Anivesh
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Indirect Tax Updates – 1st February 2026 to 15th February 2026

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Important Case Laws

1. **<u>Sterling & Wilson Pvt. Ltd vs CGST [GSTAT DELHI: Appeal No. APL/1/PB/2026]</u>**

Tax demand based solely based on mismatch between GSTR-1 and GSTR-3B is unsustainable.

The issue was whether tax and interest demand can be upheld merely due to mismatch between GSTR-1 and GSTR-3B without proper verification of reconciliation records and the appellate authority can convert proceedings from Section 74 (fraud/suppression) to Section 73 (short payment without fraud)?

The Hon'ble GSTAT held that demand cannot be sustained solely on return mismatch. Since the discrepancy was reconciliatory in nature and not due to fraud or suppression, the Appellant must be given an opportunity to amend returns and submit reconciliation and the matter remanded to proper officer for reconsideration. Further, it has been held that the Appellate Authority cannot convert proceedings to Section 73 on its own and only the Proper Officer can redetermine liability under Section 73.

<u>Anivesh (ALC) Comments</u>: The first ruling of GSTAT on assessment issue stating that mere difference between GSTR-1 and GSTR-3B is not conclusive proof of short payment of tax is a welcome decision for industry and it has certainly promoted a balanced and taxpayer-friendly approach, ensuring that technical return discrepancies are addressed through verification and correction rather than tax demand. Notably, this is the first GSTAT judgment on an assessment issue other than anti-profiteering, marking an important development in GST jurisprudence.

2. <u>UOI vs Torrent Power Limited [Supreme Court : SLP(C) NO. 13084/2025]</u>

Refund to be transferred to the Consumer Welfare Fund where burden is passed on to consumers

The issue was whether the Hon'ble Gujarat High Court was justified in devising a special mechanism (separate bank account and tariff adjustment) to pass on refund of IGST collected under an invalid notification to consumers, even though such a procedure is not provided under Section 54 of the CGST Act?

The Hon'ble Supreme Court held that the High Court's refund mechanism was not legally sustainable. Since the Company had passed on the tax burden to consumers, the exception for direct refund to the applicant did not apply. Under the CGST Act, such refund must be credited to the Consumer Welfare Fund, and courts cannot create alternative procedures not contemplated by the statute. Accordingly, the Hon'ble Gujarat High Court judgment was set aside and the refund directed to be transferred to the authorities for credit to the Consumer Welfare Fund.

<u>Anivesh (ALC) Comments</u>: It emphasises that even equitable or consumer-friendly solutions cannot override clear statutory provisions. The judgment states that courts cannot create alternative refund distribution mechanisms (such as tariff adjustments or special accounts) where the law provides a specific route.

Important Case Laws

3. **MR Traders vs UOI [Rajasthan HC: Writ Petition No. 4558/2025]**

High Court can condone delay under Article 226 in relation to appeals not filed within statutory time limit

The issue was whether expiry of the statutory limitation period for filing an appeal under Section 107 of the CGST Act bars Rajasthan High Court from exercising its writ jurisdiction under Article 226 to condone delay and grant relief to a taxpayer whose appeal was dismissed as time-barred.

The Hon'ble Rajasthan High Court held that that Appellate Authority cannot condone delay beyond the outer limit prescribed under Section 107 and cannot condone delay under Section 5 of the Limitation Act. Further, it has been observed that the High Court under Article 226 can condone delay in appropriate cases and prevent manifest injustice and ensure a taxpayer is not left without remedy. Since the delay was due to bona fide circumstances, the delay of 160 days was condoned, the appellate order was set aside, and the appeal was restored for adjudication on merits.

