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Monthly Newsletter - February 2026

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Insightful Article on GST, Customs and Foreign Trade Policy

Amalgamation - GST Cannot Ignore Corporate Death and Consequent Refund Rights

This article was published at https://www.taxtmi.com/article/detailed?id=15891

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India's evolving economic landscape today, marked by sustained emphasis on Make in India, Services from India, ease of doing business and progressive liberalisation of foreign investment norms, has resulted in a significant uptick in cross-border capital flows as well as domestic consolidation. Multinational groups are increasingly using India as both a manufacturing and operational hub, including the setting up of numerous GCC's in the service front, while Indian businesses continue to expand overseas. Inevitably, this has translated into a rise in mergers, amalgamations and internal restructurings, undertaken to achieve operational efficiencies, regulatory alignment and business synergies.

While such transactions are typically structured in line with the Companies Act, 2013, their execution span multiple legal regimes, including income tax, GST, FEMA and allied laws, each with its own compliance architecture and consequences. However, these tax and regulatory statutes do not operate in isolation. They are supplemental to the underlying legal transaction and must be applied in harmony with its basic structure, timing and legal effect.

The recent decision of the Gujarat High Court in Alstom Transport India Limited serves as a timely reminder that tax benefits and entitlements cannot be viewed divorced from the foundational principles governing amalgamations, and that the form and substance of the transaction must first be correctly understood before assessing its tax implications.

Against this backdrop, this decision of the Gujarat High Court merits close examination, as it illustrates how foundational principles governing amalgamations operate when tax provisions are applied to complex restructuring transactions.

In this decision the Gujarat High Court examined the permissibility of refund of unutilised input tax credit (ITC) claimed by a transferor company after its amalgamation, where only part of the ITC had been transferred to the transferee entity.

01 Background and factual matrix

The dispute arose out of an amalgamation approved by the NCLT by order dated 10 Aug 23, whereby Alstom Rail Transportation India Pvt. Ltd. (ARTIPL), along with two other group entities, stood amalgamated into Alstom Transport India Limited (ATIL).

S. No.	Event	Date
01	ATIL filed FORM GST REG-1under Rule 8 of the CGST Rules, 2017 (in anticipation of NCLT order)	10.05.2023
02	GST registration granted to ATIL **w.e.f.**	25.05.2023
03	NCLT order approving scheme of amalgamation of erstwhile ARTIPL and two other entities into ATIL	10.08.2023
04	Certified copy of NCLT order issued	28.08.2023
05	RoC certification of ATIL issued	22.09.2023
06	**Cancellation of ARTIPL's GST registration prospectively after a department SCN**	29.11.2024

Prior to amalgamation, ARTIPL had effected zero-rated exports in Apr 23 and, as on the date of amalgamation, had accumulated unutilised ITC of approximately ₹242.02 crore.

On 20 Oct 23, ARTIPL filed FORM GST ITC-02 and transferred only ₹192.87 crore of ITC to ATIL, while retaining a balance of ₹49.14 crore in its electronic credit ledger.

Subsequently, ARTIPL filed refund applications under Rule 89 for the retained ITC attributable to exports made in Apr 23 (after the amalgamation became effective). One such claim of ₹2.56 crore was sanctioned by the department, and the amount was disbursed. However, the refund sanction was later reviewed, and the appellate authority set aside the refund.

03 Issue before the Court

The core issue before the Court was whether, in case of amalgamation, the transferor company could partially transfer unutilised ITC to the transferee instead of transferring the entire ITC in accordance with section 18(3) of the CGST Act read with rule 41 of the CGST Rules.

Also, after the amalgamation has taken effect whether the transferor company can still file refund claim in respect of exports made during pre amalgamation period.

04 Findings and reasoning

The High Court dismissed the writ petitions and upheld the denial of refund, holding that the course adopted by ARTIPL was contrary to the statutory framework governing amalgamation under GST.

The Court reiterated that once an amalgamation scheme is sanctioned and becomes effective, the transferor entity ceases to exist as a distinct legal person. Any rights or liabilities thereafter must be examined strictly within the statutory scheme applicable to amalgamation.

Under GST law, section 18(3) read with rule 41 provides a specific mechanism for transfer of unutilised ITC in cases of merger or amalgamation, namely through filing FORM GST ITC-02. The Court held that this statutory mechanism does not contemplate encashment of ITC by way of refund as an alternative to transfer. Refund of unutilised ITC is a statutory benefit and can be availed only in situations expressly permitted by law.

The Court took serious note of the fact that ARTIPL transferred only part of the ITC and retained the balance for claiming refund. Such partial transfer of ITC followed by refund of the residual amount was held to be impermissible, as it defeats the legislative intent underlying Section 18(3). Once the transferee company becomes entitled to registration, the entire unutilised ITC of the transferor must move to the transferee, leaving no residual ITC with the transferor for independent monetisation.

The Court also highlighted multiple procedural irregularities, including:

- registration obtained by the transferee, well before the date of amalgamation order coming into effect, in anticipation of amalgamation,

- delayed cancellation of the transferor's registration contrary to section 87(2) of the CGST Act , and

- facilitation of these irregularities by jurisdictional officers.

However, the Court clarified that procedural lapses cannot be relied upon to legitimise a refund claim that is otherwise substantively impermissible.

Importantly, the Court observed that ATIL itself had not effected the exports, and therefore could not claim a refund in its own right, while ARTIPL could not survive post-amalgamation to claim a refund independently.

05 Reliance on precedents

In arriving at its conclusion, the Court relied upon:

- Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd., emphasising strict interpretation of taxing statutes and ITC provisions; and

- Mahagun Realtors Pvt. Ltd., reiterating the legal consequences of amalgamation and cessation of the transferor entity.

Key take away for business:

One aspect to note from this decision is that the GST law cannot operate in isolation. One has to understand the basic purpose and outcome of any structuring and accordingly ensure that the tax laws are applied.

Even before this decision was delivered, in the GST landscape there have been many decisions in the context of death of a proprietor (Sambul Shahid , Mudit Gupta (Legal Heir To Pushpa Gupta)) where the Courts have held that no proceedings, be it a show cause notice or order, can be issued against a deceased person. In such cases the legal representative should be given the notice for a response.

[1] 2025 (12) TMI 937 - ALLAHABAD HIGH COURT

[1] 2025 (9) TMI 181 - ALLAHABAD HIGH COURT

Additional aspect to be noted is that just because the department had cancelled registration much after the effective date of the amalgamation, it does not regularise the error of filing of the refund application in the name of the non-existent transferor company. Hence, businesses should ensure that they do not blindly rely on the words and actions of the officers, rather they should consider taking advice from competent and mature consultants in their own fields (who would all enable a 360 degree advice after looking at the tax laws including the allied laws) and take other necessary steps to ensure being compliant.

Additionally, whether the portal is designed/updated & the officers possess suitable knowledge, in line with the above decision delivered by the Court to enable the transferee company to file the necessary applications and claim refund. The answer is a big NO. Considering this backdrop somewhere the judiciary should have taken a lenient view and provided a mechanism through which the Petitioner could have regularised the refund claim since there is no doubt regarding the exports. This is more so when the department officer himself is not aware of the governing provisions and there is no suitable infrastructure available to enable compliance by the taxpayer, it would be too harsh to expect the taxpayer to comply as per Court's interpretation of the law. Substantial rights of the taxpayers should not be jeopardised due to such technicalities.

