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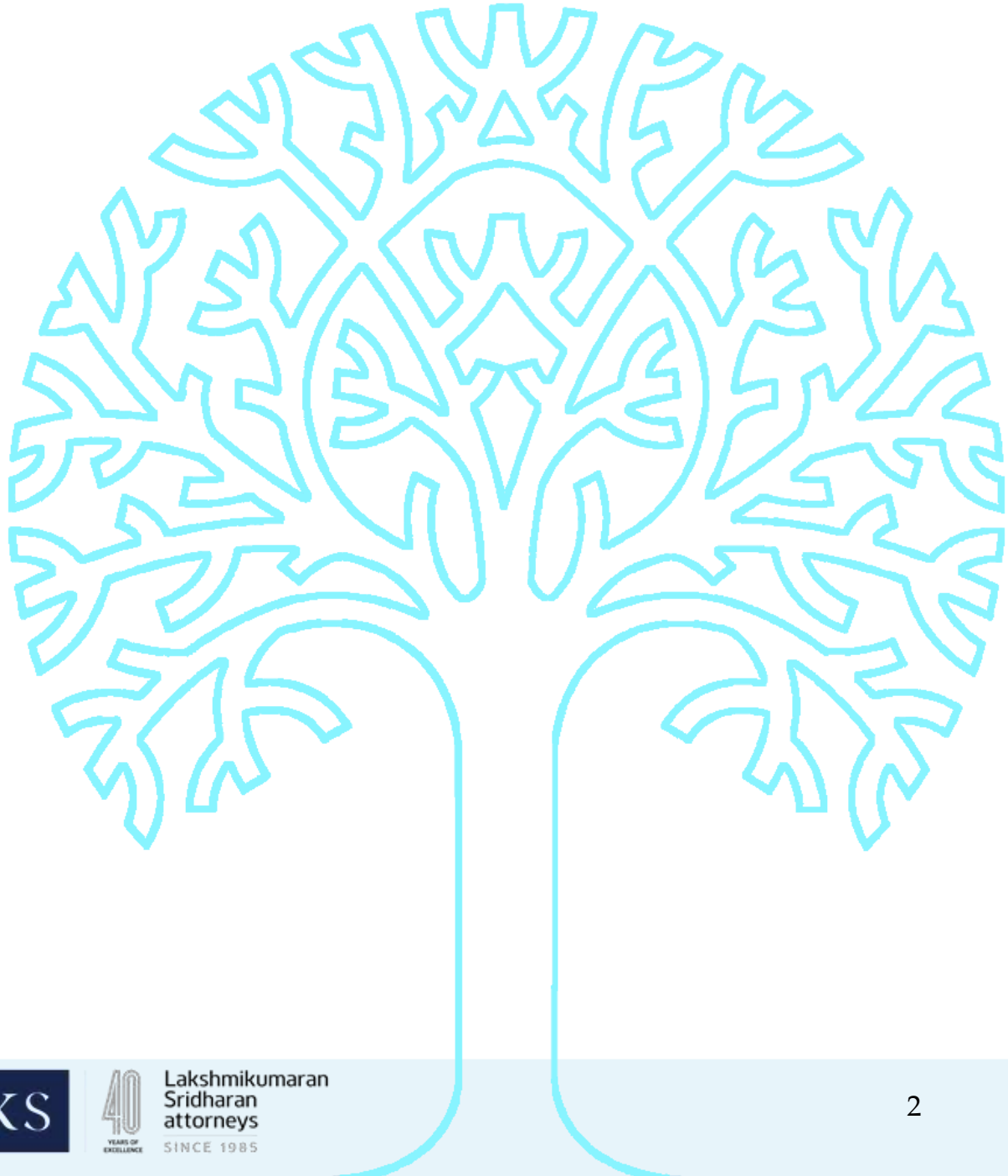

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Articles

Verification first, SCN later: Re centring FTA origin checks

Availing GST credit using TR-6 Challan: Navigating the uncertainty

Verification first, SCN later: Re centring FTA origin checks

By Disha Bhandari and Siddhant Indrajit

Customs authorities are increasingly issuing show cause notices to the importers, disputing claims under FTAs, even when Certificates of Origin ('**COO**') have been issued by the designated authority of the exporting country. However, recent judicial interventions reaffirm a simple proposition - once a COO exists, the authorities must first invoke the verification architecture of the FTA, as mirrored in Section 28DA of the Customs Act, 1962 and CAROTAR, 2020, before proceeding against the importer. The first article surveys the treaty text, the domestic legal framework and the emerging case law, and argues for rigorous adherence to the verification-first sequence. According to the authors, from the Department's perspective, a dedicated regulatory framework, similar to Pre-Notice Consultation Regulations, is needed to standardize FTA verification procedures. They also raise few relevant questions which seek clarity.

