



The second wave of the Covid pandemic is more telling in terms of hearing stories of sufferings and loss of life from everyones's known circles, more often. Wishes and prayers for normalcy to restore as soon as possible.

In the meanwhile, the Hon'ble SC has extended the limitation period for different purposes, until further orders.

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GST CASE LAWS

1 RADHA KRISHAN INDUSTRIES 2021-TIOL-179-SC-GST

Power to order provisional attachment of property is draconian in nature and all the conditions laid down in the statute needs to be strictly followed for invoking the same.

2 M/s CHAIZUP BEVERAGES LLP 2021-TIOL-953-HC-MAD-GST

Refund under Sec. 54 of the GST Act or Drawback - Assessee can choose either of them.

3 M/s SEKAR AND COMPANY 2021-TIOL-876-HC-MAD-GST

Department directed to facilitate filing of Tran 01 online.

4 M/s SARVASIDDHI AGROTECH PVT LTD 2021- TIOL-994-HC-TRIPURA-GST

GST demand affirmed on rice dealer for supply of branded rice regardless of the fact whether the brand is registered or not.





GST CASE LAWS

5. M/S. PAGE INDUSTRIES LTD 2021 (4) TMI 839 - APPELLATE AUTHORITY FOR ADVANCE RULING, KARNATAKA

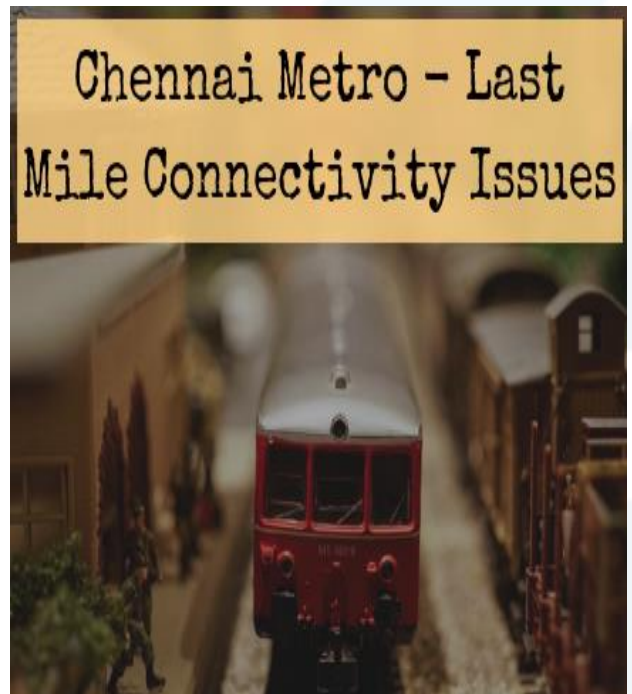
Promotional materials supplied to Distributors, for using in the showrooms are "non taxable supply" and hence not entitled for ITC.



Without any consideration, how it will be a supply at the first place?

6. CHENNAI METRO RAIL LTD 2021- TIOL-16-AAAR-GST

Granting right to access to 'pathway' leading to one's dwelling unit by Chennai Metro is licensing and taxable at 18%.





GST CASE LAWS

**ENPAY TRANSFORMER
COMPONENTS INDIA PVT
LTD 2021-TIOL-125-AAR-
GST**

Interest for delayed payment of consideration to foreign supplier is liable to IGST at the same rate applicable for the goods imported.

**M/S. SHV ENERGY PRIVATE
LIMITED 2021 (4) TMI 882 -
AUTHORITY FOR ADVANCE
RULING, TAMILNADU**

Pipelines laid outside the factory premises are not entitled for ITC.



**Pipelines block the flow
of ITC.**

**DWARIKESH SUGAR INDUSTRIES
LTD TS-1238-AAR(UP)-2020-GST**

ITC available for CSR activities. AAR distinguishes between gifts and CSR activities as the former is voluntary but the latter is obligatory and regulatory in nature.



AAR bats for CSR.

