



**Anivesh**  
Legal Consultants

# **IDT updates\_July and August 2024**

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# GST Notifications

## 1. Constitution of Appellate Tribunal [Notification No. 3048 (E.) dated July 31, 2024]

- Date of establishment of Goods & Service Tax Appellate Tribunal (GSTAT) notified as September 1, 2023 (against erstwhile September 14, 2023).
- The Principal Bench of GSTAT will be located in New Delhi. Constituted 31 State Benches of GSTAT across various states/UTs. Each bench to handle appeals and disputes under the GST laws.
- Certain locations to operate as Circuits, which means it will function on the volume of appeals in their respective states/jurisdictions. Additional sitting associated with the bench to be operated by one Judicial Member and one Technical Member.

**Anivesh (ALC) Comments:** Earlier, the Ministry of Finance has issued notification on December 29, 2023, to constitute Principal Bench and also, issued notification on September 14, 2023, to constitute State Benches. Such notifications has notified 31 state benches, but classification of main sittings and additional sittings were not present.

# GST Notifications

## 2. Notification No. 16/2024 – Central Tax dated August 06, 2024

- Central Government has notified the changes made to CGST Act, 2017 through Finance Act, 2024 (No. 8 of 2024):

Relevant amended Section under the CGST Act	Effect of Amendment made in the CGST Act	Effective Date
Section 2(61)	Definition of Input Service Distributor (ISD) amended so as to widen the scope of ISD.	April 1, 2025
Section 20	Mechanism to distribute ITC by ISD specified.	April 1, 2025
Section 122A	Penalty for failure to register certain machines used in the manufacturing of goods such as Pan masala, Tobacco etc.	October 1, 2024



# GST Circulars

## 1. Circular No. 228/22/2024-GST dated July 15, 2024

- Exemption from GST on the following supplies were given vide NN 04/2024 CTR w.e.f. July 15, 2024:
  - ✓ Provided by Indian Railways to the general public by Sale of platform tickets; Facility of retiring rooms; Cloak room services; and Battery- operated car services.
  - ✓ Supply of services provided between various zones/divisions under Ministry of Railways (Indian Railways).

Now, GST payment for past period (October 20, 2023 to July 14, 2024) regularized on 'as is' basis.

- Supply of services by SPVs to Ministry of Railways by way of allowing Indian Railways to use the infrastructure built and owned by SPVs during the concession period against consideration and maintenance services supplied by Ministry of Railways to SPVs were exempted from GST NN 04/2024 CTR w.e.f. 15.07.2024.

Now, GST payment for past period (July 01, 2017 to July 14, 2024) regularized on 'as is' basis.

# GST Circulars

- Real Estate Regulatory Authority (“**RERA**”) is a ‘governmental authority’ and statutory collections made by RERA to be exempted from payment of GST since it falls within scope of Entry 4 of Notification No. 12/2017-CT dated June 28, 2017.
- Sharing of the incentive amount by the acquiring bank with other stakeholders, upto the point where the incentive is distributed in the proportion and manner as decided by the NPCI in consultation with the participating banks under the notified Incentive Scheme is in the nature of subsidy and thus, not liable to GST.
- Exemption from payment of GST on reinsurance of government sponsored insurance schemes is regularized for the period July 01, 2017 to July 26, 2018 on ‘as is where is’ basis.

# GST Circulars

- Exemption from payment of GST on reinsurance of the general insurance and life insurance schemes specified is regularized for the period 01.07.2017 to 24.01.2018 on 'as is where is' basis.
- The term 'reinsurance' includes 'retrocession' services.
- Exemption from payment of GST on accommodation services of value or below INR 20,000 per person per month for a continuous period of at least 90 days w.e.f. July 15, 2024.

Now, GST payment for past period July 1, 2017 to July 14, 2024) regularized on 'as is' basis.

# GST Circulars

## 2. Circular No. 229/23/2024- GST dated July 15, 2024

- Solar cookers operating on dual energy sources of solar energy and grid electricity to be classified under heading 8516 and attract GST @ 12%.
- All types of sprinklers, including fire water sprinklers, to attract GST @ 12%.
- Parts of poultry-keeping machinery are classified under tariff item 8436 9100 and attract GST @ 12%. Issues for past period regularized on 'as is' basis.
- Packages containing more than 25 kgs/litres of agricultural produce excluded from 'pre-packaged and labelled' & not leviable to GST @ 5%. Issues for past period regularized on 'as is' basis.
- Supply of branded pulses and cereals in unit containers by or to government agencies under approved welfare programs to attract GST @5% for the period 01.07.2017 to 17.07.2022 subject to:
  - ✓ Suppliers to obtain a certificate from a senior government official (minimum rank of deputy secretary) confirming the supplier's eligibility.
  - ✓ Suppliers to reverse ITC claimed on such supplies within 180 days from issue of such circular.



