

# GST NEWSLETTER

COMMERCIAL TAX DEPARTMENT, GOVERNMENT OF KARNATAKA

COMMERCIAL TAX OFFICES

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## FROM THE DESK OF EDITOR



**S.R. Thulasidas**  
Editor

As we enter the penultimate month of the 2025–2026 financial year, it is imperative to intensify efforts towards achieving the revenue targets set for the year. Special emphasis must be placed on recovering arrears, reversing ineligible Input Tax Credit (ITC), monitoring and enforcing compliance against non-filers, and expediting adjudication and inspection proceedings. Officers are expected to strategically channelize their energy, adopt a result-oriented approach, and ensure effective implementation of statutory provisions to meet the determined goals within the stipulated time frame.

This edition of the newsletter presents a comprehensive indexing of previously reported judgements, enabling officers to easily refer to important legal precedents. It also features insightful articles covering

critical areas such as audit, adjudication, enforcement measures, and suo-moto revision proceedings. Additionally, the inclusion of significant High Court and KSTAT judgements provides valuable guidance and clarity on evolving legal interpretations, which will assist officers in strengthening their decision-making and enhancing the quality of tax administration.

Officers are once again encouraged to actively contribute to the newsletter by sharing their experiences, case studies, and analytical insights. Such participation will not only enrich the content but also help in building a robust knowledge-sharing platform. Collective efforts and continuous learning will ensure that the newsletter remains a meaningful and enduring resource for professional development and administrative excellence.

### *Editorial* Committee:

**M. P. Ravi Prasad**

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**K. S. Rajesh**

**B. R. Raghavendra**

## HIGHLIGHTS OF GST

- At 13.68 crores, e-way bill generation surges to second all-time high in Jan.
- E-way bill generation up 43% in January.
- Centre, states working on GST e-way bill reform.
- Next GST Council meeting likely to focus on registration, audit, refunds.
- Edu. Consultancy Services Eligible for GST Refund.
- Registration of new firms hits all-time high in Dec.
- GST Summons are for Inquiry, Don't Amount to Detention: HC.
- Cess and surcharge money spent to benefit states: FM
- No reduction in States' share in tax devolution, FM asserts in Lok Sabha.



**Chief Minister Siddaramaiah**, who also manages the finance portfolio, is set to present his 17th state budget – the highest by any Karnataka CM – on March 6. He has already initiated pre-budget consultations ahead of the March 6–27 budget session. After proposing an outlay of 4.1 lakh crore for 2025-26, he is likely to expand the 2026-27 budget by nearly 10% while maintaining fiscal discipline and supporting economic growth.

## Index of Judgments

Sl. No.	Petitioner	Respondent	Year	Court	WP / Appeal No.	Issue / Crux of Judgment
1	M/s. Kandan Hardware Mart	The Assistant Commissioner	2023	The Madras High Court	27029/2023	The Madras High Court held that while levy of late fee under Section 47 of the GST Acts is mandatory, its quantum must strictly adhere to statutory relaxations granted under Section 128, including Notification No. 07/2023–Central Tax, and any demand ignoring such notifications is legally unsustainable. The Court further ruled that assessment orders passed mechanically without extending notification benefits and without proper opportunity of hearing violate principles of natural justice, warranting quashing and fresh recomputation.
2	M/s Raghuvansh Agro Farms Ltd.	State of Uttar Pradesh & Others (State GST Authorities)	2025	The Allahabad High Court	Writ Tax No. 3829 of 2025	The Allahabad High Court held that Section 74 proceedings are without jurisdiction if fraud, wilful misstatement or suppression with intent to evade tax are not specifically alleged and evidenced in the show cause notice, that mechanical invocation of the provision is impermissible, and that in the absence of statutory cross-empowerment State GST authorities cannot proceed against a Central GST assessee or disallow bona fide transactions supported by statutory records on conjectural grounds such as non-production of toll receipts.
3	M/s Linehaul Express India Pvt. Ltd	Commissioner of Service Tax, Delhi – III, Commissionerate,	2017	The CESTAT, New Delhi	Service Tax Appeal No. 51659 of 2017	The CESTAT, New Delhi held that extended limitation under Section 73 of the Finance Act, 1994 cannot be invoked without proof of fraud, wilful misstatement or suppression with intent to evade tax, mere non-payment or audit detection being insufficient, and while reverse charge tax on foreign courier services was upheld as Business Auxiliary Service, all penalties were set aside under Section 80 due to bona fide belief and absence of mens rea.
4	DEEPAK SINGHAL	Union Of India And Others	2024	High Court of Madhya Pradesh	W.P. No. 21641 of 2024	The Madhya Pradesh High Court held that since the GST Act is a special and complete code for investigation, penalties and prosecution, GST authorities cannot invoke IPC provisions for GST-related offences, and any prosecution initiated without invoking Sections 122 and 132 of the GST Act and without prior sanction of the Commissioner under Section 132(6) is an abuse of process liable to be quashed.
5	BirlaNu Ltd. (Input Service Distributor)	Union of India and 3 others	2024	High Court for the State of Telangana	W.P. No. 14564 of 2024	The Telangana High Court held that Rule 39(1)(a) of the CGST Rules, 2017 is ultra vires Section 20 of the CGST Act insofar as it mandated monthly ITC distribution by ISDs without statutory backing prior to 1 April 2025, and that denial of accumulated ITC, invocation of extended limitation, and audit completed without adequate opportunity violate principles of natural justice, warranting quashing of the audit report and show-cause notice.
6	Marcowagon Retail Pvt. Ltd. & Anr	Union Of India & Ors	2025	High Court of Gujarat	R/Special Civil Application	The Gujarat High Court held that penalty under Section 129 of the GST Act cannot be computed on “tax payable” in the case of zero-

Sl. No.	Petitioner	Respondent	Year	Court	WP / Appeal No.	Issue / Crux of Judgment
					No. 2234 of 2025	rated exports made under LUT where no output tax is payable, and though expiry of an e-way bill is a procedural lapse, penalty cannot be imposed on a notional tax amount not contemplated by the statute.
7	M/s Om Enterprises	Additional Commissioner (Grade-2) and Others	2025	High Court of Judicature at Allahabad	WRIT TAX No. 629 of 2023	The Allahabad High Court held that when a valid e-way bill is generated before interception of goods, mere non-availability at the time of checking—without any finding of mens rea or intent to evade tax—cannot justify detention, seizure or penalty under Section 129 of the GST Act, and any amount collected pursuant thereto is liable to be refunded.
8	M/s Paradeep Phosphates Ltd	Additional Commissioner, GST (Appeals)	2024	Orissa High Court	WP(C) No. 11618 of 2024	The Orissa High Court held that where GST is collected without authority of law and later declared unconstitutional, the State must refund the tax along with interest by way of restitution—arising from constitutional principles and equity and not limited by Section 56—even if the refund is sanctioned within the statutory time limit, with interest payable from the date of deposit till the date of refund
9	M/S Kiran Enterprises	State Tax Authorities / State of Uttar Pradesh & Others	2025	The Allahabad High Court (Lucknow Bench)	WRIT TAX No. 1441 of 2025	The Allahabad High Court (Lucknow Bench) held that after cancellation of GST registration, service of show cause notices and demand orders only through the GST portal is invalid and violative of natural justice, quashed the orders for defective service, and granted liberty to the department to initiate fresh proceedings by serving notices through lawful modes.
10	Director General of Anti-Profitteering (DGAP)	Pan Realtors Pvt. Ltd.	2025	Goods and Services Tax Appellate Tribunal (GSTAT), Delhi – Principal Bench	NAPA/125/P B/2025	The GST Appellate Tribunal, Delhi upheld the violation of Section 171 of the CGST Act by Pan Realtors Pvt. Ltd. for not passing on even a marginal post-GST ITC benefit, accepted the DGAP's area-based profiteering calculation, and, noting voluntary payment, directed refund of the profiteered amount with interest and closed the proceedings upon compliance.
11	A.M. Marketplaces Pvt. Ltd.	Union of India & Others	2025	High Court of Bombay, Nagpur Bench	WP No. 7941 of 2025	The Bombay High Court (Nagpur Bench) held that the mandatory three-month gap between a show cause notice under Section 73(2) and the adjudication order under Section 73(10) of the CGST Act must be strictly followed regardless of limitation, and quashed the notice and order passed within a shorter period as violative of statutory safeguards and principles of natural justice.
12	M/s Fone Zone NXT	Commissioner, DGST & Others	2026	High Court of Delhi	WP 888 of 2026	The Delhi High Court held that a taxpayer cannot avoid liability for ex-parte GST assessment orders or provisional attachment by blaming non-receipt of notices on a Chartered Accountant, and declined to grant discretionary relief in the absence of due statutory compliance.
13	S. S. Civil Construction Private Limited	Assistant Commissioner of Revenue, State Tax & Others	2025	High Court at Calcutta	WPA 27535 of 2025	The Calcutta High Court held that upon payment of the statutory 10% pre-deposit under Section 112(8) of the GST Act, recovery proceedings including bank attachment must be stayed in terms of Section 112(9) pending appeal before the GST Appellate Tribunal.



