



The much talked about relief in GST rates for covid related medicines and equipment has subsided with the GST council deciding to reduce the tax rate instead of going for complete exemption. With the sunset date being 30.09.2021 let us hope that the sun sets for Covid also by then.

Last fortnight also saw several important judgements, which are covered in this issue.

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GST CASE LAWS

1 DHARMENDRA M JANI 2021-TIOL-1297-HC-MUM-GST

Divergent opinion on matters pertaining to constitutional validity of Section 13(8)(b) & Section 8(2) of IGST Act dealing with 'place of supply' in case of 'Intermediary service'.

2 BANGALORE TURF CLUB LTD 2021-TIOL-1271-HC-KAR-GST

GST on horse race - liable only on commission and not on the entire bet amount collected.



3 GODWAY FURNICRAFTS 2021-VIL-460-AP

Turnover in the "preceding financial year" for the purpose of eligibility to opt for composition scheme, would mean the "preceding financial year" even it was under the VAT regime.

4 SHREE JAGANNATH TRADERS 2021-VIL-454-ORI

Dismissal of appeal for delay in filing certified copy of the order. HC advises the authorities to adopt a liberal approach especially during the pandemic period, when it is difficult to obtain certified copies of orders.



When it is the department who uploaded the order in the portal, where is the need for "certified copy"?





GST CASE LAWS

5 **UDUPI NIRMIT KENDRA** **2021-TIOL-139-AAR-GST**

Relevance of "Supply under a contract" for attracting TDS under Sec. 51 of the CGST Act.

6 **BELLARI NIRMIT KENDRA** **2021-TIOL-141-AAR-GST**

Exemption on services provided to Government against "grants" is available only for "Government entities".

DAMODAR VALLEY **CORPORATION 2021-TIOL-** **138-AAR-GST**

West Bengal AAR holds that Damodar Valley Corporation shall be covered under the definition of 'Government Entity' as it is set up by the legislature with 100% Government Control.

8 **ASWATH MANOHARAN TS-** **256-AAR(KER)-2021-GST**

Kerala AAR rules that banana chips, jackfruit chips, tapioca chips and jaggery coated banana chips (without registration of brand name) are classifiable under Customs Tariff Heading (CTH) 2008 dealing with roasted and fried vegetable products and is liable to GST @ 12%.



God's own dishes!





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
16/2021-Central Tax	01.06.2021	Seeks to appoint 01.06.2021 as the day from which the provisions of section 112 of Finance Act, 2021, relating to amendment of section 50 of the CGST Act, 2017 shall come into force.
17/2021-Central Tax	01.06.2021	Seeks to extend the due date for FORM GSTR-1 for May, 2021 by 15 days.
18/2021-Central Tax	01.06.2021	Seeks to provide relief by lowering of interest rate for a specified time for tax periods March, 2021 to May, 2021.
19/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-3B ; and to provide conditional waiver of late fee for delay in filing FORM GSTR-3B from July, 2017 to April, 2021; and to provide waiver of late fees for late filing of return in FORM GSTR-3B for specified taxpayers and specified tax periods.
20/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in furnishing of the statement of outward supplies in FORM GSTR-1.
21/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-4.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
22/2021-Central Tax	01.06.2021	Seeks to rationalize late fee for delay in filing of return in FORM GSTR-7.
23/2021-Central Tax	01.06.2021	Seeks to amend Notification No. 13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuance of e-invoice.
24/2021-Central Tax	01.06.2021	Seeks to amend notification no. 14/2021-Central Tax in order to extend due date of compliances which fall during the period from "15.04.2021 to 29.06.2021" to 30.06.2021..
25/2021-Central Tax	01.06.2021	Seeks to extend the due date for filing FORM GSTR-4 for financial year 2020-21 to 31.07.2021.
26/2021-Central Tax	01.06.2021	Seeks to extend the due date for furnishing of FORM ITC-04 for QE March, 2021 to 30.06.2021.
27/2021-Central Tax	01.06.2021	Seeks to make amendments (Fifth Amendment, 2021) to the CGST Rules, 2017.