Read more

Availing GST credit using TR-6 Challan: Navigating the uncertainty

By Asish Philip, Srinidhi Ganeshan, Mahi Vyas, Kratik Patni

The second article in this issue of Indirect Tax Amicus discusses the issue as to whether the TR-6 Challan qualifies as a 'similar document prescribed' under Rule 36(1)(d) of the CGST Rules, 2017 for the purpose of availing Input Tax Credit. Discussing various case law, the authors point out that the mere absence of the expression 'TR-6 Challan' in Rule 36 and the Circular No. 16/2023-Cus., dated 7 June 2023 mentioning that TR-6 Challan is not a valid document for availing ITC, should not lead to disallowance of an otherwise legal and valid claim. The authors suggest that the GST council should issue a clarification in order to achieve ease of doing business.

Read more

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Goods & Services Tax (GST)

Notifications and Circulars

- Budget 2026-27 – Changes proposed in CGST and IGST Acts

Ratio decidendi

- Transition of cesses to GST regime – Supreme Court issues notice to Department – *Supreme Court*
- Transfer of ITC in case of amalgamation of companies situated in 2 different States is permissible – Something not present in the statute cannot be incorporated in Form – *Gujarat High Court*
- ISD – 'Distribution in a month' in Rule 39(1)(a) to mean distribution in the month when the registered person becomes entitled to ITC in terms of Section 16(2) – *Madras High Court*
- Notice under Section 74 is not vitiated just for alleged infirmities in action under Section 67 (search, etc.) – *Karnataka High Court*
- Transfer of incriminating material collected during enquiry by an officer in another jurisdiction to the competent officer is not wrong – *Karnataka High Court*
- Blocking of input tax credit ledger – Rule 86A cannot be invoked against assessee for alleged fraudulent availment of ITC by its customer – *Karnataka High Court*
- Limitation of 2 years for refund under Section 54 is mandatory – Word 'may' cannot always be construed directory – High Court can however condone delay exercising power under Article 226 – *Karnataka High Court*
- Quantum of pre-deposit in second appeal before Tribunal when demand reduced by first appellate authority – *Jharkhand High Court*
- Exemption on supplies to merchant exporter – Benefit not available if goods supplied to third person for further supply to merchant exporter – *Karnataka High Court*
- Legal heir of deceased assessee to be mandatorily heard before passing assessment order – *Rajasthan High Court*
- Exemption for sale of unbranded goods – Use of graphic representation identical to that used for branded goods when not fatal – *Madras High Court*

Notifications and Circulars

GSTAT Lucknow Bench commences operation

The Lucknow Bench of the Goods and Services Tax Appellate Tribunal ('GSTAT') has commenced its operation. The Bench will exercise its jurisdiction over various districts of Uttar Pradesh as notified by the Revenue Department by its Notification dated 26 November 2024, and will hear appeals filed under the provisions of the CGST Act and the concerned Uttar Pradesh GST Act, as applicable. As per Public Notice No. 1/2026, dated 30 March 2026 issued by the GSTAT Lucknow, henceforth, all appeals, applications, and proceedings pertaining to the specified jurisdiction shall be instituted before the Lucknow Bench. *The 2024 Notification, relating to the district-wise jurisdiction, and the recent Public Notice are available in LKS microsite dedicated to GSTAT, **here**.*

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Ratio Decidendi

Transition of cesses to GST regime – Supreme Court issues notice to Department

The Supreme Court has, on 20 March 2026, issued notice to the Revenue department in a Special Leave Petition filed by the assessee against the Madras High Court decision dated 15 September 2025. The High Court had dismissed the assessee's petition seeking to quash Para No.2(iv) of Notification 15/2017-Central Tax which amended Rule 117 of the CGST Rules, 2017. The assessee had alleged that the amended Rule was contrary to Section 140 of the CGST Act, 2017. The High Court had dismissed the petition relying upon another decision by the Division Bench involving the same assessee. The Division Bench had before held that the assessee was not entitled to carry forward and set off of unutilised Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess against the GST output liability. ***The assessee is represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Sutherland Global Services Private Limited* v. *Assistant Commissioner* – Order dated 20 March 2026 in Petition(s) for Special Leave to Appeal (C) No(s). 9085-9088/2026, Supreme Court]

Transfer of ITC in case of amalgamation of companies situated in 2 different States is permissible – Something not present in the statute cannot be incorporated in Form

The Gujarat High Court has reiterated that transfer of Input Tax Credit (ITC) is permissible in case of amalgamation of two companies situated in two different States of India. The Revenue department had earlier made an endorsement in Form ITC-02 denying the transfer of ITC on the ground that both the companies / entities should be of the same State / Union Territory.

The Court noted that such incorporation was made in the statutory form itself without referring to any provisions under which the same was passed. According to the Court, the reasons assigned in the statutory form should be separate, clearly demarcating the opinion of the Department and should not be embossed on the statutory form, as the form issued under Rule 41 of the CGST Rules does not contain any column for specifying or recording of the opinion of the concerned officer assigning his/her reason for not accepting the statutory form.