**Empowering Minds:**  
A Transformative Training Session on  
**Commercial Tax Audits**

**Mohamad Rafi Pasha, DCCT**

As part of a proactive capacity-building initiative, the Commercial Taxes Department organized the Financial Accounting and Audit-R (FAA-R) training programme at Bengaluru to strengthen audit

capabilities and enhance the professional competencies of officers under the GST framework. The programme reflects the Department's commitment to equipping officers with practical knowledge, analytical skills, and system-based proficiency necessary for conducting effective and high-quality audits.

The training commenced with an interactive session that encouraged collaborative learning and active participation by officers, demonstrating their commitment to improving audit effectiveness and compliance monitoring. The sessions covered key aspects of GST audit planning, risk assessment, and transaction verification, enabling officers to understand the structured and legally sustainable audit workflow.

Significant emphasis was placed on strengthening accounting fundamentals and financial statement analysis, including interpretation of balance sheets, profit and loss accounts, and trial balances, and linking them with GST returns and compliance requirements. Officers were also trained to effectively utilize third-party data such as Income Tax returns, MCA records, RERA filings, and GST databases for cross-verification of disclosures and strengthening audit findings.

The programme addressed examination of related-party transactions, distinct persons, and cross-charge mechanisms to identify revenue risks. Sector-specific audit challenges in services, e-commerce, logistics, construction, and real estate were discussed, covering valuation, input tax credit, works contracts, joint development agreements, retention money, time of supply, TCS, and RCM compliance. Audits involving government contracts, including tender and contract verification, were also covered.

Advanced audit methodologies for trading, manufacturing, and service sectors were discussed, focusing on inventory valuation, job work accounting, cost analysis, and risk-based audit planning. Officers received hands-on training on departmental audit systems, drafting audit reports, and understanding adjudication and recovery processes.

The programme concluded with officers gaining enhanced knowledge, practical skills, and confidence to handle complex GST audits, reaffirming the Department's commitment to strengthening audit quality and tax administration standards.



**T. Ramachandra**  
ACCT, LGSTO-20

**Scrutiny of Returns and  
Audit Proceedings under  
GST – Key Insights**

The Goods and Services Tax (GST) regime in India is founded on the principle of self-assessment, under which taxpayers are primarily responsible for accurately reporting their turnover, input tax credit (ITC), and tax liability. To protect government revenue and ensure adherence to statutory provisions, the law envisages scrutiny of returns and audit as key verification and compliance tools.

Scrutiny of returns, provided under Section 61 of the CGST Act read with Rule 99 of the CGST Rules, involves a preliminary examination of returns to detect inconsistencies or anomalies. Through risk-based parameters and data analytics, tax

authorities compare details reported in various returns and statements such as GSTR-1, GSTR-3B, GSTR-9, e-way bills, and ITC reflected in GSTR-2A/2B. If discrepancies are identified, the proper officer issues a notice in Form ASMT-10, calling upon the taxpayer to offer an explanation or undertake corrective measures. Based on the response furnished, the matter may be closed or escalated into audit, investigation, or demand proceedings under Sections 73 or 74 of the Act & Section 74-A of the Act applicable from financial year 2024-25, it streamlines provisions of determination of GST, interest, penalties, in case of nonpayment of

short payment or incorrect avilment of ITC, it introduces uniform notice period of 42 months from the due date of the annual return, irrespective of whether the cases involves fraud, wilful misstatement by replacing the earlier separate time line prescribed under section 73 & 74 of the GST Act.

Audit under GST entails a more comprehensive verification of records to confirm the correctness of declared turnover, tax payments, and ITC availed. Departmental audits under Section 65 are conducted by tax authorities, while special audits under Section 66 may be ordered in complex cases and carried out by nominated chartered or cost accountants. Further, specified taxpayers are required to conduct self-audit and reconciliation through the annual return and reconciliation statement in GSTR-9 and GSTR-9C.

Although scrutiny and audits are essential for ensuring compliance and safeguarding revenue, issues such as data mismatches, ITC reconciliation challenges, and increased compliance costs remain. Adoption of robust accounting systems, regular reconciliations, and effective use of technology can significantly mitigate these concerns. Overall, well-implemented scrutiny and audit mechanisms enhance transparency, promote accuracy, and foster voluntary compliance under the GST framework.



**Smt. M. D. Suma**  
JCCT (Enf), Belagavi

**Enforcement Proceedings  
under GST:  
Ensuring Compliance while  
Safeguarding Taxpayer  
Rights**

The Goods and Services Tax (GST), implemented from 1 July 2017, marked a significant transformation by integrating India's multiple indirect taxes into a single, comprehensive system. An effective enforcement framework under GST is essential to ensure compliance, prevent tax evasion, and protect government revenue, while simultaneously upholding the rights and interests of taxpayers.

The enforcement mechanism is primarily governed by the provisions of the Central Goods and Services Tax (CGST) Act. Section 67 empowers tax authorities to carry out inspection, search, and seizure where there is reason to believe that tax evasion has occurred. Sections 73 and 74 provide for determination of tax liability in cases of non-fraud and fraud respectively, differential treatment based on the nature of default. Penal provisions, including monetary penalties and prosecution, are contained in Sections 122 to 132, while Section 69 authorises arrest in serious cases involving wilful and deliberate evasion.

Section 74-A of the Act applicable from financial year 2024-25, it stream lines provisions of determination of GST, interest, penalties, in case of nonpayment of short payment or incorrect avilment of ITC, it introduces uniform notice period of 42 months from the due date of the annual return, irrespective of whether the cases involves fraud, wilful misstatement by replacing the earlier separate time line prescribed under section 73 & 74 of the GST Act.

GST enforcement proceedings usually follow a defined sequence, beginning with detection of non-compliance,

followed by issuance of summons or show cause notices, investigation, adjudication, and, where necessary, appellate remedies. Although these powers are crucial for effective tax administration, their exercise is subject to constitutional safeguards such as equality before law, protection against self-incrimination, and the right to life and personal liberty. These safeguards ensure that enforcement actions are carried out in a fair, transparent, and legally sustainable manner.

Nevertheless, challenges remain in the form of procedural complexities, technical limitations of the GSTN portal, allegations of excessive enforcement, and rising litigation. To overcome these issues, greater reliance on technology-driven risk assessment, theme-based inspections, improved inter-departmental coordination, and continuous capacity building of officers is required.

In conclusion, GST enforcement must balance firmness against evasion with fairness and transparency. Strengthening institutional processes and respecting due adjudicatory procedures will foster a more efficient, credible, and trust-based GST ecosystem.



**Smt. Meera Suresh Pandit**  
JCCT

### Adjudication under GST: Framework, Process and merging Challenges

Adjudication under the GST framework is a vital instrument for resolving disputes between taxpayers and tax authorities, while simultaneously promoting compliance, transparency, and fairness in tax administration. With the introduction of GST on 1 July 2017, a structured adjudication mechanism was established to provide a legal process for determination and recovery of additional tax liabilities arising from audits, inspections, investigations, or return mismatches.

The statutory foundation for GST adjudication primarily rests on Sections 73 and 74 of the CGST/KGST Acts, Section 74-A of the Act applicable from financial year 2024-25, it streamlines provisions of determination of GST, interest, penalties, in case of nonpayment of short payment or incorrect availment of ITC, it introduces uniform notice period of 42 months from the due date of the annual return, irrespective of whether the cases involve fraud, wilful misstatement by replacing the earlier separate time line prescribed under section 73 & 74 of the GST Act.

Which address cases involving non-fraud and fraud, wilful misstatement, or suppression of facts, respectively. These provisions are supplemented by the general principles laid down under Section 75. Proceedings are commonly triggered by audit observations under Section 65 or findings from inspections and searches under Section 67. The process formally commences with the

issuance of a Show Cause Notice in Form DRC-01, detailing the proposed tax demand. Taxpayers are afforded due opportunity to submit written replies, seek personal hearings, and produce supporting documents before a reasoned adjudication order is issued in Form DRC-07.

Statutory timelines form a critical element of the adjudication process. Show Cause Notices must be issued within three years in non-fraud cases and five years in fraud-related matters, calculated from the due date of the relevant annual return. Corresponding deadlines are prescribed for passing adjudication orders. Authorities such as DCCTs, ACCTs, and CTOs are expected to strictly follow principles of natural justice and issue well-reasoned, speaking orders.

Notwithstanding this comprehensive framework, challenges remain, including procedural delays, interpretational ambiguities, overlapping proceedings across different wings, and growing pendency. Strengthening e-governance, rationalising assignments, prescribing clear pecuniary limits, and adopting team-based and target-oriented approaches can significantly enhance efficiency. A streamlined adjudication system is crucial to safeguarding revenue while reinforcing taxpayer trust and fairness.

### Article on GST Credit notes, Financial/Commercial credit notes & Secondary/post sale discount



**K.S Rajesh, CTO**

### GST CREDIT NOTES UNDER SECTION 34 OF THE CGST ACT (CENTRAL TAX LAW NOTIFICATION 16/2025)

GST credit notes are statutory instruments issued under Section 34 of the CGST Act, 2017 to rectify cases where the taxable value or tax charged in the original tax invoice exceeds the amount actually payable. Such situations may arise due to post-sale discounts agreed upon prior to supply, return of goods, or deficiencies in the supply of goods or services.

