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Monthly Newsletter - January 2026

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**Insightful Article on GST,
Customs and Foreign
Trade Policy**



Important updates under FEMA for GCCs in India – Export of services and Imports



CA Roopa Nayak
Partner



CA Shilpi Jain
Partner

This article is published at <https://www.taxmi.com/article/detailed?id=15757>

Over the past few years, Global Capability Centres (GCCs) in India have evolved from cost-focused captive units into strategic hubs delivering high-value services to global enterprises. With this evolution has come heightened regulatory attention, particularly around cross-border transactions, imports and service exports, and the underlying tax and foreign exchange frameworks governing such flows. Recent developments under India's indirect tax and foreign exchange regulations indicate a clear shift towards closer scrutiny, greater alignment across laws, and increased expectations from GCC finance and compliance teams.

Under GST law, there is a shift awaiting to become effective, from taxing the intermediary services to granting them the export status. Further, there is more clarity emerging on the judicial side regarding the fact that support services qualify as export of service and are not to be regarded as intermediary services. In a relevant matter of **Amazon Development Centre India (P) Ltd.** it is held by Karnataka High Court that pre-sale and post-sale support services provided to foreign affiliates qualify as an **export of services** and are not "intermediary services".

Against this backdrop, it has become imperative for GCCs to reassess their existing models, documentation, and compliance practices to ensure they remain robust, defensible, and aligned with current regulatory thinking. This article highlights key updates under FEMA and areas of focus that GCCs in India should be mindful of, while dealing with import and export transactions.

Vide notification No. FEMA 23(R)/2026-RB, the Foreign Exchange Management (Export and Import of Goods and Services) Regulations, 2026 were notified that would be effective from **1st Oct 2026**. At first glance it looks like there is simplification in the procedures and requirements for the realisation and payment of forex related to such cross border transactions. However, on a closer look one would understand that the RBI has now placed greater role and responsibility on the Authorised Dealers (AD) to monitor these transactions.

Below is a summary of key aspects of these regulations related to export of services and imports, that need to be complied, going forward by the service exporters:

01 Realisation and payment

- Export proceeds shall be realised within 15 months from the date of service export invoice. As per the GST law, the invoice for supply of services shall be issued within 30 days from the date of provision of the service.
- Import payments shall be made as per the contract terms, for which extension shall be provided by AD in case satisfied with the reasons.
- In case of advance receipt/payment for export/import, subsequent receipt/payment for such export/import shall be made through the same AD. If not, suitable intimation shall be made to both the ADs.
- Export receivables and import payables can be set-off within stipulated time, which would now be available seamlessly for goods and/or services, for example - payables related to goods import can be set off against receivables for service exports. Though this must be done with the same overseas buyer/supplier or with the exporter's overseas group or associate companies.

- Receipt or payment to third parties would be allowed based on satisfaction of the AD regarding bona fides of the transaction.

- Advance payment for imports would require adherence to limits set by AD / furnishing of a standby Letter of Credit (SBLC) /guarantee.

02 Declaration and procedural aspects

Earlier only export of software required filing of SOFTEX. Now ALL service exports would require declaration in Export Declaration Form (EDF) to the specified authority.

A single EDF can be submitted for a month. Timeline for submission of EDF is as below:

- For software exports - within 30 days from the end of month in which invoice for services has been raised,
- For other service exports - on or before the date of receipt of payment.
- Extension may be granted by AD Bank in case of reasonable request from exporter after citing reasons.

Based on declaration from exporter, entry in EDPMS for invoices up to ₹10 lakh (or its equivalent in foreign currency) would be closed, which can also be submitted quarterly.

For such invoices, any reduction in value of exports may be permitted by the AD Bank based on declaration from the exporter.

Similar mechanism would be available for closure of entry in IDPMS related to import of goods/services of value up to ₹10 lakh.

03 Transactions not materialising

Imports: Full repatriation of advance payment is required in case of imports not materialising within contract/extended period. If not done, future advance payment for imports by the importer shall require an unconditional, irrevocable SBLC / guarantee from an international bank of repute or a guarantee of an AD in India, which is issued against a counter-guarantee of an international bank of repute.

Exports: In case of unrealised export proceeds for a period beyond one year from the due date of realisation or extended period, further exports can be undertaken only against receipt of full advance or an irrevocable LC.

04 AD's SOP

The AD's are required to put in place a separate, comprehensive, well-documented internal policy and SOP, for handling transactions (including the reporting thereof) related to export and import of goods and services. The policy and the main features of the SOP shall be displayed on the AD's website.

Though the above regulations look simple and straightforward, it would be relevant to look at the AD's SOP to see what would be the actual terms, conditions, restrictions, procedures and documentation that need to be in place to convince the AD regarding the bona fide of the export / import transactions.

Consequences of future exports only on advance receipt, imports on SBLC, etc. could pose operational issues and hence proper understanding and adherence of the regulations and the AD's SOP would be prime.