# GST Advisories

1. **GST Advisory dated July 09, 2024** – Taxpayers to upload proof of principal place of business and additional place of business documents up to maximum size of 500 kb which was 100 kb earlier.
2. **GST Advisory dated July 14, 2024** – Taxpayers can claim refund of IGST paid on account of upward revision in prices of goods. Exporters to still use Form GST RFD-01 with category as “any other” for filing such refunds until the different form is introduced by the Department.
3. **GST Advisory dated August 1, 2024** – Form GSTR-1A has been made operational from tax period August onwards. Form GSTR-1A is optional facility to add, amend or rectify any particulars of a supply reported/missed in current tax period Form GSTR-1 before filing of Form GSTR-3B of same tax period. Further, Form GSTR-1A to be opened for taxpayers after filing of Form GSTR-1 or due date of Form GSTR-1, whichever is later.

# GST Advisories

4. ***GST Advisory dated August 02, 2024*** – Biometric-based Aadhaar Authentication and Document Verification for GST Registration in Jammu and Kashmir and West Bengal has been implemented on August 02, 2024.
5. ***GST Advisory dated August 23, 2024*** – W.e.f. September 1, 2024, taxpayers will not be allowed to file Form GSTR-1/IFF if bank details are not validated on GST portal.
6. ***GST Advisory dated August 23, 2024*** – ITC statement pertaining to RCM liability has been introduced. Taxpayer require to report opening balance of RCM ITC till October 31, 2024 with option to revise the figures three times upto November 30, 2024.

# GST Instructions

## 1. Instruction No. 02/2024 – GST dated August 12, 2024

- Department to conduct special All-India drive to detect fake or suspicious GST registrations from August 16, 2024 to October 15, 2024.
- Department to verify suspicious GSTINs. If GSTNs found fictitious/suspicious, tax officer can take the following actions:
  - Cancellation and suspension of registration of taxpayer.
  - Block ITC available in electronic credit ledger.
  - Initiate recovery proceedings.
  - Provisional attachment of Property/bank accounts.
- Department required to prepare action taken report in specified annexures.

**Anivesh (ALC) Comments:** Taxpayer is required to take quick actions such as keeping GST Certificate, basic KYC documents, display board outside offices, purchase and sale records in registered office premises.

# GST Instructions

## 2. Instruction No. 03/2024 – GST dated August 14, 2024

- Guidelines issued for GST Investigations extended to GST audit proceedings.
- Zonal (Pr.) Chief Commissioner to refer issues raised in audit matters before GST Policy Wing or TRU of CBIC where taxpayers follow prevalent trade practices which may conflict with the CGST Act/Rules.
- Such referrals should be made before concluding the audit and well in advance before due date of issuance of show cause notice.
- Guidelines is applicable to both new and ongoing audit proceedings.

**Anivesh (ALC) Comments:** The Instruction aims to promote uniformity and reduce litigations in cases where taxpayers have followed prevalent trade practices.

# Important GST Case Laws

## **1. *Arya Cotton Industries & Anr. Vs. UOI & Anr* [2024-VIL-634-GUJ]**

- The Hon'ble High Court held that the interest is not required to be paid from date of deposit of tax into electronic cash ledger till date of filing of monthly Form GSTR-3B. There is no question of payment of interest from period when tax was deposited into electronic cash ledger till date of filing of monthly GST return.

**Anivesh (ALC) Comments:** The Central Government vide NN 12/2024-CT dated 10.07.2024 has made amendment in Rule 88B(1) of the CGST Rules to give effect that interest is not payable on delayed filing of return in case amount is available in electronic cash ledger before due date of filing of Form GSTR-3B. However, such change is prospective in nature. Now, based on this judgment, the said ground can be taken even for past periods.



