



The Supreme Court Judgement in the case of Canon India Pvt. Ltd. has come as a shocker to the department, where the premier investigating agency, DRI is held to be powerless to issue show cause notices and to pass adjudication orders. When the same view was held by the Hon'ble SC earlier in Sayed Ali case, the Board immediately issued a circular asking DRI not to issue any SCNs, till the issue is studied. Replica, the CBIC has again issued similar instructions.

Another important development during the last fortnight was the decision of the Madras High Court, holding that the balance of TDS credit under VAT law can also be carried forwarded into GST regime as transitional credit, much to the relief of many erstwhile VAT dealers, who were struck with such balance of TDS.

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GST CASE LAWS

1 SATYAKAM ARYA 2021-TIOL-127-SC-GST

The terms of the Amnesty scheme cannot be interfered with by the Court, as it is a policy decision of the Govt.

2 ATHI PARSAKTHI ALLOYS STEELS PVT LTD 2021-TIOL-585-HC-MAD-GST

Commissioner (Appeals) dismissed the appeal as time barred. In view of orders of the Supreme Court extending the limitation periods due to COVID Pandemic, appeal ordered to be entertained on merits.

3 PENTACLE PLANT MACHINERIES PVT LTD 2021-TIOL-604-HC-MAD-GST

In the absence of GSTR 2 and GSTR 3, assessee permitted to rectify the mistake in GSTR 1.

4 M/S. DMR CONSTRUCTIONS 2021-VIL-208-MAD

Accumulated TDS credit as per the last VAT return is entitled to be carried forward as transitional credit under Sec. 140 of the TNGST Act.

5 NEW TIRUPUR AREA DEVELOPMENT CORPORATION LIMITED 2021 (3) TMI 498 -AAR

Activity of sewage treatment is entitled for exemption. But the charges collected for delayed payment of charges is a separate service of "agreeing to tolerate" and hence liable to GST.





GST CASE LAWS

6 WIPRO ENTERPRISES PVT LTD 2021-TIOL-88-AAR-GST

Hand sanitizers is not a medicament.



AAR Washes its hands off.



7 M/S. BSNL 2021-VIL-137- AAR

Telephone services provided by BSNL to Greater Hyderabad Municipal Corporation (GHMC) is not entitled for exemption as it is not in relation to functions under Art 243 W of Constitution.





NOTIFICATIONS & CIRCULARS

NOTIFICATION- 01.03.2021 to 15.03.2021

NO	DATE	GIST
05/21-Central Tax	08.03.2021	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 50 Cr from 01st April 2021.

CIRCULAR- 01.03.2021 to 15.03.2021

NO	DATE	GIST
147/02 /2021-GST	15.03.2021	Clarifications on issues related to refunds under GST.



- Module wise new functionalities deployed on the GST Portal for taxpayers.

LINK:

<https://www.gst.gov.in/new/sandupdates/read/455>

- New 'core entity' feature in filing GST to curb fake bills menace.

LINK:

<https://www.businesstoday.in/current/economy-politics/new-core-entity-feature-in-filing-gst-to-curb-fake-bills-menace/story/433294.html>

- DGGI Gurugram officials arrest 2 men for defrauding exchequer of more than Rs. 690 crore.

LINK:<https://pib.gov.in/PressReleasePage.aspx?PRID=1703532>

- Maharashtra wants to bring Fuel under GST.

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/11.3.2021_fuel-GST.pdf

- Field units asked to identify top GST Defaulters.

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/12.3.2021_Field-Units.pdf



- Directorate General of GST Intelligence (DGGI) Gurugram officials arrest man for input tax credit fraud of more than Rs.43 crores.

LINK:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1704065>

- GST fraud of Rs. 20,124 crore detected during November 9-January 31 as per Finance Minister.

LINK:

https://economictimes.indiatimes.com/news/economy/finance/gst-fraud-of-rs-20124-crore-detected-during-november-9-january-31-nirmala-sitharaman/articleshow/81412982.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

GST fraud of ₹20,124 crore detected during Nov 9-Jan 31: FM tells RS

NEW DELHI: The government has detected GST fraud of Rs 20,124 crore between November 9, 2020, and January 31, 2021, Finance Minister Nirmala Sitharaman said on Tuesday.

A nationwide special drive against unscrupulous entities for availing and passing on Input Tax Credit (ITC) fraudulently on the strength of fake/bogus invoices is being carried out, she said in a written reply to the Rajya Sabha.

Giving details of detection/recovery from November 9, 2020 (Date of initiation of special drive) to January 31, the



minister said 2,692 cases were booked by the officers involving GST/ITC fraud of Rs 20,124.19 crore. The amount recovered during the period was Rs 857.75 crore and 282 persons were arrested.

In reply to a separate question, Minister of State for Finance Anurag Singh Thakur

said the income tax department has detected undisclosed income of Rs 2,223.88 crore between April-December of the current fiscal.

Also, searches were conducted on 250 groups between April-December, 2020, and total assets seized stood at Rs 6,500.78 crore.

"A robust risk profiling mechanism has been put in place to identify and monitor high-risk cases primarily through use of information technology and appropriate action is taken as per the law," Thakur added.

MPOST





CUSTOMS

CASE LAWS

1 M/S CANON INDIA PRIVATE LIMITED 2021 (3) TMI 384 - SUPREME COURT

SC has held “DRI” officers are not “the proper officers” to demand Customs Duty. Revives the litigation on the issue.

