



The Budget is out.

As expected, the much talked about Canon Judgement of the Hon'ble Supreme Court is to be given a decent burial with retrospective effect. It is hard to believe that high profile smuggling cases booked and pursued by DRI can go for a toss for any drafting gafee.

The revamping of customs exemptions would go a long way in ease of doing business. Today in the myriad of notifications, the most difficult question on Customs is "What is the customs duty for such and such commodity". Let us see more about GST changes later.



Table Of Content

1	GST Case Laws
2	GSTN Portal Updates
3	News
4	Customs
5	The Legacy





1 AC(ST)AND ORS VS SATYAM SHIVAM PAPERS PVT LIMITED & ANR-2022-VIL-06-SC

SC enhances the cost imposed by the High Court on officers, for illegal detention of conveyance and goods.

 **If only the powers are used only against real evaders, the Apex Court need not be burdened with such trivial matters.**

2 AIM WORLDWIDE PVT LTD-2022 (1) TMI 547 - GUJARAT HIGH COURT

Rejection of IGST Refund by relying on Circular No. 37/2018-Cus dated 09.10.2018 even after repaying the differential drawback, is arbitrary and illegal and hence the Refund has to be sanctioned along with the interest.

3 AMBIKA CREATION- 2022 (1) TMI 701 - GUJARAT HIGH COURT

Once the statutory period (one year) comes to an end, the authority has no discretion to extend the said period for blocking of Electronic credit ledger as per rule 86 A, CGST Rules, 2017.

4 Siddarth Enterprises Vs Nodal Officer - 2022 - TIOL-62 Guj HC

HC praises the ASG for sorting out the problem of TRAN credit.

5 ARISTO BULLION PVT LTD-2022-VIL-09-AAAR

Once ITC is availed, it goes to the common pool and it can be used to pay tax on any outward supply. There is no need for any one-to-one correlation in this regard.

 **Better sense prevailed**





6 CUMMINS INDIA LTD-2022-TIOL-02-AAAR-GST

A detailed order covering most of the aspects relating to ISD Vs Cross Charge. ISD registration is mandatory. No GST payable on the sharing of common expenses based on "pure agent" principle. Sharing of employee cost would attract GST. Value can be notional if recipient is entitled for ITC.



Why can't the "cross charge" i.e. rendering of services between "distinct persons" be simply be exempted, keeping the levy only on supply of goods between "distinct persons"?

7 SHREE DIPESH ANILKUMAR NAIK-2022-VIL-08-AAAR

The AAAR confirms AAR ruling that sale of developed land with primary amenities for the purposes of seeking approval from municipality is supply of taxable services and is not equivalent to sale of land.

8 SHANTILAL REAL ESTATE SERVICES-2022 (1) TMI 659 - AAR, GOA

Sale of developed plots cannot not be considered as supply under the entry 5(b) of Schedule II of CGST Act, 2017.



Yes. There is lot of difference between Goa and Gujarat!

9 SYNGENTA INDIA LIMITED-2022-VIL-18-AAR

Recovery from employees towards notice pay & parental insurance does not attract GST.





10 JYOTI CERAMIC INDUSTRIES PVT LTD-2022-TIOL-24-AAR- GST

Artificial teeth, supplying along with dental treatment is exempted from payment of GST, as composite supply of health service. But if the same are supplied as part of cosmetic services, exemption not available.

11 RAJESH KUMAR GUPTA- 2022- TIOL-23-AAR-GST

No ITC reversals are required for post supply discounts received through commercial credit notes.





Warning for GST Registration Suspension in case of difference in Liability payment of tax or ITC availment more than 10%



Warning

Registration can be suspended as the percentage difference in liability declared in GSTR-3B varies more than 10% with that declared in GSTR-1 or the ITC claimed in GSTR-3B varies more than 10% with the values auto-populated from GSTR-2B on the basis of GSTR-1 filed by suppliers

OK

The new functionality of interest calculator in GSTR-3B is now live on the GST Portal

The interest applicable, if any, will be computed after the filing of the said GSTR-3B and will be auto-populated in the Table-5.1 of the GSTR-3B of the next tax-period. The facility would be similar to the collection of Late fees for GSTR-3B, filed after the Due date, posted in the next period's GSTR-3B.

