545th Issue: 22nd February 2026 - 28th February 2026

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# EDITORIAL

Friends,

In this issue, we will discuss reg. an agreement for loan has to be accepted by AO unless approved fraudulent [Sec 68 of ITA'61 – Sec 102 of ITA'25].

Vide Finance Act, 2012, it was provided that the nature and source of any sum, in the nature of share application money, share capital, share premium or any such amount by whatever name called, credited in the books of a closely held company shall be treated as explained only if the source of funds is also explained in the hands of the shareholder. However, in case of loan or borrowing, courts have held that only identity and creditworthiness of creditor and genuineness of transactions for explaining the credit in the books of account is sufficient, and the onus does not extend to explaining the source of funds in the hands of the creditor. This was considered to have led to the provision becoming ineffective in handling evasion when routed through a layered credit claim. Therefore, the provisions of Section 68 of the Income Tax Act had been amended by FA 2022 so as to provide that the nature and source of any sum, whether in the form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor. However, before this amendment, there was no requirement to prove source of source.

Further, there cannot be any addition u/s 68 of Income Tax Act for loan taken for which complete particulars and evidence were furnished by those parties and in fact the loan taken was also repaid back. Such the transaction cannot be considered as bogus loan, fraudulent, circulated transaction or accommodation entry, unless proved with evidence, especially when the statement given by a third party is retracted. The AO cannot reject filing of confirmations, bank statement and copy of returns merely on suspicion. Hon'ble High Court of Gujarat held in the case of Ranchhod Jivabhai Nakhava Appeal No.50 of 2011, on the ratio of that once the assessee has discharged initial onus by furnishing copy of PAN, confirmation of lenders, it was the duty of Assessing Officer to investigate or verify about the lenders, Rohini Builders [2002] 256 ITR 360 [2003] 127 Taxman 523 (Guj). The same was upheld in the case of M/s WHITE WILLOW VISHRAM APARTMENT Vs INCOME TAX OFFICER, WARD-1 [2023-VIL-1129-ITAT-SRT].

However, a word of caution for taxpayers is that to escape from rigors of Section 68 they have to furnish details and particulars showing identity of creditors/investors, their capacity and credit worthiness and genuineness of transaction. In the case of DHANWAN LEASING AND FINANCE COMPANY LTD. VERSUS ITO, WARD 2 (2) , INDORE - 2023 (2) TMI 698 - ITAT INDORE it was held that for establishing a factum of conduit company, the assessee is duty bound to establish that source companies are also group companies and assessee after receiving the amount further invested same by making investments in group company. Investor companies, who invested amount in assessee company as share application money, are not part of main group company. Assessee had also onus to prove that it is a conduit company and also establish identity, capacity and credit worthiness of investor companies and genuineness of transaction.

**Just to reiterate, we remain available over telecom or e-mail for any clarifications.**

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# SYNOPSIS

# TAX CALENDAR

| Date | Form/Return/Challan | Reporting Period | Description |
|---|---|---|---|
| 28th Feb | **GSTR-11 (UIN holders)** | **Jan 2026** | GST return for entities with Unique Identification Number (UIN) |

# INCOME TAX

**CASE LAW**

**M/S. SIDHARTH CARBOCHEM PRODUCTS LTD. VERSUS TAX RECOVERY OFFICER, WARD 1 (3) (2), INCOME-TAX DEPARTMENT & OTHERS: BOMBAY HIGH COURT**

**OUR COMMENT**: In the Instant case "Validity of rectification order passed by the Settlement Commission, power of the Settlement Commission to reopen concluded orders, Finality of settlement proceedings" was under consideration. It has referred that The Hon'ble Supreme Court in the case of Brij Lal [2010 (10) TMI 8 - SUPREME COURT] has inter alia held that the Settlement Commission cannot re-open its concluded proceedings by invoking Section 154 of the Act so as to levy interest under Section 234B. Hon'ble Supreme Court has clearly opined that the Settlement Commission cannot reopen its concluded proceedings by invoking Section 154.

In the present case, the settlement proceedings were concluded by the Settlement Commission by passing an Order on 30th November 1999. This order was passed under Section 245D(4) of the I.T. Act. Once these proceedings are concluded, the Settlement Commission could not have invoked Section 154 seeking to rectify the Order dated 30th November 1999 and calling upon the Petitioner to pay interest under Section 234B from the date of intimation under Section 143(1) upto 30th November 1999.

