

# TAXWIZ

16<sup>th</sup> August 2020



Last fortnight witnessed the launching of Faceless Assessment under Income Tax by the Hon'ble Prime Minister. While the initiative is welcomed, it is only hoped that the process is only faceless, but not heartless.

The Taxpayer Charter released on this occasion declares that every taxpayer shall be treated as honest, unless there is a reason to believe otherwise. A very lofty ideal indeed and if implemented in all earnest, would mean a lot. A deep look into the taxing provisions, especially in the GST regime would reveal that many of the provisions are framed by not keeping the honest taxpayer in mind, but a defaulter in mind. Default should be seen rather as an exception and not as a rule. When law is made keeping the defaulter in mind, it is the honest who always bear the brunt.

Request all concerned not to leave the lofty ideal not to remain only as a ideal, but becomes a reality.

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## GST CASE LAWS

### 1 Amani Machine Centre 2020-TIOL-1303-High Court-Kerala High Court

If return is not filed within 30 days of best judgement order, the order becomes final.

### 2 Daicel Chiral Technologies (India) Pvt Ltd Limited 2020-TIOL-211-AAR-GST

Leasing of land for construction of laboratory. GST paid on lease premium is not entitled for ITC.

### 3 Downtown Auto Pvt Ltd 2020-TIOL-1301-HC-AHM-GST

If payment of duty is established, transitional credit can be taken even in the absence of Credit Transfer Document.

### 4 Gr Infraprojects Limited TS-614-HC-2020(RAJ)-NT

Rule 36(4) challenged before Rajasthan HC. Notice issued.

### 5 Apexor India Pvt. Ltd. W.P. No. 10344 & 10346/2020

Whether Input Tax credit is a vested right and the time limit to transition credit to GST regime is mandatory or procedural? Notice Issued.

### 6 Linde Engineering India Pvt. Ltd 2020-VIL-349-GUJ-ST

Indian subsidiary company and its foreign parent company are distinct entities and not mere establishment of same person. Export benefits available.

### 7 Prasa Infocom & Power Solutions 2020-VIL-227-AAR

"Data Centre" is not an immovable property and hence construction of the same is not works contract. Since supply of goods is the principal supply, to be subjected to tax as a composite supply where supply of goods is the principal supply.



- **Functionality to file Revocation Application under Removal of Difficulty open in GST Portal.**
- **E-Invoicing for Taxpayers with turnover above 500 Crs. to begin from 1<sup>st</sup> Oct 2020.**
- **GSTN has enabled Downloading document-wise details of Table 8A of Form GSTR-9.**

**LINK:** <https://www.gst.gov.in/newsandupdates/read/393>

- **Proposals under discussion on Gold and Jewellery**
  - (i) **E-way bill for movement of gold.**
  - (ii) **RCM on Purchase of old Gold Jewellery.**
  - (ii) **Mandatory E-invoicing.**



# IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

## CUSTOMS CIRCULARS & INSTRUCTIONS- 01.08.2020 to 15.08.2020

NO	DATE	GIST
17 – I	10.08.2020	Disposal of un-claimed/un-cleared/seized/confiscated goods.

## ANTI-DUMPING NOTIFICATIONS - 01.08.2020 to 15.08.2020

NO	DATE	GIST
22	10.08.2020	Govt notifies anti-dumping duty on black toner in powder form.

## DGFT NOTIFICATIONS - 01.08.2020 to 15.08.2020

NO	DATE	GIST
23	04.08.2020	DGFT allows export of all ventilators including breathing devices.
25	10.08.2020	Advance Authorisation Scheme not available in case of export of gold medallions and coins.





## CENTRAL EXCISE AND SERVICE TAX CASE LAWS

### 1 State Bank of Bikaner Vs CCE 2020-TIOL-1175-CESTAT-Del

Banking charges deducted by Foreign Banks to process export payments. The Exporters' bank in India is not liable to pay any Service Tax thereon. Consideration is different from conditions of contract.

### 2 Punjab National Bank Vs CCE 2020-TIOL-1152-CESTAT Del

Charges paid by the bank to the State Govt. on cost recovery basis, for providing police security is part of the sovereign function of the Govt and not subjected to Service Tax.

### 3 NCL Industries Ltd. VS CCE 2020-TIOL-1149-CESTAT- HYD

Sale of Cement on FOR basis - Buyers place cannot be place of removal. So, credit of Service Tax paid on GTA service upto Customers place is not eligible.



**Banks get the stimulus.**





## Link to important Webinars Participated by Swamy Associates

### VIDEO LINK

<b>'In- Bond Manufacture - The Game Changer' by Mr G.Natarajan and Mr. M. Karthikeyan, Advocates. Conducted by Madras Tax Bar.</b>	<a href="https://youtu.be/bfz-iXEAUGs">https://youtu.be/bfz-iXEAUGs</a>
<b>In-Bond Manufacture and Refund of Unutilised ITC at Indian Chamber of Commerce &amp; Industry-Coimbatore – Mr. G. Natarajan &amp; Mr. Makarand Prasada, Advocates.</b>	<a href="https://youtu.be/CtfqUAXDioc">https://youtu.be/CtfqUAXDioc</a>

### TAXLAWSCOPE

<b>AGENCY AND BEYOND ..... When agent wears the hat of a 'Supplier on his own account' By – Adv. Sindhu Mangat</b>	<a href="https://www.swamyassociates.com/downloads/2020/TAXLAWSCOPE-%20August%2012.pdf">https://www.swamyassociates.com/downloads/2020/TAXLAWSCOPE-%20August%2012.pdf</a>
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