Anivesh (ALC) Comments: The Hon'ble Rajasthan High Court has held that Section 5 of the Limitation Act does not apply to GST appeals filed before the appellate authority under Section 107 of the GST Act, thereby rejecting the possibility of condonation of delay beyond the statutory period. This view creates a clear divergence from the interpretation adopted by the **Hon'ble Calcutta as well as Punjab&Haryana High Court** on the issue of limitation under Section 107. **However, the Court made an important observation that the High Court, in exercise of its writ jurisdiction under Article 226 of the Constitution, retains the power to condone delay in appropriate cases. This provides a significant relief avenue for the industry to seek remedy directly before the High Court where statutory appellate limitation has expired.**

Important Case Laws

4. **<u>Huawei Technologies India vs State of Karnataka [Karnataka HC: WP No. 2848 of 2024]</u>**

<u>GST is not applicable on remuneration paid to foreign national employees</u>

The issue was whether remuneration paid by the Petitioner to its foreign national employees is liable to IGST under GST law on the ground that such payment constitutes "import of manpower recruitment and supply services" from foreign employees treated as non-resident taxable persons.

The Hon'ble High Court held that remuneration paid to foreign national employees is not liable to IGST, as there exists a direct employer–employee relationship between the petitioner and the foreign nationals. Services provided by an employee to the employer in the course of employment are covered under Entry 1 of Schedule III of the CGST Act and are neither supply of goods nor supply of services. The foreign employees were on the payroll of the petitioner, received salary and benefits in India, and were subject to income tax, establishing a valid employment relationship. They also did not qualify as non-resident taxable persons, and the transaction did not constitute import of services. Accordingly, the show cause notice and related proceedings were quashed, and the writ petition was allowed.

Important Case Laws

5. **<u>OP Jindal Institute of Cancer & Research vs CGST [CESTAT Chandigarh: ST Appeal No. 60974 of 2018]</u>**

Service Tax is not applicable on diagnostic service since it forms part of health care service

The issue was whether the revenue sharing arrangement between the hospital and Diagnostic Service Providers (DSPs), under which the hospital provides infrastructure and basic facilities and shares diagnostic revenue with DSPs, is liable to service tax under the category of Business Support Services (BSS).

The Hon'ble CESTAT, Chandigarh held that revenue-sharing arrangement between the appellant hospital and Diagnostic Service Providers (DSPs) does not constitute taxable Business Support Services, as the arrangement was on a principal-to-principal basis and not a service provided by the hospital to DSPs. The hospital merely provided infrastructure and facilities, and there was no separate consideration received for any taxable service. Hence, diagnostic services formed part of healthcare services, which were exempt from service tax.

Important Case Laws

6. **<u>South Eastern Coalfields Limited vs CCE [CESTAT Delhi: Excise Appeal No. 56177 of 2013]</u>**

Royalty is not in nature of Tax and value of it is includible in transaction value

The issue was whether various amounts collected by the assessee, namely royalty, stowing excise duty, forest transit fees, Madhya Pradesh Rural Infrastructure and Road Tax, entry tax, terminal tax, CG Development and Environment Cess, and amounts relating to captive consumption of coal, were includible in the "transaction value" under Section 4(3)(d) of the Central Excise Act, 1944 for the purpose of levy of central excise duty.

The Hon'ble CESTAT, Delhi held that Royalty is not in the nature of a tax in view of the Constitution Bench decision in *Mineral Area Development Authority vs Steel Authority of India* and, therefore, is includible in the transaction value and liable to excise duty for the normal period of limitation. However, the other levies such as stowing excise duty, forest transit fees, MP Rural Infrastructure and Road Tax, entry tax, terminal tax, and CG Development and Environment Cess were held to be in the nature of "other taxes" and thus, excludible from transaction value. The demand of duty on captive consumption of coal was also set aside as exemption was available.

