



INDIA TRADE AND TAX SCAN

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WELCOME TO OUR TRADE AND TAX NEWSLETTER

We are pleased to present the seventh edition of our Trade and Taxation Newsletter, sharing important updates, key developments, and practical insights on trade and taxation, all tailored to help you stay ahead in an ever-changing regulatory environment.

We hope you find this newsletter useful and informative, and we look forward to your continued engagement.



We are pleased to share that Kochhar & Co.'s Taxation Practice has been ranked Tier 1 in the Benchmark Litigation Asia-Pacific 2025 rankings. We also take pride in the individual recognitions received by our senior leadership:

- Mr. Shahid Khan, Senior Partner and Head of Direct Tax, has been recognised as a Litigation Star.
- Ms. Reena Asthana Khair, Senior Partner and Head of Indirect Tax and International Trade, has been recognised as a Litigation Star for the fourth consecutive year and features among the Top 100 Women in Litigation in the Asia-Pacific region.

TAX TRIVIA



Court Humor 🤔

Counsel requesting for adjournment in a matter says his senior is busy in the High Court.

Justice PV Sanjay Kumar: "You must not be so honest. Learn that in future, you should never say in the Supreme Court that your senior is busy in High Court.

Our egos are very fragile. You don't want to offend the ego of the judge. Your case will go out. Directly. Not on merits. Do not tell things like this. Small white lies are permitted."



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contd.

I.TAX UPDATES

DIRECT TAX

CBDT extends due date for filing returns of income to 15th September

In an important development CBDT has extended the due date for filing of returns of income for the current assessment year i.e., A.Y. 2025-26 from 31st July 2025 to 15th September 2025. This will apply to non-corporate taxpayers. This has been done in view of the extensive changes in forms of returns of income and the time needed for updating the utilities for filing of returns.

CBDT Circular No. 06 of 2025 dated 27th May 2025

CBDT notifies HUDCO Bonds for availing exemption from capital gains

CBDT has notified bonds issued by Housing and Urban Development Corporation Limited on or after April 1, 2025, eligible for availing exemption from taxable Capital gains under Section 54EC of the Income-tax Act.

CBDT Notification 31/2025 in F.No. 225/06/2024/ITA-II dated 7th April 2025

Government notifies 10 items as luxury goods for collection of TCS by sellers

Central Government has notified ten luxury items under section 206C of the Income-tax Act, 1961 for collection of Tax Collected at Source (TCS) by sellers. These are wrist watches, art pieces (such as antiques, painting, sculpture); collectibles (such as coin, stamps); yachts, rowing boats, canoes, helicopters; sunglasses; handbags, purses; pair of shoes; sportswear and equipment (such as golf kit, skiwear); home theatre systems; and horses for horse racing etc, if their value exceeds INR 10 lakh. Accordingly, TCS return form No. 27EQ has been amended to include these 10 items. It has been clarified that the provision shall be applicable only if the value of a single item exceeds INR 10 lakh. FAQs relating to implications of the notification have been replied in CBDT Circular dated 23rd April 2025.

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CUSTOMS

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Government prohibits deduction of expenses incurred in settlement proceedings

Central Government has issued notification under section 37(1) of the Income-tax Act, directing that expenditure incurred by a person to settle defaults under the SEBI Act, the Securities Contracts (Regulation) Act, the Depositories Act, and the Competition Act, will not be allowed as deductible business expenditure in computing taxable income. FAQs relating to the notification have been replied in CBDT Circular dated 24th April 2025.

Notification No. 38/2025 [F. No 370142/11/2025-TPL], dated 23rd April 2025

CBDT notifies new Return ITR-B for Block assessments in Search cases

CBDT has notified new return form ITR-B for cases of search and seizure actions under Sections 132 or 132A initiated on or after 1st September 2024. Form ITR-B will have to be used to declare income for the block assessment period.

CBDT Notification 30/2025 [F. No. 370142/29/2024-TPL], dated 7th April 2025

CBDT notifies new Return forms for Assessment Year 2025-26

CBDT has issued new forms of returns of income ITR-1, 2, 3, 4, 5, 6, and 7 for Assessment Year 2025-26.

CBDT Notifications No. 40, 41, 42, 43, 44, 46, /2025, dated 29th April to 3rd May 2025

INDIRECT TAX

CUSTOMS

Revised Formats for Arrest and Incident Reports – Mandatory Inclusion of DIGIT ID

The Board has issued instructions revising formats for submitting Arrest Reports and Incident Reports (where no arrest is made). The update mandates inclusion of the DIGIT ID in both types of reports. The DIGIT ID will serve as a unique digital identifier, enabling quicker cross-reference across CBIC's investigation, risk-management and data-analytics systems. Revised formats are provided as Annexure-I (Arrest Report) and Annexure-II (Incident Report) to the Instruction.

[Instruction No. 10/2025-Customs, dated May 13, 2025]



Customs duty exemption on the import of art, antiques, and memorials for public exhibition

The Central Government, in a bid to promote public access to cultural and historical artefacts, has granted complete customs duty exemption on the import of works of art, statuary, public memorials, antiques, and other items defined under the Antiquities and Art Treasures Act, 1972, provided they are intended for public exhibition in museums or art galleries.

The exemption is subject to conditions: (i) import is made by the museum or gallery itself; (ii) a declaration that the imported goods will not be sold or traded; and (iii) a certificate issued by an authorized officer under the Ministry of Culture confirming public access and the institution's status. In the case of antiquities, registration with the Archaeological Survey of India within 90 days of import is also mandatory.