A GST credit note directly impacts the taxable value and the output tax liability of the supplier. The supplier is legally permitted to reduce the output tax liability only upon fulfilment of the conditions prescribed under Section 15(3)(b) of the CGST Act.

One of the mandatory conditions is that the recipient must reverse the proportionate input tax credit attributable to the discount granted. Further, the credit note must be specifically linked to the corresponding original tax invoice.

GST credit notes are required to be reported in GSTR-1 within the prescribed time limits. Upon such reporting, the supplier's output tax liability stands reduced accordingly. Correspondingly, the recipient is required to reverse the input tax credit to the extent of tax reduced by the supplier.

This mechanism ensures revenue neutrality and prevents double benefit. While examining such cases, officers must verify the existence of a prior agreement and proper linkage of the credit note with the original invoice. Where all statutory conditions are satisfied, reduction of tax through GST credit notes is legally valid and admissible.

Ex;The original invoice was issued for Rs1,00,000 plus GST of Rs18,000, aggregating to Rs1,18,000, and it was subsequently ascertained that the correct invoice value should have been Rs90,000 plus GST of Rs16,200. Accordingly, the supplier issued a GST credit note for Rs10,000 along with GST of Rs1,800, thereby reducing the output tax liability by Rs1,800. Subject to recipient correspondingly reversed ITC of Rs1,800, rendering the transaction fully compliant with Section 15(3)(b) of the CGST Act.

### FINANCIAL / COMMERCIAL CREDIT NOTES UNDER GST (CIRCULAR 251 OF THE GST ACT)

Financial or commercial credit notes are issued purely for business, commercial, or accounting purposes and are not governed by Section 34 of the CGST Act, 2017. These credit notes do not result in any reduction of the taxable value or the GST charged in the original tax invoice.

Circular No. 251/08/2025-GST has categorically clarified the legal position regarding the treatment of such financial credit notes. Since there is no adjustment to the output tax liability, these credit notes fall outside the GST adjustment mechanism. Accordingly, the supplier issuing a financial or commercial credit note is not entitled to reduce the GST liability.

Consequently, the recipient is not required to reverse any input tax credit, as the tax component originally charged and paid to the Government remains unchanged. Such financial credit notes are also not required to be reported in GSTR-1 or in any other GST return and are accounted for only in the financial books of accounts.

Financial or commercial credit notes are commonly issued for purposes such as year-end rebates, commercial settlements, or goodwill adjustments.

The absence of any impact on taxable value or tax liability clearly distinguishes them from statutory GST credit notes issued under Section 34.

Therefore, financial credit notes are GST-neutral in nature and should be examined purely from a commercial and accounting perspective.

Ex;The original invoice was issued for Rs1,00,000 plus GST of Rs18,000, aggregating to Rs1,18,000, and at the year-end, a financial or commercial credit note for Rs10,000 was issued without GST. Since such credit note does not alter the value of supply under the CGST Act, there is no requirement for reduction of output tax liability by the supplier, nor any corresponding reversal of ITC by the recipient.

### SECONDARY / POST-SALE DISCOUNTS UNDER GST (CIRCULAR 251 & 253 OF THE GST ACT)

Secondary or post-sale discounts are discounts granted after the completion of supply, typically by manufacturers to dealers or distributors. In such cases, the dealer is provided the discount with a direction to pass on the benefit to the end customers. The GST treatment of these discounts is governed by the provisions of Section 15(3) of the CGST Act, 2017.

Circular No. 251/08/2025-GST provides the substantive legal clarification that, in principal-to-principal transactions, post-sale or secondary discounts merely reduce the dealer's margin and do not constitute consideration for any separate supply of goods or services. Where such discounts are not agreed upon prior to supply, they cannot be added to the value of supply and have no GST implication.

Accordingly, secondary discounts passed through financial or commercial credit notes, without prior agreement or invoice linkage, remain outside the GST valuation mechanism and do not result in any adjustment of output tax liability or reversal of input tax credit.

However, where the post-sale discount is pre-agreed before supply and specifically linked to relevant tax invoices, adjustment through a GST credit note is permissible, subject to strict compliance with the conditions prescribed under Section 15(3)(b) of the CGST Act. These discounts generally reduce the taxable value if they are linked to an agreement existing at or before the time of supply and the dealer reverses the corresponding Input Tax Credit (ITC).

Circular No. 212/06/2024-GST had earlier prescribed a procedural mechanism requiring documentary proof, such as CA/CMA certificates or undertakings,

for reversal of input tax credit. This procedural requirement has been completely withdrawn by Circular No. 253/10/2025-GST. Consequently, for the prospective period, officers cannot insist upon CMA certificates, undertakings, or similar procedural documents for ITC reversal.

Secondary or commercial discounts are valuation matters and do not amount to supply of services unless expressly contracted otherwise. Input tax credit reversal is not attracted unless the transaction squarely falls within Section 15(3)(b).

Ex;The supplier initially sold goods for Rs 1,00,000 and charged GST of Rs 18,000. Later, based on a discount agreement that already existed at the time of supply, the dealer was asked to sell the goods to customers at a lower price at Rs 90,000/-. Since this discount was pre-agreed and linked to the original invoice, the supplier issued a GST credit note for Rs 10,000 along with GST of Rs 1,800. The supplier can reduce his GST liability by Rs 1,800 only if the dealer reverses the same amount of input tax credit. If the dealer does not reverse the ITC, the conditions of the law are not met and the supplier cannot claim the tax reduction.

### Madras High Court Ruling on GST Late Fee: Key Relief for Taxpayers

**Madras High Court**  
W.P.No.27029 of 2023  
Dated: 02.01.2026

The Madras High Court, in a significant common order pronounced on 2 January 2026 in a batch of writ petitions led by W.P. No. 27029 of 2023, has clarified the legal position relating to the levy of late fee and penalty under the

Goods and Services Tax (GST) regime. The petitions challenged various assessment orders, show cause notices, and recovery proceedings issued for delayed filing of GST returns for the financial years 2017-18 to 2020-21.

The primary grievance of the petitioners was that the tax authorities had levied late fees under Section 47 and penalties under Section 125 of the GST Acts without extending the benefit of statutory relaxations granted by the Government. In particular, Notification No. 07/2023-Central Tax dated 31.03.2023, issued under Section 128 of the CGST Act, provided for waiver and rationalisation of late fees for delayed filing of annual returns for specified years. However, several assessment orders were passed mechanically, ignoring these beneficial provisions and without affording adequate opportunity of hearing.

The Court examined the scheme of Section 47, which prescribes late fee for delayed filing of returns, and emphasised that while the levy of late fee is mandatory, its quantum must strictly conform to the applicable notifications in force. Once the Government exercises its power to waive or cap late fees through a statutory notification, the tax authorities are bound to give effect to the same. Any demand raised in disregard of such notifications was held to be legally unsustainable.

The High Court also reiterated the importance of adherence to the principles of natural justice, observing that orders passed without granting proper opportunity to the taxpayer are liable to be set aside. Consequently, in most cases, the impugned orders were quashed and the authorities were directed to recompute the late fee by extending the benefit of Notification No.

07/2023-Central Tax and corresponding State GST notifications. Where coercive recovery actions had been initiated, consequential relief was also granted.

The Court held that although late fee under Section 47 of the GST Acts is mandatory, its quantum must strictly follow relaxations granted under Section 128 including Notification No. 07/2023-Central Tax, and any demand raised mechanically without extending such benefit or without proper opportunity of hearing violates principles of natural justice and is liable to be quashed with a direction for fresh re computation.

Editor

### Allahabad High Court Quashes Section 74 Proceedings for Lack of Jurisdiction and Absence of Fraud

**Allahabad High Court**  
Writ Tax No. 3829 of 2025  
Dated: 17.12.2025

In a significant ruling, the Allahabad High Court in M/s Raghuvansh Agro Farms Ltd. v. State of U.P. & Ors. (Writ Tax No. 3829 of 2025, decided on 17 December 2025) has set aside GST proceedings initiated under Section 74 of the UPGST Act, reaffirming key principles on jurisdiction, burden of proof, and procedural fairness.

The petitioner, engaged in the supply of agricultural goods and areca nuts, challenged assessment and appellate orders passed by State GST authorities. The core issues before the Court were (i) lack of jurisdiction of State GST authorities in the absence of cross-

empowerment, and (ii) invocation of Section 74 without establishing fraud, wilful misstatement, or suppression of facts.

The Court held that proceedings under Section 74 can be initiated only when the foundational ingredients—fraud, wilful misstatement, or suppression with intent to evade tax—are clearly alleged and supported by evidence in the show cause notice. In the present case, neither the notice nor the adjudication orders recorded any specific finding to this effect, rendering the entire proceedings without jurisdiction.

Importantly, the Court also accepted the petitioner's contention that State GST authorities lacked jurisdiction, as the assessee fell under Central GST jurisdiction and no general notification for cross-empowerment (except for refunds under Section 54) had been issued. The failure of the department to justify jurisdiction further vitiated the proceedings.

