



A close look at the amendments proposed in the Budget in GST law would reveal the noose on ITC is tightening day by day. It seems that the Government is in a panic mode, perturbed by the scale of fake invoice cases. Fake invoice is an age old phenomenon and what is new is only its more authentic and early detection thanks to the technology. More and more stringent measures in the garb of curtailing the menace of fake invoice, is more likely to cause harassment at field level and inconvenience to genuine taxpayers, making the remedy worse than the disease.



Table Of Content	
1	GST Case Laws
2	News
3	Customs
4	The Legacy
5	From Our Knowledge House





1 FINE EXIME PVT LTD- 2022- TIOL-201-HC-MUM-GST- BOMBAY HIGHCOURT

Once assessment order has been passed, the provisional attachment comes to end.

2 AB TRADERS- 2022 (1) TMI 1057- GUJARAT HIGH COURT

The Department is directed to release goods and conveyance since the bond has already been furnished as required under the rule. Department shall not demand bank guarantee.

3 KARAMJIT JAISWAL- 2022 (2) TMI 511- DELHI HIGH COURT

The order of provisional attachment of immovable property and bank accounts under Section 83 of CGST Act, 2017, ceases to have effect after the expiry of one year from the date of said order.

4 THE ERODE CITY MUNICIPAL CORPORATION- 2022-TIOL-05-AAAR-GST

Locker facility for common public in bus stand is an activity undertaken by the municipality as a function entrusted under Article 243W of the Constitution, which is neither a supply of goods nor a supply of service as per Notification No. 14/2017- CT(R) and hence not liable to GST.

5 CORBETT NATURE RESERVE-2022 (1) TMI 1109- AAR, UTTARAKHAND

Accommodation service in a resort along with the naturopathy center is not eligible for GST exemption as "health service" as it is composite supply of service of accommodation, which is taxable in nature.



**It's not naturopathy,
but taxopathy.**





6 GREEN CLEANING SOLUTIONS- 2022 (1) TMI 1107- AAR UTTARAKHAND

Supply of manpower services to Nagar Palika Parishad, Muni Ki Reti, Dhalwala (local authority) for the purpose of managing solid waste is covered in relation to the "function entrusted to a Municipality under article 243W of the Constitution of India" and exempted as per Sl.no 3 of Notification 12/2017 – CT(R) dated: 28.06.2017 as amended.

7 MAHINDRA SPLENDOUR CHS LTD- 2021 (12) TMI 134- AAR MAHARASHTRA

GST leviable on Sinking Fund, Building Fund, etc. collected by Residential Welfare Associations as these are not "deposits". Benefit of exemption upto Rs.7,500 per month, would be lost, if the contribution is more than Rs.7,500 per month.





Going to Moon is easier than to understand GST - Hon'ble Mr. Justice J. B. Pardiwala.

"It's very easy for us to reach to moon, (Advocate) Mr Lodha. If someone would say Mr Pardiwala & Justice Thakore, would you like a trip to the moon? We would take a chance, but to understand your policies and your intricacies of your tax (GST), Oh God! With folded hands! We say it's beyond our capacity to understand,"

Average monthly gross GST collection for third quarter of FY 2021-22 is Rs.1.30 lakh crore

Record GST collection of Rs.1,40,986 crore reported for January, 2022

Month	GST Collection
October, 2021	1,30,127
November, 2021	1,31,526
December, 2021	1,29,780

Link:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1796308>





CUSTOMS

RONAK KUMAR AND OTHERS 2022 (2) TMI 470 - BOMBAY HIGH COURT

Presence of Advocate allowed while recording statement under Section 108 at visible but not audible distance. Further, Court permits for videography of their interrogation at the cost of the Petitioners.

Am I visible? Am I audible?

ESSAR SHIPPING LIMITED 2022 (2) TMI 471 - BOMBAY HIGH COURT

Service From India Scheme-Demand notice issued for the period prior to issue of Policy Circular no. 25/2007 dated 01.01.2008 are invalid in law as the said circular is applicable prospectively.