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Relying upon a recent Bombay High Court decision in *Umicore Autocat India (P) Ltd.*, the Court noted that Section 18(3) of the CGST Act, 2017 read with Rule 41 neither prohibits nor debars transfer of the ITC after the scheme of amalgamation has been approved by the NCLT, if the transferee and the transferor company are located in different States. It was held that the Department cannot incorporate something in a statutory form ITC-02 on GST Portal which is absent in the statutory provisions. [*Emerson Process Management (India) Pvt. Ltd.* v. *Union of India* – Judgement dated 5 March 2026 in R/Special Civil Application No. 7006 of 2024, Gujarat High Court]

ISD – 'Distribution in a month' in Rule 39(1)(a) to mean distribution in the month when the registered person becomes entitled to ITC in terms of Section 16(2)

The Madras High Court has rejected the submission of the Revenue department that for distribution of Input Tax Credit under ISD mechanism, only the date of issuance of invoice is relevant. According to the Court, use of the expression '*distribution of credit shall be upon receipt of invoices*' does not mean that distribution must take place even before the registered person is entitled to Input Tax Credit under Section 16(2) of the CGST Act, 2017.

Deciding the question as to whether Rule 39(1)(a) of the CGST Rules, stating the requirement of distribution of credit in the same month of receipt of invoice, is violative of Article 14 of the Constitution, and is *ultra vires* Section 20 of the CGST Act, 2017, the High Court observed the following:

- What is available for distribution is not the tax invoice, but the ITC.
- Distribution is triggered only upon fulfillment of conditions incorporated in Section 16(2).
- Amount of credit entitled to be distributed is not the amount mentioned in the invoice, but the amount of credit which is eligible as per Section 16(2).
- Mere possession of tax invoice, by itself, is not sufficient.
- Expression '*the input tax credit available for distribution in a month*' contained in Rule 39(1)(a) must be interpreted in a manner consistent with Section 16 read with Section 20.
- Said expression would only mean ITC available for distribution in a month upon fulfillment of the conditions incorporated in Section 16(2).
- Requirement of distribution thus shall be in the month in which the registered person becomes entitled to ITC in terms of Section 16(2).

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- Not a case where Rule 39(1)(a) is required to be declared *ultra vires* the enabling Act.

[*Reliance Jio Infocomm Ltd.* v. *Union of India* – TS 137 HC MAD 2026 GST]

1) Notice under Section 74 is not vitiated just for alleged infirmities in action under Section 67 (search, etc.)

2) Transfer of incriminating material collected during enquiry by an officer in another jurisdiction to the competent officer is not wrong

Observing that the initiation of proceedings under Section 74 is not necessarily dependent upon an action under Section 67 of the CGST Act, the Division Bench of the Karnataka High Court has opined against the submission that Section 74 is conditional upon the outcome of proceedings under Section 67. Setting aside the Single Bench decision which had held to the contrary, the DB thus rejected the contention that the show cause notice under Section 74 is vitiated solely on account of the alleged infirmities in the action under Section 67.

The assessee had contended that since the inspection, search and seizure under Section 67 were contrary to the mandate of Sections 100 and 165 of the Criminal Procedure Code and were therefore illegal, the documents seized, the evidence gathered and the statements recorded in the course of such alleged illegal action cannot be relied upon/ utilized in proceedings under Section 74. The High Court noted that neither Section 67 nor Section 74 of the CGST Act contains any express bar to the use of material gathered during alleged illegal search and seizure proceedings. Supreme Court's decision in *Pooran Mal*, rendered while interpreting Section 132 of the Income-tax Act, 1961, was relied upon for the purpose.

Also, the High Court held that if the proper officer issuing the summons does not have jurisdiction to initiate adjudicatory proceedings against an assessee, no fault can be found with such officer in transferring the material collected during the enquiry to the competent proper officer for initiation of proceedings and adjudication. It was noted that it is not practicable and legally permissible to confine proceedings under Section 74 solely to the materials collected by the proper officer within his territorial jurisdiction. [*Additional Commissioner* v. *Vigneshwara Transport Company* – 2026 (3) TMI 900 Karnataka HC]

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Blocking of input tax credit ledger – Rule 86A cannot be invoked against assessee for alleged fraudulent availment of ITC by its customer

The Karnataka High Court has held that Rule 86A of the CGST Rules, 2017 cannot be invoked against the assessee/supplier for alleged fraudulent or wrongful availment of Input Tax Credit by its customers. Prevention of utilization of credit under the said Rule alleging that the assessee had issued invoices without underlying supply of goods on the basis of which ITC was availed by the recipient of supply (customer), was thus found to be not proper. The Electronic Credit Ledger was thus directed to be unblocked. [*Sri Padmavathi Marketing* v. *Assistant Commissioner* – 2026 VIL 272 KAR]

Limitation of 2 years for refund under Section 54 is mandatory – Word 'may' cannot always be construed directory – High Court can however condone delay exercising power under Article 226

The Division Bench of the Karnataka High Court has held that limitation of 2 years for refund of tax under Section 54 of the CGST Act, 2017 is not directory but mandatory. Absence of any enabling power either to condone the delay or to treat the period as directory was noted by the Court here. According to the Court, mere presence of the word 'may' cannot always be construed as directory, as the expression must take its colour as either directory or mandatory depending upon the context in which it is used. It was, in this regard, also noted that the mandatory nature of the limitation period bears relevance to the periods of three years and five years contemplated under Sections 73 and 74, respectively, to allow the Department to take appropriate remedial action if situation contemplates action under Section 73 or 74.

