Anivesh
Legal Consultants

Indirect Tax Updates – 1st January 2026 to 15th January 2026

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Important Case Laws

1. **<u>State of Jharkhand vs. BLA Infrastructure Private Limited [Supreme Court: CA No. 56452 of 2025]</u>**

Refund of pre-deposit is not subject to provisions specified under Section 54 of the CGST Act

The Company succeeded in its GST appeal and sought refund of the statutory pre-deposit which was made for filing appeal. The Hon'ble Jharkhand High Court had applied Section 54 (refund of tax) to grant relief. The Department filed appeal before Hon'ble Supreme Court on issue that refund of statutory pre-deposit not to be governed by Section 54 (general refund) and is duly governed by Section 107(6) read with Section 115 of the Jharkhand GST Act, 2017.

The Hon'ble Supreme Court held that refund of pre-deposit is governed by Section 107(6) & Section 115, not Section 54 of the CGST Act. The High Court's interpretation of Section 54 was unnecessary in this context. Also, it has been held that this order does not prejudice the Company, if any adverse effect arises, reopening can be sought.

<u>Anivesh (ALC) Comments</u>: Refund of pre-deposit (made for filing appeals) is a distinct category under GST law. Such refunds are automatic upon success in appeal, not subject to general refund procedures. Authorities must process refunds promptly in order to avoid litigation. Consequential implications like interest on refund etc. will also be applicable as per Section 115 and not under Section 56.

Important Case Laws

2. **<u>M/s Ayushi Galvano vs. Commissioner (Audit) [Orissa HC: WP(C) No.30871 of 2025]</u>**

Superintendent is not a proper officer authorized to communicate audit findings to taxpayer

The issue was whether SCN issued u/s 73 is vitiated by jurisdictional error, where the audit report (Form GST ADT-02) pointing out discrepancies was prepared and communicated by a Superintendent (Audit) who is not the "proper officer" authorised under Section 2(91) of the CGST Act read with Rule 101 of the CGST Rules and Circular dated July 05, 2017.

The Hon'ble Orissa High Court held that Rule 101 of the CGST Rules read with the Circular dated July 05, 2017, only authorizes the Deputy Commissioner or Assistant Commissioner to communicate audit findings to the registered person. Since the audit report was issued by the Superintendent (Audit), who is not a "proper officer", the very foundation for initiating proceedings under Section 73 is vitiated by jurisdictional error. Consequently, the Court directed the Department not to proceed further with the SCN till the next date of hearing.

Important Case Laws

3. **<u>M/s Iprocess Clinical Marketing Pvt. Ltd. vs AC [Karnataka HC: WP No. 10989 of 2025]</u>**

Clinical trial/R&D services provided to foreign clients qualify as export of services

The Petitioner was engaged in conducting clinical trials and R&D services for foreign clients. The Department raised GST demand treating such services not as export, relying on Section 13(3)(a) of the IGST Act (place of supply as place of performance in India). The Department held that Notification No. 04/2019–IGST dated September 30, 2019, which clarified that the place of supply for specified R&D services including clinical trials shall be the location of the service recipient, was prospective and hence not applicable to earlier periods.

The Hon'ble Karnataka High Court held that said notification was clarificatory and declaratory in nature, issued pursuant to the 37th GST Council Meeting to remove ambiguity regarding export status of pharma R&D services. Applying the Supreme Court ruling in ***Vatika Township***, the Court ruled that clarificatory amendments operate retrospectively. Consequently, services of conducting clinical trials for foreign clients qualify as export of services, not liable to GST.

Important Case Laws

4. <u>M/s Sahil Enterprises vs. UOI [Tripura HC: WP(C) No. 688 of 2022]</u>

Section 16(2)(c) of CGST Act is constitutionally valid, but ITC cannot be denied to bonafide dealers

The issue was whether Section 16(2)(c) of the CGST Act, 2017, which denies ITC to a purchasing dealer on the ground that the supplier has not deposited the tax with the Government, is unconstitutional and whether ITC can be denied to a bona fide purchaser who has paid GST to the supplier and complied with all statutory requirements.

