Significant Judicial and Advance Rulings in GST: A Compilation

(February, 2026)

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

Significant Judicial and Advance Rulings in GST : A Compilation

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

DISCLAIMER:

The information cited in this book has been drawn primarily from www.cbic.gov.in and other sources. While every effort has been made to keep the information in this book error free, the Institute or any officer of the same does not take the responsibility for any typographical or clerical error which may have crept in while compiling the information provided in this book.

First Edition	:	December, 2022
Second Edition	:	February, 2026
Committee/Department	:	GST & Indirect Taxes Committee
E-mail	:	gst@icai.in
Website	:	http://www.icai.org; https://idtc.icai.org/
Price	:	₹ 120
ISBN	:	978-93-90668-54-0
Published by	:	The Publication and CDS Directorate on behalf of the Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi - 110 002.
Printed by	:	Sahitya Bhawan Publications, Hospital Road, Agra - 282 003.

Foreword

The GST & Indirect Taxes Committee of ICAI has always been proactive in supporting members and enhancing their skills by organising certificate courses, conferences, programmes, live webcasts, and e-learning on GST. In addition, the Committee regularly publishes valuable technical resources covering various aspects of GST.

I am pleased to note that the GST & Indirect Taxes Committee of ICAI has come out with the second edition of the publication titled, "**Significant Judicial and Advance Rulings in GST: A Compilation**". This updated edition continues to help readers understand the judicial outlook and perspectives on various provisions of GST, as well as prevalent issues in the law. Landmark rulings of the Supreme Court and various High Courts are presented concisely to provide a clear overview of the cases.

I congratulate CA. Rajendra Kumar P, Chairman, CA. Umesh Sharma, Vice-Chairman, and all members of the GST & Indirect Taxes Committee for their dedicated efforts in revising this publication and providing continuous guidance to members and stakeholders at large.

I am confident that this revised publication will be highly beneficial for members in their professional practice.

CA. Charanjot Singh Nanda
President, ICAI

Date: 09.02.2026

Place: New Delhi

Preface

Chartered Accountants have consistently demonstrated their expertise in indirect taxes, playing a pivotal role in GST policy and implementation. Leveraging their deep knowledge, they have successfully guided trade and industry through the ongoing evolution of the GST system.

We, at ICAI, take our role of partner in nation building with utmost sincerity and responsibility and thus, do not leave any stone unturned in upskilling our members so that they can perform their duties effectively and efficiently. Being abreast with the latest judicial developments and having the ability to analyse case laws and applying the ratio to the practical situation at hand, is a crucial skill set for tax advisory and compliance functions. Accordingly, the Committee has come out with this second edition of the publication dedicated exclusively to case laws, namely, **"Significant Judicial and Advance Rulings in GST: A Compilation**".

The publication includes summaries of landmark rulings of the Supreme Court and High Courts. While we continue to focus on substantive law, this edition also addresses critical issues arising from the interaction between technology and the law, as seen in recent rulings regarding the GST portal and electronic ledgers. Where the law has been amended, such as the landmark retrospective changes regarding Input Tax Credit (ITC) timelines, we have included the latest judicial interpretations to ensure members have the most current perspective. The rulings have been categorised topic-wise for easy reference.

We sincerely thank CA. Charanjot Singh Nanda, President, ICAI and CA. Prasanna Kumar D the Vice-President, ICAI for the encouragement and support extended by them to the various initiatives of the GST & Indirect Taxes Committee. We express our gratitude for the efforts of CA. S Thirumalai, CA. Viral M Khandhar and CA. Aanchal Kapoor for contributing in the second edition of this publication and CA. Gajendra Maheshwari for reviewing the same. We would also like to thank the members of our Committee who have always been part of all our endeavors. Last, but not the least, I commend the efforts made by the Secretariat of the Committee in providing the requisite technical and administrative assistance for successfully releasing the second edition. We are sure that this publication

will be of practical use to all the members of the Institute and other stakeholders.

Though all efforts have been taken to provide correct information in this publication, there can be different views/opinions on the various issues addressed to in this book. We request the readers to bring to our notice any inadvertent error or mistake that may have crept in during the development of this Publication.

We will be glad to receive your valuable feedback at gst@icai.in . We also request you to visit our website https://idtc.icai.org to refer to other useful material and resources related to GST.

CA. Rajendra Kumar P
Chairman
GST & Indirect Taxes Committee

CA. Umesh Sharma
Vice-Chairman
GST & Indirect Taxes Committee

Date: 09.02.2026

Place: New Delhi

Contents

- Readers may make note of the following while reading the publication: For the sake of brevity, the terms “Input Tax Credit”, “Goods and Services Tax”, “Central GST”, “State GST”, “Union Territory GST”, “Integrated GST”, “Central Goods and Services Act, 2017”, “Integrated Goods and Services Act, 2017”, “Central GST Rules, 2017”, “Central Board of Excise and Customs”, “Central Board of Indirect Taxes and Customs”, “Reverse Charge Mechanism” , “Central Excise Act, 1944”, “Central Excise Tariff Act, 1985”, “Customs Act, 1962” , “Customs Tariff Act, 1975”, “Code of Criminal Procedure, 1973/ Criminal Procedure Code” , “Union Territory”, “Constitution of India, 1949”, “Input Service Distributor”, “Authority for Advance Ruling”, “Appellate Authority for Advance Ruling”, “Service Accounting Code” and “Harmonized System of Nomenclature”, have been referred to as “ITC”, “GST”, “CGST”, “SGST”, “UTGST”, “IGST”, “the CGST Act”, “the IGST Act”, “CGST Rules”, “CBEC”, “CBIC”, “RCM” , “the Excise Act”, “the CE Tariff Act,”, “ the Customs Act”, “the Tariff Act”, Cr. P.C., “UT”, “the Constitution”, “ISD”, “AAR”, “AAAR”, “SAC” and “HSN” respectively in this publication. The abbreviation NN denotes Notification Number.
- Unless otherwise specified, the section numbers and rules referred to in this publication pertain to CGST Act, 2017 and CGST Rules, 2017 respectively.
- The word ‘Assessee’ has been used instead of the words Petitioner/ Appellant, etc for easy comprehension, wherever possible.

Scope of Supply

1. INDIAN MEDICAL ASSOCIATION vs. UNION OF INDIA [({2025}141GSTR522{Kerala}) W.A.NOS. 1487 and 1659 OF 2024 & 468 OF 2025 (KERALA HIGH COURT)]

Doctrine of Mutuality Reaffirmed: No GST on IMA's Member Welfare Schemes; Provisions of section 2(17)(e) and section 7(1)(aa) and Explanation thereto of CGST Act, 2017/ KGST Act as amended are to be declared as unconstitutional and void being ultra vires provisions of article 246A read with article 366(12A) and article 265 of Constitution of India.

Background:

- The Assessee, Kerala State Branch of the Indian Medical Association (IMA). The Assessee operated multiple mutual welfare schemes (e.g., Social Security Schemes, Professional Disability Support Scheme, Professional Protection, Health & Pension Schemes) funded solely through member contributions.
- Members contributed admission/annual fees and, for certain schemes, a "fraternity contribution" on the death/disability of a fellow member; the pooled sum is paid out to the widow of deceased doctors, disabled doctors, doctors afflicted with specified diseases, etc. Each scheme had separate bank accounts and audited accounts. Each Scheme was run by a separately elected committee, in which the Secretary and President of the Assessee were ex officio members.
- Directorate General of GST Intelligence (DGGI) issued notices seeking recovery of ₹2.91 crore GST (plus interest & penalty), alleging services provided to member-doctors were taxable "supply".
- The writ appeals arose from the judgment passed by Single Bench of the High Court. The Assessee had challenged the levy of GST on services rendered by it to its members under various welfare schemes.
- The Assessee contested the constitutionality and retrospective application of Section 7(1)(aa) of the CGST Act, 2017 introduced by the Finance Act, 2021 with effect from 01.07.2017.

Points of Dispute:

- Whether the retrospective amendments to Section 7(1)(aa) and Section 2(17)(e) of the CGST Act, 2017, which deemed mutual transactions between associations and members as taxable supplies are constitutionally valid?
- Whether these amendments infringe Articles 246A, 366(12A), and 265 of the Constitution?
- Whether the doctrine of Mutuality is applicable amidst GST law amendments?

