



We are happy to share with the readers that “Swamy Associates” has been awarded “Silver Trophy”, in the first Taxindiaonline’s National Taxation Awards – 2020 in the category of “Facilitators and Intermediaries”.

We thank all of you who have voted for “Swamy Associates” which is one of the factors for the section of the winners.

We assure that we will constantly endeavour to provide qualify service to all our clientele.

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GST CASE LAWS

1 NE EQUIPMENT SOLUTIONS PVT LTD 2021-VIL-611-TRI

Excavator transported on trailer. First detained by Transport Department for non registration of the excavator. By the time it was released, it is again detained by GST authorities for expiry of E-way bill. HC advises GST department to differentiate between deliberate evasion and minor technical mistakes. Orders release.



2 BMW INDIA FINANCIAL SERVICES PVT LTD 2021-VIL-607-TEL

Despite timely filing of Tran 1, the credit was not transitioned to the electronic credit ledger of the petitioner. ITGRC denies any technical glitches. HC comes to the rescue.

3 PRAKASH MICA EXPORTS PRIVATE LIMITED, GIRIDIH 2021-VIL-600-JHR

Although PMT 03 -order for re-credit of the ITC was issued long back, the ITC was not re-credited. HC orders payment of interest by department.

4 R.K. GANAPATHY CHETTIAR 2021-VIL-598-MAD

VAT - No ITC reversal required for invisible process loss.



It is a mounting problem!!





GST CASE LAWS

5 YASHASWI ACADEMY FOR SKILLS 2021-TIOL-213-AAR-GST

Applicant acts as an intermediary between the industries and apprentices and the stipend payable to the trainees are paid through the applicant. Applicant not liable to pay GST on such stipends, but only on their remuneration.

6 DISHMAN CARBOGEN AMCIS LTD 2021-VIL-334-AAR

Recovery of canteen charges for supply of food to employees does not attract GST.

7 TATA MOTORS LTD 2021-TIOL-197-AAR-GST

No ITC on Canteen services even if it is a statutory requirement to provide canteen. Providing food to employees against a nominal consideration is not a supply.

8 GREENBRILLIANCE RENEWABLE ENERGY LLP 2021-TIOL-205-AAR-GST

GST would be payable on a value of solar system after deducting the subsidies given by the Government under Surya Gujarat Yojna.

9 INOX AIR PRODUCTS PVT. LTD. 2021-TIOL-199-AAR-GST

ITC cannot be claimed on GST paid on the transfer of leasehold rights in terms of the restriction placed u/s 17(5)(d) as 'land' leased is not a 'Plant and Machinery'.

10 INDIA PISTONS LIMITED 2021-VIL-317-AAR

Transfer of leasehold rights in land allocated by the State is a supply under GST.





11 IBM INDIA PRIVATE LIMITED 2021 (8) TMI 672 - AUTHORITY FOR ADVANCE RULINGS, KARNATAKA

In cases of demerger, the value of assets outside the purview of GST is also to be taken into consideration for apportionment with respect to transfer of ITC.

12 RAJKOT NAGARIK SAHAKARI BANK LTD. 2021 (8) TMI 738 - AUTHORITY FOR ADVANCE RULING, GUJARAT

Incentive given by the Government to the Co-operative Banks for the loan disbursed under “Atma Nirbhar Gujarat Sahay Yojna” is not a subsidy.

13 SHAILESH RAMSUNDER PANDE POOJA VAISHNAVI SCHOOL BUS SERVICE 2021- TIOL-214-AAR-GST

Supply of Non-AC buses for transportation of staff is taxable as rent-a-cab service.

14 THE VARACHHA CO. OP. BANK LTD 2021-TIOL-206- AAR-GST

No ITC on Central Air Conditioning Plant, Lift, Electrical Fittings, Fire Safety Extinguishers and Roof Solar Plant being immovable properties.



Don't ever bank on AAR.

