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Thinking Beyond

Monthly Newsletter - April 2026

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



Common Issues raised in GST Department Audit



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[in](#)

Background

Recently, there have been a spate of audit intimations being issued for conducting audit u/s 65 by GST Department covering period of upto past 5 years. In the course of audit done by dept under section 65 of the CGST Act, certain issues/objections could be raised. The assesses have to carefully examine the matter, give their explanation.

When objections are raised and the submissions done by auditee with facts, workings reconciliations, legal grounds[applicable provisions of Act/rules] and supporting circulars/landmark decisions in writing/ to official mail id of concerned officer, it can lead to dropping points at that stage itself, avoidance of issuance of SCN's, and no ensuing demands with interest penalty and requirement of pre-deposit at appeals stage[10+10%] either.

The paperwriter has examined the issues being raised at time of audit by department and the validity of the same under the law.

Common issues and its implications

Excess ITC availed in GSTR 3B vs 2A/2B: The ITC cannot be denied merely due to the non-reflection of invoices in GSTR-2A/2B when all the conditions specified under Section 16 of CGST Act, 2017 have been satisfied.

- Reflecting of ITC in GSTR-2A/2B is not prescribed under GST law till 31.12.2021. It was inserted only wef 1.1.2022[vide section 16(2)(aa)wherein sets out that the invoice details are furnished by supplier in GSTR 1 and be communicated to recipient in 2B].
- The input tax credit is an indefeasible and vested Right. Reliance can be placed in the case of Shabnam Petrofils Private Limited vs. Union of India (2019) 29 G.S.T.L. 225 (Guj.), Eicher Motors Ltd. Vs UOI – 1999 (106) ELT 3 (SC), Dai Ichi Karkaria vs. UOI - 1999(112) ELT 353(SC).
- The facility of GSTR-2A is ONLY for assesses facilitation and credit cannot be denied merely because it is not reflected in GSTR 2A. Refer press release 18th October 2018.
- **Diya Agencies Vs. State Tax Officer** (Kerala High Court) - WP(C) No. 29769 of 2023, the Hon'ble Kerala High Court highlights that, denying input tax credit based solely on discrepancies in GSTR-2A is unjust.
- **Goparaj Gopalakrishnan Pillai v. State Tax Officer-1 [WP(C) NO. 29855 OF 2023], the Hon'ble Kerala High Court** ruled in favour of the petitioner, by stating that the excess Input Tax Credit (ITC) claimed in Form GST-3B, which was not reflected in GSTR-2A, should not be a reason for denying the right to claim Input Tax Credit (ITC).
- Credit on the IGST paid at the time of import of goods shall be availed even if the same does not appear in GSTR 2A/2B
- To avoid disputes, suggest to maintain reconciliation of ITC availed in GSTR 3B, with 2A/2B, ITC in 9/9C and books of account.

Denial of credit due to nonpayment of taxes by vendors

It is near impossible to keep a track of the payment of tax by the supplier/vendor to the government under the existing scheme of returns as the tax is paid in GSTR-3B as the vendor pays the taxes by declaring it in a consolidated manner the principle of **Lex Non-Cogit Ad Impossibilia** i.e., The law does not compel a man to do that which he cannot possibly perform, as was held in the case of:

- Indian Seamless Steel & Alloys Ltd Vs UOI, 2003 (156) ELT 945 (Bom.)
- Hico Enterprises Vs CC, 2005 (189) ELT 135 (T-LB). Affirmed by SC in 2008 (228) ELT 161 (SC).
- Commr of CE vs Tata Motors Ltd (2012(294) ELT 394 (Jhar);

Since the law cannot compel the taxpayers to comply with impossible conditions, whereby **auditee does not have access to the portal to check whether supplier has actually paid or not.**

Even assuming that the taxes were not paid by vendors on the invoices, the substantial benefit of credit should not be denied due to the default [if any] by vendors. Further, the benefit of the input tax credit cannot be denied to a bona fide purchaser, because of the default of the selling dealer.

Numerous decisions confirm such view. In the case of Kay Kay Industries (2013-TIOL-41-SC-CX). that the **manufacturer cannot determine whether his supplier has discharged excise duty** on the goods which are supplied to the manufacturer by him.

The Hon'ble Supreme Court, in the case of Commissioner of Trade & Taxes, Delhi and others Vs. Arise India Limited and others [TS-2-SC-2018-VAT]. The Hon'ble High Court of Delhi held Section 9(2)(g) of Delhi VAT Act **to the extent it disallows Input tax credit("ITC") to the purchaser due to default of selling dealer in depositing tax**, as violative of Articles 14 and 19(1)(g) of the Constitution of India.

Held **D.Y Beathel Enterprises Vs The State tax Officer** (Data Cell) [2021-TIOL-890-HC-MAD-GST] if the default is made by non-payment of tax by the seller, the recovery shall be made from the seller.

3. Denial of credit due to cancelled registration of vendors:

ITC cannot be denied for the valid transactions. If it is found upon considering the relevant documents that all the purchases and transactions in question are genuine and supported by valid documents and transactions were made before the cancellation of registration of those suppliers than the benefit of input tax credit shall be given to the recipients. Held in LGW Industries Ltd and Ors vs UOI [2021-TIOL-2308-HC-KOL-GST]

Denial of credit alleging blocked credit u/s 17(5):

ITC on Passenger Transport: ITC is eligible when vehicle is used for business [pick and drop of employees from office to home]+ the passenger transport vehicle[such as bus] has capacity of more than 13 including driver.

ITC on insurance: Credit is eligible on fire, burglary, stock, building insurance, goods in transit, cash in transit insurance. Credit on life, health insurance blocked. Can be availed when obligatory to provide by employer to employee under any law in force. Such as Employee health insurance mandated under Employees State Insurance Act, 1948.