Each AD is free to have its own SOP and hence important for the GCCs to have one or max two ADs through which these transactions would be routed, so that based on such AD's SOP, an internal SOP can be drawn up by the GCC to ensure adherence to the provisions related to FEMA for imports and exports.

Though the responsibility of ensuring adherence to the regulations is cast on the ADs, one will have to look at how the SOP of the ADs evolve over a period to ensure ease of doing business for its customers and at the same time ensuring that infructuous transactions are not permitted.

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 roopa@hnaindia.com.



GST Appellate Tribunal: Critical Action Points For Professionals Or Taxpayers



CA Lakshman Kumar
Partner



CA Sudhir VS
Partner

Most of us are aware that the GST Appellate Tribunal (GSTAT) became operational from 24-09-2025 wherein the Government had notified a separate website i.e., [www. https://efiling.gstat.gov.in](https://efiling.gstat.gov.in) for filing the appeals. Simultaneously, the Government had also notified 30-06-2026 as the last date for filing the appeals with respect to the orders communicated to taxpayers up to 01-04-2026 vide Notification vide S.O. 4220(E). dated 17-09-2025 was issued by Government (Ministry of Finance).

Further, the Central Government had appointed Judicial Members and Technical Member (Centre) and allotted the benches as well via Office Order No. 03/2025 dated 26-12-2025. They have also directed **all the appointed members in respective State benches and Principal bench of the GSTAT to take charge from 21-01-2026.** However, the recruitment of the Technical Member (State) is pending for few states.

Considering the formation of GSTAT, it is important for all the professionals to understand many critical aspects related to filing of appeals to GSTAT. In this article, we have attempted to list out the critical aspects that are required to be taken care by all professionals.

A Status of pending cases:

Appeal can be filed before the GSTAT only against the orders passed by 1st Appellate Authority under Section 107 or Revisional Authority under Section 108. Hence, it is important to check:

a. Whether appellate authority had passed any order. If yes, verify whether the matter is contestable and an appeal can be filed before the GSTAT.

b. Whether the High Court has given any directions to file an appeal to GSTAT in any Writ Petition filed against the order of 1st Appellate Authority.

c. Whether the 1st Appellate Authority has accepted the department appeal filed against the favourable adjudication order. If yes, appeal has to be filed before the GSTAT by the taxpayer.

d. Whether the Revisional Authority had passed any order under Section 108.

The above details are required to be verified for all the states in which the taxpayer is having registration and for all the Financial Years.

B Due date for filing appeals before GSTAT:

The Government has notified 30-06-2026 as last date for filing the appeals against the orders communicated to taxpayers before 01-04-2026. Since the staggered due dates has been rescinded, all taxpayers whoever received the orders of appellate authority can file appeals in GSTAT portal now. The appeals for the orders received after 01-04-2026 shall be filed within 3 months from date of communication. The hearings will get scheduled based on the appeals filing date i.e., early filed appeals would be heard and disposed early.

C Pre-deposit payment:

In addition to payment of admitted tax along with interest and penalty, the taxpayer is required to pay the mandatory pre-deposit as given below -

a. In case of order involving tax, interest and penalty: 10% of amount of tax in dispute, in addition to pre-deposit paid while filing 1st appeal, subject to a maximum sum of Rs.20 Crores each under CGST & SGST.

b. In case of penalty-only orders without involving demand of any tax: 10% of penalty in dispute, in addition to pre-deposit paid while filing 1st appeal. This provision has been notified w.e.f. 01-10-2025.

As per Circular No.224/18/2024-GST dated 11-07-2024, many taxpayers have already paid the pre-deposit and intimated the department regarding their intention to file an appeal against the orders of 1st appellate authority. In those cases, there is no further requirement to pay any pre-deposit.

D Appeal filing fees:

a. Appeal to GST Tribunal – Rs.1,000/- per 1 Lakh of tax/ITC/fine/fee/penalty (Minimum Rs.5,000/-; Maximum Rs.25,000/-)

b. Refund appeals - Rs.5,000/-

E Online filing of appeals:

All appeals to be filed in the GSTAT portal (<https://efiling.gstat.gov.in>) only, manual filing will not be allowed without special order from Registrar. For filing an appeal to GSTAT, both the taxpayer and the authorised representative is required to register themselves in GST Portal by giving the prescribed details. Detailed procedure is given in GSTAT filing manual uploaded in the portal.

F State Bench and Principal Bench:

It is crucial to know where to file the appeal as the GSTAT constitutes 2 benches - Principal Bench (located at New Delhi) & State Bench (located at each notified State). The jurisdiction of State Bench is to hear all cases other than the cases having jurisdiction of Principal Bench. The Principal Bench is having jurisdiction over the below matters -

a. any appeal in which one of the issues is related to Place of Supply;

b. Identical question of law pending before two or more State Benches;

c. Other notified category of cases.