No hesitation in holding that the Settlement Commission could not have invoked the powers under Section 154 to rectify the Order dated 30th November 1999. Hence, the rectification order dated 23rd March 2004 is hereby quashed and set aside. Consequently, demand notice issued pursuant to the rectification order will also have to go and accordingly is quashed and set aside.

Argument of the Revenue that, notwithstanding the aforesaid, the Petitioner ought to be called upon to pay interest from the date of intimation u/s 143(1) upto the date of the admission order passed by the Settlement Commission under Section 245D(1) **-** Settlement Commission cannot reopen its concluded proceedings by invoking Section 154 of the Act so as to levy interest under section 234B. In other words, the Supreme Court has put a quietus to the matter by holding that, where proceedings are already concluded they are not to be re-opened by invoking Section 154. If we were to accept this argument of the Revenue, it would effectively be doing something indirectly what is proscribed by the Supreme Court directly.

It has been held that In these circumstances, we are unable to agree with the submission of the Revenue that the Petitioner ought to be directed to pay interest from the date of intimation u/s 143(1) till 22nd August 1996 [the date of the admission order passed by the Settlement Commission]. WP allowed.

**[For further details please refer the Case Law]**

# GST

## ADVISORY

### ADVISORY ON INTEREST COLLECTION AND RELATED ENHANCEMENTS IN GSTR-3B

**OUR COMMENTS:** GSTIN vide advisory dated 19.02.2026 advises that in continuation to the advisory posted on the GST Portal on 30th January, 2026 on the above subject, it is hereby informed that the functionality to utilise CGST or SGST ITC for payment of IGST liability, in any order of payment after complete exhaustion of IGST Credit (ref point no 3 of the advisory), shall be available from February-2026 period.

Resultantly, from February-2026 period, once the available IGST ITC has been fully exhausted, the GST Portal will allow to pay IGST liability in Table 6.1 of GSTR-3B using available CGST and SGST ITC in any sequence.

For detailed advisory posted earlier by the GSTIN, kindly refer the below link:

https://tutorial.gst.gov.in/downloads/news/advisory_on_interest_calculator.pdf.

**[For further details please refer the Advisory.]**

## CASE LAW

### VINAYAK INTERNATIONAL HOUSEWARES, M/S. ASHISH FOILS PVT LTD., M/S. MAYEDASS INTERNATIONAL VERSUS UNION OF INDIA & ORS: DELHI HIGH COURT

**OUR COMMENTS:** In the Instant Case "Refund of IGST on export of services, Prospective or Retrospective application of omission of Rule 96(10) of the CGST Rules, grant of exemption from payment of IGST on goods imported into India, against a valid advance authorization was under consideration".

It has been held that with effect from 8th October, 2024, Rule 96(10) of the CGST rules was itself omitted. Pursuant to the said omission, different High Courts had the opportunity to consider Rule 96(10) of the CGST Rules.

Reliance can be placed in Sance Laboratories Pvt. Ltd. vs. Union of India [2024 (11) TMI 188 - KERALA HIGH COURT] where the Kerala High Court had considered the constitutional validity of Rule 96(10) of CGST rules and vide decision dated 10th October, 2024, the Kerala High Court came to the conclusion that Rule 96(10) of CGST rules creates restrictions on obtaining refund, which are not contemplated under Section 16 of the Integrated Goods and Services Tax Act, 2017 (hereinafter, 'IGST Act'). Thus, the said rule was held to be unconstitutional.

In Glen Industries Pvt. Ltd. vs. Deputy Director, DGGI [2024 (11) TMI 188 - KERALA HIGH COURT], the High Court of Calcutta also granted an interim order.