NOTIFICATIONS & CIRCULARS

CENTRAL TAX (RATE) NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
01/2021- Central Tax (Rate)	02.06.2021	Seeks to amend notification No.01/2017-Central Tax (Rate) to prescribe change in CGST rate of goods.
02/2021- Central Tax (Rate)	02.06.2021	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 43rd meeting held on 28.05.2021.
03/2021- Central Tax (Rate)	02.06.2021	Seeks to amend notification No. 06/2019- Central Tax (Rate) so as to give effect to the recommendations made by GST Council in its 43rd meeting held on 28.05.2021.
04/2021- Central Tax (Rate)	14.06.2021	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 44th meeting held on 12.06.2021.
05/2021- Central Tax (Rate) along with Corrigendum dated 15.06.2021	14.06.2021	Seeks to provide the concessional rate of CGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021.





NOTIFICATIONS & CIRCULARS

INTEGRATED TAX NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
02/2021-Integrated Tax	01.06.2021	Seeks to provide relief by lowering of interest rate for a specified time for tax periods March, 2021 to May, 2021.
03/2021-Integrated Tax	02.06.2021	Seeks to amend Notification No. 04/2019-Integrated Tax dt. 30.09.2019 to change the place of supply for B2B MRO services in case of Shipping industry, to the location of the recipient.

INTEGRATED TAX (RATE) NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
01/2021-Integrated Tax (Rate)	02.06.2021	Seeks to amend notification No.01/2017- Integrated Tax (Rate) to prescribe change in CGST rate of goods.
02/2021-Integrated Tax (Rate)	02.06.2021	Seeks to amend notification No. 08/2017- Integrated Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 43rd meeting held on 28.05.2021
03/2021-Integrated Tax (Rate)	02.06.2021	Seeks to amend notification No. 06/2019- Integrated Tax (Rate) so as to give effect to the recommendations made by GST Council in its 43rd meeting held on 28.05.2021.





NOTIFICATIONS & CIRCULARS

INTEGRATED TAX (RATE) NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
04/2021- Integrated Tax (Rate)	14.06.2021	Seeks to amend notification No. 08/2017- Integrated Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 44th meeting held on 12.06.2021.
05/2021- Integrated Tax (Rate) along with corrigendum dated 15.06.2021	14.06.2021	Seeks to provide the concessional rate of IGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021.

UNION TERRITORY TAX NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
02/2021- Union Territory Tax	01.06.2021	Seeks to provide relief by lowering of interest rate for a specified time for tax periods March, 2021 to May, 2021.





NOTIFICATIONS & CIRCULARS

UNION TERRITORY TAX (RATE) NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
01/2021- Union Territory Tax (Rate)	02.06.2021	Seeks to amend notification No. 01/2017- Union Territory Tax (Rate) to prescribe change in CGST rate of goods.
02/2021- Union Territory Tax (Rate)	02.06.2021	Seeks to amend notification No. 11/2017- Union Territory Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 43rd meeting held on 28.05.2021.
03/2021- Union Territory Tax (Rate)	02.06.2021	Seeks to amend notification No. 06/2019- Union Territory Tax (Rate) so as to give effect to the recommendations made by GST Council in its 43rd meeting held on 28.05.2021.
04/2021- Union Territory Tax (Rate)	14.06.2021	Seeks to amend notification No. 11/2017- Union Territory Tax (Rate) so as to notify GST rates of various services as recommended by GST Council in its 44th meeting held on 12.06.2021





NOTIFICATIONS & CIRCULARS

UNION TERRITORY TAX (RATE) NOTIFICATION-01.06.2021-15.06.2021

NO	DATE	GIST
05/2021- Union Territory Tax (Rate) along with Corrigendum dated 15.06.2021	14.06.2021	Seeks to provide the concessional rate of UTGST on Covid-19 relief supplies, up to and inclusive of 30th September 2021.



Rs. 1,02,709 Crore gross GST revenue collected in May.

LINK: <https://pib.gov.in/PressReleasePage.aspx?PRID=1724696>

GST Council resets tax rate to 5% for major pandemic relief items until 30.09.2021. GST on vaccines remain unchanged.

LINK: <https://www.thehindu.com/news/national/gst-council-cuts-tax-rate-on-covid-essentials/article34796761.ece>

GST Council sees little revenue impact on further easing tax compliance with reference to the quarterly filing facility, which has not found much favour in the industry.