KEDIA OVERSEAS LTD 2022 (2) TMI 369 - CESTAT HYDERABAD

If the same goods imported, described and classified identically and cleared through the same ex-bond Bill of Entry are now sought to be assessed as a single lot instead of two lots by the appellant claiming benefit of the Notification No 89/2005-Cus dated 4.10.2005 for the entire quantity, there are no good reason not to allow it when the assessment has been re-opened by the Revenue by issuing a notice under Section 28 of the Customs Act.





**SHRI DILIP SARKAR
PROPRIETOR OF M/S SHREE
ASHUTOSH EXPORTS AND
SHRI UTTAM BISWAS 2022
(2) TMI 262 - CESTAT
KOLKATA**

Section 111(l) is very categorical that it applies to goods found in excess of what has been declared. Therefore, excess goods alone are liable for confiscation and not the entire consignment imported by the Appellant. The confiscation of the remaining goods is not as per the law and accordingly set aside.

**TRADEWELL AND PANKAJ
JAIN 2022 (2) TMI 370 -
CESTAT NEW DELHI**

The Courts and Tribunals have consistently held that proforma invoices cannot be an evidence. What is material is the transaction value. Revenue is required to prove with evidence that the payments over and above, the price reflected in commercial invoices are actually made which is absent.





CUSTOMS

UM CABLES LTD. 2022 (2) TMI 553 - CESTAT MUMBAI

Vessel sailed on 18th April 2008 whereas the 'let export order (LEO)', stipulated in Section 50 of Customs Act, 1962, had been granted on 19th April 2008. With that, the process of export which was the responsibility of the exporter stood completed even if belatedly. The breach in loading of the cargo on the vessel ahead of grant of 'let export order (LEO)' is attributable to the person-in-charge of the conveyance and not the exporter and hence no penalty can be imposed on exporter. As the goods are not available for confiscation, imposition of redemption fine is without authority of law.

M/s. CARBOLINE INDIA PVT LTD - FINAL ORDER NO. 40072/2022 - CESTAT CHENNAI

Request for amendment of shipping bills cannot be rejected on account of time limit given in the Board Circular 36/2010 dated 23.09.2010 and for the reasons of absence of physical examination as such no restrictions have been prescribed under Section 149 of the Customs Act, 1962. Circular cannot prevail over statute.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS TARIFF NOTIFICATIONS- 01.02.2022 to 15.02.2022

NO	DATE	GIST
02/2022-Customs	01.02.2022	Seeks to amend notification No. 50/2017-Customs dated 30th June, 2017 so as to prescribe effective rate of Basic Customs Duty (BCD).
03/2022-Customs	01.02.2022	Seeks to amend notification No. 11/2018-Customs dated 2nd February, 2018 so as to exempt certain goods from Social Welfare Surcharge (SWS) and to withdraw SWS exemption on certain textile items.
04/2022-Customs	01.02.2022	Seeks to rescind notification Nos. 190/1978-Customs and 191/1978-Customs both dated 22th September, 1978 prescribing additional duty of customs on imports of transformer oil.
05/2022-Customs	01.02.2022	Seeks to rescind Notification Nos. 10/95-Customs, 26/99-Customs, 27/2004-Customs, 14/2006-Customs, 48/2006-Customs, 90/2007-Customs, 8/2011-Customs, 24/2011-Customs, 49/2013-Customs, 23/2014-Customs, 37/2015-Customs, 11/2016-Customs, 20/2020-Customs, 40/2020-Customs which have become redundant.
06/2022-Customs	01.02.2022	Seeks to amend notification no. 52/2017-cus dated 30.06.2017 and 37/2017-cus dated 30.06.2017 to remove certain redundant entries.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS TARIFF NOTIFICATIONS- 01.02.2022 to 15.02.2022

