Anivesh
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Indirect Tax Updates – 16th January 2026 to 31st January 2026

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GST collections – January

GST Collections	January' 25 (Rs. in Crores)	January' 26 (Rs. in Crores)	% Growth (Rs. in Crores)
Gross domestic revenue	1,34,641	1,41,132	4.8%
Less: Refund – domestic	14,119	13,119	-7.1%
Net Domestic Revenue	**1,20,522**	**1,28,013**	**6.2%**
Gross Import Revenue	47,453	52,253	10.1%
Less: Refund – Imports	9,274	9,546	2.9%
Net Customs Revenue	**38,178**	**42,707**	**11.9%**

Top 5 gainers

Top 5 losers

State/ UT	Growth (+)	State/UT	Growth (-)
Haryana	27%	Jharkhand	-46%
Manipur	22%	Lakshadweep	-30%
Dadra & Nagar Haveli	19%	Chhattisgarh	-23%
Himachal Pradesh	18%	Madhya Pradesh	-15%
Chandigarh	15%	Ladakh	-12%

Important Case Laws

1. **HT Media Ltd. vs CGST [SC: Civil Appeal No. 23525-23526 of 2027]**

Mere booking of speakers for an event does not amount to "event management service"

The issue was whether the activity of booking foreign speakers through overseas booking agencies for participation in an event amounts to provision of "Event Management Service" under Sections 65(40), 65(41) read with Section 65(105)(zu) of the Finance Act, 1994, so as to attract service tax under RCM?

The Hon'ble Supreme Court held that booking of speakers or arranging their participation does not constitute "Event Management Service". Event management involves planning, organising, promoting, or managing the event as a whole, whereas booking agencies merely facilitate speaker engagement. Since the services received were limited to speaker booking and appearance, and not event organisation or management, no service tax was leviable on the consideration paid to the booking agencies. The tax demand was therefore set aside.

Anivesh (ALC) Comments: The Supreme Court distinguished between "essential to an event" and "management of an event", clarifying that speaker participation or booking is only an input, not event management.

Important Case Laws

2. **Viraj Impex Pvt. Ltd. vs UOI [Supreme Court: Civil Appeal No. 438 of 2026]**

Notification becomes legally enforceable only upon publication in the Official Gazette and not merely uploaded on website

The issue was whether the expression "date of this Notification" in the Minimum Import Price (MIP) notification issued under the Foreign Trade (Development and Regulation) Act, 1992 could be construed as the date on which the notification was uploaded on the DGFT website (February 05, 2016), or whether it must necessarily mean the date of its publication in the Official Gazette (February 11, 2016), for determining applicability of MIP and availability of transitional protection under para 1.05(b) of the FTP?

The Hon'ble Supreme Court has held that delegated legislation acquires the force of law only upon publication in the Official Gazette, as mandated by the parent statute. Uploading a notification on the DGFT website does not amount to promulgation in law. Consequently, the expression "date of this Notification" can only mean the date of its Gazette publication, i.e., February 11, 2016, and not any earlier date. Importers who had opened irrevocable letters of credit prior to February 11, 2016 and complied with para 1.05(b) of the FTP were therefore entitled to transitional protection, and the MIP could not be applied to their imports. The judgment of the High Court was set aside and the appeals were allowed.

Important Case Laws

3. **A. M. Marketplaces Private Ltd. vs UOI [Bombay HC: Writ Petition No. 7942 of 2025]**

There must be mandatory three months gap between SCN and order issued by GST Department

The issue was whether the three-month time gap prescribed between issuance of SCN under Section 73(2) and passing of order under Section 73(10) of the CGST Act, 2017 is mandatory, even where the notice is issued well within the overall limitation period?

The Hon'ble Bombay High Court held that the three-month time gap is mandatory. The purpose of this statutory gap is to ensure a meaningful opportunity of hearing, including filing of reply, payment under Section 73(5), and availing adjournments for personal hearing. Any order passed without maintaining the minimum three-month gap violates principles of natural justice and statutory safeguards, and is therefore, unsustainable. The impugned order was set aside and remanded for fresh adjudication.

Anivesh (ALC) Comments: The ruling firmly settles that the three-month gap under Sections 73(2) and 73(10) of the CGST Act is mandatory, not merely directory. The judgment prevents hurried adjudications by tax authorities close to limitation deadlines.