[Customs Notification No. 29/2025-Customs dated May 09, 2025]

Directorate of International Customs (DIC) appointed for verification of "Proof of Origin"

The Board has appointed Directorate of International Customs (DIC) to verify all requests for verification by assessing officers for proof of origin under Trade Agreements. The DIC's FTA Cell will manage the receipt and uploading of specimen signatures and seals of authorized officials from partner countries onto the ICES portal and will also share these with DRI (Hqrs) and non-EDI locations. The FTA Cell will establish a standard operating procedure for tracking these records and submit periodic reports to the Board

[Circular No. 14/2025 - Customs dated April 21, 2025]

Simplification of Procedures for Air Cargo Movement and Transshipment

To processes, especially for high-value and perishable goods, the Board has decided to implement the following key measures for Unit Load Devices (ULDs), which are essentially the standardized containers and

pallets used in air freight, for smooth and efficient movement of air cargo:

- a. removal of the Rs. 20 transshipment permit fees.
- b. harmonizing procedures for temporary import of Unit Load Devices (ULDs), as follows:

- ULDs/air containers without any tracking devices or with tracking devices affixed on the container, be imported temporarily outside the customs area on execution of a "Continuity Bond" by the air carriers/air console agents.
- When the ULD is temporarily imported along with the tracking devices, the Tracking devices or data loggers should be identifiable with Unique Identity Numbers (UINs) and is to be recorded during import.
- Such tracking devices or data loggers may contain a battery and Bluetooth technology for communications. Therefore, compliance to Aircraft and Airport Physical Security Guidelines/Regulations of the Ministry of Civil Aviation (BCAS) shall be required to be complied with.
- The responsibility for providing the proof of export of such ULDs along with the tracking devices, if any within the time-period specified shall be of the carriers viz. air carriers/air console agents.

[Circular No. 15/2025-Customs dated April 25, 2025]

Strict Compliance Required for Export of Basmati and Non-Basmati Rice under DGFT Policy

The Board issued Instructions addressing inconsistencies in enforcement of export policy for Basmati and Non-Basmati rice. The Board has clarified that as per DGFT Notification No. 62/2024-25 dated March 10, 2025, exports of these rice varieties to EU member states and specified European countries (UK, Iceland, Liechtenstein, Norway, Switzerland) require a Certificate of Inspection from the Export Inspection Council or Agency. Exports to other European countries are exempt from this requirement until September 09, 2025.

[Instructions No. 02/2025-Customs dated April 01, 2025]



Recognition of National Food & Feed Reference Laboratory (NFFRL), Kathmandu, Nepal for certifications

The Board has issued Instructions informing that the Food Safety and Standards Authority (FSSAI) of India has recognized the National Food & Feed Reference Laboratory (NFFRL), Kathmandu, Nepal, for analysis of specific food products in terms of the Memorandum of Understanding signed between FSSAI and the Department of Food Technology and Quality Control (DFTQC), Nepal. Certificates issued by NFFRL for products including juice, jam, jelly, pickles, candies, ginger, fresh fruits and vegetables, and instant noodles will be accepted by Indian food import authorities.

[Instruction No. 04/2025-Customs dated April 21, 2025]

Clarification on CITES Export Permit Requirements for Agarwood Products

The Board has clarified that as per the Ministry of Environment, Forest & Climate Change and CITES Resolution Conf.13.7 (Rev.CoP17), "specimens of agarwood- up to 1 kg of wood chips, 24 ml of oil and two sets of beads or prayer beads (or two necklaces or bracelets) per person" for personal or household use do not require CITES Export permits or CITES Re-export certificates.

[Instruction No. 05/2025-Customs dated April 25, 2025]

Prohibition on Import or Transit of Goods Originating from Pakistan and closure of Integrated Check Post Attari for All Passenger and Goods Movement

Para 2.20A inserted in the Foreign Trade Policy (FTP), 2023 prohibiting, with immediate effect, the direct or indirect import or transit of all goods originating from or exported by Pakistan, irrespective of their importability status. The restriction is imposed in the interest of national security and public policy. Any exceptions require prior Government of India approval.

The Board has issued instructions informing the immediate closure of the Integrated Check Post (ICP) Attari on the India-Pakistan border in Punjab. Consequently, all incoming and outgoing passenger and goods movements through ICP Attari are suspended effective immediately.

As per Ministry of Home Affairs OM dated May 01, 2025, while the ICP Attari remains closed for general passenger and goods movement, limited movement is now permitted. Pakistani nationals with valid Pakistani travel documents may exit India, and Indian nationals with valid Indian travel documents may enter India through ICP Attari until further orders.

A one-time exemption has been granted to allow entry of 162 freight trucks carrying perishable agricultural goods for export to India from Afghanistan via ICP Attari. This exemption applies notwithstanding the general closure of the ICP, and customs authorities are advised to take suitable action accordingly.

[DGFT Notification No. 06/2025-26 dated May 02, 2025, Instruction No. 07/2025-Customs dated May 03, 2025, Instruction No. 06/2025-Customs dated April 26, 2025, Instruction No. 08/2025-Customs dated May 05, 2025, and Instruction No. 09/2025-Customs dated May 09, 2025]

Port restriction on import of certain goods from Bangladesh

By insertion of a new condition under the FTP, Port Restriction on import of Goods from Bangladesh have been introduced, as under:

Table on the next page.



Sl. No.	Item Description	Import Policy /Port restriction
(i)	All HS codes of Ready Made Garments (RMG)	Import from Bangladesh shall not be allowed from any land port, however, it is allowed only through Nhava Sheva and Kolkata seaports.
(ii)	Fruit/Fruit flavoured and Carbonated Drinks	Imports from Bangladesh shall not be allowed through any LCSs/ICPs in Assam, Meghalaya, Tripura and Mizoram; and LCS Changrabandha and Fulbari, in West Bengal.
(iii)	Processed food items (Baked goods, Snacks, Chips and Confectionery)	
(iv)	Cotton and Cotton Yarn Waste	
(v)	Plastic and PVC finished goods, except pigments, dyes, plasticisers and granules that form input for own industries	
(vi)	Wooden Furniture	

Amendments to Authorized Bank Lists for Gold and Silver Imports

The Central Government has updated the list of banks authorized to import gold and silver under concessional or nil customs duty rates. This amendment revises Lists 34A and 34B of Notification No. 50/2017-Customs, effective from April 01, 2025, to March 31, 2026.