NO	DATE	GIST
07/2022-Customs	01.02.2022	Seeks to amend notification no. 82/2017-cus dated 27.10.2017 to prescribe effective rate on certain Textile items upto 30.04.2022.
08/2022-Customs	01.02.2022	Seeks to amend notification no. 104/2010-cus, 38/96-cus, 40/2017-cus, 60/2011-cus, 148/94-cus to exempt AIDC/Health cess/RIC on goods imported under the said notifications.
09/2022-Customs	01.02.2022	Seeks to amend notification Nos. 146/94 cus, 147/94-cus, 39/96-cus, 50/96-cus, 30/2004-cus, 81/2005-cus, 5/2017-cus, 16/2017-cus, 32/2017cus to prescribe end dates as per section 25(4A) of Customs Act, 1962
10/2022-Customs	01.02.2022	Seeks to amend notification No. 27/2011-Cus dated 01.03.2011 to redundant entries and reduce export duty raw hides and skins of buffalo.
11/2022-Customs	01.02.2022	Seeks to implement a graded BCD structure for wearable devices and its parts, sub-parts and sub-assembly.
12/2022-Customs	01.02.2022	Seeks to implement a graded BCD structure for hearable devices and its parts, sub-parts and sub assembly.
13/2022-Customs	01.02.2022	Seeks to implement a graded BCD structure for smart meters and its parts, sub parts and sub-assembly.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS TARIFF NOTIFICATIONS- 01.02.2022 to 15.02.2022

NO	DATE	GIST
14/2022-Customs	01.02.2022	Seeks to amend notification No. 25/1999-Cus dated 28.02.1999 to omit redundant and obsolete entries.
15/2022-Customs	01.02.2022	Central Government seeks to amend the following notification 25/2022 dt. 1.3.2002, 24/2005 dt. 1.3.2005, 25/2005 dt. 1.3.2005, 57/2017 dt. 30.06.2017, 08/2020 dt.2.02.2020.
16/2022-Customs	12.02.2022	Central Government seeks to amend the following notification No 48/2021-customs dt. 13.10.2021, 49/2021-cus dt.13.10.2021.

CUSTOMS NON-TARIFF NOTIFICATION- 01.02.2022 to 15.02.2022

NO	DATE	GIST
07/2022-Customs	01.02.2022	Seeks to further amend Customs (Import of Goods at Concessional rate of Duty) Rules. 2017.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

ANTI DUMPING DUTY NOTIFICATIONS – 01.02.2022 to 15.02.2022

NO	DATE	GIST
5/2022-Customs (ADD)	01.02.2022	Seeks to rescind the anti-dumping duty imposed on imports of "straight Length Bars and Rods of alloys and steel" from China.
6/2022-Customs (ADD)	01.02.2022	Seeks to rescind the anti-dumping duty imposed on imports of "High Speed Steel of Non-Cobalt Grade" from Brazil, China and Germany.
7/2022-Customs (ADD)	01.02.2022	Seeks to rescind the anti dumping duty imposed on imports of "flat rolled product of steel, plated or coated with alloy of aluminium or zinc from China, Vietnam and Korea.
8/2022-Customs (ADD)	14.02.2022	Continuation of anti-dumping duty on imports of 'Aluminium Foil', from China till June 15th 2022.

COUNTERVAILING DUTY NOTIFICATION- 01.02.2022 to 15.02.2022

NO	DATE	GIST
1/2022-Customs (CVD)	01.02.2022	Seeks to rescind the countervailing duty imposed on imports of "Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products" from China PR.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

CUSTOMS CIRCULARS- 01.02.2022 to 15.02.2022

NO	DATE	GIST
3/2022-Customs	01.02.2022	Provides clarification regarding applicability of Social Welfare Surcharge on goods exempted from basic and other customs duties/cesses.
D.O. F. No. 334/02 /2020- TRU	01.02.2022	Changes in Customs proposed through the Finance Bill, 2022.

CUSTOMS INSTRUCTION- 01.02.2022 to 15.02.2022

NO	DATE	GIST
02/2022	02.02.2022	Notification of Authorised Officers under Section 25 read with Section 47 (5) of Food Safety Standards (FSS) Act, 2006 and Regulation 13 (1) of FSS (Import) Regulation, 2017.





