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# Indirect Tax Updates – 16th February 2026 to 28th February 2026

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# February GST collections

| GST Collections | February' 25 (Rs. in Crores) | February' 26 (Rs. in Crores) | % Growth (Rs. in Crores) |
|---|---|---|---|
| Gross domestic revenue | 1,28,957 | 1,35,772 | 5.3% |
| Less: Refund – domestic | 10,496 | 9,939 | -5.3% |
| **Net Domestic Revenue** | **1,18,462** | **1,25,833** | **6.2%** |
| Gross Import Revenue | 40,821 | 47,837 | 17.2% |
| Less: Refund – Imports | 10,005 | 12,656 | 26.5% |
| **Net Customs Revenue** | **30,816** | **35,181** | **14.2%** |

Top 5 gainers

| State/ UT | Growth (+) | State/UT | Growth (-) |
|---|---|---|---|
| Dadra & Nagar Haveli | 62% | Jharkhand | -44% |
| Sikkim | 26% | Chhattisgarh | -23% |
| Haryana | 23% | Lakshadweep | -21% |
| Gujrat | 19% | Madhya Pradesh | -16% |
| Tamil Nadu | 18% | Odisha | -16% |

Top 5 losers

# Important Case Laws

1. **Hamdard (Wakf) Laboratories vs CCT [Supreme Court: SLP(C) N. 16125/2026 ]**

***"Sharbat Rooh Afza" qualifies as 'Food Drink' and leviable to VAT@4% under UP VAT Act***

The issue involved was whether the product "Sharbat Rooh Afza", containing 10% fruit juice, is classifiable as a "fruit drink / processed fruit" under Entry 103 of Schedule II Part A of the UP VAT Act, 2008 taxable at 4%, or under the residuary entry in Schedule V taxable at 12.5%. The High Court of Judicature at Allahabad classified the product under the residuary entry, holding that it did not qualify as a fruit drink under Entry 103 and was therefore liable to VAT at 12.5%.

The Hon'ble Supreme Court of India allowed the appeal and held that "Sharbat Rooh Afza" qualifies as a "Fruit Drink" under Entry 103 of Schedule II. The The expression "fruit drink" cannot be restricted only to ready-to-consume bottled beverages. Applying the common parlance test and essential character test, the product retains its identity as a fruit-based beverage. Sugar syrup being predominant ingredient does not alter its essential fruit-based character. The burden of proof lies on the Revenue to justify classification under the residuary entry. A residuary entry can be invoked only when no specific entry applies not merely because of interpretational doubt. Regulatory labelling under Food Laws does not conclusively determine fiscal classification. The High Court erred in affirming taxation under the residuary entry and therefore, the product is taxable at VAT @4% and not 12.5%.

# Important Case Laws

## 2. <u>CCT vs Vikram Cement [Supreme Court: Civil Appeal No. 710/2012]</u>

***Department is barred from pursuing appeals if monetary demand is less than 2 crores***

The issue was whether CBIC Circular dated June 26, 2024 prescribing a monetary limit of Rs. 2 crores for filing/pursuing appeals before Hon'ble Supreme Court applies to pending appeals where tax effect is below the threshold. Also, the issue was whether Section 174(2)(f) of the CGST Act (repeal and savings clause) permits the Department to continue appeals under the old Sales Tax Act despite the monetary limits fixed under the subsequent administrative circular.

The Hon'ble Supreme Court held that the Circular dated June 26, 2024 is explicit and binding. The expression "appeal should not be pursued" includes *pending appeals as well as future filings*. Since the tax effect in the present case was Rs. 25,47,448/- which is below the prescribed limit of Rs. 2 crore for Supreme Court appeals, the Department is barred from pursuing the appeal. Though Section 174(2)(f) preserves validity of proceedings under the repealed Act, it does not override a valid administrative directive issued under Sections 120 and 168 of the CGST Act regarding litigation management. The Circular's monetary threshold applies regardless of the statute under which the dispute originated.

