

TAXWIZ

16th February, 2021



Among the maze of amendments in provisions relating to Income Tax, Customs and GST, one important amendment in CST Act might have been missed by many. Earlier, the Division bench of the Hon'ble Madras High Court has held that even after introduction of GST, manufacturers can procure Petroleum Products (which are not covered under GST) against Form C, at concessional rate of CST. This decision has already been stayed by the Hon'ble SC also. In the meanwhile, Section 8 of CST Act is proposed to be amended in the Budget, by disallowing such concessional CST Rate for petroleum products, against Form C, except for those who buy and sell such commodities. This may have a serious repercussion for various industries.

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1 NEPTUNE PLASTICS AND JAI ENTERPRISES 2021 (2) TMI 434 – J&K

Transitional credit cannot be denied on the ground of non-filing of Tran 1 particularly when such credit details has been furnished in GSTR 3B within the prescribed time.

2 RAJIVE AND COMPANY 2021-TIOL- 306-HC-KERALA-GST

Location of lawyer cannot be a ground for transfer of investigation proceedings.

3 TORQUE PHARMACEUTICALS PVT LTD-2021-TIOL-322-HC-ALL-GST

Allahabad HC directs Constitution of State Benches of the GST Appellate Tribunal before 01.04.2021

4 DEL SMALL ICE CREAM MANUFACTURERS WELFARE'S ASSOCIATION 2021-TIOL-349-HC-DEL-GST

HC directs the GST Council, to consider allowing composition scheme for Ice Cream.





NOTIFICATIONS & CIRCULARS

CIRCULAR - 01.02.2021 to 15.02.2021

NO	DATE	GIST
145	11.02.2021	Standard Operating Procedure (SOP) for implementation of the provision of suspension of registrations under sub-rule (2A) of rule 21A of CGST Rules, 2017.





REVENUE AND STATISTICS

GST System Statistics

As on 7th February, 2021



1.25 Cr.

Registered Tax Payer



61.05 Cr.

Total Return Filed



166 Cr.

E-way Bill



1134 Cr.

Total Invoice Upload



30.47 Lakh Cr.

Payment Through the Portal
(Excluding IGST on Imports)