Submissions by the Assessee:

- Assessee was not liable to pay GST on services rendered by it to its members on the ground that the principle of mutuality insulated services rendered by a club/ association to its members from the levy of GST.
- The underlying basis for the non-taxability of such services was the concept that when a club/ association provides services to its members there is no separate recipient of the services and that the services were effectively provided by the members of the club/association to themselves.
- Contended that Section 7(1)(aa) artificially deemed a club and its members to be distinct persons, which is beyond legislative competence unless supported by a Constitutional amendment.
- Finance Act, 2021 gave the amendment retrospective effect from 01.07.2017, contrary to principles of natural justice.
- The retrospective operation of the deeming provisions undermines fairness and exceeds legislative competence.
- Doctrine of mutuality exempted such contributions from GST—even post 46th Constitutional Amendment.
- The amendments violated Articles 246A (GST power), 366(12A) (definition of "supply"), and Article 265 (no taxation without authority).

Submissions by the Revenue:

- Asserted that *Finance Act 2021* validly amended GST law, sections came into effect retrospectively from 1 July 2017.

- Argued that Article 246A provides plenary power to Parliament and State Legislatures to define “supply” and to tax any such supply.
- Stated that mutuality doctrine is inapplicable post-GST and Calcutta Club case was under pre-GST regime.
- Said retrospective tax provisions are permissible if they aimed to correct legal anomalies, prevent tax evasion, or reinforce legislative intent.
- Contended that economic laws are tested on a lower threshold for Article 14 challenges.
- Presumption of constitutionality is stronger in fiscal statutes.
- Deeming provisions meant to capture internal club/association transactions even within mutual frameworks.

Key Legal Principles:

- Sections 2(17)(e), 7(1) (aa) of the CGST Act that deem transactions between clubs/associations and their members as taxable supplies.

Court’s Observations and scope of the Decision:

- Declared Sections 2(17)(e), 7(1) (aa) and explanation thereto (CGST & KGST) as unconstitutional and ultra vires Articles 246A, 366(12A), and 265 of the Constitution.
- Held that mutuality doctrine continues to shield member-only schemes from GST—even after the statutory amendments.
- Recognized that genuine mutual benefit schemes—funded, administered, audited solely via member contributions—cannot be treated as taxable supplies.
- Parliament’s attempt to tax such supplies via retrospective deeming is constitutionally limited without a specific constitutional amendment.

Conclusion:

- Doctrine of Mutuality was upheld: The principle holds that transactions between an association & its members cannot constitute a 'supply' for the purposes of GST, as there is no distinct 'supplier' and 'recipient'—a person cannot trade with themselves.

- The ruling benefits a wide range of clubs, associations, RWAs, professional bodies collecting member-only contributions for welfare services.
- The High Court emphasized that retroactive taxation without forewarning breaches the Rule of Law, especially where businesses could not anticipate, collect, or pass on such tax to consumers.

2. B BRAUN MEDICAL INDIA PVT LTD. vs. UNION OF INDIA [(2025:DHC:1656-DB) W.P. (C) 114/2025 and CM Appl. 434/2025 (DELHI HIGH COURT)]

Validity of Limitation Period & ITC cannot be denied solely due to the wrong GSTN mentioned by Supplier.

Background:

- The Assessee, B Braun Medical India Pvt Ltd., a pharmaceutical and medical devices company, had its Delhi GST registration.
- It procured goods from Ahlcon Parenterals (India) Ltd., whose invoices inadvertently mentioned the petitioner's Bombay address and Bombay GSTN instead of the correct Delhi GSTN.
- Despite the goods being received and recorded in the books, the Department denied input tax credit (ITC) on this ground, issuing a demand of ₹5,65,91,691/- via Order-in-Original dated 28.06.2024.
- The Assessee challenged the order under Article 226/227 of the Constitution, contending that the mistake was clerical and supplier-based and not fraudulent.

Dispute Involved:

- Whether ITC can be denied solely because the wrong GSTN of a different branch (same PAN) was mentioned in the invoice?
- Whether Section 16(2) (aa) of the CGST Act allows for such a technical disallowance even when all substantive conditions for availing ITC are fulfilled?

Submissions by Assessee:

- It was a bona fide error by the supplier.
- The correct name and identity of the petitioner were reflected.
- All conditions under Section 16 were met except the GSTN mismatch.
- No misuse or double claim occurred.

Submissions by Revenue:

- The Department rigidly relied on the GSTN mismatch, without examining the facts of delivery, payment, and utilisation.
- On a specific query by the Court, the Department admitted that no other entity had claimed ITC on the said purchases.

Key Legal Provisions:

- Section 16 of the CGST Act, 2017 (eligibility and conditions for ITC): Sub-section (2) (aa) mandates that ITC can be availed only if details of the invoice/debit note are furnished by the supplier in their GSTR-1.

Court's Observations and Scope of Decision:

- The Court found the only ground for denial was the mention of the wrong GSTN, i.e., Bombay instead of Delhi. The Court also noted that the Assessee's name was correctly mentioned in the invoices.
- Acknowledged that no other entity claimed the ITC, and the Petitioner received and accounted for the goods.
- Noted that the GST law is not meant to punish Assesses for clerical errors by suppliers.
- Set aside the impugned order dated 28.06.2024 and allow the ITC for the relevant years.
- Assessee withdrew constitutional challenge to Section 16(2) (aa) after relief was granted.

Conclusion:

- The Delhi High Court recognised that clerical errors by suppliers should not penalise buyers when substance of a transaction is intact.

3. SINGH CONSTRUCTION COMPANY vs. STATE OF JHARKHAND [(2024:JHHC:33787-DB) W.P.(T) NO. 5938 OF 2023 (JHARKHAND HIGH COURT)]

The constitutional challenge to denial of ITC on the ground of limitation under section 16(4) of the GST Act and the impact of the retrospective amendment introduced by the Finance Act, 2024.

Background:

- The Assessee, Singh Construction Company engaged in civil construction activities, filed a writ petition under Article 226 of the Constitution of India, challenging the denial of ITC under Section 16(4) read with Rules 36 of the Central/Jharkhand Goods and Services Tax Act, 2017, for the FY 2018-19 and 2019-20.
- The Department, pursuant to an inspection under Section 67 read with Rule 139 of the Central/Jharkhand Goods and Services Tax Act, 2017, passed an order on 15.07.2023, disallowing ITC and raising a substantial demand on the ground that the claims were time-barred.
- During the pendency of the writ petition, Section 16(5) was inserted into the CGST Act via Section 118 of the Finance Act, 2024, with retrospective effect from 1 July 2017.
- This amendment allowed the registered person shall be entitled to take ITC for FYs 2017-18 to 2020-21 in any returns under section 39 filed up to 30 November 2021**,** irrespective of the restrictive timeline in Section 16(4).

Point of Dispute:

- Whether Section 16(4) of the JGST Act, 2017**,** which imposes a time limit for availing ITC, is constitutionally valid?
- Whether the impugned order dated 15.07.2023 disallowing ITC based on the time limit, without considering the implications of the retrospective amendment, is legally sustainable?

Submissions by the Assessee:

- The Assessee argued that ITC is not a concession but a right, and denying it merely on account of procedural lapse (time delay) is arbitrary and unreasonable.
- Since Section 16(5) had been inserted with retrospective effect**,** any previous disallowance made solely under Section 16(4) must be re-examined.
- The Assessee prayed for quashing of the impugned order and reconsideration of the matter in accordance with the amended law.

Submissions by the Revenue:

- The Counsel for Department submitted that in light of Section 16(5) inserted by the Finance Act, 2024, the matter deserved fresh adjudication.

Key Legal Provisions:

- Section 16(4), CGST/JGST Act, 2017 prescribes a time limit for the availment of Input Tax Credit (ITC) in respect of invoices or debit notes for a particular financial year. As per this provision, ITC cannot be availed after the due date of furnishing the return under section 39 for September, following the end of the financial year or the date of furnishing of the annual return, whichever is earlier.
- Section 16(5), inserted via Finance Act, 2024 (w.e.f. 01.07.2017) allows registered persons to claim ITC in respect of invoices or debit notes of FYs 2017-18, 2018-19, 2019-20 and 2020-21, provided the return under section 39 was filed on or before 30 November 2021, overriding Section 16(4).
- Rule 61(5) of the Jharkhand GST Rules, 2017– Rule 61(5), inserted vide Notification No. 49/2019 dated 27.12.2019, declared GSTR-3B as a valid return under section 39 with retrospective effect.

Court's Observation and Scope of Decision:

- The Court noted that the retrospective insertion of Section 16(5) has a material bearing on the eligibility of the petitioner to claim ITC for the disputed periods.
- Acknowledged that the impugned order dated 15.07.2023 was passed in the absence of the newly inserted provision, and therefore lacks a complete legal basis.
- Recognized the need for reconsideration by the Department in light of the retrospective statutory change.
- The impugned order dated 15.07.2023 was quashed and set aside.
- The matter was remanded to the concerned officer for fresh adjudication, considering the implications of Section 16(5), as inserted by the Finance Act, 2024.
- The authority was directed that a fresh reasoned order be passed.

