



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Setup by an Act of Parliament)

COIMBATORE BRANCH (SIRC)

ISSUE 4

News Letter

March 2025

Chairman's Desk



Dear Members,

Hearty Wishes and Greetings.

I am extremely humbled and honored to have been elected as the Chairman of this prestigious branch for the term 2025-2026. It is indeed a blessing to join the illustrious list of Chairmen of this branch and I express my heartfelt gratitude to all the distinguished personalities who have supported, guided me, and bestowing the Chairmanship on me for the term 2025- 2026. At this juncture, I thank my Gurus CA. Thirumalachariar Raghunathan and CA. D. V. Muralidharan who fully molded me into a Professional. I also thank all the eminent personalities who felicitated me and my team in in person and through virtual mode.

I would like to Congratulate CA. Survajith S Krishnan, CA. Thangavel M., CA. Lakshmi PN & CA. K. Muthukumar for being elected as the Vice Chairman, Secretary, Treasurer and SICASA Chairman respectively. My wishes to Committee Members CA. Harishkumar A G & CA. N. Pravin Kumar, I am confident that with the support of my colleagues in the Committee and the members of our Branch I will be able to discharge my duties as the Chairman of the Branch. We have also formed sub committees for our Branch for quick and effective functioning of the activities. Thanks to all Sub Committee members for their acceptance to serve our Branch in their respective roles.

My best wishes and Congratulations to CA. Charanjot Singh Nanda & CA. Prasanna Kumar D., for being elected as the President and Vice President of ICAI for the term 2025-2026. I am sure that the newly elected torchbearers of ICAI would take ICAI to greater heights and bring in more laurels to the Profession and ICAI. I wish to Congratulate the SIRC Office bearers Chairperson CA. Revathi S Raghunathan, Vice Chairman CA. Subba Rao Muppala, Secretary CA. Deepa Varghese & Treasurer CA. Bhanu Narayan Rao Y. V. I also wish to Congratulate my immediate predecessor CA. Vishnu Adithan P., for his wonderful contribution to the Branch in various capacities and especially as the Chairman of the Branch for the term 2024-2025.

During the month of February, we organized CPE Seminars on Union Budget 2025. I thank the faculty Members CA. G. Naveen Khariwal, CA. Ganesh Prabhu, CA. V. Ramnath, Adv. K. Vaitheeswaran. My sincere gratitude to CA. M. Suresh Kumar for handling a three days exclusive master class on FEMA, a new type of program which was well received by our members. For the month of March 2025 various Seminars, Study Circle Meetings, CPE Seminars are planned, the details are published in the newsletter, please take note of the same and please participate in all the programs.

Kindly note, for the term 2025-2026 a nominal amount of Rs.7,000/- (incl. GST) has been fixed as the Annual Seminar Series fee. Kindly register and please extend your support and cooperation to the Branch. With committed perseverance let us continue to serve the Profession and Nation in a great manner.

CA. Sathish R.
Chairman

Inside

- **GST Updates & Case Laws**
Lessons from Past,
Roadmap for Future

CPE Hours Generated Monthwise 2025



Members at the Helm of Affairs 2025-2026

ICAI



CA. Charanjot Singh Nanda
President



CA. Prasanna Kumar D
Vice President

SIRC OF ICAI



CA. Revathi S Raghunathan
Chairperson



CA. Subba Rao Muppala
Vice Chairman



CA. Deepa Varghese
Secretary



CA. Bhanu Narayan Rao Y V
Treasurer



CA. Pramod Ramamohan Hegde
Chairman, SICASA

COIMBATORE BRANCH OF SIRC OF ICAI



CA. Sathish R
Chairman



CA. Survajit S. Krishnan
Vice Chairman



CA. Thangavel M.
Secretary



CA. Lakshmi PN
Treasurer



CA. K. Muthukumar
SICASA Chairman



CA. Harish Kumar A.G.
Member



CA. S. Rajesh
Ex-officio Member

Assumption of Office by New Managing Committee Members 2025-2026



Dignitaries & Faculty Members - 13th Annual Conference of the Branch



FEMA - Three Days Master Class



CPE Seminar



PSGKR College





THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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COIMBATORE BRANCH (SIRC)

ICAI Bhawan, No. 44 &45, Mettupalayam Road, Thudiyalur, Coimbatore - 641034.

