



57th Edition
NEWSLETTER

ICAI-GST

ICAI-SET UP BY AN ACT OF PARLIAMENT | AUGUST 2025



GST 2.0
**Relief,
Simplification,
and Growth for All**

THE COUNCIL

CA. Charanjot Singh Nanda	President
CA. Prasanna Kumar D	Vice President
CA. Rajendra Kumar P	Chairman, GST & Indirect Taxes Committee
CA. Umesh Sharma	Vice Chairman, GST & Indirect Taxes Committee
CA. Vishnu Kumar Agarwal	
CA. Chhaira Jay Ajit	
CA. Piyush Sohanrajji Chhajed	
CA. Chandrashekhar Vasant Chitale	
CA. Vishal Doshi	
CA. Arpit Jagdish Kabra	
CA. Durgesh Kumar Kabra	
CA. Purushottamlal Hukamichand Khandelwal	
CA. Mangesh Pandurang Kinare	
CA. Priti Paras Savla	
CA. Babu Abraham Kallivayalil	
CA. Dayaniwas Sharma	
CA. Madhukar Narayan Hiregange	
CA. Sridhar Muppala	
CA. Sripriya K	
CA. Ravi Kumar Patwa	
CA. Sanjib Sanghi	
CA. (Dr.) Rohit Ruwatia Agarwal	
CA. Abhay Chhajed	
CA. (Dr.) Anuj Goyal	
CA. Satish Kumar Gupta	
CA. Gyan Chandra Misra	
CA. Pankaj Shah	
CA. Sanjay Kumar Agarwal	
CA. Hans Raj Chugh	
CA. Pramod Jain	
CA. Rajesh Sharma	
CA. (Dr.) Sanjeev Kumar Singhal	
Shri Bala Murugan D.	
Shri Manoj Kumar Sahu	
Shri Naveen Singhvi	
Shri Sanjay Sharan	
Justice (Former) Shashi Kant Gupta	
Shri Mukhmeet Singh Bhatia	
Shri Vinod Kumar Jindal	

CONTENTS

• President's Communication	3
• Photographs	4
• Chairman's Communication	5
• Navigating ITC restrictions in respect of Immovable Property under GST : A Deep Dive into Critical Aspects of Blocked ITC	6
• From Courtrooms to Resolution - The GSTAT Journey	10
• Judicial Pronouncements	13
• GST Updates	16
• GSTN Advisories	16
• GST Compliance Schedule	17
• Announcement	18
• Quiz	19



Disclaimer : The views and opinions expressed or implied in the ICAI-GST Newsletter are those of the authors and do not necessarily reflect those of ICAI. Material in the publication may not be reproduced, whether in part or in whole, without the consent of ICAI.



Dear Professional Colleagues,

Greetings!

On India's 79th Independence Day, *Hon'ble Prime Minister of India, Shri Narendra Modi* announced pragmatic, progressive **"next-generation"** GST reforms aimed at structural improvements, rate rationalisation, and enhancing quality of life. These reforms promise a simpler and more predictable tax system- that will lower the tax burden on essential items, boost consumption, support MSMEs, and formalise supply chains. By addressing inverted duty structures, cutting disputes, and streamlining slabs, the reforms will ease compliance and improve India's standing in ease of doing business, thereby supporting inclusive and sustainable economic growth and advancing the vision of *Viksit Bharat*.

Further, reaffirming its commitment to nation building, ICAI convened its Council Meeting in Pahalgam, Jammu & Kashmir, becoming the first national institution to do so after the recent tragic incident in the Valley. The meeting was graced and addressed by *Shri Omar Abdullahi, Hon'ble Chief Minister of Jammu & Kashmir* who in his address to the Council, lauded ICAI's role in promoting governance reforms, strengthening economic planning, and inspiring confidence in the Valley.

In August 2025 GST collections reached ₹1.86 lakh crore, marking a 6.5% growth over the same period last year—a testament to the nation's economic vitality and the collective commitment of taxpayers. Net revenues, after refunds, grew impressively by 10.7% to ₹1.67 lakh crore, reflecting strengthened compliance and stronger fiscal discipline.