# Important Case Laws

## 3. Amit Manilal Haria vs JC [Bombay HC: Writ Petition No. 5001/2026]

***Employees cannot be treated as taxable persons for transactions undertaken in Company***

The issue was whether personal penalties can be imposed under Section 122(1A) of the CGST Act on employees (CFO, CEO, Director) of a company for alleged wrongful availment and passing of ITC by the company and whether Section 122(1A), inserted with effect from January 1, 2021, can be applied retrospectively to transactions from July 2017 onwards?

The Hon'ble High Court, Bombay held that Section 122(1A) applies only to a "taxable person" as defined under the CGST Act, and the petitioners, being employees of the company, could not be treated as taxable persons. For invoking Section 122(1A), two conditions must be satisfied that the person must retain the benefit of the transaction covered under Section 122(1) and the transaction must have been conducted at their instance. There is no vicarious liability under Section 122(1A) merely because a person holds a managerial position in the company. The retrospective application of Section 122(1A) for the period prior to January 1, 2021 is unconstitutional and violative of Article 20(1) of the Constitution, which prohibits retrospective penal liability. Accordingly, the SCN and the impugned order imposing personal penalties were quashed as being without jurisdiction.

# Important Case Laws

4. **Huawei Technologies India Pvt Ltd vs. ACT [Karnataka HC:Writ Petition No. 2848 of 2024]**

***GST is not leviable on salaries paid by Petitioner to Foreign National Employees***

The issue was whether IGST is leviable (under Reverse Charge Mechanism) on salaries paid by the Petitioner to foreign national employees on the ground that the same amounts to import of "Manpower Recruitment and Supply Services" from non-resident taxable persons.

The Hon'ble High Court, Karnataka held that there existed a direct employer–employee relationship between the Petitioner and the foreign nationals. Services provided by an employee to employer in the course of employment are covered under Entry 1 of Schedule III of the CGST Act, and therefore neither a supply of goods nor services. Salary paid to employees cannot be treated as consideration for import of services. Foreign national employees were not "non-resident taxable persons" under Section 2(77) of the CGST Act. Even otherwise, in absence of any invoice and as per CBIC Circular dated June 26, 2024, the taxable value would be deemed Nil. The impugned show cause notice demanding IGST, interest and penalty was quashed.

**Anivesh (ALC) Comments:** The decision clarifies that foreign nationality of employees does not change the nature of the employer–employee relationship. If such relationship exists, the transaction remains salary and not a service supply, thereby excluding GST liability.

# Important Case Laws

5. **<u>Rajasthan Technical University vs UOI [Rajasthan HC: Writ Petition No. 9556/2024]</u>**

***GST is not leviable on affiliation fees charged by University from Colleges***

The issue before the Rajasthan High Court was whether grant of affiliation by University to its affiliated colleges constitutes a "supply of service" under Section 7 of the CGST Act, 2017?

The Hon'ble High Court, Rajasthan held that grant of affiliation is a statutory, regulatory function integral to imparting education and not an activity in the course or furtherance of business. Affiliation fees are a statutory levy, not "consideration" for supply. Even otherwise, the activity is covered under Entry 66 of Notification No. 12/2017-CT (Rate) and is exempt. Hence, GST on affiliation fees is not sustainable in law, show cause notices were quashed.

**<u>Anivesh (ALC) Comments</u>:** The Court distinguished statutory levies from consideration, emphasizing that fees collected under statutory mandate do not automatically become taxable supplies. By recognizing affiliation as part of the education regulatory framework, the ruling protects universities and educational institutions from unwarranted GST demands on academic regulatory activities.

# Important Case Laws

6. **<u>Hongkong and Shanghai Banking Corporation Ltd vs. State of Maharashtra [Writ Petition (L) No. 4698 of 2026]</u>**

***GSTAT empowered to grant interim stay of recovery proceedings***

The issue was whether the Goods and Services Tax Appellate Tribunal (GSTAT) has the jurisdiction to grant interim relief such as stay of recovery proceedings during the pendency of an appeal, even though the CGST Act does not expressly provide such power?

