INDIRECT TAX

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April 2026 / Issue – 178

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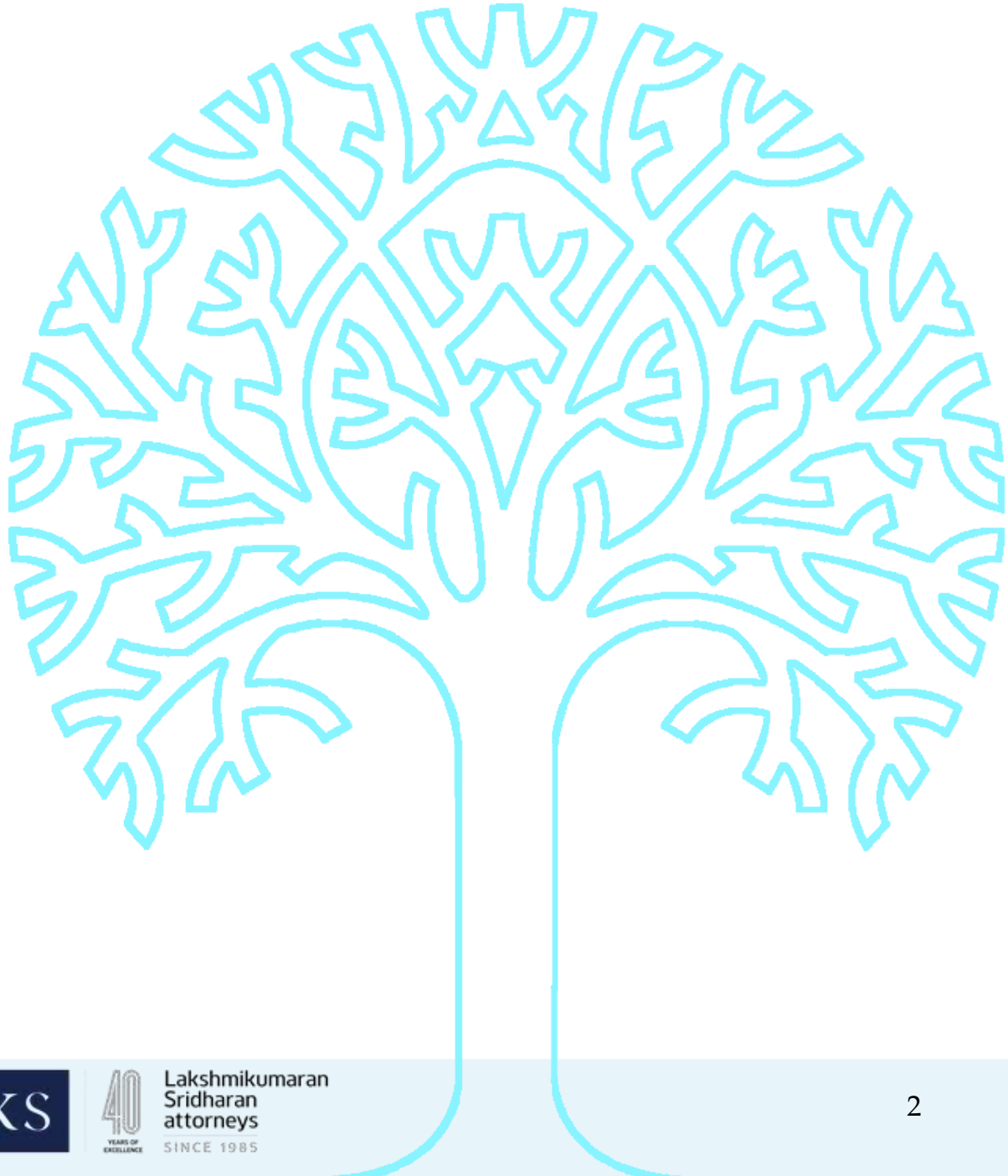

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Goods & Services Tax (GST)

Notifications and Circulars

- GSTAT Delhi State Bench commences operation
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Ratio decidendi

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- Import of goods – Jurisdiction to levy, assess and collect IGST vests only with Customs authorities – *Andhra Pradesh High Court*
- Personal hearing is mandatory even if 'no personal hearing' selected by assessee in reply – *Gujarat High Court*
- GSTAT – Online transfer of case mistakenly filed before Principal Bench to State Bench – Directions issued to Registry, GSTN and NIC teams – *GSTAT Principal Bench*