Illustration of interest computation in GSTR-3B by the system with sample values & screenshots

https://tutorial.gst.gov.in/downloads/news/interest_calculator_gstr3b_sample.pdf





GSTN PORTAL UPDATES

GSTN provides GST Returns filing history, E-way Bill history and Liability Payment Percentage –

- (i) Login to GST Portal using User ID and Password
- (ii) Search Taxpayer
- (iii) Search by GSTIN

SHOW FILING TABLE

E-WAY BILL HISTORY

LIABILITY PAID PERCENTAGE

Search Result based on GSTIN/UIN : XXXXXXXXXX

[Show Calculation Formula](#)

% of Liability paid represents quantum of liability auto populated from GSTR-1 that was declared/paid in GSTR-3B.

Current Financial Year

Previous Financial Year

Financial Year	Tax Period	% of Liability paid
2021-22	December	100%
2021-22	November	100%
2021-22	October	101%
2021-22	September	100%
2021-22	August	101%
2021-22	July	102%
2021-22	June	98%
2021-22	May	100%
2021-22	April	100%
2021-22	Total	100%

Financial Year	Tax Period	% of Liability paid
2020-21	March	97%
2020-21	February	95%
2020-21	January	107%
2020-21	December	100%
2020-21	November	100%
2020-21	October	100%
2020-21	September	100%
2020-21	August	100%
2020-21	July	99%
2020-21	June	100%
2020-21	May	101%
2020-21	April	100%
2020-21	Total	100%

Note: Liability percentage is displayed for the periods only after GSTR-1 & GSTR-3B are filed and GSTR-2B is generated.

Liability paid percentage - Calculation methodology

Liability paid percentage = (Liability paid / Liability auto drafted) *100

Link:

<https://services.gst.gov.in/pages/services/liabpaidperFormula/LiabilityPaidPercentageFormula.html>





GSTN PORTAL UPDATES

GSTN showing the difference in liability declared and paid along with the breakup of tax paid through GST DRC-03

Amounts in (₹)

Difference in liability declared and paid ?

MAKE PAYMENT THROUGH DRC-03

Tax Period	Tax liability as per GSTR-1/IFF, GSTR-2B/2A and paid as per GSTR-3B [Expand] ▶					
	Liability as per GSTR-1/IFF, GSTR-2B/2A	Liability paid as per GSTR-3B	Shortfall (-)/ Excess (+) in liability	Payment made, if any through DRC-03	Shortfall (-)/ Excess (+) in liability, including payment through DRC-03	Percentage of liability paid (%) including payment through DRC-03
1	6 ▶	11 ▶	16 ▶	21 ▶	26 ▶	27
	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	
Apr-21	17,88,788.94	17,98,700.48	9,911.54			101
May-21	5,76,268.32	5,76,268.32	0.00			100
Jun-21	22,63,976.88	22,63,976.88	0.00			100
Jul-21	27,89,552.36	27,89,552.36	0.00			100
Aug-21	15,02,758.34	15,02,758.34	0.00			100
Sep-21	14,48,719.18	14,48,719.18	0.00			100
Oct-21	12,69,542.50	12,69,542.50	0.00			100
Nov-21	6,33,270.43	6,33,270.43	0.00			100
Dec-21	9,98,532.92	9,99,677.00	1,144.08			100
Jan-22						
Feb-22						
Mar-22						
Total	1,32,71,409.87	1,32,82,465.49	11,055.62	0.00	11,055.62	100

DOWNLOAD (CSV)





UNION BUDGET 2022-2023

Union Budget 2022-23 to be presented on 1st February, 2022 in Paperless form

To mark the final stage of Union Budget making process, sweets provided to core staff due for “lock-in” at their work workplace instead of Halwa ceremony due to ongoing Pandemic and health safety concerns

Union Budget 2022-23 will be available on Mobile App after it is presented in Parliament

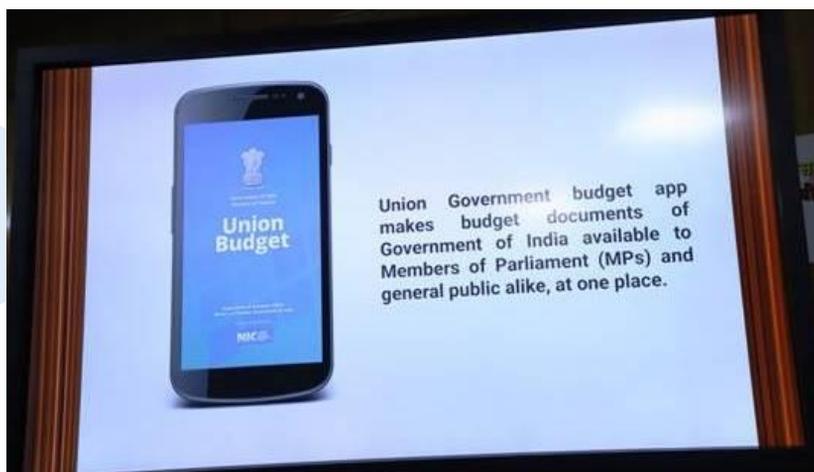
“Union Budget Mobile App” to provide easy and quick access to Union Budget information to all stakeholders