On the facts of the case where the assessee had first deposited IGST and then for the same transaction paid CGST and SGST, the Court noted that Section 77 mandates the refund of taxes paid in such circumstances, though the proviso does not provide any mechanism to redress grievances. Observing that if no remedy is made available in such circumstances, the provision may operate with undue harshness and arbitrariness, the Court held that merely because Section 54 is mandatory, the jurisdiction vested in the Court under Article 226 is not excluded.

Accordingly, it was declared that where an application for refund is not filed within the period prescribed under Section 54, the person claiming refund may invoke the writ jurisdiction

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of the Court under Article 226 of the Constitution of India, as also because no tax can be levied or collected except by authority of law as mandated under Article 265. However, the Court also observed that when the delay is condoned by the Court, the proper officer must also be enabled to invoke such other provisions, as would have been available had the refund claim been filed within time. [*Assistant Commissioner* v. *Merck Life Science Private Limited* – 2026 (3) TMI 1200 Karnataka HC]

Quantum of pre-deposit in second appeal before Tribunal when demand reduced by first appellate authority

The Jharkhand High Court has agreed with the view that since pre-deposit made at the first appellate stage was higher than that required for filing appeal before the Tribunal (second appellate stage), as the demand was reduced substantially by the Appellate Authority at the first stage, the assessee is not required to deposit anything more. The assessee was also allowed to file appeal before the Appellate Tribunal in physical format. Tribunal was directed to accept the appeal without insisting on any fresh pre-deposit. [*Ashirwad Food Industries* v. *Union of India* – 2026 VIL 218 JHR]

Exemption on supplies to merchant exporter – Benefit not available if goods supplied to third person for further supply to merchant exporter

The Karnataka High Court has upheld the rejection of benefit of Notification No. 41/2017-IT (Rate) in a case where drums were supplied to a chemical manufacturer who used them for packing its product for further supply to a merchant exporter for export. The supply of goods was made to the premises of the chemical manufacturer at the instance of the registered recipient, namely, the merchant exporter. The Court, for this purpose, noted that neither placement of the order nor supply of goods to any person other than the registered recipient is contemplated in the notification so as to avail the benefit thereunder. Relying upon precedents, the Court also observed that an exemption notification must be construed strictly and that in the event of any ambiguity in a notification, the benefit thereof must enure to the Revenue and not to the assessee. [*Time Technoplast Ltd.* v. *Union of India* – 2026 (3) TMI 899 Karnataka HC]

Legal heir of deceased assessee to be mandatorily heard before passing assessment order

The Rajasthan High Court has held that assessment proceedings initiated and to be enforced against the legal

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heirs/representatives of the deceased assessee would be vitiated in absence of compliance of provisions contained in Section 75(4) and (6) of the CGST Act, 2017. According to sub-section 75(4), an opportunity of hearing must be granted where a request is received in writing from the person chargeable with tax or penalty. The Department was directed to issue an independent notice to the legal heir prior to the passing of the assessment order. [*Shri Hitesh Patel* v. *State of Rajasthan* – 2026 VIL 220 RAJ]

Exemption for sale of unbranded goods – Use of graphic representation identical to that used for branded goods when not fatal

The Madras High Court has allowed benefit of Serial Nos. 73 and 74 of Notification No.2/2017- Central Tax (Rate) to the assessee, for sale of unbranded goods, in a case where the unit containers used for the sale of unbranded goods contained graphic pictorial representations which were common to the containers used for branded goods. The Court though observed that the graphic representation used on the packaging material i.e., the unit containers, qualified as a 'Brand Name', as per the definition of the same under Notification No. 2/2017-Central Tax (Rate), but the benefit was available since the assessee had filed an affidavit declaring that it was voluntarily foregoing its actionable claim or enforceable right over such brand name. Allowing the petition, the Court also noted that the affidavit was subsequently returned by the Department stating that since the assessee was not using the 'Brand Name' therefore there was no necessity for it to forego any right thereon. [*Narasus Saarathy Enterprises Private Limited* v. *Additional Commissioner* – 2026 VIL 299 MAD]

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Customs and FTP

Notifications and Circulars

- Customs Electronic Cash Ledger – Deposits can be made through payment aggregator
- RoDTEP – Reduction in benefit by 50%, withdrawn
- Courier or postal exports – Value limit per consignment withdrawn from 1 April 2026
- Self-sealing facility granted to eligible exporters has no expiry date
- West Asia conflict – Relief measures by Ministries of Finance and Commerce to help exporters

Ratio decidendi

- Aircraft engine stand is classifiable under Customs TI 8609 00 00 and not under TI 8716 39 00 – *Supreme Court*
- Supplies from DTA to SEZ are 'deemed exports' – Export obligations under EPCG licence fulfilled by such supplies even if BOE absent – *Delhi High Court*
- Re-export of cosmetics imported without CDSCO licence, thus making them 'prohibited goods', is not permissible – Fact of in-bond warehousing and absence of any intention for home clearance is not material – *Bombay High Court*
- Goods supplied from SEZ to individual customers in DTA for personal use are not covered under TI 9804 90 00 – *CESTAT Chennai*
- Construction of roads – Exemption when sub-contractor not mentioned in agreement between contractor and govt. – Disposal of goods to contractor/govt. after completion of project is not wrong – *CESTAT Bengaluru*
- Redemption for home consumption when 'prohibited' goods made 'restricted' at time of adjudication – *CESTAT Chennai*
- 'Bulk drugs' are 'drugs' for levy of IGST @ 5% – *Customs AAR*