- The Court clarified that it had not gone into the merits of the challenge to limitation for ITC entitlement, leaving it open to be decided afresh.

Conclusion:

- This is a landmark case affirming the retrospective benefit conferred by the Finance Act, 2024, in the GST regime.
- It underscores that assessment orders passed before the amendment, without considering Section 16(5), cannot be sustained.
- Sets a precedent for other similar cases pending across India where ITC has been denied merely on procedural timelines pre-November 2021.

4. ANAND STEEL vs. UNION OF INDIA & OTHERS [(2024:MPHC-IND:32971) WP No. 2164 of 2024 (MADHYA PRADESH HIGH COURT)]

The constitutional validity of section 16(4) of the CGST Act, which restricts the availment of ITC based on time limits and whether such restriction is arbitrary in light of the scheme of section 16 and the retrospective amendment introduced by the Finance Act, 2024.

Background:

- The Assessee, Anand Steel, a proprietorship concern was registered under the provisions of the CGST Act, held GSTIN 23AGDPM2307D1Z4.
- For the FY 2018-19, the Assessee duly filed GSTR-3B returns for April 2018 to March 2019, discharging GST liability along with late fees and availing ITC in accordance with Section 16 of the CGST Act.
- Subsequently, the Department issued notice in Form GST DRC-01A under Section 73, proposing to disallow ITC for FY 2018-19 on the ground of late filing of returns in FORM GSTR-3B.
- Despite filing a reply, the Department passed an order dated 13.02.2024 under Section 74, disallowing ITC for late filing.
- Aggrieved by the order, the Assessee invoked writ jurisdiction under Article 226 of the Constitution, challenging the order and the

constitutional validity of Section 16(4) of the CGST Act, which imposes a time-limit for availing ITC.

Points of Dispute:

- Whether the imposition of a time-limit under Section 16(4) for availing input tax credit violates Articles 14, 19(1)(g), 265, and 300A of the Constitution of India?
- Whether the operation of Section 16(4) defeats the scheme of Section 16(2), which is drafted as a non obstante provision conferring a statutory right on fulfilment of prescribed conditions?
- Whether disallowance of ITC on the ground of belated filing of return, despite payment of tax, interest, and late fees, results in double penalization and is arbitrary and capricious?

Submissions by the Assessee:

- Section 16(4) of the CGST Act imposes an arbitrary restriction on a substantive right accrued under Section 16(1) and (2), thereby being ultra vires Articles 14, 19(1)(g), and 300A.
- The right to ITC accrues immediately upon fulfilment of conditions under Section 16(1) and (2); hence, refusal to allow the ITC for procedural delay is arbitrary.
- The Assessee, having paid tax, interest, and late fee, cannot be deprived of ITC merely because the return was filed beyond the due date. Such disallowance amounts to punishing twice as the Assessee had paid the late fee along with tax and interest and again saddled with inadmissibility of ITC.
- Non allowance of ITC offends the policy of the Government to remove the cascading effect of tax by allowing the ITC as mentioned in the objects and reasons of the Constitution 122nd Amendment Bill, 2014.
- The petitioner also invoked the doctrine of legitimate expectation, relying on MRF Ltd. v. Assistant CIT (Assessment) Sales Tax, 2006 (206) ELT 6 (SC), contending that the taxpayer had a legitimate expectation that the time-limit for filing GSTR-3B would be notified and that belated filing with payment of late fee and interest would not result in forfeiture of ITC.

Submissions by the Revenue:

- The Revenue contended that the controversy stood resolved by amendment to Section 16 of the CGST Act through Section 118 of the Finance Act, 2024, inserting sub-sections (5) and (6) with retrospective effect from 1 July 2017.
- Reference was placed on the decision of the Madurai Bench of the Madras High Court (W.P. No. 20773/2023), where a similar controversy was remanded to the adjudicating authority post the amendment.

Key Legal Provisions:

- Section 16, CGST Act – Eligibility and conditions for taking ITC:

  Sub-section (1): confers entitlement to ITC on supplies used in the course or furtherance of business.

  Sub-section (2): prescribes conditions for possession of a tax invoice, receipt of goods/services, payment of tax to the Government, and furnishing of a return under Section 39.

  Sub-section (4): restricts entitlement beyond the due date of return for September following the end of the financial year or filing of the annual return, whichever is earlier.

- Section 118, Finance Act, 2024 – It inserted sub-sections (5) and (6) in Section 16, clarifying and expanding entitlement to ITC for specified financial years and situations of registration revocation.

Court's Observation and Scope of Decision:

- The court made observations that the provision of Section 16(4) of the CGST Act, which restricts the claim of ITC only on the ground that a return is filed after the date prescribed, is arbitrary. The Court also observed the taxpayer who is claiming the ITC had already made the payment of tax to the supplier from whom the goods and services have been received. Such payments include both the cost of service or goods and the amount of Tax, thus the taxpayer cannot be deprived from his right to claim ITC.
- It was also observed the interpretation of Section 16 of CGST Act which covers eligibility and conditions for taking ITC that a right on ITC

is created when a tax payer fulfils all the conditions specified in Section16(2) of the CGST Act which has been drafted as a non-obstante provision and to use the words of the Hon'ble Apex Court, this right can be earned by the beneficiary only as per scheme of that statute. However, imposition of a time limit through Section 16(4) would supersede or override this scheme of the statute operation of Section 16(4) makes the non-obstante section 16(2) meaningless; Section 16(2) has overriding effect on Section 16(4) and Section 16(2) has been drafted in a manner which shows clear legislative intent that it is not subject to Section 16(4).

- The GST laws do not have any provision and scope for filing a revised return, taxpayers are extremely cautious to file the monthly return for March and may like to wait for a longer time to reconcile the entries and ensure that there is no unnecessary mismatch between the GST returns and the financial records. This exercise is generally taken when the financial audit goes on. They even pay huge late fees to delay the filing of such return and such late fees are paid on subsequent returns also as GST laws does not permit filing of monthly return in FORM 3B if return for earlier month has not been filed. Allowing a taxpayer to file returns with payment of late fees and then disallow him the ITC, because the return was filed belatedly, is punishing him twice for a single default so committed. Moreover, with the payment of late fee u/S 47 as well as payment of interest u/s. 50, the treasury has been suitably compensated for the postponement of the tax. Payment of late fees and interest are already there as deterrent for the taxpayers forcing them to be disciplined. Under such circumstances, saddling with double payment of tax by way of Section 16(4) is arbitrary and capricious.
- Since, the Central Government by way of the Act of 2024 has proposed to amend Section 16 of the GST Act by introducing Section 118 of the Act of 2024, thereby jettisoning the condition of time limit, this Court opined that the petitions should be allowed without examining the constitutional validity of Section 16(4).
- Accordingly, show cause notices and assessment orders passed by the Department were set aside reserving liberty to the Revenue to take appropriate action keeping in mind the amendment in the GST law.

- Basis the above, the Court refrained from adjudicating the constitutional validity of Section 16(4).

Conclusion:

- By acknowledging the amendments made through the Finance Act, 2024, the Court found that the condition of time-limit under Section 16(4) has been jettisoned, affirming a more equitable and rational interpretation of the ITC mechanism.

  The ruling underscores the importance of distinguishing between Obiter Dicta (i.e. observations made by the Court) and Ratio Decidendi (i.e., the judicial verdict laid down). While the court made strong observations as regards the arbitrariness of Section 16(4), its decision was based on the amendments introduced by the Finance Act, 2024.

5. COMMISSIONER, TRADE & TAX, DELHI vs. SHANTI KIRAN INDIA (P) LTD. [CIVIL APPEAL NO(S).2042-2047/2015) SUPREME COURT OF INDIA]

A bona fide purchasing dealer cannot be denied ITC merely because the selling dealer failed to deposit tax with the Government. Remedy of recovery lies against the defaulting seller, not the innocent purchaser.

Background:

- The Assesee, Shanti Kiran India (P) Ltd., was a registered dealer under the Delhi Value Added Tax Act, 2004 (DVAT Act).
- The Assessee purchased taxable goods from registered selling dealers, paid tax as shown on valid tax invoices, and claimed ITC under Section 9 of the DVAT Act.
- Later, it was discovered that the selling dealers had not deposited the tax collected from the purchaser into the Government treasury.
- The Department denied ITC to the respondent on the ground that the tax had not been actually paid to the Government by the seller, invoking section 9(2)(g) of the DVAT Act.
- The Delhi High Court, relying on its decision in On Quest Merchandising India Pvt. Ltd. v. Government of NCT of Delhi

[2017], held that ITC could not be denied to bona fide purchasing dealers.