For the taxpayer, considering the existing scheme of things, in case a business re-structuring takes place, from GST perspective the following aspects should be taken care of. These aspects should be given attention to, at least 6 months before the effective date of the restructuring:

1. From GST perspective, the transactions need to be conducted in the resulting/amalgamated entity from the date of the Court order. Efforts should be made to conclude all open transactions (price difference adjustments by issuing credit notes, ITC reconciliation and resultant entries in GST returns, filing of refund claim etc) before such date.

2. Application for Cancellation of registration for the merging entity should be filed well within statutory time limit.

3. Transfer of full ITC should be strictly as per 18 (3) read with Rule 41.

4. New entity should obtain registration with effective date as envisaged under the law.

5. There should be proactive communication to the jurisdiction office well before the Court order. All these should be in writing as well.

6. While cancellation of GST number should be done, there should be frequent check of the portal to see if any notices etc are issued by department.

Government should also come up with issuance of a removal of difficulty order to facilitate the businesses as it may not be practically feasible for operative businesses to bring it to a standstill from a particular date. While legally the business ceases to exist and gets merged in new entity, the requirement of portal is not fully aligned with the law. Proper transitional period should be given to execute open transactions, performance of reconciliations, transfer of ITC, surrender and obtaining of registrations etc.

Additionally, the department officers should also be trained with the nuances of the other laws in respect of these business restructurings, to ensure that they becomes partners in helping businesses comply with the tax laws in spirit. The department should consider itself as the taxpayer's guide and support to enable compliance with the law rather than wait for the taxpayers to make mistakes and then milk out revenue. Department needs to understand that a good proportion of today's businesses wish to comply with the law and remain at peace rather than get into the complex litigations.

The views expressed are strictly personal and cannot be regarded as an opinion. For any queries or feedback please write to shilpijain@hnaindia.com and ashish@hnaindia.com.

NO ORDER, NO APPEAL? THE LEGAL CONSEQUENCES OF TIME-BAR REJECTIONS THROUGH FORMGST APL-02


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"A mature GST regime is not one that changes frequently, but one that improves thoughtfully."

The formal constitution of the Goods and Services Tax Appellate Tribunal (GSTAT)marks an important stage in the evolution of the GST dispute resolution framework.The Tribunal was envisaged as the final fact-finding authority under the GST regimeand as a necessary institutional mechanism to streamline Appellate Adjudication.One of the clear objectives behind its establishment was to provide an effectivestatutory remedy and to reduce the increasing burden on the Hon'ble High Courts in GST matters.

However, an emerging procedural issue threatens to dilute this objective. A largenumber of appeals filed before the First Appellate Authority under Section 107 of the Central Goods and Services Tax Act, 2017 ("CGST Act") have been rejected on the ground of limitation not by way of a reasoned appellate Order, but merely through issuance of FORM GST APL-02 (Acknowledgment), bearing the endorsement "Rejected being Time Barred".

This practice raises important questions concerning statutory interpretation, procedural compliance, and the availability of further appellate remedies under Section 112 of the CGST Act.

01 STATUTORY FRAMEWORK GOVERNING APPEALS

To appreciate the issue, it is necessary to examine the statutory scheme governing appeals under the GST regime.

Relevant provision/ Form		Particulars
Section 107	Appeal to the First Appellate Authority	Section 107 of the CGST Act provides that any person aggrieved by a decision or order passed by an adjudicating authority may prefer an appeal to the Appellate Authority within three months from the date of communication of such decision or order. The Appellate Authority is empowered to confirm, modify, or annul the decision or order appealed against. Sub-section (11) of Section 107 contemplates the passing of an Order after hearing the parties and examining the records. Thus, adjudication by the First Appellate Authority is required to culminate in a **Reasoned Order.**
Rule 108 and FORM GST APL-02	Procedure For Filing Appeal	Rule 108(3) of the CGST Rules, 2017 provides that where the decision or order appealed against is uploaded on the common portal, **a final acknowledgment, indicating the appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority** or an authorised officer. The date of provisional acknowledgment is treated as the date of filing of appeal. It is therefore, evident that FORM GST APL-02 is procedural in nature. It acknowledges the filing of an appeal and assigns an appeal number. It does not, by statutory design, embody adjudication and hence, cannot be termed as Order.
Rule 113 and FORM GST APL-04	Order of the Appellate Authority	Rule 113 of the CGST Rules mandates that the Appellate Authority shall, along with its order under Section 107(11), **issue a summary of the order in FORM GST APL-04,** clearly indicating the final amount of demand confirmed. FORM GST APL-04 is thus the statutory vehicle through which the appellate order is summarised and communicated.
Section 112	Appeal to the Appellate Tribunal	Section 112 provides that any **person aggrieved by an Order** passed under Section 107 or Section 108 may appeal to the Appellate Tribunal within three months from the date of communication of such order. The right to approach the Tribunal is therefore triggered by the existence of an "Order" passed under Section 107.

02 THE PROCEDURAL ANOMALY: REJECTION THROUGH APL-02

In practice, numerous appeals filed before the First Appellate Authority have been rejected at the threshold on the ground of limitation by way of an endorsement in FORM GST APL-02 stating "Rejected being Time Barred." No separate Order under Section 107(11) is passed. No FORM GST APL-04 is issued.

This gives rise to a fundamental question:

Can an acknowledgment in FORM GST APL-02, containing a brief endorsement of rejection, be treated as an "Order" passed under Section 107?

A close reading of the statutory provisions suggests that it cannot

03 DISTINCTION BETWEEN ACKNOWLEDGMENT AND ADJUDICATORY ORDER

The statutory scheme clearly differentiates between:

An acknowledgment is administrative in character. It records the fact of filing. It does not reflect application of mind, discussion of limitation, consideration of condonation powers, or reasoning.

An adjudicatory order under Section 107(11), on the other hand, is required to contain findings and reasons. Even where an appeal is dismissed as time-barred, such dismissal must emanate from an Order passed in exercise of statutory powers.

In this context, reference may be made to the decision of the Allahabad High Court in **New Shanti Restaurant v. State of U.P.,** Writ Tax Nos. 1597 with 1604 of 2024, decided on 30.09.2024, wherein it was observed as under:

"It is settled law that reason is the heartbeat of every conclusion. An order without valid reasons cannot be sustained. To give reasons is the rule of natural justice. One of the most important aspect for necessitating to record reason is that it substitutes subjectivity with objectivity. It is well settled that not only the judicial order, but also the administrative order must be supported by reasons recording in it."

This precise issue has also engaged the attention of constitutional courts. In **Jharna Das v. The Joint Commissioner of State Tax, Bureau of Investigation (South Bengal), Durgapur Zone & Ors.,** decided on 14.05.2024 by the Calcutta High Court. The appeal filed under Section 107 was rejected through FORM GST APL-02 on the ground of delay. The Hon'ble Court noted that although the appeal appeared to be barred by time, the petitioner could not have been deprived of the opportunity to seek condonation of delay. The High Court set aside the rejection appearing in FORM GST APL-02 and granted liberty to the petitioner to file an application under Section 5 of the Limitation Act, 1963, directing the Appellate Authority to consider the same in accordance with law.

The above enunciation reinforces the settled principle that even an administrative order must disclose reasons. An endorsement in an acknowledgment format, devoid of reasoning, cannot satisfy this requirement.

The absence of a reasoned order raises two distinct issues:

1. Procedural Non-Compliance: The statutory mandate of passing an order under Section 107(11) read with Rule 113 is not fulfilled.

2. Denial of Appellate Remedy: In the absence of an order under Section 107, Section 112 cannot be effectively invoked.

04 CONSEQUENCE: ABSENCE OF AN APPEALABLE ORDER

Section 112 permits an Appeal to the Tribunal against an order passed under Section 107. If no order under Section 107 is passed and only an acknowledgment is generated, there is no identifiable order capable of being appealed against. This creates a legal vacuum. The taxpayer is effectively deprived of the statutory right to approach the Tribunal.