15 CHELLANAM GRAMA PANCHAYATH 2021-TIOL-209- AAR-GST

Leasing of vacant land used for fish farming is exempt under GST.



Nothing fishy about it.






GST CASE LAWS

16 KARTHIKEYA PROJECTS 2021-VIL-333-AAR

No ITC in respect of construction materials purchased by a sub-contractor for use in furtherance of its business as it is 'in its own account'.

 **Intention is to deny credit only to the ultimate user and not for sub-contractors.**

17 THE WORLD ECONOMIC FORUM 2021-TIOL-215-AAR-GST

Services of Head Office located outside India to Liason Office in India is not in course or furtherance of business and is therefore not a supply.

18 PURANIK BUILDERS LTD 2021-VIL-342-AAR

"Other charges" collected by the Builder, cannot be considered as a composite supply along with construction Service. These charges are not treated as part of the construction value, for stamp duty purposes and a different treatment cannot be claimed under GST.

19 SADANAND MANPOWER SERVICE 2021-TIOL-202-AAR-GST

Supply of manpower services to Government departments is not exempted as the same is not in relation to activities under Article 243G or Article 243W of the Constitution.





NOTIFICATIONS & CIRCULARS

NOTIFICATION - 16.08.2021 to 31.08.2021

NO	DATE	GIST
32/2021- Central Tax	29.08.2021	<p>The filing of Form GSTR 3B & GSTR 1/IFF by companies using EVC, instead of DSC has been further extended to 31.10.2021.</p> <p>The provisos under Rule 26 (1) being relevant only for notified period shall stand omitted with effect from 01.11.2021.</p> <p>Restriction of e-way bill generation if the GST returns are not filed for two consecutive tax periods which was suspended from 01.05.2021 has become operative with effect from 18.08.2021.</p>
33/2021- Central Tax	29.08.2021	<p>The last date for availing the benefit of reduced late fee for non-furnishing of Form GSTRR 3B under Amnesty Scheme has been extended for three months till 30.11.2021</p>
34/2021- Central Tax	29.08.2021	<p>The time limit for filing revocation of cancellation of registration has been extended till 30.09.2021 if the due date for the same falls between 01.03.2020-31.08.2021</p>





GSTN Portal Updates

- **Module wise new functionalities deployed on the GST portal for taxpayer**

Various new functionalities are implemented on the GST Portal, from time to time, for GST stakeholders. These functionalities pertain to different modules such as Registration, Returns, Advance Ruling, Payment, Refund and other miscellaneous topics. Various webinars are also conducted as well informational videos prepared on these functionalities and posted on GSTNs dedicated YouTube channel for the benefit of the stakeholders.

LINK: <https://www.gst.gov.in/newsandupdates/read/496>





GSTN Portal Updates

- **Implementation of Rule 59(6) CGST Rule**

1. Rule-59(6) of CGST Rules, 2017; inserted vide Notification No. 1/2021 dated 1st January 2021, provides for restriction in filing of GSTR-1 in certain cases :

a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding two months;

b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period;





GSTN Portal Updates

2. This Rule will be implemented on GST Portal from 1st September, 2021. On implementation of the said Rule, the system will check that whether before the filing of GSTR-1/IFF of a tax-period, the following has been filed or not:

a) GSTR-3B for the previous two monthly tax-periods (for monthly filers),

OR

b) GSTR-3B for the previous quarterly tax period (for quarterly filers), as the case may be. The system will restrict filing of GSTR-1/IFF till Rule-59(6) is complied with.

LINK: <https://www.gst.gov.in/newsandupdates/read/500>



GSTN Portal Updates

- **Advisory on HSN and GSTR-1 Filing**

1. In accordance with Notification No. 78/2020 – Central Tax, dated October 15, 2020, taxpayers need to declare Harmonised System of Nomenclature (HSN) Code of Goods and Services supplied by them on raising of tax invoices, with effect from 1st April, 2021 on the below mentioned lines.