17.41 Cr.

Total No. of Payment
Transactions



23.86 Lakh

Highest Returns Transactions
in a day

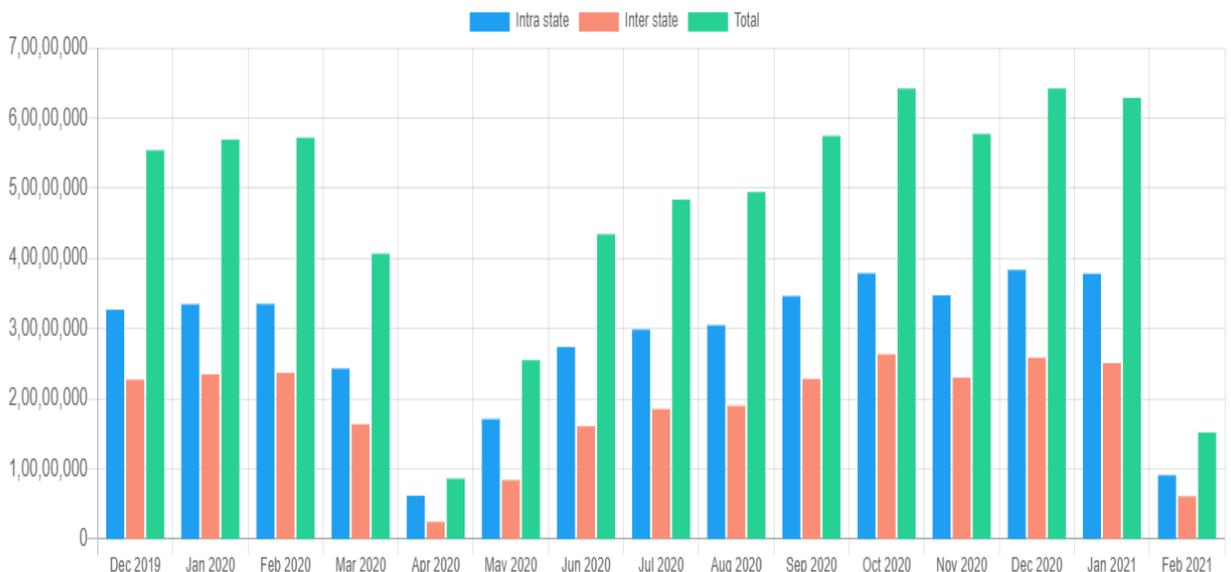


9.55 Lakh

Highest Payment Transactions
in a day

E-Way Bill Statistics

As on 7th February, 2021





GSTN Portal Updates

- **Auto-population of e-invoice details into GSTR-1**
- If the details of certain invoices are not auto populated into GSTR-1, taxpayers are advised not to wait for the complete auto-population, and instead proceed with preparation and filing of GSTR-1 (by the due date), based on actual data as per their records.

LINK: <https://www.gst.gov.in/newsandupdates/read/445>

- **FAQ about quarterly return, monthly payment and invoice furnishing facility scheme released.**

LINK: <https://www.gst.gov.in/newsandupdates/read/451>

- **Payment of Tax by Fixed Sum Method under QRMP Scheme**

Link: <https://www.gst.gov.in/newsandupdates/read/447>



- **GST Council may consider merging the 12% and 18% tax slab in the next meeting, says Finance Minister Nirmala Sitharaman.**

LINK: <https://economictimes.indiatimes.com/news/economy/finance/well-bring-all-stakeholders-on-board-on-privatisation/articleshow/80871254.cms>

- **GST compensation cess on vehicles and tobacco might stay till 2025-26.**

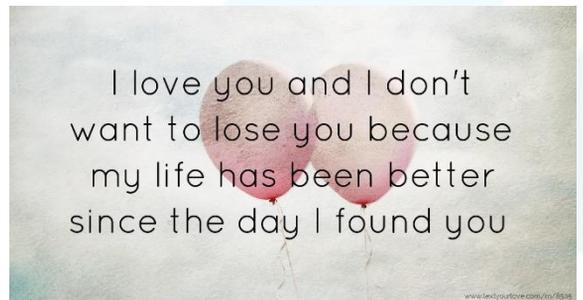
LINK:<https://www.moneycontrol.com/news/business/gst-compensation-cess-on-vehicles-and-tobacco-might-stay-till-2025-26-6501901.html>

- **GST Refund Scam Involving Fake Biz Transactions of Rs. 940 Crore Busted**

LINK:
<https://pib.gov.in/PressReleasePage.aspx?PRID=1696799>

- **GSTR-9C scrapped.**

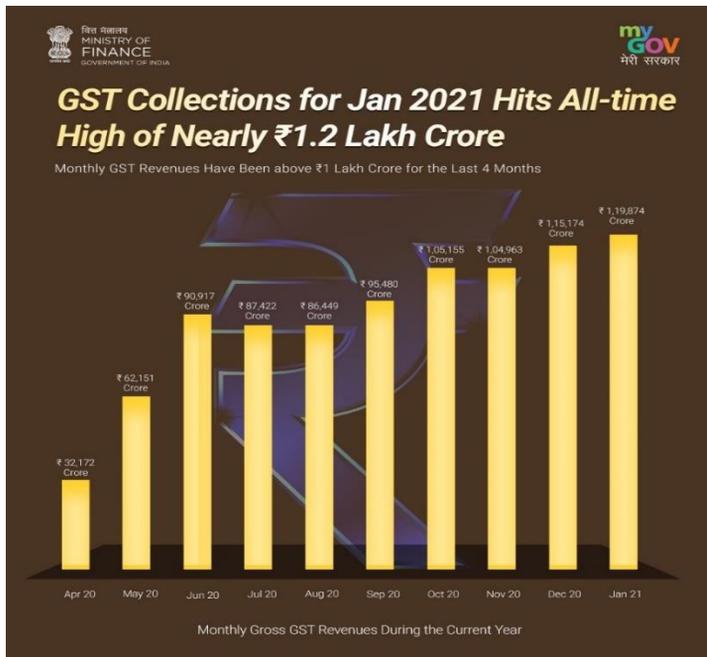
<https://www.taxscan.in/budget-2021-govt-scrap-gst-audit-no-need-to-file-gstr-9c-read-finance-bill/98603/#:~:text=The%20Union%20Finance%20Minister%20Nirmala,taxpayer%20whose%20turnover%20exceeds%200Rs.>