7. GTN Engineering (INDIA) Ltd. vs CC [CESTAT Mumbai: Customs Appeal No. 85628 of 2024]

Demand cannot be raised if export obligation fulfilled and EODC issued by DGFT

The issue was whether the Appellant is eligible for duty-free import of raw materials under the Advance Authorization Scheme in terms of Notification No. 18/2015-Customs dated 01.04.2015 (as amended by Notification No. 79/2017-Customs), and whether the demand of IGST, interest, redemption fine, and penalties is sustainable on the ground that the appellant allegedly did not fulfill the pre-import condition, and there was allegedly no one-to-one correlation between imported inputs and exported finished goods, despite the appellant having fulfilled export obligations and obtained Export Obligation Discharge Certificates (EODCs).

The Hon'ble CESTAT, Mumbai held that the Appellant had fulfilled the export obligations under all Advance Authorizations and obtained valid EODCs from the DGFT authorities. The EODCs were accepted by Customs and the bonds executed by the Appellant were cancelled, which conclusively established compliance with the Advance Authorization Scheme. Once export obligations are fulfilled and EODCs are issued, the conditions of the exemption notification are deemed satisfied, and the benefit of duty exemption cannot be denied. Further, it has been observed that the Department cannot subsequently question compliance or deny exemption on grounds such as lack of one-to-one correlation or pre-import condition after fulfilment and closure of export obligation. Accordingly, the demand of IGST, interest, redemption fine, and penalties was held to be unsustainable and liable to be set aside.

Important Case Laws

8. **Salt Experiences & Management vs CC [CESTAT Delhi: Custom Appeal No. 51745 of 2025]**

Customs authorities does not have jurisdiction to confiscate foreign currency and impose penalties

The issue was whether Customs authorities have jurisdiction under the Customs Act, 1962 to confiscate foreign currency and impose penalties for alleged violations relating to export and possession of foreign currency, or whether such matters fall exclusively under the Foreign Exchange Management Act (FEMA), 1999.

The Hon'ble CESTAT Delhi held that customs authorities do not have jurisdiction to confiscate foreign currency or impose penalties for contraventions related to foreign exchange under FEMA. The deeming provision under the earlier Foreign Exchange Regulation Act (FERA), which allowed Customs authorities to act in such matters, was not retained in FEMA. FEMA is a self-contained law governing foreign exchange violations, and proceedings, if any, must be initiated under FEMA and not under the Customs Act. Therefore, confiscation of foreign currency and penalties imposed by Customs authorities were held to be without jurisdiction and were set aside.

Important Case Laws

9. <u>Frunuts Exim LLP vs CC [CESTAT Mumbai: Customs Appeal No. 85635 of 2025]</u>

Requirement of 'actual use' is not applicable under DFIA scheme

The issue was whether exemption from payment of BCD under the Duty Free Import Authorization (DFIA) Scheme can be denied to a transferee on the ground that the transferee failed to prove "actual use" of imported goods in the manufacture of exported products and exemption benefit can be denied on the basis of a CIF value cap introduced through a Public Notice and not through a proper statutory notification.

The Hon'ble CESTAT, Mumbai held that DFIA is a post-export and transferable scheme, and there is no "actual user" condition applicable to a transferee unless specifically prescribed. Therefore, denial of exemption on the ground that the transferee failed to prove actual use of imported goods was without legal authority and unsustainable. The Tribunal further held that a restriction such as a CIF value cap introduced through a Public Notice does not have the force of law unless properly notified in the Official Gazette. Accordingly, such restriction cannot be enforced to deny exemption. Therefore, the denial of exemption, demand of duty, and related consequences were held to be invalid, and the appeal was allowed.

Important Case Laws

10. <u>Lok Chemicals Pvt. Ltd. vs CC [CESTAT Mumbai: Customs Appeal No. 87024 of 2025]</u>

Exemption under AIFTA cannot be denied without proper verification and due process.

The issue was whether whether exemption under the ASEAN-India Free Trade Agreement (AIFTA) can be denied to all consignments merely because one certificate of origin was revoked, without proper verification, due process, and compliance with prescribed procedures under the agreement and Customs law.