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Esteemed Professional Colleagues,

We are pleased to share herewith the events planned for the month of March 2025, kindly make a note of the same and please plan your program and participate in the events.

S.No.	Date & Time	Program	CPE Credit	Venue
1	01-03-2025, Saturday 09.45AM - 05.15PM	One Day Workshop on FEMA	06	ICAI Bhawan, Thudiyalur
2	06-03-2025, Thursday 06.00PM - 08.00 PM	CPE Study Circle Meeting Subject : IND AS 116 - Leases - Financial Reporting, Implications and Practical Insights Speaker : CA. G. Nithesh Kumar , Chartered Accountant, Coimbatore	02	ICAI Bhawan, R. S. Puram
3	08-03-2025, Saturday 09.45 AM - 05.15 PM	International Woman's Day Celebrations One Day CPE Seminar	06	ICAI Bhawan, Thudiyalur
4	13-03-2025, Thursday 06.00PM - 08.00 PM	CPE Study Circle Meeting Subject : Section 194T: TDS on Payments to Partners – Scope and Implications Speaker : CA. M.S. Nagaraj , Chartered Accountant, Coimbatore	02	ICAI Bhawan, R. S. Puram
5	15-03-2025, Saturday 09.45AM - 05.15 PM	One Day CPE Seminar on Bank Audit	06	ICAI Bhawan, Thudiyalur
6	20-03-2025, Thursday 06.00PM - 08.00 PM	CPE Study Circle Meeting Subject : Income Tax Assessment Procedures Speaker : CA. Arun Kumar R , Chartered Accountant, Coimbatore	02	ICAI Bhawan, R. S. Puram
7	24-03-2025 to 28-03-2025 (Monday to Friday)	Week long Refresher Course on Bank Audit	10	ICAI Bhawan, R. S. Puram
8	28-03-2025 & 29-03-2025 Friday & Saturday	Panchabootha Cricket League	-	PSG Medical College, Coimbatore

We request you to kindly register for the Annual Seminar Series 2025. The registration fee is Rs.7,000/- incl. GST. Kindly transfer the fee to our Bank Account and please mail the transaction details to coimbatore@icai.org

CPE Hours
March **34**

Since
Assumption **50**



Please transfer the fee and mail the details to coimbatore@icai.org

BANK ACCOUNT DETAILS

Name of the Bank	Union Bank of India,	Account Number	335001010033555
Name of Account	The Coimbatore branch of SIRC of ICAI	Type	Current Account
		IFSC Code	UBIN0533505



Auditors' Conclave - Program jointly with Dr. NGP College of Arts & Science, Coimbatore



GST UPDATES & CASE LAWS

LESSONS FROM PAST, ROADMAP FOR FUTURE

CA. P. Aravind Thangam

E-mail : aravind@aravindthangam.com



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

Sec.73 –

(10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

Rule 80(1A) –

(1A) Notwithstanding anything contained in sub-rule (1), for the financial year 2020-2021 the said annual return shall be furnished on or before the twenty-eighth day of February, 2022.



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

- The High Court has held that ‘three months’ mentioned in section 34 (3) of the Act refers to a period of 90 days. This is erroneous. A ‘month’ does not refer to a period of thirty days, but refers to the actual period of a calendar month. If the month is April, June, September or November, the period of the month will be thirty days. If the month is January, March, May, July, August, October or December, the period of the month will be thirty one days. If the month is February, the period will be twenty nine days or twenty eight days depending upon whether it is a leap year or not.
- Therefore when the period prescribed is three months (as contrasted from 90 days) from a specified date, the said period would expire in the third month on the date corresponding to the date upon which the period starts. As a result, depending upon the months, it may mean 90 days or 91 days or 92 days or 89 days.