G Documentation:

Complete documentation right from the beginning of the proceedings till GSTAT appeal such as departmental correspondences, replies submitted, personal hearing records, E-mail correspondence, appeals filed, orders received etc shall be kept ready. It is also important to keep ready the CA certificates, declarations, or third-party affirmations, etc as the GSTAT is the final fact-finding authority and if any document missed to be submitted before the GSTAT may not be allowed to submit at higher forums (Courts).

H Translation for orders (if not passed in English):

In many states, the appellate authorities had issued orders in their local language (Hindi, Gujarati, Kannada, Tamil etc). In such cases, it is mandatory to get translated copy of orders in English from the approved translators.

Any suggestion/clarifications, please write to sudhir@hnaindia.com, laxman@hanaindia.com

Special acknowledgements to CA Asha Latha T and Aashita Vijayvargiya for helping in preparation of this document.

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Proper GST Officer under Section 122: A Jurisdictional Analysis



CA Lakshman Kumar
Partner



CA Akash Heda
Manager

A Introduction

Recently, the Central Board of Indirect Taxes and Customs (CBIC) has issued Circular No. 254/11/2025-GST dated 27/10/2025 appointing the proper officers under Section 122, 74A, 75(2) of CGST Act, 2017 and Rule 142(1A) of CGST Rules, 2017. The circular has expressly stated that no proper officer has been assigned in respect of the above referred Sections and Rules prior to issuance of this circular. However, many of the taxpayers have received notices under Section 122 proposing to impose the penalties prior to issuance of this Circular (especially in case of fake invoicing cases). Now, many of the taxpayers are questioning the validity of thousands of penalty notices and orders issued prior to 27/10/2025. In this article, we made an attempt to discuss the same as follows.

It is important to note that Section 5 of CGST Act, 2017 empowers the board to prescribe the powers of the proper officer. Accordingly, the CBIC vide Circular No. 1/1/2017-GST dated 26/06/2017, **Circular No. 3/3/2017-GST dated 05/07/2017** and **Circular No. 31/05/2018-GST dated 09/02/2018** had appointed the proper officer for various Sections and rules under GST. No specific appointment has been made under Section 122. However, the officers had quoted Section 122 while issuing the notices under Section 73 ad 74 for imposing the penalties till 2022. Subsequently, the CBIC had issued the **Circular No. 171/03/2022-GST dated July 6, 2022** and clarified that the officer can impose only penalty under Section 122 as there is no underlying supply.

Later, the officers proceeded to independently issue notices under Section 122 without invoking Section 73/74 of CGST Act, 2017 and confirmed the demand under Section 122. Considering the admission of **Circular No. 254/11/2025-GST dated 27/10/2025** that there is no proper officer under Section 122, a critical question arises whether this Circular retrospectively validate proceedings initiated from July 2017 onwards? The answer is an unequivocal NO, based on settled judicial principles.

Various courts have consistently held that circulars cannot have retrospective effect to cure jurisdictional defects. In case of **Commissioner of Central Excise, Bolpur v. Ratan Melting & Wire Industries (2008) 10 TMI 5 (SC)**, the Constitution Bench categorically held that while circulars are binding on revenue authorities, they cannot override judicial pronouncements or cure jurisdictional defects retrospectively. While a circular that grants a benefit can be retrospective, a circular that imposes a burden, creates a liability, or “creates” jurisdiction where none existed is considered prejudicial/oppressive. The same was held in case of **Suchitra Components Ltd. Vs Commissioner Of Central Excise, Guntur, 2007 (1) TMI 4 – Supreme Court** and reinforced by the Constitution Bench in **Commissioner of Income Tax (Central) -I, New Delhi Vs Vatika Township Private Limited, 2014 (9) TMI 576 – SC – Income Tax**.

The present Circular by introducing jurisdictional authority for the first time, cannot “reach back” to validate past notices. Hence, retrospective validation impossible due to settled judicial principles against retrospective curing of jurisdictional defects.

Recently, the **Andhra Pradesh High Court in case of Ganapathi Ispat Vs UOI in WP No.31263/2025** set aside the notices issued under Section 122 prior to Circular No. 254/11/2025-GST dated

27/10/2025 holding that it may not be permissible to hold that all the officers notified under **Notification No. 02/2017-CT dated 28-06-2017** does not confer with the powers under Section 122. However, the High Court had granted the liberty to issue fresh notice under Section 122.

In this context, it is also important to keep in mind that if the notices are held to be invalid, the officers can re-issue the notices within the time limits prescribed under Section 73/74, however, a doubt may arise whether there are any time limits for Section 122 for issuing the notices. On strict reading of Section 122, there is no specific time limit for issuing notice under Section 122. However, there is another school of thought that Section 127 of CGST Act, 2017 empowers the officers to impose penalty after giving a reasonable opportunity of being heard if the same is not covered under Section 62, 63, 64, 73, 74, 129 and 130 without any time limit. We shall wait for the developments in this regard.