**M/S BOWRING INSTITUTE 2021-
TIOL-131-AAR-GST**

Doctrine of mutuality, as laid down by SC in Calcutta Club applied and no GST payable on subscription collected from members. But, after the amendment to Sec. 7 of CGST Act, GST is applicable.





NOTIFICATIONS & CIRCULARS

NOTIFICATION-16.04.2021 to 30.04.2021

NO	DATE	GIST
07/2021-Central Tax	27.04.2021	Allows filing of GSTR-1 and GSTR-3B through electronic verification code for the period 27.04.2021 to 31.05.2021.

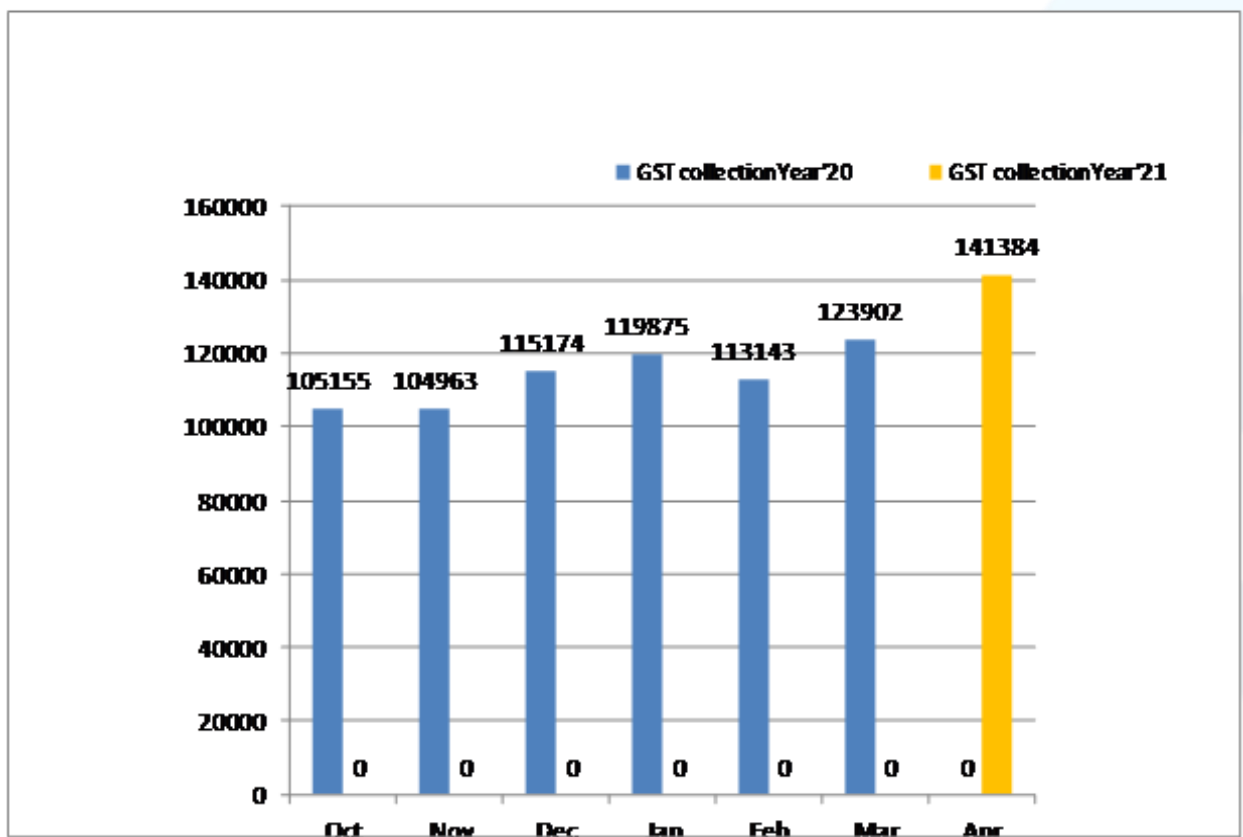




REVENUE AND STATISTICS

- GST revenue collection for April 2021 sets new record with a gross collection of ₹1,41,384 crore.