The practical implication is significant. Assessees whose appeals are rejected through APL-02 have no remedy before the Tribunal because:

- There is no "Order" within the meaning of Section 112.
- There is no APL-04 summarising an order.
- There is no reasoned order under Section 107.

05 IMPACT ON THE OBJECTIVE OF THE GSTAT

One of the core objectives behind the establishment of the GSTAT was to provide a structured appellate forum and reduce writ litigation before the High Courts.

However, if appeals rejected as time-barred through APL-02 cannot be carried to the Tribunal, the affected taxpayers are left with only one recourse: invoking the writ jurisdiction of the Hon'ble High Courts under Article 226 of the Constitution of India.

Instead of reducing the burden on constitutional courts, this procedural approach may result in increased writ petitions seeking:

- Direction to the Appellate Authority to pass a proper order under Section 107;

- Quashing of rejection endorsements in APL-02; or

- Adjudication of limitation issues directly by the High Court.

Such litigation is avoidable if the statutory scheme is adhered to in letter and spirit.

06 NEED FOR PROCEDURAL CLARITY

The issue is not merely technical. It affects substantive rights. To ensure uniformity and legal certainty, it would be appropriate that:

1. Rejections on limitation grounds are issued only through a reasoned order under Section 107 (11);

2. Such order is summarised in FORM GST APL-04 as mandated by Rule 113;and

3. The right of appeal under Section 112 remains preserved.

Such clarity would prevent procedural disputes from overshadowing substantive adjudication.

CONCLUSION

The constitution of the GST Appellate Tribunal represents an important advancement in the GST framework. Its effectiveness, however, depends upon procedural discipline at every appellate stage.

The practice of rejecting appeals as time-barred through FORM GST APL-02, without issuance of a reasoned order under Section 107, creates uncertainty in law and restricts access to the Tribunal. It may also result in avoidable writ proceedings before the High Courts, contrary to the objective underlying the Tribunal's establishment.

A consistent and legally aligned approach - where every rejection is supported by a formal adjudicatory order - would safeguard statutory rights, ensure procedural uniformity, and strengthen the credibility of the appellate mechanism under GST.

In a regime that aspires to stability and predictability, procedural clarity is not a technical formality; it is the foundation of effective appellate justice.

[The views expressed are strictly personal. For feedback or queries, please write to the authors at *bhaveshmittal@hnaindia.com* or *alankarsingh@hnaindia.com.*]

Exports with payment of tax: An Overlooked Route for Monetising Capital Goods Creditunder GST


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01 Introduction:

It is frequently observed that exporters are burdened with substantial accumulated Input Tax Credit (ITC) lying un-utilised in their Electronic Credit Ledger. Despite exports being zerorated supplies under GST, many exporters find themselves unable to monetise this accumulated credit by way of refund. In several cases, this problem persists even after filing refund applications for accumulated ITC.

Under the Goods and Services Tax (GST) regime, exports of goods and services are treated as **"zero-rated supplies"** in terms of Section 16 of the Integrated Goods and Services Tax Act, 2017 (IGST Act). While exports are not subjected to GST, exporters are entitled to claim a refund of taxes paid on input, input services and capital goods used in making such exports. The underlying intent of the refund mechanism is to ensure that no domestic tax burden is embedded in exported goods or services, thereby preserving their global competitiveness.

02 Key Reasons for Accumulation of ITC – Capital Goods

One of the major reasons for accumulation of ITC in the case of exporters is the credit availed on capital goods. It is important to note that refund of accumulated ITC under Rule 89(4) of the CGST Rules, 2017 excludes ITC on capital goods. As a result, exporters who have made significant investments in plant, machinery, or other capital assets often end up with large unutilised credits, which cannot be claimed as refund under the category of "export without payment of tax". Many exporters are unaware that there exists an alternative and legally permissible route to monetise such accumulated ITC, including credit attributable to capital goods.

03 Refund Options Available under Section 16 of the IGST Act

Section 16 of the IGST Act, 2017 provides exporters with two distinct mechanisms for claiming refund:

A. Export with Payment of IGST:

Under this option, the exporter pays Integrated GST on export supplies (by utilising available ITC on inputs, input services and capital goods), and subsequently claims a refund of the IGST so paid on exports. This route allows utilisation of entire ITC, including that relating to capital goods, and thus serves as an effective mechanism for liquidating accumulated credits.

B. Export without Payment of IGST (Under LUT/Bond):

Under this commonly used option, Exports are made without charging IGST by furnishing a Letter of Undertaking (LUT) or Bond, and Refund is claimed for accumulated ITC on inputs and input services. However, as stated earlier, ITC on capital goods is speciőically excluded from refund under this category, leading to accumulation.

S. No.	Refund category	Inputs	Input services	Capital goods
A	With payment of tax	Yes	Yes	Yes
B	Without payment of tax	Yes	Yes	No

03 Need to Revisit the "With Payment of Tax" Option

While most exporters are habituated to claiming refunds under the "export without payment of tax" route due to its procedural simplicity, very few consciously evaluate the option of export with payment of IGST as a strategic tool for ITC monetisation. In cases where exporters have:

- Significant capital goods ITC,
- Continuous accumulation of credit, or
- Limited domestic taxable supplies for utilisation of ITC,

the option of exporting with payment of IGST should be carefully examined. A planned shift to this route either fully or partially can help unlock blocked working capital and improve cash flows.

Previously, Rule 96(10) of CGST Rules, 2017 used to restrict the claim of refund under the category 'exports with payment of tax' for certain categories of persons. However, the same has been removed omitted vide Notiőication No. 20/2024-Central Tax with effect from 08.10.2024. Therefore, there is no restriction on claiming refund of IGST paid on exports for any category of exporters. Subsequently, in accordance with the powers of Section 16(4), the government has issued the **Notification No. 01/2023 -Integrated Tax dated 31.07.2023** specifying that refund can be claimed of IGST tax paid on all supplies which are exported but restricted refund on some goods which has been speciőied in the notiőication. No restriction has been provided for refund of ITC on capital goods. The tax paid may include inputs, capital goods and input services. Hence, it is beneőicial to all exporters to claim the refund of Capital goods ITC by opting exports with payment of tax. The exports supplies can be of goods or services or both.

03 Procedure for claiming the refund under category 'Export with payment of IGST'

A. Export of Goods made with payment of tax

i. The applicant must satisfy the deőinition of export of goods given under Section 2(5) of the IGST Act 2017

ii. Rule 96 of the CGST act 2017 deals with procedure and conditions for claiming the refund of IGST paid for both goods and services. Refund is processed through automatic systems and no need to őile any other refund application. The őiling of shipping bill will be treated as a refund application. Supplier must ensure the below key points to get the refund processed:

1. Disclose the invoice details along with shipping details in **GSTR-1.**

2. Raise E- invoice if Aggregate turnover is above **5 crores** in the preceding financial year.

3. Valid **GSTR-3B** should be filed.

4. the person in charge of the conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of **shipping bills or bills of export.**

iii. The supplier must make checklist for the above-mentioned points. The ô low of the refund application is as follows:

- The invoices for export of goods shall also be uploaded on GSTR-1, the details of which shall be electronically transmitted by the common portal to ICEGATE. Consequently, ICEGATE shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

- Upon the receipt of the information regarding the furnishing of return in Form GSTR3B, from the common portal, ICEGATE/proper ofô icer of Customs shall process the claim of refund in respect of export of goods and an amount equal to the IGST paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

- The refund of tax paid on exports of goods would be withheld as per Rule 96(4) in the cases specified under Sec 54 (10) and (11) of CGST act 2017 and the goods exported is in violation of the provisions of the Customs Act 1962.