On merits, the Court noted that all purchases and sales were duly supported by tax invoices, e-way bills, bilties, GSTR-1, GSTR-2A and GSTR-3B, with payments routed through banking channels. The rejection of transactions merely due to non-production of toll plaza receipts was held to be perverse, as no such requirement exists under the GST law.

The ruling reinforces judicial discipline in GST enforcement, emphasizing that bona fide transactions supported by statutory records cannot be disallowed on conjectures. It also reiterates that Section 74 is an exceptional provision and must not be invoked mechanically, aligning with recent High Court and CBIC circular guidance aimed at preventing undue harassment of taxpayers.

The High Court held that Section 74 proceedings are without jurisdiction if fraud, wilful misstatement or suppression with intent to evade tax are not specifically alleged and evidenced in the show cause notice, that mechanical invocation of the provision is impermissible, and that in the absence of statutory cross-empowerment State GST authorities cannot proceed against a Central GST assessee or disallow bona fide transactions supported by statutory records on conjectural grounds such as non-production of toll receipts.

Editor

### CESTAT Clarifies Limits of Extended Limitation and Reverse Charge in Service Tax Matters

#### Customs, Excise & Service Tax Appellate Tribunal New Delhi

Service Tax Appeal  
No. 51659 Of 2017

In a significant ruling, the Customs, Excise & Service Tax Appellate Tribunal (CESTAT), New Delhi has provided important clarity on the invocation of extended limitation, reverse charge liability, and penalties under the erstwhile Service Tax regime. The decision came in the case involving a courier service provider engaged in cross-border logistics and allied services.

The Tribunal reaffirmed that extended period of limitation cannot be invoked mechanically. Mere non-payment or short payment of service tax, even if detected during audit, does not automatically amount to suppression of facts. For invoking the extended five-year limitation

under Section 73 of the Finance Act, 1994, the Revenue must clearly establish intent to evade tax, supported by positive evidence such as fraud, wilful misstatement, or deliberate suppression. The ruling reiterates settled judicial principles laid down by the Supreme Court that failure or omission, without mens rea, falls within the normal limitation period only.

On merits, CESTAT upheld the taxability of services received from foreign counterparts under the reverse charge mechanism, holding that overseas courier partners were providing Business Auxiliary Services to the Indian entity. Even though physical activities occurred outside India, the services were rendered to the Indian recipient, making them taxable under reverse charge provisions.

Importantly, the Tribunal set aside all penalties, invoking Section 80, on the ground that the assessee acted under a bona fide belief and there was reasonable cause for non-compliance. Penalties linked to extended limitation were held unsustainable once intent to evade was not proved.

The CESTAT, New Delhi held that extended limitation under Section 73 of the Finance Act, 1994 cannot be invoked without proof of fraud, wilful misstatement or suppression with intent to evade tax, mere non-payment or audit detection being insufficient, and while reverse charge tax on foreign courier services was upheld as Business Auxiliary Service, all penalties were set aside under Section 80 due to bona fide belief and absence of mens rea.

Editor

### **GST Prosecution Cannot Bypass Statutory Safeguards: High Court Reaffirms Legal Discipline**

#### **High Court Of Madhya Pradesh Writ Petition No. 21641 of 2024**

In a significant ruling strengthening procedural safeguards under GST law, the High Court of Madhya Pradesh (Indore Bench) has held that GST authorities cannot bypass the prosecution mechanism prescribed under the GST Acts by directly invoking provisions of the Indian Penal Code (IPC). The Court quashed an FIR registered under IPC sections relating to cheating and forgery, holding such action to be legally untenable when the alleged offences are squarely covered under the GST framework.

The case arose from GST search and seizure proceedings alleging issuance of invoices without supply of goods and wrongful availment of input tax credit. While the GST Act, 2017 comprehensively governs such violations through Sections 122 and 132, the authorities chose to initiate criminal proceedings under IPC without invoking GST penal provisions and, crucially, without obtaining mandatory prior sanction of the Commissioner under Section 132(6).

The Court emphatically ruled that the GST Act is a special legislation constituting a complete code for investigation, penalties, and prosecution of GST-related offences. When a special statute occupies the field, resorting to general penal law to circumvent statutory safeguards amounts to abuse of process. Allowing such a course would defeat legislative intent and erode taxpayer protections embedded in the Act.

Relying on settled principles that

special law prevails over general law, the Court clarified that police prosecution under IPC cannot substitute GST prosecution mechanisms where the offence originates from GST proceedings themselves. Any attempt to sidestep procedural checks—especially sanction requirements—was held impermissible.

The judgment reinforces that GST enforcement must strictly adhere to statutory procedures. Prosecution without invoking GST penal provisions and without Commissioner's sanction is vulnerable to judicial invalidation. For taxpayers and professionals, this decision is a vital reaffirmation of due process and rule of law in GST administration.

The Madhya Pradesh High Court held that since the GST Act is a special and complete code for investigation, penalties and prosecution, GST authorities cannot invoke IPC provisions for GST-related offences, and any prosecution initiated without invoking Sections 122 and 132 of the GST Act and without prior sanction of the Commissioner under Section 132(6) is an abuse of process liable to be quashed.

Editor

### **Telangana High Court Strikes Down Mandatory Monthly ITC Distribution for ISDs under GST**

**HIGH COURT FOR THE STATE OF TELANGANA**  
WRIT PETITION  
No.14564 of 2024  
DATE: 30.12.2025

In a significant ruling impacting Input Service Distributors (ISDs), the High Court for the State of Telangana, in Writ Petition No.14564 of 2024, has declared Rule 39(1)(a) of the CGST Rules, 2017 as ultra vires the CGST Act, 2017, to the extent it mandated monthly distribution of Input Tax Credit (ITC).

The case was filed by BirlaNu Ltd., registered as an ISD, challenging audit proceedings and a show-cause notice proposing a hefty penalty of over 8.38 crore. The tax authorities alleged that the company violated Rule 39(1)(a) by accumulating ITC during the financial year and distributing it only in March, instead of month-wise.

The Court undertook a detailed examination of Section 20 of the CGST Act, which governs ISD distribution of credit. It observed that, prior to 1 April 2025, the Act did not prescribe any time limit for distribution of ITC. By introducing a mandatory monthly timeline, Rule 39(1)(a) went beyond procedural regulation and imposed a substantive restriction not contemplated by the parent statute.

Relying on settled principles of delegated legislation, the Court held that rules cannot curtail or extinguish vested statutory rights in the absence of express legislative authority. The judgment also noted that once ITC is lawfully availed, it becomes a vested right, and denial on purely procedural grounds defeats the core GST objective of avoiding cascading taxes.

Additionally, the Court found serious violations of natural justice, observing that the audit was concluded hastily without granting adequate opportunity to respond. The invocation of extended limitation was also rejected, as all details were available on the GST portal and there was no suppression of facts.

Accordingly, the Court struck down the impugned portion of Rule 39(1)(a), quashed the audit report and show-cause notice, and granted consequential relief. This ruling provides substantial clarity and relief to ISDs and reinforces limits on delegated rule-making under GST.

The Telangana High Court held that Rule 39(1)(a) of the CGST Rules, 2017 is ultra vires Section 20 of the CGST Act insofar as it mandated monthly ITC distribution by ISDs without statutory backing prior to 1 April 2025, and that denial of accumulated ITC, invocation of extended limitation, and audit completed without adequate opportunity violate principles of natural justice, warranting quashing of the audit report and show-cause notice.

-Editor

### GST Enforcement & E-Way Bill Lapses: Gujarat High Court Draws a Clear Line

**High Court Of Gujarat**  
R/Special Civil Application  
No. 2234 of 2025  
Dated: 24.04.2025.

In a significant ruling, the High Court of Gujarat has provided much-needed clarity on the levy of penalty under Section 129 of the GST law in cases involving zero-rated supplies meant for export. The decision reiterates that penalty cannot be mechanically computed with reference to “tax payable” when no tax is actually payable on such supplies.

The case arose from detention of export-bound goods solely due to expiry of the e-way bill during transit. Despite the goods being undisputedly meant for export under LUT (zero-rated supply), the tax authorities imposed a penalty equivalent to 200% of the alleged tax, invoking Section 129(1)(a). The taxpayer challenged this action, arguing that while there was a procedural lapse, no tax was payable on zero-rated supplies, and therefore the computation of penalty itself was flawed.

The High Court accepted this contention. Drawing a crucial distinction between “tax leviable” and “tax payable”, the Court held that although IGST may be leviable in theory, tax payable on zero-rated export supplies is nil. Consequently, penalty linked to “tax payable” collapses. The Court further observed that zero-rated supplies, though different from exempt supplies, still do not attract any output tax, and hence cannot justify a penalty calculated as a percentage of tax.

Importantly, the Court clarified that procedural violations like e-way bill expiry can invite consequences, but such consequences must remain within the framework of the statute. Where no tax is payable, the law does not permit a penalty computed on a notional tax amount.

GST enforcement must balance compliance with legality. While procedural discipline is essential, penalties cannot exceed statutory limits or be imposed in a manner divorced from economic reality—especially in the case of exports, which the GST framework seeks to encourage through zero-rating.