Notifications and Circulars

GSTAT Delhi State Bench commences operation

The Goods and Services Tax Appellate Tribunal (GSTAT) Delhi (State) Bench has become operational. As per Public Notice No. 01/2026, dated 2 April 2026 of the GSTAT Delhi Bench, the Tribunal is operational from its temporary address at 3rd and 4th Floor, Samrat hotel, Kautilya Marg, Chanakyapuri, New Delhi-110021. The Bench will exercise jurisdiction over all the districts in the Union Territory of NCT, New Delhi as notified by the Ministry of Finance, Department of Revenue Notification dated 26 November 2024.

GSTAT Chennai Bench commences operation

The Goods and Services Tax Appellate Tribunal (GSTAT) Chennai Bench has become operational. As per Public Notice No. 01/2026, dated 1 April 2026 of the GSTAT Chennai, the Tribunal is operational from its temporary address at 2nd Floor, Narmada Block, Customs House, 60, Rajaji Salai, Chennai-600001. The Bench will exercise jurisdiction over districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Cuddalore, Villupuram, Kallakurichi, Vellore, Thirupathur, Ranipet and Thiruvannamalai, in Tamil Nadu.

GSTAT Hyderabad Bench commences operation – Registrar Court functional from 20 April for rectification of defects

The Goods and Services Tax Appellate Tribunal (GSTAT) Hyderabad Bench has become operational. As per Notification dated 17 April 2026 [F.No. GSTAT/HYD/2026/2/Notifications] of the GSTAT Hyderabad, the Tribunal is operational from its temporary address at 3rd Floor, GST Bhawan, LB Stadium Road, Basheerbagh, Hyderabad, Telangana-500004. The Bench will exercise jurisdiction over the State of Telangana.

Further, as per the notification, Registrar Court will be functional from 20th of April for rectification of various defects. The notification in this regard observes that appeals are being filed with numerous defects in respect of basic procedural matters, particularly relating to court fees, documentation, etc. As per Rule 24 of the GSTAT Procedure Rules, the Registrar can allow time up to 30 days for rectification of defects raised in the defect notice.

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GSTAT Agra Bench commences operation

The Goods and Services Tax Appellate Tribunal (GSTAT) Agra Bench has become operational. As per Public Notice No. 01/2026, dated 6 April 2026 of the GSTAT Agra Bench, the Tribunal is operational from its temporary address at Quarter No. 3, Type IV, Vaishali Colony, Kar Kunj, Sikandara, Agra-282007. The Bench will exercise jurisdiction over 15 districts of Uttar Pradesh, i.e., Agra, Farrukhabad (FatehGarh), Auraiya, Kannauj, Mainpuri, Firozabad, Aligarh, Etah, Kasganj, Mathura, Hathras, Jhansi, Lalitpur, Jalaun, and Etawah.

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Ratio Decidendi

Detention and seizure during transit – State Proper Officer cannot discharge such functions under IGST Act where origin and culmination of sales is outside said State

The Andhra Pradesh High Court has held that a 'proper officer' appointed under the State GST Act and assigned the functions under Section 129 and/or 130 of the State GST Act, cannot discharge such functions under the IGST Act in relation to inter-state sales, which originate and culminate outside the State. Setting aside the proceedings initiated under said provisions against the assessee, the Court was of the view that it is open for the State officer to forward the discrepancies, if any, to the proper officer of the consignee and the proper officer of the consignor to take further action.

According to the Court, in the case of IGST, no part of the taxes is due to any intermediary State through which the goods pass and hence the intermediary State cannot levy and collect penalties or fines under Section 129 or 130. It may however be noted that according to the Court, if the consignment is not accompanied by necessary e-way bills, it would be open to the State Officer to presume that the consignment is an intra-state supply, unless that presumption is rebutted. [*Golden Traders* v. *Deputy Assistant Commissioner* – 2026 VIL 318 AP]

Detention during transit – Timelines under Section 129(3), for issuance of notice and passing of order, are directory and not mandatory; Proper Officer however to explain reasons for delay

The Allahabad High Court has held that the provisions of Section 129(3) of the CGST Act, providing for issuance of notice within 7 days and then passing of order within 7 days, are directory and not mandatory. The Court in this regard took note of the object of the provisions and the absence of any consequence provided under the Act if the timeline is not followed. Also, according to the Court, the fact that the unamended Section 129(3) did not provide for any time limitation, cannot be used to conclude that by indication of time under the amended law, the provision has been made mandatory.