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

Due date for issuance of Order as per Sec.73(10) – 28th Feb, 2022 + 3 Years = 28th Feb, 2025

Sec.73 –

(2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.

Due date for issuance of Notice as per Sec.73(2) – 28th Feb, 2025 (-) 3 Months = 28th November, 2024



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

- 9. The Hon’ble Supreme Court, while considering this issue and after noticing that Section 3 (35) of the General Clauses Act, 1897 defines a “month” as meaning a month reckoned as a British calendar, has also noted the Judgment of the House of Lords in Dodds vs Walker. The House of Lords while considering the period within which a tenant can approach the Court under the Landlord and Tenant Act, 1954 had observed as follows:



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

5. The learned Government Pleader would contend that a “month” would mean “a calendar month”. As the 28th of February is the end of the month of February, the last date of issuance of a notice would have 1st of December, 2024 or at the worst 30th of November, 2024. As the notice has been issued on 30.11.2024, it would be within limitation. Further, the provisions of Section 73 (2) can at best be treated as a directory requirement and not a mandatory requirement whose violation would render the proceedings non est.



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

This simple general rule which Cockburn C.J. in Freeman v. Read (1863) 4 B. AND S. 174, 184 described as being “in accordance with common usage ... and with the sense of mankind,” works perfectly well without need for any modification so long as there is in the month in which the notice expires a day which bears the same number as the day of the month on which the notice was given. Such was the instant case and such will be every other case except for notices given on the 31st of a 31 day month and expiring in a 30 day month or in February, and notices expiring in February and given on the 30th or the 29th (except in leap year) of any other month of the year. In these exceptional cases, the modification of the corresponding date rule that is called for is also well established: the period given by the notice ends upon the last day of the month in which the notice expires.



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

7. The Hon’ble Supreme Court in the case of Himachal Pradesh and Another vs. Himachal Techno Engineers and Another were considering the time limit of three months set out in Section 34 of the Arbitration and Conciliation Act, 1996. In that case, the award had been passed, on 05.11.2007, and a petition under Section 34 was filed, on 11.03.2008. The said application was rejected on the ground that the period within which the application should have been filed was three months which would be 90 days reckoned from 11.11.2007 and ending on 10.11.2007 and a further grace period of 30 days which would end on 10.03.2008 whereas the application was filed on 11.03.2008. The Hon’ble Supreme Court after considering this issue had held as follows:



Time limit to issue SCN for FY 2020-21

[Cotton Corporation of India – AP High Court]

The said protections can then be bypassed by the authorities issuing show cause notice with a week’s time or 10 days and calling upon tax payer to put forth his objections in that shortened time. That does not appear to be intent of the provisions of Section 75 (2) or Section 73 (10) of the GST Act.



Time limit to issue SCN for FY 2020-21
[Cotton Corporation of India – AP High Court]

For all the aforesaid reasons, we would have to hold that the time permit set out under 73 (2) of the Act is mandatory and any violation of that time period cannot be condoned, and would render the show cause notice otiose.

25-02-2025

ZENTAX

Order beyond issues in SCN
[Senthil Hardwares – TN High Court]

The petitioner is before this Court against the impugned order dated 27.04.2024 passed by the respondent for the assessment year 2018-19 bearing reference in 33AKBPN2569C1ZH.

The specific case of the petitioner is that the petitioner was issued with a notice in DRC 01 in GST portal on 19.04.2022, followed by remainder for personal hearing dated 13.02.2024 and that the personal hearing was held on 27.04.2024.