S.No	Aggregate Turnover in the preceding Financial Year	Number of Digits of HSN Code to be reported in GSTR-1
1	Upto Rs. 5 crores	4
2	Above Rs. 5 crores	6

2. It has been reported by few taxpayers that HSN used by them for reporting in GSTR-1 is not available in the table 12 HSN drop-down. They have further stated that they are facing issues in adding the required HSN details in table -12 and filing of statement of outward supplies in form GSTR-1 of July 2021. Further, in some JSON files, the HSN field is coming as blank from the offline tool, along with other errors as mentioned below:-

- 1) Processed with Error, In Progress or Received but pending
- 2) Duplicate Invoice Number found in payload please correct

Link:

<https://tutorial.gst.gov.in/downloads/news/advisoryonhsnandgstr1.pdf>

GSTN Portal Updates

- **Revocation application for cancellation of registration timeline**

In view of the notification 34/2021 -Central dated 29th Aug 2021, where the due date of filing of application for revocation of cancellation of registration falls between 1st March, 2020 to 31st August, 2021, the time limit for filing such application for revocation of cancellation of registration has been extended up to 30th September, 2021.

The benefit of said notification is extended to all the cases where cancellation of registration has been done under clause (b) or clause (c) of sub-section (2) of section 29 of the CGST Act, 2017 and where the due date of filing of application for revocation of cancellation of registration falls between 1st March, 2020 to 31st August, 2021.

It is further clarified that the benefit of notification would be applicable in those cases also where the application for revocation of cancellation of registration is either pending with the proper officer or has already been rejected by the proper officer.

- 'In Person' GST Council meet likely after a 16-month hiatus

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/18-08-2021_GST-Council-meet.pdf

- Jindal Steel emerges as the biggest GST player

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/21-08-2021_Jindal-Steel.pdf

- Multinationals using franchisee model may face higher GST on royalty income

LINK:<https://economictimes.indiatimes.com/news/economy/policy/multinationals-using-franchisee-model-may-face-higher-gst-on-royalty-income/articleshow/85755092.cms>

- Rising commodity prices are boosting GST collections, say experts

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/18-08-2021_Rising-commodity.pdf

- DGGI busts ₹118 crore refund fraud, 1 held

LINK:http://gstcouncil.gov.in/sites/default/files/gst-articles/22-08-2021_DGGI-busts.pdf

- GST Revenue collection for August 2021, ₹ 1,12,020 crore of gross GST revenue collected in August.

LINK:<https://www.pib.gov.in/PressReleaseDetail.aspx?PRID=1751048>



- **GST, e-commerce and the game of catch-up**

LINK: <https://www.timesnownews.com/business-economy/economy/gst/article/gst-e-commerce-and-the-game-of-catch-up/800523>

- **No reversal of ITC on manufacturing process loss**

LINK: <https://www.thehindubusinessline.com/economy/no-reversal-of-itc-on-manufacturing-process-loss/article36003853.ece>

- **Govt says open to 'tinkering' GST rates on automobiles**

LINK: <https://www.livemint.com/auto-news/govt-says-open-to-tinkering-gst-rates-on-automobiles-11629912177522.html>

- **Complete GST chain to Boost Exports**

LINK: <https://economictimes.indiatimes.com/opinion/et-editorial/complete-gst-chain-to-boost-exports/articleshow/85437697.cms>

- **Lassi exempt from GST, but not flavoured milk**

LINK: <https://timesofindia.indiatimes.com/business/india-business/lassi-exempt-from-gst-but-not-flavoured-milk/articleshow/85577732.cms>

- **Tax department uses vehicle movement data to detect evasion**

LINK: <https://www.livemint.com/news/india/tax-department-uses-vehicle-movement-data-to-detect-evasion-11630148109386.html>