The Gujarat High Court held that penalty under Section 129 of the GST Act cannot be computed on “tax payable” in the case of zero-rated exports made under LUT where no output tax is payable, and though expiry of an e-way bill is a procedural lapse, penalty cannot be imposed on a notional tax amount not contemplated by the statute.

- Editor

### E-Way Bill Generated Before Interception: Penalty Unsustainable – Allahabad High Court

**High Court Of Judicature at Allahabad**  
WRIT TAX No. - 629 of 2023

In a significant ruling reinforcing the principle of substance over form in GST enforcement, the High Court of Judicature at Allahabad has set aside penalties imposed under Section 129 of the GST Act where the e-way bill was generated prior to the interception of goods, though not physically available at the time of checking.

The case involved a trader in TMT iron bars whose consignment was intercepted during transit. While a valid tax invoice accompanied the goods, the e-way bill could not be shown immediately due to a technical glitch. Crucially, records established that the e-way bill had been generated at 10:59 a.m., whereas the vehicle was intercepted later at 11:29 a.m. Despite this, the goods were detained and penalty proceedings were initiated, which were upheld in appeal.

The High Court quashed both the detention and appellate orders, holding that once the e-way bill was generated prior to interception and produced during adjudication, no adverse inference of tax evasion could be drawn. The Court emphasized that none of the authorities had pointed out any defect in the e-way bill nor recorded any finding of intent to evade tax—an essential requirement for invoking penal provisions.

Distinguishing cases where e-way bills were generated after detention, the Court reiterated that procedural lapses, when cured before seizure and unaccompanied by mens rea, cannot justify harsh penalties. The ruling also ordered refund of any amounts deposited pursuant to the impugned orders.

GST enforcement must remain aligned with legislative intent. Mere technical or momentary lapses—when promptly rectified and unsupported by evidence of evasion—should not trigger punitive action. This judgment offers much-needed relief to compliant taxpayers facing rigid enforcement during transit checks.

The Allahabad High Court held that when a valid e-way bill is generated before interception of goods, mere non-availability at the time of checking—without any finding of mens rea or intent to evade tax—cannot justify detention, seizure or penalty under Section 129 of the GST Act, and any amount collected pursuant thereto is liable to be refunded.

-Editor

### GST Proceedings After Cancellation of Registration: High Court Reinforces Natural Justice

**High Court Of Judicature At Allahabad Lucknow**  
Writ Tax No. - 1441 Of 2025  
December 2, 2025

In a significant ruling strengthening procedural fairness under GST law, the High Court of Judicature at Allahabad, Lucknow Bench has held that issuing notices only through the GST portal after cancellation of registration violates principles of natural justice.

The case concerned a taxpayer whose GST registration had been cancelled in January 2021. Despite the cancellation and cessation of business activities, the tax department proceeded to issue show cause notices and pass demand orders under Section 73 of the Uttar Pradesh GST Act by merely uploading them on the GST portal. The taxpayer contended that once registration stands cancelled, there is no obligation to regularly monitor the portal, and any communication affecting rights must be served through alternative, effective modes.

Agreeing with this contention, the Court observed that portal-based service of notices presupposes an active registration and ongoing compliance obligations. After

cancellation, reliance solely on electronic upload is insufficient and fails the test of reasonable opportunity of being heard. The Bench reaffirmed earlier judicial precedent that service of notice is not a mere formality but a substantive requirement rooted in natural justice.

Consequently, the Court quashed multiple demand orders passed against the taxpayer, holding them to be legally unsustainable due to defective service of notice. However, liberty was granted to the department to initiate fresh proceedings by issuing proper notices through valid modes and to proceed in accordance with law.

This ruling is a crucial safeguard for taxpayers, emphasizing that procedural discipline binds tax authorities as much as substantive law. For practitioners and businesses, it underlines the importance of examining how notices are served, especially in post-cancellation scenarios. Any GST demand raised without proper service can be successfully challenged on grounds of violation of natural justice.

The Allahabad High Court (Lucknow Bench) held that after cancellation of GST registration, service of show cause notices and demand orders only through the GST portal is invalid and violative of natural justice, quashed the orders for defective service, and granted liberty to the department to initiate fresh proceedings by serving notices through lawful modes.

Editor

### Interest on Refund of Unconstitutional GST Levy: Orissa High Court Clarifies Law

**Orissa High Court**  
WP 11618 of 2024  
Dated: 22.01.2026

In a significant ruling, the Orissa High Court in *M/s Paradeep Phosphates Ltd. v. Additional Commissioner, GST (Appeals) (WP(C) No.11618 of 2024)* has held that interest is payable on refunds arising from taxes collected without authority of law, even if the refund itself is sanctioned within the statutory timeline under the GST law.

The case arose from the levy of IGST on ocean freight under reverse charge mechanism on CIF imports, pursuant to Notifications No. 8/2017-IGST (Rate) and 10/2017-IGST (Rate). Following the landmark Supreme Court decision in *Union of India v. Mohit Minerals Pvt. Ltd.*, which held such levy to be unconstitutional as violative of the concept of composite supply and Article 265 of the Constitution, the petitioner obtained a refund of IGST paid on ocean freight. However, the tax authorities denied interest on the refunded amount, contending that the refund was processed within 60 days as prescribed under Sections 54 and 56 of the CGST Act.

Rejecting this approach, the High Court drew a clear distinction between statutory interest on delayed refunds and interest payable by way of restitution. The Court held that when a tax is collected without authority of law and later declared unconstitutional, the State is bound not only to refund the amount but also to compensate the taxpayer for deprivation of the use of money. Such interest flows from constitutional principles, equity, and the doctrine of restitution, and is not confined to the contours of Section 56 of the CGST Act.

The Court directed payment of interest (inspired by the statutory rate of 6%) from the date of deposit till the date of refund. This ruling reinforces taxpayer rights and underscores that unconstitutional tax collections cannot be retained by the State without full restitution.

The Orissa High Court held that where GST is collected without authority of law and later declared unconstitutional, the State must refund the tax along with interest by way of restitution—arising from constitutional principles and equity and not limited by Section 56—even if the refund is sanctioned within the statutory time limit, with interest payable from the date of deposit till the date of refund

-Editor

### GSTAT Upholds Anti-Profiteering Finding in PAN Realtors Case

**GSTAT, Delhi**

NAPA/125/PB/2025

In a significant ruling under the anti-profiteering framework of GST, the Goods and Services Tax Appellate Tribunal (GSTAT), Delhi Principal Bench, has confirmed contravention of Section 171 of the CGST Act, 2017 by Pan Realtors Pvt. Ltd. in respect of its real estate project “PAN Oasis”, Noida. The Tribunal accepted the investigation report of the Director General of Anti-Profiteering dated 10.01.2025 and closed the proceedings upon compliance by the respondent.

The case originated from a complaint alleging that the benefit of additional input tax credit (ITC) arising post-GST was not passed on to homebuyers by way of commensurate reduction in prices. After multiple rounds of investigation and re-investigation—particularly in light of the landmark Delhi High Court judgment in Reckitt Benckiser India Pvt. Ltd. v. Union of India (2024)—the DGAP recalculated profiteering using an area-based methodology rather than the earlier ITC-to-turnover ratio.

The DGAP found a marginal increase of 0.009% in the ITC-to-purchase value ratio post-GST, resulting in

total profiteering of 35,800 plus GST of 4,296, aggregating to 40,096. This amount pertained only to 1,865 residential units sold prior to the issuance of the Occupancy Certificate on 17.01.2018, as units sold thereafter were treated as exempt supplies and kept outside the scope of Section 171.

Before the Tribunal, Pan Realtors unambiguously accepted the DGAP's findings and tendered a demand draft for the entire profiteered amount. Taking note of this voluntary compliance, GSTAT directed the respondent to refund 40,096 along with applicable interest to eligible homebuyers within 30 days and to file a compliance report.

This order reiterates that even marginal ITC benefits must be passed on and highlights the evolving jurisprudence on anti-profiteering in real estate post judicial scrutiny.

The GST Appellate Tribunal, Delhi upheld the violation of Section 171 of the CGST Act by Pan Realtors Pvt. Ltd. for not passing on even a marginal post-GST ITC benefit, accepted the DGAP's area-based profiteering calculation, and, noting voluntary payment, directed refund of the profiteered amount with interest and closed the proceedings upon compliance.

- Editor

### Mandatory Three-Month Gap Under Section 73: Bombay High Court Reaffirms Taxpayer Safeguards

**High Court Of Bombay**

Nagpur Bench, Nagpur  
WP No. 7941 Of 2025

In a significant ruling reinforcing procedural safeguards under GST law, the Bombay High Court (Nagpur

Bench) in A.M. Marketplaces Pvt. Ltd. v. Union of India (W.P. No. 7941 of 2025, decided on 17 January 2026) has held that maintaining a minimum gap of three months between issuance of a show cause notice under Section 73(2) and passing of the adjudication order under Section 73(10) of the CGST Act, 2017 is mandatory.