List 34A (Import of Gold, Silver, or Both):

1. Axis Bank Limited
2. Bank of India
3. Federal Bank Limited
4. HDFC Bank Limited
5. Industrial and Commercial Bank of China Limited
6. ICICI Bank Limited
7. IndusInd Bank Limited
8. Kotak Mahindra Bank Limited
9. Karur Vysya Bank Limited
10. Punjab National Bank
11. RBL Bank Limited
12. State Bank of India
13. Yes Bank Limited

List 34B (Import of Gold Only):

1. Indian Overseas Bank
2. Union Bank of India

[Notification No. 24/2025-Customs, dated April 28, 2025]

Additionally, Appendix 4B of Handbook of Procedures, 2023 has also been amended to update the list of banks authorized to import gold/silver under. [DGFT Notification No. 01/ 2025-26]

GOODS & SERVICES TAX

CBIC issues instructions for expediting GST registrations

The industry has been facing difficulties and delays in obtaining GST registration due to the insistence on documents not mandated by law. To streamline and expedite the registration process, the CBIC has issued instructions directing officers to seek only those documents and information that are statutorily prescribed. Additionally, a dedicated Grievance Redressal Mechanism has been established to address such concerns.

[Instruction No. 03/2025-GST dated April 17, 2025, and Instruction No. 04/2025-GST dated May 02, 2025]

EXCISE

Government constitutes Interim Boards for Settlement of long-pending central excise disputes

With a view to expedite resolution of long-pending central excise disputes, the Finance Act 2025 has inserted section 31A in Central Excise Act, 1944 w.e.f. April 01, 2025, empowering government to constitute Interim Boards for Settlement of disputes. Accordingly, CBIC has now notified constitution of 4 such Interim Boards, headquartered at Delhi, Kolkata, Mumbai, and Chennai.

[Notification No. 02/2025-Central Excise (N.T.) dated April 08, 2025]



Government increases Excise Duty on Petrol, Diesel

With effect from April 08, 2025, government has hiked Special Additional Excise Duty on both petrol and diesel by Rs. 2 making effective excise duty at Rs. 13 per litre on petrol and Rs. 10 per litre on diesel.

[Notification No. 02/2025-Central Excise, dated April 07, 2025]

II. SPOTLIGHT ON JUDICIAL PRONOUNCEMENTS

DIRECT TAX - INTERNATIONAL TAX CASES

Tax paid in foreign country can be allowed as business income

Bangalore Bench of Tribunal, in the case of an Indian entity which paid certain State taxes in the US for which foreign tax credit was not available under sections 90 and 91 of Indian Income Tax Act, held that such tax amount will be eligible for deduction under section 37 as business expenditure.

Bosch Global Software Technologies (P.) Ltd v. ACIT, ITA No.1696/2024 (Bang), dated 16th April 2025

Loss arising to a PE allowed to be set off against other business income

Delhi Bench Tribunal, in the case of a Korean company engaged in power business in India, held that loss arising to its PE in India can be set off against income arising to it by providing services to its clients directly i.e., otherwise than through the PE.

Hyosung Corporation v. ACIT ITA No. 2943/2023 (DEL), dated 23rd April 2025

Consideration for offshore supply of drawings and equipment not taxable in India

Delhi Bench of Tribunal in the case of a German company held that income arising to it from offshore supply of drawings and designs, and offshore sale/supply of plant and equipment, will not be taxable in India.

SMS Siemag AG v. DDIT, ITA No. 5580/2011 (DEL) dated 9th April 2025

Presumptive tax will be applicable to a non-resident company engaged in drilling

In the case of a Danish company engaged in engineering activities relating to prospecting and drilling for mineral oil in India, Delhi Bench of Tribunal held that income arising from these activities will be eligible for assessment under presumptive scheme of section 44BB.

Wellperform APS v. DCIT - ITA 3231/2023 (DEL) 26th March 2025

Fee for transmission of satellite signals is not royalty

Delhi Bench of Tribunal held that amount paid to a Netherlands company as fee for transmitting of satellite signals between ships and customers in India and vice-versa, was not royalty and was not taxable in India in the absence of Permanent Establishment.

Inmarsat Solutions BV vs. ACIT, ITA No.3569/ 2023 (DEL) dated 16th April 2025

DIRECT TAX - INCOME TAX CASES

Expenses on maintaining subsidiary during its winding up allowable

Honourable Bombay High Court held that expenditure incurred by a company for maintenance of its subsidiary company, which was in the process of being wound up, was wholly for purpose of commercial expediency and will be eligible for deduction as business expenditure.

Mahindra & Mahindra Ltd. vs CIT, ITA No 416/2003, dated 2nd May 2025

Section 50C of Income Tax Act applies to leasehold properties also

Honourable Bombay High Court held that requirement of fair market valuation as prescribed in Section 50C for



computation of capital gains, applies to leasehold land also. The Court held that for the purpose of applicability of section 50C, the manner in which the property was acquired or held is immaterial.

Vidarbha Veneere Industries Ltd. vs ITO, ITA No. 34/2022 dated 1st April 2025

Section 65B of Evidence Act will not apply to proceedings under Income Tax Act

Honourable Madras High Court held that furnishing of a certificate under section 65B of Evidence Act in respect of electronic evidence, is not required for proceedings under the Income Tax Act. The Court held that assessment proceedings under the Income Tax Act are not judicial proceedings, and rules of the Evidence Act are not applicable to these. There is no statutory provision making Evidence Act applicable to assessment proceedings under Income Tax Act.