- The Revenue filed appeals before the Supreme Court for challenging the decision of the Delhi High Court.

Points of Dispute:

- Whether a bona fide purchasing dealer is entitled to claim ITC when the selling dealer fails to deposit the collected tax?
- Whether the Department can invoke Section 9(2)(g) of the DVAT Act to deny ITC to the purchaser even when purchases were made from validly registered sellers and supported by genuine invoices?

Submissions by the Assessee:

- At the time of purchase, the sellers were validly registered, and there was no evidence of collusion.
- The Assessee was a bona-fide purchaser who paid tax in good faith to the registered seller dealers and, therefore, entitled to the benefit of ITC.

Key Legal Provisions:

- Section 9(1) of the DVAT Act: Allows ITC on purchases used for making taxable sales.
- Section 9(2)(g) of the DVAT Act: Denies ITC if the tax paid by the purchaser has not been deposited by the seller or lawfully adjusted.

Court's Observation and Scope of Decision:

- The Supreme Court noted that the selling dealers were registered on the date of transactions and that the invoices were genuine.
- No material was produced to doubt the veracity or bona fides of the purchasing dealers.
- The Court reaffirmed the Delhi High Court's reasoning in the *On Quest Merchandising case*, which held that:
    - Bona fide purchasing dealers cannot be denied ITC due to the seller's failure to deposit tax.

- Section 9(2)(g) must be read down to preserve constitutional validity.
- Revenue's remedy lies against the defaulting sellers, not the innocent buyers.

- Accordingly, the Supreme Court found no reason to interfere with the Delhi High Court's order.
- The observations made in this ruling apply to all bona fide purchasing dealers who have paid tax in good faith to registered sellers.
- This ruling also limits the Department's power to deny ITC merely on account of non-deposit by sellers. It clarifies that ITC claims can only be denied if there is evidence of collusion, fraud, or fake invoices.

Conclusion:

- The decision strengthens the principle that genuine claim of ITC should not suffer because of third-party defaults.

6. R.T. INFOTECH vs. ADDITIONAL COMMISSIONER GRADE [(2025:AHC:93151) Writ tax no. 1330 of 2022 (ALLAHABAD HIGH COURT)]

Denial of ITC to a purchaser on the ground that the selling dealer failed to deposit GST with the Government, despite the purchaser having remitted tax on the basis of valid invoices and through banking channels.

Background:

- The Assessee, R.T. Infotech, was engaged in using mobile recharge services from Bharti Airtel Ltd., during the period July 2017 to March 2018.
- The Assessee availed ITC of ₹28,52,370/- based on tax invoices issued by Airtel against purchases totalling ₹1,58,46,502/-.
- The payments for these purchases, including GST, were made through banking channels.
- Despite the invoices and payments being in order, the department denied ITC, stating that the supplier had not deposited the tax with the government.

- The adjudicating authority passed an order directing reversal of ITC, along with interest and penalty.
- The appellate authority dismissed the appeal, leading to the filing of the present writ petition by the Assessee.

Points of Dispute:

- Whether denial of ITC under Section 16(2)(c) is valid when the purchaser has fulfilled all conditions, but the supplier defaulted in tax payment?
- Whether the purchasing dealer can be penalized solely due to the inaction or default of the supplier, over whom the purchaser has no control?

Submissions by the Assessee:

- The petitioner made purchases against valid tax invoices, with GST duly charged and paid through banking channels.
- The petitioner had no control over the seller's compliance with filing returns or depositing tax.
- Reliance was placed on the Supreme Court decision in Assistant Commissioner of State Tax v. Suncraft Energy (P.) Ltd., wherein it was held that the purchaser should not suffer for the default of the supplier.

Submissions by the Revenue:

- As per Section 16(2)(c), ITC can only be made available if the tax charged has been actually deposited with the government treasury.
- Since the supplier did not deposit the tax, the benefit of reversal of ITC to the Assessee cannot be said to be bad or illegal.

Key Legal Provisions:

- Section 16(2)(c), CGST Act: ITC allowed only when tax is actually paid to the government.

Court's Observation and Scope of Decision:

- The Court noted that it is common knowledge that the purchaser cannot compel the seller to file its returns within stipulated time or deposit the amount of tax realized from the purchaser with the government treasury.

- The purchasing dealer cannot be left at the mercy of the selling dealer. When a buyer discharges all duties diligently, it becomes the responsibility of the Department to initiate action against the defaulting supplier.
- Reliance wasplaced on the Supreme Court judgment in Suncraft Energy Pvt. Ltd. [2023] (SC) and the Madras HC in D.Y. Beathel Enterprises [2021] , which held that the purchaser cannot be penalised for the seller's default.
- The Court quashed the assessment and appellate orders that had reversed ITC and imposed penalty. Matter was remanded to the concerned authority to reconsider the issue afresh, after affording opportunity of hearing and keeping in mind the purchaser's bona fide conduct.

Conclusion:

- The High Court reaffirmed the principle that bona fide purchasers who comply with all statutory obligations cannot be denied ITC for the supplier's default.
- The onus lies with the assessing authority to initiate parallel action against the defaulting seller.
- This judgment could serve as a significant precedent in cases where ITC is denied due to non-payment of tax by the supplier.

7. ASSISTANT COMMISSIONER OF CENTRAL TAXES vs. M/S GEMINI EDIBLES AND FATS INDIA LTD. [(2025)143GSTR644 (SUPREME COURT OF INDIA)] / [(2025) 143 GSTR 636 (ANDHRA PRADESH HIGH COURT)]

A refund claim filed after the date of a notification cannot be denied for unutilized ITC accumulated prior to the notification's effective date. Circulars cannot override or curtail statutory rights under Section 54(3) of the CGST Act.

Background:

- The Assessee, Gemini Edibles and Fats India Ltd., was engaged in the manufacture and distribution of edible oils and specialty fats in India.
- The inputs used in the manufacturing process (like crude palm oil, sunflower oil, etc.) attracted higher GST rates compared to the tax on their outward supplies, which led to accumulation of unutilized ITC in the electronic credit ledger.
- As per Section 54(3) of the CGST Act, a refund of unutilized ITC is allowed where credit accumulates due to an inverted duty structure.
- The Assessee filed refund claims for such accumulated ITC for periods prior to 18-07-2022.
- However, the Revenue rejected these refund applications citing Circular No. 181/13/2022-GST, which interpreted Notification No. 9/2022-Central Tax (Rate) dated 13.07.2022 to mean that no refund would be granted for any application filed after 18.07.2022, even if the ITC had accumulated before that date.
- The High Court held that the Notification operated prospectively and that refund of ITC accrued prior to 18.07.2022 could not be denied merely on the basis of the date of filing of the refund application.
- Aggrieved by the High Court's decision, the Revenue filed SLP before the Supreme Court.

Points of Dispute:

- Whether Circular No. 181/13/2022-GST validly restricted refunds of accumulated ITC if refund applications were filed after 18.07.2022?
- Whether Notification No. 9/2022, which came into effect on 18.07.2022, could apply retrospectively to deny refund of ITC accumulated before its effective date?

Submissions by the Assessee:

- Section 54(3) permits refund of any unutilized ITC due to an inverted duty structure, irrespective of when the refund application is filed.
- Notification No. 9/2022 applies prospectively from 18.07.2022, and cannot apply to refund claims pertaining to periods before that date.
- Circular No. 181/13/2022-GST improperly imposed a retrospective restriction, which is beyond the scope of delegated legislation.
- The accumulated ITC was a vested right and cannot be extinguished merely because the application for refund was made after the cut-off date.

Submissions by the Revenue:

- The Notification No. 9/2022 read with the Circular No. 181/13/2022-GST,clarifies that refund claims filed after 18.07.2022 are subject to revised rules, regardless of the period of accumulation.
- The administrative clarity provided by the Circular was essential for uniform application across jurisdictions.

Key Legal Provisions:

- Section 54(3) of the CGST Act, 2017: Provides for refund of unutilized ITC on account of inverted duty structure.
- Notification No. 9/2022-Central Tax (Rate) dated 13.07.2022: Introduced restrictions but explicitly effective from 18.07.2022.
- Circular No. 181/13/2022-GST dated 10.11.2022: Interpreted the notification to deny refunds if the application is filed after 18.07.2022, even for prior periods.