- K'taka CM demands extension of GST compensation to states for 3 more yrs

LINK: https://www.business-standard.com/article/economy-policy/k-taka-cm-demands-extension-of-gst-compensation-to-states-for-3-more-yrs-121082600792_1.html

- Non-filers of 2 monthly GST returns to be barred from filing GSTR-1 from September 1

LINK:<https://www.businessoday.in/latest/economy/story/non-filers-of-2-monthly-gst-returns-to-be-barred-from-filing-gstr-1-from-september-1-305382-2021-08-27>





CUSTOMS

CASE LAWS

1 POLYTECH FOUNDATION 2021 (8) TMI 617 - DELHI HIGH COURT

Writ Petitions Seeking across-the-board amnesty from paying penal charges to CFSs, ICDs and Shipping lines, during the entire period of lockdown enforced by the Government consequent on the COVID-19 pandemic is dismissed.

2 EVERSHINE CUSTOMS (C & F) PVT LTD. AND THE TWO STEP TRADING CO. 2021 (8) TMI 906 - CESTAT NEW DELHI

Demand under Section 28(4) set aside on the ground of DRI officer not a proper officer following Canon India decision but the issue relating to confiscation of seized goods and imposition of penalty remitted to the original authority to follow the procedure prescribed under Section 138B.

3 M.D. OVERSEAS LIMITED 2021 (8) TMI 704 - CESTAT NEW DELHI

The respondent had submitted all the four Bills of Entry with the relevant documents on 05.07.2019 before 5 PM and the respondent cannot be blamed if for three consignments, Bills of Entry numbers were not generated because of some fault with the ICEGATE portal. Therefore, the rate of Basic Customs Duty as applicable on 05.07.2019 would be applicable and not the Basic Customs Duty as applicable on 20.07.2019, on which date the respondent had resubmitted the Bills of Entry with documents in view of the instructions issued by the Department.





CUSTOMS

CASE LAWS

4 CHAMUNDI TEXTILES (SILK MILLS) LIMITED 2021 (8) TMI 991 - CESTAT BANGALORE

Section 149 does not provide any time limit for amendment or conversion of the documents and it is only through the circular issued by CBEC a period of three months have been prescribed which is not binding on the court. The concerned Customs officer is directed to allow the amendment in the shipping bills from duty drawback scheme to Advance authorisation Scheme but before that the appellant would pay back the duty drawback claimed by them along with interest.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS TARIFF NOTIFICATION– 16.08.2021 to 31.08.2021

NO	DATE	GIST
39/2021	19.08.2021	Last date of export falling between Feb 21 to June 21 for export of jewellery and other articles in terms of schemes under Para 4.41 & 4.46 of FTP extended by six months.
40/2021	19.08.2021	Soyabean and Sunflower Crude Oil to attract BCD of 7.5% and Soyabean and Sunflower Edible grade oil to attract BCD of 37.5%

ANTY DUMPING DUTY NOTIFICATION– 16.08.2021 to 31.08.2021

NO	DATE	GIST
45/2021	24.08.2021	Rescinds notification No. 14/2016-Cus(ADD) - levy of ADD on Barium Carbonate originating in or imported from China PR.
46/2021	25.08.2021	Levy of ADD on imports of 'Axle for Trailers' from China shall be in force until 28.01.2021.
47/2021	26.08.2021	Levy of anti dumping duty on imports of " Natural Mica based Pearl Industrial Pigments excluding cosmetic grade " originating from China PR imposed for a period of five years i.e till 25.08.2026.
48/2021	27.08.2021	Anti-dumping duty on imports of 'Uncoated Copier Paper' from Indonesia and Singapore shall be in force until 28.02.2022.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS CIRCULAR- 16.08.2021 to 31.08.2021

NO	DATE	GIST
19/2021	16.08.2021	Amendment to Circular No.38/2016-Cus providing guidelines for provisional assessment under Section 18.
20/2021	16.08.2021	Instructions to expedite the process of De-notification of Inland Container Depots/Container Freight Stations/Air Freight Stations.