ACIT vs Vetrivel Minerals (VV Minerals), WA No.119 / 2022, 30th April 2025

Composite activity of renting of property and services assessable as business income

Allahabad High Court, in a case where the assessee was renting out property, noted that since the taxpayer was not only renting out property on day-to-day basis but was also providing several other facilities to the tenants and was also arranging other facilities through third parties. The Court held that therefore it was an organized business activity, income from which should be assessed as income from business.

Rajesh Kumar Jaiswal vs DCIT, ITA No. 16/2023 (Alld) dated 2nd May 2025

Assessee entitled to TDS credit even if the corresponding income was exempt

Chennai Bench of Tribunal held that in a case where TDS was wrongly deducted on sale of agricultural land the capital gains on which was exempt from tax, the taxpayer was entitled to credit for TDS appearing in Form 26AS.

K. Venkatesan (HUF) vs ACIT ITA No. 2945/2024 (Chn) 7th May 2025

Short-term capital loss on STT paid transactions can be set off against other short-term capital gain

Mumbai Bench of Tribunal ruled that short-term capital loss arising on transactions on which STT was paid can be set off against short-term capital gain arising from transactions on which STT was not paid.

Eastspring Investments India Equity Open Ltd. vs DCIT, ITA No. 1219(Mum), dated 9th May 2025

INDIRECT TAX - GST CASES

Supreme Court dismisses the review petition filed by Government in Safari Retreats judgment

In October last year, the Supreme Court delivered the landmark judgment of Safari Retreats and allowed input tax credit of goods and services used for construction of shopping mall by observing that such mall qualifies as a 'plant'. The Hon'ble Supreme Court distinguished the term 'plant and machinery' used under Section 17(5)(c) vis-a-vis 'plant or machinery' under Section 17(5)(d), and applied the functionality test to observe that 'plant or machinery' will include such buildings which are used for commercial purposes and per se qualify as a 'plant'. A review petition filed by the Government challenging Supreme Court order has been dismissed on the ground that there is no error apparent on the record. In the 2025 Budget, the Government had proposed a retrospective amendment in Section 17(5)(d) to substitute the term 'plant or machinery' with 'plant and machinery' retrospectively. The retrospective amendment has yet to be notified.

[Chief Commissioner of Central Goods and Service Tax & Ors. V. M/s Safari Retreats Private Limited & Ors. - Order dated 20.05.2025 in Civil Appeal No. 2948 of 2023]

Supreme Court upholds Order allowing payment of pre-deposit via Electronic Credit Ledger



The Supreme Court recently dismissed a Special Leave Petition (SLP) filed by the Revenue challenging the Gujarat High Court's decision and affirmed the taxpayer's right to utilise accumulated Input Tax Credit (ITC) in the Electronic Credit Ledger (ECRL) for making the mandatory pre-deposit required for filing an appeal before the Appellate Authority under GST. The Supreme Court upheld the High Court's order and directed the Appellate Authority to admit the appeal for consideration on merits.

In line with the Bombay High Court's decision in Oasis Realty and CBIC Circular No. CBIC-20001/2/2022-GST dated 6 July 2022, the Gujarat High Court had held that the ECRL may be used for any payment towards output tax under the CGST or IGST Acts. This, the Court noted, includes amounts payable pursuant to proceedings initiated under the GST laws. It further observed that the mandatory pre-deposit is a procedural requirement and not in the nature of tax, interest, or penalty, and therefore, its payment through the ECRL does not result in any revenue loss to the government.

[Union of India & Anr. v. M/s Yasho Industries Ltd (2025 (5) TMI 1614 – SC Order) dated May 19, 2025]

Supreme Court upholds simultaneous levy of entertainment tax and service tax on DTH/broadcasting services based on aspects' theory

The Supreme Court has dismissed a batch of appeals filed by leading DTH service providers, wherein the issue under consideration was whether assesses could be subjected to both entertainment tax (a State levy) and service tax (a Central levy) on the same transaction. Applying the "aspect theory," the Court held that there is no impermissible overlap, as distinct aspects of the same transaction are being taxed under separate legislations enacted by different legislative bodies.

Upholding the legislative competence of the States, the Court observed that Entry 62 of List II of the Seventh Schedule empowers States to levy tax on luxuries, entertainments, and amusements. Since the primary objective of DTH and cable subscriptions is to provide entertainment, the levy of entertainment tax by States was held to be valid. Simultaneously, the Court upheld

the Central Government's levy of service tax, noting that broadcasting constitutes a service falling within the ambit of Entry 97 of List I.

[State of Kerala & Anr. v. Asianet Satellite Communications Ltd. & Others (TS-442-SC-2025-NT) dated

Himachal Pradesh High Court follows the Supreme Court verdict in Nokia case; upholds mobile charger to be a separately taxable accessory – soon after Supreme Court restricts applicability of Nokia judgment only to Punjab & Chandigarh.

In a series of judgement, including Nokia's case, various High Courts have held that mobile charges, are not parts of the mobile phone, and classifiable independently, on merits under the residual category. In a batch of petitions, the Supreme Court, by its judgment dated May 10, 2025, has without examining the correctness of the decisions of the High Courts, restricted the applicability of Nokia's judgment only to Punjab and Chandigarh. Litigants in other states, have been granted liberty to dispute the applicability of the Nokia judgement, thus the said judgment may not be a binding precedent insofar as other States' enactments are concerned. In other words, liberty is reserved to any aggrieved party to contend that the judgment of this Court in Nokia is not applicable and therefore could be distinguished.

[State of H.P. and others v. M/s Micromax Informatics Ltd. (TS-398-HC-2025(HP)-VAT) dated April 10, 2025; Naresh Kumar Gupta v. State of Punjab & Another (Civil Appeal No. 4033 of 2025 dated May 10, 2025 – Supreme Court)]

The Apex Court recognised the larger issue at hand and issued notice to CBIC to resolve the issue and allow assessee to correct bona fide errors. Senior Advocate, Mr. Arvind P. Datar has been appointed as amicus curiae to assist the Court in this matter.

