



Last fortnight was overshadowed by the 43rd GST Council meeting, convened after an unusually long gap. As the deliberations of the said meeting has been circulated in all social media several times, there is nothing much to add. Late tonight the notifications in this regard have also been issued and we will cover the same in the next issue.

The Delhi High Court's decision, holding that the levy of IGST on free of cost import of oxygen concentrators for personal use was unconstitutional was another important event of the last fortnight. Before we could breath out, the same has since been stayed by the Hon'ble Supreme Court.

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GST CASE LAWS

CASE LAWS

1 GURCHARAN SINGH 2021-VIL-405-DEL

Levy of IGST on Oxygen Concentrators imported free of cost for personal use is unconstitutional. GST Council has no role in giving exemptions for IGST on imports. This judgement has since been stayed by the Supreme Court.

2 ARSK HARDWARES & TRADERS 2021-VIL-403-MAD

Grant of personal hearing after passing of the order shows complete non application of mind.



3 NG GADHIYA 2021 (5) TMI 618 - JHARKHAND HIGH COURT

Attachment notice stayed as appeal against the impugned order has been filed and pre deposit paid.

4 SUBAYA CONSTRUCTIONS COMPANY LTD TS-228-HC(MAD)-2021-GST

High Court directs the customer, M/s Tamil Nadu Water and Drainage Board, to reimburse additional GST on account of hike in the rate of GST subsequent to the award of the contract.

5 R R DISTRIBUTORS IN W.P.(C) 4143/2020

Time limit to file TRAN-2 was introduced only after the Petitioner has made an attempt to file the same. Petitioner is entitled for transitional credit.





GST CASE LAWS

CASE LAWS

6 GOLDENT MESH INDUSTRIES 2021-TIOL-1127-HC TELANGANA-GST

Best judgement assessment by arriving at the turnover as thrice the quantum of average monthly turnover is quashed.



Beast

Judgement

Assessment

7 SUPER INDIA PAPER PRODUCTS AND ORS TS-236-HC(DEL)-2021- GST

Delhi HC grants relief to various parties in TRAN1 matter, involving different facts.

8 PAGE INDUSTRIES 2021-TIOL- 17-AAAR-GST

ITC not entitled for promotional materials given free of cost to the dealers and distributors.



Promote

Business.

Demote ITC.

9 NORTH SHORE TECHNOLOGIES 2021 (3) TMI 707-AAR-UP

Transportation facility provided by a company to its employees in terms of employment contract is not taxable. Such transportation is not their business activity.



10 GUITAR HEAD PUBLISHING LLP 2021-TIOL-135-AAR-GST

Supply of "guitar training books" from warehouse situated outside India to overseas customers does not amount to supply and hence not liable to GST.



Never heard the music in India.





CASE LAWS

DUBAI CHAMBER OF COMMERCE AND INDUSTRY 2021-VIL-224-AAR

Dubai Chamber of Commerce and Industry is an "intermediary" connecting the businesses in Dubai and India. They do not merely represent their head office but facilitate business between Indian business houses with their counterparts in Dubai. Hence they are liable to pay GST on the reimbursement of expenses received from their head office.

No more tax free





NOTIFICATIONS & CIRCULARS

NOTIFICATION - 16.05.2021 to 31.05.2021

NO	DATE	GIST
15/2021-Central Tax	18.05.2021	Seeks to make fourth amendment (2021) to CGST Rules, 2017.

CIRCULAR - 16.05.2021 to 31.05.2021

NO	DATE	GIST
148/04/2021-GST	18.05.2021	Seeks to prescribe Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under Section 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017.





GSTN Portal Updates

- **Generation of GSTR-2B for April 2021**
- Taxpayers willing to file FORM GSTR-3B for April 2021 before GSTR-2B generation may do so on self-assessment basis. Notification No.13/2021-CT dated 01.05.2021 prescribes a cumulative limit under Rule-36(4) for ITC claimed in periods April & May 2021.