- **15th Instalment of Rs.6,000 crore released to the States to meet the GST compensation shortfall.**

LINK:<https://pib.gov.in/PressReleaseDetail.aspx?PRID=1697430>

- **Highest GST revenue collection in January 2021.**



- **DGGI Gurugram arrests man for fraudulently availing input tax credit of Rs. 376 crore through 7 fake firms**

LINK:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1696799>

- **CGST Officials arrest one after busting network of 46 fake firms involved in fake input tax credit of Rs. 82.23 crore.**

LINK:

http://gstcouncil.gov.in/sites/default/files/gst-articles/19-01-2021_uniform%20GST.pdf

- **Standing Committee on Finance recommends integration of GSTN e-invoicing portal and Trade Receivable Discounting Systems.**

Factoring Bill: 'Integrate TReDS with GSTN e-invoicing portal'

Standing Committee on Finance bats for data sharing

KRSRVATS

New Delhi, February 4

The Standing Committee on Finance headed by Jayant Sinha has recommended the integration of Trade Receivables Discounting System (TReDS) platform with GSTN e-invoicing portal leading to automatic uploading of all GST invoices onto the TReDS platform to enable real time sharing of data that will allow buyers and sellers to have a single window access to invoices.

The availability of e-invoices,

vetted through GSTN, will provide an added layer of authenticity, which will make the TReDS platform more attractive and give more comfort to the financiers. "This would encourage enterprises to make a shift to TReDS platform, and creating an efficient working capital cycle for MSMEs," the Standing Committee said in its report on The Factoring Regulation (amendment) Bill 2020.

This report also recommended that receivables coming from the Central and State governments should compulsorily be brought under the ambit of TReDS through this legislation so that payments pending from governments, which

have already been approved for various MSMEs, are made available to them on a timely basis.

Government entities can use the TReDS platform to demonstrate that they are good at paying their bills and thus get more bidders for their projects.





CUSTOMS

CASE LAWS

1 M/S. MGG TRADING PVT LTD 2021 (2) TMI 311 - MADRAS HIGH COURT

When the goods are either seized or detained or confiscated by Customs Officer then Customs cargo service provider cannot charge rent or demurrage from the importer as per Notification No.26/2009- Cus (NT), dated 17.03.2009.

2 M/S. ADITYA BIRLA NUVO LTD 2021 (2) TMI 93 - KARNATAKA HIGH COURT

Notification No.30/1997 does not envisage physical incorporation of imported material in the goods that are exported towards fulfillment of export obligations. The raw material need not be directly used in the manufacture of resultant product and proof of actual use is not a condition attached to the exemption Notification.

3 THE DAILY THANTHI 2021 (2) TMI 94 - MADRAS HIGH COURT

Amounts deposited in terms of Section 131 of the Customs Act, 1962 or Section 35N of the Central Excise Act, 1944 has to be refunded without insisting on such importer or manufacturer satisfying the requirement of “unjust enrichment” as in the case of pre deposit under Section 129E of the Customs Act, 1927/Section 35F of the Central Excise Act, 1944.

4 M/S LYKIS LIMITED 2021 (2) TMI 261 - GUJARAT HIGH COURT

Limitation prescribed under Circular 36/2010 Cus is not applicable as no limitation is prescribed under Section 149 and the importer is entitled to conversion of shipping bills from drawback to DFIA.





CUSTOMS NOTIFICATIONS – TARIFF 01.02.2021 to 15.02.2021

NO	DATE	GIST
02/2021	01.02.2021	Amends Notification No.50/2017-Customs dated 30th June, 2017 pertaining to
Corrigendum G.S.R. 101 (E)	05.02.2021	customs duty and IGST for goods imported into India, so as to prescribe effective rate of Basic Customs Duty (BCD).
03/2021	01.02.2021	Amends Notification No.57/2017-Customs dated 30th June, 2017, by prescribing the effective Basic Customs Duty (BCD) rates on IT/Electronics items.
04/2021	01.02.2021	Amends Notification No.25/99-Customs dated 28th February, 1999, so as to withdraw BCD exemption on the specified parts of Transformers.
05/2021	01.02.2021	Amends Notification No.24/2005-Customs dated 1st March, 2005 so as to clarify the scope of exemption under entry at S. No. 13S of the said notification
06/2021	01.02.2021	Amends Notification No.08/2020-Customs dated 2nd February, 2020 so as to exempt the medical devices imported by international organizations and diplomatic missions, from the levy of Health Cess.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATION – TARIFF 01.02.2021 to 15.02.2021