[Central Board of Indirect Taxes And Customs Vs Aberdare Technologies Private Limited & Ors (TS-172-SC-2025-GST), pronounced on March 21, 2025] and [Union of India & Ors vs. Brij Systems Ltd & Ors. (TS-173-SC-2025-GST), pronounced on March 24, 2025]



The Delhi High Court holds that granting of three PHs is not mandatory under CGST Act

In a significant departure from settled jurisprudence, the Delhi High Court has ruled that Section 75 of the CGST Act only sets the upper limit of three adjournments and does not imply that three hearings must necessarily be granted. This interpretation marks a shift from the consistent view taken by several High Courts and the CESTAT, which have held that granting an effective opportunity of hearing is mandatory, and that taxpayers are entitled to up to three adjournments. This ruling is unexpected and could potentially enable the Department to pass orders without granting three hearing opportunities, thereby narrowing the procedural safeguards available to taxpayers.

[SS Enterprises vs. Office of The Commissioner Central Tax Delhi West and Anr. (TS-339-HC(DEL)-2025-GST) dated May 01, 2025]

Delhi High Court takes notice of the procedural irregularities in issuance of SCNs under GST and directs Department to create proper SOP

The Delhi High Court has recently observed that there are several GST matters suffering from procedural issues and inconsistency in practice followed by GST department such as failure to upload communications / notices on the portal. Consequently, the High Court has directed the Department to create a proper SOP to ensure consistent practice in respect of following: (i) uploading communications and notices in portals as well as sending the same to registered e-mail ID; (ii) name of the Officer, the digital signature or the physical signature along with the date and the DIN Number ought to be made available on all the SCNs and orders that are passed; (iii) To avoid discrepancy between date of passing order and date of uploading, orders should be uploaded on same date on which it is passed.

[Khaleeqe Ahmed v. Superintendent CGST, Range -163 (2025 (5) TMI 1610 – Delhi High Court) dated May 15, 2025]

The Delhi High Court holds that refund cannot be withheld under Section 54(11) of CGST Act on basis of a review order

The Delhi High Court has held that a refund cannot be withheld under Section 54(11) of the CGST Act unless an appeal or other proceedings have been initiated against the refund order. Section 54(11) permits the Commissioner to withhold a refund only where the order is the subject matter of an appeal or further proceedings, and the Commissioner is of the opinion that granting the refund may adversely affect revenue. The Court clarified that a review order does not amount to an appeal for the purposes of invoking this provision. In this case refund was allowed to the assessee based on Appellate Authority's finding that all the conditions prescribed under Section 16(2) of the CGST Act were fulfilled, the Department issued a review order under Section 112(3), authorising the Assistant Commissioner to file an appeal against the refund order and, withheld the refund amount under Section 54 (11) of the Act. This was held to be unlawful.

[Shalender Kumar v. Commissioner Delhi West CGST Commissionerate & Ors. (2025 (4) TMI 555 – Delhi High Court) dated April 03, 2025]

The Delhi High Court stays demand against NBCC; directs mediation between ministries to resolve disputed levy

The High Court granted an interim stay on the demand raised on NBCC in relation to lease proceeds received in Escrow Account for redevelopment of residential and commercial spaces under MoUD. The High Court has directed the joint secretaries of MoUD and the Revenue Department to meet and discuss the levy of GST in hands of NBCC.

In the present case, NBCC (India) Ltd. was engaged by the Ministry of Urban Development (MoUD) for the redevelopment of residential and commercial spaces in



Kidwai Nagar (East). An ESCROW agreement was executed between NBCC, MoUD, and Union Bank of India for operation and management of lease proceeds and NBCC was the implementing agency. An investigation was initiated and order was issued to NBCC demanding GST on lease proceeds kept in the Escrow Account which was ultimately to be transferred to the MoUD or the Consolidate Funds of India. It was NBCC's contention that the proceeds are received from by NBCC from (i) business entities; and (ii) non-business entities which include Government Departments, PSUs, and Autonomous Bodies. As per NBCC there is an exemption on proceeds from the non-business entities. In respect of proceeds received from business entities, it contended that GST is to be deposited under reverse charge mechanism, hence demand from NBCC is unjustified.

[M/s NBCC (India) Limited v. Additional Commissioner, CGST, Delhi South (W.P.(C) 6687/2025 & CM APPL. Nos.30335-36/2025) Order dated May 19, 2025]

No GST on inter-unit transfer of machinery from head office –Allahabad High Court

The Allahabad High Court has held that transferring machines between different units of a company for its own use is not taxable under GST. The petitioner is a construction company that was transferring one of its own old compactor machines from its head office in Rajasthan to its branch locations for completion of development work of an expressway in UP. The vehicle carrying the machine was intercepted by GST authorities on the ground that goods were being transported without an e-way bill and other necessary documents. Although the delivery challans were subsequently produced, the goods were seized, and penalty was imposed under Section 129 of CGST Act. In a writ filed by the assessee, the High Court held that there is no element of sale or transfer to third party involved nor any consideration exchanged in the present transaction as the goods are merely being transferred from one unit to another for own use. Therefore, such transaction is not taxable and there is no intention to evade tax, hence penalty not imposable.

[D and D Construction & Developers Co. vs. Additional Commissioner (TS-411-HC(ALL)-2025-GST) dated April 08, 2025]

The Karnataka High Court holds exports of customer support services to overseas service-recipient on principal-to-principal basis and not 'intermediary services' - directs refund of IGST plus interest

Karnataka High Court in its recent decision, directed refund of IGST along with interest to the Petitioner on the ground that export of customer support services to overseas recipient does not fall under 'intermediary services' and not taxable under GST. The High Court examined the agreement between the parties and observed that the support services provided by the assessee which included marketing, conducting surveys, aiding the recipient in identifying the persons from whom products can be sourced, is completely on his own name and without representing or binding the recipient directly or indirectly. Therefore, assessee is not acting as an 'intermediary' under Section 2(13) of the IGST Act and is an independent service provider, thus customer support services provided to overseas entities qualifies as export, not taxable under GST.