CUSTOMS INSTRUCTIONS – 16.08.2021 to 31.08.2021

NO	DATE	GIST
18/2021	17.08.2021	Verification of the Preferential Certificates of Origin and difficulties being faced by the trade in implementation of CAROTAR, 2020.
19/2021	17.08.2021	The Board has directed the Directorates/Commissionerate's/Audit shall not issue any Circulars/ Reports/ Alerts etc. which are in the nature of interpretation/clarification/prescription for the sake of uniformity, on matters covered under section 151 A of the Customs Act, 1962;





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

DGFT NOTIFICATION- 16.08.2021 to 31.08.2021

NO	DATE	GIST
18/2015-20	16.08.2021	The export of COVID-19 Rapid Antigen testing kits is now in restricted category.
19/2015-20	17.08.2021	Scheme Guidelines for RoDTEP and rates notified.

DGFT INSTRUCTION – 16.08.2021 to 31.08.2021

NO	DATE	GIST
107	26.08.2021	GMP & GLP accredited laboratories may be accepted as recognized lab under Sec 50(3) of SEZ Rules. .

DGFT TRADE NOTICE – 16.08.2021 to 31.08.2021

NO	DATE	GIST
16/2021-22	17.08.2021	Procedure and Criteria for submission and approval of applications for export of COVID-19 Rapid Antigen Testing kits.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

1 SRL ADVISORS LLP 2021 (7) TMI 1195 - CESTAT NEW DELHI

LLP is not covered under definition of body corporate and hence service tax is not required to be paid under RCM by LLP.

2 HINDUSTAN ZINC LIMITED 2021 (8) TMI 872 - CESTAT NEW DELHI

CENVAT credit can be denied only if the value of the non moving goods are written off fully or partially and not on account of making a provision.

3 DIVYA SREE ROW PROJECTS LLP 2021 (8) TMI 811 - CESTAT BANGALORE

CENVAT credit on lift used for construction activity cannot be denied as it is used for providing output service

4 KIRLOSKAR TOYOTA TEXTILE MACHINERY PVT. LTD. 2021 (8) TMI 818 - CESTAT BANGALORE

Refund of Educational Cess and SHE Cess is entitled since the assessee cannot utilize the same for discharging the output liability as well as cannot able to transfer it to GST. Further, the assessee has filed the refund within one year from introduction of GST.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

5 SHAHI EXPORTS LTD 2021 (8) TMI 990 - CESTAT CHANDIGARH

Amount paid under protest, during investigation. When the demand is ultimately set aside, interest is payable by the Govt on such deposit.

6 STEEL AUTHORITY OF INDIA LTD, SALEM 2021-TIOL-485- CESTAT-MAD

No service tax is payable under the category of tolerating an act on (i) liquidated damages collected for failure to supply goods in time,(ii) EMD Forfeited (iii) ground rent for not lifting the goods sold in auction.

7 UNIMECH INDUSTRIES PVT. LTD. 2021 (8) TMI 1064 - CESTAT CHENNAI

When the assessable value of job worked goods are calculated as per CAS-4, there cannot be any scope of including the value of scrap generated and retained by the job worker.

8 MUKESH KUMAR JAISWAL 2021-TIOL-475-CESTAT-NEW DELHI-SERVICE TAX

Cartage challan issued by the forest department not equivalent to Consignment note and hence the transporter cannot be considered as a GTA.

9 THOROGOOD ASSOCIATES INDIA PVT LTD 2021-TIOL-484- CESTAT-BANG

Refund under Rule 5 of CCR,2004 cannot be denied for the delay in debiting the credit amount from CENVAT account which is just a procedural delay.





CENTRAL EXCISE AND SERVICE TAX CASE LAWS

10

DR SHALINI AGASTHI 2021- TIOL-521-CESTAT-BANG

Individual Villa is not part of “residential complex”. The common areas are gifted to the Government. No Service Tax is attracted for construction of a single residential unit. So refund of ST allowed.