# Important GST Case Laws

## 2. *M/s Sri Saidurga Automobiles vs. Assistant Commissioner & Ors. [2024-VIL-700-AP]*

- The Department issued SCN on June 02, 2023 against the taxpayer and was informed to file reply to SCN by June 09, 2023. Subsequently, demand order in Form GST DRC-07 was passed on July 04, 2023. The Hon'ble HC observed that the Department has not given 30 days time to taxpayer to file reply to SCN and accordingly, the Department has acted against Section 61 of the CGST Act.

**Anivesh (ALC) Comments:** The Taxpayer should be given 30 days time to file reply to SCN. Intimating the taxpayer to file response in less than 30 days is against the Section 61 of the CGST Act and is against the principles of natural justice.

# Important GST Case Laws

## 3. *M/s Samarth Aircon Pvt. Ltd. Vs. Union of India & Ors. [2024-VIL-742-BOM]*

- The Hon'ble High Court held that interest on refund cannot be denied on account of technical glitch on their GST portal. Accordingly, the Hon'ble High Court directed the Department to pay interest @ 6% to the petitioner.

## 4. *M/s Manarina Apartment Owners Welfare Association Vs. Commercial Tax Officer [2024-VIL-721- MAD]*

- The Hon'ble High Court held that it is mandatory to issue notice Form ASMT-10 before issuance of SCN under Section 73 of the CGST Act if the matter is related to scrutiny of returns under Section 61 of the CGST Act.

# Important GST Case Laws

## 5. *M/s Hitachi Energy India Ltd Vs State of Karnataka [2024-VIL-644-KAR]*

- The Hon'ble High Court held that Appeal is deemed to be filed even if certified copy of decision or order was not submitted manually prior to December 26, 2022. Hence, date of acknowledgment of filing of appeal to be taken as date of filing of appeal online and not from date of physical filing of Order manually.

**Anivesh (ALC) Comments:** The Central Government vide NN 26/2022 GST CT dated 26.12.2022 removed the requirement of physically submitting certified copy of Order manually for filing appeal w.e.f. 26.12.2022. However, such judgement has extended this benefit to appeals filed online without certified copy of Order prior to 26.12.2022 as well.

# Important GST Case Laws

## **6. M/s Trelleborg India Pvt Ltd. Vs State of Karnataka [2024-VIL-685-KAR– Karnataka HC]**

- The Hon'ble High Court held that proceedings cannot be initiated once amalgamating entity ceases to exist upon Scheme of Amalgamation and hence, proceedings initiated by virtue of SCN is not valid. Hence, SCN issued by the Department to amalgamating entity is invalid.

## **7. M/s Sri Avantika Contractors (I) Limited Vs. AAAR (GST) [2024- VIL 813-TEL]**

- The Hon'ble HC has held that GST is not applicable on payments received for construction services executed in Maldives. The Court observed that since location of supplier and recipient is located outside India and services has been provided outside India, thus GST could not be levied under Section 5 of the CGST Act or Section 9 of the IGST Act despite contracts and payments were made in Indian rupees.

# Important GST Case Laws

## 8. *M/s Nitai Kangsa Banik and Anr Vs. UOI [Case No. WP(C)/3877/2024, Order dated 02.08.2024]*

- The Petitioner filed Writ Petition challenging NN 56/2023 extending time limit of passing order under Section 73 of the CGST Act pertaining to FY 2018-19 and FY 2019-2020. The Petitioner argued that NN 56/2023 is ultra vires to the provisions of Section 168A of the CGST Act as such Notification has been issued without taking the recommendation from the GST Council and also, powers under Section 168A can only be exercised in circumstance of force majeure.
- The Hon'ble HC observed that there is prima facie materials on record that there was no recommendation made by GST Council prior to issuance of NN 56/2023. Accordingly, the Department was directed not to take coercive actions against the Petitioner till disposal of case.

**Anivesh (ALC) Comments:** The observation made by High Court makes it clear that if NN 56/2023 is held to be ultravires to provisions of Section 168A of the CGST Act, then all subsequent actions taken by Department during extended limitation period would not be sustainable.



# Important GST Case Laws

## 9. Frontline (NCR) Business Solutions Private Limited Vs. State of West Bengal [2024-VIL-777-CAL]

- The Petitioner filed Writ Petition challenging the orders passed by Appellate Authority. The Petitioner filed first appeal with 1% pre-deposit and accordingly, the Department dismissed appeal filed by the Petitioner. Subsequently, the Appellant paid correct pre-deposit and refiled appeal which was again dismissed due to delay.
- The High Court held that GST law does not explicitly provide for filing a second appeal to correct pre-deposit mistakes. However, the appellant's genuine attempt to comply with the pre-deposit requirement was recognized. Accordingly, the court remanded the case back to the appellate authority, directing them to hear the appeal on merits, given that the appellant had paid more than the required pre-deposit.