IMPORTANT CUSTOMS NOTIFICATIONS & CIRCULARS

DGFT NOTIFICATIONS- 01.02.2022 to 15.02.2022

NO	DATE	GIST
53/2015-2020	01.02.2022	The last date of submitting applications under MEIS, SEIS, ROSCTL, ROSL and 2% additional ad hoc incentive (under para 3.25 of FTP) extended to 28.02.2022.
54/2015-2020	09.02.2022	ITC (HS) 2022 Schedule-1 (Import Policy) is notified in sync with the Finance Act, 2021. Import policy of drones in CBU/CKD/SKD form under HS Code 8806 is 'Prohibited' with exceptions provided for R&D, Defence and Security purposes. Import of drone components shall be 'Free'.
S.O. 624 (e)	11.02.2022	Import policy for Moong is revised from "Free" to "Restricted".

DGFT PUBLIC NOTICES- 01.02.2022 to 15.02.2022

NO	DATE	GIST
48/2015-20	10.02.2022	The procedure for allocation of quota for import of (i) Calcined Pet Coke for use in Aluminium Industry; and (ii) Raw Pet Coke for CPC manufacturing industry for the year 2022-2023 is notified.





1 M/s UCN Cable Network- 2022(2) TMI 249- Bombay High Court

The appellant is entitled to file declaration under Sabka Vishwas Scheme under arrears category and not under litigation category, even if the show cause notice, which is pending as on 30.06.2019, is adjudicated during the validity period of the scheme.

2 UCC Infrastructure Pvt Ltd- 2022-TIOL-166-HC-MUM-ST

SVLDRS - Any investigation initiated after the cut off date of 30.06.2019 could not be a ground for rejecting the application filed under "voluntary category" as ineligible.

3 Asha Oil Traders- 2022-TIOL-168-HC-RAJ-VAT

Commercial Tax - It is impossible for the purchasing dealer to prove that the selling dealer has paid the tax or not and hence ITC cannot be denied to the purchasing dealer even if the registration of the selling dealer is cancelled on the charges that the invoices raised are false or forged as long as payment was made to selling dealer.

4 Food world - 2022(2) TMI 140- CESTAT Delhi

The Sale of packed foods by the respondent has no service component and it is a mere sale of food items and therefore no Service Tax is payable.





5 Mettupalayam Agricultural producers- 2022(2) TMI 61- CESTAT Chennai

The assistance rendered by appellant to their member farmers in auctioning their agricultural produce does not tantamount to rendering any service classifiable under Auctioneer's service and therefore no service tax can be levied.

6 Hindustan Zinc Ltd -2022(2) TMI 246- CESTAT New Delhi

The assessee is eligible for cash refund of the cess lying as Cenvat credit balance as on 30.06.2017 in their accounts.

7 M/s Subhash Light House - 2022(2) TMI 141- CESTAT New Delhi

Supply of generator sets on rental basis shall be considered as deemed sale as per Article 366(29A)(d) of the Constitution and hence no Service Tax is leviable.





FROM OUR KNOWLEDGE HOUSE

ARTICLE

A DRI Story - G. Natarajan

<https://bit.ly/3gL1gom>

Retrospective Amendments in GST- G. Natarajan

<https://bit.ly/3sFcaBP>

The various amendments to GST law, through the Finance Bill 2022

<https://bit.ly/34L0rtl>





CONTACT



#18, Rams Flats, Ashoka Avenue
Directors Colony , Kodambakkam
Chennai - 600024.

<https://g.page/swamyassociates-chennai?share>



Swamy Associates, Old No.12,
New No.11, SATTVA, Nanganallur
Chennai – 600061.

<https://g.page/swamyassociates-headquarters?share>



044-24811147



mail@swamyassociates.com

OTHER LOCATIONS

- Coimbatore
- Bengaluru
- Hyderabad
- New Delhi
- Pune



www.swamyassociates.com

swamy associates