The High Court was of the view that the object and purpose of the legislative action was to introduce efficiencies in quasi-judicial proceedings without introducing mandatory invalidity

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in such proceedings, by way of operation of law. The Court here however also added that any delay by the Department however needs to be explained to the appellate authority and the Court. The Allahabad High Court thus disagreed with the views taken by the Patna High Court, the Gujarat High Court and the Orissa High Court. [*Shiva Enterprises* v. *State of U.P. and another* – 2026 VIL 369 ALH]

ITC fraud – Cancellation of supplier's registration cannot solely be the basis for cancellation of buyer's registration

The Bombay High Court has held that cancellation of registration of the suppliers cannot solely by itself be the basis for the cancellation of the buyer's registration, unless the same is corroborated by tangible materials that the petitioner was a beneficiary of an established illegality *qua* the ITC benefit claimed by it. Remanding the case back to the Superintendent, the Court found substance in the submission of the assessee/buyer that the *bona fides* of the assessee were required to be independently examined and could not have been discarded solely on account of the suppliers' registration status. According to the Court, the Designated Officer is obliged to record the entire trail of any illegal involvement in a given case. [*Florida Solvent Private Limited* v. *Superintendent* – 2026 VIL 332 BOM]

ITC fraud – Alert notice of non-existence of supplier is not enough to deny ITC to buyer

The Orissa High Court has held that in each and every case where the supplier admits or defaults, it cannot be inferred that the recipient fraudulently, in order to evade tax, has availed the input tax credit against fake/bogus invoices. The Adjudicating Authority had before concluded that ITC was availed on bogus/fake invoices merely because the supplier was found to be non-existent as indicated in the Alert Notice of the DGGI.

However, according to the Court, in absence of any finding on non-existence of the supplier at the time of the transaction and without independent application of mind to the allegations/objections contained in the Alert Notice, the Adjudicating Authority could not proceed to exercise power under Section 74 of the CGST Act, 2017 under supposed premise that the recipient had also defrauded. The Court observed that Revenue had not brought on record any finding on absence of waybills while the Order-in-Original was also silent about the period since when the supplier was found to be non-existent. [*Manoja Kumar Nayak* v. *Commissioner* – 2026 VIL 339 ORI]

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Consolidated show cause notice for multiple financial years/tax periods – Bombay High Court refers issue to its Larger Bench

The Division Bench of the Bombay High Court has referred to the Larger Bench the question of issuance of consolidated show cause notices by the Revenue department for multiple financial years/tax periods. The DB here doubted the correctness of the decision of a coordinate Bench in *Milroc Good Earth Developers* v. *Union of India & Ors.*, wherein it was held that the proper officer lacks authority to club various financial years/tax periods, in issuing a single consolidated show cause notice under Section 73(1) & (3)/74(1) & (3) of CGST Act, 2017.

The High Court in this regard also raised the questions as to whether the operation of Section 73/74, sub-section (1) read with sub-section (3) is in any manner controlled by the provisions of sub-section (10), and whether the provisions of sub-section (10) of Section 73/74 *per se* prohibits the issuance of single consolidated show cause notice for multiple financial years/tax periods.

It may be noted that other than the decision in the *Milroc* case by Bombay High Court, similar views have also been taken in various decisions by the High Courts of Kerala, Madras, Karnataka and Andhra Pradesh. Contrary views have been taken by the Delhi High Court and Allahabad High Court. Appeal against one of the decisions of the Delhi High Court has also been dismissed by the Supreme Court. [*Rollmet LLP* v. *Union of India* – 2026 VIL 377 BOM]

Demand invoking Section 76 is not justified when tax is paid through another distinct person in same State

The Madras High Court has quashed a show cause notice issued under Section 76 of the CGST Act, 2017 wherein the Department had not considered the payment made by the assessee through the other registration in the same State.

