



Last fortnight saw several important judgements from the Hon'ble Supreme Court. The vexatious issue of tax liability on purchase of software products, by treating them as payment towards royalty, has been settled in favour of the tax payers. In another judgement, it has been held that the moratorium under Sec. 14 of IBC will apply for proceedings under Section 138 of NI Act (Cheque bounce) also. Both the judgements are treatise by themselves in the respective field and a must read for all.

The Hon'ble Madras High Court has held that the balance of TDS under VAT can be carried forwarded as transitional credit and thus settled a major dispute.

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1 DAULAT SAMIRMAL MEHTA 2021-TIOL-390-HC-MUM-GST

HC grants bail to person accused of GST evasion. Spells out what is "reason to believe" in the context of arresting an accused person.

2 GOODS AND SERVICES TAX PRACTITIONERS ASSOCIATION 2021-TIOL-487-HC-MUM-GST

Bombay HC dismisses writ seeking extension of time limit for filing annual returns by observing that non-extension would not lead to extinguishment of any right.

3 ARYAN TRADE LINK- 2021-TIOL- 383-HC-KAR

Blockage of ITC - Rule 86 A - HC directs AC to pass a reasoned order.

4 RAM AUTO – 2021-TIOL- 496-HC-MAD

Madras HC directs grant of transitional credit.

5 S A SAFIULLAH AND COMPANY 2021-TIOL-07- AAAR-GST

The AAAR reverses the decision of AAR and observes that product "Nizam pakku" is liable to GST @ 5 %. The terms "areca nut" and "betel nut" refer to the same product only.



Nitty gritty of nuts.





GST CASE LAWS

6 FRAUNHOFER-GESELLSCHAFT ZURFORDERUNG DER ANGEWANDTENFORSCHUNG.V 2021-TIOL-10-AAAR-GST

The services provided by the liaison office is a self service and is thus not a supply. The liaison office is not required to take registration under GST.

7 YULU BIKES PVT LTD- 2021- TIOL-08-AAAR-GST

Karnataka AAAR sets-aside AAR and holds that renting of 'E-Bike' and 'Bicycle' 'without operator' is classifiable under 9973 and not under 9966.



8 NEPRA RESOURCES MANAGEMENT PVT. LTD 2021-TIOL-75-AAR

Waste management services provided to Notified Area, Vapi are not "pure service" and hence exemption is not entitled.



Are they not making the "notified area" into a "pure area"?





NOTIFICATIONS & CIRCULARS

NOTIFICATION - 15.02.2021 to 28.02.2021

NO	DATE	GIST
3/2021 - CT	23.02.2021	Seeks to notify persons to whom provisions of sub-section (6B) or sub-section (6C) of section 25 of CGST Act, relating to Aadhar Authentication will not apply.
4/2021 - CT	28.02.2021	Seeks to extend the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2019-20 till 31.03.2021.

CIRCULAR - 15.02.2021 to 28.02.2021

	DATE	GIST
146/02 /2021- GST	23.02.2021	Clarifications in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of Notification No. 14/2020-Central Tax dated 21.03.2020





GSTN Portal Updates

- **Advisory on Annual Return (GSTR-9)**
- The taxpayers are advised to ensure that values are reported upto two decimal places in the GSTR-9 offline utility. The error “Error! Invalid Summary payload” after uploading the JSON created from the Offline Utility of GSTR-9 is reported due to reporting values upto three decimal places instead of two decimals.
- **Advisory on Reconciliation Statement (GSTR-9C)**
- Reconciliation statement to be filed in Form GSTR-9C requires the tax rate wise declaration of transactions for the concerned financial year. In the said form, tax amount pertaining to tax rates 1%, 1.5% and 7.5% in section III (table 9 and 11) and section V may be made in row/ under label ‘Others’ of the said tables, wherever applicable.



- Chief Economic Advisor K.V. Subramanian has backed a proposal to bring petroleum products under the ambit of the Goods and Services Tax (GST).

LINK: <https://www.thehindu.com/news/national/bringing-petroleum-products-under-gst-will-be-good-move-says-chief-economic-advisor/article33954255.ece>

- Four arrested for illegal manufacture of Tobacco products

LINK: <https://www.taxscan.in/customs-duty-evasion-four-arrested-for-illegal-manufacture-of-tobacco-products/102156/>

- MCA & CBIC sign MoU for exchange of data for enhancing Ease of Doing Business in India and improve overall regulatory enforcement.

LINK:

<https://pib.gov.in/PressReleaseDetail.aspx?PRID=1700715>





CUSTOMS

CASE LAWS

1 M/S. VARALAKSHMI EXPORTS 2021 (2) TMI 842 - MADRAS HIGH COURT

There is no period of limitation for demand of duty in respect of post import violations and hence, demand of duty cannot be struck down on account of limitation.