[Columbia Sportswear India Sourcing Pvt. Ltd. v. UOI & Ors (TS-421-HC(KAR)-2025 -GST) dated April 26, 2025]

Royalty for grant of mineral rights is a consideration for supply of service and taxable under GST – Patna High Court upholds decision of AAAR

The Patna High Court has placed reliance on Supreme Court's judgment in Mineral Area Development Authority and Anr. vs. Steel Authority of India and Anr., and re-affirmed that royalty for enjoyment of mineral rights is a contractual consideration and taxable under GST. The High Court observed that supply under Section 7(1) of the CGST Act includes the activity of leasing of mines and grant of mineral rights to a lessee for consideration and will be subject to GST.



[Broad Son Commodities Private Limited vs. The Union of India (TS-268-HC(PAT)-2025-GST) dated April 18, 2025]

No GST applicable on redevelopment projects in absence of transfer of development rights or Floor Space Index

The Bombay High Court has held that GST is not applicable in transactions where transfer of development rights / FSI is by a landowner to the developer. Under the GST law, transfer of development rights (TDR) or Floor Space Index (FSI) for construction of project by a promoter is taxable under entry 5B of Notification No. 11/2017 dated 28.06.2017. The High Court observed that Entry 5B applies only when TDR/FSI is one obtained from planning authority and not from a landowner. In the present case, agreement of development was between the petitioner and the landowner, granting the petitioner right to develop the property by utilizing its present FSI or any increases thereof. Therefore, the High Court set aside the order and held the transaction to fall outside scope of Sl. No. 5B of the Notification.

[M/s Shrinivasa Realcon Pvt. Ltd. v. Deputy Commissioner anti-evasion branch, CGST & Central Excise Nagpur & Ors (2025 (4) TMI 931 - BOMBAY HIGH COURT) dated April 08, 2025]

Recovery proceedings impermissible where assessee intends to file an Appeal before GSTAT

The Calcutta High Court recently granted a stay on recovery proceedings under a demand order, in view of non-constitution of the GST Appellate Tribunal (GSTAT). The Appellate Authority had passed an Order confirming demand along with penalty on the assessee. Immediately after passing the Order, the assessee intimated the Department of their intention to file an appeal before the GSTAT and deposited the requisite amount of pre-deposit. Despite this, department made recovery from assessee's cash and credit ledger. The High Court observed that the petitioner's right to prefer an appeal before the GSTAT subsists but could

not be exercised as GSTAT was not constituted yet. Relying on the CBIC Circular No. 224/18/2024 dated July 11, 2024, which bars recovery of dues after disposal of the first appeal until GSTAT becomes operational, the Court held that recovery against the petitioner impermissible, as they had intimated the department about their intention to file an appeal and already deposited the pre-deposit amount towards the same.

[Jyoti Tar Products Pvt. Ltd. & Anr. vs. The Deputy Commissioner of State Tax (TS-403-HC(CAL)-2025-GST) dated May 20, 2025]

Bombay High Court follows Gujarat High Court and stays GST demand on assignment of leasehold rights of plot of land allotted by MIDC and building constructed thereon is not supply of service under GST

The assessee-lessee had assigned leasehold rights of a plot of land which was allotted by MIDC and the buildings constructed thereon to a third party for payment of lumpsum consideration. SCN was issued to the assessee, demanding GST on assignment of leasehold rights. The Bombay High Court granted stay of GST demand by relying on the Division Bench decision of Gujarat High Court in Gujarat Chambers of Commerce and Industry and Others v. Union of India, where on similar facts it was held that such assignment by sale or transfer of leasehold rights by lessee to third party of a plot of land which was allotted by MIDC shall be assignment/ sale/ transfer of benefits arising out of 'immovable property' and will not be taxable as supply of service under GST.

[M/s B. Sorabji v. The Union of India & Ors. - W.P. No. 6041 of 2025 dated May 05, 2025]

INDIRECT TAX - CUSTOMS

Apex Court allows All Industry Rate duty-drawback to merchant exporters holding that Customs Circular No. 35/2010 dated September 17, 2010, has retrospective effect.



The Apex Court has finally settled a contentious dispute, relating to admissibility of duty drawbacks at All Industry Rate (AIR) to merchant exporters, when rebate of Central Excise Duty was already availed.

The Customs Notification No. 81/2006 dated July 13, 2006, continued by various notifications, permitted merchant exporters to avail duty drawback on exports made by them, with or without availing any credit of Central Excise Duty. However, the Excise department was of the view that the merchant exporters will not be entitled to avail duty drawback of Customs duty, if they have availed rebate of the Central Excise Duty. By Circular No. 35/2010 dated September 17, 2010, it was clarified that exporters shall be entitled to the rebate of custom duties through the AIR drawback route, and rebate of Central Excise Duty both.

The Department denied this benefit granted by the Circular for the period prior to September 17, 2010, on the basis that the Circular very categorically mentioned the effective date as September 20, 2010, and is prospective in nature. This issue was litigated by merchant exporters before the High Court of Madhya Pradesh, who accepted Department's contention.

The Supreme Court has now overturned this judgement of the High Court and held that merchant exporters are entitled to avail AIR duty drawback prior to September 17, 2010, i.e. date of the Circular, as the Circular is clarificatory in nature and retrospectively applicable.

[M/s Suraj Impex (India) Pvt Ltd Vs. Union of India & Ors. dated May 22, 2025(SLP (C) No. 26178-79 of 2016)]

Orissa High Court grants interest in view of the delay in adjudication, even when refund was granted by the Department within the statutory period.