LINK: <https://www.gst.gov.in/newsandupdates/read/473>

- The timeline for filing of the 'Application for Revocation of Cancellation' for those applicants, for whom the due date of filing such application was falling between 15th April to 29th June, 2021, has been extended up to 30th June, 2021.

LINK: <https://www.gst.gov.in/newsandupdates/read/474>



- On account of the disruptions caused by the second wave of COVID 19 pandemic to businesses across various sectors of the economy, Government has further enlarged the scope of Emergency Credit Line Guarantee Scheme.

LINK:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1722846>

- Hit from lockdown: Govt keeps tabs on June tax data.

LINK:

<http://gstcouncil.gov.in/sites/default/files/gst-articles/21-05-2021-lockdown.pdf>

- Group of FMs of States to look into GST issues related to casinos, racecourse.

LINK:

<http://gstcouncil.gov.in/sites/default/files/gst-articles/26-05-2021-GST-related-casinos.pdf>

- E-way bills generation falls to one-year low.

LINK: <http://gstcouncil.gov.in/sites/default/files/gst-articles/18-05-2021-e-way-bill.pdf>

- E-way bill integrated with FASTag; easier to track goods.

LINK: <http://gstcouncil.gov.in/sites/default/files/gst-articles/20-05-2021-E-way-bill.pdf>

- Food items supplied under Govt scheme to ITI trainees not to attract GST: AAR

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/17-05-2021_ITI-trainees.pdf

- Centre, States stare at Rs. 2 Trillion GST Cess Gap.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/24-05-2021_GST-cess-gap.pdf

- Govt relaxes GST refund claim norms

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/20-05-2021_GST-refund-claim.pdf

- Higher rates likely on pan masala and gutkha to curb tax evasion

LINK:
http://gstcouncil.gov.in/sites/default/files/gst-articles/27-05-2021_tax-evasion.pdf

- States may ask for 5-year extension of GST Compensation.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/24-05-2021_GST-compensation.pdf

- Haryana is the first state to reimburse GST on Covid donations.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/19-05-2021_GST-Covid-donations.pdf

- Slash GST on mustard seeds, oil

LINK:
http://gstcouncil.gov.in/sites/default/files/gst-articles/25-05-2021_Slash-GST-mustard-oil.pdf



- **Panel to examine GST implication on gaming sites**

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/27-05-2021_GST-implication.pdf

- **Tourism sector demands GST Rationalization**

LINK:

<http://gstcouncil.gov.in/sites/default/files/gst-articles/21-05-2021-GST-rationalisation.pdf>

- **Footwear, garments may attract higher GST.**

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/27-05-2021_higher-GST.pdf

- **States see large tax shortfall over initial projections in FY21**

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/26-05-2021_tax-shortfall.pdf



CUSTOMS

CASE LAWS

1 M/S. MBILITY SERVICES 2021 (5) TMI 740 - BOMBAY HIGH COURT

When the seized goods are released provisionally under Sec 110A, though issuance of notice within 6 months post seizure under Sec 110 would not apply, notice contemplated under Sec 124 cannot be indefinitely deferred and the matter of seizure/confiscation is required to be adjudicated promptly.

2 STATE CBI/ACB/GOA 2021-TIOL-1166-HC-MUM-MISC

Once the contravention of the provisions of the act by the Accused was not established in the adjudication proceedings, it has to be inferred that the prosecution of the Accused under the provisions of the Prevention of Corruption Act particularly having regard to the non-satisfaction of necessary ingredients of Section 13(1)(d) of the Act cannot be held to be satisfied.

3 M/S JET AIRWAYS (INDIA) LIMITED 2021 (5) TMI 908 - CESTAT MUMBAI

No amount towards alleged transportation cost is required to be included in the value of remnant ATF under Rule 10(2) of the 2007 Rules for determining the transaction value under Section 14(1) of the Customs Act.