B. Export of services made with payment of tax

i. Applicant must satisfy the Section 2(6) "Export of services" deô inition

ii. The applicable rule to claim refund application of exports of services made with payment of tax is Rule 96(9) states that "The application for refund of integrated tax paid on the services exported out of India shall be Ÿiled in FORM GST RFD-01 and shall be dealt with in accordance with the provisions of rule 89"

iii. Rule 96(9) refers to Rule 89 for the refund application for exports with payment of tax. Here comes the doubt that as stated in Rule 89(4) specially restricts the ITC refund on capital goods. However, if we read the rule 89(4), it clearly states that "In the case of ***zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking*** in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017)". The restriction is only applicable when exports are made under LUT or without payment. Hence, when the supplier is opting to exports with payment of tax then refund restriction on capital goods will not be applicable.

The refund application to be filed online in GST common portal under this category along with documents as per Rule 89 read with **Circular 125/44/2019-GST** dated 18.11.2019 to be uploaded in portal. The main documents are given below:

- Statement of Invoices along with HSN codes (Annexure-B)
- GSTR-2A/2B of the relevant period
- Copies E- BRC/ FIRC realised during the relevant period
- Statement 2 under rule 89(2)(c) CGST rules – containing the number and date of invoices and relevant BRC/ FIRC
- Declaration under second and third proviso to section 54(3) CGST act
- Undertaking in relation to sections16(2)(c) Self-declaration regarding nonprosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund)
- Service Agreement with the Foreign entity
- Export invoice copies in accordance with Section 31 and Rule 46 of the CGST act 2017
- Any other additional information requested by the officer

Frequently Asked Questions:

a. Whether there is any restriction for exporters regarding shifting from without payment of tax to with payment of tax?

There is no restriction on shifting from with payment to without payment. In fact, they can simultaneously do both applications.

b. With respect to ITC accumulated from last few years, can the exporter use the same for exports with payment now? -

Yes, it can be used.

c. Are they required to file refund application on monthly basis?

No, there is no specific requirement of filing refund applications online. It can be filed for multiple months/years.

d. Are they barred from filing refund application under exports without payment of tax category if they opt for export with payment of tax category?

No, there is no speciô ic restriction for opting for both with payment of tax and without payment of tax in the same month.

e. What are the common points to note while filing the refund application:

- To file the refund application the applicant has gone under the Aadhar Authenticationunder Rule 10B of CGST Act.
- Proper disclosure of invoice details in GSTR-1 and GSTR-3B
- The officer may conduct the Physical inspection of the GST registered premises
- Bank statements as proof that FIRC amount has been credited to bank account.

Conclusion:

Accumulated ITC, particularly on capital goods, remains a silent working capital drain for many exporters. A clear understanding of the refund mechanisms under Section 16 of the IGST Act and a conscious evaluation of the **export with payment of IGST** option can go a long way in resolving this issue. Exporters and professionals must adopt a strategic approach rather than a routine one, keeping in mind the nature of credits accumulated and long-term cash flow requirements.

Inconsistency in GST Adjudication- Structural Gaps, Judicial Concerns and Required Reforms


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Eight years after the introduction of the Goods and Services Tax, non-uniformity in adjudication procedures has emerged as one of the most significant contributors to avoidable litigation. One of the principal objectives of GST was the simplification of tax administration and improvement in India's 'ease of doing business' rankings. However, inconsistent procedural practices adopted by the tax administration have become a structural bottleneck, undermining these objectives and adversely impacting taxpayer confidence.

The statutory timelines for issuance of adjudication orders pursuant to SCNs issued under Section 73 for FY 2021–22 and Section 74 for FY 2018–19 recently expired on 31 December 2025. Experience from adjudications concluded near the limitation period reveals wide procedural divergence not only across States but even between Central and State tax authorities operating within the same jurisdiction.

In a large number of cases, adjudication orders appear to have been passed in undue haste to meet limitation deadlines, often without proper verification of records or compliance with the basic principles of natural justice. Such practices seriously impair the fairness, credibility, and sustainability of the adjudication process. The judiciary has consistently emphasized that statutory time limits cannot be invoked as a justification for bypassing procedural safeguards. Adjudication must reflect due application of mind and reasoned analysis of facts and law, rather than being reduced to a mechanical exercise aimed at meeting deadlines.

Against this backdrop, there is an urgent need for policy-level intervention to introduce uniform, transparent, and technology-enabled procedures governing pre-adjudication and adjudication proceedings across the country. In this article, efforts have been made to compile common inconsistencies and the recommended solutions for the same.

A Key areas of procedural non-uniformity in GST adjudication

A. Fragmented and Inconsistent Modes of Communication:

Section 169 of the CGST Act, 2017 allows the tax officers to communicate with taxpayers in different modes such as by tendering it directly to taxpayers, sending an email, uploading on the GST portal etc. The prescription of multiple modes of communication has led to inconsistency in the adoption of modes of communication by the tax officers. The table below depicts the different modes of communication adopted by both central and state tax departments (the majority of the time)

S. No.	Nature of proceedings	Central Tax	State Tax
1	Summons	Registered Post /E-mail	E-mail
2	Audit Notice	Registered Post/ E-mail	GST Portal/ E-mail
3	Final Audit Report	E-mail	GST Portal/ E-mail
4	ASMT-10	Registered Post	GST Portal/ E-mail/Post
5	DRC-01A	E-mail	GST Portal/ E-mail
6	SCN	E-mail/Registered Post	GST Portal/ E-mail
7	Personal Hearing Intimation	E-mail/Registered Post	GST Portal/ E-mail
6	Order	E-mail/Registered Post/GST Porta	GST Portal/ E-mail

The above table is only indicative and not exhaustive. Further, there are many instances where the taxpayer received the Show Cause Notice through post, hearing intimation through E-mail, and order was uploaded to the GST portal. This shows that there is no consistency in modes of communication even in one set of proceedings.

Over the past 2 years, a large number of writ petitions have been filed before various High Courts regarding the serving of notices/orders in different modes. Due to unawareness or inconsistency in modes of serving the notices and orders, the taxpayers have failed to act upon the notices or orders and missed the deadlines for filing the appeals. The High Courts have time and again instructed the GST department to ensure proper serving of notices/orders instead of merely uploading them onto the GST portal. Some of the Notable decisions include Bambino Agro Industries Ltd. Vs State of Uttar Pradesh [TS-1033-HC(ALL)-2025-GST], Binod Traders Vs The Union of India [TS-553-HC(PAT)-2025-GST], Armita India Shipping Pvt. Ltd. Vs State Of Maharashtra and Others, TVL. Sri Balaji Traders Vs The Deputy Commercial Tax Officer Chidambaram-I Cuddalore, Tamil Nadu [TS-143-HC(MAD)-2025-GST] and Sharp Tanks and Structural Private

B Invocation of Section 74:

Both Central and State tax authorities are currently adopting divergent methodologies invoking Section 74, resulting in a lack of uniformity in enforcement. Notably, Section 74 is at times employed as a mechanism to circumvent the statutory limitation period prescribed under Section 73, even in the absence of substantive evidence indicating fraud, willful misstatement, or suppression of facts. Judicial precedents have consistently affirmed that the limitation framework under Section 73 cannot be overridden through routine or mechanical resort to Section 74, as the two provisions operate within distinct statutory domains and require satisfaction of different legal thresholds. Furthermore, significant inconsistencies persist in the application of Section 74 across various reconciliation issues, such as mismatches between Forms 2A and 3B, GSTR-1 and 3B, and GSTR-9 and 3B, which underscores the need for standardized interpretative and procedural guidance.