LINK: <https://pib.gov.in/PressReleasePage.aspx?PRID=17153>
14





GSTN Portal Updates

- **Due dates for filing Form GSTR-3B from the Tax Period of January, 2021 onwards**

CBIC, vide Notification No 82/2020 – Central Tax, dated 10th November 2020, has revised Rule 61 of the Central Goods and Services Tax Rules, 2017, to provide for staggered filing of Form GSTR-3B, for the tax periods from January, 2021, onwards, as under:

Monthly filing of Form GSTR-3B

All States and Union Territories - **20th of the following month**

Quarterly filing of Form GSTR-3B

Category-I: States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana and Andhra Pradesh, the Union territories of Daman and Diu, Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep - **22nd of the month following the quarter**

Category-II: States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi - **24th of the month following the quarter**

LINK: <https://www.gst.gov.in/newsandupdates/read/467>



- **Govt mulls waiving off GST on COVID-19 vaccines**

LINK:<https://www.businesstoday.in/current/economy-politics/govt-mulls-waiving-off-gst-on-covid-19-vaccines/story/437825.html>

- **Breather on tax compliance deadlines likely.**

Union Govt to examine proposals seeking relief to businesses through extension of GST and Income Tax deadlines.

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/23-04-2021_tax-compliance.pdf

- **Price gap of ready and under construction houses narrows**

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/27-04-2021_construction-houses.pdf

- **GST rate tussle over flavored milk**

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/15-04-2021_GST-flavoured-milk.pdf

- **Plea in SC for GST exemption on COVID-19 related drugs, medical equipment**

The application sought direction to the Centre to issue appropriate ad-hoc guidelines, orders or notifications "exempting COVID-19 related drugs including but not limited to Remdesivir, Tocilizumab, Favipiravir and other drugs.

LINK: <https://economictimes.indiatimes.com/news/india/plea-in-sc-for-gst-exemption-on-covid-19-related-drugs-medical-equipment/articleshow/82312711.cms>



- **GST officers to soon have real-time data on vehicles moving without e-way bills.**

The Government is working on a system to soon provide report to GST officers on a real-time basis for those vehicles which are moving without e-way bills.

LINK:https://www.business-standard.com/article/economy-policy/gst-officers-to-soon-have-real-time-data-on-vehicles-moving-without-e-way-121041800453_1.html

- **Carbonated grape juice to face 28% GST, rules AAAR**

TIMES NEWS NETWORK

Mumbai: A touch of fizz has led to grape juice manufactured and distributed by a Tamil Nadu-based company being booted out of the classification of 'Fruit pulp or fruit juice-based drinks', which attracts a lower goods and services tax (GST) of 12%.

Instead, 'K-Juice Grape' — marketed by Kalis Sparkling Water — will be subject to GST at 28% as the Appellate Authority for Advance Rulings (AAAR) has held it to be a 'Carbonated beverage with fruit juice'.

While the company had earlier contended that their product is a thermally processed fruit beverage, complying with para 2.3.10 of the FSSAI regulations, the Authority for Advance Rulings (AAR) had



'Fruit pulp or fruit juice-based drinks' attract 12% GST

held otherwise. This order of the AAR has now been upheld at the appellate level.

The AAAR distinguished the case on hand from an order of the Supreme Court, which was given in the case of Appy Fizz — a fruit juice-based drink. In that case, the apex court had given a finding that fruit juice-based drinks are not treated as 'aerated branded soft drinks' as they have a separate entry (classification).



CUSTOMS

CASE LAWS

M/S RUCHI SOYA INDUSTRIES LTD- WP No.31090/2015

Madras HC follows recent SC's judgement in Ghanashym Mishra and holds tax due does not enjoy any special protection under IBC provisions. But observes that though the term "operational debt" is not intended to cover tax dues, which is a compulsory extraction, it is bound by the SC's decision.

M/S. ARISTO SHIPPING 2021 (4) TMI 1107 - MADRAS HIGH COURT

The purpose of setting a timeline is to make sure that the suspension of customs broker licence is not indefinite and the proceedings are completed promptly. Therefore, the timelines set out in Regulation 17 for issuance of notice, preparation & submission of enquiry report, passing of order in original are mandatory and for the violation of such time limits, the order in original is quashed.