The High Court of Orissa upheld CESTAT Kolkata's Order, granting interest under Section 27A, on the excess amount of duty paid by the importer and unreasonably withheld by the Department, due to delay in finalisation of the provisional assessment.

The CESTAT granted interest from the period between three months from when the finalisation of assessment was to be completed till the date of on which refund was paid. The Department filed an appeal before the High Court challenging the Order of the CESTAT, on the basis that since the refund of duty has been sanctioned within three months of the date of the order granting refund, no interest is due. The Department also urged that the CESTAT has no power under the act to grant interest beyond the time period prescribed under the statute.

The High Court held that CESTAT has the power to award interest, especially in matters where the Revenue has not complied with the procedure under Customs law and has passed the Order finalizing provisional assessment after 14 years.

The High Court held that "The Court cannot remain a mute spectator and may extend the substantial justice after balancing the technical objections. If the substantial justice is pitted against the technical objections or of such nature, the former must prevail"

However, the Court accepted Department's plea on the rate of interest and directed that instead of 12% interest as given by the CESTAT, interest to be given at rate to 6% in terms of the Notification No.75/2003- Customs (N.T.)

[Commissioner of Customs (Preventive), Bhubaneswar, Odisha Vs. M/s Vedanta Ltd. (OTAPL No. 29 of 2025) dated May 09, 2025]

CESTAT held that charges of ADD evasion without any evidence of violation of the Rules of Origin is unsustainable.

CESTAT Chennai has quashed an order passed by the Commissioner of Customs regarding the import of PVC flex banners allegedly of Chinese origin, through Malaysia to evade anti-dumping duty (ADD). The CESTAT held that as per the Certificate of Origin, the goods were consigned by manufacturers of PVC flex banners in Malaysia. Since the revenue was not able to prove that the goods were not of Malaysian Origin or that the Certificate of Origin is false, the goods are not liable to confiscation.



The CESTAT noted that lengthy orders reproducing the legal provisions and the violations which have been alleged in the SCN, without a clear exposition of the linkages on how these violations have occurred, is insufficient to sustain the charges. No tax can be imposed by inference.

[M/s Tech Zone Global Trading Company Vs. Commissioner of Customs (Import) dated May 07, 2025]

Supreme Court stays the order passed by Gujarat High Court directing the DGTR to exclude specialty grade SPVC resins from the scope of PUC

The importers participating in the Anti-dumping investigation challenged the scope of PUC before the Gujarat High Court. The Importers argued that the Specialty Grade Special PVC (SPVC) resins imported by them for the manufacture of Chlorinated PVC (CPVC), to be used for the production of safe and non-hazardous CPVC pipes and fittings for potable water supply, are to be excluded from the 'product under consideration' (PUC). The High Court held that it's a procedural lapse on the part of the Designated Authority, and since no classificatory investigation were carried out by the Authority while determining the scope of PUC, it cannot be excluded from the scope of PUC. The High Court Order was challenged by the Domestic Industry before the Supreme Court of India. The Supreme Court by order dated May 23, 2025, stayed the order of Gujarat High Court. The matter is next listed for hearing on July 22, 2025.

[DCM Shriram Limited vs Epigral Limited SLP(C) No. 13128/2025]

III. INTERNATIONAL TRADE BRIEF

India UK signs Free Trade Agreement

India-UK Trade agreement aims to boost bilateral trade and expand consumer markets by eliminating tariffs across sectors. Under the agreement, India will cut duties on products such as whisky, medical devices, electrical machinery, aerospace and foods including chocolate, salmon and lamb. Whereas UK will cut tariffs

on Indian products which will help exports of textile, toys, jewellery and auto parts etc. The deal aims to double the trade to USD 120 billion by 2030. It provides opportunities for businesses to access a combined market of USD 6.08 trillion and diversify services exports.

India notifies intent to slap reciprocal tariff on American Products

India has notified to the World Trade Organisation (WTO) of its plans to impose retaliatory tariff on American products. This move is in response to the 25% tariffs on imports of steel and aluminium imposed by US earlier in March. However, the US told the WTO that there is no basis for India's proposal to suspend concessions in response to American tariffs on steel and aluminium. The reciprocal measures come into effect thirty days from the date of notification, that is, May 9.

In parallel, US and India are actively engaged to finalise a trade deal and informed that they have expedited progress towards the first tranche of the bilateral trade agreement.

Implementation of Anti-Dumping Duty on Titanium Dioxide Imports from China – Electronic Declaration Facility

The Board issued Circular regarding the implementation of Anti-Dumping Duty (ADD) on imports of Titanium Dioxide from China PR based on end use. As per the Customs Notification, ADD applies only to specified end uses and excludes from its scope Titanium Dioxide for use in products covered under description relating to food, pharma, skin-care, textiles, fibre, or nano or ultrafine titanium dioxide.

The Board has rolled out a mechanism to ensure correct duty application on import of Titanium Dioxide. Importers can now electronically declare during Bill of Entry filing if the Titanium Dioxide is for excluded uses. Non-compliance may attract duty with interest. DG (Systems) will issue guidelines for system implementation, and officers will be sensitized accordingly.

[Circular No. 16/2025-Customs, dated 11th May 2025]



Clarification on Non-Applicability of SCOMET for Polyethylene Glycol (CAS No. 25322-68-3)

The CBIC issued Instruction referencing DGFT Office Memorandum dated 27th March 2025, clarifying that Polyethylene Glycol (CAS No. 25322-68-3) is not classified under the SCOMET (Special Chemicals, Organisms, Materials, Equipment and Technologies) export control list, and thus does not require SCOMET export authorization for export.

[Instruction No.: 03/2025-Customs, dated 3rd April 2025]

Registration Fee Prescribed

Appendix 2K of FTP, 2023 has been revised to provide for payment of 'Registration Fee' for various Import Monitoring Systems (SIMS/CIMS/NFMIMS/PIMS etc.) with immediate effect.