C Conducting of personal hearings and providing the personal hearing record:

Personal hearings are a critical component of the adjudication process and serve as an essential safeguard for ensuring principles of natural justice. However, numerous instances have been observed where taxpayers duly attend scheduled hearings before the authorities but are not provided with any formal acknowledgement or record of their appearance. In certain cases, adjudication orders incorrectly record that no one appeared for the hearing despite the taxpayer's attendance.

There also appears to be considerable inconsistency between Central and State tax administrations in maintaining and issuing records of personal hearings. Further, some State tax authorities have been scheduling three hearings primarily to demonstrate procedural compliance rather than to facilitate meaningful adjudication. In certain situations, multiple hearing dates are fixed within a span of one or two days, seemingly to satisfy formal requirements, which imposes unnecessary hardship on taxpayers.

Some of the notable decisions include Kapadia Brothers Vs Commissioner of Central Excise, Surat-I, and Aggarwal Laminates Pvt. Ltd. Vs Deputy Commr. of Cus. (Import)

D Consideration of replies and evidence submitted by taxpayers:

In a significant number of cases, there appears to be inadequate consideration of taxpayers' submissions by both Central and State tax authorities during adjudication.

Orders are often issued that merely reproduce the taxpayer's written reply without any substantive analysis or application of mind to the arguments and evidence presented. Such orders frequently lack reasoned findings or clear adjudicatory conclusions. It is wellestablished in law that non-speaking orders—those issued without proper reasoning—are unsustainable. Nevertheless, supporting documents and evidentiary materials furnished by taxpayers are, in many instances, not meaningfully examined or addressed. There is also a growing perception that, in certain cases, demands are confirmed in a routine manner, potentially to avoid departmental review or to align with revenue expectations, rather than as a result of an objective and reasoned adjudicatory process.

Some of the notable decisions include Aviral Technology Solutions and Telecom Pvt Ltd Vs Union of India & Ors., Lakshmi Road And Infra, Rep. Vs The Deputy State Tax Officer-2, Dharmapuri and Samsung India Electronics Private Limited Vs Union Of India & Ors.

E Initiation of recovery proceedings:

There appears to be no uniformly followed or structured mechanism adopted by either State or Central tax authorities in certain cases. Instances have been reported where recovery notices are issued directly to bankers without prior intimation to the taxpayer regarding the existence of any outstanding demand. In such situations, taxpayers often become aware of the adjudication order only upon initiation of recovery proceedings.

It is difficult to reconcile scenarios in which an order is presumed to have been communicated via email or the GST portal, while the recovery notice is dispatched through physical post in a manner that ensures delivery. Such inconsistencies in modes of communication suggest procedural gaps and raise concerns regarding the effective service of orders.

Collectively, these practices place an additional compliance burden on taxpayers, arising not from statutory requirements but from administrative inconsistencies in departmental communication processes.

Some of the notable decisions include Iron Cementics India Pvt. Ltd. Vs Assistant Commissioner Central Tax, GST and Central Excise, Rourkela, Kaushlendra Kumar Vs State Of Bihar & Ors., Kesoram Industries Ltd Vs Commr. of Central Tax, Hyderabad [TS-562-HC(TEL)-2023-GST], Unique Marine Vs Assistant Commissioner, Mahadeo Construction Co. Vs Union Of India [TS-229-HC-2020(JHAR)-NT]

F Parallel proceedings:

Parallel proceedings under GST have emerged as a significant area of concern, particularly where multiple authorities initiate simultaneous or overlapping actions on the same issue for the same tax period. In several instances, taxpayers are subjected to parallel inquiries, audits, or adjudication processes by different jurisdictional authorities without clear coordination or jurisdictional clarity. It is a settled principle of tax administration that proceedings on identical subject matter should not be pursued concurrently by different authorities, as this may result in conflicting findings and undermine procedural fairness. The absence of a streamlined mechanism to prevent or resolve such overlapping actions highlights the need for clearer administrative protocols and inter-departmental coordination to ensure consistency, efficiency, and adherence to principles of natural justice.

Some of the notable decisions include Armour Security (India) Ltd. Vs Commissioner, CGST, Delhi East [TS-711-SC-2025-GST] Sun Automation Limited Vs Sales Tax Officer Class II/Avato & Ors., Fortune Healthcare Services Vs Assistant Commissioner Of Commercial Taxes, Mangaluru, Sri Subhash Agarwalla Vs The State Of Assam, Tansam Engineering and Construction Company Vs Commissioner, CGST and Central Excise, Rourkela [TS-868-HC(ORI)-2025-GST].

F Recommendations for a Uniform Adjudication Framework

The predominance of procedural litigation under GST clearly demonstrates that systemic reform at the adjudication stage is imperative. **The following measures merit urgent consideration**

S. No.	Issues	Recommendation
1	Fragmented and Inconsistent Modes of Communication	Establishing a Unified Communication Framework across all the central and state tax officers. Where no response is received through one mode, alternate modes should be mandatorily used. Mere uploading of notices/orders in GST portal without effective communication needs to be avoided.
2	Invocation of Section 74	Portal-based validation requiring recorded satisfaction and mandatory senior-level approval before issuance of Section 74 SCNs should be introduced

3	Conducting personal hearings and providing the personal hearing record:	Ensuring meaningful personal hearing by making it interactive and outcome-oriented rather than treating hearing as a mere formality. Mandatory serving of hearing records to be implemented. Hearing records acknowledged by the taxpayer should be annexed to the order.
4	Consideration of replies and evidence submitted by taxpayers:	Adjudicating authorities must deal with each submission and evidence placed on record and provide cogent reasons for acceptance or rejection. Reasoned orders promote transparency and informed appellate review.
5	Initiation of recovery proceedings	Standard procedure to be followed by the officers to ensure the serving of adjudication orders instead of merely initiating the recovery after considerable period of time. Further, recovery cannot be done only in the month of March to fulfill the revenue deficit.
6	Parallel proceedings:	Inter-departmental coordination through GST portal shall be established to avoid duplication of proceedings.

Conclusion:

GST has matured into a critical pillar of India's fiscal architecture, where procedural credibility is as important as revenue mobilisation. Adjudication cannot be reduced to a limitation-driven or recovery-oriented exercise. Persisting with fragmented practices will only exacerbate litigation, erode taxpayer trust, and weaken the legitimacy of GST administration.

A harmonized, transparent, and technology-enabled adjudication framework, supported by binding pan-India instructions, is therefore the only sustainable way forward. It is incumbent upon the GST Council, CBIC, and State tax administrations to collectively recalibrate the adjudication framework and ensure that GST truly functions as a unified tax regime in both letter and spirit.
Special acknowledgements to **Usman E Gani Shaik** for helping the authors to bring out this article.

Benefits to Export oriented unit (EOU) Under GST: The Price of Not Knowing


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01 Introduction:

Chapter 6 of Foreign Trade Policy has given an option to units who wish to export their entire production of goods or services to set up under Export Oriented Unit (EOU) Scheme, EHTP, STPI or BTP for manufacture of goods. Trading units are not covered under these schemes. The objective of these schemes is to promote exports, enhance foreign exchange earnings, attract investments for export production and employment generation. In this article, we tried to explain the EOU scheme along with the benefits available under GST and other statutes.