The assessee had two verticals, one for trading and another for transmission. The trading vertical had bifurcated the transmission component embedded in the sale of gas and discharged GST under a separate registration pertaining to the transmission vertical, which raised invoices on the trading vertical. The former, in turn, while supplying gas to customers, recovered the said GST component through reimbursement, in addition to other charges. There was no discrepancy between the total tax collected from customers and the total tax remitted to the Government by the transmission vertical. The Revenue

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department had submitted that the trading and transmission verticals were distinct persons and that the transactions between the two thus could not be treated as internal transactions of the same entity.

Setting aside the SCN, the Court noted that the payment was not claimed through another distinct entity registered in another State, but through one in the same State. According to the Court, Department cannot justify invoking Section 76 despite honest and accurate payment, merely because the establishment is a distinct person in the same State. [*GAIL (India) Ltd.* v. *Additional Commissioner* – 2026 VIL 372 MAD]

Recovery of tax dues from Bank of assessee – Section 79 does not require issuance of notice to defaulting assessee

The Andhra Pradesh High Court has rejected the submission of the assessee that without issuing notice to it, asking him to remit the tax dues, the Department cannot initiate action under Section 79 of the APGST Act by directing the Bank to remit the tax dues of the assessee. The Court in this regard noted that Section 79 does not cast any impediment on the tax authorities to issue notice to the defaulting assessee.

According to the Court, therefore, there is no bar to recover the tax dues from any person from whom money is due or may become due, which is payable to the defaulting dealers.

Number of judgements of different High Courts, where such recovery notices under Section 79 were quashed by those Courts, were distinguished here by the Andhra Pradesh High Court while it noted that in those decisions the Department had issued notice under Section 79 without adjudicating the disputed tax, while in the present case the assessment order had attained finality. [*V.V.S. Enterprises* v. *State of Andhra Pradesh* – 2026 VIL 391 AP]

Import of goods – Jurisdiction to levy, assess and collect IGST vests only with Customs authorities

The Andhra Pradesh High Court has held that the jurisdiction to levy, assess and collect integrated tax (IGST) on goods imported for the purpose of supply in India would vest only with the customs authorities.

Setting aside the proceedings initiated by the GST department, the Court noted that as per Section 2(2) of the Customs Act, 1962, assessment under the Customs Act would also include the determination of taxes, etc., in relation to any other law, where such liability is to be determined with reference to the

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provisions of the Customs Tariff Act or under any notification issued under the Customs Act.

It was also noted that an officer under the State GST Act or the Central GST Act, who has been notified as the proper officer, situated in a State which is not the entry point of the goods into India, would not be able to exercise jurisdiction at the point of entry of goods. [*Avanti Feeds Limited* v. *Deputy Commissioner* – 2026 VIL 319 AP]

Personal hearing is mandatory even if 'no personal hearing' selected by assessee in reply

The Gujarat High Court has held that option of 'no personal hearing' taken by the assessee, cannot override the effect of mandate given by the statutory provision in Section 75(4) of the CGST Act. According to the Court, it was incumbent upon the authority to follow the mandate of Section 75(4) and grant three opportunities of personal hearing before passing any adverse orders. The petitioner/assessee had filed the reply in Form DRC-06 and had selected 'NO' in the box for personal hearing. [*Komal Jayeshbhai Hemavat* v. *State Tax Officer* – 2026 VIL 360 GUJ]

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GSTAT – Online transfer of case mistakenly filed before Principal Bench to State Bench – Directions issued to Registry, GSTN and NIC teams

In a case where the Appellant had committed an error while submitting APL-05 in Row No. 7, indicating that the appeal involves question over which only Principal Bench had jurisdiction, the GSTAT Principal Bench at New Delhi has directed the Registry to take appropriate step to effect online transfer of this case to the Delhi State Bench.