Air travel/Hotel accommodation: ITC is eligible when nexus is established, usage in course of business of auditee, it cannot be denied. Not personal consumption.

- **ITC on air ticket service charges is eligible** when air travel performed for purpose of company business. CCE vs Fine Care Biosystems (2009 (244) ELT 372 (CESTAT) and Goodluck Steel Tubes Ltd. Vs C. C. Ex., Noida 2013 (32) S.T.R. 123 (Tri. - Del.)
- **Hotel accommodation eligible-** One Advertising & Communication Services Ltd. vs C.S.T., Ahmedabad (2012 (27) S.T.R. 344 (Tri. - Ahmd.).

Credit related to immovable property vs movables, plant and machinery: Section 17(5)(d) restriction is specifically relating to the goods/services used for constructing immovable property, capitalized to immovable property block meant for self use. There is no intention of denying credit on the movable property, plant and machinery specifically in Section 17(5). Also there is no restriction to avail credit on the goods/services used for construction of immovable property but written off to P&L.

The ITC on **movable goods is eligible-**

- such as office equipment could be computers, projectors, stabilisers;
- Electrical fittings such as fan;
- Furniture; furnishings;
- Security systems; fire fighting systems cannot be denied, even if capitalized to immovable property block as long as supported by valid vendor tax invoices clearly setting out the nature of the inwards supply done to the auditee.

Goods which can be disassembled/dismantled and could be used in other premises without causing any damage to the property, are said to be movable goods. Held in the case of Sirpur Paper Mills [1998 (97) E.L.T. 3 (S.C.)],

Similarly credit is eligible on **plant and machinery, even when it is immovable.** Examples could be credit on HVAC system, Lifts/sewage treatment plant. Note:

Section 3(26) of the General Clauses Act, 1897 defines "Immovable Property" to include land, benefits to arise out of the land, and things attached to the earth, or permanently fastened to anything attached to the earth.

Immovable property means the items which once fixed to earth cannot be moved/removed without substantial damage.

ITC availed on Sales promotion vs gifts: Credit on goods given as gifts is blocked. A 'gift' is commonly defined as a voluntary transfer of property by one to another, without any consideration or compensation therefor.

The Supreme Court cited the definition of 'gift' from Corpus Juris Secundum, Volume 38 in the case of Sonia Bhatia v. State of UP [1981] 2 SCC 585.

When goods such as TV/fridge are given for sales promotion, there is corresponding obligation on the dealers/distributors to lift more goods[more sales and discharge of GST on such outward supplies].

Also when goods are given under schemes such as buy 1 get 1, the value of the so called "freebie" would in normal business course be included in/factored in pricing of the goods being sold[embedded in price], and on which GST is being suffered.

This reasoning is supported in circular 92/11/2019-GST dated 07.03.2019

Consequently the ITC need not be reversed on business promotion expenses.

Personal use/consumption or for official use: Credit is eligible on employee related expenses, as long as it is incurred in course of discharge of office duties/functions. Examples could be uniforms, ID cards, safety helmets, mobile phone for official purpose.

In Steel Authority Of India Ltd vs. CCE (2014 (301) ELT 592 (CESTAT Delhi) credit on shoes used by workers in the Steel plant held eligible.

Canteen facility: ITC is eligible on canteen facility even though consumed by person, when it is mandatory for employer to provide facility to employee under law for time being in force. Example canteen facility provided under Factories Act is eligible credit and cannot be denied citing personal consumption.

Non payment of Reverse charge liability under section 9(3) r/w notification 13/2017-CT(R); Section 9(4)

Only specific categories of expenses notified under Section 9(3) are liable for RCM, such as legal services, goods transport agency (GTA), etc. Accordingly, identify such applicable transactions from the "Expenses" on which duly discharged GST under RCM on the same.

A detailed reconciliation can be prepared, clearly bifurcating:

- Expenses liable under RCM
- Expenses not covered under RCM provisions to avoid demands of tax on same.

RCM on import of services: All payments made to foreign vendors towards services supplied to Indian recipient entity are not liable to tax as import of services. First need to determine what is place of supply[POS], within or outside India vide section 13(2) to (13) of IGST Act.

Few examples could be: Place of supply of training done in physical presence outside India, accommodation/food consumed outside, travel done outside India, repair services performed physically on goods outside India, Trade exhibition in Germany- All instances where POS outside India-no RCM.

Freight paid for transport of goods by road: When the transporter of goods by road service issues a consignment note/Lorry Receipt then it would be covered as GTA service. Tax liability to be paid by registered recipient.

When consignment note is not issued, can consider not as GTA but GTO, GST exemption is there, and not liable to pay tax under RCM.

Post 18.7.2022: GST need not be paid under RCM on GTA service when the vendor has opted to discharge tax liability under forward charge[FCM].

RCM on director remuneration: GST is not leviable when the director is employee and paid remuneration as services by employee to employer in course of employment covered in Entry 1 Schedule III, neither supply of goods nor services. Circular 140/10/2020 – GST can be referred.

Company not liable to pay tax under RCM on amounts paid to Directors for services supplied[example- architect services in their personal Capacity]. Ref: Circular No. 201/13/2023-GST.

RCM on renting of commercial premise/residential premise: GST under RCM was made applicable on renting of commercial premise by unregistered person to registered person wef 10.10.2024. **Not taxable for period prior to that date under RCM.** Renting of residential premises is taxable wef 18.7.2022 in hands of registered person.