25-02-2025

ZENTAX

Time limit for issuance of Notice / Order

Particulars	Sec.73		Sec.74	
	3 Months prior to the time limit for issuance of Order	3 Years from due date of furnishing Annual Return	6 Months prior to the time limit for issuance of Order	5 Years from due date of furnishing Annual Return
FY 2017-18	31-10-2022 30-09-2023	31-01-2023 31-12-2023	31-07-2024	31-01-2025
FY 2018-19	31-12-2022 31-01-2024	31-03-2023 30-04-2024	30-09-2024	31-03-2025
FY 2019-20	31-12-2023 31-05-2024	31-03-2024 31-08-2024	30-09-2025	31-03-2026
FY 2020-21	28-11-2024	28-02-2025	31-08-2026	28-02-2027

25-02-2025

ZENTAX

Order beyond issues in SCN
[Senthil Hardwares – TN High Court]

It is submitted that the aforesaid amount was not a part of the notice that was issued to the petitioner in GSTR 01 dated 19.04.2022, which was replied by the petitioner on 27.04.2024.

Having considered the submissions made by the learned counsel for the petitioner and learned Additional Government Pleader for the respondent, the Court is of the view that the impugned order suffers from the gross violation of the principles of natural justice as the petitioner was not put to notice on defect No.1.

25-02-2025

ZENTAX

Appeal time limit to be seen after rectification
[SPK & Co. – TN High Court]

After assessment order has been made, Section 161 of the GST Act provides for an application to be made for rectification. Such rectification can be disposed either in favour of the assessee or against him. If any rectification is made as prayed for, the same would get merged into the original order. Just because the rectification application has been rejected, the period of limitation to challenge the original assessment order cannot be said to begin from the date on which the original order was passed, it would only count from the date on which the order of rectification has been passed.

25-02-2025

ZENTAX

Order beyond issues in SCN
[Senthil Hardwares – TN High Court]

In view of the above, the Court is left with no other option, but to quash the impugned order and to remit the case back to the respondent to pass a fresh order on merits.

The impugned order, which stands quashed, shall be treated as corrigendum to the notice in DRC 01 dated 19.04.2022. The respondent is also directed to issue fresh additional addendum to the above as a show cause notice with in a period of 45 days from today. The petitioner shall, thereafter, file a reply to the same with in a period of 30 days. The respondent shall thereafter pass a fresh order on merits and in accordance with law as expeditiously as possible preferably within a period of two months. Needless to state, the petitioner shall be heard before passing the order.

25-02-2025

ZENTAX

Appeal time limit to be seen after rectification
[SPK & Co. – TN High Court]

In the present case, the original order of assessment was made on 07.08.2024 and the order in rectification was made on 12.11.2024. Therefore, the period of limitation for challenging the order of assessment dated 07.08.2024 shall start ticking from the date of rejection of the rectification application i.e., from 12.11.2024. It is made clear that when the appeal is filed by the assessee as against the original order of assessment, the period of limitation shall be calculated from the date on which the rectification had been dismissed.

25-02-2025

ZENTAX

Blocking of ITC – Rule 86A – Negative Blocking
[Skanthaguru Innovations – TN High Court]

(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as

a)

b)

c)

d)

may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount

25-02-2025

ZENTAX





Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

The State Authorities, by virtue of intimation dated 24.06.2024, 09.09.2024 and 10.09.2024, had issued the blocking orders under Rule 86A of the GST Rules, 2017. The main contention put forth before this Court is that in this case, the State Authorities have issued the blocking orders without any amount available in the ECL of the petitioners, i.e., at the time of blocking, the position of ITC was "Nil" in ECL. Therefore, it was contended by the petitioner that the said blocking is contrary to the provisions of Rule 86A as well as the law laid down by the Hon'ble Division Bench of Gujarat High Court and Hon'ble Delhi High Court in the aforementioned case laws.

25-02-2025



Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

The 1st part of Rule 86A contains that *"The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible"*. This part of Rule 86A(1) alone was interpreted by both the Courts while giving their findings. The literal interpretation of this 1st part of the provisions of Rule 86A(1) would shows that if the Commissioner or the Assistant Commissioner having reason to believe that the ITC available in ECL has been fraudulently availed or ineligible, the said ECL can be blocked under the circumstances mentioned in Rule 86A(1)(a) to (d) of GST Rules.