The EOU scheme holder is permissible to sale goods in DTA subject to conditions and may export all kind of goods, except the items that are prohibited in ITC (HS). The units are required to satisfy the minimum investment criteria of Rs. 1 core in Plant and Machinery with certain exceptions and Board of Approval may allow establishment of EOU with a lower investment criterion. They are required to achieve positive net foreign exchange (NFE) as an export obligation in five years of block period from the date of commencement of production. However, the block period may be extended up to one year in case of genuine hardship having impact of functioning the unit. Net Foreign exchange refers to difference between the FOB value of exports, other suppliers under Para 6.08 of FTP and CIF value of all imported inputs, capital goods, all payments made in foreign exchange such as commission, royalty, fees etc. In simple terms, exports should be more than imports, and the difference must be positive.

A. Refund under Deemed Export category

The Central Government under Section 147 of CGST Act, 2017 has notified the supply of goods by a registered person to Export Oriented Unit (EOU) as deemed exports vide Notification No. 48/2017 CT dated 18.10.2017. Deemed Exports refers to supplies which are deemed as exports though the goods do not leave India and the payment for the same is received either in Indian rupees or in convertible foreign exchange. **It is important to note that only the supply of goods to EOU as deemed exports and not the supply of services.**

Deemed exports are not treated as zero-rated supplies, unlike regular exports. Accordingly, supplies notified as deemed exports are taxable supplies under GST and must be made on payment of applicable tax. However, the GST paid on supplies regarded as deemed exports is admissible as refund either t**o the supplier** or t**o the recipient,** subject to fulfilment of prescribed conditions in Circular No. 14/14/2017-GST dated 06-11-2017. This Circular had prescribed the conditions to be satisfied by both supplier and recipient. The same are as follows:

Action points to Suppliers:

Deemed exports involve extensive documentation and multiple procedural compliances for claiming refund, any lapse may lead to objections or rejection of refund claims. Therefore, to avoid procedural and compliance-related issues, suppliers making deemed exports should strictly adhere to the following requirements in case supplier wishes to go for refund.

a) Form A should be obtained from the EOU unit, duly approved by the Development Commissioner before supplying the goods and the same must be submitted to the jurisdictional GST officer of the supplier and the EOU unit.

b) Form A number to be indicated on the tax invoice

c) Endorsement on the tax invoice from EOU unit and submit the same to jurisdictional GST officer of the supplier and the EOU unit.

d) Form – B to be collected from EOU unit.

e) An undertaking from the EOU Unit that no ITC on such supplies has been availed

f) An undertaking from the EOU unit that no refund shall be claimed in respect of such supplies and the supplier may claim the refund.

g) Disclose the invoice as ***"DE"*** while filing the GST-1 returns.

Action points to Recipient:

The recipient of deemed export should adhere to the following procedure while procuring the goods from DTA, in case recipient wishes to go for refund.

a) Form – A duly approved by the development commissioner shall be given to the supplier

b) Endorse the tax invoices and share with supplier for submission to jurisdictional GST officer of the supplier and of EOU unit.

c) Maintain the records of deemed exports in Form B and submit the same to the Jurisdictional GST officer by 10th of Each month.

d) Ensure the supplier reports the supply as ***"DE"*** in their GSTR 1 return, in order to claim refund under deemed exports category.

As explained above, the supply of goods to EOU shall be made by payment of tax and the GST paid on supplies regarded as deemed exports is admissible as refund either to the supplier or to the recipient. The EOU unit can file the application under 'Deemed Export' category and claim the refund of GST paid by submitting the above referred documents. Time limit for claiming deemed exports refund is 2 years from the date of filing GSTR 3B return of such deemed exports.

Further, Circular No. 172/04/2022-GST dated 06/07/2022 has clarified that the GST charged on supply of goods received by an EOU shall not be considered as Input Tax Credit within the meaning of Chapter V of the CGST Act, 2017, but merely as a refundable tax amount under the deemed export provisions. **The recipient of deemed export supplies is entitled to claim refund of the entire tax paid, irrespective of whether such credit on such goods is blocked under Section 17(5) of the CGST Act, 2017 which is one of the unique facilities made available to EOU.** In many cases, the EOU may receive the goods for construction of factory and the facility of refund under deemed export category will enable the EOU to encash the GST paid on

such supplies which is otherwise becomes a cost to the EOU. The EOU's shall concentrate on this area for better encashment of GST paid on supplies received by them.

Further, the GST paid on supplies received under deemed export category (restricted under Section 17(5)) cannot be utilised for payment of output tax nor can it be claimed as a refund under the category of accumulated Input Tax Credit. Hence, it is suggested to claim refund under deemed export category by fulfilling the above referred conditions.

B. Refund of accumulated ITC and refund of IGST paid on export of goods or services

We know that Section 16 of IGST Act, 2017 has defined 'Zero-Rated supplies' as export of goods or services and supply of goods or services to an SEZ unit or Developer. Section 16 has also provided option for export of goods or services either by payment of tax or export under Letter of Undertaking (LUT) without payment of tax. Consequently, they are eligible for refund of taxes paid or refund of unutilised ITC under Section 54 of CGST Act, 2017. The procedure applicable to all the exporters are equally applicable for claiming the refund by EOU unit as well. The option of export with payment of tax was not available to EOUs prior to October 2024 due to the restriction imposed under Rule 96(10) of the CGST Rules, 2017, which prohibited to exports with payment of IGST. However, the same has been removed from Oct 2024 and there is no restriction as on today for export with payment of tax by an EOU unit.

The accumulation of ITC may arise primarily due to the procurement of input services from DTA suppliers, on which GST is paid. The EOU are not allowed to procure Input services from DTA suppliers without payment of GST and also the GST paid on services is not allowed as refund under Deemed Export category. Further, the accumulation of ITC may also occur where an EOU procures inputs and capital goods from DTA suppliers on payment of GST but failed to fulfil the procedure p rescribed under Circular No. 14/14/2017-GST dated 06-11-2017.

Further, a question may arise whether the ITC availed by the recipient of deemed export supply is to be included in the "Net ITC" for computation of refund of unutilised ITC under rule 89(4) & rule 89 (5) of the CGST Rules, 2017. In this regard, Circular No. 172/04/2022-GST dated 06/07/2022 has clarified that such ITC availed by the recipient of deemed export supply is not to be included in the "Net ITC" for computation of refund of unutilised ITC under rule 89(4) or rule 89(5) of the CGST Rules, 2017.

Conclusion:

The accumulation of ITC may arise primarily due to the procurement of input services from DTA suppliers, on which GST is paid. The EOU are not allowed to procure Input services from DTA suppliers without payment of GST and also the GST paid on services is not allowed as refund under Deemed Export category. Further, the accumulation of ITC may also occur where an EOU procures inputs and capital goods from DTA suppliers on payment of GST but failed to fulfil the procedure prescribed under Circular No. 14/14/2017-GST dated 06-11-2017. Further, a question may arise whether the ITC availed by the recipient of deemed export supply is to be included in the "Net ITC" for computation of refund of unutilised ITC under rule 89(4) & rule 89 (5) of the CGST Rules, 2017. In this regard, Circular No. 172/04/2022-GST dated 06/07/2022 has clarified that such ITC availed by the recipient of deemed export supply is not to be included in the "Net ITC" for

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Updates in GST, Customs and FTP