The Hon'ble Tripura High Court held that Section 16(2)(c) is constitutionally valid. However, the provision cannot be applied to deny ITC to a bona fide purchasing dealer merely because the supplier failed to deposit the tax. Denial of ITC in such cases would be arbitrary and unreasonable, as a purchaser cannot be expected to ensure tax payment by the supplier. Accordingly, Section 16(2)(c) shall apply only in cases of non-bona fide, collusive, or fraudulent transactions. The impugned order denying ITC was set aside, and the Department was directed to allow ITC to the Petitioner.

Important Case Laws

5. **<u>E.P. Gopakumar vs. UOI [Kerala HC: WP(C)- 38316/2025]</u>**

Exemption from payment of GST is not applicable on group health insurance policies

The issue was whether GST exemption under Notification No. 16/2025–Central Tax (Rate) dated September 17, 2025 applies to Group Health Insurance Policies taken by retired bank employees, or is restricted only to individual health insurance policies (including family floater and senior citizen policies).

The Hon'ble Kerala High Court held that the exemption is strictly limited to individual health insurance policies and does not extend to group health insurance policies. Since the policies in question were issued as group policies through collective bargaining by the Indian Banks' Association and in accordance with IRDAI regulations and hence, petitioner is not entitled to GST exemption.

Important Case Laws

6. **Alstom Transport India Ltd. vs. DGFT [Bengaluru HC:WPN. 27238 of 2024]**

SEIS benefit is determined by the year of foreign exchange realization

The issue was whether the Petitioner was eligible for SEIS benefit where foreign exchange for services exported in FY 2016–17 was realized in FY 2017–18, and whether expenses towards transport, inspection, R&D, software and re-invoicing formed part of eligible engineering services exports for SEIS purposes?

The Hon'ble Karnataka High Court held that eligibility under SEIS depends on the financial year of realization of foreign exchange, not the year of export of services. Since the foreign exchange was realized in FY 2017–18, the petitioner was entitled to SEIS benefit, even for services exported in FY 2016–17. The Court further held that expenses towards transport, inspection, R&D, software and re-invoicing were integral to the engineering services exported, and denial of SEIS benefit on these components was erroneous. Accordingly, the rejection orders were set aside.

Anivesh (ALC) Comments: The judgment promotes a liberal and exporter-friendly interpretation of SEIS provisions.

Important Case Laws

7. **M/s Leela Sai Ram Trading vs. AC [Andhra Pradesh HC: Writ Petition No. 32800/2023]**

Invoices issued without actual movement of goods amounts to penalty under Section 55(2) of the AP VAT Act.

The issue was whether the penalty imposed under Section 55(2) of the Andhra Pradesh VAT Act, 2005 for the period June 2014 to June 2016 on the allegation of bill trading by issuing false tax invoices and way bills without actual movement of goods was legal and sustainable.

The High Court of Andhra Pradesh held that the Department had rightly invoked Section 55(2), as detailed verification of way bill data, toll plaza records, vehicle movement, and cross-verification reports conclusively established that the Petitioner had indulged in bogus transactions and bill trading to enable wrongful ITC claims by purchasers. In the absence of any satisfactory explanation from the Petitioner, the penalty order was upheld, and the writ petition was dismissed.

Anivesh (ALC) Comments: This judgment implies that documentary compliance alone is insufficient in the absence of actual supply of goods.

Important Case Laws

8. **<u>M/s Vineera Colonisers Pvt. Ltd. vs DGGSTI [Delhi CESTAT: Service Tax Appeal No. 50236 of 2019]</u>**

Service Tax is not leviable on Transfer of land development rights

The issue was whether transfer of land development rights (TDR) by landowners to a real estate developer amounts to a taxable service under the Finance Act, 1994, so as to attract service tax?

The Hon'ble CESTAT held that TDR is a benefit arising out of land and constitutes immovable property, which is specifically excluded from the definition of "service" under Section 65B(44). Consequently, no service tax is leviable on transfer of development rights. The impugned demands were set aside, and the appeals were allowed with consequential relief.

Important Case Laws

9. **M/s Vikas Ecotech Ltd vs. PCC [Delhi CESTAT: Customs Appeal No. 50105 of 2025]**

Concessional duty under AIFTA cannot be denied merely on doubts in cost sheets

The issue was whether the Appellant was wrongly denied concessional customs duty under Notification No. 46/2011–Cus. by rejecting the Certificates of Origin issued under AIFTA, on the allegation that the goods did not satisfy the 35% Regional Value Content (RVC) requirement due to defects in cost sheets.