In case of **Canon India Private Limited v. Commissioner of Customs (2021) 376 E.L.T. 3 (SC)**, the Supreme Court held that proceedings initiated by an officer without valid designation are void ab initio and cannot be validated retrospectively. The Court emphasized that the requirement of a proper officer is jurisdictional and goes to the root of the matter. In case of **Vigneshwara Transport Company v. Additional Commissioner of Central Tax (2025) 94 G.S.T.L. 273 (Kar)**, the Karnataka High Court, directly applying the Canon India principle to GST, held that an investigation and subsequent show cause notice under Section 74 conducted by a non-proper officer renders the entire proceeding void ab initio. In case of **M/s Tata Projects Limited & M/s Hindustan Construction Company Ltd. (W.P.(C) 16888/2025 & 17856/2025)**, it was revealed that in Delhi, no Additional Commissioner exists to handle demands exceeding Rs. 2 crores as mandated by Circular No. 31/05/2018. This exposes that the problem is not just delayed designation but complete non-existence of adequately ranked officers, making retrospective validation impossible.

The judiciary has consistently held that these flaws are not mere “procedural irregularities.” The **Karnataka High Court, in both Mohan C. Suvarna vs. Pr. Commissioner of Customs, 2022 (380) E.L.T. 162 (Kar)** and **Vigneshwara Transport Company vs. Additional Commissioner of Central Tax, 2024 (94) G.S.T.L. 273 (Kar.)** underscored that a lack of proper officer designation “goes to the root” of the matter. By ruling that proceedings initiated by unauthorized officers are void from the start, the courts have opened the door for taxpayers to seek relief through writ jurisdiction, even when alternative appellate remedies exist.

However, the path for taxpayers is not without obstacles In **Maa Geeta Traders v. Commissioner, Commercial Tax (2021) 133 taxmann.com 81 (Allahabad)**, the High Court provided a “shield” for State Tax authorities, holding that under Section 5(3) of the Act, a State Commissioner can delegate powers through simple administrative orders without the need for Gazette notifications. Furthermore, the **Yasho Industries Ltd. v. Union of India – 2021 (54) G.S.T.L. 19 (Guj.); (2021) 127 taxmann.com 781** upheld the authority of DGGI officers, noting that their appointment as Central Tax Officers via specific notifications grants them sufficient standing as “proper officers” for investigations and summons.

The revenue often cites Section 160 to cure the absence of a “Proper Officer”. However, the Allahabad High Court in case of **M/s Mansoori Enterprises Vs UOI 2024 (2) TMI 1183** held that this section cannot validate a “jurisdictional nullity.” Using an officer with no assigned function for Section 122 is a total lack of authority, not a curable irregularity. The saving provision under Section 160(2) applies only to irregularities in appointment, not to complete absence of designation, which is a jurisdictional nullity.

Another emerging argument challenges the common practice of combining Section 74 (tax demand and recovery) with Section 122 (penalty for offences) in a single show cause notice and order. These provisions serve different purposes, fall under different chapters, and may require different proper officers. Section 74 falls under Chapter XV (Assessment and Audit) and deals with determination of tax not paid or short paid or erroneously refunded – it is essentially a civil recovery mechanism for tax dues. Section 122 falls under Chapter XIX (Offences and Penalties) and imposes penalties for specific contraventions – it is quasi-criminal in nature. The clubbing of these distinct proceedings into one omnibus order creates jurisdictional confusion and denies taxpayers the opportunity to mount separate defenses for civil liability versus criminal penalty.

The **Allahabad High Court in Patanjali Ayurved Ltd. v. Union of India, (2025) 31 Centax 18 (All.)** held that the penalty proceedings under Section 122 are distinct and independent of tax determination under Section 74. Consequently, the officer must be specifically designated as a “proper officer” for Section 122. Notably, as admitted in CBIC Circular No. 254/11/2025-GST, there was an absence of such designation for the period from July 2017 to October 2025. Therefore, any penalty order passed during this period is void ab initio for lack of jurisdiction.

The following provisions under Chapter XIX (Offences and Penalties) may still lack clear proper officer designation:

- Section 122A (Penalty for failure to register certain machines used in manufacture of goods as per special procedure)
- Section 122B (Penalty for failure to comply with track and trace mechanism)
- Section 123 (penalty for failure to furnish information return)
- Section 124 (fine for failure to furnish statistics)

This reveals a pattern of systemic non-compliance with the fundamental requirement of designating proper officers for penal provisions.

B Conclusion:

The constitutional principle is clear: penal powers must be exercised only by officers with explicit statutory authority. Anything less undermines the rule of law that underpins our entire taxation system. While this creates opportunities for taxpayers to challenge penalty proceedings, it also underscores systemic gaps in GST implementation. Businesses and professionals should approach this issue strategically, raising jurisdictional defences where applicable while maintaining good faith engagement with tax authorities. The goal should be not merely technical victories but the establishment of clear, constitutional procedures that protect both revenue interests and taxpayer rights.