Mobile App is bilingual (English & Hindi) and is available on both Android and iOS platforms –

<https://play.google.com/store/apps/details?id=com.nic.unionbudget&hl=en IN&gl=US>

Mobile App can be downloaded from the Union Budget Web Portal (www.indiabudget.gov.in)

All Budget documents will also be available for download on Union Budget Web Portal





29 officers and staff of Central Board of Indirect Taxes and Customs get Presidential Awards on eve of Republic Day

Link:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1792543>

DGGI Ghaziabad officials bust bogus network of 275 firms involving fake invoices of more than Rs 3,100 crore





Rs 1,38,394 crore Gross GST Revenue collected for January 2022

GST collection crossed Rs 1.30 lakh crore mark for the 4th time

Revenues for the month of January 2022 15% higher than GST revenues in the same month last year and 25% higher than the GST revenues in January 2020

The gross GST revenue collected in the month of January 2022 till 3PM on 31.01.2022 is Rs 1,38,394 crore of which CGST is Rs 24,674 crore, SGST is Rs 32,016 crore, IGST is Rs 72,030 crore (including Rs 35,181 crore collected on import of goods) and cess is Rs 9,674 crore (including Rs 517 crore collected on import of goods). The highest monthly GST collection has been Rs 1,39,708 crore in the month of April 2021. Total number of GSTR-3B returns filed upto 30th January 2022 is 1.05 crore that includes 36 lakh quarterly returns.

The government has settled Rs 29,726 crore to CGST and Rs 24,180 crore to SGST from IGST as regular settlement. In addition, Centre has also settled Rs. 35,000 crore of IGST on ad-hoc basis in the ratio of 50:50 between Centre and States/UTs in this month. The total revenue of Centre and the States in the month of January 2022 after regular and ad-hoc settlements is Rs 71,900 crore for CGST and Rs 73,696 crore for the SGST. Centre also released GST compensation Rs 18,000 crore in January'2022 to States/UTs.





1 DEC AGROTECH PVT. LTD. & ORS. 2022 (1) TMI 1021-CALCUTTA HIGH COURT

Under section 110(2) of the Customs Act, the person from whose possession the goods have been seized is entitled to notice for extension of the period of 6 months. But he is not entitled to information as to the investigation which is in process, because there can be no right to be informed midway, during an investigation of the material collected in the case against him.

2 GREEN GOLD TIMBERS PVT. LTD 2022 (1) TMI 816 - GUJARAT HIGH COURT

The customs cargo service provider is not entitled to charge any rent or demurrage on the goods seized or detained or confiscated by the Superintendent of Customs or any other authority.

3 SUSHITEX EXPORTS (INDIA) LTD. & ORS 2022 (1) TMI 777 -BOMBAY HIGH COURT

Fraudulent export of goods under DEEC scheme. Show cause notice issued 23 years ago, which remained dormant for about fourteen years after hearing, has been set aside because of the inordinate delay. Further, Rs. 2 Crores deposited during investigation liable to be refunded with interest.

4 NATIONAL STEEL AND AGRO INDUSTRIES LTD 2022 (1) TMI 915 - CESTAT MUMBAI

The Department is bound to accept the description of goods in the import documents as well as sale invoice to be one and the same on the strength of the certificate/correlation statement issued by the statutory Auditor. Therefore, the denial of refund of SAD was set aside.





GKB VISION LTD. 2022 (1) TMI 723 - CESTAT MUMBAI

Ministry after considering the re-presentation of the appellant have communicated to the development commissioner that a wastage of 15 percent has been fixed and the development commissioner may take necessary action under para 6.7(e) of Hand Book of Procedures Volume-I. Thus, in view of the decisions dated 23/9/2008 and 26/11/2008 of the Commerce Ministry, in the appellant's case. Demand of duty on wastage/breakage of ophthalmic blanks imported by 100% EOU set aside as the Commerce Ministry fixed the wastage norms as 15% as against the earlier norms of 9.09 % percent.

