



There appears to be a ray of light, however dim or slim it may be, at a distance. It could be either real or a mirage. In this global pandemic situation, where the word positive carries an exactly opposite meaning, lets have faith about the future. On one hand, the entire machinery is burning its midnight oil and coming out with their best possible measures to bail out from the pandemic but on the other hand there are some toxic decisions, which are sure to drop anchor to the sanity. With COVID thoroughly exposing the human inadequacies, we can only HOPE for the best.

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GST CASE LAWS

1 Anil Kumar Aggarwal 2020-TIOL-95-AAR-GST

Salary to the Executive director, Profit and Salary to Partners do not attract GST. Dividend Income not to be included for computation of aggregate turnover.

2 Sandeep Goyal vs. Union of India TS-258-SC-2020-NT

SC directs investigation into 555 fake firm cases to be completed within 3 months failing which the petitioner would be released on bail subject to appropriate conditions.



Would the lockdown period get excluded?

3 Anoopsinh TS-261-HC-2020(GUJ)-NT

Action to be taken on the owner of the goods and not against the owner of the godown.



You simply cant go down on a godown - Gujarat HC

4 DKMS BMST Foundation India 2020-VIL-114-AAR

The testing services received by the applicant from overseas laboratory is covered under health care services by clinical establishment and is thereby exempted from IGST



5 Bharthi Airtel Ltd 2020-TIOL-901-High Court-Delhi

Permits the petitioner to rectify the error in GSTR 3B for the period to which it relates i.e July to September 2017.

6 Brand equities Ltd & Others 2020-TIOL-900-High Court-Delhi

Tran-1 can be filed upto 30.06.2020. Right in Rem, HC directed the respondents to publicize the decision.



"Best judgement"

7 Lalit kumar Gandhi TS-259-HC-2020(MP)-NT

HC grants bail to person accused of bogus invoicing on the grounds of COVID 19 subject to conditions.



At times, COVID is good.

8 Sri Malai Mahadeshwara Swamy Kshethra Development Authority 2020-TIOL-97-AAR-GST

Temple access fees, auctioning of various services (like tonsuring, vehicle fee collection) are subject to GST . Sale of prasadam, seva charges, darshan charges are exempt since they are not supply under GST.



Tonsured yet taxed!

9 Meripo Adiyya 2020-TIOL-899-HC-AP-GST

The HC held that the amount collected by respondents under the threat of detention of vehicle containing tax paid consignment was against constitution and directs them to pay the amount with 6% interest. Further imposes cost of Rs. 25K on the respondent.



Gabbar Singh Tax???



10 Acharya Shree Mahashraman Chaturmas Pravasa Vyavastha Samiti Trust TS-294-AAAR-2020-NT

Renting of 2BHK accommodation with cooking facility and renting of dormitory by charitable trust are not renting of rooms, not exempt as per Sr No. 13 of Notification No. 12 of 2017 CT.

11 Shahzhad Alam 2020-TIOL-908-High Court

FIR can be lodged against the bogus firms even in the absence of any specific order under GST.

12 The Nurserymen Co-operative Society Ltd 2020-VIL-25-AAAR

Service provided by the applicant to the government is exempt, the same provided by the sub-contractor to the applicant is not exempted.

13 Tata Coffee Limited 2020-VIL-28-AAAR

The appellant carries out an activity of depositing timber to Government Timber depots which in turn puts the same into auction. The proceeds from sale is remitted to appellant. Since, the depots act as agent and therefore, this transaction is treated as supply under Schedule I



Appellate Authority, puts the cart before the horse.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATIONS - 01.05.2020 to 15.05.2020

NO	DATE	GIST
38	05.05.2020	During the period 21.04.2020 to 30.06.2020, the taxpayer can file GSTR 3B return using EVC (electronic verification code). Nil GSTR 3B return can be filed through SMS.
39	05.05.2020	Amendments to special procedure for corporate debtors undergoing the CIRP under the IBC.
40	05.05.2020	The validity period of e-way bill generated on or before 24.03.2020 and expiring during the period between 20.03.2020 to 15.04.2020 has been extended to 31.05.2020.
41	05.05.2020	Time limit to furnish annual return in form GSTR 9/9C for FY 2018-19 extended upto 30.09.2020
42	05.05.2020	Provides extension of due date for filing returns in UT of Jammu and Kashmir and Ladakh

CSGT CIRCULARS - 01.05.2020 to 15.05.2020

NO	DATE	GIST
138	06.05.2020	Clarifications pertaining to CIRP, extension to merchant exporter to export the goods, due date for filing ITC-04 for the quarter ending March, 2020 stands extended up to 30.06.2020.