NO	DATE	GIST
07/2021	01.02.2021	Rescinds the following Notifications: 1. 1/2011 dated the 6th January, 2011; 2. 34/2017 dated the 30th June, 2017 and 3. 75/2017 dated the 13th September, 2017.
08/2021	01.02.2021	Amends Notification No.153/94-Customs dated 13th July, 1994 so as to include the temporary imports of costumes and props for film-making, in the goods exempted by the said notification.
09/2021	01.02.2021	Amends Notification No.42/1996-Customs, dated 23 rd July 1996 by inserting High Speed Rail Projects under Serial No.43 Heading 9801 of the First Schedule to the Customs Tariff Act, 1975.
10/2021	01.02.2021	Amends notification No. 230/86-Customs dated 03 rd April 1986 by notifying the National High Speed Rail Corporation Ltd as the Sponsoring Authority for High Speed Rail projects
11/2021	01.02.2021	Prescribes effective rate of Agriculture Infrastructure and Development Cess for specified goods.
Corrigendum G.S.R. 104 (E)	05.02.2021	





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATIONS – TARIFF 01.02.2021 to 15.02.2021

NO	DATE	GIST
12/2021	01.02.2021	Rescinds Notification No.12/2018-Customs, dated 02.02.2018, which exempted specified goods from the of levy of Social Welfare Surcharge in excess of 3%.
13/2021	01.02.2021	Exempts Social Welfare Surcharge leviable on Agriculture Infrastructure and Development Cess on Gold and Silver
14/2021	01.02.2021	Exempts Social Welfare Surcharge leviable on Crude or roughly trimmed or Blocks Marble or travertine.
15/2021	01.02.2021	Amends Notification No.82/2017-Customs, dated 27 th October 2017 which prescribed the effective rate of duty under chapters 50 to 63 on textile products.
16/2021	05.02.2021	Amends Notification Nos.96/2008-Customs, 57/2009-Customs, 101/2007-Customs and 50/2018-Customs consequential to imposition of Agriculture Infrastructure and Development Cess (AIDC).





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATIONS – NON TARIFF 01.02.2021 to 15.02.2021

NO	DATE	GIST
09/2021	01.02.2021	Further amends Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.
10/2021	01.02.2021	Amends Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 to enable provisional assessment in anti-circumvention investigation and make certain other miscellaneous changes.
11/2021	01.02.2021	Amends Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidised Articles and for Determination of Injury) Rules, 1995 to enable provisional assessment in anti-circumvention investigation and make certain other miscellaneous changes.
12/2021	01.02.2021	Amends Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997 to provide for the manner of application of safeguard measures including tariff-rate quota and make certain other miscellaneous changes.
13/2021	02.02.2021	Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATIONS – NON TARIFF 01.02.2021 to 15.02.2021

NO	DATE	GIST
14/2021	04.02.2021	Brings into force the Exchange Rate of Foreign Currency.
15/2021	05.02.2021	Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

COUNTERVAILING DUTY – 01.02.2021 to 15.02.2021

NO	DATE	GIST
01/2021	01.02.2021	Rescinds Notification No.2/2020-Customs (CVD) – Dated 9 th of October, 2020 which imposes provisional countervailing duty on import of Flat rolled products of stainless steel, originating in, or exported from Indonesia.
02/2021	01.02.2021	Temporary revocation of the operation of Notification No.01/2017 – Customs (CVD) dated 7th September, 2017 from 2nd February, 2021 to 30th September, 2021.