LINK: <https://www.livemint.com/news/india/gst-council-sees-little-revenue-impact-in-further-easing-tax-compliance-11622801609117.html>

GST compensation: States set to drive a hard bargain

LINK: <https://www.financialexpress.com/economy/gst-compensation-states-set-to-drive-a-hard-bargain/2267073/>

Govt's new covid vaccine policy resolves States' GST grievances

LINK: <https://www.livemint.com/news/india/centres-new-covid-vaccine-policy-resolves-states-gst-grievance-11623126574316.html>



Key decisions of the 44th GST Council Meeting.

LINK:<https://www.moneycontrol.com/news/business/44th-gst-council-meeting-here-are-the-key-decisions-7025661.html>

Travel Industry disappointed with GST council failure to rationalizes taxes for the sector

LINK:<https://morungexpress.com/travel-industry-disappointed-with-gst-council-failure-to-rationalise-taxes-for-the-sector>

Post revenue deficit grant of Rs.9,871 Crore released to 17 States.

LINK:<https://pib.gov.in/PressReleaseframePage.aspx?PRID=1725539>



GST Council likely to meet in July on compensation issue

Extension of 5-year period, keeping rate at 14% will form crux of talks

SHISHIR SINHA

New Delhi, June 13

The Goods & Services Tax (GST) Council is likely to meet next month to discuss the compensation issue.

"Meeting on compensation is expected in July. States may raise the issue related to borrowing to meet the current fiscal's compensation shortfall," a senior Government official told *BusinessLine*.

At the council meeting on May 28, it was decided to borrow ₹1.58-lakh crore during the current fiscal.

On May 28, Finance Minister Nirmala Sitharaman announced that there will be a special meeting of the council on compensation. She had said: "We are in the last of 5 years of 14 per cent compensation. Even from last year, there has been a worry if there will be an opportunity to extend it beyond July 2022. So, I have assured the members that there will be a special session only to discuss that one agenda: how the compensation cess will be collected, how long it will be collected and how much will be collected beyond July 2022."

Compensation is being provided to the States for the loss of revenue arising on account of implementation of the GST. For this, FY2015-16 has been taken as base year while the growth rate of revenue for a State is assumed to be 14 per cent per annum. For the payment of compensation, cess is being levied on certain goods in the 28 per cent bracket.

Key issues

As the economy took a pandemic hit and GST collection dipped, the Centre borrowed ₹1.10-lakh crore and passed it on to the States on a back-to-back

basis. This borrowing is to be repaid out of the future cess receipts. For this purpose, the GST Council has already approved extending the levy of compensation cess beyond June 2022 till the entire shortfall is covered.

Now, apart from setting the deadline for collection of cess, there are more issues that need to be addressed: Should the period of compensation be extended beyond five years? If yes, then till when? In such a situation, should the 14 per cent rate of projected revenue need be revised?



Considering lower revenue and higher expenditure on account of the pandemic, Prateek Bansal, Associate Partner (Tax & Customs) at White and Brief, says it may be imperative to extend the 5-year compensation window to give respite to the reeling State economies. This will also be in line with the scheme and objective of the GST (Compensation to States) Act, 2017.

Borrowing plan

However, given that the Centre has already borrowed ₹1.10-lakh crore in FY 21 and plans to borrow ₹1.58-lakh crore during FY 22, and considering that a few States have had lower annual revenue growth rate in the pre-GST era as compared to 14 per cent, it may not be economically feasible to commit to the compensation for another 5 years at 14 per cent per annum revenue growth rate.

"To strike a balance between the Centre's and the States' interests, the GST Council may decide to extend the compensation period for another couple of years at the specified 14 per cent growth rate, or alternatively, extend the compensation period for 5 years (as being demanded) with a reduction in annual estimated revenue growth rate," he said.