In the 54th meeting of the GST Council, the recommendation made is relevant, as it clearly observed that Rule 96(10) of CGST Rules leads to unnecessary complication, without any intended benefit and therefore the omission was recommended - Rule 96(10) of the CGST rules has been omitted with effect from 8th October, 2024 upon the recommendations of the GST Council in its 54th meeting. The Kerala High Court in Sance Laboratories Pvt. Ltd. has considered the constitutional validity of Rule 96(10) of the CGST rules and has held that, if permitted to stand, the constraints placed upon IGST refunds under Rule 96(10) would run contrary to the provisions of the IGST Act, especially Section 16 of the IGST Act. As evident from the above, the said omission of the said Rule has also been considered by all the other High Courts in above mentioned decisions.

All pending SCNs, orders and even appeals filed against orders would not be transactions passed and closed and therefore, the proceedings cannot continue under Rule 96(10) of the CGST rules. The benefit of omission of Rule 96(10) of the CGST rule sought to be extended to all pending proceedings including appeals.

Here, the case is only at the stage of summons and therefore the proceedings deserve to be quashed including the summons. Thus, no proceedings can continue under Rule 96(10) of the CGST rules against the Petitioner - the SCN and all subsequent orders emanating therefrom which were passed in the said matter shall also stand quashed. Moreover, as the Petitioner is already in the process of filing the appeal against the order and the additional 10% pre-deposit has already been made by the Petitioner.

Petition allowed.

**[For further details please refer the Case Law.]**

## CASE LAW

**DIRECTORATE OF ENFORCEMENT VERSUS P.C. FINANCIAL SERVICES PRIVATE LIMITED AND 3 OTHERS: TELANGANA HIGH COURT**

**OUR COMMENTS:** In the instant case Legality and validity of the seizure orders was under consideration. It has been held that, the facts of the case reveal that before the learned Single Judge, though a prayer for quashment of seizure orders dated 26.08.2021, 30.09.2021 and 15.12.2021 was made, an interlocutory application was preferred for release of ₹ 15,35,45,317/- and the learned Single Judge has allowed the application. The writ petition itself has been disposed of by the impugned order dated 11.02.2022.

In the considered opinion of this Court, once the seizure orders were not set aside and no statutory provision was brought to the notice of the learned Single Judge for release of such amount and the seizure orders have been affirmed by the competent authority under Section 37A (2) of the Act, no such provisional release could have been ordered by disposing of the writ petition itself.

Learned counsel for the Union of India has also brought to the notice of this Court the press release issued by the Reserve Bank of India dated 24.02.2022 and the same reflects that even the banking licence of the respondent No.1/writ petitioner has been cancelled.

However, as this Court is not dealing with the cancellation of licence, no comment has been offered in respect of such cancellation. Learned counsel for the respondent No.1/writ petitioner has stated that he does not have a copy of the aforesaid order and he is not aware of the same.

Section 37A of the Act provides for a remedy of appeal and therefore, as now an order dated 04.02.2022 is in existence, the respondent No.1/writ petitioner shall certainly be free to prefer an appeal or to avail the other remedies available under the law. Resultantly, the order passed by the learned Single Judge is set aside and the writ appeal stands allowed.

**[For further details please refer the Case Law.]**

# CUSTOMS

## CASE LAW

**M/S. SHRIWIN SHIPPING & LOGISTICS VERSUS THE COMMISSIONER OF CUSTOMS (GENERAL), CHENNAI: MADRAS HIGH COURT**

**OUR COMMENTS**: In the Instant Case "Revocation of Customs Broker License, forfeiture of the security deposit amount made by the petitioner, levy of penalty, failure to follow the timelines fixed, violation of regulations 17(1), 17(5), 17(7) of Customs Brokers Licensing Regulations (CBLR), 2018 - Non-adherence to the Circular No.9 of 2010 was under consideration.

Non-adherence of timelines - It has been held that admittedly, in the case on hand, though the offence report was issued on 04.10.2023 itself, the show cause notice was issued by the respondent to the petitioner only on 31.01.2024, which is beyond the period of 90 days prescribed under regulation 17(1) of CBLR, 2018. Similarly, the enquiry report is dated 19.02.2025, and the show cause notice is dated 31.01.2024 and since the enquiry report was submitted beyond the period of 90 days from the date of show cause notice, the enquiry report is bad in law as per regulation 17(5) of CBLR, 2018. Similarly, the enquiry report is dated 19.02.2025, however the impugned order is dated 08.07.2025, which is also contrary to regulation 17(7) of the CBLR, 2018 as the said regulation stipulates that the order has to be passed within a period of 90 days from the date of offence report. Since the timelines fixed under the regulations, namely regulations 17(1), 17(5) and 17(7) of CBLR, 2018 have not been followed by the respondent, necessarily, the impugned order has to be quashed.