CUSTOMS

CASE LAWS

4 VOLVO AUTO INDIA PRIVATE LIMITED 2021-VIL-209-CESTAT-DEL-CU

True Up payment is made by the related foreign supplier towards losses incurred by the Indian importer and it is not an additional consideration flowing from the importer to the supplier and it can never be included in the transaction value of the imported items. The marketing and advertisement expenses incurred by the Indian company for selling the goods within India cannot be termed as expenses incurred on behalf of the foreign supplier although the foreign supplier would also indirectly benefit if the appellant's business improves and therefore, cannot fall within the ambit of Rule 10 (1) (e).

5 CMR NIKKE INDIA PVT. LTD. CESTAT, AHMEDABAD.

If 84 Bills of Entries are decided in a common Order in Appeal, 84 appeals have to be filed.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

ANTI DUMPING DUTY - 16.05.2021 to 31.05.2021

NO	DATE	GIST
30/2021	24.05.2021	Levy of anti-dumping duty on imports of 'Tetrafluoroethane or R-134a', from China has been extended upto 10.01.2022.
31/2021	29.05.2021	Levy of anti-dumping duty on imports of 'Methyl Acetoacetate', from China PR continues for another 5 years from 29.05.2021.

CUSTOMS CIRCULAR - 16.05.2021 to 31.05.2021

NO	DATE	GIST
10/2021	17.05.2021	Clarifying the changes made vide IGCR Amendment Rules, 2021 and the related procedures.

CUSTOMS INSTRUCTION - 16.05.2021 to 31.05.2021

NO	DATE	GIST
12/2021	25.05.2021	Relaxation provided to fast track approvals for import of cylinders and pressure vessels for storage and transportation of medical oxygen without any delay .





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

DGFT NOTIFICATION- 16.05.2021 to 31.05.2021

NO	DATE	GIST
K-43014(16)/9/2020-SEZ	27.05.2021	Revised Policy guidelines have been issued with respect to Plastic and Used/worn clothes recycling units in SEZs/EOUs.

DGFT TRADE NOTICE - 16.05.2021 to 31.05.2021

NO	DATE	GIST
05/2021-22	19.05.2021	An online e-EPCG Committee module is introduced, for receiving applications for seeking relaxation in policy/procedure in terms of para 2.58 of FTP.
06/2021-22	25.05.2021	Mandatory recording of information about transfer of DFIA Scrips and Paperless issuance of DFIA w.e.f 07.06.2021.
07/2021-22	26.05.2021	DGFT IEC Code services will not be available from 01.06.2021 to 06.06.2021.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 SHREE DURGA RICE MILL 2021 (5) TMI 696 - ORISSA HIGH COURT

Gunny bags in which rice was packed, was sold separately for separate price. Sales tax is payable on gunny bags separately at the rate applicable for gunny bags.

2 KRISHNA FOOD PRODUCTS 2021-TIOL-294-CESTAT-DEL-LB

Distribution of credit to contract manufacturing units is permissible. Later amendment is held to be retrospective.

3 RECON STEEL AND POWER PVT LTD 2021-TIOL-287-CESTAT-DEL

Reliance on electronic evidence. If the conditions prescribed under Section 36 B of the CE Act are not followed, such evidences cannot be relied upon.

4 SUREEL ENTERPRISES PVT. LTD. 2021 (5) TMI 802 - CESTAT AHMEDABAD

The contract is to manufacture soap from raw materials for M/s Nirma. Service Tax cannot be demanded under manpower supply service.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

S SCHLUMBERGER ASIA SERVICES
LTD 2021-VIL-218-CESTAT-CHD-
ST

CESTAT has allowed refund of the Education Cess & Krishi Kaylan Cess Credit lying unutilised as on 30.06.2017.





CONTACT



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



044-24811147



mail@swamyassociates.com

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