Court's Observation and Scope of Decision:

- The High Court of Andhra Pradesh held that Notification No. 9/2022 applies only from 18.07.2022.
- ITC accumulated before that date remains refundable under Section 54(3), regardless of when the application is filed.
- Consequently, Circular No. 181/13/2022-GST, to the extent it denied refunds filed after 18.07.2022 for earlier accumulation, was held ultra vires. Accordingly, the rejection orders of refund were set aside by the High Court.
- The Supreme Court, through order dated 09.05.2025, dismissed the SLP filed by the Revenue and declined to interfere with the judgment of the High Court of Andhra Pradesh.
- The dismissal upholds the High Court's verdict that:
    - Refund rights under Section 54(3) exist as long as the ITC was validly accumulated under law.
    - Prospective notifications cannot be interpreted to curtail past entitlements.
    - Circulars cannot override statutes or notifications that are prospectively applicable.

Conclusion:

- This ruling reaffirms that a refund of ITC accrued before 18.07.2022 under the inverted duty structure cannot be denied merely because the refund application was filed after that date.
- It also reinforces the legal principle that Circulars cannot restrict statutory rights conferred under the CGST Act.
- This decision will have positive implications for assesses who accumulated ITC under the inverted duty structure before 18.07.2022 and were denied refunds due to delayed filing.

8. IDP EDUCATION INDIA PVT LTD vs. UNION OF INDIA [HIGH COURT OF BOMBAY] [(2025:BHC-OS:7665-DB) Writ Petition No. 2774 of 2024 (BOMBAY)]

Where the assessee neither had contractual obligations with students or foreign universities, nor received consideration from them, it could not be treated as an 'intermediary' under the GST laws.

Background:

- The Assesee, IDP Education India Pvt. Ltd., a subsidiary of IDP Education Ltd., Australia (IDP Australia), assisted IDP Australia in admitting Indian students to foreign universities.
- IDP Australia entered into agreements with foreign universities for student admission and received a placement fee from them.
- The Petitioner was paid a share of the placement fee received by IDP Australia.
- There was no contractual relationship between the Petitioner and the foreign universities or students.
- The Petitioner paid IGST on these services and claimed a refund, treating them as exports of service.
- The refund claims were rejected by the Revenue on the grounds that the Assessee was an "intermediary" under the IGST Act.

Point of Dispute:

- Whether the Assessee qualified as an "intermediary" under section 2(13) read with section 13(8) of the IGST Act?
- Whether the refund of IGST paid on export of services could be denied on the ground of intermediary services?

Submissions by the Assessee:

- The Assessee submitted that it rendered services to IDP Australia on a principal-to-principal basis under a bipartite contract. The Assessee did not have any contractual obligation with the universities or with the students. Further, the Assessee did not raise any invoice or receive any consideration from the universities or the students.

- It was argued that CBIC Circular No. 159/15/2021-GST dated 20.09.2021 clarified that the scope of intermediary under GST remains the same as under service tax.
- The Assessee relied upon a CESTAT order dated 28.10.2021 in its own case under the service tax regime, holding that it was not an intermediary, which had attained finality. The Assessee also relied upon refund orders passed in its favour by other jurisdictions under GST.

Submissions by the Revenue:

- The Revenue contended that the Assessee's role fell within the definition of "intermediary", as it facilitated services between foreign universities and students.

Key Legal Provisions:

- Section 2(13): Definition of "Intermediary" under IGST Act as a broker, agent or any person who arranges or facilitates the supply of goods or services between two or more persons, but does not include a person supplying such goods or services on his own account.
- Section 13(8)(b): Place of supply for intermediary services is the location of the supplier.
- Section 54: Refund of taxes under the CGST Act.
- Circular No. 159/15/2021-GST dated 20.09.2021: Clarifies that the scope of intermediary services under GST is the same as the Service Tax regime.
- Section 2(6) of the Integrated Goods and Services Tax Act, 2017: Defines export of services, including supply of services where the supplier and recipient are located in different countries and the place of supply is outside India.

Court's Observation and Scope of Decision:

- The Court referred CESTAT's previous decision in the Assessee's own case (pre-GST regime) wherein it was held that the petitioner was not an intermediary.
- The Court found no substantial difference in facts or scope of services rendered by the Assessee between the earlier and current periods.

- It reaffirmed that the definition and scope of intermediary services remained the same under GST and Service Tax, as clarified in CBIC Circular.
- Attempt to differentiate agreements due to their renewal was rejected as the scope of services remained the same.
- Basis the above findings, the Court remanded the matter back to the Department for processing of the Assessee's refund claim.

Conclusion:

- This ruling reiterates that the absence of a contractual link with the end user (university/student) is crucial in not qualifying as an "intermediary".
- The ruling also emphasizes the importance of consistency in adjudication when facts remain unchanged.

9. TATA STEEL LTD. vs. STATE OF JHARKHAND [(2025:JHHC:10211-DB) WP (T) No. 2900 of 2024 (JHARKHAND HIGH COURT)]

Refund of accumulated ITC of Compensation Cess on the inputs used in the manufacture of exported goods under LUT cannot be denied based on non-statutory conditions. Export of goods does not require realization of export proceeds or irrelevant declarations.

Background:

- The Assessee, Tata Steel Ltd., was engaged in the manufacture and export of steel and sponge iron for which it required coal as a raw material.
- Goods were exported under a Letter of Undertaking (LUT) without payment of tax, resulting in the accumulation of ITC of Compensation Cess.
- For the FY 2021–22, the petitioner filed a refund application on 30.01.2023 for refund of the accumulated cess amounting to ₹1,23,22,617, along with relevant documents under Section 54 of the CGST Act.

- The refund was rejected by the adjudicating authority on multiple procedural and interpretational grounds. The Assessee's appeal was also rejected, following which the writ petition was filed by the Assessee before the Jharkhand High Court.

Point of Dispute:

- Whether the refund application could be rejected on grounds not prescribed under the CGST Act, CGST Rules, or binding circulars?
- Whether insistence on documents such as proof of payment within 180 days, proof of export within 90 days, declaration of non-prosecution, undertaking under proviso to Section 11(2) of the Compensation Cess Act, 2017 and filing of the statement required under para 43 (c) of CBIC Circular No. 125/44/2019-GST was legally sustainable?

Key Legal Provisions:

- Section 54 – Refund of Tax under CGST Act, 2017: This section deals with the refund of any tax, interest, penalty, fees or any other amount paid under the CGST Act.
- Rule 89 of CGST Rules, 2017: Specifies the procedure and documentary requirements for claiming a refund under Section 54.
    - Rule 89(2)(b): For services exported without payment of tax under LUT, a statement containing the number and date of invoices and relevant Bank Realisation Certificates (BRCs) must be filed.
    - Rule 89(2)(c): For goods exported, Shipping Bills, Export General Manifest (EGM), and invoice details must be provided and no requirement to realize export proceeds.
    - Rule 89(4): Provides a formula for calculating the maximum refund of unutilized ITC on zero-rated supplies.
    - Rule 89(1)(c): The Refund application is to be filed in FORM GST RFD-01 electronically on the GST portal.
    - Section 11 of the Goods and Services Tax (Compensation to States) Act, 2017: It provides for the refund of Compensation Cess paid on inward supplies used for making zero-rated outward supplies (exports).

- Section 11(2) states that no refund of Compensation Cess shall be allowed except in the case of zero-rated supply or inverted duty structure, and subject to prescribed conditions and manner.
- If exports are made without payment of tax (under LUT), refund of accumulated ITC of Compensation Cess is expressly permitted.
- There is no requirement for an additional declaration or undertaking unless prescribed in the rules, which has been a matter of litigation (as seen in the Tata Steel case).

- CBIC Circular No. 125/44/2019-GST dated 18.11.2019: This circular consolidates and simplifies guidelines related to refunds under GST, including refund of ITC on exports.
  - Para 41–44: Details documentation and procedure for claiming a refund of ITC on account of zero-rated supply made without payment of tax.
  - Para 43(c): In cases where ITC on inputs is availed initially but later reversed (due to non-fulfilment of export obligations, etc.), a statement/declaration is required.
  - Inapplicable if ITC was never reversed, as was the case in Tata Steel.
  - Clarifies that realization of export proceeds is not required for the refund of goods exported under LUT.
  - Reinforces that RFD-01 must be accompanied by requisite declarations, shipping bills, BRCs (for services), and inward supply details.