Note 1: **Prior to the dates of introduction of the levy u/s 9(3), no GST under RCM can be demanded for the specified services.**

Note 2: Even if GST were to be paid under RCM on procurements of specified services from unregistered suppliers[such as import of consulting services from abroad]/unregistered supplier procurements on which there was valid liability, **and such tax voluntarily paid now[during course of audit] ITC can be availed[for past years paid now, under self invoice of current date]. Ref: Circular 211/2024**

Reconciliation issues:

Turnover mismatches: Turnover in 3B vs GSTR 1, unreconciled turnover in GSTR 9C, GSTR 3B vs sales register, Differences between GSTR-3B, GSTR-1, and Audited Financial Statements (P&L). Common causes include "Income from Other Sources" being misclassified or exempt income not being reported in returns. The department also cross-references TDS/TCS data from the Income Tax portal with GST returns. In all cases, reasons for difference to be provided along with reconciliation statement to establish correctness of taxes paid.

Mismatch of GST paid under reverse charge and credit availed: Reasons for difference to be provided along with reconciliation statement of RCM taxes paid and credit of such taxes being availed.

Conclusion

Proactive Measures

To mitigate audit risks, it is suggested to get done:

Pre-Dept Audit review: Conducting a GST review by competent professional before the department arrives helps identify and pay valid liabilities (like RCM) voluntarily with interest, thereby avoiding the **100% penalty** typically imposed in a Show Cause Notice. In this article the paper writer has given practical issues and the replies which if properly drafted could certainly help to avoid/reduce frivolous objections and relief by way of dropping of demands at the stage of audit itself[prior to SCN].

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Acquiring Immovable Property Outside India by Resident Individuals



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The Enforcement Directorate has issued notices to several Indian residents who purchased properties outside India using credit cards. Authorities suspect violations of FEMA provisions, particularly around misuse of credit cards for capital account transactions and structuring of payments bypassing the Liberalised Remittance Scheme (LRS) framework [popularly known as the \$ 250,000 scheme]. In another case, ED uncovered a foreign property purchased through layered remittances, highlighting concerns around undisclosed assets and routing of funds abroad by misusing the LRS Scheme.

Under FEMA, not just the transaction but the mode and route of execution also determine its legality. In this backdrop, let us look at what is permissible and what is not under FEMA when it comes to the transaction of purchase of immovable property (IMP) outside India by a resident individual (RI).

Permitted Sellers

A RI cannot freely buy or sell property outside India. Such transactions are allowed only if specifically permitted by RBI. As per rule 21 of the Foreign Exchange Management (Overseas Investment) Rules, 2022 (Rules), IMP outside India can be acquired by a RI, either from

- A RI, or
- A person resident outside India (PROI) - (Foreign Person / NRI).

Mode of acquisition

A RI can buy or receive property abroad through the following permitted routes:

a. From Another RI

- Property can be acquired by:
 - Purchase,
 - Gift, or
 - Inheritance

Condition:

The seller must have originally acquired the property legally under FEMA.

b. From a PROI

Rule 21(2)(ii) of Rules

- By inheritance,
- By using foreign currency already held in a Resident Foreign Currency (RFC) account,
- Under Liberalised Remittance Scheme (LRS)
- Property can be purchased using funds remitted abroad under LRS limits.
- LRS limits of relatives can be combined.
- Joint purchase with a non-resident relative,
- Using foreign income or sale proceeds of assets held outside India (except sale proceeds of ODI investments).

Exceptions

The following scenarios of purchase of overseas IMP by RI are not subject to the above conditions:

- If the purchaser is a foreign national living in India,
- If the property was acquired by him before 8 July 1947 and continued to be held with RBI permission,
- If the property is taken on short-term lease (up to 5 years).

Violations while Purchasing Overseas Property

Having understood the provisions related to purchase of overseas IMP, let us look at the common violations that are often encountered in such transactions

Payment through banking channels: IMP can be purchased majorly under LRS and from income and sale proceeds received abroad. Remittance under LRS can be only through AD Bank. Amounts received as income or sale proceeds abroad are also to be through banking channels. Thereby indicating that IMP purchase abroad should be only through banking channels. Hence, payment by way of cash cannot be a valid mode of payment for purchasing immovable property, however small it may be.

No credit card payments: Payment through credit cards towards meeting expenses while a RI is on a visit outside India will not be counted towards LRS limit. Payment through credit cards is not a permitted mode for purchase of IMP as per the Rules. Hence, making payment through credit cards for purchase of IMP a violation.

No borrowings: Taking a loan from a relative or any person (say a friend) for making remittance under LRS to purchase the overseas IMP is a violation as remittance abroad under LRS scheme is not allowed using borrowed funds.

Financial arrangements not permitted: Purchase of overseas IMP cannot be structured as a deferred payment or instalment arrangement with a foreign seller or lender, where payments continue over time even after completion/possession. Such arrangements effectively amount to availing credit / borrowing facilities, which is not permitted for LRS.

Joint purchase with non-relative: A RI purchasing IMP abroad jointly with a non-resident non-relative (say a friend), even with proportionate contribution of funds, is not permitted under Rule 21 ibid.

OI disinvestment funds used: Overseas IMP procured from proceeds received on sale of overseas direct investments

PROI relative not being co-owner: Also using funds of relatives' who are PROI for the purchase of the IMP, but the IMP is wholly in the name of the RI, without the relative being the co-owner.

Initial transaction violative: Buying from a RI but whose purchase itself was not as per FEMA provisions.

Gift: Acquiring overseas IMP by way of a gift from a PROI (either relative or otherwise) as it is not specifically permitted under the Rules.

If one were to think that direct investment in real estate is not allowed and hence a way out would be to purchase capital in an entity abroad that is into real estate business, then it would be relevant to note that rule 19 of the Rules prohibits making an overseas direct investment into an entity engaged in the real estate trading business.

In conclusion, it is imperative to recognise that all the aforementioned restrictions and stipulations pertain specifically to individuals seeking to acquire immovable property abroad. Individuals must exercise the highest degree of caution when engaging in any foreign exchange transaction, especially those

involving capital account transactions such as the purchase of overseas immovable property. Under FEMA, capital account transactions are strictly prohibited unless expressly permitted, and it is crucial to understand that what cannot be done directly is equally impermissible if attempted indirectly. Therefore, due diligence and compliance are essential to avoid inadvertent violations and ensure that all actions remain within the framework of the law.