2 BOMBARDIER TRANSPORTATION INDIA PVT 2021 (3) TMI 9- GUJARAT HIGH COURT

MEIS Benefits cannot be denied for technical issues in the DGFT system.

3 M/S MAHALAXMI RUBTECH LTD 2021 (3) TMI 240 - GUJARAT HIGH COURT

Para 3(a) of the Customs Circular No.36/2010 prescribing the time limit for applying for conversion/amendment, is held ultra vires Section 149 of Customs Act.

4 ATLANTIC SHIPPING PRIVATE LIMITED 2021 (3) TMI 444 - BOMBAY HIGH COURT

DGFT Policy Circulars Nos. 06/2018 dated 22.05.2018 and 08/2018 dated 21.06.2018, in so far as they seek to add and amend the provisions of the FTP 2015-20 by inserting additional conditions to curtail the rights/benefits claimed by the petitioner, as service provider are held ultra vires the Foreign Trade Policy.

5 M/S. OM UDYOG 2021 (3) TMI 355 - CESTAT CHANDIGARH

SAD refund cannot be rejected merely because imported goods were sold prior to out of charge order.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATION – CVD- 01.03.2021 to 15.03.2021

NO	DATE	GIST
03/2021	09.03.2021	Countervailing duty imposed on import of "Textured Tempered Glass" originating or exported from Malaysia.

ANTI DUMPING DUTY NOTIFICATION- 01.03.2021 to 15.03.2021

NO	DATE	GIST
11/2021	03.03.2021	Levy of anti-dumping duty on import of Phenol from the European Union and Singapore under ADD Notification 6/2016 is partly extended upto 07/06/2021.
12/2021	05.03.2021	Provisional levy of ADD on Black Toner in Powder Form originating in or exported from China PR, Malaysia, and Chinese Taipei made final for a period of 5 years from 10/8/2020 (except for intervening lapsed period from 9/2/2021 to 4/3/2021).
13/2021	11.03.2021	Levy of ADD on import of Ciprofloxacin Hydrochloride from China PR made final for a period of 5 years from 2/9/2020 (Except the intervening lapsed period from 2/3/2021 to 10/3/2021).





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 2021-TIOL-122-SC-MISC-LB

Extension of limitation granted by Supreme Court due to Covid Pandemic to end soon.

2 WESTINGHOUSE SAXBY FARMER LTD SC ORDER DATED 08.03.2021 IN CIVIL APPEAL NO. 37 OF 2009

“Relays” meant exclusively for railways are classifiable under Chapter 86 as Parts of Railway items. Note 2 Vs Note 3.



3 UOI VS ARCHANA WADHWA AND ORS 2021-TIOL-603-HC-DEL-SERVICE

CESTAT Judicial Members loose battle for "Equal work Equal Pay."



4 CCE, CHENNAI VS M/S. RAKINDO KOVAI TOWNSHIP LTD 2021 (3) TMI 130 - MADRAS HIGH COURT

Service Tax registration was not mandatory for claiming refund of CENVAT credit of Service Tax paid on input service used for export of service.

5 INDIA SWITCH COMPANY PVT. LTD. 2021 (3) TMI 192 - MADRAS HIGH COURT

When ATM's are leased to Banks, effective control not vested with the Banks. So, VAT not leviable.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

6 CCE VS SUTHERLAND GLOBAL SERVICES PVT. LTD., 2021 (3) TMI 238 - MADRAS HIGH COURT

Export of exempted services is also entitled for refund of credit under Rule 5 of CCR, 2004.

7 M/S. HYUNDAI STEEL INDIA PRIVATE LIMITED 2021 (3) TMI 153 - CESTAT CHENNAI

No excise duty payable on scrap arising during an activity, which does not amount to manufacture.

8 EDELWEISS TOKIO LIFE INSURANCE COMPANY LTD 2021-TIOL-153-CESTAT-MUM

Service Tax paid by Insurance Company under RCM and collected from the insurance agents from the commission paid to them - Section 73 A is not applicable.

9 STATE STREET SYNTEL SERVICE PVT LTD 2021-TIOL-152-CESTAT-MUM

Notice pay received by employer from employee is not liable to ST.





CBIC INSTRUCTIONS

NO	DATE	GIST
01/2021-CX in F.No.267/41/2021-CX-8	17.03.2021	To Comply with the directions of the Hon'ble High Courts, the CBIC instructs to process the declaration filed under the Sabka Vishwas Scheme manually.
04/2021-Customs in F.No.450/72/2021-Cus-IV	17.03.2021	Pursuant to the decision of the Hon'ble Supreme Court in Canon India Pvt Ltd, the CBIC instructs DRI not to issue any Show Cause Notice.





FROM OUR KNOWLEDGE HOUSE

Link to important Webinars Participated by Swamy Associates

VIDEO LINK

**DRI CAN(0)NED - A close up
on the recent SC Judgement
By G. Natarajan Advocate.**

<https://www.youtube.com/watch?v=8acjacNHJ4>

(MADRAS TAX BAR)





CONTACT



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



044-24811147



mail@swamyassociates.com

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- Coimbatore
- Bengaluru
- Hyderabad
- New Delhi
- Pune