Important Case Laws

4. <u>Alstom Transport India Ltd. vs AC [Gujarat HC: R/SCA Nos. 11025–11043 of 2025]</u>

Unutilized ITC must be transferred through Form GST ITC-02 upon amalgamation

The issue was whether, after amalgamation, the transferee company can claim refund of unutilised ITC that was not fully transferred by the amalgamating entity through Form GST ITC-02, and whether procedural lapses in registration/cancellation affect such entitlement.

The Hon'ble Gujarat High Court held that unutilised ITC must be transferred strictly through Form GST ITC-02 under Section 18(3) read with Rule 41 upon amalgamation. The transferor company has transferred only part of ITC and sought refund of the balance, which is impermissible in law. Refund is a statutory right, not a constitutional right, and must strictly comply with the statute. Procedural irregularities by both entities and the Department do not override mandatory statutory requirements. Refund claims were rightly rejected and accordingly, writ petition was dismissed.

Important Case Laws

5. **<u>Aerocom Cushions Private Ltd. vs AC [Bombay HC: Writ Petition No: 2145 of 2025]</u>**

Assignment or transfer of long-term leasehold rights in industrial plot is not taxable under GST

The issue was whether assignment/transfer of long-term leasehold rights in an industrial plot (MIDC land) by the Petitioner to a third party, with the consent of MIDC and for consideration, amounts to a "supply of service" liable to GST under Section 7 read with Schedule II of the CGST Act, 2017, and whether the SCN issued under Section 74 demanding GST on such transaction was legally sustainable?

The Hon'ble Bombay High Court held that that assignment of leasehold rights in an immovable property is a transfer of benefits arising out of immovable property and not a supply of services under GST. Such transaction is neither a lease nor a sub-lease and does not fall under Schedule II as supply of services. The Court relied on the judgment of the Gujarat High Court in *Gujarat Chamber of Commerce and Industry v. Union of India (2025)* and held that the transaction has no nexus with the Petitioner's business activity and therefore does not satisfy the essential requirement of "supply in the course or furtherance of business." Consequently, the SCN issued under Section 74 demanding GST was quashed and set aside.

Important Case Laws

6. <u>Fone Zone Net vs DGST [Delhi HC: W.P. (C) 888/2026]</u>

Taxpayers cannot blame Chartered Accountants for non communication of notices/orders

The issue was whether ex-parte assessment orders passed under Section 73 of the DGST Act, 2017 and provisional attachment of bank accounts should be set aside on the ground that the petitioner did not receive show cause notices due to failure of his Chartered Accountant, whose email address was registered on the GST portal.

The Hon'ble Delhi High Court held that the Petitioner was aware that its GST registration was linked to the email address of his Chartered Accountant and could not escape responsibility by attributing the entire lapse to the CA. The failure to respond to SCNs and attend personal hearings was attributable to the petitioner's own negligence and mere willingness to deposit 50% of demand was not valid ground to bypass statutory procedure. Accordingly, Court dismissed the writ petition filed by Petitioner.

<u>Anivesh (ALC) Comments:</u> It emphasized that professionals like Chartered Accountants cannot be made scapegoats without proof and that taxpayers must remain vigilant about compliance, especially when their GST registration and communications are routed through third parties.

Important Case Laws

7. **<u>Amazon Internet Services Private Limited vs CGST [Delhi CESTAT: ST Appeal No. 55106 of 2023]</u>**

Data hosting services provided on P2P basis qualify as 'export' and not 'intermediary services'

The issue was whether data hosting services and marketing services provided by the Appellant to Amazon Web Services Inc. (AWS), USA could be treated as "intermediary services" under Rule 2(f) of the Place of Provision of Services Rules, 2012 and consequently subjected to service tax in India, or whether such services qualify as export of services?

The Hon'ble CESTAT, Delhi held that the Appellant has provided data hosting services on a P2P basis to AWS USA and was not arranging or facilitating services between AWS and its customers. Therefore, the Appellant was not an intermediary, and the services qualifies as export of services machining them not liable to service tax.

<u>Anivesh (ALC) Comments</u>: Sub-contracting or backend support services to foreign principals cannot be mechanically classified as intermediary services merely because end users are located in India.

➢ However, it is pertinent to mention that even services provided by Intermediary from India would now qualify as 'export of services' as per Section 2(6) of the IGST Act, 2017 as provided vide 56th GST Council meeting and Finance Bill, 2026.