Court's Observation and Scope of Decision:

- With regards to the non-furnishing of a receipt of payment within 180 days of export is concerned, it was observed that proof of payment is only required for export of services and not of goods (Refer Rule 89(2)(b) and 89(2) (c) of the CGST Rules). The rejection of "Refund Application" concerning non-furnishing of the receipt of payment within 180 days of export had no legs to stand in the eye of the law.

- With regards the rejection of the Refund Application, i.e. non-furnishing of proof of export within 90 days of invoice, it transpired from a perusal of the reconciliation statement, that the export was made within 90 days of invoice. While Rule 96A specifies 90 days, actual export beyond that period did not invalidate the refund claim, especially if proof of export existed.
- No provision in the Act or Rules mandated a declaration regarding non-prosecution where goods are exported without payment of tax under LUT.
- With regards the requirement for furnishing a statement as per para 43(C) of the CBIC Circular was concerned, it applied only when ITC had been reversed, which was not the case here.

Conclusion:

- The Jharkhand High Court held that rejection of the refund claim was based on non-existent and irrelevant conditions, which is impermissible under GST law.
- Grounds such as insistence on proof of payment, declarations, and undertakings, when not mandated by law, are extraneous and unsustainable.
- The verdict emphasises that the Revenue cannot insist on non-mandated declarations or procedural hurdles not rooted in statutory provisions.

10. EDELWEISS RURAL & CORPORATE SERVICES LTD. vs. DEPUTY COMMISSIONER OF REVENUE [(2025{99} G.S.T.L. 184) WPA NO. 3033 of 2025 (CALCUTTA HIGH COURT)]

Refund cannot be credited to the electronic ledger of a closed business with a cancelled GSTIN.

Background:

- The Assessee had closed its business operations and its GST registration was also cancelled.
- Subsequently, a refund claim of ₹68,66,238/- was allowed by the Department pursuant to an appellate order.

- While the Form GST RFD-06 order directed the refund to be credited to the petitioner's bank account, the detailed refund order contradicted it by directing the refund to the electronic credit ledger.
- The petitioner filed a writ petition contending that refund to the credit ledger served no purpose as the business was no longer active.

Point of Dispute:

- Whether the GST refund sanctioned to an entity that has closed business and cancelled registration should be remitted to a bank account or credited to electronic credit ledger?
- Whether such contradictory refund directions amount to an administrative inconsistency violating the purpose of refund provisions under the GST law?

Submissions by the Assessee:

- The Assessee contended that in the absence of any business, the Assessee cannot take benefit of the refund credited to its electronic credit ledger.
- It was submitted that there is no were no tax dues payable by the Assessee.
- It was further contended that the detailed refund sanction order was internally inconsistent, as the operative portion directed a refund to the bank account while another portion directed credit to the ledger.

Key Legal Provisions:

- Section 54 of the CGST Act, 2017**:** This section governs the process for claiming refunds of tax, including in cases where businesses have ceased operations.

Court's Observations and Scope of Decision:

- The Court noted that the refund sanction order and the detailed order were self-contradictory.
- The Court also appreciated that once the Assessee had closed down its business operation and the registration under GST also stood cancelled, there would be no opportunity for the assessee to utilise the credited amount.

Conclusion:

- The Court ruling underlines that administrative orders must not be mechanically passed, and must consider commercial and legal realities.

Assessment and Audit including Provisional Attachment & Inspection, Search and Seizure

11. RAJESH TANWAR vs. COMMISSIONER, CGST, DELHI WEST, WP (C) NO. 7220 of 2025 (DELHI HIGH COURT)

Pre-deposit for appeal cannot be demanded on duplicated tax amounts; amount paid during investigation to be adjusted towards pre-deposit.

Background:

- The Assessee was issued two SCNs dated 31.07.2024, proposing recovery of ITC:
  - Rs. 2.83 crore
  - Rs. 60.73 lakhs
- The Assessee deposited Rs. 1.16 crore during investigation and sought adjustment of this amount as pre-deposit under Section 107 for filing appeal.

Points of Dispute:

- Whether pre-deposit under Section 107 of CGST Act is required for duplicated ITC demand?
- Whether amount paid during investigation can be adjusted toward pre-deposit?

Submissions by the Assessee:

- The amount of Rs.60,73 lakhs which was shown as being availed from M/s. Fortune Graphics Limited, was duplicated in both the notices.
- The amount which has been paid by the Petitioner during the investigation, ought to be permitted to be adjusted for the purpose of pre-deposit while filing the appeal under Section 107 of the CGST Act.

Key Legal Provisions:

- Section 107 of the CGST Act, 2017: This section governs the filing of appeals before the Appellate Authority. Sub-section (6) mandates a pre-deposit of 10% of the disputed tax amount as a condition for admission of appeal.

Court's Observations and Scope of Decision:

- Appeals allowed to be filed against both orders.
- Pre-deposit only required for Rs. 2.83 crore (first order).
- No pre-deposit required for second order due to duplicated demand.

Conclusion:

- This order reinforces that duplicated demands cannot be used to burden Assessee with multiple pre-deposits.
- Affirms that investigation deposits can be adjusted against pre-deposit obligations.

12. ARUN TRADERS vs. UNION OF INDIA [({2025} 109 GST 742 {Madras}) W.P. (MD) NO. 9817 OF 2025 (MADRAS HIGH COURT)]

Non-payment of pre-deposit due to inadvertence cannot defeat appeal rights – Appellate Authority directed to restore appeal on deposit of required amount.

Background:

- The Assessee filed an appeal against an assessment order for FY 2018-19 before the Appellate Deputy Commissioner (ST), GST.
- However, the appeal was dismissed on 30.01.2025 due to non-payment of the mandatory 10% pre-deposit required under Section 107(6) of the CGST Act.
- The Assessee filed a writ petition, explaining the non-payment was inadvertent and sought restoration of the appeal upon making the deposit.

Points of Dispute:

- Whether the inadvertent omission to pay 10% pre-deposit at the time of filing the appeal could be cured?

- Whether the Appellate Authority was justified in dismissing the appeal without giving sufficient opportunity and without restoring it after deposit?

Submissions by the Assessee:

- The pre-deposit omission was unintentional.
- Appeal was dismissed without providing sufficient opportunity of hearing to the Assessee.

Submissions by the Revenue:

- Dismissal was due to non-compliance of mandatory predeposit requirement under Section 107(6) of the CGST Act.
- Writ is not maintainable as no appeal was filed against the dismissal order.

Key Legal Provisions:

- Section 107(6), CGST Act: Mandatory pre-deposit of 10% of disputed tax for filing appeal.

Court's Observations and Scope of Decision:

- Found that failure to deposit was due to inadvertence.
- Directed that upon deposit of pre-deposit within 2 weeks, appeal must be restored and decided on merits.

Conclusion:

- This ruling emphasises that technical lapses should not hinder access to justice.

13. UNION OF INDIA vs. YASHO INDUSTRIES LTD. [({2025}143GSTR561), Special Leave Petition Civil Diary No. 17547/2025 (SUPREME COURT)]

Payment through credit ledger for appeal pre-deposit is valid under section 107(6).

Background:

- The Assessee**,** Yasho Industries Ltd**.**, filed an appeal under Section 107 of the CGST Act, 2017 against an assessment order and made a pre-deposit of ₹3.36 crores using the Electronic Credit Ledger.
- The Revenue Department rejected this mode of payment and issued a letter requiring payment through the Electronic Cash Ledger, alleging non-compliance with Section 107(6)(b).
- The Assessee challenged the said letter before the Gujarat High Court, relying on CBIC Circular dated 06.07.2022, which permitted such pre-deposits from the Credit Ledger if it related to output tax.
- The High Court held that the pre-deposit required under Section 107(6)(b) of the CGST Act, 2017, for filing an appeal, can validly be made through the Electronic Credit Ledger, provided the demand relates to output tax**,** as clarified by the CBIC Circular dated 06.07.2022. The High Court quashed the Revenue's direction insisting on payment through the Electronic Cash Ledger, noting it to be contrary to the binding circular and the statutory scheme.
- This lead to the present Special Leave Petition (SLP) by the Revenue before the Supreme Court.

Points of Dispute:

- Whether a pre-deposit under Section 107(6)(b) can be validly made using the Electronic Credit Ledger, especially when the tax in dispute is output tax?
- Whether the Revenue’s insistence on pre-deposit through only the cash ledger is legally sustainable, despite a binding CBIC circular?

Key Legal Provisions:

- Section 107(6)(b), CGST act: Mandates 10% pre-deposit of disputed tax amount before the appellate tribunal hears the appeal.