The Hon'ble CESTAT, Mumbai held that denial of exemption was not justified because revocation of one certificate of origin was not in accordance with the prescribed procedures under AIFTA. Customs authorities failed to follow due process, including proper verification and notice under Section 28DA of the Customs Act, before denying exemption for other consignments. The cumulative rules of origin remained applicable, and exemption cannot be denied without proper scrutiny of each certificate of origin. Accordingly, the demand of duty, penalties, and confiscation were set aside, and the appeal was allowed.

Important Case Laws

11. **Wipro (Infotech Group) vs CC [Chennai CESTAT: Customs Appeal No. 40588 of 2016]**

Value of pre-loaded/embedded software is includible in value of imported hardware

The issue was whether the value of software supplied along with imported networking hardware should be included in the assessable value of the hardware for customs duty purposes, and whether extended limitation and penalties were justified.

The Hon’ble Tribunal observed that software value is includable in the value of imported hardware and such issue involved interpretation of classification and valuation of embedded software. The appellant had disclosed complete details in the import documents and acted under a bona fide belief. There was no suppression of facts or wilful misstatement to evade duty. Hence, extended limitation and penalties were not sustainable.

India–US Trade Deal

- The India-US Trade Deal, announced on February 5, 2026, seeks to expand bilateral trade while safeguarding India's agricultural and dairy sectors, with the Government affirming that farmers' interests remain fully protected.
- The US has agreed to lower tariffs on key Indian exports, particularly rice, spices and textiles, which is expected to significantly benefit exporters and strengthen income prospects for cotton-growing farmers.
- India has not undertaken any tariff concessions that would adversely impact staple grains, millets, fruits, major crops or dairy products, and no disruptive market access has been granted to US agricultural goods.
- The agreement maintains full protection for sensitive agricultural segments, ensuring that small and marginal farmers remain insulated from sudden import pressures.
- It is projected to enhance export opportunities in labour-intensive sectors, especially textiles, thereby generating downstream benefits across the agricultural value chain.
- The Government has clarified that the agreement reflects a balanced approach combining trade expansion with domestic agricultural security, and detailed provisions will be shared in due course.

Customs Notifications

1. **Notification No. 1/2026-Customs dated February 1, 2026**: Validity of specified exemption notifications extended from March 31, 2026 to March 31, 2028. Also, Battery Energy Storage Systems (BESS) now expressly covered under EV-related exemption. Certain exemptions under Notification 36/2024-Customs dated July 23, 2024 withdrawn and limited till April 30, 2026. Exemption from payment on import of works of art and antiquities extended till March 31, 2028.

2. **Notification No. 2/2026-Customs dated February 01, 2026:** Rationalizing of various basic customs duty exemptions. Extends most conditional customs exemptions duty up to March 31, 2028. Also, there is withdrawal of large number of earlier exemptions from April/May 2026.

3. **Notification No. 3/2026-Customs dated February 01, 2026:** Social Welfare Surcharge (SWS) and Agricultural Infrastructure Development Cess (AIDC) revised on import of specified items.

Customs Notifications

4. **<u>Notification No. 4/2026-Customs dated February 01, 2026:</u>** Notification No. 26/2016-Customs dated March 31, 2016 amended to update the reference from "Baggage Rules, 2016" to "Baggage Rules, 2026" w.e.f. February 2, 2026.

5. **<u>Notification No. 5/2026-Customs dated February 01, 2026:</u>** Notification No. 11/2004-Customs dated January 8, 2004 and Notification No. 27/2016-Customs dated March 31, 2016 rescinded in view of New Baggage Rules, 2026 w.e.f. February 2, 2026.

6. **<u>Notification No. 03/2026-Customs (ADD) dated February 10, 2026</u>:** Imposition of Anti-dumping Duty on import of Toluene Di-Isocyanate (TDI) (80:20 grade) originating in or exported from the EU and Saudi Arabia for period of five years.