Special acknowledgements to Nayakuni Shailaja for helping the authors bring out this article. Feedback can be shared with laxman@hnaindia.com/akash@hnaindia.com



Legal Updates



Customs Duty On Electricity Supplied From Sez To DTA Unsustainable – Successive Notifications Cannot Override Binding Judicial Declaration

[Adani Power Ltd. v. Union of India & Ors. (2026 INSC 1) Supreme Court dated 05.01.2026]

01 Facts of the Case



The Appellant operates a coal-based thermal power plant located within a Special Economic Zone (SEZ), at Mundra, Gujarat, from where electricity generated was supplied partly within the SEZ and partly to the Domestic Tariff Area (DTA).

The Central Government sought to levy customs duty on electricity supplied from SEZ to DTA commencing from 26.06.2009, through a series of customs notifications, initially at 16% ad valorem (retrospectively) and subsequently at specific per-unit rates, by invoking Section 25 of the Customs Act, 1962 read with Section 30 of the SEZ Act, 2005.

In previous litigation by the Appellant, the Gujarat High Court in the year 2005, struck down the levy as unconstitutional and ultra vires, and the same was attained finality after dismissal of SLP by the Supreme Court. However, for the later period was denied by the High Court in 2019, leading to the present appeal.

02 Question in Dispute



Whether customs duty can be levied on electrical energy generated in an SEZ and supplied to the DTA through successive notifications, despite an earlier binding judicial precedent holding such levy to be without authority of law?

03 Judgment



The 2015 Gujarat High Court judgment was a binding declaration of law, holding that customs duty cannot be levied on electricity supplied from SEZ to DTA under the existing statutory framework, and was not confined to a particular notification or period.

Customs duty under Section 12 of the Customs Act can be levied only on goods imported into India. Electricity generated in an SEZ and supplied to the DTA does not constitute an import. Further it was held that Section 30 of the SEZ Act only provides for parity of duty rates and does not create a charging provision or deem SEZ-to-DTA supply as an import for levy purposes. Section 25 of the Customs Act empowers the Government only to grant exemption from duty; it cannot be used to impose or create a levy, directly or indirectly.

The initial and subsequent notifications imposing customs duty on electricity were a colourable exercise of delegated legislation and lacked statutory authority. Merely altering the rate, form, or prospective operation of the levy does not cure the foundational illegality of the absence of a charging event.

Further, it was held that there was no change in law or facts after the 2015 judgment that could justify a different conclusion for the subsequent period. Levying customs duty on electricity, despite neutralisation of input duty under SEZ Rules, results in impermissible double burden and violates Articles 14 and 265 of the Constitution.

The Apex Court further emphasised that once a levy is declared ultra vires, the assessee is not required to challenge each subsequent notification separately to claim relief. Thus, the 2019 decision of High Court of Gujarat was set aside as it failed to follow judicial discipline. Thus, the authorities were directed to refund the customs duty collected for the period 16.09.2010 to 15.02.2016, without interest, within eight weeks.

04 HNA Comments

This decision affirms the constitutional limits on delegated legislation, especially in matters related to taxation. The Supreme Court has unequivocally held that what is unconstitutional at inception cannot be legitimised through successive executive notifications merely by altering rates or prospective operation. The decision further affirmed the principles of judicial finality and discipline, holding that the authorities are bound to give effect to binding judicial declaration unless the statute itself is amended.

B Supply Of Electricity To Foreign Buyer Through Intermediary Does Not Qualify As An Export Supply

[SEIL Energy India Limited v. Principal Commissioner of Central Tax [2026 (1) TMI 110 – Andhra Pradesh HC]

01 Facts of the Case

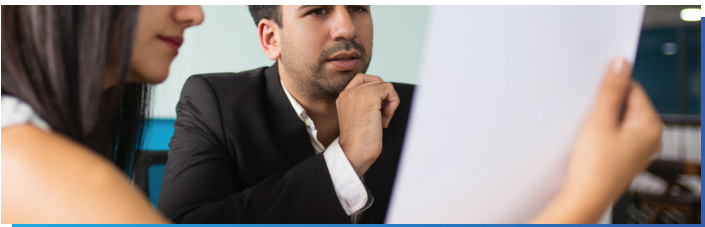


The Petitioner is engaged in generation and supply of electricity from thermal power plants in Andhra Pradesh. Electricity was supplied to the Bangladesh Power Development Board in two modes:

- i. Direct supply under an agreement with Bangladesh Board, and
- ii. Supply through Power Trading Corporation of India Ltd. (PTC), which had an independent contract with the Bangladesh Board

The Petitioner claimed refund of unutilised Input Tax Credit (ITC) under Section 54 of the CGST Act, treating both categories of supply as export of goods / zero-rated supply under Section 16 of the IGST Act. The refund claims were partly rejected on the ground that supply of electricity to PTC was a domestic supply, not an export. Appeals were dismissed, leading to the present writ petitions.

02 Question in Dispute



Whether supply of electricity by the Petitioner to PTC, which was subsequently supplied by PTC to a foreign buyer, qualifies as export of goods/ zero rated supply, entitling the Petitioner to refund of unutilised ITC?