Notifications and Circulars

Customs Electronic Cash Ledger – Deposits can be made through payment aggregator

The CBIC has amended the Customs (Electronic Cash Ledger) Regulations, 2022 to allow deposits in the Customs Electronic Cash Ledger through payment aggregator also. Till the amendment, the deposits could be made through internet banking through an authorised bank, National Electronic Fund Transfer or Real Time Gross Settlement from any bank, and by an over-the-counter payment through an authorised bank. Amendments have been made in Regulation 3(6) and (7) of the Customs (Electronic Cash Ledger) Regulations by Notification No. 30/2026-Cus. (N.T.), dated 24 March 2026 for this purpose.

Further, as per CBIC Circular No. 13/2026-Cus., dated 24 March 2026, the payment aggregator mode also allows the importer to make transaction-wise payment in the platform, wherein the systems shall route the payment instantaneously through ECL before accounting for duty payment. The Circular also states that credit card or debit card or Unified Payment Interface (UPI) have been introduced for the first time for customs duty payment.

RoDTEP – Reduction in benefit by 50%, withdrawn

The Ministry of Commerce has withdrawn its earlier Notification No. 60/2025-26, dated 23 February 2026 which had halved export rebates under the Remission of Duties and Taxes on Exported Products (RoDTEP) scheme, affecting exporters across eligible sectors. As per the new Notification No. 66/2205-26, dated 23 March 2026, RoDTEP benefit will be available at the rates and value caps as applicable on 22 February 2026. It may be noted that the notification states that the restoration is with effect from 23 February 2026 till 31 March 2026 for all eligible export products.

Courier or postal exports – Value limit per consignment withdrawn from 1 April 2026

The Ministry of Commerce has amended Para 9.05 of the Foreign Trade Policy to withdraw the value limit per consignment for exports through courier service or by post. Earlier the value limit was INR 10 lakh per consignment. This

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amendment by Notification No. 67/2025-26, dated 27 March 2026 is effective from 1 April 2026.

Self-sealing facility granted to eligible exporters has no expiry date

The CBIC has clarified that facility of self-sealing, once granted to an eligible exporter/merchant exporter in terms of the Circular No. 26/2017-Cus., dated 1 July 2017, does not have any prescribed validity period. Accordingly, it is stated that the permission shall continue to remain valid unless it is specifically withdrawn, suspended, or cancelled by the jurisdictional Customs authority due to non-compliance, misuse of the facility, or any other valid reason. Circular No. 14/2026-Cus., dated 27 March 2026 has been issued for this purpose.

West Asia conflict – Relief measures by Ministries of Finance and Commerce to help exporters

The Indian Customs authorities have introduced number of relief measures to help the exporters where exports are facing disruptions due to the ongoing West Asia conflict, closure of Strait of Hormuz and the consequent disruption in maritime routes. Circulars Nos. 9/2026-Cus., 10/2026-Cus., 12/2026-Cus., and 15/2026-Cus. have been issued for this purpose by the CBIC, while Ministry of Commerce has notified the time limited support for Indian exporters – Resilience & Logistics Intervention for Export Facilitation ('**RELIEF**'), under the Export Promotion Mission. For RELIEF, refer DGFT Notification No. 65/2026, dated 19 March 2026. CBIC Circulars are summarized below.

- Amendment or cancellation of export documents to be allowed without insisting on payment prescribed under the Levy of Fees (Customs Documents) Regulations, 1970. *Circular No. 10/2026-Cus.*
- Procedure prescribed for transhipment and Back to Town (BTT) in cases where the vessel departed from one Indian port but landed at a different Indian port, bring back the export cargo. *Circular No. 12/2026-Cus.*
- International Transhipment of Full Container Load and Less than Full Container Load (FCL/LCL) cargo allowed from all ports/airports, including cases involving transhipment through other Customs stations. Procedure prescribed. *Circular No. 15/2026-Cus.*

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- LEO/Shipping Bills permitted to be cancelled for export cargo originating from ICD and lying at gateway port. Cargo to be returned to the exporter or moved for re-routing with no need of bringing back to ICD. *Circular No. 15/2026-Cus.*
- Procedures also prescribed in situations as listed below. *Circular No. 9/2026-Cus.*
    - Cargo loaded on vessel and vessel is within Indian territorial waters.
    - Vessel is beyond Indian territorial waters and is in international waters and returning without calling any foreign ports or after calling any foreign port but without discharge of any container.

Other than RELIEF under Export Promotion Mission, the Ministry of Commerce has also provided the following reliefs.