- Section 49(4), CGST act: Enables use of the electronic credit ledger for payment of "output tax".
- CBIC Circular No. CBIC-20001/2/2022-GST, dated 06.07.2022: Clarifies that pre-deposit under Section 107 can be made from credit ledger if the liability is on account of output tax.

Court's Observations and Scope of Decision:

- Rejected the Revenue's plea to tag the matter with other pending SLPs, as those were filed by the Assessee, and this was not a case warranting review.
- SLP was dismissed. Accordingly, High Court judgment directing acceptance of pre-deposit via Credit Ledger was affirmed.

Conclusion:

- This ruling validates that pre-deposit for appeal under Section 107(6)(b) can be made via the Electronic Credit Ledger**,** if it relates to output tax**.**

14. JANTA MACHINE TOOLS vs. STATE OF U.P. [(2025:AHC:86609) WRIT TAX NO. 1503 OF 2024 (ALLAHABAD HIGH COURT)]

GST – Confiscation – Excess Stock Found – Improper Invocation of Section 130 Proceedings under section 130 of the CGST/UPGST Act cannot be initiated merely on account of excess stock found during survey.

Background:

- The Assessee, Janta Machine Tools, a registered partnership firm engaged in trading machines and hardware, was subjected to a survey by the GST Department at its premises in Agra.
- During the course of the survey, excess stock was found.
- Based on this, a show cause notice under Section 130 of the CGST/UPGST Act was issued proposing:
    - Tax: ₹7,17,560/-
    - Penalty: ₹7,17,560/-
    - Confiscation fine: ₹7,17,560/-

- The Assessee submitted a reply, which was not accepted. An adjudication order was passed confirming the demand.
- On appeal, part relief was granted, and a reduced demand of ₹14,58,811/- was confirmed. The Assessee challenged the orders before the High Court.

Point of Dispute:

- Whether proceedings under Section 130 of the CGST/UPGST Act can be initiated solely on the basis of excess stock found during a survey.

Submissions by the Assessee:

- Excess stock, if any, should be dealt with under Section 73 or 74, not under Section 130 which deals with confiscation.

Key Legal Provisions:

- Section 130 of the CGST Act, 2017: Confiscation of goods or conveyances and levy of penalty.

Court's Observations and Scope of the Decision:

- The issue raised herein in is marked resemblance to facts referred in the judgment of this Court in the case M/s Metenere Limited (supra) wherein on the basis of a similar search conducted, the demand was quantified. This Court after analysing the provisions of the Act and the Rules applicable held that for the infractions as contained in Section 122 of the GST Act and specified in Column "A' of paragraph 35 of the said judgment M/s Metenere Limited (supra) held that penalty has to be Rs.10,000/- or the amount of tax evaded whichever is higher, whereas for the infractions specified in Column "B' of paragraph 35, the penalty that can be imposed is Rs.10,000/ only. The Court also held in the said ruling that the demand for tax can be quantified and raised only in the manner prescribed in Section 73 or Section 74 of the Act, as the case may be.
- Earlier judgments in the following cases were also relied upon:
    - *Dinesh Kumar Pradeep Kumar v. Addl. Commissioner Grade-2* – [2024] *Maa Mahamaya Alloys Pvt. Ltd. v. State of U.P.* – [2024]
- Basis the above findings the adjudication order were quashed.

Conclusion:

- Proceedings under section 130 of the CGST Act cannot be put to service if excess stock is found at the time of survey.

15. ADDITIONAL COMMISSIONER GRADE-2 vs. VIJAY TRADING COMPANY SLP (C) DIARY NO. 5881 OF 2025 (SUPREME COURT OF INDIA)]

Confiscation of goods or conveyances under Section 130 of the CGST Act cannot be invoked merely for excess stock found in search/inspection.

Background:

- The Assessee, Vijay Trading Company, was subject to inspection/search under the CGST Act and in the course of that excess stock of goods were found.
- The revenue-initiated proceedings under Section 130 of the CGST Act (which deals with confiscation of goods or conveyances) read with Rule 120 of the CGST Rules.
- The Assessee challenged the action before the High Court of Judicature at Allahabad (Allahabad High Court), which held that when excess stock is found, the correct route is to proceed under Sections 73/74 (relating to tax demand) and not under Section 130.
- The revenue filed an SLP in the Supreme Court seeking to overturn the High Court ruling.

Points of Dispute:

- Whether proceedings under Section 130 of the CGST Act can be legitimately invoked in case of excess stock found in inspection/search, or whether the correct route is to proceed under Sections 73/74?
- Whether the High Court's decision declining confiscation under Section 130 in such circumstances is valid?

Key Legal Provisions:

- Section 130, CGST Act, 2017: Confiscation of goods or conveyances in certain cases of offences under the Act.

- Sections 73/74, CGST Act, 2017: Deal with determination of tax not paid (73) and tax short paid or erroneously refunded (74).
- Rule 120, CGST Rules, 2017: Procedure for confiscation of goods or conveyances under Section 130.

Court's Observations and Scope of the Decision:

- The Supreme Court declined to interfere with the High Court's decision and dismissed the SLP.
- The decision establishes that in GST proceedings when excess stock is discovered, the department should ordinarily proceed under Sections 73/74 for tax demands rather than resorting to Section 130 for confiscation, unless the facts clearly fall within the mischief under Section 130.
- It underscores that confiscation is an extraordinary remedy and cannot be invoked by default where the statutory provisions provide for a tax demand route.

Conclusion:

- This ruling will serve as a guiding precedent in GST cases involving seizures/inspections and excess stock, promoting a more structured approach in enforcement.

16. HINDUSTHAN ENTERPRISES V. DEPUTY COMMISSIONER OF STATE TAX, SHIBPUR [({2025} 110 GST 643 {Calcutta}) WPA NO. 9476 OF 2025 (CALCUTTA HIGH COURT)]

Order for rejection of a rectification application by the Department quashed basis the observation that the Department was far more equipped to access records available on the portal.

Background:

- The Assessee was issued an adjudication order dated 01.04.2024 under Section 73 of the CGST/WBGST Act for the FY 2018–19.
- The Assessee filed a rectification application under Section 161, pointing out factual and computational errors in the adjudication order.
- The Department rejected the rectification application stating that it was time-barred and advised the Assessee to file an appeal.
- The Assessee filed an appeal under Section 107, along with the required pre-deposit, but the Appellate Authority rejected it on the ground of limitation.
- Aggrieved by the rejection order, the Assessee approached the High Court under Article 226 of the Constitution.

Points of Dispute:

- Whether the rejection of the rectification application under Section 161 was justified?
- Whether the appellate authority's rejection of the appeal on limitation was appropriate?
- Whether Department should have considered rectification requests on merits before directing the Assessee to file an appeal?

Key Legal Provisions:

- Section 161 of the CGST Act, 2017**:** empowers the proper officer, Commissioner, or Appellate Authority to correct any clerical, numerical, or factual inaccuracies, including computational errors, provided such rectification is completed within six months from the date the original order was issued.

- Section 107 of the CGST Act, 2017: An assessee may contest any decision or order passed under the Act by filing an appeal to the Appellate Authority within three months, provided they fulfil the mandatory requirement of a pre-deposit totalling 10% of the disputed tax amount.

Court's Observations and Scope of the Decision:

- The department is better equipped to access the portal records and address factual computation errors.
- Both the rectification rejection order (28.10.2024) and the appellate order (25.02.2025) were set aside.
- The matter was remanded back to the Department for fresh consideration of the rectification application.

Conclusion:

- Before directing an Assessee to appeal, the department must fairly adjudicate rectification applications, especially when based on portal data or computation errors.

17. ARVIND FASHION LIMITED V. STATE OF HARYANA & OTHERS [(2025:PHHC:135347-DB) WP (C) NO. 16286 of 2025 (PUNJAB & HARYANA HIGH COURT)]

Time spent in pursuing a rectification application must be excluded while computing limitation for filing an appeal.

Background:

- The Assessee, Arvind Fashion Limited, is engaged in retail and warehousing services relating to garments, footwear, and suitcases under various HSN codes.
- A show cause notice dated 16.05.2024 under Section 73 of the HGST/CGST Act was issued by the Department, proposing a total demand of ₹19.44 crore (including interest and penalty) for FY 2019-20.
- The Assessee filed a reply, but by way of an adjudication order the demand of ₹12.07 crore was raised.

- The Assessee filed a rectification application under Section 161, citing apparent errors, primarily iincorrect comparison of ITC between GSTR-2A and GSTR-3B and imposition of GST on other expense based on nationwide figures instead of Haryana-specific data.
- The rectification application was rejected by the Department without any notice or hearing.
- An appeal under Section 107 was then filed by the Assessee along with 10% pre-deposit.
- The Appellate Authority dismissed the appeal as time-barred, i.e., by holding that it was filed 109 days beyond the limitation period of three months from the original order.

