duty on imports of All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester (non-textured and non – POY) falling under heading 5402 47 from China and Thailand rescinded

DGFT NOTIFICATIONS – 16.12.2020 to 31.12.2020

NO	DATE	GIST
49/2015 - 2020	22.12.2020	Coal Import Monitoring System (CIMS) will be effective from 1/2/2021 and it requires pre-import registration.
50/2015 - 2020	28.12.2020	Onions can be exported freely without any restriction.
51/2015 - 2020	29.12.2020	Export of rice to remaining EU countries except Iceland, Liechtenstein, Norway and Switzerland will require Certificate of Inspection by the Export Inspection Council/Export Inspection Agency only wef 01/07/2021.
52/2015 - 2020	30.12.2020	Restriction on Import of only porcine intestinal mucosa falling under heading 05040039 removed and import is subject to Sanitary Import Permit from the Department of Animal Husbandry and Dairying.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 M/S OJAS INDUSTRIES PRIVATE LIMITED 2020 (12) TMI 949 - ALLAHABAD HIGH COURT

Consequent to merger / amalgamation of a company as per Companies Act, the benefits and exemptions available to the transferor would continue to be available to the transferee.

3 M/S. ROHAN MOTORS LIMITED 2020 (12) TMI 1014 - CESTAT NEW DELHI

Incentives received from vehicle manufacturers, by dealers for sales promotion is not liable to Service Tax.

5 M/S SHRI GURU HARGOBIND STEEL INDUSTRIES 2020 (12) TMI 753 - CESTAT CHANDIGARH

Refund of unutilized credit, upon surrender of registration is eligible.

2 M/S. GT HOLIDAYS PRIVATE LIMITED WP(MD) No.11018 of 2020 IN ORDER DATED 31.12.2020. MAD HC.

Once form SVLDRS -3 is issued, the Designated Committee cannot reject the declaration on the ground of ineligibility.

4 M/S AUROBINDO PHARMA LTD. 2020 (12) TMI 1013 - CESTAT HYDERABAD

Remittance of export proceeds by foreign bank to Indian Bank of the exporter. Charges paid to the foreign bank is not liable to Service Tax in the hands of the exporter.





IMPORTANT GST JUDGEMENTS OF 2020

1 MOHIT MINERALS PVT LTD 2020-TIOL-164-HC-AHM-GST

Levy of IGST on ocean freight in respect of CIF imports ultra vires. Appeal by the department admitted by Supreme Court.

3 REFEX INDUSTRIES LTD TS-89- HC-2020(MAD)-NT

Proposed amendment to Sec. 50 of CGST Act is clarificatory in nature and hence retrospective and therefore, interest is payable on net liability only.

4 MANSAROVAR MOTORS PVT LTD 2020-VIL-524-MAD

The issue of demand of interest on gross liability is finally settled in pursuance of Notification No.63/ 2020-Central Tax dated 25.08.2020 and press release by CBIC.

2 BRAND EQUITY TREATIES LTD 2020-TIOL-900-HC-DELHI

In the absence of any time limit under CGST Act, time limit of three years (as prescribed under Limitation Act, 1963) from the appointed day (01.07.2017) has to be construed as the time limit for transitioning CENVAT credit into GST regime, by which, TRAN-1 was allowed to be filed till 30.06.2020. Sub-Rule (1A) to Rule 117 is held to be ultra vires .

Hon'ble SC stayed this judgement on 19.06.2020

5 SKH SHEET METAL COMPONENTS DEL H.C W.P.(C)13151/2019

The Delhi HC maintained the ratio of the decision taken in Brand Equity Treaties Ltd despite retro-amendment.





IMPORTANT GST JUDGEMENTS OF 2020

6 ADFERT TECHNOLOGIES (P) LTD SLP No.4408/2020 - SC

Supreme Court dismisses the SLP filed by the department against the decision of P&H HC permitting the appellant to file TRAN-1 or revise the Tran 1 if already filed beyond the due date .

8 ULTRA TECH NATHDWARA CEMENT LTD 2020-TIOL-760-RAJASTHAN HC

Supremacy and sanctity of Insolvency and Bankruptcy Code, 2016 proceedings, reiterated emphatically.

10 UIO Vs LC INFRA PROJECTS PVT LTD – 2020 – VIL-170-KAR

Issuance of SCN is must for demanding interest under Sec. 50.

7 SUTHERLAND MORTGAGE SERVICES INC TS-148-HC-2020(KER)

HC holds that AAR has jurisdiction to give rulings on determination of Place of supply also, as it involves “determination of the liability to pay tax”

9 HERITAGE LIFESTYLES AND DEVELOPERS PVT 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.





IMPORTANT GST JUDGEMENTS OF 2020

11 **VKC FOOTSTEPS INDIA PVT LTD- 2020--TIOL-1273-HC-AHM-GST**

Gujarat HC strikes down the retrospective amendment in Rule 89 (5) restricting inverted rate structure refund only to inputs and holds the same is entitled for input service also.

13 **P.R. MANI ELECTRONICS 2020-VIL-308-MAD**

Prescription of time limit under Rule 117 is not ultra vires Section 140, not only in view of retrospective amendment in Sec.140 but also due to the wide rule making powers available under Sec. 164. Further, the time limit is mandatory and not directory, after balancing the interest of taxpayers and the Government.

12 **RISING INTERNATIONAL COMPANY- 2020-TIOL-1688-HC-MAD**

Officers who get their salaries on first of every month, may not know the cost of delay in business. Seized goods ordered to be released.

14 **MAHADEO CONSTRUCTIONS CO- 2020-TIOL-850-HCJHARKHAND-GST**

Interest cannot be directly recovered and procedure of issue of SCN should be followed.

15 **BHARTHI AIRTEL LTD- 2020-TIOL 901-HC-DEL**

The Delhi HC permits the petitioner to rectify the error in GSTR 3B for the period to which it relates i.e July to September 2017. On appeal by the department, the Supreme Court stayed the decision.





IMPORTANT GST JUDGEMENTS OF 2020

16 SUTHERLAND GLOBAL SERVICES PVT LTD - 2020-TIOL-1739-HC-MAD-GST

Madras HC holds that the balance of credit of Education CESS (EC), Secondary and Higher Education CESS (SHEC) and Krish Kalyan CESS (KKC) as on 30.06.2017 could not be carried forwarded into GST regime under Section 140 of the CGST Act.

17 AMPLEXOR INDIA PVT LTD - WP NOS.10344 AND 10346 OF 2020 IN ORDER DATED 07.08.2020

Madras HC issues notice to the revenue in a writ challenging the constitutional validity of the retrospective amendment to Section 140 of the CGST Act, enabling prescription of time limit for availing transitional credit.





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