- Export Obligation period or Block-wise Export Obligation period for specified Advance Authorisations and EPCG Authorisations expiring between 1 March 2026 and 31 May 2026 has been automatically extended up to 31 August 2026. *Public Notice No. 51/2025-26.*
- Gems and Jewellery sector – Automatic extensions of re-export period, export period and re-import period by 30 days, if these periods are expiring between 1 March 2026 and 31 May 2026. *Public Notice No. 54/2025-26.*

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Ratio Decidendi

Aircraft engine stand is classifiable under Customs TI 8609 00 00 and not under TI 8716 39 00

The Supreme Court of India has dismissed a Civil Appeal filed against the CESTAT decision wherein the Tribunal had held that aircraft engine stand comprising of a cradle (holder), a base and four caster wheels, where the cradle holds the engine safely and prevents impact of any shock or jerk to the aircraft engine during transportation, is classifiable under Tariff Item 8609 00 00 of the Customs Tariff Act, 1975 and not under TI 8716 39 00. Dismissing the appeal on grounds of delay as well as on merits, the Court observed that there was no good reason to interfere with the impugned order. *The CESTAT decision was reported in February 2025 issue of LKS Indirect Tax Amicus, as available* ***here***. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Commissioner* v. *Interglobe Aviation Ltd.* – TS 58 SC 2026 CUST]

Supplies from DTA to SEZ are 'deemed exports' – Export obligations under EPCG licence fulfilled by such supplies even if BOE absent

The Delhi High Court has rejected the contention of the Revenue department that as the supplies to an SEZ are not covered under any of the clauses of Para 8.2 of the Foreign Trade Policy (FTP), such supplies are not deemed exports. Dismissing the review petition filed against its earlier decision, the Division Bench of the Court thus reaffirmed that the DTA supplier to SEZ was entitled for fulfilment of export obligation under EPCG licence by such supplies. The Department had denied the benefit as the assessee had not furnished a Bill of Export (BOE) as proof of fulfilment of export obligation. The High Court in this regard observed that,

- Clause 8.2 is not exhaustive of categories of supplies for qualification as 'deemed exports',
- Other supply, which conforms to Para 8.1, would qualify as 'deemed exports',

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- Para 8.2 is not applicable when DTA supplier is not a contractor/subcontractor,
- SEZ is not located outside the country even if, for certain purposes, supplies to the SEZ are treated as 'exports',
- Para 8.1 would not be diluted or eliminated by the SEZ Act or SEZ Rules. It was observed that,
    - Definition of 'export' in Section 2(m)(ii) of the SEZ Act cannot be read into the FTP,
    - SEZ Act does not disentitle assessee from EPCG benefit,
    - Section 53(1) does not deem a SEZ to be a territory outside 'India', but only a territory outside the 'customs territory of India',
    - Section 53 creates deeming fiction for undertaking authorized operations only,
    - Rule 23 of SEZ Rules allows export benefit to assessee in absence of any material to discredit the supply invoices, or the BRCs, and
    - Absence of BOE is not enough to deny benefit relying on Rule 30, when ample proof of supply present.

DGFT Policy Circular No. 4/2024, dated 3 June 2024, relaxing the requirement of submission of the BOE as evidence of discharge of export obligation for supplies made to SEZ units in case of Advance Authorizations, was also relied upon. [*Holoflex Ltd & Anr.* v. *Union of India* – 2026 VIL 288 DEL CU]

Re-export of cosmetics imported without CDSCO licence, thus making them 'prohibited goods', is not permissible – Fact of in-bond warehousing and absence of any intention for home clearance is not material

The Bombay High Court has held that imported cosmetics, not meant for home consumption, where B\E was filed for in-bond warehousing, would suffer an embargo for re-export and confiscation under Section 111 of the Customs Act, 1962 in case the Central Drugs Standard Control Organization (CDSCO) license, required for import, was absent. On conjoint application of various provisions of the Customs Act, the Drugs and Cosmetics Act, 1940 and the Cosmetics Rules 2020, the Court was of the view that no import of cosmetics could have been undertaken by the assessee without a licence and the goods thus were 'prohibited goods'.

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Contention of the assessee/importer that there was no requirement of a license to be obtained before the said import as the goods were to be kept in the warehouse and thereafter to be re-exported, was thus rejected by the Court. The High Court in this regard observed that the contention was against Section 10 of the Drugs and Cosmetics Act read with the Cosmetics Rules, which were applicable and also incorporated in the provisions of the Customs Act. It was also observed that provisions of the Drugs and Cosmetics Act and the Cosmetics Rules, as applicable to the imports of Cosmetics, do not conceive a situation that such goods can be brought into territorial waters merely for warehousing.