SRI SATHYA JEWELLERY 2021-TIOL-960-HC-MAD-CUS

Jurisdictional error should not result in exoneration of liability. Jurisdictional error, if any committed, is technical, and thus, rectifiable. In such circumstances, the Courts are expected to quash the order passed by an incompetent authority and remand the matter back for fresh adjudication. Contrarily, if an assessee is exonerated from liability, undoubtedly, the purpose and object of the Act is defeated.

PALANI ANDAVAR COTTON AND SYNTHETIC SPINNERS LTD 2021 (4) TMI 927 - MADRAS HIGH COURT

The scope of review under Article 226 of the Constitution of India is to scrutinise the process through which a decision is taken by the Competent Authorities with reference to the Statutes and not the decision itself.





CUSTOMS

CASE LAWS

M/s INNOMIT MINERAL PROJECTS PVT LTD 2021-TIOL-905-HC-MAD-CUS

Chinese exporter had cheated the petitioner and instead of exporting Re-melted Lead Ingots, had exported packs of Caustic Soda Bags and Industrial Salt. Therefore, the petitioner decided to abandon the goods under Section 23 of the Customs Act, 1962 and requested refund of Rs.13,58,794/-, paid as Customs duty. The High Court directed the respondent to refund a sum of Rs.6,85,687/- being the difference between the value of goods imported and the customs duty paid to the petitioner together with interest at 7.5%. Unjust enrichment held to be not applicable.

KIRLOSKAR FERROUS INDUSTRIES 2021 (4) TMI 1086 - CESTAT BANGALORE

The Tribunal has held that the Revenue has not challenged the show-cause notice as well as the Order-in-Original allowing the option to the appellant to seek an amendment in the Bill of Entry as permissible under Section 149 of the Customs Act, 1962 but the same was suo motu set aside by the learned Commissioner which is against the law. Request for reassessment to be treated as application under Section 149 of Customs Act, 1962 for the amendment of Bill of Entry.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS NOTIFICATION – TARIFF 16.04.2021 to 30.04.2021

NO	DATE	GIST
27/2021	20.04.2021	Exempts customs duty on import of Remdesivir Active Pharmaceutical Ingredients, Beta Cyclodextrin (SBEB CD) used in the manufacture of Remdesivir & Injection Remdesivir till 31/10/2021.
28/2021	24.04.2021	Exempts customs duty on import of oxygen, equipment related to oxygen and COVID-19 vaccination till 31/07/2021.

ANTI DUMPING DUTY NOTIFICATION- 16.04.2021 to 30.04.2021

NO	DATE	GIST
22/2021	15.04.2021	Levy of ADD on imports of Barium Carbonate from China extended till 20/10/2021.
23/2021	20.04.2021	Bulk Continuous Filament (BCF) Yarn of higher denierage (650 decitex to 10,000 decitex), excluded from the levy of ADD.
24/2021 read with Corrigendum dated 27.04.2021	26.04.2021	Levy of ADD on import of Polytetrafluoroethylene (PTFE) from Korea introduced for the period upto 06/06/2021
25/2021	26.04.2021	Levy of ADD on import of Polytetrafluoroethylene from China for the period upto 28/07/2021.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

ANTI DUMPING DUTY NOTIFICATION- 16.04.2021 to 30.04.2021

NO	DATE	GIST
26/2021	27.04.2021	Levy of ADD on import of l-Phenyl-3-Methyl-5-Pyrazolone from China imposed for a period of five years till 09/06/2025.
28/2021	27.04.2021	Levy of ADD on import of Toluene Di-Isocyanate (TDI) having isomer content in the ratio of 80:20 from European Union, Saudi Arabia, Chinese Taipei and United Arab Emirates for a period of five years till 02/12/2025.

CUSTOMS INSTRUCTIONS- 16.04.2021 to 30.04.2021

NO	DATE	GIST
06/2021	24.04.2021	The Board has instructed to give high priority for Customs clearances of import of goods relating to COVID 19 pandemic, including oxygen related equipment etc.