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 harshithasajjaca@gmail.com.



Case-I- Physical service of notice is mandatory where GST registration stands cancelled

Steps Care India v. Commissioner of State Tax and Another (TS-192-HC(ALL)-2026- GST, Allahabad High Court)



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1. Facts of the Case

The petitioner's GST registration was cancelled on 13/11/2019. Subsequently, a show cause notice dated 27/05/2024 was issued by uploading it on the GST portal. An adjudication order dated 28/08/2024 was passed without the petitioner filing any reply. The petitioner challenged the order on the ground that:

- No physical notice was served post cancellation of registration.
- Uploading notice on the portal deprived them of an opportunity to respond.
- There was a violation of principles of natural justice, particularly the right to be heard.

2. Issues Before the Court

- Whether service of notice through the GST portal is valid after cancellation of registration.
- Whether failure to serve physical notice amounts to violation of natural justice.
- Whether the adjudication order passed without proper service of notice is legally sustainable.

3. Reasoning and Decision of the Court

- The Court observed that once registration is cancelled, the taxpayer:
 - Is no longer expected to access the GST portal, and
 - May not receive electronic communications uploaded thereon.
- It relied on earlier precedent and departmental position that in such cases, physical service of notice is required under Section 169(1) (a), (b) of GST Act, 2017.
- The Court held that issuing notice only through the portal after cancellation of registration is improper. Such failure results in denial of opportunity of hearing, violating Section 75(4) and principles of natural justice.

Comments: -

This judgment reiterates that mode of service of notice must be aligned with practical realities and statutory intent. Where a taxpayer's registration stands cancelled, reliance solely on electronic communication through the GST portal is insufficient and legally untenable. The ruling strengthens the Doctrine of Audi Alteram Partem i.e., hear the other side by emphasizing that procedural compliance is not a mere formality but a substantive safeguard. It also places a clear obligation on the department to ensure effective service of notice, failing which the entire adjudication proceeding becomes vulnerable to challenge.

From a compliance perspective, the judgment highlights that while electronic governance is the norm under GST, exceptions must be recognized where digital access is no longer feasible, thereby requiring traditional modes of communication.

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Navigating Pre-Deposit under GST - Legal Issues and Practical Challenges



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1. **FAQs on GSTAT co-authored with CA Ravii Kumar Somani Sir and CA Vynkatesh Agarwal sir, published on LinkedIn**

https://www.linkedin.com/posts/tashalatha_with-gstat-now-operational-and-appeals-underway-ugcPost-7452213992795557888-VDor/?utm_source=share&utm_medium=member_desktop&rcm=ACoAADR0F XwBqS3fh6iDdWzNImIpCbr5DgsbSHY



Legal Updates

Distribution Of ITC In The Same Month As Mandated Under Rule 39(1)(A) By An Isd Gstin Should Be Interpreted Basis The Month The ITC Becomes Eligible And Not Basis The Month Of Receipt Of Invoice

[Reliance Jio Infocomm Ltd. v. Union of India [2026 : MHC : 925 – Madras High Court]

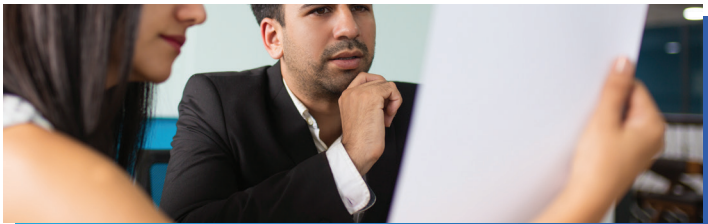
01 Facts of the Case



The Petitioner received a Show Cause Notice as an outcome of department audit for multiple financial years alleging wrongful availment of ISD credit on the ground that the Petitioner had not distributed ISD credit from its ISD GSTIN in the same month in which the underlying input service invoices were received. It was alleged that such delayed distribution was in contravention of Section 20 of the CGST Act, 2017 read with Rule 39(1)(a) of the CGST Rules, 2017 which mandates that ITC available for distribution in a month must be distributed in the same month.

Aggrieved by the issuance of the Show Cause Notices and the statutory mandate under Rule 39(1)(a) of the CGST Rules, 2017 the Petitioner filed Writ Petition before the High Court challenging the validity of the said Rule as well as the proceedings initiated thereunder. The petitioner challenged the validity of ibid Rule for two periods i.e., prior to 01.04.2025 (before statutory amendments

02 Question in Dispute



Whether Rule 39(1)(a) of the CGST Rules, 2017 is ultra vires Section 20 of the CGST Act, 2017 and whether the legal requirement to distribute credit in the same month as the receipt of an invoice is manifestly arbitrary and violative of Article 14 of the Constitution of India?

03 Judgment



The Hon'ble Madras High Court held that while Rule 39(1)(a) of the CGST Rules, 2017 is not ultra vires to Section 20 of the CGST Act, 2017, it must be interpreted harmoniously with Section 16(2) of the CGST Act, 2017. The key findings are as follows:

1. Rule 39(1)(a) is intra vires of the CGST Act

The Court held that Rule 39(1)(a) has been validly framed under the rule-making power conferred by Section 164 read with Section 20 of the CGST Act. The Rule does not create any new substantive obligation but merely prescribes the manner and timeline for distribution of ITC, which is an integral part of the statutory scheme. The court further observed that prescription of timelines is within the scope of delegated legislation when it facilitates implementation of the Act.