It may be noted that while holding so, the Court here also observed that the importer had never intended to import goods only for the purpose of warehousing and/or re-export, and that it was an afterthought on the part of the assessee. [*Glamstone Cosmetics Pvt. Ltd.* v. *Union of India* – 2026 VIL 247 BOM CU]

Goods supplied from SEZ to individual customers in DTA for personal use are not covered under TI 9804 90 00

The CESTAT Chennai has held that laptops, desktops and monitors cleared from SEZ to the DTA, to individual customers for their personal use, are classifiable under Tariff Items 8471 30 10, 8471 50 00 and 8528 52 00. Department's submission that the goods would be classifiable under TI 9804 90 00 covering '*All dutiable articles, intended for personal use*', was thus rejected. According to the Tribunal the specified goods were neither 'dutiable goods' nor were 'imported for personal use'. It was observed that,

Dutiable goods

- Basic Customs Duty as specified in Customs Tariff Act is 'free' for two of the 3 specified goods. For third item, exemption notification prescribes nil rate of BCD.
- Goods cannot be regarded as 'dutiable goods' when goods are not subjected to duty, being 'free' under the Customs Tariff Act or by exemption, as held in *Associated Cement Companies Ltd*. v. *Commissioner*.
- Levy of IGST will not *per se* render the goods 'dutiable goods', as levy of IGST is under the IGST Act and, at best, under Section 3 of the Customs Tariff Act, 1975.

Importation for personal use

- Importation for personal use necessarily connotes the use of the importer himself. Sales to customers is not 'personal use' as contemplated by Heading 9804.

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- Chapter 98 covers goods actually brought into India from a place outside India and used for personal purposes. 'SEZ to DTA' transactions are not covered here.
- Goods procured on orders cannot conceivably be characterized as 'baggage'.
- Had the transaction been carried out, otherwise than through an SEZ, the Department would not have been suggested that a duty would be leviable thereon. Supreme Court's decision in *Adani Power Ltd.* v. *Union of India* was relied upon.
- Reliance on customization and nature of use to treat the customers as importers was not correct.
- Purpose of use of the customer of the importer is not a fact which is determinable at the time of importation.
- No legal fiction to suggest the assessee/appellant was not importer.

Also, the Tribunal observed the following.

- Department to first establish that declared classification was wrong and then justify its reclassification. Adjudicating authority jumped on the second aspect without discharging burden of proof for first.
- Recovery by applying the provisions of SEZ Act is barred under Article 265 of the Constitution and is contrary to the authorization prescribed under SEZ Rule 47(5).

The assessee was represented by Lakshmikumaran & Sridharan Attorneys here. [*Dell International Services India Private Ltd.* v. *Principal Commissioner* – 2026 VIL 475 CESTAT CHE CU]

Construction of roads – Exemption when sub-contractor not mentioned in agreement between contractor and govt. – Disposal of goods to contractor/govt. after completion of project is not wrong

The CESTAT Bengaluru has allowed benefit of Sl.No.368 of the exemption Notification No.12/2012-Cus. to the sub-contractor for import of equipment for Toll Management System. Reading the contract between the govt. of India (NHAI) and the contractor, the Tribunal observed that the contractor was at liberty to appoint sub-contractors for implementation of the project work, NHAI knew that a sub-contractor was appointed and had issued a certificate to facilitate import of the equipment by the sub-contractor. Absence of name of the sub-contractor in

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the contractor's agreement with NHAI was found to not to be of material value by the Tribunal while it held that condition no. 9(a) of the notification was complied with. CBIC Circular No. 21/2013-Cus., dated 16 May 2013, issued in respect of oil exploration sector, was also relied upon.

Also, in respect of compliance with condition No. 9(b), which prohibited the importer to dispose of the goods till five years from the date of import unless permitted by the Department, the Tribunal was of the view that after the project is completed, the transfer to the contractor or NHAI was not wrong. ***Importer was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Indra Sistemas India Private Limited* v. *Commissioner* – 2026 VIL 529 CESTAT BLR CU]

Redemption for home consumption when 'prohibited' goods made 'restricted' at time of adjudication

Observing that beneficial amending notification operates retrospectively, the CESTAT Chennai has held that although confiscation and penalty were justified at the time of import when the goods were classified as 'prohibited', redemption for home consumption can be allowed in the light of the amending notification (substituting 'prohibited' with 'restricted') in force at the time of passing the impugned order.

As per DGFT Notification No. 33/2024-25 dated 1 October 2024 import of 100% polyester knitted pile fabrics was 'prohibited' where the CIF value was below USD 3.5 per kg. The importer paid redemption fine and sought to clear goods for home consumption on enhanced value, citing subsequent Notification No. 49/2024-25, dated 4 January 2025, which was denied by the Department. The Tribunal modified the Order-in-Original restricting redemption of the goods to re-export and permitted clearance of the goods for home consumption after redemption. [*Shireen Imex* v. *Commissioner* – 2026 VIL 548 CESTAT CHE CU]

'Bulk drugs' are 'drugs' for levy of IGST @ 5%

Custom Authority for Advance Rulings has held that even Active Pharmaceutical Ingredient (API) or bulk drugs are included in the ambit of 'drugs' under Sl. No. 226 of Schedule I to Notification No. 09/2025-Integrated Tax (Rate) and thus, leviable with IGST @ 5%. According to the AAR, the definition of 'drugs' under the Drugs and Cosmetics Act, 1940 is inclusive and extends to components used in such drugs and thus API