7. **<u>Notification No. 12/2026-Customs (N.T.) dated February 01, 2026:</u>** "Eligible Manufacturer Importer" included as a class permitted to make deferred payment of import duty up to March 31, 2028.

Customs Notifications

7. **<u>Notification No. 13/2026-Customs (N.T.) dated February 01, 2026</u>:** Deferred Payment of Import Duty Rules, 2016 amended so as to revise the timeline for payment of deferred customs duty w.e.f. March 1, 2026.

8. **<u>Notification No. 14/2026-Customs (N.T.) dated February 01, 2026</u>:** Baggage Rules, 2026, to be effective from February 2, 2026, superseding the Baggage Rules, 2016. It lays down updated provisions for duty-free allowance of personal baggage for passengers arriving in India.

9. **<u>Notification No. 15/2026-Customs (N.T.) dated February 01, 2026</u>***:* Customs Baggage (Declaration and Processing) Regulations, 2026, to be effective from February 2, 2026 replacing earlier Baggage and declaration regulations. It provides for electronic filing of baggage declarations through the ICEGATE/Atithi system and prescribes procedures for clearance, temporary import/export, and transit of baggage.

Customs Notifications

10. **<u>Notification No. 16/2026–Customs (N.T.) dated February 02, 2026</u>**: Tariff value of specified gold and silver revised w.e.f. February 2, 2026.
11. **<u>Notification No. 17/2026-Customs (N.T.) dated February 03, 2026</u>**: Tariff value of specified gold and silver revised w.e.f. February 4, 2026.
12. **<u>Notification No. 18/2026-Customs (N.T.) dated February 05, 2026:</u>** Tariff value of specified gold and silver revised w.e.f. February 6, 2026.
13. **<u>Notification No. 19/2026-Customs (N.T.) dated February 06, 2026</u>:** Tariff value of specified gold and silver revised w.e.f. February 7, 2026.
14. **<u>Notification No. 20/2026-Customs (N.T.) dated February 13, 2026</u>:** Tariff value of specified edible oils, brass scrap, areca nuts, gold and silver revised w.e.f. February 14, 2026.

Customs Circulars

1. **<u>Circular No. 2/2026–Customs dated February 1, 2026</u>:** Clarification issued on term Remote Piot Aircraft (RPA) for military use wherein it has been clarified that RPA includes drones, UAV and UAS by whatever name known and its exemption from payment of BCD and IGST is applicable only when such goods are imported by the Ministry of Defence, Defence Forces, Defence PSUs, other PSUs, or any entity for use by the Defence Forces, subject to submission of a certificate from an officer not below the rank of Joint Secretary in the Ministry of Defence.

2. **<u>Circular No. 3/2026–Customs dated February 1, 2026</u>**: Extension of time period under Deferred Payment of Import Duty Rules, 2016 and addition of a new class of eligible importers, namely ‘Eligible Manufacturer Importer’ to avail the deferred payment facility, subject to specified conditions.

3. **<u>Circular No. 4/2026–Customs dated February 1, 2026</u>:** Guidelines issued for uniform implementation of the Baggage Rules, 2026 and the Customs Baggage (Declaration and Processing) Regulations, 2026. It provides changes in statutory provisions, earlier instructions, simplified procedures and uniformity in baggage clearance, including provisions relating to declaration, duty-free allowances, jewellery, transfer of residence, temporary import/export, unaccompanied baggage and special categories of passengers.

Customs Circulars

4. **Circular No. 5/2026–Customs dated February 1, 2026:** Rollout of SWIFT 2.0 (Single Window Interface for Facilitating Trade) as a single touch point for EXIM clearances by onboarding additional Partner Government Agencies (PGAs). It expands by integrating COSCO, WCCB, MeitY and Textile Committee, standardising data fields and document codes, and enabling fully digital processing of licences and NOCs.