Non-adherence to the Circular No.9 of 2010, it has been held that, there is no necessity for this Court to consider the same, It is also to be noted that the learned Junior Standing Counsel appearing for the respondent has also made a statement before this Court that Circular No.9 of 2010 has no applicability to the facts of the instance case, since the said circular was issued as early as in the year 2010 itself, and the same is not binding on the respondent as on date, since the regulations relied upon by the petitioner pertains to the year 2018. This Court is not expressing any opinion on the merits of the respective contentions pertaining to Circular No.9 of 2010 is concerned and it is left open for the same to be decided in any other case, which comes before this Court. Since it has been conclusively established that the timelines fixed under CBLR, 2018 as per regulations 17(1), 17(5) and 17(7) have not been adhered to by the respondent, necessarily, the impugned order dated 08.07.2025 has to be quashed.

The impugned order, dated 08.07.2025 passed by the respondent, revoking the license of the petitioner, forfeiting security deposit of the petitioner and imposing penalty of Rs. 50,000/- on the petitioner is hereby quashed - Petition allowed.

**[For further details please refer the Case Law.]**

# DGFT

## ARTICLE

### DGFT'S DIGITAL TRADE FACILITATION BILL, 2026

**OUR COMMENTS:** India's foreign trade regulatory framework is poised for a significant transformation with the release of the draft Digital Trade Facilitation Bill, 2026 by the Directorate General of Foreign Trade (DGFT) in February 2026. Through Trade Notice No. 24/2025–26 dated 9 February 2026, stakeholder comments have been invited on the proposed legislation, marking an important policy step toward legally enabling paperless international trade. The draft Bill reflects India's intention to move beyond administrative digitisation and create a statutory foundation for digital trade documentation and cross-border trust-based verification systems.

At the core of the draft Bill is the proposal to provide statutory recognition to electronic trade documents, placing them on the same legal footing as their physical counterparts. Documents such as bills of lading, warehouse receipts, insurance certificates, and negotiable trade instruments have historically required physical execution and transfer due to legal and evidentiary constraints. The absence of a clear legal framework has often prevented full digitalisation even where technological systems were available. By recognising electronic equivalents as legally valid and enforceable, the Bill seeks to eliminate one of the most significant barriers to seamless digital trade.

Another important feature of the proposed framework is the creation of a trusted digital ecosystem for trade documentation. The Bill contemplates the use of electronic signatures, digital seals, secure timestamps, and authenticated identity systems to ensure the integrity and reliability of electronic records. These mechanisms are intended to establish authenticity and prevent tampering while ensuring that digital documents can be relied upon across jurisdictions. The government is also expected to prescribe standards relating to the reliability and security of electronic systems, thereby creating a structured compliance environment for digital trade platforms and service providers.

The emphasis on trust infrastructure is particularly noteworthy. Digital trade cannot function effectively without confidence in identity management and document integrity. The Bill therefore enables the creation of regulated trust service providers and accreditation frameworks that would underpin the digital documentation ecosystem. By institutionalising these mechanisms, the legislation moves beyond mere technological enablement and addresses the legal and governance dimensions of digital trade.

A distinguishing feature of the proposed law is its focus on cross-border interoperability. International trade is inherently transnational, and digital trade systems must operate across legal regimes. The draft Bill acknowledges this reality by providing a framework for recognition and exchange of electronic trade records across jurisdictions. This has the potential to significantly enhance India's integration into global digital supply chains, where electronic documentation is increasingly becoming the norm.

In conceptual terms, the draft legislation appears aligned with evolving global legal standards on electronic transferable records developed by the UNCITRAL. While India has made considerable progress in digitising domestic compliance systems, including customs processes and export documentation, the absence of a harmonised legal regime for electronic trade instruments has remained a limiting factor. By bridging this gap, the proposed law could position India more effectively in future trade agreements that rely on digital documentation and interoperable systems.