The Hon'ble CESTAT held that in the absence of concrete evidence or calculation to show that the RVC was below 35%, and when the Certificates of Origin were issued by the designated authority and not proved to be fake or invalid, the concessional benefit could not be denied. Accordingly, the differential duty demand was set aside, and the appeal was allowed.

Anivesh (ALC) Comments: The Tribunal rightly placed the burden of proof on the Department to establish non-compliance with the RVC requirement through cogent evidence and proper calculations, rather than relying on mere doubts or perceived defects in cost sheets.

GST Advisory

1. **<u>Advisory dated January 04, 2026</u>:** Facility for online filing of opt-in declarations for declaring hotel accommodation premises as "Specified Premises" operationalized on GST portal in accordance with Notification No. 05/2025–Central Tax (Rate) dated January 16, 2025.

- The facility is available to existing registered taxpayers supplying hotel accommodation services and new registration applicants, but not applicable to composition taxpayers, TDS/TCS taxpayers, SEZ units/developers, casual taxpayers or cancelled registrations.

- Two declarations are prescribed: **Annexure VII** – for existing registered taxpayers opting in for a subsequent financial year & **Annexure VIII** – for persons applying for new registration, to opt in from the effective date of registration.

- Time limits: Annexure VII to be filed between 1 January and 31 March of the preceding financial year (for FY 2026-27: 01.01.2026 to 31.03.2026). Annexure VIII to be filed within 15 days from generation of ARN of registration application.

- Declarations are to be filed on the GST portal via Services → Registration → Declaration for Specified Premises, using EVC, with ARN generation on successful submission. A maximum of 10 premises per declaration can be selected; additional declarations may be filed for remaining premises. Once exercised, the option continues for subsequent financial years unless an opt-out declaration (Annexure IX) is filed (to be enabled separately). Email and SMS confirmations are sent to authorised signatories upon filing. Taxpayers who filed declarations manually for FY 2025-26 are required to re-file electronically for FY 2026-27 within the prescribed window.

Customs Notifications

1. **<u>Notification No. 01/2026-Customs (N.T.) dated January 13, 2026</u>:** Tariff values for specified goods including gold and silver (in various forms) revised w.e.f. January 14, 2026.

2. **<u>Notification No. 02/2026–Customs (N.T.) dated January 14, 2026</u>:** Bhogapuram in Andhra Pradesh notified as Airport for the purpose of place for unloading of imported goods and loading of export goods.

3. **<u>Notification No. 06/2026–Customs (N.T.) dated January 15, 2026</u>:** Tariff values of specified goods i.e. edible oils (crude & refined palm oil, palmolein, soybean oil), brass scrap, gold and silver (in various forms) revised w.e.f. January 16, 2026.

4. **<u>Notification No. 07/2026–Customs (N.T.) dated January 15, 2026</u>:** Postal Export (Electronic Declaration and Processing) Regulations, 2022 amended to revise the forms of postal export documentation i.e. Form PBE-III for e-commerce exports and Form PBE-IV for other postal export.

Customs Notifications

5. **<u>Notification No. 04 & 05/2026–Customs (N.T.) dated January 15, 2026</u>**: Notification No. 24 & 25/2023-Customs (N.T.) dated April 1, 2023 amended to streamline procedures for exports by post. It expands references of bill of export/shipping bill to include electronic entries under Section 84 of the Customs Act, 1962 for postal exports processed through customs automated system. Also, it specified that exports must be routed through foreign post offices that allow electronic presentation and processing of entries.

6. **<u>Notification No. 03/2026–Customs (N.T.) dated January 15, 2026:</u>** Customs and Central Excise Duties Drawback Rules, 2017 amended to streamline procedures for exports by post. Key changes include expanding references to "bill of export or shipping bill" to also cover section 84 entries, revising headings and scope of rules dealing with postal exports, and aligning procedures across rules 8, 12, 13, and 14. Notably, a new provision deems electronic entries made under section 84 for exports by post as valid drawback claims from the date the Electronic Data Interchange receives the entry after the proper officer permits clearance and loading.