Important Case Laws

8. **<u>Karur Vysya Bank Ltd. vs CGST [CESTAT Chennai: Service Tax Appeal No. 40038 of 2020]</u>**

Penal interest and notice pay are not taxable, however CSR involving sponsorship is taxable

The issue before the CESTAT, Chennai was whether (i) penal interest collected by banks from borrowers for delayed or defaulted EMI payments, (ii) liquidated damages/notice period pay recovered from employees who resigned without serving the stipulated notice period, and (iii) CSR expenditure incurred by banks involving alleged brand visibility, were liable to service tax under Section 66E(e) as "tolerating an act" and under Section 65(99a) as Sponsorship Service under RCM?

The Hon'ble CESTAT, Chennai held **penal interest and liquidated damages/notice pay are not taxable**, as they are compensatory in nature arising from breach of contract, with no conscious or independent agreement to tolerate an act, and in the case of notice pay, arising from an employer–employee relationship expressly excluded from the definition of "service." However, **CSR expenditure was held taxable to the extent it involved sponsorship**, i.e., where there was evidence of quid pro quo such as logo display, brand visibility, or promotional benefit to the banks; pure donations without reciprocity were excluded. Accordingly, demands on penal interest and liquidated damages were set aside, while the demand on sponsorship-linked CSR expenditure, along with interest and penalties, was upheld, and the appeals were partly allowed and partly dismissed.

9. <u>Vedanta Limited vs CC [CESTAT Chennai: Customs Appeal No. 40306 of 2020]</u>

Customs authorities cannot allege Export Obligation violation once EODC is issued by DGFT

The issue was whether the Customs authorities can demand customs duty and impose penalties for alleged non-fulfilment of export obligation (EO) under Advance Authorisation notifications, when the DGFT has already regularised the shortfall in EO (value-wise), accepted payment of 1% of the shortfall, and issued Export Obligation Discharge Certificates (EODCs) redeeming the licences?

The Hon'ble CESTAT Chennai held that Customs authorities cannot override or sit in appeal over the decision of the DGFT, which is the final authority under the Foreign Trade Policy (FTP). Once the DGFT has regularised the EO shortfall in accordance with the FTP and issued EODCs, the EO stands revised, restated and fully discharged. Consequently, Customs authorities cannot allege violation of exemption notification conditions or raise duty demands on the same ground. The Tribunal further held that the EO condition in customs notifications must be read harmoniously with the FTP and Handbook of Procedures, and not in isolation. Accordingly, the demand of duty, interest and penalties was set aside, and the appeal was allowed.

Important Case Laws

10. <u>Bhagwati Products Ltd. vs CC [Allahabad CESTAT: Custom Appeal No. 70604 of 2025]</u>

Penalty imposed is sufficient to disqualify from obtaining private warehousing licence

The issue was whether the rejection of the appellant's application for private warehouse licence under Section 58 of the Customs Act, 1962 and permission for manufacture under Section 65 (MOOWR) was valid on the ground that the Appellant had earlier been penalised under Section 114A of the Customs Act, thereby attracting the disqualification under Regulation 3(2)(c) of the Private Warehousing Licensing Regulations, 2016 (PWLR).

The CESTAT held that penalty imposed under Section 114A of the Customs Act constitutes being "penalised for an offence" within the meaning of Regulation 3(2)(c) of PWLR. The Tribunal ruled that the term *offence* is not confined only to criminal offences under Chapter XVI but also includes customs offences adjudicated through quasi-judicial proceedings, as recognised by multiple Constitution Bench judgments of the Supreme Court. Accordingly, the rejection of warehouse licence and MOOWR permission was upheld and the appeals were dismissed.

GST Advisory

1. **<u>Advisory dated January 23, 2025</u>:** Vide Notification No. 19/2025-CT and Notification No. 20/2025-CT, both dated December 31, 2025, value of specified tobacco and tobacco-related products shall be based on the Retail Sale Price (RSP) instead of the actual transaction value, w.e.f. February 01, 2026.

   Since existing e-Invoice, e-Way Bill and Form GSTR-1 systems are designed on a transaction-value model, taxpayers are instructed to report the net sale value (commercial consideration) in the taxable value field, compute and report the tax amount strictly as per the RSP-based valuation formula, and declare the total invoice value as the sum of net sale value and such tax amount.

   This special reporting mechanism is applicable only to the notified HSN codes and is introduced as a trade facilitation measure without altering the statutory requirement to discharge GST on RSP-based valuation.