25-02-2025



Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

The State Authorities, by virtue of intimation dated 24.06.2024, 09.09.2024 and 10.09.2024, had issued the blocking orders under Rule 86A of the GST Rules, 2017. The main contention put forth before this Court is that in this case, the State Authorities have issued the blocking orders without any amount available in the ECL of the petitioners, i.e., at the time of blocking, the position of ITC was "Nil" in ECL. Therefore, it was contended by the petitioner that the said blocking is contrary to the provisions of Rule 86A as well as the law laid down by the Hon'ble Division Bench of Gujarat High Court and Hon'ble Delhi High Court in the aforementioned case laws.

25-02-2025



Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

The 2nd part of the Rule 86A of GST Rules, 2017, states as "may, for the reasons to be recorded in writing, not allow debit of an amount equivalent to such credit available in electronic credit ledger for discharge of liabilities under Section 49", which means the Officers have to record the reasons in writing not to allow the debit of amount equivalent to such credit for discharge of liabilities under Section 49. The word "amount equivalent to such credit for discharge of liabilities" would mean that not only the fraudulently availed ITC amount available in the ECL, but an amount equivalent to fraudulently availed credit utilised for discharge of liabilities under Section 49.

25-02-2025



Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

This Rule was literally interpreted by the Hon'ble Division Bench of Gujarat High Court in the judgement of Samay Alloys case at paragraph Nos.26, 28, 33 and 34, which read as follows....

At paragraph 34 of the above judgement, the Hon'ble Division Bench of Gujarat High Court has arrived at a conclusion that the power conferred under Rule 86A to block the credit cannot be invoked by the State Authorities in the case, where

- i) Credit of ITC is not available in ECL or
- ii) Such credit has already been utilised.

25-02-2025



Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

Thus, a conjoint reading of 1st and 2nd parts of Rule 86A would clearly reveal that the word "available in the ECL" referred in 1st part would mean that the amount available after the fraudulent availment of credit at any point of time, whether it was available in the ECL or utilised at the time of passing the blocking orders. Hence, the 2nd part of Rule 86A empowers the Authorities not to allow the debit of amount equivalent to the fraudulently availed credit for discharge of liabilities under Section 49. If it was already utilised, the Officials are also empowered to pass blocking orders to the extent of amount equivalent to such credit, which was already utilised, along with the unutilised fraudulently availed ITC amount available in the ECL at the time of passing the blocking orders.

25-02-2025



Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

A similar view was also taken by the Hon'ble Delhi High Court in Best Crop case, wherein, it was held as follows:

At this juncture, though the Hon'ble Division Bench of Gujarat and High Court of Delhi had already analysed the first part of the provisions of Rule 86A alone, this Court feels that it would be appropriate to analyse the said Rule 86A once again in whole.

25-02-2025



Blocking of ITC - Rule 86A - Negative Blocking
[Skanthaguru Innovations - TN High Court]

The word "credit of ITC available in ECL" referred in Rule 86A(1) of GST Rules, 2017, would mean that after the fraudulent availment of ITC, the same should have been made available in ECL, at any point of time, for debiting the ECL to discharge the output tax liabilities. Thus, the word "available" cannot be interpreted as the ITC should be made available at the time of passing of blocking order. On the other hand, the word "available" shall be interpreted in such a way that the ITC has to be available in the ECL, at any point of time, for the purpose of debiting the ECL.

25-02-2025



SCN Missed to be responded – Remanded back

[Sundarapandian – TN High Court]

Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondents, it is noticed that the dispute arises on account of difference in the turnover in GSTR – 7 and GSTR – 3B. Perhaps, if the petitioner had responded to the notices that preceded the impugned order, the petitioner may have succeeded.