The Hon’ble High Court, Bombay held that GSTAT has inherent and incidental powers to grant interim relief, including stay of recovery proceedings, during the pendency of an appeal. Section 113 of the CGST Act empowers the Tribunal to pass such orders as it thinks fit, which implies that it can grant interim protection to make the appellate remedy effective. The GSTAT (Procedure) Rules, 2025 also recognize the inherent powers of the Tribunal to pass necessary orders to meet the ends of justice. Therefore, the Petitioner should approach the Tribunal for interim relief instead of directly filing a writ petition before the High Court. However, the Court granted temporary protection from recovery to enable the petitioner to approach the Tribunal and seek interim relief.

# Important Case Laws

**7. <u>DGAP vs A J Enterprises [GSTAT- Delhi NAPA/2/PB/2025 | Order dated February 20, 2026]</u>**

***Anti-profiteering proceedings do not become invalid merely final order passed beyond six months from the DGAP report.***

The issue was whether proceedings under Section 171 of the CGST Act, 2017 under anti-profiteering law were barred by limitation as the final order was passed beyond six months from receipt of the DGAP report under Rule 133 of CGST Rules and whether the Appellant indulged in profiteering under Section 171 of the CGST Act, 2017 by increasing the base prices of products (6" Aloo Patty and 6" Hara Bhara Kabab) on the very date when GST rate was reduced from 18% to 5%, thereby not passing on the benefit of tax reduction to consumers and whether the Appellant was liable to interest and penalty on the profiteered amount.

The Hon'ble GSTAT, Delhi held that the time limit of six months under Rule 133 of the CGST Rules is directory and not mandatory. Since anti-profiteering provisions are beneficial legislation meant to protect consumers, proceedings are not barred by limitation. The increase in base prices on the very date of GST rate reduction clearly showed the Respondent's intent to maintain the same MRP and deny consumers the benefit of tax reduction. The Respondent failed to produce cogent evidence to justify the price increase on account of increased costs. The Tribunal upheld the DGAP's finding that the respondent had profiteered by not passing on the benefit of GST rate reduction. Interest on the profiteered amount was held payable only from 28.06.2019 (the date Rule 133(3)(c) came into force) till the date of deposit. Penalty under Section 171(3A) could not be imposed retrospectively since it came into force from January 01, 2020, whereas the period of investigation was prior to that date.

## 8. NLC India Limited vs. CGST [Madras HC: W.P(MD) no. 8140 of 2020]

***Recovery of Clean Environment Cess through Section 11A of the Central Excise Act, 1944 is legal***

The issue was whether Notification No. 02/2010-CEC dated June 22, 2010, issued under Section 83(7) of the Finance Act, 2010, validly applied Section 11A of the Central Excise Act, 1944 for recovery of Clean Environment Cess (CEC)? Specifically, whether the term “levy” in Section 83(7) includes assessment and collection/recovery, or whether recovery provisions could be invoked only through rules under Section 84.

The Hon’ble High Court, Madras held that the expression “levy” has a contextual and wide connotation. When used independently, “levy” can include the entire taxing process, namely: Imposition, Assessment and collection/recovery. Section 83(7) employs the legislative device of incorporation by reference, enabling adoption of provisions of the Central Excise Act. Therefore, extending Section 11A (recovery of duty not levied/short paid) to Clean Environment Cess through notification was within statutory power. The impugned notification is intra vires the Finance Act, 2010. The writ petition was dismissed.

# Important Case Laws

## 9. <u>Sri Abhisek India vs CC [CESTAT Chennai: Customs Appeal No. 41665 of 2014]</u>

***Market enquiry reports, price bulletins, or third-party data alone are insufficient to prove undervaluation***

The issue was whether Department was justified in rejecting the declared transaction value of imported goods under the Customs Valuation Rules, and confirming differential duty, confiscation of goods, and imposition of penalties on the ground of alleged mis-declaration/undervaluation, based mainly on market data and investigation findings.