Customs-Tariff

Notifications

Notification No. and Date of issue	Subject
Notification No. 01/2026 – Customs(T) dated 01-Feb-2026	Seeks to amend five notifications, in order to extend their validity for a further period of two years till 31st March 2028 and make amendments in notification No. 25/2002-Customs, dated the 1st March 2002 and notification No. 36/2024-Customs, dated the 23rd July 2024. **Summary:** As part of the Union Budget 2026-27, the Ministry of Finance has extended the validity of key customs exemption notifications for an additional two years, that is, effective until **March 31, 2028.** Further, the scope of Notification No. 25/2002-Customs has been expanded to include **Battery Energy Storage Systems (BESS).** Under this amendment, inputs imported for the manufacture of BESS are now eligible for customs duty exemptions. Regarding **Notification No. 36/2024-Customs,** the Budget has introduced significant changes. Certain entries have been omitted, and a proviso has been inserted, stipulating that the remaining exemption entries under this notification will cease to have effect after **April 30, 2026.** **Read more : https://taxinformation.cbic.gov.in/view-pdf/1010563/ENG/Notifications**
Notification No. 02/2026 – Customs(T) dated 01-Feb-2026	Seeks to further amend notification No. 45/2025-Customs dated the 24th October, 2025 to notify Basic Customs Duty related changes. **Summary:** The Ministry of Finance has issued **Notification No. 02/2026-Customs** dated February 1, 2026. This notification introduces pivotal amendments to the principal **Notification No. 45/2025-Customs,** which had previously consolidated 31 exemption notifications. The changes involve the omission, insertion, and substitution of various entries to further streamline the customs duty regime. **Read more : https://taxinformation.cbic.gov.in/view-pdf/1010564/ENG/Notifications**
Notification No. 03/2026 – Customs(T) dated 01-Feb-2026	Seeks to further amend notification No. 11/2018-Customs, dated the 2nd February, 2018 and notification No.11/2021-Customs, dated the 1st February, 2021 to revise Social Welfare Surcharge (SWS) and Agricultural Infrastructure Development Cess (AIDC) applicable on certain items. **Summary:** Under **Notification No. 03/2026-Customs,** the Ministry of Finance has introduced significant amendments to the principal **Notification No. 11/2018-Customs** dated 2nd Feb 2018, which provides exemption from the levy of social welfare surcharge and **Notification No. 11/2021-Customs** dated 1st Feb 2021, as it prescribes the rate of Agriculture Infrastructure and Development Cess for specified goods. **Read more : https://taxinformation.cbic.gov.in/view-pdf/1010565/ENG/Notifications**
Notification No. 04/2026 – Customs(T) dated 01-Feb-2026	Seeks to amend Notification No. 26/2016-Customs dated 31.03.2016 in view of the new Baggage Rules, 2026. **Summary:** Effective **February 2, 2026,** the Ministry of Finance, through Notification No. 04/2026-Customs, updates the primary baggage duty notification **No. 26/2016-Customs** dated 31st March 2016 by replacing all references to the 'Baggage Rules, 2016' with the updated **'Baggage Rules, 2026'.** **Read more : https://taxinformation.cbic.gov.in/view-pdf/1010573/ENG/Notifications**

Notification No. 05/2026 – Customs(T) dated 01-Feb-2026	Seeks to rescind Notification No. 11/2004-Customs dated 08.01.2004 and Notification No. 27/2016-Customs dated 31.03.2016 in view of the new **Baggage Rules, 2026.** **Summary:** In this Notification the Ministry of Finance has officially rescinded two notifications to align with the newly introduced Baggage Rules, 2026, effective from Feb 2026. It has rescinded Notification No. 11/2004-Customs, which previously granted a full customs duty exemption for one laptop computer imported by a passenger aged 18 or older. Further, it has rescinded Notification No. 27/2016-Customs, which previously provided a customs duty exemption for articles classified under Heading 9803 of the Customs Tariff when imported as baggage by a passenger or crew member. **Read more : https://taxinformation.cbic.gov.in/view-pdf/1010574/ENG/Notifications**

Customs

Circulars

Circulars No. and Date of issue	Subject
Circular No. 02/2026 Dated 01-Feb-2026	Clarification on the term RPA (Remote Pilot Aircraft) for military use **Summary:** The CBIC has issued a clarification regarding the scope of **Notification No. 45/2025-Customs dated 24.10.2025**, confirming that the term **RPA (Remote Pilot Aircraft)** encompasses all aircraft that are remotely piloted. Under this notification, an exemption from Basic Customs Duty and Integrated Goods and Services Tax (IGST) is provided for RPAs specifically intended for military use. This exemption is strictly conditional upon the goods being imported into India by the **Ministry of Defence, the Defence Forces, Defence Public Sector Units (PSUs),** or any other entity importing specifically for the use of the Defence Forces. To avail of this benefit, the importer is mandatorily required to furnish a certificate issued by an officer not below the rank of **Joint Secretary** to the Government of India in the Ministry of Defence. **Read more : https://taxinformation.cbic.gov.in/view-pdf/1003302/ENG/Circulars**
Circular No. 03/2026 Dated 01-Feb-2026	Extension of time period under Deferred Payment of Import Duty Rules, 2016 and addition of eligible manufacture importer in class of eligible importers to avail the facility. **Summary:** The CBIC, vide **Notification No. 13/2026-Customs (N.T.) dated 01.02.2026,** has amended **Rule 4 of the Deferred Payment of Import Duty Rules, 2016,** to extend the deferred payment period from 15 days to **30 days.** Consequently, importers availing of this facility are required to discharge their deferred duty liabilities in accordance with the revised timelines specified under the amended Rule 4. Further, vide **Notification No. 12/2026-Customs (N.T.) dated 01.02.2026,** the government has introduced the category of "Eligible Manufacturer Importer". Importers falling under this classification are now eligible to avail themselves of the benefit of deferred payment of import duty. This specific facility for manufacturer importers is to remain available for a period up to **31st March 2028.** These revised time limits and eligibility criteria shall be applicable and effective from **1st March 2026** **Read more : https://taxinformation.cbic.gov.in/view-pdf/1003302/ENG/Circulars**

Circular No. 04/2026 Dated 01-Feb-2026	Guidelines for uniform implementation of Baggage Rules, 2026. **Summary:** The CBIC has issued **Circular No. 04/2026-Customs dated 01.02.2026,** providing comprehensive guidelines for the uniform implementation of the **Baggage Rules, 2026, and the Customs Baggage (Declaration and Processing) Regulations, 2026.** This Circular acts as a master reference by consolidating statutory provisions and various earlier instructions into a single framework, effectively replacing the 2016 regime. It applies to all categories of international travellers, including residents, NRIs, tourists, diplomats, and crew, across all airports, sea ports, and land borders. Key clarifications under this Circular emphasise **digital processing and passenger facilitation.** Travellers are encouraged to use electronic advance baggage declarations to expedite clearance. The guidelines cover critical areas such as duty-free allowances, the definition of personal effects, and the temporary import/export of jewellery. Furthermore, it streamlines procedures for handling unaccompanied or mishandled baggage and outlines the protocols for detention and re-export of restricted items. A primary objective of this Circular is to ensure **uniform enforcement** and avoid unnecessary physical examinations, shifting instead toward risk-based verification. While the Circular does not amend the underlying law, it provides the necessary procedural clarity to ensure compliance with the Customs Act, 1962, while safeguarding revenue and enhancing the ease of travel for bona fide passengers **Read more : https://taxinformation.cbic.gov.in/view-pdf/1003302/ENG/Circulars**
Circular No. 05/2026 Dated 01-Feb-2026	Onboarding of CDSCO, WCCB, Textile Committee and MeitY on SWIFT 2.0 as Single Touch Point for Trade. **Summary:** The CBIC is integrating standalone **Partner Government Agency (**PGA) systems into the Customs IT ecosystem via SWIFT 2.0 to facilitate end-to-end digital, single-window clearance for EXIM trade. This upgrade eliminates fragmented filings by allowing a single submission for all PGA requirements. Pilot unified applications are currently live for AQCS, PQMS, and FSSAI. Further, additional PGAs, including WCCB, CDSCO, the Textile Committee, COSCO, and MeitY, have been onboarded. To ensure uniform electronic processing of Licenses, Permits, Certificates, and NOCs (LPCOs/NOCs), the Board has introduced standardised data fields (categorised as mandatory, conditional, or optional) and specific document codes for integrated declarations. Full integration of five key PGAs (FSSAI, AQCS, PQMS, WCCB, CDSCO) is targeted by 31.03.2026, and all remaining PGAs by 31.03.2027. **Read more : https://taxinformation.cbic.gov.in/view-pdf/1003305/ENG/Circulars**
Circular No. 06/2026 Dated 01-Feb-2026	Automation of Customs processes in import and export. **Summary:** The CBIC has introduced **Auto Goods Registration** for e-sealed export cargo, significantly reducing the compliance burden by eliminating the requirement for exporters to approach Customs officers after the arrival of cargo. This facility has been launched on a pilot basis at **Nhava Sheva (INNSA1)** and is scheduled to be extended to other major ports in a phased manner following the installation of e-seal scanners. In a further move to streamline operations, the **Auto Let Export Order (Auto LEO)** facility has been extended to all exporters for facilitated Shipping Bills. This enables the system-based automatic grant of LEO in cases where the Shipping Bill is not selected for assessment or examination, no PGA-related NOC/LPCO is pending, and all applicable export duties or cesses have been discharged in full. **Read more : https://taxinformation.cbic.gov.in/view-pdf/1003306/ENG/Circulars**