The Appellate Tribunal also in this regard directed that steps should be taken by the Registry in tandem with the technical teams of GSTN and NIC for seamless transfer. The Tribunal also stated that, otherwise, the Registry as well as GSTN and NIC teams shall be considered to be obstructing the process of Justice. [*Manobendra Ghoshal* v. *Additional Commissioner* – 2026 VIL 13 GSTAT DEL PB]

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Customs and FTP

Notifications and Circulars

- RoDTEP and RoSCTL – Specified benefits in line with Drawback made available
- SEZ supplies to DTA – Concessional customs duty notified for one year
- Re-exports from DTA to SEZ – Drawback available
- Petrochemicals – Customs duties reduced till June 2026
- E-commerce – Ease of doing exports through courier mode

Ratio decidendi

- Extra-territorial applicability of Customs Act – Amendment made in 2018 is not retrospective and is only for a limited extent – *Bombay High Court*
- RoDTEP – Goods not totally 'restricted' if appropriate quota allows export subject to certain approval – *Bombay High Court*
- Customs department cannot redetermine FOB value of exports to curtail Drawback and MEIS benefit – *CESTAT New Delhi*
- Import at concessional rate of duty for specific purpose – Non-compliance with IGCR Rules when is not fatal – *CESTAT Chennai*
- Provisional release of goods imported without import authorization and required registration with BIS – Such goods not prohibited per see but only deemed prohibited – *CESTAT Chandigarh*

Notifications and Circulars

RoDTEP and RoSCTL – Specified benefits in line with Drawback made available

The Central Board of Indirect Taxes and Customs (CBIC) has clarified that as in case of Drawback scheme, full remission or rebate under RoDTEP and RoSCTL schemes, respectively, is also available on the FOB value ***without deducting the agency commission or the Bank charges***. The Circular No. 20/2026-Cus., dated 10 April 2026 takes note of earlier Circulars Nos. 64/2003-Cus. And 33/2019-Cus., which clarified that drawback is available on full FOB value if the deductions (agency commission and Bank charges) fell within the overall limit of 12.5% of the FOB value. It is stated that similar treatment will be appliable for exports under RoDTEP and RoSCTL.

The Circular also clarifies that in case of short realisation of export proceeds, the benefit under both the schemes (RoDTEP and RoSCTL) should not be recovered subject to conditions. It, in this regard, notes that ***compensation of short realisation of export proceeds from the Export Credit Guarantee Corporation (ECGC) may be treated as receipt of sale proceeds***. Further, RBI has to write-off the requirement of realisation of sale proceeds on merits while the exporter has also to produce from the concerned Foreign Mission of India about non-recovery.

Also, as per CBIC Instruction No. 5/2026-Cus., dated 23 April 2026, the CBIC has desired that ***time-limit of 3 days***, as being followed for crediting of Drawback, should also be complied for generation of RoDTEP and RoSCTL scrolls.

SEZ supplies to DTA – Concessional customs duty notified for one year

In keeping up with the Union Budget Speech of the Finance Minister this year, the Department of Revenue in the Ministry of Finance has notified Notification No. 11/2026-Customs dated 31 March 2026 that grants a concessional rate of Basic Customs Duty ('**BCD**') and Agriculture Infrastructure and Development Cess ('**AIDC**') to specified goods when manufactured in SEZ and cleared to DTA, subject to fulfilment of the prescribed conditions.

The concessional rate of duty is effective from 1 April 2026 and will remain in effect for one year, i.e., till 31 March 2027. According to the notification, the goods manufactured in SEZ must have undergone a minimum value addition of 20%, with

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certain limits on such clearances based on value of exports. It may be noted that the benefits of this notification are not available to units established in a Free Trade and Warehousing Zone ('**FTWZ**') and goods which, after being imported into a SEZ, are removed to the DTA either as such or after use, without undergoing any manufacturing. Further, as per CBIC Circular No. 18/2026-Cus., dated 1 April 2026, assessment of Bill of Entry filed for goods manufactured by SEZ units and cleared to DTA under the notification will be done under faceless assessment. ***A detailed Update on the notification, along with comments from the LKS Customs Team, is available here.***

Re-exports from DTA to SEZ – Drawback available

The CBIC has issued Instruction No. 6/2026-Cus., dated 27 April 2026 to clarify the question of availability of Drawback on re-export of duty paid goods earlier supplied by SEZ to DTA. It has been clarified that in cases where goods are cleared into DTA from SEZ unit on payment of applicable duties and are re-exported thereafter are to be treated as 'imported goods' for the purposes of disbursement of duty drawback under Section 74 of the Customs Act, 1962. It, in this regard, noted that movement of goods from an SEZ into the DTA may be construed as an 'import'.