# Important GST Case Laws

**10. *M/s Baazar Style Retail Limited & Anr. Vs. Deputy Commissioner of State Tax [W.P.A. 16185 of 2024, Order dated August 19, 2024]***

- The Hon'ble High Court held that State Department cannot initiate parallel proceedings if the case is pending before CGST Department on same subject matter for same period.

**11. *M/s National Plasto Moulding Vs. State of Assam [Case No. WP (C)/2863/2022, Order dated August 5, 2024]***

- The Hon'ble High Court held that bonafide buyers who have paid tax to their suppliers should not be denied ITC merely due to supplier's default to deposit tax to Government.

# Advance Rulings under GST

## 1. *M/s Reserve Bank of India [ 2024-VIL-130-AAR ]*

- The Applicant sought advance ruling before Authority for Advance Ruling, Maharashtra (“AAR”) on whether (i) penalties, late fees/penal interest, fine of the nature, levied and collected by RBI, for contravention/violation of Law are taxable under GST and (ii) the penalty of the nature for non-performance or under-performance as per contractual agreement by RBI with third party vendors are taxable under GST?
- The AAR held that penalty, late fees, penal interest, fine etc. levied and collected by RBI are not in the nature of a consideration for an activity which is also being clarified under Circular No. 178/10/2022-GST and hence, would not constitute a supply of service.
- Further, it has been held that the penalty of the nature for non-performance or under-performance is in nature of liquidated damages levied by RBI and are not in the nature of a consideration for an activity. Hence, such penalty would not constitute a supply of service.

# Customs Notifications

1. **Notification No. 50/2024- Cus (N.T.) dated July 19, 2024**: Unit in Special Economic Zones (SEZ) is eligible for benefit under RoDTEP w.e.f July 01, 2024.
2. **Notification No. 29/2024- Cus. dated July 23, 2024**: Value of import for commercial samples has been increased from INR 1,00,000/- to INR 3,00,000/- w.e.f. 24.07.2024.
3. **Notification No. 35/2024- Cus. dated July 23, 2024** : Exemption from payment of Health Cess on goods used for the manufacture of software, data analysis, etc. and other goods used in horticulture, aquaculture, etc. w.e.f. July 24, 2024.
4. **Notification No. 57/2024-Cus. (N.T.) dated August 31, 2024** : Sea Cargo Manifest and Transshipment Regulations, 2018 amended to extend date of applicability of transitional provisions.

# Customs Circulars

1. **Circular No. 12/2024-Cus dated August 31, 2024:** New formats for filing Sea Cargo Manifest and Transshipment Regulations (SCMTR) declarations to be implemented in phased manner at different ports.
2. **Circular No. 11/2024-Cus dated August 25, 2024:** Automation in Customs (Import of Goods at Concessional Rate of Duty or for Specified End use) Rules, 2022 in respect of EOUs has been implemented from September 1, 2024 and accordingly, EOUs required to obtain IGCR Identification Number at ICEGATE portal.



# Important Customs Case Laws

## 1. *Sree Murali Mohana Boiled & Raw Rice Mill Pvt. Ltd. Vs Union of India and Others [2024-VIL-730-AP-CU]*:

- The Petitioner is exporter of non-basmati white rice and had secured irrevocable letters of credit before the goods were prohibited for export.
- Export of Non-Basmati Rice was prohibited vide Notification no. 20/2023 dated July 20, 2023.
- The High Court held that the Notification should apply prospectively and should not affect the petitioner's ability to fulfill existing contracts and letters of credit issued before July 20, 2023.

**Anivesh (ALC) Comments:** This is useful judgment for exporters as prohibiting goods for export would not affect exporter obligation to fulfil its contracts with foreign buyers prior to issuance of Notification.

# Important Customs Case Laws

## 2. *Goodwill International Vs Additional Director General, MUMBAI [2024-VIL-757-CESTAT-MUM-CU]*

- The Appellant imported perfumes for wholesale and paid custom duty. The Department alleged that there is a difference between value declared in Bill of Entry (BOE) and the MRP declared on goods by importer on goods.
- The CESTAT held that value of MRP on products is the sole discretion of supplier and thus the value of MRP mentioned on goods cannot be value for the purpose of payment of Duty. Hence, prices declared in BOE by Appellant to be considered as 'transaction value' for purpose of payment of customs duty.