2. Amendment to Section 20 is clarificatory and not substantive

The Court held that the insertion of the phrase "within such time and subject to such restrictions and conditions as may be prescribed" w.e.f. 01.04.2025 was held to be clarificatory in nature. The Court accepted the contention that the power to prescribe timelines was always implicit in the power to prescribe the "manner" of distribution. Consequently, Rule 39(1)(a) was held to be valid even for the pre-amendment period, thereby negating the argument of lack of legislative competence prior to 01.04.2025

3. Interpretation of Time limit for distribution to be read with Section 16(2)

The Court further held that the distribution mechanism is triggered only after various stages and conditions in Section 16(2) are satisfied. Therefore, the requirement to distribute in the "same month" refers to the month in which the registered person (ISD GSTIN) becomes legally entitled to the ITC, not necessarily the month the invoice was issued. Accordingly, the Court rejected the contention that the requirement is impossible or arbitrary and it was held that the provision is procedural in nature and designed to streamline the GST framework and to ensure timely flow of credit to recipient units.

04 HNA Comments

This ruling is a significant win for operational realism as it clarifies that the ISD distribution mechanism is a trigger for legal credit, not just an automated response to receiving a piece of paper. The observations of the Court lean in favor of the taxpayers even though the Court had upheld the validity of the Rule.

1. Entitlement overrides the Invoice Date: "ITC available for distribution" does not simply mean the date written on a tax invoice. Distribution is only triggered once the business is legally entitled to the credit i.e., the underlying conditions for taking ITC must be fulfilled. This includes the actual receipt of services, reporting by the supplier in their returns, and the payment of tax to the government.

2. Mitigating Risk of Penalties: Distributing credit prematurely (before eligibility is verified) could lead to excess distribution, exposing the business to recovery proceedings, interest, and penalties. This judgment protects businesses from being forced into such "absurd" scenarios.

3. Operational Pragmatism: The Court acknowledged that verifying whether a service is attributable to a specific unit or whether credit is "eligible" takes time. The requirement to distribute in the "same month" now refers to the month in which the conditions for entitlement are finally met.



High Court Restricts State Tax Officers From Detaining Goods In Transit Attracting Igst

[Golden Traders & Ors. v. Deputy Commissioner of State Tax & Ors. W.P. No. 541 of 2026 – Andhra Pradesh High Court]

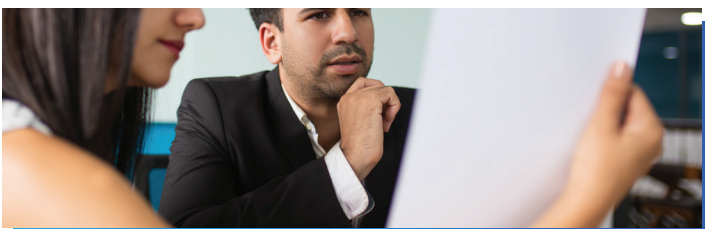
01 Facts of the Case



The Petitioners were transporting goods in the course of inter-state trade, where both the origin and destination of the goods were outside the State of Andhra Pradesh. During transit through Andhra Pradesh, the consignments were intercepted by State tax officers and detained. Proceedings were initiated under Sections 129 and 130 of the GST law, primarily alleging undervaluation, mismatch between goods and documents, or discrepancies in quantity.

The Petitioners contended that since the movement was purely inter-state and attracted IGST, the Andhra Pradesh State authorities had no jurisdiction to initiate proceedings for detention or confiscation. The Petitioners also argued that valuation disputes could not be adjudicated in proceedings under Sections 129 or 130 of the CGST Act, 2017.

02 Question in Dispute



Whether State tax officers are empowered to detain and confiscate goods under Sections 129 and 130 in cases of inter-state movement governed by the IGST Act?

03 Judgment



The High Court held that officers appointed under the APGST Act are not automatically to act under the CGST or IGST Acts unless the taxpayer has been administratively assigned to the State and the officer is specifically designated as the “proper officer” for that taxpayer. The Court clarified that cross-empowerment is not automatic and cannot be assumed merely by virtue of statutory provisions.

While holding that State officers may be cross-empowered for CGST matters where the taxpayer is assigned to the State, the Court

The Court held that in the case of inter-state movement of goods, the taxes do not accrue to the intermediary State and therefore the State through which goods merely pass cannot invoke confiscation powers under Sections 129 or 130 for IGST transactions.

The Court further observed that the purpose of Sections 129 and 130 is to safeguard tax revenue. Since no tax is payable to the transit State in IGST transactions, such State cannot appropriate penalties or fines by invoking confiscation powers. The Court also relied on several High Court decisions holding that disputes relating to valuation cannot be the basis for detention or confiscation under Sections 129 or 130, as such issues must be addressed through regular assessment proceedings. Accordingly, the Court held that the impugned confiscation orders were without jurisdiction and unsustainable in law.

04 HNA Comments

This judgment is a reminder that GST enforcement powers are not unfettered and businesses that understand their rights are far better placed to avoid unnecessary costs and disruptions. Some action points basis the Judgment are as below:

1. Know your jurisdiction:

Action by State officers is not automatic verify whether the taxpayer is actually assigned to that authority before accepting proceedings.

2. Don't accept detention on valuation grounds:

Mere undervaluation or price mismatch is not sufficient to invoke Sec. 129/130 when documents are otherwise in order.

3. Challenge transit-state interference in IGST movement:

Goods moving from one State to another cannot be routinely detained/confiscated by an intermediary State.

4. Move away from “pay and release” approach:

Where detention lacks legal basis, businesses should consider challenging it instead of absorbing penalties as a cost of logistics.

GSTAT Passes Its Order On Powers Of Appellate Authority Under Section 75(2) Of The CGST Act, 2017 Where The Proceedings Are Converted To Section 73 From Section 74

[M/s. Sterling & Wilson Private Limited v. Commissioner, Odisha Commissionerate of CT & GST & Ors. – 2026 (106) G.S.T.L. 84]

01 Facts of the Case



The Appellant was subjected to proceedings on account of mismatch between the outward supplies declared in GSTR-1 and the tax liability discharged through GSTR-3B for FY 2018–19. The differential amount was treated as short-paid tax. The Appellant explained that the difference arose due to credit notes, debit notes and adjustments of advances which could not be reflected in GSTR-1 due to system constraints, though the transactions were recorded in books and reflected in GSTR-3B.