DGFT NOTIFICATION- 16.04.2021 to 30.04.2021

NO	DATE	GIST
02/2015-2020	26.04.2021	Import of mosquito killer racket is 'prohibited' if the C.I.F value is below Rs.121/- per racket.
03/2015-2020	26.04.2021	Import policy of Melon Seeds falling under HS Code 12077090 has been restricted.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

DGFT TRADE NOTICE- 16.04.2021 to 30.04.2021

NO	DATE	GIST
02/2021-2022	26.04.2021	DGFT has operationalized a 'COVID-19 Helpdesk' to support and seek suitable resolutions to issues arising in respect of International Trade.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 MANONMANIAM SUNDARANAR UNIVERSITY 2021-TIOL-888-HC-MAD-ST

Affiliation fees as well as the inspection commission collected by the University are in the nature of statutory levies. By performing those activities, the petitioner is only discharging a statutory function and the fees collected by the University cannot be amenable to levy of Service Tax.

2 M/s RUNWAL CONSTRUCTIONS 2021-TIOL- 961-HC-MUM-CX

Purchase of Property in DRT proceedings. Buyer not liable for the tax dues of the Seller, as only the property was purchased and not the business as such.

3 PRATHAMESH DREAM PROPERTIES PVT LTD 2020- TIOL-1887-HC-MUM-ST

SVLDRS - Petitioner has filed declaration under 'pending litigation category'. But, the appeal was dismissed by the Tribunal, for non rectification of a defect, which is not known to the taxpayer. Designated Committee recalculated the demand under "Arrears" Category. High Court holds that the said declaration has to be construed to be one under the 'pending litigation category'.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

BNP PARIBAS GLOBAL SECURITIES OPERATIONS PRIVATE LIMITED 2021 (4) TMI 783 - MADRAS HIGH COURT

The refund of CENVAT credit under Rule 5 of the CENVAT Rules is a legitimate export incentives given to an exporter of service and goods. Such legitimate export incentives given to exporters of goods or service cannot be denied merely because of intervening changes in view of implementation of GST with effect from 01.07.2017.

DHARTI DREDGING AND INFRASTRUCTURE LTD 2021-TIOL-223-CESTAT-HYD-LB

Cenvat credit admissible for Workman Compensation Insurance Policy obtained by the Employer, as it is the employer who has insured his risk towards payment of compensation.

GENERAL MOTORS TECHNICAL CENTRE INDIA PVT. LTD. 2021 (4) TMI 894 - CESTAT BANGALORE

Amended Rule 5 of Cenvat Credit Rules does not require correlation between the output service exported and the input service used in such output services exported. Further, eligibility to credit cannot be questioned, in the proceedings for refund.

CENTRAL WAREHOUSING CORPORATION 2021-TIOL-230-CESTAT-DEL

Extended period cannot be invoked to demand interest on payment of Service Tax on upward price revision granted by customers, in the absence of any fraud, etc.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

M/s KAJARIA CERAMICS LTD 2021-TIOL-227-CESTAT-DEL

Classification of service cannot be questioned at the recipient's end who avails credit of the same.

M/s DYNAMIC TECHNO MEDICALS PVT LTD 2021-TIOL- 226-CESTAT-MAD

Though a refund claim as per Section 104 of Finance Act, 1994 has to be filed within six months from the date when the Bill receives the assent of the President of India, in the present case, there arise a confusion as to who has to file a refund claim whether the appellant or SIPCOT. When the claim has been filed within reasonable time from the date when the appellant received intimation from SIPCOT, the refund has to be granted.

M/s VARDHMAN INDUSTRIES LTD 2021-TIOL-231-CESTAT- CHD

Cenvat credit cannot be denied merely based on the allegation that the goods have not been supplied physically and only invoices have been moved. It is the duty of the revenue to ascertain the fact if the appellant has not received the goods, then from where, they procured the goods and used the same for manufacturing of dutiable goods which have been cleared on payment of duty.





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