For detailed explanation of Notification and Circular Compendium: <https://bit.ly/3bOldWo>



State Governments face revenue shortfall.

GST compensation is due to all the States for the four-month period of December'19-March'20 - Finance Minister



Sec 140 amended retrospectively – Time limit to avail Transitional credit-Govt.

Whereas Delhi HC extends time limit- Read at GST Case Laws Section of the Newsletter



The Chief Commissioner of GST & Central Excise Tamilnadu & Puducherry vide GST Trade Notice No. 03/2020 dated May 15, 2020, has decided to set up a WhatsApp Number for taxpayers under Central Government.



94444 02480



GSTN - Alert to the Taxpayers on fake messages on GST Refund.

Link: <https://www.gst.gov.in/newsandupdates/read/376>

CBIC chairman Mr. Ajit Kumar appreciates the officers for their yeomen service to the Trade and Industry during COVID times. – #weto!




GST officers want transfer to their native places because of Covid



CGST THANE @CGSTThane · May 18

Attention taxpayers! Thane CGST issues 'Guidelines for conduct of Personal Hearing in virtual mode' keeping in view COVID-19 situation. Please find the details here. [@CGST_mumbaizone](#) [@cbic_india](#)



OFFICE OF THE COMMISSIONER OF CENTRAL TAX & GST THANE
4th FLOOR, WARDHABOLI COOPERATIVE MARKET ROAD, DWARAKA, MUMBAI - 400018.

F.No. 1 (Misc)/Adjunction/Pt/Thane/2020
Number 18/152020

To:
All Trade Associations of interest in Thane Commissionerate,
Legal Practitioners, CA,
CA Associates,
Members of Trade,
Manufacturers Association,
Senior Members Association.

Reference:
Memo: Guidelines for conduct of personal hearing in virtual mode under the provisions of erstwhile the Central Excise Act, 1944, the Finance Act, 2005 & the Central Goods & Services Tax Act, 2017 -19.

Kind attention is invited to 'instructions' issued to fielded OI, CBC, under F. No. 100V/Misc/3/2020 -JC dated 21.04.2020 regarding conduct of personal hearing in virtual mode in respect of pending show cause notices/appeals etc.


- Keeping in view the situation arising due to COVID-19 and the necessity to comply with the norms of social distancing, it is considered necessary to conduct personal hearing in virtual mode, in respect of demand notices pending adjudication before the undersigned. It is brought to the notice of all concerned that even Hon'ble Supreme Court has emphasized on the need to devise means and ways to follow the norms of social distancing.
- In the light of the situation arising and the instructions under reference, it has been decided to conduct 'Personal Hearing' in respect of all demand notices through video conferencing. To further arrangements on merits, the mode adopted will be through same

The given time on the date of personal hearing that they with/ without their legal representative are ready for the hearing. The notice(s) should form a group consisting of all WHATSAPP numbers of persons appearing for the hearing and the office number provided to them for hearing.

4. At scheduled time and date, message would be sent to the primary contact person. The conference call/ video call for conduct of personal hearing is to be dated by the primary contact person of the notice.

5. On completion of personal hearing, the personal hearing memo will be sent to the primary contact person in PDF form from the WHATSAPP number provided, who in turn has to confirm receipt of the message. The primary contact person will have to obtain signature of all present for the personal hearing on hard copy of the PI memo and send it back on the WHATSAPP number provided in PDF format, within 25 minutes of receipt of the memo. In case, all the people who had attended the personal hearing are at different locations, then they should individually sign on hard copy/ print out of the PI memo, send PDF to the primary contact person who will in turn send all such PDF to the WHATSAPP number provided.