25-02-2025



Order rejected on grounds NOT in SCN

[APN Sales and Marketing – Delhi High Court]

The impugned order is set aside. The matter is remanded to the Adjudicating Officer to decide afresh in accordance with law after affording the petitioner an opportunity to be heard.

The petitioner is also at liberty to furnish such further documents including documents to substantiate that it had, in fact, received the supply from the named supplier (Modern Traders) during the relevant period or any other material that the petitioner considers relevant. This is considering the allegation that the invoices produced by the petitioner are “Good-less invoices”, that is, no goods had been supplied by the supplier against those invoices during the relevant tax period (Financial Year 2017-18).

25-02-2025



Order rejected on grounds NOT in SCN

[APN Sales and Marketing – Delhi High Court]

The impugned SCN referred to Section 16 (2) (c) of the CGST Act, which posits that registered persons are entitled to avail ITC on supply of goods or services subject to the condition that the tax charged on such supply has been paid to the Government either in cash or through utilization of admissible ITC. The impugned SCN alleged that the taxpayer had not correctly availed ITC on the inward supplies on re-conciliation of the turnovers reflected in the petitioner’s returns (GSTR-09).

25-02-2025



129(I)(a) v. 129(I)(b)

[Lakhdatar Traders – Allahabad High Court]

The facts are not in dispute that the documents in question which were accompanied the goods, were dated 01.10.2024 and at the time of interception of the vehicle, the requisites were found. The notice issued by the respondents indicated the fact of the registration being suspended by the jurisdictional authorities at Bihar on 03.10.2024, based on which, the penalty has been imposed under provisions of Section 129(1)(b) of the Act.

25-02-2025



Order rejected on grounds NOT in SCN

[APN Sales and Marketing – Delhi High Court]

7. The petitioner responded to the said impugned SCN on 23.11.2023 enclosing therewith invoices from the dealer in question (Modern Traders); the ledger amount of the concerned dealer maintained in the books of the petitioner; and the details of the payments made to the said supplier.

25-02-2025



129(I)(a) v. 129(I)(b)

[Lakhdatar Traders – Allahabad High Court]

A coordinate Bench of this Court in the case of Halder Enterprises (supra), wherein, the goods were intercepted on 03.10.2023 and the suspension took place on 06.10.2023 w.e.f. 18.09.2023, after referring to the orders of this Court in M/s Sahil Traders v. State of U.P. and another, 2023:AHC:116953-DB and M/s Sanjay Sales Agency v. State of U.P. and another, 2023:AHC:193624- DB, and provisions of Section 129 **came to the conclusion that once the goods were found with proper tax invoice and E-way bill belonging to the petitioner, the circular dated 31.12.2018 would apply and the petitioner would be deemed to be owner of the goods and the same was to be released in terms of Section 129 (1) (a) of the CGST Act.** In the present case also, as noticed hereinbefore this is not the case of the respondents that the goods were not accompanied with proper tax invoice and E-way bill and only on account of the fact that the registration was suspended on 03.10.2024 that the action has been initiated and the order impugned has been passed as such the issue stands covered.

25-02-2025



Order rejected on grounds NOT in SCN

[APN Sales and Marketing – Delhi High Court]

The annexure to the impugned order does not set out any reasons for rejecting the petitioner’s claim that it is a bona fide purchaser and it had purchased the goods from the dealer/supplier (Modern Traders) after payment of taxes. The impugned order also does not indicate that the supplier in question (Modern Traders) has not deposited the tax due on the supplies made to the petitioner, which was one of the allegations made in the impugned SCN.

The impugned order is unreasoned and the only ground for rejecting the petitioner’s response to the impugned SCN is that the same “has not been found satisfactory” and the petitioner has not been able to submit “substantial proof in support of his reply”.

25-02-2025



129(I)(a) v. 129(I)(b)

[Lakhdatar Traders – Allahabad High Court]

The authorities are directed to carry out the exercise in terms of Section 129 (1)(a) of the CGST Act within a period of two weeks from today.