The core issue before the Court was whether this three-month period applies only when notices are issued close to the statutory limitation under Section 73(10), or whether it is compulsory even when notices are issued well within time. Relying on earlier rulings of the Delhi High Court (C.H. Robinson Worldwide Freight India Pvt. Ltd.) and the Andhra Pradesh High Court (Cotton Corporation of India), the Court clarified that the statutory intent behind Section 73(2) is to ensure a meaningful opportunity of hearing to the taxpayer.

The Court emphasized that the intervening three-month period is not a mere formality. It is essential to enable multiple statutory and natural justice requirements, including service of detailed statements, opportunity to make voluntary payment under Section 73(5), filing of replies, and availing personal hearings with possible adjournments. Any curtailment of this period would render these protections illusory.

In the present case, the show cause notice was issued on 15 May 2024 and the final order was passed on 9 July 2024—leaving a gap of less than two months. Holding this to be in clear violation of Section 73, the Court quashed both the notice and the adjudication order, remanding the matter for fresh consideration.

This ruling serves as a strong reminder that adherence to procedural timelines under GST is not optional and that taxpayer rights to due process must be strictly respected by tax authorities.

The Bombay High Court (Nagpur Bench) held that the mandatory three-month gap between a show cause notice under Section 73(2) and the adjudication order under Section 73(10) of the CGST Act must be strictly followed regardless of limitation, and quashed the notice and order passed within a shorter period as violative of statutory safeguards and principles of natural justice.

-Editor

### Delhi High Court Dismisses Plea Against GST Ex-Parte Orders and Provisional Attachment

**HIGH COURT OF DELHI**  
**W.P.(C) 888/2026**  
**22nd January, 2026**

In a significant ruling, the Delhi High Court, in *M/s Fone Zone NXT vs Commissioner, DGST & Ors.*, dismissed multiple writ petitions challenging GST assessment orders and provisional bank account attachments. The judgment, delivered on 22 January 2026, reaffirmed the responsibility of taxpayers to remain vigilant regarding statutory communications and compliance obligations.

The petitioner, a mobile phone and accessories dealer registered under GST since July 2017, was issued several show cause notices relating to alleged Input Tax Credit (ITC) mismatches and supplier registration cancellations. A demand of 2,32,166 was raised after the petitioner failed to respond to notices or attend personal hearings, leading to ex-parte orders under Section 73 of the DGST Act.

The petitioner argued that the registered email address on the GST portal belonged to his Chartered Accountant, who allegedly failed to communicate the notices. He sought relief from the Court, offering

to deposit 50% of the outstanding tax liability and requesting fresh hearing opportunities.

However, the Court rejected these submissions, holding that the taxpayer cannot shift responsibility onto professional representatives. The bench observed that the petitioner was aware that GST communications were routed through the Chartered Accountant and was expected to maintain proper coordination. The Court further noted the absence of any action taken by the petitioner against the Chartered Accountant for the alleged negligence.

The Court also declined to exercise discretionary or equitable relief merely on the taxpayer's willingness to deposit part of the demand, emphasizing strict adherence to statutory procedures. Consequently, all connected petitions were dismissed as lacking merit.

These ruling underscores the importance of active taxpayer engagement in GST compliance and highlights that reliance on intermediaries does not absolve statutory accountability.

The Delhi High Court held that a taxpayer cannot avoid liability for ex-parte GST assessment orders or provisional attachment by blaming non-receipt of notices on a Chartered Accountant, and declined to grant discretionary relief in the absence of due statutory compliance.

-Editor

### Calcutta High Court Allows Lifting of Bank Attachment on Statutory Deposit under GST Law

**Calcutta High Court**  
**WPA27535of2025**  
**December 24, 2025**

In WPA 27535 of 2025 – S. S. Civil Construction Private Limited vs.

Assistant Commissioner of Revenue, State Tax & Others, the Calcutta High Court addressed the issue of recovery proceedings and attachment of bank accounts during the pendency of appellate remedies under the GST framework.

The petitioner challenged the appellate order dated March 11, 2025 passed under Section 107 of the WBGST/CGST Act, 2017, which had dismissed its appeal against an earlier adjudication order dated April 25, 2024. Following the dismissal, the GST authorities initiated recovery proceedings and directed Punjab National Bank to remit 2.76 crore from the petitioner's account to the Government, leading to attachment of the bank account.

Before the High Court, the petitioner expressed willingness to deposit 10% of the disputed tax amount, as required under Section 112(8) of the GST Act, for filing an appeal before the GST Appellate Tribunal. The petitioner also sought lifting of the bank attachment and protection from further coercive recovery actions. The State authorities acknowledged that under Section 112(9) of the Act, once the prescribed pre-deposit is made, recovery proceedings for the remaining amount are deemed to be stayed.

Considering the submissions, the Court directed that upon deposit of 10% of the remaining disputed tax amount within two weeks, the attachment of the petitioner's bank account must be lifted forthwith. The Court further clarified that after such deposit, recovery proceedings for the balance demand shall remain stayed as per statutory provisions.

The Court also granted liberty to the petitioner to file an appeal before the GST Appellate Tribunal once it becomes operational. The ruling reinforces taxpayer protection against coercive recovery when statutory appellate remedies are exercised in compliance with prescribed pre-deposit requirements.

## Annexure of Judgments of previous editions along with editor comments

## Edition - 1

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 1 – Nov 2025)	Crux of the Case / Judgment
1	Safecon Lifescience (P.) Ltd. vs.	State Tax Authorities, Additional Commissioner Grade-2 & Another Uttar Pradesh	2025	Allahabad High Court	Writ Tax No. 389 of 2023	Edition 1 (Pg. 4) of Nov 2025	Section 74 cannot be invoked arbitrarily; it applies only in cases involving proven fraud, willful misstatement, or suppression of facts. Such invocation must follow a well-reasoned, speaking order establishing these elements through clear evidence, ensuring fairness, transparency, and adherence to the principles of natural justice.
2	Hindusthan Biri Leaves & Anr.	State Tax Authorities	2025	Calcutta High Court	WPA 8444 of 2024	Edition 1 (Pg. 5) of Nov 2025	Penalty under Section 129 cannot be imposed merely for expiry of e-way bill without any evidence of tax evasion or fraudulent intent. Mechanical detention and levy of 200% penalty were held arbitrary; refund was directed.
3	Nikita Agarwal	State Tax Authorities	2025	Calcutta High Court	WPA 8144 of 2025	Edition 1 (Pg. 5) of Nov 2025	GST registration cannot be cancelled based on a vague SCN alleging fraud or suppression without specific particulars. Retrospective cancellation is impermissible unless expressly proposed and justified. Registration was restored retrospectively.
4	M/s Parvinder Singh	State Tax Authorities, Bihar	2025	Patna High Court	CWJC No. 6949 of 2025	Edition 1 (Pg. 5) of Nov 2025	Demand arising solely from mismatch of returns cannot be sustained when tax has already been paid. Proceedings under Sections 73/74 were held unsustainable as the issue was only a technical lapse and not tax evasion.
5	M/s Anand And Anand	Joint Commissioner (Appeals), CGST	2025	Allahabad High Court	Writ Tax No. 1263 of 2023	Edition 1 (Pg. 6) of Nov 2025	Remand order passed by the Joint Commissioner (Appeals), CGST (Noida). The High Court held that
							under Section 107(11) of the CGST Act the Appellate Authority cannot remit matters back to the adjudicating authority and must itself confirm, modify, or annul the order
6	Opasil Pigments And Chemicals (P.) Ltd. (also along with M/s Shyam Enterprises in connected petitions	State GST Authorities	2025	Allahabad High Court	Writ Tax Nos. 613 & 604 of 2020	Edition 1 (Pg. 6) of Nov 2025	Review or recall of a concluded order is not permissible unless specifically directed by a higher appellate authority or forum; in the absence of such a mandate, the adjudicating authority lacks jurisdiction to revisit, modify, or reopen an order that has already attained finality under law.

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 1 – Nov 2025)	Crux of the Case / Judgment
7	M/S. TIRUMALA ELECTRONICS (CLOSED)	State of Andhra Pradesh	2025	Andhra Pradesh High Court	WP No. 19711 of 2025	Edition 1 (Pg. 6 7) of Nov 2025	An adjudication order issued under the Act must mandatorily contain a valid Document Identification Number (DIN) and bear the signature of the assessing officer, either through a secure digital signature or a physical signature, to ensure authenticity, traceability, and legal validity of the order.
8	M/s VRS Foods Ltd.	Addl. Commissioner Grade-2 & Ors.	2025	Allahabad High Court	Writ Tax No. 1016 of 2022	Edition 1 (Pg. 7) of Nov 2025	Penalty is liable to be imposed where a person transporting goods fails to produce the prescribed documents at the time of interception. The absence of mandatory documents, such as tax invoices, e-way bills, or delivery challans, constitutes a contravention of the GST provisions and attracts penal action to ensure compliance.
9	Hari Om Udyog	State GST Authorities, Uttar Pradesh	2025	Allahabad High Court	Writ Tax No. 4282 of 2025	Edition 1 (Pg. 7) of Nov 2025	Prior to passing any order, the adjudicating authority must afford the taxpayer a personal hearing and a reasonable opportunity of being heard. This procedural safeguard ensures transparency, upholds the principles of natural justice, and enables the taxpayer to explain the facts, submit supporting evidence, and respond to the issues raised. justice.

