



THE INDIRECT EDGE

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I. JUDICIAL PRONOUNCEMENTS

GOODS AND SERVICES TAX

Rule-prescribed time limit for ISD ITC distribution held ultra vires Section 20

The Telangana HC in **M/s. BirlaNu Ltd. v. UOI**¹ has held that Rules cannot prescribe a timeline for distribution of credit through ISD mechanism when the parent statute does not confer such power.

The HC noted that, prior to its amendment w.e.f 01.04.2025, Section 20 of the CGST Act merely provided that ITC available with ISD shall be distributed in the manner as may be prescribed by rules and did not confer any authority on the rule-making power to prescribe a time limit for such distribution. In contrast, Rule 39(1)(a) of the CGST Rules, 2017 mandated that ITC available with an ISD must be distributed in the same month, thereby introducing a substantive condition not contemplated under the statute.

The HC held that this requirement was ultra vires Section 20 of the CGST Act prior to amendment of the Section w.e.f. 01.04.2025, observing that once ITC is validly availed, it is a vested statutory right which cannot be denied arbitrarily through delegated legislation.

Group insurance policies not eligible for GST exemption

The Kerala HC in **E.P. Gopakumar & Ors. v. UOI**² has held that the GST exemption provided on health insurance is restricted to individual and family health insurance policies and does not extend to group insurance policies.

The HC rejected the petitioner's contention that health insurance policies taken by retired bank employees did not constitute "group insurance" on the ground that the group was allegedly formed only to obtain insurance. The HC observed that IRDAI Regulations prohibit formation of a group solely for availing insurance and mandate the existence of a pre-existing relationship amongst members. In the present case, such pre-existing relationship amongst members was established by the former employer–employee relationship with the banks.

Accordingly, the Court held that since the relevant GST exemption notification was intended to cover only individual and family health insurance policies, **group insurance policies fall outside the scope of the exemption.**

Transfer of long-term lease-hold rights not a supply; GST not payable

The Bombay HC in **Aerocom Cushions Pvt. Ltd. v. Assistant Commissioner (Anti-Evasion)**³ has held that the assignment and transfer of long-term leasehold rights in industrial land amounts to a transfer of benefits arising out of immovable property has no nexus with the business of the petitioner. Consequently, such a transaction does not qualify as a "supply" u/s. 7 of the CGST Act, which mandates that a transaction must be undertaken in the course or furtherance of business to attract GST.

¹ 2026 (1) TMI 894 - TELANGANA HIGH COURT

² 2026 (1) TMI 502 - KERALA HIGH COURT

³ 2026 (1) TMI 701 - BOMBAY HIGH COURT

In arriving at this conclusion, the Court placed reliance on the judgment of the Gujarat HC, which had similarly held that the assignment of leasehold rights in land is not exigible to GST. The Bombay HC further clarified that such transfers cannot be

classified as “miscellaneous services” under the relevant GST notifications and, therefore, are not liable to GST.

SERVICE TAX

Blasting services for digging bore wells also classifiable as agriculture related services

The CESTAT, New Delhi in **Shri Narayan Lal v. Commissioner CGST**⁴ has held that the negative list entry under the Service Tax regime covering services relating to agriculture or agricultural produce must be interpreted broadly.

The Tribunal ruled that blasting services undertaken for the purpose of digging bore wells, tube wells, and wells used for agricultural irrigation qualify as services relating to agriculture and are therefore covered under the negative list. It observed that blasting is not an independent or standalone activity, but an integral and inseparable part of the primary activity of digging wells intended for agricultural use.

Since well-digging is directly connected with agricultural operations, the Tribunal held that all ancillary services facilitating such activity, including blasting, are equally eligible for coverage under the negative list. The Tribunal further emphasized that the use of the term “including” in Section 66D(d)(i) renders the provision illustrative and not exhaustive, thereby extending its scope to encompass all services that facilitate or support agricultural operations.

It is interesting to note that the aforesaid provisions under Service Tax are *pari materia* to the exemption entry under GST so the judgement will continue to hold relevance under the GST regime.

CUSTOMS

Gazette publication mandatory for enforceability where statute so requires

The SC, in **Viraj Impex Pvt. Ltd. v. UOI**⁵, has held that where a statute mandates issuance of a notification by publication in the Official Gazette, such notification cannot be enforced merely from the date of its upload on a website or its circulation in

any other manner without Gazette publication.