Registration Fee for obtaining Automatic Registration Number under Coal Import Monitoring System (CIMS) will be subject to the scale of fee mentioned in Appendix 2K.

[DGFT Public Notice No. 02/2025-26 dated April 15, 2025]

[Notification No. 4/2025-26 dated April 15, 2025]

RoDTEP Rates revised and restored for AA, SEZ and EOU

Alignment of RoDTEP Schedule (Annexure 4) with updated HSN, rates revised w.e.f. 01.05.2025. Benefits under the RoDTEP Scheme for exports of products manufactured from AAs, SEZs, and EOUs is restored with effect from 01.06.2025.

[Notification No. 10/2025-26 and 11/2025-26 dated May 26, 2025]

Amendments in Import Policy under FTP

Product	Change in import policy
<ul style="list-style-type: none">Cabinet Hinges	<ul style="list-style-type: none">Product under ITC (HS) Codes 83021010, 83021090, 83024200 and 83024900, having a CIF value of less than ₹280 per kilogram, is 'Restricted'.[Notification No. 14 /2025-26 dated May 26, 2025]
<ul style="list-style-type: none">Roller Chains and parts thereof	<ul style="list-style-type: none">Products falling under ITC HS Code 73151100, 73151900 and 73159000 having a CIF value of less than Rs. 235 per KG are restricted.[Notification No. 13 /2025-26 dated May 26, 2025]



<ul style="list-style-type: none">• "Roasted Areca Nuts"	<ul style="list-style-type: none">• Product falling under ITC (HS) Code 08028090 and 20081920 is revised from "Free" to "Prohibited".• However, import shall be free if the CIF Value is Rs. 351/- or above per Kilogram.• [Notification No. 02 /2025-26 dated April 2, 2025]
<ul style="list-style-type: none">• Synthetic Knitted Fabrics	<ul style="list-style-type: none">• Product under ITC (HS) Codes 60019200, 60053600, 60053790 and 60053900 is "Restricted".• However, import is 'Free' if CIF value is 3.5 US dollars and above per Kilogram. Further inputs imported by Advance Authorisation holders, Export Oriented Units (EOUs), and units in the SEZ shall be exempted from the MIP condition.

Amendments in Export Policy under FTP

- Export of essential items such as Eggs, Potatoes, Onions, Rice, Wheat Flour, Sugar, Dal, Stone Aggregate, and River Sand to the Republic of Maldives has been permitted under the bilateral trade agreement between the Governments of India and Maldives for the FY 2025-26, as per the specified quantities.
[DGFT Notification No. 1/2025-26 April 1, 2025]
- Para 2.20A inserted in the FTP to prohibit direct or indirect import or transit of all goods originating in or exported from Pakistan with immediate effect until further orders. [Notification No. 06/2025-26]
- Schedule-II (Export Policy), ITC (1-15) 2022 amended in sync with the Finance Act, 2025 [Notification No. 09/2025-26 dated May 19, 2025]
- DGFT removes, with immediate effect, port restrictions on the export of Finished Leather, Wet Blue Leather, and El Tanned Leather, and the requirement of drawl of samples for testing, testing and certification by the Central Leather Research Institute (CLRI) for export of such products.
[Notification No. 15/2025-26 dated May 26, 2025]
- Standard Input Output Norms (SION) for export of Di-Octyl Phthalate (DOP) (PVC Plasticizer), Di-Ethyl Phthalate have been amended with immediate effect. [Public Notice No. 6 and 7/2025-26 dated May 16, 2025]
- The DGFT has amended the regulatory framework governing Stock & Sale Authorisations for SCOMET items. A key revision is the expanded definition of a "Stockist," which now includes Indian or foreign Original Equipment Manufacturers (OEMs), Electronic Manufacturing Services (EMS) providers, and Contract Manufacturers (CMs), in addition to existing categories such as subsidiaries, parent entities, or affiliates of Indian exporters. This change has been incorporated through an amendment to Paragraph 10.10 of the Handbook of Procedures (HBP) via Public Notice No. 04/2025-2026 dated May 6, 2025.

**Import Policy for Precious Metals introduced**

The Import Policy of Precious Metals under Chapter 71 of ITC(HS) codes newly created under the Finance Act, 2025 dated 29.03.2025, is notified with immediate effect. [Notification No. 08/2025-26 dated May 19, 2025]

Duties imposed or extended by the Ministry of Finance on import of the following products:

Type of Duty	Product	Country/s	Customs Notification No. & Date	Range of duties
Anti-dumping duty	Glufosinate and its salt	China PR	Notification No. 09/2025- Customs (ADD) dated May 8, 2025	2998 USD/MT
Sunset review of the Anti-dumping duty	Sodium Citrate	China PR	Notification No. 10/2025- Customs (ADD) dated May 8, 2025	96.05-152.78 USD/MT
Anti-dumping duty	Textured Tempered Coated and Uncoated Glass	China PR and Vietnam	Notification No. 11/2025- Customs (ADD) dated May 8, 2025	570-664 USD/MT
Anti-dumping duty	Titanium dioxide	China PR	Notification No. 12/2025- Customs (ADD) dated May 10, 2025	460-681 USD/MT



Duties recommended by the Ministry of Commerce on following products:

Type of Duty	Product	Country/s	Final Findings Date	Range of duties
Countervailing Duty	'Continuous Cast Copper Wire Rods'	Indonesia, Malaysia, Thailand, and Vietnam	April 4, 2025	Nil to 10.27%
Sunset review of Anti-dumping	Aniline	China PR	April 22, 2025	36.9 to 121.79 USD/MT
Sunset review of Anti-dumping	"Black Toner in powder form"	China PR, Malaysia, and Taiwan	May 6, 2025	159-1568 USD/MT
Anti-dumping duty	Thiram in any form	European Union	May 15, 2025	733 USD/MT

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