Circular No. 07/2026 Dated 01-Feb-2026	Introduction of system-based e-Scheduling for examination of cargo and mandatory use of Body Worn Cameras (BWC) during examination of import cargo. **Summary:** The CBIC has introduced mandatory **Body Worn Camera (BWC)** recordings for all import cargo examinations to ensure transparency and a verifiable digital trail. Officers are now required to record the entire examination process, from the initial opening of containers/packages through to completion, including all interactions and critical stages. These recordings must be securely stored for a minimum of **two years** and preserved specifically for any investigations, disputes, or ongoing litigation. To further streamline operations, a system-based **e-Scheduling application on ICEGATE 2.0** will now manage all physical examinations. This digital scheduling ensures an auditable trail of the examination process and eliminates manual discretion. While DG Systems is set to issue an advisory shortly, the full nationwide rollout of these protocols is to be implemented by **01.04.2026.** **Read more : https://taxinformation.cbic.gov.in/view-pdf/1003307/ENG/Circulars**
Circular No. 08/2026 Dated 28-Feb-2026	Extension of Deferred Payment of Customs Duty benefits to 'Eligible Manufacturer Importer' (EMI). **Summary:** The CBIC, via Circular No. 08/2026-Customs dated 28.02.2026, has extended the facility of deferred payment of Customs import duty to a new category of importers designated as Eligible Manufacturer Importers (EMI). This policy, issued under the proviso to Section 47(1) of the Customs Act, 1962, and operationalized through the Deferred Payment of Import Duty Rules, 2016, aims to transition these manufacturers toward higher **Authorized Economic Operator (AEO)** tiers within a globally recognized trusted trade framework. Previously, the benefit of deferred payment was primarily restricted to AEOs. However, through **Notification No. 12/2026-Customs (N.T.) dated 01.02.2026,** the Government has expanded the benefit to Eligible Manufacturer Importers. To qualify for this status, an importer must satisfy the core eligibility criteria as detailed in the circular, including stringent operational, compliance, financial, and legal criteria. This facility will be available to all approved EMIs starting from **01 April 2026** and is currently scheduled to remain in force until **31 March 2028.** **Read more : https://taxinformation.cbic.gov.in/view-pdf/1003307/ENG/Circulars**

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GST Portal Updates

GST Portal Updates

Sl.No	Date	Functionality	Particulars
01	01-02-2026	Gross and Net GST revenue collections for the month of Jan, 2026	The Gross and net revenue for the month of Jan -26 was declared. The same can be checked by clicking on – January 2026 collections : https://bit.ly/4snShwO
02	19-02-2026	Update on Advisory on Interest Collection and Related Enhancements in GSTR-3B	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. January 2026 collections : https://tutorial.gst.gov.in/downloads/news/advisory_on_interest_calculator.pdf
03	21-02-2026	Facility for Withdrawal from Rule 14A	GSTN has enabled a new online facility for eligible taxpayers to apply for withdrawal from the option availed under Rule 14A of the CGST Rules by filing Form GST REG-32 on the GST Portal. **1. Who can apply** • Active Taxpayers who are registered under Rule 14A, may apply for OPT OUT in accordance with the provisions of the law. **2. How to apply on the GST Portal** • After login, navigate to: Services -> Registration -> Application for Withdrawal from Rule 14A The link will be visible only if the taxpayer is registered under Rule 14A and is active. • The field “Option for registration under Rule 14A” will be selected as “No” by default. • Enter “Reason for withdrawal from Rule 14A”. • Proceed to Aadhaar Authentication tab for Aadhaar Authentication of Primary Authorised Signatory and one Promoter/Partner. **3. Key pre-conditions** • The registered person shall not be allowed to file Form GST REG-32 unless he has furnished, (a) returns for a period of minimum three months, if Form GST REG-32 is filed before 1st April, 2026; (b) returns for a period of minimum one tax period, if Form GST REG-32 is filed on or after 1st April, 2026; and (c) all the returns due for the period from the effective date of registration till the date of filing of Form GST REG-32. **4. Aadhaar authentication** • Based on data analysis, the taxpayer will have to undergo either OTP based Aadhaar authentication or Biometric based Aadhaar Authentication.

03	21-02-2026	Facility for Withdrawal from Rule 14A	**Authentication is required for:** ▪ Primary Authorised Signatory (mandatory), and ▪ At least one Promoter/Partner (where applicable). • ARN will be generated only after successful Aadhaar authentication. **5. Important timelines** • Draft application must be submitted within 15 days of creation. • Aadhaar/Biometric authentication must be completed within 15 days from submission. • If authentication is not completed within the prescribed time, ARN will not be generated. **6. Restrictions during processing** • While Form GST REG-32 is pending after submission, Taxpayer cannot file Core amendment, non-core amendment and Self-cancellation application. **7. Post-Sanction of Opt-Out** • The taxpayer who has received an order in Form GST REG-33 allowing withdrawal shall be able to furnish the details of output tax liability on supply of goods or services or both made to registered persons, exceeding the output tax liability of Rs.2.5 lakhs, from the first day of succeeding month in which the said order has been issued.

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Firm Updates and Achievements

Udaan APM Meeting 2026

HNA & Co LLP successfully hosted the Udaan Annual Partners & Managers (APM) Meeting 2026 in Visakhapatnam from 30 January to 1 February 2026, bringing together partners and managers from all branches. The three-day event blended leadership discussions, collaborative sessions, and engaging activities designed to strengthen relationships and align the organization's goals.
The program also included team-building activities and interactive experiences that encouraged participants to connect beyond their daily work, exchange ideas, and learn from diverse branch experiences. These moments reinforced the spirit of unity and collaboration within the firm.

The event concluded on a high note with a vibrant Gala Night celebrating achievements and teamwork, followed by a closing session that marked another successful milestone for HNA & Co LLP.








Sports Event

At the sports event conducted by the Bellary SICASA Branch on 13th and 14th February 2026, Charan showcased commendable performance, securing the Runner-Up title in Kabaddi and being recognized as Man of the Match in Box Cricket.

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