Petrochemicals – Customs duties reduced till June 2026

The Finance Ministry has announced a 'nil' rate of BCD for some 40 petrochemical products, effective from 2 April 2026 till 30 June 2026. Additionally, AIDC has also been removed on imports of Ammonium Nitrate during the same period. Notifications Nos. 12 and 13/2026-Cus., both dated 1 April 2026, have been issued for the purpose.

E-commerce – Ease of doing exports through courier mode

The CBIC has removed the value-limit fixed for commercial export consignments though courier mode and eased the process of re-import of returned and rejected goods in courier mode. Similarly, the Board has also allowed the Return-to-Origin (RTO) for uncleared/ unclaimed goods imported in courier mode. Circular No. 17/2026-Cus., dated 31 March 2026, issued for this purpose, states the following.

Value limit revision

Value cap of INR 10 lakhs for export consignments through courier mode has been removed. It has also been clarified that the removal of the value-limit will also apply to non-E-

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commerce commercial goods exported through courier mode. Courier Imports and Exports (Electronic Declaration and Processing) Regulations 2010 and Courier Imports and Exports (Clearance) Regulations 1998 have been amended for this purpose.

Procedure simplified for re-import of returned and rejected goods in courier mode

The CBIC has amended Notification No. 45/2017-Cus. and also, the Courier Bill of Entry XIV (CBE XIV) to bring in the risk-based approach for verification of re-imports due to returns and rejects of goods earlier exported through courier mode. Further, a separate 'Return Module' has been developed in the ECCS to cater to the needs of Courier including E-Commerce returns and rejects.

Return-to-origin of uncleared goods imported through courier mode

CBIC has also prescribed a simplified procedure for Return to Origin (RTO) for those imported goods which are lying in the ICTs uncleared/ unclaimed for more than 15 days and are not prohibited or restricted or intercepted by any enforcement agency.

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Ratio Decidendi

Extra-territorial applicability of Customs Act – Amendment made in 2018 is not retrospective and is only for a limited extent

The Bombay High Court has held that amendment to Section 1 of the Customs Act, 1962 made on 29 March 2018, making Customs Act applicable for any offence or contravention thereunder committed outside India, is not retrospectively applicable. According to the Court, the extraterritorial applicability of the Customs Act was introduced by way of the amendment only post 2018 and to a limited extent, i.e., specifically in cases where there is a contravention or any offence which is committed outside India by any person.

It was noted that the Department had not established that the petitioner/foreign exporter could be held liable on the issue of any purported mis-declaration by the importer. It was, in this regard, noted that the liability *qua* the goods on their arrival at the Indian port, would be totally of the importer and the foreign exporter cannot be made liable for the violation in respect thereof.

It may also be noted that the Court here also noted the absence of the ingredients mentioned in Sections 112 and 114AA of the Customs Act for imposition of penalty on the foreign exporter. [*Karl Mayer Stoll Textilmaschinenfabrik GMBH* v. *Union of India* – 2026 VIL 358 BOM CU]

RoDTEP – Goods not totally 'restricted' if appropriate quota allows export subject to certain approval

The Bombay High Court has reiterated that benefit of RoDTEP would be available on export of white refined sugar at a time when export of sugar was restricted. The Department had denied the benefit relying upon Notification No. 10/2015-20, dated 24 May 2022 which stated the Export Policy of sugar as 'restricted', but permitted export of restricted sugar under specific permission from Directorate of Sugar, Department of Food and Public Distribution. Admittedly, RoDTEP benefit is not available on export of restricted goods.

Allowing the benefit, the Court observed that sugar could not be considered to be a totally restricted/prohibited item for

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export at the material time so as to deprive the benefit of RoDTEP, as the notification permitted export of appropriate quota as may be approved by the Directorate of Sugar.