25-02-2025





Appeal time limit – Online filing or Manual Submission [Kasturi & Sons – TN High Court]

(3) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgement shall be considered as the date of filing of appeal:

Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgement, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgement shall be considered as the date of filing of appeal:

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING

Refund rejection - Grounds of rejection not detailed in SCN [Orange Sorting Machines – TN High Court]

The show cause notice does not provide any particulars beyond stating that an excess refund of Rs. 7,51,961/- was made to the petitioner on account of inverted duty structure. By reply dated 18.12.2023, the petitioner pointed that the break-up for the amount claimed in the show cause notice was not provided in spite of follow up. Therefore, the petitioner once again requested for particulars. The impugned order was issued without providing such particulars. On examining the impugned order, it is noticeable that the only reason specified therein is that the CAG para pointed out that the taxpayer was issued excess refund on account of inverted duty structure and that the excess amount is Rs. 7,51,961/-.

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING

Appeal time limit – Online filing or Manual Submission [Kasturi & Sons – TN High Court]

Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.

Explanation. - For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgment, indicating the appeal number, is issued.

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING

Refund rejection - Grounds of rejection not detailed in SCN [Orange Sorting Machines – TN High Court]

Unless the show cause notice sets out sufficient particulars to enable the assessee to understand the nature of claim being made against such assessee, it is not possible for such assessee to respond in a meaningful way to the show cause notice. In this case, as discussed above, both the show cause notice and the impugned order are bereft of particulars. Therefore, the order calls for interference.

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING

Appeal time limit – Online filing or Manual Submission [Kasturi & Sons – TN High Court]

The above sub-rule indicates clearly that the requirement of filing a self-certified copy of the order appealed against becomes applicable, as per the first proviso thereto, only where the order appealed against is not uploaded on the common portal. In the case at hand, the order was duly uploaded on the common portal. In such event, the date of online filing is the date of filing of the appeal. Even otherwise, the filing of a hard copy is a purely procedural requirement. Consequently, the impugned order is not sustainable.

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING

Refund rejection - Grounds of rejection not detailed in SCN [Orange Sorting Machines – TN High Court]

Hence, the impugned order is quashed and the matter is remanded for re-consideration. The respondents are directed to issue a fresh show cause notice to the petitioner setting out all relevant particulars so as to enable the petitioner to respond thereto. Further proceedings shall be taken thereafter in accordance with law.

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING

Refund rejection - Grounds of rejection not detailed in SCN [Orange Sorting Machines – TN High Court]

The petitioner asserts that it is engaged in manufacturing machines. In relation to the purchase of raw materials for such activity, it is stated that there is accumulation of unutilized ITC on account of inverted duty structure. Consequently, claims for refund were made and received. Pursuant to a show cause notice dated 22.09.2023, the petitioner replied and requested for a break-up of the sum of Rs. 7,51,961/-, which was specified therein as being an erroneous refund. The respondents did not provide the requested break-up and instead proceeded to issue the impugned order.

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING

Petrol Pump - Agreeing to refrain from an Act [Achuthan Nair & Company - AAR]

M/s. P Achuthan Nair & Company, 1/233, Changuvetty, Kottakkal P.O, Malappuram, 676503 (hereinafter referred to as the applicant) is a retail dealer of petroleum products in the State of Kerala. The applicant is an authorized retail dealer of HPCL.

- Whether differential dealer margin provided by the petroleum companies to its retail dealers are taxable under GST as a supply of service?
- If it is taxable, then what is the justification for bringing the same under the purview of GST?
- If it is taxable, then under which rate of GST?

25-02-2025

ZENTAX
EVALUATING AND RISK MITIGATING



Petrol Pump - Agreeing to refrain from an Act

[Achuthan Nair & Company - AAR]

There is no dispute that the applicant's supply of petrol/diesel to end customer is not taxable to GST. However, as already discussed above, the supply in the present case is that of the service of agreeing to the obligation to refrain from an act. As per the Annexure: Scheme of Classification of Services annexed to Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended from time to time, the service of "Agreeing to refrain from doing an act" is classified under Section 9, Heading 9997, Service Code (Tariff):999793. As per Sl. No. 35 of the aforementioned notification, the same is taxable 18% (CGST 9% and KSGST 9%).