For trade stakeholders, the implications are substantial. Exporters and importers are likely to benefit from reduced documentation cycles and improved efficiency in transaction processing. Financial institutions engaged in trade finance may increasingly rely on electronic negotiable instruments, reducing turnaround time and operational risk. Logistics providers could transition toward seamless digital workflows, while regulators may gain enhanced traceability and audit capabilities. For smaller enterprises, which often face disproportionate compliance burdens, the shift toward digital documentation could lower transaction costs and improve access to global markets.

From a governance perspective, the proposed legislation reflects India's transition toward a digital-first trade regulatory environment. It complements recent reforms aimed at modernising export processes and improving ease of doing business. More importantly, it signals a recognition that legal reform must accompany technological adoption to unlock the full benefits of digital trade.

In conclusion, the Digital Trade Facilitation Bill, 2026 represents a forward-looking attempt to modernise India's trade governance architecture. By granting legal recognition to electronic trade documents and establishing a trusted digital framework, the proposed law has the potential to reduce friction in cross-border transactions, enhance transparency, and strengthen India's competitiveness in international commerce. If implemented effectively, it could become the cornerstone of India's transition toward a secure and paperless trade environment aligned with global best practices.

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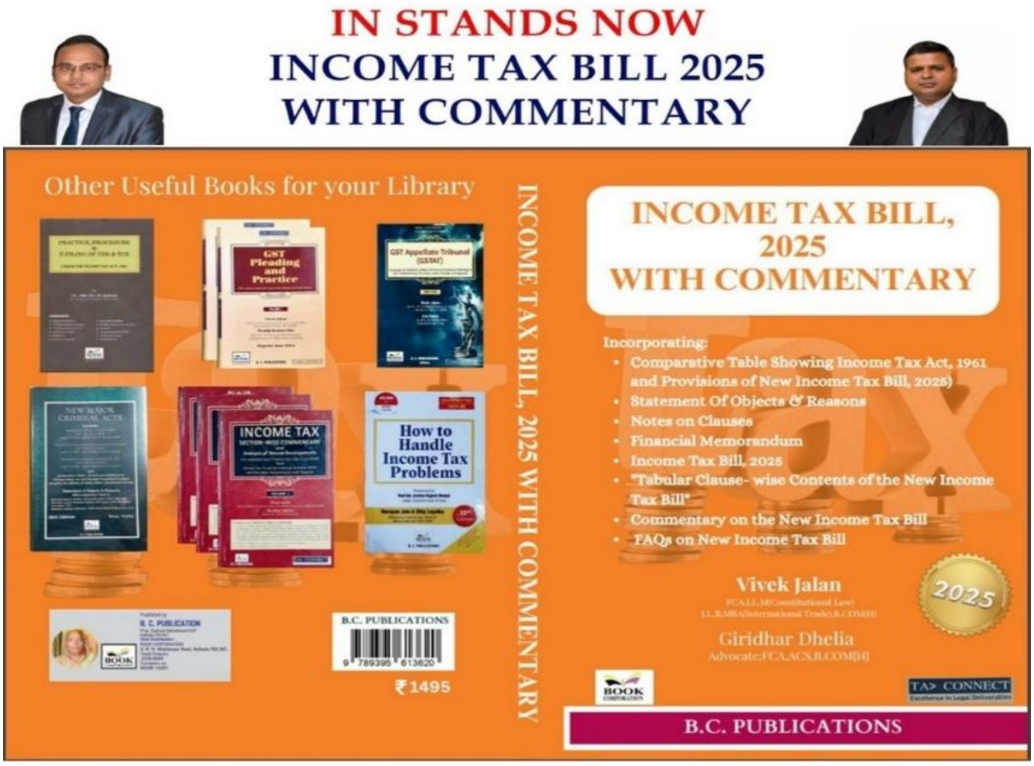