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and bulk drugs being components for use in drugs, are also included in the ambit of drugs. The AAR observed that the entry is not restricted to API and bulk drugs used for manufacturing formulations but is also applicable when the API and bulk drugs are imported for use in clinical trials or bioequivalence / bioavailability studies. Definition of 'API', 'bioavailability study', 'bioequivalence study', and 'clinical trial', were also relied upon for this purpose. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [In RE: *Cipla Ltd.* – 2026 VIL 01 AAR CU]

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Central Excise, Service Tax and VAT

Ratio decidendi

- Export of services – Assignment of employees 'on-site' for foreign group company while being in India – *CESTAT Chandigarh*
- Ayurvedic Patent or Proprietary medicine – Presence of excipients will not take the goods out of the purview of medicine – *CESTAT New Delhi*
- Cenvat credit – 20% limit under Rule 6(3)(c) for utilization of credit is not to be calculated on monthly basis – *CESTAT Kolkata*
- Valuation on MRP basis – 'Package' connotes enclosure or containment; strapping is not covered as 'package' – *CESTAT Chennai*

Ratio Decidendi

Export of services – Assignment of employees 'on-site' for foreign group company while being in India

In a case involving assignment of the employees of the assessee to their foreign group entity where the consideration for the same was received in convertible foreign currency, the CESTAT Chandigarh has held that the transaction was of export of services. The Tribunal in this regard noted that the beneficiary was located outside India and that the mere fact that the services were rendered in India and in an office located in India cannot be a decisive factor for concluding that the services were not exported. Department's argument that the services were used in India since the assignment of the employees was 'on-site', was rejected by the Tribunal while it observed that the phrase 'on-site' only indicates the place of working of the employees assigned by the assessee. According to the Tribunal, this does not convey an understanding that the services rendered by the said assigned employees were used inside India. ***The assessee was represented by Lakshmikumaran & Sridharan Attorneys here.*** [*Glaxo Smithkline Consumer Healthcare Ltd.* v. *Commissioner* – 2026 VIL 503 CESTAT CHD ST]

Ayurvedic Patent or Proprietary medicine – Presence of excipients will not take the goods out of the purview of medicine

The CESTAT New Delhi has held that the mere presence of excipients in goods (ayurvedic medicines here) does not take the said goods out of the purview of Ayurvedic Patent and Proprietary medicines. The Tribunal here was of the view that if the expression '*only such ingredients*' in Section 3(h)(i) of the Drugs and Cosmetics Act, 1945 [which defines 'patent or proprietary medicine'] is read to mean that it cannot have any other non-active ingredient, it will result in absurd conclusions. Holding the goods to be covered under Chapter 30 of the Central Excise Tariff Act, 1985, the Tribunal also observed that excipients used by the assessee had use both in pharmaceutical preparations and in cosmetics. It was also noted that products were manufactured from the ingredients mentioned in the authoritative texts and were manufactured under a licence under the Indian System of Medicine. Allowing the appeals, the Tribunal also perused the labels of the disputed goods to hold that the goods were sold as PP Ayurvedic medicines, specifically

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indicating the ailments or conditions which each of them claim to treat or improve. [*Shahnaz Ayurvedics (Dehradoon)* v. *Commissioner* – 2026 VIL 451 CESTAT DEL CE]

Cenvat credit – 20% limit under Rule 6(3)(c) for utilization of credit is not to be calculated on monthly basis

The CESTAT Kolkata has set aside the demand which was based on the fact that the assessee had utilized Cenvat Credit in excess of the 20% limit as prescribed under Rule 6(3)(c) of the Cenvat Credit Rules, 2004 during few months in a certain year. It was noted that for the full Financial Year, taken as a whole, the assessee had utilized the Cenvat credit well within the said restriction limit of 20%. Observing that there was no Rule in the Cenvat Credit Rules prescribing that the restriction is to be calculated on monthly basis, the Tribunal held that the provisions of Rule 6(3)(c) were complied with by the assessee. [*Bank of India* v. *Commissioner* – 2026 VIL 448 CESTAT KOL ST]

Valuation on MRP basis – 'Package' connotes enclosure or containment; strapping is not covered as 'package'

The CESTAT Chennai has rejected the Department's view that tyres, tubes and flaps that were inserted together and secured with two or three plastic carry straps, allegedly for safety during transportation, constitute 'pre-packaged commodities' within the meaning of Section 2(l) of the Legal Metrology Act, 2009 and thus liable to central excise duty under Section 4A of the Central Excise Act, 1944. Elaborating on the phrase 'placed in a package' in Section 2(l) of the Legal Metrology Act, 2009 defining 'pre-packaged commodity', the Tribunal was of the view that the expression cannot be treated as surplusage. Observing that natural and commercial meaning of 'package' connotes enclosure or containment - such as a carton, wrapper, bottle, bag, box, tin or other receptacle, the Tribunal held that a plastic carry strap does not enclose, contain, wrap or box the goods, it merely secures and covers only a minimal portion of the tyre surface, approximately 1.4% to 3.3%. Allowing the appeal, the Tribunal also observed that internal fixation of MRPs or recommended retail prices does not create a statutory obligation to declare RSP on the package, as Section 4A is triggered by statutory mandate, not by internal pricing policy. [*MRF Limited* v. *Commissioner* – 2026 VIL 457 CESTAT CHE CE]

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