The Hon'ble CESTAT, Chennai held that transaction value can be rejected only when the Department establishes valid and cogent reasons as prescribed under Rule 12 of the Customs Valuation Rules, such as evidence of contemporaneous imports at higher value, abnormal discounts, or mis-declaration of material particulars. In the present case, the Department failed to produce reliable and corroborative evidence to prove undervaluation or mis-declaration. Mere reliance on market enquiries or third-party data was held to be insufficient to discard the declared value. There was no proof of any extra consideration, flow back of money, or suppression of facts by the importer. Since the rejection of transaction value itself was unsustainable, the consequential demands of differential duty, confiscation, and penalties were also held to be not legally tenable.

# Important Case Laws

**10. <u>M/s Mukesh Kumar vs CC [CESTAT Chennai: Custom Appeal no. 41655 of 2019]</u>**

***Joint or several demand on multiple persons for the same import is invalid.***

The issue was whether the customs duty can be demanded jointly or severally from NIFCO's proprietor, his brothers, and other IEC holders for imports made between 2008–2013 and whether rejection of declared transaction value and re-determination under Rules 3/4/9 of the Customs Valuation Rules, 2007 was valid?

The Hon'ble CESTAT, Chennai held that Customs duty can be demanded only from the importer who filed the Bill of Entry. Joint/several liability on multiple persons for the same import is not permissible. The mandatory procedure under Rule 12 (two-step verification and communication of grounds) was not followed. Rule 9 cannot be invoked without reliable contemporaneous data. Hence, rejection of transaction value was illegal. Proforma invoices cannot form the sole basis for valuation without proof of additional consideration. Electronic evidence and statements were inadmissible due to non-compliance with Sections 138C and 138B. Department failed to discharge the burden of proof with credible technical or documentary evidence. Post-order corrigendum imposing penalties was impermissible; penalties and redemption fine were not sustainable. The impugned order was set aside and appeals of assessees/CHAs were allowed.

# Important Case Laws

## 11. <u>Vedanta Limited vs UOI [Orissa HC: Writ Petition No. 1005/2026]</u>

***Appellate authority has no jurisdiction of review of its own order after attaining finality***

The issue was whether the Commissioner (Appeals) had the jurisdiction to revisit and set aside findings of his own earlier appellate order, which had already attained finality, in relation to the petitioner's duty drawback claim, after the order had already been implemented by the adjudicating authority.

The Hon'ble High Court, Orissa held that once the Commissioner (Appeals) passes an appellate order, he becomes functus officio and cannot review or modify his own order unless the statute expressly provides such power. The earlier appellate order allowing the drawback claim (subject to conditions) had attained finality and was implemented by the Assistant Commissioner. Therefore, the Commissioner (Appeals) lacked jurisdiction to subsequently reopen the matter and nullify the earlier appellate findings. The subsequent order setting aside the earlier decision was without authority of law and unsustainable. Accordingly, the Court set aside the later appellate order and upheld the validity of the earlier order granting drawback subject to conditions

# GST Advisories

1. **<u>Advisory dated February 19, 2026</u>:** This advisory is issued in continuation of the earlier advisory dated January 30, 2026 regarding interest collection and system enhancements in GSTR-3B. The functionality to utilise CGST or SGST Input Tax Credit (ITC) for payment of IGST liability, in any order of payment, after complete exhaustion of IGST credit, will be made available from tax period <u>February 2026</u>. Taxpayers must first fully utilise IGST ITC. Thereafter, they may use CGST or SGST ITC in any order for payment of remaining IGST liability.

**<u>Anivesh (ALC) Comments</u>:** Proviso to Section 49(5)(c) provides that SGST ITC can be utilised for IGST liability only after completely exhausting CGST ITC. The said provision is not yet amended. Therefore, this advisory appears to be ultra vires the CGST Act.