In the present case, Notification No. 38/2015–20 dated 5 February 2016, issued by the DGFT, imposed a MIP on certain steel products. While the notification was dated and uploaded on the DGFT website on 5 February 2016, it was published in the Official Gazette only on 11 February 2016.

⁴ 2026-VIL-98-CESTAT-DEL-ST

⁵ 2026 (1) TMI 1102 – SUPREME COURT

The authorities contended that the expression “date of this notification” referred to the date mentioned on the notification itself, and that it should take effect from such date.

Rejecting this contention, the SC held that the expression “date of this notification” must be construed as the date on which the notification was published in the Official Gazette, i.e., 11 February 2016. Emphasising the principles of rule of law and legal certainty, the Court observed that an unpublished notification cannot impose fiscal or trade burdens. Accordingly, the SC set aside the judgment of the Delhi HC and granted relief to the appellants.

Watch bands cannot be classified as “parts” of Apple watch

The CAAR, Mumbai, in ***Apple India Private Limited v. The Principal Commissioner of Customs (III), Mumbai/Karnataka***⁶, has held that watch bands, whether leather or non-leather cannot be classified as “parts” of the Apple Watch so as to merit

classification under Chapter 85 of the Customs Tariff Act, 1975.

The CAAR ruled that the correct classification of the watch bands, irrespective of the material used, is under CTH 9113 of the First Schedule to the Customs Tariff Act, 1975.

In arriving at this conclusion, the CAAR clarified that a “part” must be an essential component without which the principal article cannot function. Watch bands, however, merely serve the purpose of securing the watch to the user’s wrist and do not contribute to its functional operation. The Authority further noted that a plain reading of CTH 9113, read with the HSN Explanatory Notes, shows that the heading comprehensively covers all kinds of watch straps, watch bands, and watch bracelets, regardless of the material used. Accordingly, watch bands were held to be classifiable under CTH 9113.

II. CIRCULARS

CUSTOMS

Export benefits now available for postal made exports

The CBIC has enabled an integration between the postal bill of export automated system and ICES. Earlier exporters who opted for postal bill of export system systems faced difficulties to avail export benefits because of lack of integration between postal bill of export system and ICES. With this linkage in place, export

benefits such as Duty Drawback, RoDTEP and others can now be processed electronically for postal exports, ensuring seamless data flow between the Department of Posts and Customs systems. The circular also updates procedural links for availing export benefits. This measure significantly improves ease of doing business by placing postal exporters at par with other exporters in availing export benefits.

⁶ 2025 (12) TMI 1627 - CUSTOMS
AUTHORITY FOR ADVANCE RULINGS,
MUMBAI

WCO adopts HSN 2028 amendments

The WCO has adopted the HSN 2028 amendments, which will replace HSN 2022 with effect from 1.01.2028. The amendments introduce significant changes in key areas such as public health and emergency preparedness through new classifications for PPE, ventilators and medical devices, segregation of vaccines

into separate headings for human and veterinary use, and the creation of a dedicated heading for dietary supplements. Overall, HSN 2028 comprises 299 amendments, including six new headings and 428 new sub-headings. Since India's Customs Tariff is aligned with the HSN up to the six-digit level, corresponding amendments to the Customs Tariff are expected to be notified in line with these changes.

III. NEWS UPDATES

GSTAT bench constituted in Telangana

The GSTAT bench in Telangana has been constituted and are scheduled to assume charge from 28.01.2026 with its seat in

Hyderabad. The technical and judicial members have been appointed with a term of 4 years.

Abbreviations	Term	Abbreviations	Term
CAAR	Customs Authority for Advance Rulings	GST	Goods & Service Tax
CBIC	Central Board of Indirect Taxes and Customs	GSTAT	Goods & Services Tax Appellate Tribunal
CESTAT	Customs Excise & Service Tax Appellate Tribunal	GSTIN	Goods & Services Tax Identification Number
CGST Act	Central Goods & Service Tax, 2017	HC	High Court
CGST Rules	Central Goods & Service Rules, 2017	HSN	Harmonized System of Nomenclature
CT	Central Tax	MIP	Minimum Import Price
CTH	Customs Tariff Heading	RoDTEP	Remission of Duties and Taxes on Exported Products
ICES	Indian Customs Electronic Data Interchange System	SC	Supreme Court
IGST	Integrated Goods & Service Tax	SEZ	Special Economic Zone
IRDAI	Insurance Regulatory and Development Authority of India	u/s.	Under section
ISD	Input Service Distributor	UoI	Union of India
ITC	Input Tax Credit	WCO	World Customs Organisation
dt.	Dated	w.e.f	With Effect From

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