5. **Circular No. 6/2026–Customs dated February 1, 2026:** Automatic goods registration for AEO T2 and T3 importers on arrival of goods (replacing manual web-based registration). Pilot e-seal based auto registration launched at Nhava Sheva and to be expanded to other ports in phases. Granted automatically (based on risk assessment) for facilitated Shipping Bills when not selected for examination/assessment, no pending PGA NOC requirement and any Duty/cess (if any) paid.

6. **Circular No. 07/2026–Customs dated February 1, 2026:** Introduction of system-based e-Scheduling for examination of cargo and mandatory use of Body Worn Cameras (BWC) during examination of import cargo. Recordings must cover entire examination process and to be securely stored for 2 years. Mandatory implementation across all customs formations by April 1, 2026.

Foreign Trade Policy Updates

1. **Notification No. 57/2025–26 dated February 5, 2026:** Import policy for finished umbrellas under ITC (HS) Codes 66019100 and 66019900 revised from "Free" to "Restricted". However, import of such items continued to be "Free" where the CIF value is Rs. 100 or above per piece. Such items imported by AA holders to be exempted from MIP condition.

2. **Notification No. 58/2025–26 dated February 5, 2026:** Import policy for items covered under ITC (HS) Code 71141920 (Articles of Platinum) revised from "Free" to "Restricted" subject to specified conditions.

3. **Notification No. 59/2025–26 dated February 9, 2026:** 20 additional countries added to list of notified countries for mandatory Halal certification under i-CAS framework for export of specified meat and meat products.

4. **Notification No. G.S.R. 114(E) dated February 3, 2026:** Special Economic Zones Rules, 2006 amended wherein Administrator (IFSCA) to issue a Letter of Approval (Form GA) for setting up units in an International Financial Services Centre (IFSC).

5. **Notification No. K-43014(22)/32/2020-SEZ dated February 12, 2026:** User charges for SEZ-Online services managed by NSDL revised including BOE/Shipping Bill, Softex forms, AMC fees, registration fees etc. w.e.f. January 1, 2026.

Foreign Trade Policy Updates

6. **<u>Public Notice No. 46/2025-26 dated February 5, 2026</u> :** Due date of filing of Annual RoDTEP Return (ARR) for FY 2023-24 extended from November 30, 2025 to March 31, 2026 with composition fee of Rs. 15,000/-.

7. **<u>Public Notice No. 47/2025-26 dated February 11, 2026</u> :** Suffix of the GIA Laboratory, DMCC, Dubai, UAE has been changed from "DMCC" to "FZCO".

8. **<u>Policy circular No. 9/2025-26 dated February 06, 2026</u>:** Warehousing of industrial chemicals is permitted in public/private bonded warehouses subject to following conditions:

- **<u>Safety & regulatory compliance</u>** – Warehousing facilities must comply with all domestic laws and regulations relating to safe storage and handling of chemicals.

- **<u>Import policy compliance</u>** – Chemicals must meet conditions specified under Foreign Trade (Development and Regulation) Act, 1992, Customs Act, 1962 and other customs/FTP provisions. The restriction on "hazardous chemicals" applicable only to hazardous waste and prohibited substances.

Foreign Trade Policy Updates

9. **Trade Notice No. 23/2025-26 dated February 6, 2026**: NPCI-based integration system implemented effective from February 2026 for real-time validation of bank account details furnished at time of issuance and modification of IEC applications. Therefore, Applicants are required to declare all the active bank accounts linked with PAN and ensure that PAN, name and bank account details are correctly matched as per bank records. Bank account details submitted by the Applicant shall be transmitted to NPCI for validation, and the system shall receive validation status as **"Success", "In Progress" or "Failed"**.

10. **Trade Notice No. 24/2025-26 dated February 9, 2026**: Industry and Stakeholders are invited to provide suggestions on the proposed "Digital Trade Facilitation Bill, 2026" which provides statutory recognition to electronic trade documents, enable trusted digital verification mechanisms, and facilitate secure cross border exchange of trade records.

THANK YOU

See You Next Time

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