According to the Tribunal, in such circumstances, benefits of the scheme cannot be denied to the exporters, who acted upon the scheme and undertook exports which are conducive to national interest. Gujarat High Court's decisions in the cases *Shree Renuka Sugars Ltd.* and *Satyendra Packaging Ltd.*, were also relied upon. [*Rika Global Impex Limited* v. *Union of India* – TS 98 HC 2026 (BOM)]

Customs department cannot redetermine FOB value of exports to curtail Drawback and MEIS benefit

Noting that Customs or DRI officer cannot modify the FOB value of the export goods, except for determination of value for charging export duty, the CESTAT New Delhi has set aside the order of the Additional Commissioner as upheld by the Commissioner (Appeals). The Department here had alleged that the export goods were overvalued, based on certificate of Chartered Engineer (with a completely different background), and had thus curtailed the benefits under Drawback scheme and those under the Merchandise Export from India Scheme (MEIS). Allowing the exporter's appeal, the Tribunal observed the following:

- Neither the tariff value nor the value determined by the proper officer can alter the transaction value between the buyer and seller.
- Drawback, MEIS and other incentive schemes are given as a percentage of FOB value and *not* as per the value determined by the proper officer.
- These export incentive schemes come with an obligation to obtain remittance of FOB amount; value determined by the proper officer is not material.
- No power has been conferred on the Customs officers under the Customs Act, Foreign Trade (Development and Regulation) Act and the Foreign Trade Policy (FTP) to order restriction of export benefits/incentives.

It may be noted that the Tribunal here also rejected the redetermination of the value, based on a certificate from Chartered Engineer, while it observed that Fair Value or estimated FOB values do not find any place either in the Export Valuation Rules or under Section 14 of the Customs Act. Confiscation of goods and consequential penalty were also set aside here. [*Standard Cartons Private Limited* v. *Commissioner* – 2026 VIL 601 CESTAT DEL CU]

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Import at concessional rate of duty for specific purpose – Non-compliance with IGCR Rules when is not fatal

The CESTAT Chennai has held that compliance with Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, is a procedural requirement which cannot deny the importer the benefit of Notification No. 50/2017-Cus. (Sl. Nos. 413, 414), if they can establish that the imported goods were used only for the specified intended purposes.

According to the Tribunal, the importer should not be denied the benefit for procedural lapse despite complying with a substantive requirement, which was the intended use, as certified by various end-use certificates. It was also noted that despite change in procedure from 1 February 2021, requiring the importer to execute bonds before the customs officers at places of use of the imported goods, the customs officers at the port of import continued to accept the same as per the old procedure unaware of the changes.

The Tribunal for this purpose also distinguished various decisions as relied upon by the Department while it observed that in all those cases, the basic question was whether the goods were entitled to the benefit of exemption or not whereas here (in the present case) the imported goods qualified for exemption in view of fulfilment of Conditions 53 or 54, as the case may be. [*Bharat Heavy Electricals Ltd.* v. *Commissioner* – 2026 VIL 631 CESTAT CHE CU]

Provisional release of goods imported without import authorization and required registration with BIS – Such goods not prohibited *per see* but only deemed prohibited

In a case where the importer did not have an import authorization issued by DGFT and the required registration with the Bureau of Indian Standards, the CESTAT Chandigarh has allowed provisional release of goods, second-hand digital multi-function print and copying machines. The Department has submitted that in the absence of authorization and registration, the goods should be deemed as 'prohibited goods' and thus not eligible for provisional release. Allowing the appeal, the Tribunal observed the following:

- Relevance of provisional release and imposition of redemption fine becomes questionable in case of a constricted view.

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- Goods not prohibited *per se* but have become prohibited by the deeming provision as per Section 2(33) of the Customs Act.
- Only allegation that goods prohibited; no competent authority had passed order confirming the same to be prohibited goods.

The goods were thus allowed provisional release subject to submission of bond and bank guarantee. [*Global Copier System* v. *Commissioner* – 2026 VIL 641 CESTAT CHD CU]

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Central Excise, Service Tax and VAT

Ratio decidendi

- Sabka Vishwas (Legacy Dispute Resolution) Scheme – Unilateral rectification of Form SVLDRS-3 by the Department to enhance demand is wrong – *Supreme Court*
- 'Earthen roofing tiles' are covered under 'pottery' – Exemption to certain products manufactured by units approved by Khadi Board to be interpreted purposively – *Kerala High Court*
- Conversion of waste PET bottles into PET flakes is not 'manufacture' – *CESTAT Chennai*
- Cenvat credit – Proportionate reversal on common inputs – Formula prescribed from 1 April 2011 can be used for the period before April 2011 – *CESTAT Chandigarh*

Ratio Decidendi

Sabka Vishwas (Legacy Dispute Resolution) Scheme – Unilateral rectification of Form SVLDRS-3 by the Department to enhance demand is wrong

The Supreme Court has set aside the demand made by a revised Form SVLDRS-3 after some 40 days of initial issuance of the said Form with lower demand which was paid by the assessee. The assessee had submitted that the revised Form was issued without issuance of any notice or any hearing opportunity.