Customs Notifications

7. **<u>Notification No. 01/2026–Customs (ADD) dated January 2, 2026:</u>** Continuation of Anti-dumping Duty on import of Flexible Slabstock Polyol (HS 3907 29) originating from Saudi Arabia and the UAE till June 17, 2026.

8. **<u>Notification No. 02/2026–Customs (ADD) dated January 8, 2026</u>:** Continuation of Anti-dumping Duty on import of Normal Butanol (N-Butyl Alcohol) originating in or exported from the European Union, Malaysia, Singapore, South Africa, and the United States of America till July 12, 2026.

Customs Circular& Instructions

1. **<u>Circular No. 01/2026 dated January 15, 2026</u>:** Postal Export (Electronic Declaration and Processing) Regulations, 2022 amended vide Notification No. 07/2026-Customs (N.T.) dated January 15, 2025 extended export benefits for exports made through the postal route by enabling full electronic processing connecting the Department of Posts' DNK portal with ICES.

- Exporters can claim export Incentives such as Duty Drawback, RoDTEP or RoSCTL through postal route (electronic mode).
- Exporters must be registered on ICEGATE and provide bank account details.
- PBE-III and PBE-IV forms have been amended to include additional fields for incentive claims and parcel-level details.
- Electronic drawback claims to follow Rules 13 & 14 of the Drawback Rules, 2017; manual drawback claims continue under Rule 12 of the Drawback Rules, 2017.
- For each electronic incentive claim, supporting documents must be uploaded on E-Sanchit/ICEGATE.
- DG Systems will issue a detailed advisory, and jurisdictional Customs Commissioners must issue Public Notices to guide stakeholders.

Foreign Trade Policy Updates

1. **<u>Notification No. 54/2025-26 dated January 3, 2026</u>:** Import policy for Low Ash Metallurgical Coke (having ash content below 18%), including coke fines/coke breeze and ultra-low phosphorous metallurgical coke falling under ITC (HS) Codes 27040020, 27040030, 27040040 and 27040090 revised from ‘restricted’ to ‘free’.

2. **<u>Public Notice No. 42/2025-26 dated January 9, 2026</u>:** Format of existing Electronic Bank Realization Certificate (eBRC) amended to include GSTIN, GST Invoice No. and GST Invoice Date.

3. **<u>Public Notice No. 43/2025-26 dated January 9, 2026</u>:** India & Arab Countries Chamber of Commerce, Industry & Agriculture (IACCIA), New Delhi included in list to issue Certificates of Origin (Non-Preferential).

Foreign Trade Policy Updates

4. **<u>Trade Notice No. 20/2025-26 dated January 2, 2026</u>:** Interest Subvention for Pre-Shipment and Post-Shipment Rupee Export Credit under Export Promotion Mission – Niryat Prothsahan launched on pilot basis.

- The objective is to improve access to export credit for MSME exporters by reducing borrowing costs, enhancing liquidity, and supporting working-capital needs.
- Applicable to Micro, Small and Medium Enterprises (both manufacturer and merchant exporters).
- Interest Benefit: 2.75% per annum subvention on eligible pre and post-shipment export credit.
- Benefit cap: Maximum Rs 50 lakh per MSME exporter per financial year.
- Exports must fall under the notified positive list of HSN 6-digit tariff lines.
- Credit must comply with RBI Master Directions on export credit.
- Stakeholders invited to submit comments within 30 days of issuance; consultation runs concurrently with pilot implementation.

Foreign Trade Policy Updates

5. **<u>Trade Notice No. 21/2025-26 dated January 2, 2026</u>:** Collateral Support for Export Credit scheme under Export Promotion Mission – Niryat Protsahan launched on pilot basis.

- The objective is to improve access to formal export credit for MSME exporters, especially those facing collateral constraints, by providing credit guarantee support.
- MSME exporters engaged in merchandise exports.
- Credit Guarantee Coverage up to 85% for Micro and Small exporters and credit guarantee coverage Up to 65% for Medium exporters.
- Maximum Guarantee Limit: Rs. 10 crore per exporter for FY 2025-26.
- Exports must fall under the notified positive list of HSN 6-digit tariff lines.
- Credit to be availed through eligible Member Lending Institutions.
- Stakeholder invited to submit comments invited within 30 days of issuance; consultation runs parallel to pilot implementation.

THANK YOU

See You Next Time

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