## Edition - 2

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 2 – Dec 2025)	Crux of the Case / Judgment
1	Commissioner , Trade & Taxes, Delhi	M/s Shanti Kiran India (P) Ltd.	2017	Supreme Court of India	Civil Appeal arising out of SLP	Edition 2 (Pg.2 & 3) of Dec 2025	Unless collusion is proved, input tax credit cannot be denied to a bona fide purchaser solely due to the seller's default or non-compliance. Where the purchasing taxpayer has acted in good faith, maintained proper records, and complied with all statutory requirements, the entitlement to ITC cannot be disallowed merely because of lapses on the part of the supplier
2	SMT. ASHA R& Others	GST Authorities, State of Karnataka	2024	Karnataka High Court	WP No. 2552 of 2024	Edition 2 (Pg. 3) of Dec 2025	The compensation amount, including solatium, pertains to a transaction involving immovable property. As transactions in immovable property are outside the scope of "supply" under GST law, such compensation does not attract GST and is not liable to tax under the GST Act.

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 2 – Dec 2025)	Crux of the Case / Judgment
4	K-9-Enterprises	State / GST Authorities	2024	Karnataka High Court	WA No. 100425 of 2023	Edition 2 (Pg. 4) of Dec 2025	Orders must not be vague, illegal, unreasoned, or non-speaking, as such orders are legally unsustainable. Authorities must form an independent, well-reasoned opinion grounded in the factual matrix of each case, ensuring clarity, justification, and transparency in the decision-making process.
5	Sri Kendaganneshwara Swamy Traders	Revisional Authority	2025	SMR-3	Suo moto revision under Section 108(1)	Edition 2 (Pg. 4 & 5) of Dec 2025	The SMR authority concluded that the FAA's order was erroneous, illegal, improper, and prejudicial to revenue. There vision was confirmed, the FAA's order was set aside, and the PO's original confiscation order under Section 130 dated 27.06.2024 was restored.
6	M/s J K Traders	Revisional Authority	2025	SMR-3	Section 108 revision	Edition 2 (Pg. 5) of Dec 2025	The SMR authority ultimately restored the confiscation order, concluding that intent to evade tax was clearly established, and the FAA erred by focusing solely on procedural defects without considering the substantive contraventions
7	M/s Wipro GE Health Care Pvt. Ltd.	GST Authority State of Karnataka	2025	Karnataka High Court	W.P. No.7317 of 2023 C/w W.P. 3689 of 2024 C/w W.P. 21146 of 2024	Edition 2 (Pg. 6) of Dec 2025	The High Court allowed all three writ petitions, quashed the impugned orders and show-cause notices, and directed the authorities to grant and release the refund with applicable interest to the petitioner within six weeks from receipt of the order.
8	Sri Pattegowda, Contractor	Revisional Authority	2025	SMR-3	Not Applicable (Revisional Proceedings under Section 108(1))	Edition 2 (Pg. 6 & 7) of Dec 2025	The SMR authority concluded that the taxpayer neither justified the delayed appeal nor substantiate deligibility for concessional GST rate. As a result, the FAA's order was set aside, and the adjudication order imposing GST at 18%, with consequential interest and penalty, was restored. The authority also directed the proper officer to proceed with recovery.
							The case pertained to the wrongful availment of ITC amounting to ₹29.90 lakh based on invoices issued by M/s Balaji Sales Corporation, which was subsequently found to be a non-existent, bogus entity. The petitioner failed to

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 2 – Dec 2025)	Crux of the Case / Judgment
9	Treco Wire India Pvt. Ltd.	Union of India & Ors.	2025	Delhi High Court	W.P.(C) No. 14428/2025	Edition 2 (Pg. 7) of Dec 2025	provide evidence of actual supply or business transactions and did not file an appeal within the period prescribed under Section 107 of the CGST Act. Since there was no violation of natural justice and the factual findings had already been finalized, the High Court declined to intervene and dismissed the petition.
10	M/s Amit Metalics Company	Joint Commissioner of State Tax, Rourkela-II	2025	Orissa High Court	W.P.(C) No. 24393/2025	Edition 2 (Pg. 8) of Dec 2025	The petitioner was alleged to have wrongly claimed ITC based on invoices from M/s Swastik Trade Ventures and M/s MG Trade & Services, both of which were found to be non-existent. Investigations uncovered significant factual discrepancies, including one landowner having been deceased for a decade and another denying any lease agreement. In view of these disputed facts, the High Court declined to intervene under writ jurisdiction and directed the petitioner to pursue the appropriate statutory appellate remedy.
11	Mathur Polymers	CGST Department	2025	Supreme Court of India	SLP (C) Diary No. 50279/2025	Edition 2 (Pg. 9) of Dec 2025	Service of notices to the e-mail address registered by the taxpayer on the GST portal is deemed valid and duly effected. Moreover, when fraudulent ITC transactions span multiple tax periods and are interconnected, issuing a consolidated notice is both appropriate and legally justified. A unified notice allows for a comprehensive adjudication of all related transactions, avoids multiplicity of proceedings, and ensures procedural efficiency and legal consistency. This approach enables proper evaluation of the complete chain of transactions, prevents fragmented assessments, and ensures the matter is addressed in a holistic and lawful manner
							The leasehold rights granted to the lessee pursuant to land allotment by the Department of Industries and Commerce constitute a transfer of interest in immovable property, akin

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 2 – Dec 2025)	Crux of the Case / Judgment
12	M/s Siemens Ltd.	Union of India & Ors.	2025	Gujarat High Court	Special Civil Application No.15003/2025	Edition 2 (Pg. 9) of Dec 2025	in immovable property, akin to the sale of land. As such, these transactions fall under dealings in land and are expressly excluded from the scope of GST. Consequently, the grant or assignment of leasehold rights does not amount to a taxable supply, and the transaction remains outside the GST net.
13	M/s Balaji Enterprises / M/s Pharmaid Health Care	State Tax Authorities	2025	Allahabad High Court	Writ Tax No. 324/2022	Edition 2 (Pg. 9 & 10 ) of Dec 2025	The transporter cannot be held liable for discrepancies that are solely attributable to the consignor or owner of the goods, particularly where there is no evidence of collusion, misrepresentation, or deliberate intent to evade tax. In the absence of any material proof showing the transporter's knowledge of or involvement in the discrepancy, penal action is unwarranted. Responsibility lies primarily with the party responsible for the irregularity, not with a bona fide transporter carrying out routine goods transportation.
14	R.M. Services	Assistant Commissioner of Commercial Taxes, Ranebennur	2025	Karnataka High Court, Dharwad Bench	WP No. 107444 of 2024	Edition 2 (Pg. 10 ) of Dec 2025	Procedural fairness is a fundamental principle in matters concerning GST registration, cancellation, or modification. Any administrative action must comply with the principles of natural justice, ensuring that taxpayers receive prior notice, a reasonable opportunity to present their case, and adequate justification before any adverse decision is taken by the authorities
15	Shivay Iron Scrap	Commissioner of Goods and Services Tax, North	2025	Delhi High Court	W.P.(C) 13914/2025	Edition 2 (Pg. 11 ) of Dec 2025	The input tax credit duly availed by the purchaser during the period when the supplier's registration was valid cannot be denied merely because the registration was subsequently cancelled with retrospective effect. Legitimate benefits accrued during the valid tenure must be protected, and retrospective actions cannot prejudice a bona fide recipient.
							The failure to produce a valid e- way bill during movement of goods constitutes a significant compliance lapse

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 2 – Dec 2025)	Crux of the Case / Judgment
16	M/s Birds RO System Pvt. Ltd.	GST Authority State of U.P.	2025	High Court of Allahabad	Writ Tax No. 987/2024	Edition 2 (Pg. 11 & 12 ) of Dec 2025	significant compliance lapse under GST law. Such non-production authorises the tax authorities to intercept the conveyance, seize the goods and vehicle, and initiate appropriate penalty proceedings, treating the transportation as being in contravention of statutory requirements.
17	M/s S.A. Iron & Alloys Pvt. Ltd.	GST Authority State of U.P.	2025	High Court of Allahabad	Writ Tax No. 735/2023	Edition 2 (Pg. 12 ) of Dec 2025	Statutory provisions should not be applied in a routine or mechanical manner. Enforcement must rely on clear evidence of deliberate tax evasion rather than on mere presumptions or procedural lapses. Stringent measures should be imposed only when intentional non-compliance is established, thereby ensuring fairness and proportionality in tax administration.