6. This facility will remain in place till any other more secure or easier mode is not established.


B. S. MOHANTY
 Commissioner CGST & CX,
 Thane

Copy to:

- 01 ADC, CGST & CX, Mumbai Zone for information.
- 02 All Deputy Commissioners, CGST & CX, Thane.
- 03 All Superintendent, CGST & CX, Thane, with publicity should be given to this.
- 04 Notice Board, Thane & Thane should be made aware of this.
- 05 Master file.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 SHREYANSH MARBLE TILES PVT LTD 2020-TIOL-735-CESTAT-AHM

Section 110(2) of Customs Act 1962 clearly mandates that no separate notice needs to be issued for extending limitation period by six months for issuing of SCN and it would suffice to record reasons in writing & convey them to noticee.

2 SHRI MANISH SINGHAL WWS SKY SHOP (P) LTD 2020-TIOL-931-HC-MP-CX

Affixing hologram and barcode on individual medicine bottles to avoid duplicity and placing same in outer cover to ensure safe transportation does not amount to manufacture.

3 M/s AGRAWAL COLOUR ADVANCE PHOTO SYSTEM 2020-TIOL-928-HC-MP-ST

The value of photographic paper and consumables cannot be included in value of Photography service for purposes of imposition of service tax. The term 'sale' appearing in Notification No.12/03-ST would also include 'deemed sale' as defined by Article 366(29A)(b) of Constitution

4 M/s UNI PRODUCTS INDIA LTD 2020-TIOL-91-SC-CX

Car Mats even if exclusively made for cars and not for 'home use', those goods cannot be transplanted to residual entry against heading 8708 - rightly classifiable under CH 5703.90. Tribunal decision is sustained and revenue appeal is dismissed.





THE LEGACY

5 Ms PRERNA SINGH and 3 OTHERS.

The benefit of the exemption notification would be available to individual owners of the property separately and clubbing of rent of all the four individual co-owners of the property was not legally sustainable and each of the individual owners would be entitled to the benefit of exemption notification.

6 T M TYRES LTD 2020-TIOL-675-CESTAT-HYD

'Butyl rubber inner tube' is a separately identifiable and a distinct marketable product and it cannot be covered under entry 'Parts, components and assemblies of automobiles' so as to be held assessable u/s 4A of CEA, 1944.

7 BALAJI ENTERPRISES 2020-TIOL-721-CESTAT-DEL

The dispute is with regard to the subsidy received by the Appellant from Tata Tele Services on the sale of mobile handsets purchased from third party vendor. Tata Tele Services has not provided any handsets to the Appellant but the Appellant has purchased the handsets from third parties specified by Tata Tele Services. It is held that subsidy is paid by Tata Tele Services to compensate for loss incurred by Appellant on sale of mobile handsets at a lower price and this cannot be said to have any relation to service of promotion or marketing and hence no tax is leviable under BAS.





FROM OUR KNOWLEDGE HOUSE

Shri. S. Jaikumar and Shri. G. Natarajan have participated in the following webinars conducted by Madras Tax Bar.

VIDEO LINK	
"Transitional Credit under GST" by Adv. G Natarajan on 11-05-2020	https://www.youtube.com/watch?v=GTWHFcG5DEE&t=3963s
Webinar on "Cross charge under GST" By G Natarajan, Advocate	https://www.youtube.com/watch?v=reMrQHnVhYY&t=100s
Seniors Advocates Panel on "Professional Ethics for Legal Practitioners" Moderated by Adv S Jaikumar	https://www.youtube.com/watch?v=NytVZvOTKM8
"Tribute to Immortal Legends" Panel discussion of 10 Advs, Session moderated by Adv. S. Jaikumar	https://www.youtube.com/watch?v=c_65jh6UdsE





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WE ARE ALSO FOUND IN

- Coimbatore
- Bengaluru
- Hyderabad
- New Delhi
- Pune