03 Judgment



The Andhra Pradesh High Court **dismissed the writ petitions**, holding as under:

1. Electricity is “goods” and its export is governed by Article 286 of the Constitution read with Sections 2(5) and 16 of the IGST Act.

Under the IGST regime, export of goods requires taking goods out of India, but the supply must still satisfy the principles governing sales in the course of export.

2. The supply of electricity by the Petitioner to PTC and the supply by PTC to the Bangladesh Board are two independent contracts. The delivery point under both agreements was located in India, where the supply from the Petitioner to PTC stood completed. There was no privity of contract between the Petitioner and the Bangladesh Board in respect of supply made through PTC.

3. The Court further observed that merely because the electricity supplied to PTC was ultimately exported does not render the Petitioner’s supply an export; it is at best a supply for export, not an export supply.

4. The principles relating to penultimate sales under Section 5 of the CST Act cannot be imported into the IGST framework unless specifically incorporated. Accordingly, the supply of electricity by the Petitioner to PTC was held to be a domestic supply, not eligible as zero-rated supply for refund of ITC.

04 HNA Comments

This decision draws a clear distinction between “export of goods” and “supply for export” under GST, reaffirming that only the supply that are export qualifies as a zero-rated supply. It highlights that unless the Indian supplier has direct contractual privity with the foreign buyer, the supply is likely to be treated as domestic, even if it is commercially inseparable from the export.



Uploading Of Orders On GST Portal Amounts To Valid Communication – Limitation For Appeal Cannot Be Extended On The Plea Of Non-Service

[Bambino Agro Industries Ltd. v. State of Uttar Pradesh Writ Tax No. 2707 of 2025]

01 Facts of the Case



The Petitioners challenged adjudicating orders passed under the UPGST Act, 2017 and CGST Act, 2017, contending that such orders were never served upon them physically or otherwise, and therefore the limitation period for appeals has not commenced.

It was contended that recovery proceedings were initiated without the petitioners having knowledge of the adjudication orders. Since the statutory appeal period under Section 107 had expired, the petitioners approached the High Court directly, invoking writ jurisdiction.

The Revenue raised a preliminary objection on maintainability, contending that the orders were duly uploaded on the GST Common Portal (GSTN) and therefore stood validly communicated.

02 Question in Dispute



Whether uploading of adjudication orders on the GST Common Portal constitutes valid “communication” or “service” under the GST law, thereby triggering the limitation period for filing appeal under Section 107 of the GST Acts?

03 Judgment



The Allahabad High Court allowed the writ petitions, subject to the Petitioner depositing 10% of the tax amount. However, the Court observed as follows:

It was held that the GST law has transitioned from physical mode of service to electronic communication through the GST Common Portal and Section 169 of the Act recognises making available an Order on the common portal as a valid mode of service.

Further, it was held that once an adjudication order is uploaded on the GST portal, it is deemed to have been communicated to the assessee, irrespective of whether the assessee actually accessed or downloaded it.

In addition to the above, it was observed that the term ‘communicated’ under Section 107 cannot be narrowly interpreted to mean only physical service. The GST regime places an obligation on registered persons to regularly monitor the GST portal, which is the primary platform for all statutory communications.

Non-receipt of physical copy or lack of actual knowledge cannot extend or suspend the statutory limitation period prescribed for filing appeals. The Court held that hardship arising from missed electronic communication cannot override the statutory scheme under GST.

04 HNA Comments

The judgment emphasised that the GST Common Portal as the primary mode of statutory communication under the GST regime. The High Court has taken a strict view that once an order is uploaded on the portal, the limitation for filing appeal commences, regardless of actual knowledge or physical service.

D GST Demands For Pre-Cirp Period Not Sustainable After Approval Of Resolution Plan – Delhi High Court

[Era Infra Engineering Limited v. Joint Commissioner CGST W.P. (C) No. 2281 of 2025]

01 Facts of the Case



The Petitioner underwent Corporate Insolvency Resolution Process (CIRP) under the IBC. The GST Department filed its claims during CIRP, which were duly considered and crystallised. Subsequently, after approval of the Resolution Plan by the NCLT, fresh GST demands were raised for periods prior to the approval of the resolution plan. Aggrieved, the Petitioner challenged the demand-cum-adjudication orders before the Delhi High Court.

02 Question in Dispute



Whether GST authorities can raise or enforce demands for periods prior to approval of a resolution plan, after such plan has attained finality under Section 31 of the IBC, 2016?

03 Judgment



The Delhi High Court allowed the writ petitions, holding that:

1. Once a resolution plan is approved, all claims not forming part of the plan stand extinguished. This principle applies equally to statutory dues, including GST.
2. The GST Department, having participated in CIRP, cannot raise fresh demands for pre-CIRP periods. The new management cannot be burdened with liabilities relating to the period prior to approval of the resolution plan.
3. Accordingly, the impugned adjudication orders and consequential demands were set aside.