The adjudicating authority nevertheless confirmed the demand under Section 74 of the CGST/OGST Act, imposing tax, interest and penalty on the premise of non-reconciliation. On appeal, the First Appellate Authority held that there was no suppression, fraud or intent to evade tax and accordingly converted the proceedings from Section 74 to Section 73. However, it sustained the tax and interest demand and imposed a reduced penalty of 10% under Section 73(9). Aggrieved, the Appellant approached the GST Appellate Tribunal.

02 Question in Dispute



Whether the First Appellate Authority could convert proceedings from Section 74 to Section 73 without remanding the matter to the Proper Officer for fresh determination?

03 Judgment



The Tribunal held that once the First Appellate Authority accepted that there was no fraud, suppression or wilful misstatement, the invocation of Section 74 was unsustainable.

However, the Tribunal further observed that upon such finding, the authority could not itself proceed to redetermine tax and penalty under Section 73. In terms of Section 75(2) of the CGST Act, where proceedings under Section 74 are held unsustainable, the matter must be remanded to the Proper Officer to re-determine tax liability under Section 73.

The Tribunal noted that the First Appellate Authority had accepted that the transactions were supported by debit and credit notes duly recorded in the books of account, and that the principal discrepancy was non-reflection in periodic returns. It was further observed that the Appellant was not granted an adequate opportunity to reconcile returns, seek amendment or demonstrate that the recipients had reversed corresponding ITC.

Considering the transitional challenges in GST return filing during the relevant period, including system limitations and the impact of the pandemic period, the Tribunal held that the Appellant should be afforded an opportunity to reconcile returns and place supporting documents. Accordingly, the Tribunal set aside the orders to the extent they treated the matter as one under Section 73 and remanded the matter to the Proper Officer for fresh adjudication after allowing the Appellant an opportunity to file reconciliation statements, amendments, and supporting evidence.

04 HNA Comments

This decision reinforces the procedural safeguards embedded in GST law, particularly in cases arising out of reconciliation issues rather than with intent to evade tax. The Tribunal observation on Section 75(2) of the CGST Act, 2017 that once fraud or suppression is ruled out, the matter must be reconsidered under Section 73 by the Proper Officer rather than being finally determined at the appellate stage may result in multiple rounds of litigation. Further, the Tribunal had adopted a liberal approach that genuine taxpayers facing reconciliation mismatches, especially during the early years of GST implementation, should be afforded a meaningful opportunity to correct errors, amend returns and demonstrate tax compliance before being saddled with demands, interest or penalties.



3

Updates in GST, Customs and FTP.



GST

Notification-Central Tax

Notification No. and Date of issue	Subject
Notification No. 01/2026 – CT dated 21-April-2026	<p>Seeks to extends the due date for furnishing the return in FORM GSTR-3B for the month of March, 2026 till the twenty-first day of April, 2026.</p> <p><u>Summary:</u></p> <p>Extends the due date for furnishing the return in FORM GSTR-3B for March 2026 till 21 April 2026 for registered persons required to furnish return under section 39(1) read with rule 61(1)(i) of the Central Goods and Services Tax Rules, 2017. The extension is issued under section 39(6) of the Central Goods and Services Tax Act, 2017, on the recommendations of the GST Council, and comes into effect from 20 April 2026.</p> <p><u>Read more:</u> https://taxinformation.cbic.gov.in/view-pdf/1010630/ENG/Notificationshttps://taxinformation.cbic.gov.in/view-pdf/1010630/ENG/Notifications</p>

GST

Circulars

Notification No. and Date of issue	Subject
	No Updates

GST

Notifications-Central Tax (Rate)

Notification No. and Date of issue	Subject
Notification No. 01/2026 – CTR dated 30-April-2026	<p>Seeks to amend Notification No 9/2025 - Central tax (Rate) to align them with changes made vide Finance Act, 2026.</p> <p><u>Summary:</u></p> <p>The Central Government has amended the CGST rate notification to align schedule entries with changes made by the Finance Act, 2026. It revises tariff classification entries in Schedule I at 2.5% and Schedule III at 20% by substituting the specified HSN codes against the relevant serial numbers, including goods classified under heading 2202 99 and related sub-classifications. The notification is issued under the CGST Act on the recommendation of the Council and takes effect from 1 May 2026.</p> <p><u>Read more:</u> https://taxinformation.cbic.gov.in/view-pdf/1010645/ENG/Notifications</p>