Setting aside the High Court decision, the Apex Court observed that instead of unilaterally and behind the back of the assessee, raising the demand by issuance of a fresh Form No.SVLDRS-3, the designated committee could have issued a show cause notice or reissued Form No.SVLDRS-2 so that on receipt of the same, the assessee could have responded to the same and a fresh Form No.SVLDRS-3 could have been thereafter issued. [*Dinesh Kalway* v. *Union of India* – TS 106 SC 2026 NT]

'Earthen roofing tiles' are covered under 'pottery' – Exemption to certain products manufactured by units approved by Khadi Board to be interpreted purposively

Considering the purposive interpretation of Entry 55 of the First Schedule to the Kerala VAT Act and the larger social perspective and requirements that are statutorily designed to be achieved under the Act, the Kerala High Court has allowed benefit of said Entry to earthen roofing tiles, holding them as covered under 'pottery'.

Entry 55 covered specified products that were manufactured by units approved by the Khadi Board, while Entry 18 of the Third Schedule applied to every manufacturer of an article that fell within its definitions and meanings. The Department had contended that the goods were covered under Entry 18 as 'kiln-burnt flooring, roofing and earthen tiles.'

Relying on various Court decisions and dictionary meaning of 'pottery', the Court was of the view that the word 'pottery', particularly when it is used in the contextual ambit of Entry No.55 of the First Schedule of the 'KVAT Act'; and when it

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relates to manufacturing units governed, financed and controlled by the 'Boards' under the 'Khadi Act', accepts into its fold all articles 'made of clay and hardened by heat'. [*Annamanada Kalimon Vyavasaya, Sahakarana Sangham Ltd.* v. *State of Kerala* – 2026 VIL 302 KER]

Conversion of waste PET bottles into PET flakes is not 'manufacture'

The CESTAT Chennai has held that conversion of waste Polyethylene Terephthalate ('**PET**') bottles into PET flakes does not amount to 'manufacture' as per Section 2(f) of the Central Excise Act, 1944. The assessee was undertaking the process wherein, first, from the used PET bottles/waste PET bottles, non-PET materials such as PVC, aluminium, paper, iron & stone were sorted out and then the bottles were crushed into smaller pieces called flakes. The crushed flakes were then washed to remove sand and dirt and then dried, packed and cleared from the factory.

Considering various case law on 'manufacture', the Tribunal agreed with the submission of the assessee that the final product, i.e. PET Flakes, was still in PET form only since the input goods were reduced to flake form and there was neither emergence of a new product nor the raw material in PET form ceased to exist.

Setting aside the impugned order, the Tribunal also observed that the Commissioner committed an error in holding that merely because the final product is known as 'paring of PET Bottles', which is the same as PET flakes, 'manufacture' had taken place. Commissioner's reliance on Wikipedia to hold that chemical changes/characteristics had changed, was also found to be wrong by the Tribunal while it noted that the Supreme Court had earlier held that Wikipedia cannot be utilized for legal dispute resolution. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Shree Renga Polymers* v. *Commissioner* – 2026 VIL 636 CESTAT CHE CE]

Cenvat credit – Proportionate reversal on common inputs – Formula prescribed from 1 April 2011 can be used for the period before April 2011

The CESTAT Chandigarh has held that the Revenue Department should not object to applying the prescribed formula for proportionate reversal of credit on common inputs even for periods prior to April 2011, although the formula was notified only with effect from 1 April 2011. According to the

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Tribunal, as there was no formula prescribed for the period concerned, the assessee had rightly followed the formula which turned out to be in accordance with the formula or ratio introduced with effect from 1 April 2011. The Tribunal in this regard observed that the adjudicating authority proceeded to hold that the formula adopted was incorrect while not bothering to verify whether proportionate reversal was made by the assessee as envisaged in the provisions. [*TSI Yatra Pvt. Ltd.* v. *Commissioner* – 2026 VIL 572 CESTAT CHD ST]

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