Points of Disputes:

- Whether the period spent in pursuing the rectification application under Section 161 should be excluded while computing the limitation period for appeal under Section 107?
- Whether the Appellate Authority erred in treating the appeal as delayed despite the Assessee filing it promptly after rejection of the rectification application?

Submissions by the Assessee:

- The appeal was filed within two days of the rectification order; hence there was no deliberate delay.
- The limitation for appeal should exclude the time spent pursuing the rectification application, as it was filed bona fide and within the statutory period.
- Section 107 does not prohibit exclusion of such period; a contrary interpretation would defeat the right of appeal.
- The Appellate Authority's dismissal without such exclusion is erroneous and contrary to principles of natural justice.

Submissions by the Revenue:

- The assessee could have filed an appeal while the rectification application was pending.

Key Legal Provisions:

- Section 107 of the CGST Act, 2017: An assessee may contest any decision or order passed under the Act by filing an appeal to the Appellate Authority within three months, provided they fulfil the mandatory requirement of a pre-deposit totalling 10% of the disputed tax amount.
- Section 161 of the CGST Act, 2017: empowers the proper officer, Commissioner, or Appellate Authority to correct any clerical, numerical, or factual inaccuracies, including computational errors, provided such rectification is completed within six months from the date the original order was issued.

Court's Observations and Scope of Decision:

- It was undisputed that:
    - Order under Section 73 was passed on 15.07.2024.
    - Rectification application was filed on 22.08.2024.
    - Rectification application was rejected on 28.01.2025.
    - Appeal was filed on 29.01.2025.
- The Court observed that when a party is bona fide pursuing rectification proceedings it cannot simultaneously be expected to file an appeal.
- In a scenario where an Assessee's rectification application may have been allowed, the filing of appeal would not have been necessary. In such a scenario, rectification, if made, would have merged in the original adjudication order.
- It cannot be assumed and presumed that period of limitation to challenge original adjudication order would begin from the date on which it was passed and the period spent during pendency of rectification application is not to be excluded.
- The order dated 06.02.2025 passed by the Joint Commissioner (Appeals), Gurugram, was set aside.
- The matter was remitted to the Appellate Authority for fresh decision on merits in accordance with law.

Conclusion:

- Limitation period for appeal should commence only after the rectification application is decided, and the time consumed during the rectification must be excluded while calculating limitation for filing an appeal under section 107 of the CGST Act.

18. SRI RAM STONE WORKS vs. STATE OF JHARKHAND [(2025:JHHC:13975-DB) WP (T) NO. 1239 of 2025 (JHARKHAND HIGH COURT)]

Lower transaction price below market value not a ground for issuing Scrutiny Notice.

Background:

- The Assessee, Sri Ram Stone Works, was involved in the sale of stone boulders and stone chips.
- Notices under Section 61 (GST-ASMT-10) were issued to the Asessee and other taxpayers comparing the declared sale price in returns to the prevailing market price, alleging under-reporting of taxable value and demanding justification for possible tax recovery.
- The Assessee challenged the notices, arguing that Section 61 only allowed identification of "discrepancies in the return itself" and not comparison with external benchmarks like market prices.

Points of Dispute:

- Whether an Department can issue a scrutiny notice under Section 61 on the basis that the transaction value declared in returns is below the market benchmark, without pointing out any return-specific discrepancy?
- Whether such reliance on market price differences constitutes an unauthorized exercise of jurisdiction under GST law?

Submission by the Assessee:

- The only allegation in notices was that the sale price was below market price, with all entries in returns matching the invoices.
- Section 61 of the CGST Act reveal that the Department may scrutinize the returns and related particulars furnished thereto and verify

correctness of such returns and informs discrepancies occurring in the returns. The provisions of Section 61 cannot be invoked merely because a dealer had sold its goods at a price lesser than the prevalent market price of goods. Thus, the notice was without jurisdiction.

- A dealer is entitled to arrange the affairs of its business in the manner best suited to it, and, merely because certain goods were sold allegedly at a rate less than the market value, cannot constitute a cause of action for initiating proceedings under Section 61.

Submissions by the Revenue:

- Under Section 61, competent authority can, at the time of verification of correctness of returns, inform the dealer the discrepancies noticed in its returns and require the dealer to correct the same.

Key Legal Provisions:

- Section 61 of the CGST act, 2017: Empowers a Proper Officer to scrutinize GST returns for internal discrepancies only. If inconsistencies are found within the filed data, the officer issues Form GST ASMT-10 to seek clarification. This scrutiny is strictly limited to the taxpayer's furnished records and cannot be based on external intelligence, market price comparisons or price benchmarking.
- Rule 99 of CGST Rules: Prescribes the procedure for Section 61, beginning with the issuance of Form GST ASMT-10 for identified discrepancies. If the taxpayer's response is satisfactory, the scrutiny concludes via Form GST ASMT-12; otherwise, the officer may escalate to an audit, special audit, or inspection under Sections 65, 66, or 67. This process remains strictly limited to self-declared return data and excludes external market surveillance.
- Section 15 of the CGST Act,2017: Defines the taxable value as the transaction value, which is the price actually paid or payable, provided the parties are unrelated and price is the sole consideration. It upholds the principle of business pricing autonomy by prohibiting market value comparisons in genuine transactions, except where related parties or non-monetary considerations are involved.

Court's Observations and Scope of the Decision:

- The notices issued comparing the particulars at which the Assessee had sold goods with that of prevalent market prices were wholly without jurisdiction and beyond the scope of Section 61 of the CGST Act.
- Unless transaction of sale are shown to be sham transaction or the merefact that the goods were sold at a concessional rate/ rate less than market price would not entitle the Deparement to assess the difference between the market price and the price paid by the purchaser as transaction value.
- The notices were therefore quashed, though authorities may issue fresh notices strictly on return-based discrepancies, not price comparison.

Conclusion:

- The purpose of Section 61 is limited to scrutiny of internal return discrepancies, and it does not permit the Department to issue notice solely on the allegation that the goods were sold below the market price.

19. SAJJAN KUMAR vs. STATE OF U.P. [(2025:AHC:91456) Writ Tax No. 1858 of 2024 (ALLAHABAD HIGH COURT)]

Denial of Opportunity Due to Improper Notice Upload: Order Set Aside and Matter Remanded.

Background:

- The Assessee, Sajjan Kumar, a proprietorship firm, was issued a show cause notice proposing demand of ₹73.61 lakhs for the period July 2017 to March 2018 (FY 2017–18).
- However, the notice was not visible to the Assessee because it was uploaded on the "Additional Notices and Orders" tab in the GST portal instead of the standard "Notices and Orders" tab.
- Consequently, the Assessee could not not file a reply, and an *ex-parte* order was passed by the Department without granting any personal hearing to the Assessee.

- The Assessee challenged this order via writ petition, citing violation of the principles of natural justice.

Points of Dispute:

- Whether the show cause notice, uploaded incorrectly in the "Additional Notices and Orders" tab, satisfies the requirement of proper service?
- Whether passing an ex parte order without affording the Assessee an opportunity of personal hearing violates natural justice?

Submissions by the Assessee*:*

- The Assessee could not see the notice in question as well as the reminder as it was not posted in the notice and order but the same was posted in additional notices on the GST portal. Therefore, the Assessee could not file objection.
- Further, the order in question was passed without giving any proper opportunity of personal hearing to the Assessee, which is gross violation of the principles of natural justice.

Key Legal Provisions:

- Rule 142(1) of CGST Rules 2017: Mandates that a Show Cause Notice under Section 73 be issued in Form GST DRC-01 and served electronically. In this instance, uploading the DRC-01 under the "Additional Notice and Orders" tab instead of the standard "Notices and Orders" section caused the assessee to miss the notification. This misplacement prevented a timely response and effectively vitiated due process.

Court's Observations and Scope of the Decision:

- It was undisputed the notice was uploaded in additional notices and orders instead of notice and order in the GST portal.
- The impugned order was passed ex parte, without granting the Assessee an opportunity of personal hearing.

Conclusion:

- Mandatory to issue notice properly through the GST portal and afford opportunity of hearing to an Assessee before an order is passed.

GST & Indirect Taxes Committee
The Institute of Chartered Accountants of India
ICAI Bhawan, A - 29, Sector - 62, Noida - 201309
Phone : 0120-3045954
E-mail : gst@icai.in
Website : www.icai.org, https://idtc.icai.org/