Notification No. and Date of issue	Subject
<p>Notification No. 12/2026 – Customs(T) dated 01-April-2026</p>	<p>Exemption from Basic Customs Duty on Specified Chemicals, Petrochemicals, and Polymer Products u/s 25(1) of the Customs Act, 1962</p> <p>Summary:</p> <p>The Ministry of Finance has issued Notification No. 12/2026–Customs, dated April 01, 2026, which grants exemption from basic customs duty on specified goods when imported into India. The exemption applies to goods listed in the Table annexed to the notification, covering various chemicals, petrochemicals, and polymer products classified under specified tariff headings of the Customs Tariff Act, 1975.</p> <p>In a targeted relief, the government grants full customs duty exemption on critical petrochemical products in view of the ongoing conflict in West Asia. The exemption operates under section 25(1) of the Customs Act, 1962, as a public-interest measure. The notification is time-bound, coming into force on 2 April 2026 and remaining effective up to and inclusive of 30 June 2026.</p> <p>Read more: https://taxinformation.cbic.gov.in/view-pdf/1010617/ENG/Notifications</p>
<p>Notification No. 13/2026 – Customs(T) dated 01-April-2026</p>	<p>Exemption Notification for Agriculture Infrastructure and Development Cess</p> <p>Summary:</p> <p>The Ministry of Finance has issued Notification No. 13/2026–Customs(T), dated April 01, 2026, which grants exemption from the Agriculture Infrastructure and Development Cess (AIDC) on the import of ammonium nitrate under tariff item 3102 30 00, with the rate set at nil.</p> <p>The notification is issued under section 25(1) of the Customs Act, 1962, read with section 124 of the Finance Act, 2021, and applies from 2 April 2026 up to and inclusive of 30 June 2026.</p> <p>Read more: https://taxinformation.cbic.gov.in/view-pdf/1010617/ENG/Notifications</p>
<p>Notification No. 14/2026 – Customs(T) dated 30-April-2026</p>	<p>Seeks to amend various Customs Notifications to align them with changes made vide Finance Act, 2026</p> <p>Summary:</p> <p>The Ministry of Finance issued Notification No. 14/2026–Customs dated April 30, 2026, to amend various customs exemption and tariff notifications in order to align the existing tariff entries with the changes introduced under the Finance Act, 2026.</p> <p>The notification primarily revises, substitutes, omits, and reclassifies specified tariff items across several customs exemption and import tariff notifications. The amendments cover a broad range of goods, including machinery parts, food preparations, chemicals, leather products, paper goods, articles of iron and steel, electrical components, and certain beverage and cosmetic preparations. Further, a number of entries have been rationalised through the splitting or refinement of tariff descriptions, along with corresponding updates to the applicable duty rates for specified goods.</p> <p>Read more: https://taxinformation.cbic.gov.in/view-pdf/1010638/ENG/Notifications</p>

Notification No. and Date of issue	Subject
<p>Circular No. 18/2026 Dated 01-April-2026</p>	<p>Assessment of Bills of Entry filed for goods manufactured by SEZ units and cleared to Domestic Tariff Area (DTA) under concessional rate.</p> <p>Summary:</p> <p>The CBIC has issued a new circular providing clarity on the assessment procedure for Bills of Entry filed for goods supplied from SEZ units to the Domestic Tariff Area under concessional duty benefits. To avail of these benefits, eligible SEZ manufacturing units must file the Bill of Entry for home consumption on the common portal for assessment under the Customs Act and its rules.</p> <p>These Bills of Entry are processed through Faceless Assessment and the Risk Management System, though all existing SEZ filing and compliance requirements remain unchanged. While the assessment is centralised, post-assessment functions continue to be managed by the jurisdictional specified officer or authorised officer. Any grievances related to this procedure are to be routed through the ICEGATE Helpdesk.</p> <p>Read more: https://taxinformation.cbic.gov.in/view-pdf/1010617/ENG/Notifications</p>
<p>Circular No. 19/2026 Dated 10-April-2026</p>	<p>Procedure to handle export cargo originating from SEZ in view of disruption in maritime routes due to closure of the Strait of Hormuz- Section 143AA of the Customs Act 1962</p> <p>Summary:</p> <p>The Central Board of Indirect Taxes and Customs (CBIC), through Circular No. 19/2026-Customs dated April 10, 2026, prescribes a procedure for handling export cargo originating from SEZs and affected by disruptions in maritime routes arising from the closure of the Strait of Hormuz, where cargo originally cleared from SEZs is lying at gateway ports. On request of the exporter, the originating SEZ may cancel the LEO/Shipping Bill, after which the Customs officer at the gateway port may permit movement of the cargo out of the port for return to the exporter or for re-routing, subject to compliance with the Customs Act, 1962. The cargo need not be taken back to the originating SEZ, and the custodian at the gateway port is to ensure proper accounting. These facilitation measures remain effective until April 30, 2026.</p> <p>Read more: https://taxinformation.cbic.gov.in/view-pdf/1003319/ENG/Circulars</p>
<p>Circular No. 20/2026 Dated 10-April-2026</p>	<p>Clarification regarding remission or rebate in case of short realisation of sale proceeds by exporters under RoDTEP and RoSCTL schemes.</p> <p>Summary:</p> <p>The CBIC has clarified that export rebate treatment allows full FOB-based benefits for RoDTEP and RoSCTL despite short realisation conditions.</p> <p>Clarification is issued on the treatment of short realisation of export sale proceeds for the grant of RoDTEP and RoSCTL benefits. The same approach applied to duty drawback is made applicable to these schemes: remission or rebate may be granted on the full FOB value without deducting agency commission and foreign banking charges, subject to the prescribed 12.5% limit of FOB value.</p> <p>Furthermore, compensation received from the Export Credit Guarantee Corporation may be treated as receipt of sale proceeds, and remission or rebate may not be recovered if the required write-off and certification conditions are satisfied.</p> <p>Read more: https://taxinformation.cbic.gov.in/view-pdf/1003320/ENG/Circulars</p>

Notification No. and Date of issue	Subject
Circular No. 21/2026 Dated 15-April-2026	<p>Procedure to handle export cargo containers offloaded at foreign ports and subsequently returned to India, in view of disruption in maritime routes due to closure of the Strait of Hormuz- Section 143AA of the Customs Act, 1962</p> <p><u>Summary:</u></p> <p>The CBIC, under the Ministry of Finance, has issued Circular No. 21/2026-Customs dated April 15, 2026, prescribing a streamlined procedure for handling export cargo containers originating from India that are offloaded at intermediate foreign ports and subsequently returned to Indian ports due to disruptions in maritime routes. The measure requires SAM filing, verification of container and seal particulars against shipping documents, conditional relaxation from Bill of Entry filing where seal integrity is intact, cancellation of Shipping Bills and LEO through the prescribed EDI module, and compliance with back-to-town procedures. Tampered or non-intact seals trigger 100% examination and re-import procedures, with recovery of export incentives where already disbursed.</p> <p>It has also been specified that the relaxation measures introduced under this circular will remain in force up to 30 April 2026.</p> <p><u>Read more: https://taxinformation.cbic.gov.in/view-pdf/1003321/ENG/Circulars</u></p>