TOYOTA MATERIAL HANDLING INDIA PRIVATE LIMITED, 2022 (1) TMI 1141 - CESTAT NEW DELHI

Following the ratio of the Canon Judgement, the show cause notice dated 30.01.2009 issued by DRI is set aside as the said officer is not the proper officer.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATION- 16.01.2022 to 31.01.2022

NO	DATE	GIST
01/ 2022- Customs	18.01.2022	Exemption to specified goods imported into India by All India Football Federation for the purpose of organising the AFC Women's Asian Cup India, 2022.

CUSTOMS CIRCULARS- 16.01.2022 to 31.01.2022

NO	DATE	GIST
01/2022 - Customs	18.01.2022	Extension of time period for re-export of ISO containers meant for transportation of Liquid Medical Oxygen till 20.09.2022 .
02/2022 - Customs	19.01.2022	Relaxation in Bank Guarantee extended to various categories of AEO/AEO (MSME), would not be applicable for CARATOR Rules, 2020.

ANTI DUMPING DUTY NOTIFICATIONS- 16.01.2022 to 31.01.2022

NO	DATE	GIST
03/2022 - Customs (ADD)	24.01.2022	Anti dumping duty imposed on PVC Flex Films falling under Chapter 39 originating in or exported from China PR revoked.
04/2022 - Customs (ADD)	24.01.2022	Seeks to impose Anti Dumping Duty on Axles Trailers originating in or exported from China.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

DGFT NOTIFICATION- 16.01.2022 to 31.01.2022

NO	DATE	GIST
51/2015 -2020	25.01.2022	Export of Human Hair falling under ITC (HS) Code 0501 put under restricted category.
52/2015 -2020	31.01.2022	Export of syringe falling under ITC (HS) Code 90183100 put under free category.

DGFT POLICY CIRCULAR- 16.01.2022 to 31.01.2022

NO	DATE	GIST
38/2015 -2020	19.01.2022	Clarification on Steel Import Monitoring System (SIMS).

DGFT TRADE NOTICES- 16.01.2022 to 31.01.2022

NO	DATE	GIST
32/2021 -22	24.01.2022	The date for Mandatory electronic filing of Non-Preferential Certificate of Origin (CoO) through the Common Digital Platform extended to 31.03.2022.
33/2021 -22	27.01.2022	Procedures for application for Tariff Rate Quota (TRQ) under FTA/CECA for FY2022-23 prescribed.





1 ETHICS INFRA DEVELOPMENT PVT LTD 2022 (1) TMI 1015-CESTAT MUMBAI

Redevelopment of residential complex, No Service Tax payable for the flats constructed for the existing owners.

2 TIRUPATI BALAJI FURNACE PVT LTD VS CCE- 2022-TIOL-77-CESTAT, DEL

Penalties imposed for default are not liable to Service tax as “agreeing to tolerating an act”.

3 RAJASTHAN RAJYA VIDHYUT PRASARAN 2022 (1) TMI 909- CESTAT NEW DELHI

No Service Tax on notice pay recoveries by employers.

4 LUMINO INDUSTRIES LTD 2022 (1) TMI 509- CESTAT KOLKATA

When the values for supply of material is clearly determinable from the invoice raised and contract entered for supply of materials, then the value of goods must be excluded from the entire contract value and Service Tax is payable only on the value of service.

5 JAGNNATH POLYERS PVT LTD 2022 TIOL 66 CESTAT DEL

The appellant is entitled to Cenvat Credit of Service Tax amount deposited during December 2018 on Ocean freight under reverse charge mechanism. As the Cenvat Credit facility is not available at the time of payment of Service Tax, the appellant is entitled for cash refund under Section 142(3) of CGST Act.





SBI Cards and payment Services Pvt Ltd Vs CCE-2022-TIOL-85-CESTAT, Chd

IRCTC provides “Co-branding” service to the appellant. Lower adjudicating authority observation IRCTC provides only catering service and hence not entitled for CENVAT credit is not sustainable .



Adjudicating Authority’s common sense is amazing!





CONTACT



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

<https://g.page/swamyassociates-chennai?share>



Swamy Associates, Old No.12,
New No.11, SATTVA, Nanganallur
Chennai – 600061.

<https://g.page/swamyassociates-headquarters?share>



044-24811147



mail@swamyassociates.com

OTHER LOCATIONS

- Coimbatore
- Bengaluru
- Hyderabad
- New Delhi
- Pune



www.swamyassociates.com

swamy associates