# GST Advisories

2. **<u>Advisory dated February 21, 2026</u>:** New online facility for eligible taxpayers to apply for withdrawal from option availed under Rule 14A of the CGST Rules by filing Form GST REG-32 on GST portal, details of which are as under:

- **<u>Eligibility</u>**: Active taxpayers who are registered under Rule 14A, may apply for opt out in accordance with provisions of the law. Only eligible taxpayers can access the opt-out facility.
- **<u>Navigation</u>:** Services → Registration → Application for Withdrawal from Rule 14A.
- **<u>Pre-conditions for filing Form REG-32</u>**: Returns for minimum 3 months filed before April 1, 2026. Returns for minimum 1 tax period on or after April 1, 2026. Additionally, all returns due from date of registration till filing date must be filed.
- **<u>Application</u>**: Draft application must be submitted within 15 days, and Aadhaar/Biometric authentication must be completed within 15 days of submission. While Form REG-32 is pending, Core, non core amendment and self cancellation is not permitted.
- **<u>Post Approval</u>:** Taxpayer can furnish output tax liability details for supplies made to registered persons exceeding Rs. 2.5 lakh, from the 1st day of the succeeding month of order issuance once withdrawal was allowed.

# Customs Notifications

1. **<u>Notification No. 21/2026–Customs (N.T.) dated February 16, 2026</u>:** Rate of Duty Drawback for specified tariff items in Chapter 71 (Jewellery and Precious Articles) revised.

2. **<u>Notification No. 22/2026–Customs (N.T.) dated February 18, 2026</u>:** Tariff values of specified silver revised w.e.f. February 19, 2026.

3. **<u>Notification No. 23/2026–Customs (N.T.) dated February 24, 2026:</u>** Tariff values of specified silver revised w.e.f. February 25, 2026.

4. **<u>Notification No. 24/2026–Customs (N.T.) dated February 27, 2026</u>**: Tariff values of specified edible oils, gold and silver revised w.e.f. February 28, 2026.

# Customs Circular & Instruction

1. **<u>Instruction No. 01/2026–Customs dated February 17, 2026:</u>** Cross Recessed Screws (Quality Control) Order, 2025 issued by DPIIT implemented w.e.f. November 1, 2025, with deferred implementation for Small and Micro Enterprises till February 1, 2026 and May 1, 2026 respectively. Customs Authorities have been directed to implement one-time exemption from QCO compliance granted for consignments having inward entry between November 1, 2025 and January 12, 2026.

# Foreign Trade Policy Updates

1. **<u>Notification No. 60/2025–26 dated February 23, 2026</u>:** Rate specified under RoDTEP benefits restricted to 50% of the notified rates. Accordingly, exporters shall be eligible to claim RoDTEP benefits only to the extent of 50% of the previously notified rates and value caps.

2. **<u>Corrigendum to Notification 60/2025-26 dated February 24, 2026</u>:** Reduced RoDTEP benefits @50% shall not applicable to export products falling under ITC (HS) Chapters 1 to 24. RoDTEP benefits @ 50% shall be applicable only to other HS codes, and exports under Chapters 01 to 24 shall continue to be eligible for RoDTEP benefits at the previously notified rates and value caps.

3. **<u>Notification No. 61/2025–26 dated February 24, 2026</u>:** Export policy of wheat flour and related products under ITC (HS) Code 1101 continue to remain "Prohibited." However, export of 5 Lakh Metric Tonnes (LMT) of wheat flour and related products is allowed.

# Foreign Trade Policy Updates

4. **<u>Notification No. 62/2025–26 dated February 24, 2026</u>:** Export policy for wheat under ITC (HS) Code 1001 continued to remain "Prohibited." However, export of 25 Lakh Metric Tonnes (LMT) of wheat is permitted.