GST Portal Update



Sl.No	Date	Functionality	Particulars
01	01-04-2026	Gross and Net GST revenue collections for the month of Mar 2026	<p>The Gross and net revenue for the month of Mar-26 was declared. The same can be checked by clicking on –</p> <p>https://tutorial.gst.gov.in/downloads/news/monthly_gst_data_for_mar_2026_for_publishing_final.pdf</p>
02	03-04-2026	Difficulty in filing appeals on the GST portal in cases where adjudication orders reflect “NIL” demand due to prior voluntary payment	<p><u>1.Introduction:</u></p> <ul style="list-style-type: none">• It has come to the notice of GSTN that certain taxpayers are facing difficulties in filing appeals on the GST portal against demand orders wherein the demand amount is reflected as "NIL," despite the existence of a dispute regarding tax liability.• This situation generally arises in cases where the taxpayer has made payment of tax, interest, or penalty (fully or partially) at the stage of issuance of the Show Cause Notice (SCN), without admitting the liability, and the adjudicating authority has subsequently issued a demand order treating such payment as full discharge of the demand without explicitly determining and recording the liability. <p><u>2.System Behaviour on GST Portal (Demand and Collection Register – DCR)</u></p> <ul style="list-style-type: none">• When a demand order is issued by the tax officer, the GST portal creates a Demand ID in the Demand and Collection Register (DCR), also known as the liability ledger.• In cases where the tax officer issues a demand order with a NIL amount, an entry is created with zero value, indicating that there is no outstanding liability. When the taxpayer attempts to file an appeal application (APL-01) against such a demand order, the portal restricts the filing of the appeal and may display an error such as: "Disputed amount cannot be more than demand amount itself."• Since no liability is reported by the tax officer on the GST portal, the system blocks the taxpayer from filing an appeal. <p><u>3. Nature of Issue:</u></p> <p>It is clarified that:</p> <ul style="list-style-type: none">• Payment made during the SCN stage, without explicit admission of liability, does not amount to acceptance of the demand.• In such cases, the taxpayer retains the right to contest the liability and file an appeal under Section 107 of the Central Goods and Services Tax Act, 2017. <p>However, where the adjudication order incorrectly reflects a "NIL" demand, the taxpayer is unable to exercise this statutory right due to the NIL demand reflected in the system.</p> <p><u>4. Alternate solution:</u></p> <p>In cases where a dispute regarding liability exists but is not captured by the department in the demand order, and payment has been made prior to the issuance of the demand order, the taxpayer is advised to approach the adjudicating authority for issuance of a rectification order.</p> <p>The taxpayer may file such rectification requests using the option available on the GST portal. Upon receipt of the rectification order reflecting the correct demand amount, the taxpayer may proceed to file an appeal on the GST portal within the prescribed time limits.</p>

03	10.04.2026	Pre-deposit Percentage in the GST Portal	<p>While filing an appeal in Form APL-01 on the GST portal, the pre-deposit percentage is auto-populated as 10% in accordance with Section 107(6) of the CGST Act, 2017, and was previously non-editable. Due to this restriction, taxpayers faced difficulties in cases where the pre-deposit had already been made through other means or where the demand amount was incorrectly reflected under the appropriate head.</p> <p>To address these issues, GSTN has now made the pre-deposit field editable at the time of filing the appeal, from April 6th, 2026. This allows taxpayers to modify the pre-deposit percentage as applicable to their specific case and calculate and pay the required amount accordingly while submitting the appeal. The appellate authority will subsequently verify the correctness of the pre-deposit amount and the mode of payment during the adjudication of the appeal.</p>
04	16.04.2026	Advisory on Re-Computation of Interest under Table 5.1 of GSTR-3B	<p>Please click on the link below to access the detailed advisory for taxpayers wherein the system-calculated interest for the February 2026 period which has been wrongly calculated and auto-populated in the March 2026 GSTR-3B. The advisory elaborates the process that needs to be followed by taxpayer for correct calculation of the interest.</p> <p>https://tutorial.gst.gov.in/downloads/news/advisory_on_interest_calculator_6th_march_2026.pdf</p>
04	21.04.2026	Introduction of IMS Offline Tool	<p>The Invoice Management System (IMS) was introduced on the GST portal from the October 2024 tax period enabling the taxpayers to take actions on invoices uploaded by their suppliers through GSTR-1, GSTR-1A, or IFF, including accepting, rejecting, or keeping such records pending in the system.</p> <p>To continuously enhance the taxpayer convenience and facilitate ease of compliance, an IMS Offline Tool has now been introduced in the GST system. The said offline tool is based on MS excel making it easy to use by the taxpayers and it enables them to undertake actions on both individual as well as bulk invoices in an efficient manner.</p> <p>For detailed advisory on the IMS offline tool kindly click on the https://tutorial.gst.gov.in/downloads/news/advisory_on_ims_offline_tool_23rd_april_2026.pdf</p>



Firm Updates and Achievements



Firm Updates and Achievements

Congratulations to Padala Venkatesh Reddy from the Vijayawada Branch for securing the Runner-up position in the Badminton competition conducted at the SICASA Vijayawada Sports Meet 2026.



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1. Delivered a technical session on “Drafting of Show Cause Notice Replies” at the GST Conference held in Ahilyanagar.



2. Delivered a session at the 3-Day Seminar on Indirect Tax Litigation – GST, Customs & FTP organized by ICAI Bibwewadi, covering practical and litigation-oriented aspects under GST.



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