GST Advisory

2. **<u>Advisory dated January 30, 2025</u>:** Key enhancements in the filing of Form GSTR-3B from January 2026:

- Interest in Table 5.1 of GSTR-3B will be calculated after giving credit for the minimum cash balance available in the Electronic Cash Ledger (ECL) from the due date till the date of tax payment, in accordance with Rule 88B(1) of CGST Rules. **Formula -** Interest = (Net Tax Liability – Minimum Cash Balance in ECL) × (No. of days delayed / 365) × applicable interest rate.
- Interest will be auto-populated by the system as the minimum payable amount and cannot be reduced by taxpayers, though it may be increased if required based on self-assessment. Auto-populated values are only suggestive and can be modified upwards by taxpayers based on their own records.
- After exhaustion of IGST ITC, the system will allow payment of IGST liability using **CGST and SGST ITC in any sequence** in Table 6.1 of GSTR-3B.
- For cancelled registrations, interest on delayed filing of the last applicable GSTR-3B will be collected through the Final Return (Form GSTR-10).

GSTAT Office Order

1. **<u>Order bearing F. No. GSTAT/Pr. Bench/Portal/125/25-26/2711-15 dated January 20, 2026</u>**: The President of GSTAT has directed that the Registry of each Bench to adopt a lenient approach while scrutinising appeal documents during the initial six months of operation of the GSTAT portal.

   - Documents generated digitally through the GSTN system do not require certification.
   - Scanned copies of physical documents attached with the appeal must be duly signed.
   - Only substantive defects affecting the merits of the case should be pointed out.
   - Procedural or form-related defects should not be raised as objections.

   <u>Anivesh (ALC) Comments</u>: These directions have been issued to mitigate the practical difficulties faced by appellants during the initial phase of GSTAT filings and to ensure smoother implementation of the new appellate mechanism.

India–EU Free Trade Agreement

The India–EU Free Trade Agreement, concluded on January 27, 2026, provides for comprehensive liberalisation of trade in goods and services on 16th India-EU Summit. Key highlights are as under:

- Zero or near-zero tariffs on over 99% of Indian exports (by value) to the EU.
- Tariff elimination or reduction on about USD 33 billion of labour-intensive exports, including textiles, apparel, leather, footwear, marine products, gems and jewellery, handicrafts, engineering goods and automobiles.
- Improved access to EU capital goods, components and high-technology inputs, supporting manufacturing in India.
- Enhanced market access for 144 services sub-sectors, including IT/ITeS, professional, education, financial, tourism and construction services. Mobility commitments for professionals and business visitors, including work rights for dependents, student mobility and post-study work opportunities.
- Dedicated cooperation on AI, clean technologies and semiconductors, enabling technology transfer and integration into EU value chains.
- Preferential treatment depends on compliance with product-specific rules of origin, allowing limited non-Indian inputs in certain sectors and transition periods for others. The FTA strengthens intellectual property protection, aligns IP regimes with global standards, and supports India's Traditional Knowledge Digital Library, alongside a proposed separate GI agreement.
- India will reduce tariffs on 92.1% of tariff lines (97.5% of EU exports) through phased reductions and TRQs, covering machinery, electronics, chemicals, pharmaceuticals, automobiles and agri-food products. India also opens 102 services sub-sectors to EU providers.

Customs Notifications

1. **<u>Notification No. 08/2026–Customs (N.T.) dated January 22, 2026</u>:** Tariff value of specified gold in any form revised w.e.f. January 23, 2026.
2. **<u>Notification No. 09/2026–Customs (N.T.) dated January 27, 2026</u>:** Tariff value of specified silver revised w.e.f. January 28, 2026.
3. **<u>Notification No. 10/2026–Customs (N.T.) dated January 29, 2026</u>:** Tariff value of specified gold revised w.e.f. from January 30, 2026.
4. **<u>Notification No. 11/2026–Customs (N.T.) dated January 30, 2026</u>:** Tariff value of specified edible oils, gold and silver revised w.e.f. January 31, 2026.

Customs Instructions

1. **<u>Instruction No. 01/2026 dated January 17, 2026</u>:** Quality Control Order that Cross Recessed Screws (Quality Control) Order, 2025 came into force from November 1, 2025 (with deferred dates for small and micro enterprises). Vide Order dated January 13, 2026, the Ministry of Steel has provided one-time relaxation for import consignments which has already arrived at ports during the transition period and accordingly, consignments with an inward entry date between November 1, 2025 and January 12, 2026 are exempted from mandatory compliance with the Quality Control Order. Customs officers are instructed to be sensitized and ensure proper implementation of the above exemption.