5. **<u>Public Notice No. 48/2025-26 dated February 24, 2026</u>:** Procedure specified for granting export authorisations for an additional quota of 5 LMT of wheat flour and related products under HS Code 1101:

- Applications must be filed online only through DGFT portal → *Services* → *Export Management Systems* → *License for Restricted Exports*.
- <u>Application window</u>: 1st to 10th of every month (from March 2026 onwards) until the 5 LMT quota is exhausted. Applications through email/post or outside the window period will be rejected. Applications will be rejected if Quantity applied is less than 2,500 MT, not filed through DGFT portal, contains misdeclaration or filed outside the specified time window.
- Applicants must submit past export performance (including FYs prior to 2022–23), Copies of confirmed export orders/contracts, CA certificate of export turnover for last 5 financial years, Self-declaration that exports will use only domestic wheat (not imported wheat).
- Export authorisation valid for 6 months from date of issue. Allocation to be decided by a Special Exim Facilitation Committee (EFC). Special EFC can also re-allocate unused quota based on exporter performance.

# Foreign Trade Policy Updates

6. **<u>Public Notice No. 49/2025-26 dated February 24, 2026</u>:** Procedure specified for granting export authorisations for a quota of 25 LMT of wheat:

- Applications must be filed online only on DGFT portal during 1st–10th of every month (from March 2026) until quota is exhausted.
- Applicants must submit Past export performance, Confirmed export orders/contracts and CA certificate of export turnover (last 5 years).
- Allocation to be decided by a Special Exim Facilitation Committee (EFC) based on export history and confirmed orders.
- Applications will be rejected if quantity is below 10,000 MT, not filed through portal, filed outside time window or contains misdeclaration.
- Export authorisation valid for 6 months from date of issue. Allocation to be decided by a Special Exim Facilitation Committee (EFC). Special EFC can also re-allocate unused quota based on exporter performance. Exporters must submit landing certificate within 30 days of completing exports.

# Foreign Trade Policy Updates

7. **Public Notice No. 50/2025-26 dated February 24, 2026**: Deadline for Tariff Rate Quota (TRQ) applications under various FTAs/PTAs for FY 2026-27 extended from February 28, 2026, to March 15, 2026.

8. **Trade Notice No. 25/2025-26 dated February 20, 2026**: Support for alternative trade instruments under EPM – Niryat Protsahan launched to improve access to export finance for MSMEs involved in international value chains by promoting alternative trade finance mechanisms, especially export factoring, as a supplement to traditional bank-based export credit. The scheme will be implemented initially on a pilot basis for stakeholder feedback, institutional learning, and data-driven refinements.

9. **Trade Notice No. 26/2025-26 dated February 20, 2026**: Support for Trade Regulations, Accreditation & Compliance Enablement (TRACE) under the EPM – Niryat Disha launched to strengthen India's quality and technical compliance ecosystem and support MSMEs engaged in international value chains in meeting importing-country regulatory requirements. The scheme will be implemented initially on a pilot basis for stakeholder feedback, institutional learning, and data-driven refinements.

# Foreign Trade Policy Updates

10. **<u>Trade Notice No. 27/2025-26 dated February 20, 2026</u>**: Integrated Support for Trade Intelligence & Facilitation (INSIGHT) under the Export Promotion Mission (EPM) – Niryat Disha launched to strengthen exporter preparedness and institutional support systems, particularly for MSMEs. The scheme will be implemented initially on a pilot basis for stakeholder feedback, institutional learning, and data-driven refinements.

11. **<u>Trade Notice No. 28/2025-26 dated February 20, 2026:</u>** Facilitating Logistics, Overseas Warehousing & Fulfilment (FLOW) under EPM – Niryat Disha launched to address logistics-related constraints faced by MSMEs engaged in international value chains. The scheme will be implemented initially on a pilot basis for stakeholder feedback, institutional learning, and data-driven refinements.

12. **<u>Trade Notice No. 29/2025-26 dated February 20, 2026</u>:** Facilitating Logistics Interventions for Freight & Transport (LIFT) under Export Promotion Mission (EPM) – Niryat Disha launched to help MSMEs in low-export areas overcome location-based logistics issues. The scheme will be implemented initially on a pilot basis for stakeholder feedback, institutional learning, and data-driven refinements.

# THANK YOU

See You Next Time

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