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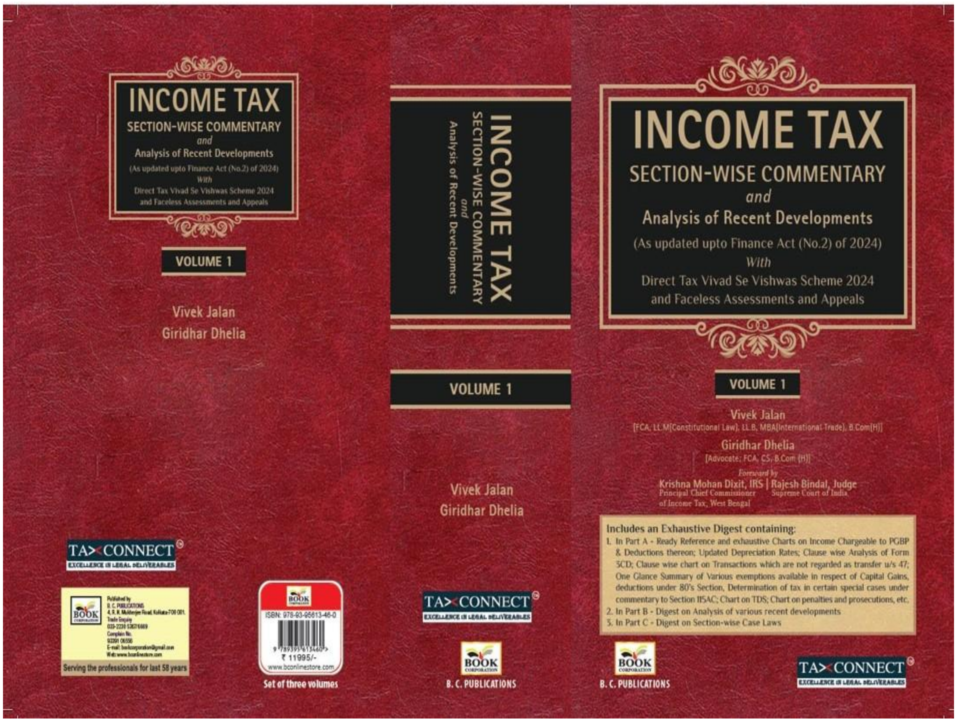


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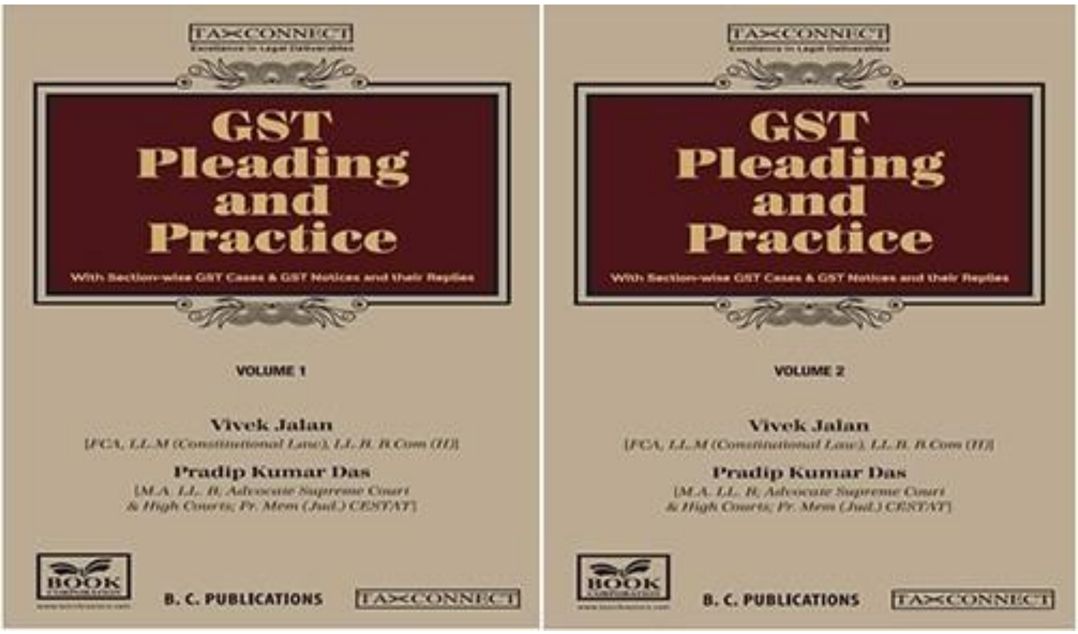
**GST PLEADING AND PRACTICE: With Section-wise GST Cases & GST Notices and their Replies**

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