## Edition - 3

Sl. No.	Name of Petitioner	Name of Respondent	Year	Court	WP / AP No.	Page No. (Edition 3 – Jan 2026)	Crux of the Case / Judgment
1	Union of India / Revenue	Taghar Vasudeva Ambrish & Anr.	2025	Supreme Court of India	Civil Appeal No. 7846 of 2023	Edition 3 (Pg. 3 & 4) of Jan 2026	The Supreme Court held that leasing a residential property used as a hostel for students and working professionals qualifies for GST exemption as renting of a residential dwelling used for residence, even if the immediate lessee is a company, since actual residential use by sub-lessees is sufficient. It further ruled that the 18-07-2022 amendment withdrawing exemption for renting to registered persons is prospective, and therefore no GST was payable on such hostel rentals for the earlier period.
2	M/s Era Infra Engineering Limited	GST Department	2025	High Court of Delhi	W.P.(C) 2281/2025, 23/05/2025 & 23/07/2025	Edition 3 (Pg. 4) of Jan 2026	This judgment provides crucial clarity and reassurance to resolution applicants and corporate debtors, reaffirming that the insolvency process must culminate in certainty and closure.
3	Navneet Bansal	Additional Commissioner, CGST Delhi North	2025	High Court of Delhi	W.P.(C) 4723/2025 & CM APPL. 21719/2025	Edition 3 (Pg. 4 & 5) of Jan 2026	Taxpayers facing serious allegations of ITC/CENVAT fraud must actively engage in adjudication and pursue statutory appeals. Writ jurisdiction is not a substitute for appellate remedies, particularly in cases involving

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							disputed facts and alleged revenue leakage
4	Agrim Wholesale Private Limited	State of Uttar Pradesh & Others	2025	Allahabad High Court	Writ Tax No. 6578 of 2025	Edition 3 (Pg. 5) of Jan 2026	In light of the aforesaid facts and the settled legal position, the Court held that the impugned orders were not sustainable in law. Consequently, the penalty order as well as the appellate order were quashed, the writ petition was allowed, and the authorities were directed to refund any amount deposited by the petitioner within a period of two months from the date of production of a certified copy of the order.
5	Tvl. KRM Construction	Assistant Commissioner	2025	Madras High Court (Madurai Bench)	W.P.(MD) No. 35506 of 202	Edition 3 (Pg. 5 & 6) of Jan 2026	This ruling reinforces that courts are willing to grant relief against GST registration cancellation where defaults are bona fide and rectifiable, while simultaneously protecting revenue interests through stringent compliance conditions. It serves as a reminder that restoration is discretionary, conditional, and not an automatic right.
6	Pazhassi Motors	State of Kerala & Others	2025	Kerala High Court	WP(C) No. 45451 of 2025	Edition 3 (Pg. 6) of Jan 2026	This judgment reinforces that Section 16 (5) operates independently of Section 16(4) and provides substantial relief to taxpayers who filed delayed returns within the extended statutory window, even if earlier litigation on Section 16(4) had failed
7	Sumit Gupta	Union of India & Others	2025	Delhi High Court	W.P.(C) No. 11728 of 2023	Edition 3 (Pg. 6 & 7) of Jan 2026	This decision underscores that delays in re-credit of rejected refunds—whether due to administrative inaction or portal glitches—can attract statutory interest liability. Taxpayers facing similar issues may rely on this judgment to assert their right to interest for delayed restoration of credit.
8	M/s. Birla Brothers Private Limited	State of West Bengal & Others	2025	Calcutta High Court	WPA No. 26252 of 2025	Edition 3 (Pg. 7 & 8) of Jan 2026	Andhra Pradesh High Court Clarifies GST Rate on Solar EPC Contracts: 8.9% Formula Prevails
9	M/s. Vikram Solar Limited	Commissioner of Central Tax & Others	2025	Andhra Pradesh High Court	W.P. No. 4420 of 2025	Edition 3 (Pg. 8) of Jan 2026	Where an adverse adjudication order is contemplated or passed, effective and proper service of notice becomes an indispensable requirement to ensure compliance with the mandate of Section 73 of the GST Act.
							This judgment reinforces procedural fairness in GST

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10	Mohammed Aamir	Government of NCT of Delhi & Another	2025	Delhi High Court	W.P.(C) 17761/2025 & CMAPPL. 73404/2025	Edition 3 (Pg. 8 & 9 ) of Jan 2026	adjudication and offers interim relief to taxpayers caught in the crossfire of unresolved constitutional challenges, while keeping substantive issues open for final determination by the apex court.
11	M/s J.M. Jain	Union of India	2025	Delhi High Court	W.P.(C) No. 16754 of 2025	Edition 3 (Pg. 9 ) of Jan 2026	The ruling affirms that inter-departmental sharing of information is permissible and that GST authorities may rely on material seized during Income Tax searches, provided there is an independent application of mind. For taxpayers, it highlights the necessity of responding substantively to show cause notices, rather than expecting courts to intervene and quash such notices at the threshold.
12	S. S. Civil Construction Private Limited	Assistant Commissioner of Revenue, State Tax	2025	Calcutta High Court	WPA No. 27535 of 2025	Edition 3 (Pg. 9 & 10 ) of Jan 2026	This ruling reaffirms the protective intent of the statutory pre-deposit mechanism under GST law and discouraging coercive recovery once appellate remedies are pursued in accordance with the Act.
13	Amazon Development Centre India Private Limited	Additional Commissioner of Central Tax & Others	2025	Karnataka High Court	W.P. No. 13007 of 2024	Edition 3 (Pg. 10 ) of Jan 2026	This ruling reinforces judicial consistency on the “intermediary vs export of services” debate and offers strong relief to SEZ units and captive service providers engaged in cross-border support services.
14	M/s Indus Towers Limited	Union of India & Others	2025	Karnataka High Court	W.P. No. 3619 of 2024 (T-RES)	Edition 3 (Pg. 10 & 11 ) of Jan 2026	This ruling provides substantial relief to telecom infrastructure providers and reinforces judicial consistency on the ITC eligibility of telecom towers under GST.
15	State of Karnataka & Others	M/s Trillion Lead Factory Private Limited	2024	Karnataka High Court	Writ Appeal No. 1588 of 2024	Edition 3 (Pg. 11 ) of Jan 2026	The order underscores the Court's balanced approach in GST enforcement matters—protecting revenue interests through a bank guarantee while ensuring that prolonged detention of goods and vehicles does not cause undue hardship to taxpayers, especially at the pre-adjudication stage.
16	M/s Shrinivasa Realcon Private Ltd.	Deputy Commissioner, Anti-Evasion Branch, CGST	2025	High Court of Bombay (Nagpur Bench)	W.P. No. 7135 of 2024	Edition 3 (Pg. 12 & 13 ) of Jan 2026	Development agreements that merely permit a developer to use existing FSI, without any independent transfer of TDR/FSI, do not attract GST under Entry 5B—providing much-needed clarity and relief to the real estate sector



On Thursday, February 12, 2026, at 12:30 PM, Sri Jaganatha D Sagar, assumed charge of the office by taking the Oath of Office and Secrecy as Technical Member (State of Karnataka) of the GST Appellate Tribunal. The oath was administered by the Chief Justice and President of the National Tribunal, in New Delhi.

On Thursday, February 19, 2026, at 12:30 PM, Sri Ravi Jesuraj S, assumed charge of the office by taking the Oath of Office and Secrecy as Technical Member (State of Karnataka) of the GST Appellate Tribunal. The oath was administered by the Chief Justice and President of the National Tribunal, in New Delhi.



On felicitation ceremony of Sri Jaganatha D Sagar on being appointed as technical member, GSTAT Bengaluru Bench, Karnataka.

AT  
**GST**  
CONFERENCE





**S.R. Thulasidas**  
Addl. CCT

## Suo-Moto Revision Proceedings under the GST Act: Scope, Procedure and Significance

Suo-moto revision is a statutory mechanism under the GST framework that authorises higher tax authorities to examine and revise orders passed by subordinate officers. Its primary purpose is to ensure the legality, propriety, and uniformity of decisions, while protecting the interests of government revenue and maintaining discipline in tax administration.

The power of suo-moto revision is governed by Section 108 of the CGST Act, 2017. As per Section 108(1), the revisional authority may call for and scrutinise records of any proceedings and revise an order if it is found to be erroneous or prejudicial to revenue. However, this power is subject to specific limitations under Section 108(2), including situations where the order is already under appeal or has attained finality, thereby preventing parallel or overlapping proceedings.

Suo-moto revision may be invoked in cases involving legal infirmities, incorrect application of tax rates, errors in tax computation, or improper exercise of discretion by the adjudicating authority. Ordinarily, such revision must be initiated within three years from the date of communication of the order, though longer limitation periods may apply in cases involving fraud, suppression, or wilful misstatement.

The procedure for revision includes examination of records, issuance of a show-cause notice, providing an opportunity of personal hearing, and passing a reasoned order. Courts have consistently held that revisional authorities cannot function as appellate bodies or re-appreciate evidence afresh. Strict adherence to principles of natural justice is mandatory, and revision orders are appealable, offering protection against arbitrary exercise of power.

Overall, suo-moto revision serves as an important tool for correcting errors, ensuring consistency in GST implementation, and preventing revenue loss. When exercised judiciously, supported by clear guidelines, trained officers, and technology-enabled systems, it significantly strengthens the fairness, credibility, and effectiveness of GST administration.

The following Officers retired in the month of January 2026:

**H.N. Sreekantamurthy, JCCT**

**N.S. Preethi, ACCT**



GST officers Relaxing the mood on the second-longest bridge.



C. N. Shivaprakash, Addl. CCT & M. D. KAPPEC along with Union Agriculture Minister & State Agriculture Minister