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THE INDIRECT EDGE

Indirect Tax Fortnightly Newsletter

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JUDICIAL PRONOUNCEMENTS

GOODS AND SERVICES TAX

Court rules ITC is a statutory benefit, not a vested right

The Bombay HC in ***M/s. Eagle Security & Personnel Services vs UoI***[1], upheld the validity of Sections 17(2) and 17(3) of the CGST Act. The Court held that the Government is empowered to prescribe the reversal of input tax credit (ITC) in the hands of the supplier for transactions taxable under the reverse charge mechanism (RCM). The judgment reiterated that ITC is not a fundamental or vested right but a statutory concession, which the legislature may regulate or restrict based on policy considerations.

In this case, a proprietorship firm challenged the validity of Section 17 of the CGST Act and the notification that subjected security services provided by non-corporate entities to tax under RCM. As a result of this notification, the firm was unable to claim ITC, rendering its services more expensive than those offered by body corporates, whose supplies were taxable under the forward charge mechanism on which ITC was available. The petitioner contended that this classification was arbitrary and violated the right to equality under Article 14 of the Constitution. The Court, however, rejected the contention and held that the impugned provisions and notification were neither discriminatory nor unconstitutional.

Black tea to be classified as agricultural produce

The CESTAT Chennai in ***Glenworth Estate Ltd Vs Commissioner Of GST & Central Excise, Coimbatore***[2] held that black tea qualifies as an agricultural produce, similar to green tea. The Department had demanded service tax on commissions paid to foreign agents for the sale and export of black tea. The Tribunal observed that converting green tea into black tea does not change its essential agricultural character but only renders it marketable. It further noted that any processing which retains the original agricultural nature of the product continues to be regarded as an agricultural produce. Once the black tea is found to be agricultural produce, services provided by a commission agent for sale or purchase of agricultural produce is covered by the negative list as per Section 66D of the Finance Act, 1994 and is not exigible to Service Tax.

This judgement will continue to hold significance under the GST regime as the definition of agricultural produce is *pari materia* under GST.

Lease of land for industrial construction not eligible for ITC

The Gujarat AAR in case of ***M/S Agratas Energy Storage Solutions Pvt Ltd***[3] examined the eligibility of ITC on GST paid for lease rentals of industrial land acquired from the Government of Gujarat for constructing a factory. The AAR was required to examine Section 17(5)(d) of the CGST Act which bars ITC on goods and services received by a taxable person for construction of an immovable property.

[1] 2025 (8) TMI 1127 - BOMBAY HIGH COURT
[2] 2025 (11) TMI 601 - CESTAT CHENNAI
[3] 2025-VIL-179-AAR

The AAR held that ITC is not available for GST paid on lease rentals for land as the same was used in construction of an immovable property as per Section 17(5)(d) of the CGST Act. This restriction applied irrespective of the timing (before or after construction), the nature of activities (repairs, maintenance, or renovations), or whether part of the land remains vacant. The ruling clarified that the entire land leased for industrial purposes is hit by the bar on ITC for construction-related use, and no proportionate credit is allowed for vacant land or for repairs.

Consequently, all ITC claims on GST paid for lease rentals, whether periodic or upfront, in respect of land used for factory construction or related activities, were rejected by the AAR.

CUSTOMS

Import of stainless steel prior to BIS Quality Control Order not liable for confiscation

The CESTAT Ahmedabad in ***M.A. Trading Company v. Commissioner of Customs, Ahmedabad*** [4]held that stainless steel imported before the Stainless-Steel Products (Quality Control) Order, 2016 came into force could not be confiscated for lacking a BIS mark. This order mandates the affixation of a BIS mark on all stainless-steel products. The shipment in this case occurred prior to the order's commencement, and hence, the importer was not obligated to comply with BIS mark requirement. The tribunal ruled that the goods are not liable for confiscation or penalty. Consequently, the impugned orders were set aside, and the appeal was allowed.

CIRCULARS

CUSTOMS

Clarification on redemption of advance authorisations affected by rule 96(10)

The Directorate General of Foreign Trade (DGFT), through ***Policy Circular No. 07/2025-26 dt.11.11.2025***, has clarified the rules for redemption of Advance Authorisations affected by the erstwhile Rule 96(10) of the CGST Rules, particularly for imports made between 13.10.2017 and 09.01.2019. Earlier, exporters faced restrictions on IGST refunds and input tax credit (ITC) under the Advance Authorisation scheme. However, subsequent to the Supreme Court's order, the customs department permitted refunds or ITC claims, subject to satisfaction of specified conditions.

The DGFT circular now confirms that Export Obligation Discharge Certificates (EODCs) for such transactions will not be withheld if the following main conditions are met: IGST is paid in cash, no exemption from IGST/Compensation Cess is availed, or the pre-import condition is fully complied with. This clarification provides long-awaited relief and certainty to exporters, ensuring that EODCs are issued promptly when all statutory requirements are satisfied.

Customs allows post-clearance revision of bill of entry

The CBIC has issued **Circular No. 26/2025-Customs dt.31.10.2025** enabling importers, and exporters to voluntarily revise customs declarations including Bills of Entry and Shipping Bills even after goods have been cleared by customs. This facility is governed by the Customs (Voluntary Revision of Entries Post Clearance) Regulations, 2025, under newly inserted Section 18A of the Customs Act, 1962.

To utilize this option, stakeholders may electronically file a revision application at the customs port where duties were originally paid, accompanied by a self-declaration confirming compliance with all statutory obligations.

Certain exclusions apply, such as cases already under audit, investigation, or reassessment. This reform is aimed at improving the ease of doing business by institutionalizing a transparent, self-

[4] 2025 (11) TMI 315 - CESTAT AHMEDABAD

correction mechanism for genuine procedural, clerical, or valuation errors, thus fostering compliance and reducing post-clearance disputes in customs administration.

NEWS UPDATES

- **Next-Generation Customs Reforms** After GST 2.0 Government plans to bring new generation custom reforms in FY26 budget to make system more transparent, simplified and global competitive.

- **Chhattisgarh govt launches credit card, debit card and UPI payment options for GST returns-** The Chhattisgarh government has launched new digital payment options for GST returns, enabling taxpayers to make payments through credit cards, debit cards, and UPI. Earlier, payments were limited to net banking or over-the-counter methods, causing difficulties for small businesses.

ABBREVATIONS

- Following abbreviations are used throughout this newsletter for ease of reference:

Abbreviations	Term
CBIC	Central Board of Indirect Taxes and Customs
CGST Act	Central Goods & Service Tax, 2017
CGST Rules	Central Goods & Service Rules, 2017
dt.	Dated
GST	Goods & Service Tax
HC	High Court
IGST	Integrated Goods & Service Tax
ITC	Input Tax Credit
SC	Supreme Court
u/s.	Under section
UoI	Union of India
UPGST	Uttar Pradesh Goods & Services act, 2017
GSTIN	Goods & Services Tax Identification Number
FY	Financial Year
PAN	Permanent Account Number
GR	Goods Receipt
BIS mark	Bureau of Indian Standards mark
AAR	Authority for Advance Ruling
RCM	Reverse Charge Mechanism