25-02-2025

ZENTAX

Supply of Food to Companies – NDT outdoor catering

[Jothi Catering Services - AAR]

The proposed activity of supply of food by the Applicant falls under 'other contract food service' under SAC 996337 attracting 18% of GST, as per Notification No. 11/2017-CT(Rate) dated 28.06.2017 amended by Notification No. 20/2019-CT(Rate) dated 30.09.2019.

25-02-2025

ZENTAX

Supply of Food to Companies – NDT outdoor catering

[Jothi Catering Services - AAR]

On perusal of the template agreement submitted by the Applicant, it is inferred that they plan to supply prepared food and beverages to their clients, deliver the same to the client's premises but not involved in the distribution of food in the client's premises. Thus the Applicant would be doing a catering service on a contract. The Applicant would charge their clients according to the quantity of food supplied. The Applicant has requested for the appropriate Tariff heading for their activity, Rate of Tax and relevant notification.

25-02-2025

ZENTAX

GST Updates

Finance Bill, 2025 amendments

ZENTAX

Supply of Food to Companies – NDT outdoor catering

[Jothi Catering Services - AAR]

The said service will not fall under 'Outdoor Catering Service' as stated by the jurisdictional Officers in their remarks, as the definition/explanation to the said term is given by Notification No. 20/2019- CT(Rate) dated 30.09.2019, which amended the Notification No. 11/2017-CT(Rate) dated 28.06.2017 and the same is given as under:

"(xxxiii) 'Outdoor Catering' means supply, by way of or as part of any service of goods, being food or any other article for human consumption or any drink, at Exhibition halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature."

From the above, we find that the activity undertaken by the Applicant will not fit into the explanation given for 'Outdoor catering'.

25-02-2025

ZENTAX

Supreme Court decision in the case of Safari Retreats Nullified

(i) for the words "plant or machinery", the words "plant and machinery" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017;

(ii) the Explanation shall be numbered as Explanation 1 thereof, and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

'Explanation 2.—For the purposes of clause (d), it is hereby clarified that notwithstanding anything to the contrary contained in any judgment, decree or order of any court, tribunal, or other authority, any reference to "plant or machinery" shall be construed and shall always be deemed to have been construed as a reference to "plant and machinery".'

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ZENTAX

Supply of Food to Companies – NDT outdoor catering

[Jothi Catering Services - AAR]

From the above definitions, it can be seen that the restaurant service covers only services provided by restaurant, mess or canteen, thereby, the activity to be undertaken by the Applicant, that providing catering service under a contract to Industries would not be covered under 'restaurant service'. The said activity of the Applicant would not be covered under 'outdoor catering service' as it is not an event based or an occasional service. It will not be covered under 'hotel accommodation' and also not a 'specified premises'. Thus the service to be undertaken by the Applicant does not fall under 7(i) to 7(v) of the description given in the said Notification. Therefore, we find that the catering services of the Applicant under a contract would be falling under entry No. 7(vi), being the residual entry and thereby attract 9% CGST and 9% SGST as per Notification No. 11/2017-State Tax (Rate) dated 30.06.2017.

25-02-2025

ZENTAX

Supreme Court decision in the case of Safari Retreats Nullified

- The Finance Bill, 2025 presented in the parliament today has nullified the decision of the Hon'ble Supreme Court in the case of Safari Retreats
- The controversy in the case of Safari retreats was whether the ITC can be claimed for an immovable property. If the immovable property is the form of plant or machinery then ITC can be claimed according to the Supreme Court decision. But the SC directed the HC to ascertain whether the immovable property constructed will be considered plant or machinery.

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To be continued in next issue...