2 M/S. UNITECH ENTERPRISES 2021 (2) TMI 1109 - MADRAS HIGH COURT

The word 'photocopier machines' occurring in para 2.17 of the FTP cannot be given a restrictive meaning and if the common parlance test is applied as the appellant wants us to do, we are to necessarily hold that the 'Old Digital Multi Functional (Print & Copying) machines' imported are restricted and cannot be freely imported without a license.

3 SABEER AHAMED SAYEED 2021 (2) TMI 919 - MADRAS HIGH COURT

Adjudication order quashed for non supply of relied upon documents with SCN with a direction to the respondent to supply copies of all relied upon documents.

4 VINIT V. DHOPIYA 2021 (2) TMI 852 - BOMBAY HIGH COURT

The Hon'ble High Court has allowed the petitioner's advocate to be present at the time of interrogation of the petitioner at a visible but not audible distance and video recording of the interrogation was also permitted at the cost of the Petitioner.





CUSTOMS

CASE LAWS

M/s KRISHNA SALES CORPORATION 2021-TIOL-439-HC-KAR-CUS

The Board's Circular No.61/2002-Cus dated 20.09.2002 which clarifies that penalty imposable under section 114A of the Customs Act should be equivalent to duty and interest is contrary to the plain interpretation of the provision.

MICROMAX INFORMATICS LTD 2021-TIOL-460-HC-MUM-CUS

Whether the Supreme Court decision dated 18.09.2019 in the case of ITC Ltd - 2019 (368) E.L.T. 216 (S.C.) that refund cannot be claimed without modifying the assessment order is applicable retrospectively. Order for recovery of refund already sanctioned prior to the date of above decision stayed by Bombay High Court.

M/S TRANSPPEED LOGISTICS PVT 2021 (2) TMI 1029 - CESTAT NEW DELHI

A physical verification of the premises was not necessary to be carried out and it was wrongly held that the Customs Broker failed to ensure due compliance of the provisions of Regulations 10(n) of the 2018 Regulations, when other requisite verification and submission of documents were made.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATION – TARIFF 16.02.2021 to 28.02.2021

NO	DATE	GIST
18/2021	17.02.2021	Gold, Silver and Platinum which are exempted from BCD under Notification 56/2000 Cus and 57/2000 Cus are exempted from Agriculture Infrastructure Development Cess.

ANTI DUMPING DUTY NOTIFICATION – TARIFF 16.02.2021 to 28.02.2021

NO	DATE	GIST
08/2021	19.02.2021	Levy of Provisional ADD on Aniline imported from China stands finally confirmed and it is effective till July 2025.
09/2021	25.02.2021	Levy of ADD on Porcelain/ Vitrified Tiles falling under heading 6907 or 6914 and imported from China under Notification 29/2017 Cus ADD stand be effective till 28.06.2021.
10/2021	25.02.2021	Levy of ADD on Melamine falling under Tariff item 2933 61 00 imported from China under Notification 02/2016 Cus ADD is further extended from 28.02.2021 to 31.03.2021.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS INSTRUCTION – 16.02.2021 to 28.02.2021

NO	DATE	GIST
02/2021	16.02.2021	Streamlining of the Customs Post Clearance Audit (PCA) instructions.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 M/S. L & T HYDROCARBON ENGINEERING LIMITED 2021 (2) TMI 655 - MADRAS HIGH COURT

Exemption from payment of duties, under Rule 27(1) of SEZ Rules is available for HSD/diesel as it is used in running of the capital equipment deployed in the manufacturing process.

2 M/S. ACME FITNESS PVT LTD 2021 (2) TMI 1098 - MADRAS HIGH COURT

No recovery till appeal period is over.

3 SUDHIR CRANE SERVICES PRIVATE LIMITED 2021 (2) TMI 1035 - MADRAS HIGH COURT

The contract is for providing material handling services and no right to use the cranes has been transferred. VAT demands set aside.

4 M/S. ANHEUSER BUSCH INBEV INDIA LTD 2021 (2) TMI 1023 - CESTAT BANGALORE

Service Tax under RCM on different types of fee paid to State Govt. in connection with manufacture and sale of alcoholic liquor set aside.

5 M.P. POORVA KSHETRA VIDYUT VITRAN CO. LTD. 2021 (2) TMI 821 - CESTAT NEW DELHI

No Service tax can be demanded on "liquidated damages" and charges collected for un-authorised use of electricity.



Litigated damages!





FROM OUR KNOWLEDGE HOUSE

ARTICLE

**Time limit for availing ITC –
By G. Natarajan Advocate.**

<https://www.swamyassociates.com/downloads/2021/2.%20Time%20limit%20for%20availing%20ITC.pdf>





CONTACT



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



044-24811147



mail@swamyassociates.com

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