GLIMPSES FROM THE TIOL AWARDS





GLIMPSES FROM THE TIOL AWARDS



CERTIFICATE OF RECOGNITION

SWAMY ASSOCIATES

is the winner of TIOL 2020 AWARDS

FACILITATORS & INTERMEDIARIES (SILVER)

CATEGORY



TRUSTEE, TIOL TRUST



FOCUS NEWS

facebook.com/focusnews, twitter.com/focusnews, focusnewsindia.blogspot.in, www.focusnews.co.in, focusnewsbharat

TIOL Awards 2020



New Delhi, Focus News: The TIOL knowledge Foundation on Saturday hosted India's First National Taxation Awards 2020 event at Taj, New Delhi and unveiled the FIRST BATCH of 'Model Taxpayers' at All-India level. Besides 10 Trophy winners under four independent categories, a very extraordinary award called TIOL FISCAL HERITAGE Award was conferred on late Union Finance Minister Arun Jaitley for his lifetime contribution to enrich taxation space in India. This Award was conferred on Mr Jaitley by the 15th Finance Commission Chairman, N K Singh and the Certificate of Honour noted his stellar role in India's biggest tax reform and his gluing act in gumming together all the States under one roof, like a shy fiscal magician, to achieve the historical advent of GST in India. The Four categories under which awards were unfolded are - Corporate above Rs 5000 Cr; Corporates between Rs 500 Cr and Rs 5000 Cr; Tax Technology Service Providers and Facilitators. Under the first Category the gold went to M/s Maruti Suzuki India Ltd and Silver to M/s Max Life Insurance Co Ltd & Larsen & Toubro because of a tie. In the Second category, the gold was bagged by M/s Delta Electronics India Pvt Ltd and the Silver went to M/s Alembic Pharmaceuticals Ltd. For the Tax Technology Service Provider category, the GOLD was bagged by M/s Professional Softtech Pvt Ltd and Silver by Price Waterhouse Coopers Pvt Ltd. Under the Facilitator category, Mr Manoj Yadav got the Gold and there was tie for the Silver which went to Mr

Pritam Mahure and M/s Swamy Associates. The winners were decided through a process of Nomination and voting to Valid Nominees and finally allocation of weighted marks by the Jury Panel, mentored by the former Chief Justice of India, Justice R C Lahoti. The Panel was headed by former Delhi High Court Judge, Justice R V Easwar and other Members were former Finance Secretary, Mr Sumit Bose; former CBDT Chairman, Mr M C Joshi, former CBEC Chairman, Ms Praveen Mahajan, Editorial Director of Business Standard Newspaper, Mr A K Bhattacharya and noted CA & author, Dr Girish Ahuja. The key dignitaries who participated in the event were Mr N K Singh, the CBDT Chairman, Mr J B Mohapatra; the CBIC Chairman, Mr Ajit Kumar; Justice R C Lahoti, Mr Sumit Bose, Mr N Venkatraman, Additional Solicitor General of India, Mr A N Jha, former Finance Secretary, Mr A K Bhattacharya, Dr Girish Ahuja, Ms Praveen Mahajan, Mr M C Joshi, Mr Dharamkirti Joshi, Chief Economist, Crisil India, Mr Pratik Jain, Partner, PwC; Mr Akhilesh Ranjan, Mr S K Rahman and Dr Pasquale Pistone, the Academic Chairman of IBFD, the Netherlands. The event was attended by over 125 persons in person and by hundreds virtually. On this occasion, a book authored by TIOL Trustee and the CEO of TIOL Pvt Ltd, Mr Shailendra Kumar, was also released. The name of the book is - COVID-19 - Genocide Without Parallel - Chronicles of the Dragon Let Loose, World Economy, Taxation & Vaccination.





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