04 HNA Comments

This decision reinforces the finality and binding nature of approved resolution plans under the IBC and the tax authorities cannot reopen settled claims post-CIRP, ensuring certainty for successful resolution applicants and protecting the revival objective of insolvency law.



Pharma Clinical Trial Services To Foreign Clients Qualify As Export Of Services – Clarificatory Notification Held Retrospective

[IProcess Clinical Marketing Pvt. Ltd. v. Assistant Commissioner of Commercial Taxes, Writ Petition No. 10989 of 2025]

01 Facts of the Case



The Petitioner provided clinical trial and pharmaceutical R&D services to foreign clients. GST was demanded by treating such services as taxable in India under Section 13(3)(a) of the IGST Act. The Petitioner relied on Notification No. 04/2019 - IGST, which clarified that the place of supply for specified pharma R&D services would be the location of the foreign recipient, thereby qualifying as export of services. Authorities treated the notification as prospective, denying export benefit for earlier periods.

02 Question in Dispute



Whether Notification No. 04/2019-IGST is clarificatory and retrospective?

Whether clinical trial services provided to foreign clients qualify as export of services?

03 Judgment



The Karnataka High Court allowed the writ petition, holding that:

1. The notification was issued pursuant to recommendations of the 37th GST Council Meeting, was held to be clarificatory in nature, intended to remove ambiguity regarding place of supply. The Court held that such clarificatory notifications operate retrospectively.

2. Further, it was held that since the service recipient was located outside India, the services qualified as export of services. GST demands raised on the Petitioner were therefore unsustainable and quashed.

04 HNA Comments

This judgment offers significant relief to the pharma and clinical research sector, recognising commercial realities of cross-border R&D services. By treating the notification as retrospective, the Court has prevented avoidable litigation and reinforced the principle that clarifications meant to remove ambiguity should not prejudice taxpayers for past periods.



Prepared By:
Sristi Nirmal Bubna
BA. LLB
Bangalore



Reviewed By:
Adv. Lavanya P R
B.Com, LLB (Hons)
Chennai



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Updates in GST, Customs and FTP



Updates in GST, Customs and FTP

Type	Number & Date	Subject
Customs Notification (Non-Tariff) & Circular	03/2026 – Customs, 04/2026 – Customs, 05/2026 – Customs & Circular No. 01/2026 dated 24.10.2025	Postal exports are now eligible for export incentives <u>Summary:</u> The CBIC has amended drawback rules, RoDTEP and RoSCTL mechanisms in order to provide these benefits to the postal exports as well. Circular No. 01/2026 – Customs has been issued detailing the modalities under these amendments. <u>Comments:</u> India currently has 28 Foreign Post Offices The initiative is expected to enhance the competitiveness of MSME exporters, especially those from smaller towns and remote areas.
DGFT Public Notice	42/2025-26 dated 09.01.2026	Changes in e-BRC format <u>Summary:</u> The format of electronic bank realization certificate (e-BRC) has been amended to include additional fields like GSTIN, GST invoice number, and GST invoice date. <u>Comments:</u> This change in e-BRC format ensures direct linkage between e-BRC and GST invoice assisting in faster GST refund processing and fewer mismatches



GST Portal Updates



Sl.No	Date	Functionality	Particulars
01	01-01-2026	Gross and Net GST revenue collections for the month of Dec 2025	<p>The Gross and net revenue for the month of Dec-25 was declared. The same can be checked by clicking on –</p> <p>December 2025 collections : https://services.gst.gov.in/services/advisoryandreleases/read/644</p>
02	04-01-2026	Advisory on filing opt – in declaration for specified	<p>The declarations prescribed under Notification No. 05/2025 – Central Tax (Rate), dated 16 January 2025, were filed manually with the jurisdictional authority for the first year, i.e., FY 2025–26; these declarations are now enabled electronically on the GST Portal. Such declarations may be selected and filed by applicants seeking registration, as well as by existing registered persons supplying hotel accommodation services, by declaring the premises as “specified premises.”</p> <p>Regular taxpayers (Active or Suspended) who want to declare their premises used for supplying hotel accommodation service can declare electronically on the GST portal by giving the declaration in Annexure VII - Opt-In Declaration for Registered Person for a succeeding financial year. It can be filed in a specified window, which is between 1st January and 31st March of the preceding financial year, i.e., for FY 2026–27 from 1st January 2026 to 31st March 2026.</p> <p>Applicants for new GST registration who want to declare their premises used for supplying hotel accommodation service can declare electronically on the GST portal by giving the declaration in Annexure VIII - Opt-In Declaration for Person Applying for Registration for a succeeding financial year from the effective date of registration. It can be filed within 15 days from the date of generation of the ARN of the registration application. If the time limit of 15 days lapses, Annexure VII is available in the specified window between 1st January and 31st March.</p> <p>Important points to be noted:</p> <ol style="list-style-type: none">1. A maximum of 10 premises can be selected in one declaration. If any additional premises need to be declared, then additional declarations may be filed for the remaining premises, and separate PDFs with reference numbers will be generated for each premise.2. If any are left for opt-in, Annexure VII need to be filed separately for that premise during the eligible window period.3. Suspended taxpayers are allowed to file the declaration, but cancelled taxpayers cannot file such declarations.4. Option once exercised will continue for the subsequent years also, unless the taxpayer files an opt-out declaration in Annexure IX within the prescribed time.5. For the filing of a declaration, allotment of GSTIN is not required, provided the application is not rejected.6. Annexure IX – Opt-Out Declaration will be made available separately in due course of time.7. Opt-in declaration facility is not available for composition taxpayers, TDS/TCS taxpayers, SEZ units/developers, casual taxpayers, or cancelled registrations
03	23-01-2026	Advisory on RSP – based valuation of Notified tobacco goods under GST	<p>An advisory has been issued to provide guidance to taxpayers on reporting taxable value and tax liability under Retail Sale Price (RSP)–based valuation in e-Invoice, e-Way Bill, and GSTR-1/GSTR-1A/IFF.</p> <ul style="list-style-type: none">▪ The Validation is included in the existing system on the basis of a transaction-value model