ANTI DUMPING DUTY– 01.02.2021 to 15.02.2021

NO	DATE	GIST
05/2021	01.02.2021	Temporary revocation of imposition of definitive ADD on the imports of "Straight Length Bars and Rods of Alloy Steel" originating in or exported from China PR from 2nd February, 2021 to 30th September, 2021.
06/2021	01.02.2021	Temporary revocation of imposition of ADD on imports of 'High -Speed Steel of Non-Cobalt Grade' originating in, or exported from Brazil, China and Germany from 2nd February, 2021 to 30th September, 2021.
07/2021	01.02.2021	Temporary revocation of imposition of ADD on import of Flat rolled product of steel, plated or coated with alloy of Aluminum and Zinc originating in, or exported from China PR, Vietnam and Korea RP, from 2nd February, 2021 to 30th September, 2021.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

DGFT NOTIFICATION – 01.02.2021 to 15.02.2021

NO	DATE	GIST
105	05.02.2021	One time waiver of Custom Duty and inspection requirement in case of de-bonding of IT/ITeS units in SEZs and exemption on filing of BOE for goods sold by IT/ITeS SEZ unit which were initially procured on payment of duty and not used for authorised operations
57/2015-2020	10.02.2021	To ensure the mandate of safe food imports in India, FSSAI has notified Authorized Officers to handle food import clearance at 150 food import entry points.
58/2015-2020	12.02.2021	Amendment of Importer-Exporter Code (IEC) related provisions under Chapter-1 and Chapter-2 of Foreign Trade Policy, 2015-2020.

DGFT PUBLIC NOTICE– 01.02.2021 to 15.02.2021

NO	DATE	GIST
38/2015-2020	09.02.2021	Amendment in Appendix 2T and Appendix 2D of FTP, 2015-2020 regarding incorporation/change of details of Electronics and Computer Software Export Promotion Council.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS CIRCULAR– 01.02.2021 to 15.02.2021

NO	DATE	GIST
03/2021	03.02.2021	Systemic improvements regarding modification in the Bond (B-17) Execution process.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 CCE VS SK SAMANTA AND CO PVT LTD 2021 (2) TMI 50 – SC ORDER

Union of India, which has competent legal advice at its command, cannot, particularly, be heard to contend that they were under a misapprehension that the appeals would lie before the High Court. Hence, the Apex Court is not inclined to condone gross delay on the part of the Revenue in accessing its remedies before the court.

2 M/S.VAMSEE OVERSEAS MARINE PRIVATE LIMITED ORDER DATED 03.02.2021 IN WP.NO. 7388 OF 2020

Madras HC holds that even interest paid during investigation should also be considered as payment, under the SVLDRS Scheme.

3 M/S FINBROS MARKETING 2021-TIOL-355-HC-MUM-ST

Once the tax liability is admitted before 30.06.2019, assessee is eligible for SVLDRS, even if the liability is not quantified mathematically, but only approximately.

4 M/S L AND T HYDROCARBON ENGINEERING LTD 2021-TIOL- 377-HC-MAD-CX

A provision in a taxing statute granting incentives for promoting growth and development should be construed liberally; and since a provision for promoting economic growth has to be interpreted liberally, the restriction on it too has to be construed so as to advance the objective of the provision and not to frustrate it.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

5 M/S CNS COMNET SOLUTION PVT LTD 2021 (2) TMI 159 - CESTAT CHANDIGARH

If the question of admissibility of Cenvat Credit is not raised at the time of availment of credit, then the same cannot be questioned at the time of entertaining the refund claim.



6 MADHYA PRADESH POORVA KSHETRA VIDYUT VITRAN CO. LTD 2021 (2) TMI 155 - CESTAT NEW DELHI

All services related to transmission and distribution of electricity are bundled services, as per section 66F(3), and are required to be treated as a provision of a single service of transmission and distribution of electricity, exempted from service tax.

7 M/s. ALEMBIC LTD 2021-TIOL-91-CESTAT-AHM

Even if the differential duty was paid on account of intention to evade duty, the credit cannot be denied to recipients when the goods were not sold to them but only stock transferred.





ARTICLE

Welcome Amendments in Section 129 and 130 of the CGST Act – By G. Natarajan Advocate.

<https://swamyassociates.com/downloads/2021/Welcome%20amendments%20in%20Section%20129%20and%20130%20of%20the%20CGST%20Act%20-%20G.%20Natarajan.pdf>





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