# Important Customs Case Laws

## 3. *Indorama Industries Ltd. Vs. C.C.- Kandla, Gujarat [2024-VIL-794-CESTAT-AHM-CU]*

- The issue was whether license fee and erection and commission charges to be included in Assessable Value of goods imported by the Appellant.
- The Hon'ble CESTAT held that the contract does not indicate that procurement of licenses for process or the activity of the supervision of erection and commissioning plant is in any way a condition for the sale of goods and therefore, would be considered as post importation activities. Therefore, the consideration paid/payable by the importer cannot form part of the assessable value of imported goods.

# Foreign Trade Policy updates

1. **Notification No. 19/2024-25 dated July 5, 2024**: Export of Basmati Rice and Non-Basmati Rice to European countries allowed without certificate of inspection issued by Export Inspection Council for a period of 6 months. However, inspection certificate is still required for export of such goods in specified European countries such as UK, Iceland, Liechtenstein, Norway and Switzerland.
2. **Notification No. 20/2024-25 dated July 05, 2024**: Import of Potatoes from Bhutan without any import license is allowed upto June 30, 2027.
3. **Public Notice No. 14/2024-25 dated July 16, 2024**: Exporter is required to deposit amount of 1% of shortfall in FOB value in Indian rupee in case of bona fide default in fulfilling export condition. Earlier, the exporter was required to deposit an amount equal to 3% of shortfall in FOB value in Indian rupee.
4. **Notification No. 23/2024-25 dated August 16, 2024**: Export of De-Oiled Rice Bran is prohibited upto January 31, 2025.

# Foreign Trade Policy updates

5. **Notification No. 15/2024-25 dated July 25, 2024:** EPCG authorization holders is required to produce installation certificate of capital goods within 3 years from date of import of such goods. Earlier, EPCG authorization holders was required to produce installation certificate of capital goods within 6 months from date of import of such goods. Composition fees has been streamlined for extending export obligation. Such changes to be applicable on EPCG authorizations issued under FTP 2015-20.
6. **Trade Notice No. 10/2024-25 dated July 25, 2024:** The Ministry of Steel has launched updated version 2.0 of the SIMS to be effective from July 25, 2024. The SIMS 2.0 to be accessible at <https://sims.steel.gov.in> and the current SIMS 1.0, hosted on the DGFT website to be discontinued immediately. Applications already submitted on SIMS 1.0 to remain available for viewing or downloading from the DGFT website until further notice.
7. **Notification No. 22/2024-25 dated August 01, 2024:** Kandla and Vishakhapatnam Customs Sea ports added to the list of ports allowed for Export of Essential Commodities which are under the Prohibited/Restricted category, to the Republic of Maldives for FY 2024-25.



# Foreign Trade Policy updates

8. **Trade Notice No. 12/2024-25 dated August 14, 2024:** Two functionalities have been introduced in process of self-certification of e-BRC: - (i) Bulk upload (ii) API integration
- The bulk upload would allow exporters to generate multiple e-BRCs concurrently by uploading a spreadsheet with IRM mapping, Shipping Bill, and invoice details.
  - The API integration would enable exporters to interface ERP or other software systems directly with the DGFT e-BRC system for retrieving IRM/ORM data and requesting/verifying e-BRCs. API integration requires online registration, authentication, and credential management by exporters.
9. **Public Notice No. 19/2024-25 dated August 29, 2024:** Export Obligation Period with pre-import condition from date of clearance of each import consignment by Customs Authority has been rationalized.

# Foreign Trade Policy updates

10. **Trade Notice No. 14/2024 dated August 22, 2024:** E-Commerce Export Hubs (ECEH) to be launched on pilot basis. The major objectives of ECEH are to provide for predictability and shortest possible turnaround time for E-Commerce Exports, easy re-import for E-Commerce returns or rejects, bringing various cross-border E-Commerce stakeholders under one roof.
11. **Public Notice No. 21/2024 dated August 30, 2024:** Oriental Chamber of Commerce & Industry has been delisted from Appendix 2E of FTP 2023 for issuing Certificate of Origin (Non-Preferential).

# THANK YOU

See You Next Time



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