Foreign Trade Policy Updates

1. **<u>Notification No. 55/2025–26 dated January 16, 2026</u>:** Export policy of wheat flour and related products under ITC HS 1101 to remain prohibited. However, export to extent of 5 LMT of wheat flour and related products under ITC (HS) 1101 to be permitted under export authorization issued by DGFT.

2. **<u>Notification No. 56/2025–26 dated January 29, 2026</u>:** Import policy of Penicillin G-potassium (PEN-G) falling under ITC HS 29411010, 6-APA falling ITC HS code 29411050, and Amoxicilline Trihydrate falling under ITC HS code 29411030, having CIF value less than Rs. 2,216/- per kilogram, Rs. 3,405/- per kilogram and Rs. 2,733/- per kilogram respectively to be restricted for period of one year. However, such restriction is not applicable on import by 100% EOU units in SEZ and import under Advance Authorization Scheme subject to condition that such imported inputs are not sold in DTA.

3. **<u>Trade Notice No. 22/2025-26 dated January 16, 2026</u>:** Amendments made to the guidelines for Interest Subvention Support for pre and post-shipment export credit under the Export Promotion Mission (Niryat Protsahan) are as under:

- Export credit eligible for subvention must comply with RBI's consolidated Directions on Credit Facilities. Interest subvention is available only to eligible MSME exporters and applies strictly to the interest cost actually borne by the exporter. Revised subvention rates will apply only to export credit sanctioned on or after the date of notification; existing facilities continue at old rates.

- Deemed exports are not eligible for interest subvention. Subvention will not be admissible if the export credit account becomes NPA before completion of the eligible export cycle. Exporters who graduate out of MSME status during a financial year remain eligible for interest subvention for three years from re-classification, subject to conditions.

- Reimbursement to banks will be monthly, limited to actual interest subvention extended, based on verified claims submitted to RBI. Banks must submit IEC-wise monthly claims online within 15 days; no manual/offline submissions are allowed.

- For FY 2025-26, the annual ceiling applies in full, with no pro-rata adjustment and Interest subvention is admissible only for export credit sanctioned on or after January 02, 2026.

4. **<u>Public Notice No. 44/2025-26 dated January 16, 2026</u>**: Eligibility conditions, application process, allocation mechanism, and reporting requirements for issuance of export authorisations for wheat flour and related products under HS Code 1101, pursuant to Notification No. 55/2025–26 dated January 16, 2026 are as under:

- Applications must be submitted online through the DGFT portal. The first application window is from January 21-31, 2026, and thereafter during the last ten days of each month, subject to availability of exportable quantity. Export authorisations will be valid for six months, with extensions considered case-by-case by a Special Exim Facilitation Committee (EFC). Eligible exporters include manufacturer exporters (flour mills), merchant exporters with valid tie-ups, and EOUs/SEZ units/Advance. Applicants must submit prescribed documents such as IEC, FSSAI licences, capacity and production details, export performance, export orders, CA certificate, and self-declaration regarding use of domestic wheat.
- Exporters must be listed on the "Source from India" platform. Misdeclaration leads to three-year debarment, authorisations are non-transferable, and applications for less than 2,500 MT are not considered. The scheme applies only to products manufactured in India using domestic wheat.
- Export quantities are allocated and periodically reviewed by the Special EFC, which considers past export performance, processing capacity, and contractual arrangements. The EFC may re-allocate quantities based on utilisation performance. Exporters must submit landing certificates within 30 days of shipment for compliance monitoring All applications for export authorisation under ITC HS Code 1101 shall be processed strictly in accordance with these modalities.

Foreign Trade Policy Updates

5. **<u>Public Notice No. 45/2025-26 dated January 23, 2026</u>** : Procedure prescribed for the second round of allocation of TRQ for gold under tariff head 7108 under the India-UAE CEPA for FY 2025-26, details of which are as under:

   - The allocation of TRQ in this round will be undertaken through a competitive bidding or tender process as per the tender document issued by DGFT.
   - This is being conducted in compliance with the directions of the Hon'ble Delhi High Court to broad-base the allocation, allowing participation of eligible applicants including first-time bidders and MSMEs, with maximum allocation limits of 50 kg (Micro), 100 kg (Small), 250 kg (Medium) and 500 kg (others), over and above quantities allotted in the first round. The total quantity available for allocation in this round has been restricted, and eligible participants are permitted to apply subject to the prescribed conditions and quantity limits.
   - TRQ authorisations issued will be valid for six months, only one registered user per IEC can participate in bidding, and any false information or misrepresentation will lead to cancellation of bids and penal action under the FTDR Act.

THANK YOU

See You Next Time

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