GSTN Portal Updates

- Table 12 of GSTR-1 wherein total invoice value is shown as 0 instead of N.A. in preview. Tax payers are requested to ignore it and proceed with filing GSTR-1.
LINK: <https://www.gst.gov.in/newsandupdates/read/480>
- Upcoming functionalities deployed on the portal for taxpayers.
LINK: <https://www.gst.gov.in/newsandupdates/read/481>
- Latest updates in e-invoice portal Dt.10-06-2021
Link: https://einvoice1.gst.gov.in/Documents/releasenotes_einvweb.pdf





CUSTOMS

CASE LAWS

1 SUN GLOBAL LOGISTICS PVT. LTD 2021 (6) TMI 429 - MADRAS HIGH COURT

In the absence of any direct notification/government order specifying the rates to be levied towards Cost Recovery Charges under the Handling of Cargo in Customs Areas Regulations, 2009 for deploying its officers the collection of Charges on Cost Recovery basis from the petitioner has been made contrary to the above Regulation.

2 CMR NIKKIE INDIA PVT LTD 2021 (6) TMI 270 – CESTAT AHMEDABAD

The Bills of entries are as good as an assessment order and therefore the number of appeals must be based on the number of Bills of entries under dispute.





CUSTOMS

CASE LAWS

3 LARSEN & TOUBRO LIMITED 2021 (6) TMI 4 - CESTAT AHMEDABAD

The goods imported were not used as a welding material but the goods itself is the end product that is part of statue of Sardar Vallabhbhai Patel. The welding material are in fact classifiable under CTH 8311 and not the present goods i.e the parts of statue, imported by the appellant. Therefore, the Revenue's contention that any two metal parts of any goods if it is fabricated by the process of welding would be classifiable under CTH 8311 is not tenable.

4 S.K. TIMBER & COMPANY 2021 (6) TMI 170 - CESTAT KOLKATA

Neither the assessee can seek SAD refund nor Revenue can proceed to recover the refund already sanctioned without challenging the earlier order by way of remedy provided in Section 128 of the Act. Having not challenged the previous order, the Revenue cannot be allowed to re-open the issue.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

ANTI DUMPING DUTY – 01.06.2021 to 15.06.2021

NO	DATE	GIST
32/2021	03.06.2021	Anti-dumping duty on imports of Polytetrafluoroethylene from Russia shall continue to be in force till 31.10.2021.
33/2021	03.06.2021	Anti-dumping duty on imports of Phenol from European Union and Singapore shall continue to be in force till 31.10.2021.

DGFT NOTIFICATION- 01.06.2021 to 15.06.2021

NO	DATE	GIST
07/2015-2020	01.06.2021	Export of Amphotericin-B injections falling under Ex 30049029 and Ex 30049099 has been restricted.

DGFT OFFICE OF MEMORANDUM- 01.06.2021 to 15.06.2021

NO	DATE	GIST
K-43014(16)/8/2020-SEZ	07.06.2021	Amends para (iii) of the guidelines for power generation, transmission and distribution in special economic zones, as per which no tax benefits under Section 26 of the SEZ Act would be available for setting up a non-conventional power plant within SEZ for the exclusive purpose of captive consumption.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 ANJAPPAR CHETTINAD A/C RESTAURANT & 3 OTHERS 2021 (6) TMI 226 - MADRAS HIGH COURT

The provision of food and drink to be taken-away in parcels by restaurants tantamount to sale of food and drink and does not attract Service Tax.



2 J.K. CONSTRUCTIONS 2021 (6) TMI 148 - MADRAS HIGH COURT

VAT - When an order has been passed by the Appellate Deputy Commissioner, the Commercial Tax officer, being the lower adjudicating authority cannot pass a contrary order on the same issue.

3 SHAILY ENGINEERING PLASTICS LTD 2021 (6) TMI 27 - CESTAT AHMEDABAD

For exports, place of removal is the port and hence CHA services are entitled for credit.

4 SHRENO LTD 2021 (5) TMI 836 CESTAT AHMEDABAD

Preferential location service is a bundled service along with construction service and to be taxed accordingly.





FROM OUR KNOWLEDGE HOUSE

Link to important Webinars Participated by Swamy Associates

VIDEO LINK	
SA's meeting on recent GST changes by G.Natarajan-Advocate	https://youtu.be/P44wo5u1jhQ
A short talk on recent GST amendment for Joint Developments by G. Natarajan- Advocate	https://youtu.be/UWSuOL0v0BY





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