03	23-01-2026	Advisory on RSP – based valuation of Notified tobacco goods under GST	<p style="text-align: center;">Taxable Value + Tax Amount \leq Total Invoice Value</p> <p>In the validation, if the sum of the taxable value and tax amount exceeds the total invoice value, the system generates an Error message stating that “the sum of taxable value and tax amount cannot be greater than the total invoice value.”</p> <ul style="list-style-type: none"> ▪ Reporting Guidance for RSP-based Valuation Goods in e-Invoice, e-Way Bill, and GSTR-1/GSTR-1A/IFF: ▪ Net sale value, also known as the actual transaction value or commercial consideration, shall be reported as the Taxable value. ▪ Tax amount shall be computed as per the RSP-based valuation formula as <p><i>Tax Amount = (RSP × GST Rate in % of applicable taxes) / (100 + Sum of applicable tax rates)</i></p> <p>But while reporting the tax amount in the GSTR-1, it reflects system calculated tax amount, which is different from the tax amount actually levied. So, the same shall be edited in accordance with the RSP-based valuation.</p> <ul style="list-style-type: none"> ▪ Total invoice value shall be reported as the sum of the Net Sale Value and the tax amount. ◦ All three fields are self-assessed, self-calculated, and correctly furnished by the taxpayer and duly verified prior to submission.
04	30-01-2026	Advisory on interest collection and related enhancements in GSTR-3B	<p>GSTN introduced important system-level enhancements in the filing of Form GSTR-3B, effective from the January 2026 tax period. It mainly revises the way interest on delayed GST payment is computed on the GST portal by giving taxpayers the benefit of the minimum cash balance available in the Electronic Cash Ledger from the due date of return filing to the actual payment date, meaning interest is charged only on the net cash liability after adjusting this balance, aligning with Section 50 of the CGST Act and Rule 88B of the CGST Rules.</p> <p>The advisory also includes auto-population of the Tax Liability Break-up Table in GSTR-3B based on earlier period supplies, enhanced flexibility in utilising IGST ITC i.e., allowing use of CGST/SGST credits once IGST credit is exhausted, and clarifies that interest on delayed returns for cancelled registrations will be collected through the final return (GSTR-10).</p>

OUR OFFICES

BENGALURU (HO)

Jayanagar
+91 8041210703
roopa@hnaIndia.com

HYDERABAD

Banjara Hills
+91 9908113787
sudhir@hnaIndia.com

GURUGRAM (NCR)

Sector 48
+91 8510950400
ashish@hnaIndia.com

MUMBAI

Bhandup West
+91 9867307715
vasant.bhat@hnaIndia.com

VISHAKHAPATNAM

Vidyanagar
+91 8916009235
anil@hnaIndia.com

PUNE

K Square
+91 7680000205
ravikumar@hnaIndia.com

CHENNAI

Nungambakkam
+91 9962508380
vikram@hnaIndia.com

GUWAHATI

Ulubari
+91 7670087000
mannu@hnaIndia.com

KOLKATA

Salt Lake Sector V,
+91 9830682188
gagan@hnaIndia.com

VIJAYAWADA

Chandramoulipuram
+91 9900068920
rajeshmaddi@hnaIndia.com

RAIPUR

VIP Chowk
+91 7415790391
bhaveshmittal@hnaIndia.com

KOCHI

Veekshanam Road
+91 8547853584
arjun@hnaIndia.com

INDORE

R.N.T. Marg
+91 6366775136
vini@hnaIndia.com

AHMEDABAD

Shyamal Crossroad
+91 9409172331
yash@hnaIndia.com

COIMBATORE

Saibaba Colony
09962047651
pradeep@hnaIndia.com

JAIPUR

Vaishali Nagar
+91 9782691221
bhaveshgoyal@hnaIndia.com