Recently, the GST & Indirect Taxes Committee submitted its suggestions to the Directorate General of GST on strengthening the efficacy of GST adjudication. The suggestions are aimed at creating a more efficient, transparent, and taxpayer-friendly adjudication framework that instils greater confidence in the indirect tax system. Further, the Committee has also submitted its suggestions to the Government on practical issues faced by the taxpayers in key areas such as registration, refunds, input tax credit and tax demands. These recommendations are intended to strengthen the GST framework, enhancing ease of compliance, and alleviating several challenges.

Chartered Accountants, as financial stewards and enablers of economic growth, will be at the forefront of translating the GST 2.0 reforms into action. Just as the profession stood at the frontline during the rollout of GST in 2017, CAs are now expected to guide businesses, and society at large through this next wave of reforms. By providing advisory and compliance support to taxpayers, in adapting to amended laws, procedures, and revised rates, the profession will serve as a bridge between policy changes and economic growth. Chartered Accountants will not only enable a smooth transition but also contribute to building a resilient, inclusive, and future-ready economy that resonates with the vision of *Viksit Bharat*.

CA. Charanjot Singh Nanda

President

The Institute of Chartered Accountants of India

PHOTOGRAPHS



CA. Rajendra Kumar P, Chairman, GST&IDTC met Hon'ble President GSTAT, Mr. Sanjaya Kumar Mishra at New Delhi.



Meeting with Mr. C P Goyal, Principal Director General, DGGST, to discuss and improve the quality of adjudication.



"GST INSIGHTS" programme at New Delhi (NCR) for the Internal Auditors of Indian Oil Corporation Ltd.



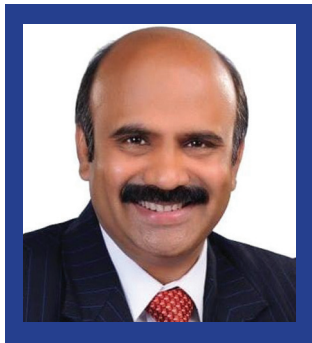
GST Conclave at the Raipur Branch of CIRC of ICAI



"Training on GST Law, Procedures, Audit & Financial Statement Analysis for Audit-II Commissionerate" organised by GST & IDTC, ICAI at NACIN, Kolkata.



"Induction Training Programme Audit Module for Inspectors of Central Tax" organised by GST & IDTC of ICAI at NACIN, Kolkata.



Esteemed Member,

Warm greetings!

GST has emerged as a cornerstone of India's economic reforms, driving transparency, uniformity, and ease of doing business. As the framework continues to evolve, the role of the profession in providing constructive support and thought leadership has become even more significant. The GST & Indirect Taxes Committee, through its initiatives and engagements, strives to uphold this responsibility and contribute meaningfully towards strengthening the tax ecosystem.

As we look ahead, the evolving landscape of GST calls for reforms that are both practical and forward-looking. In this context, the announcement of GST 2.0 marks a defining moment in the journey of indirect tax reforms. With its emphasis on simplification, rationalisation, and enhanced transparency, this next phase of GST is expected to ease compliance and reinforce the trust of taxpayers in the system. These reforms are envisioned to create a more stable, efficient, and predictable tax environment, thereby strengthening the overall credibility and resilience of the GST framework.

GSTN has resolved a long-standing issue faced by taxpayers while filing refunds linked to demand orders. Earlier, refunds could not be claimed where any minor head (tax, interest, penalty) showed a negative balance, and the cumulative balance was zero or positive. The system has now been updated to allow refunds in such cases, ensuring that eligible balances are not accumulated. In Form RFD-01, only negative balances will be auto-populated, allowing for the refund in such cases. This update brings greater flexibility, clarity, and efficiency to the refund mechanism.

As Chairman of the GST & Indirect Taxes Committee, I had the honour of meeting *Justice (Retd.) Shri Sanjaya Kumar Mishra, Hon'ble President of the GST Appellate Tribunal (GSTAT)*. The discussion centred on initiatives and programmes aimed at enhancing knowledge, capacity, and professional excellence within the GST appellate ecosystem. The recent appointment of members to various GSTAT benches marks a significant step towards operationalising the much-awaited appellate framework under GST. The establishment of functional benches will not only provide taxpayers with an effective forum for redressal but also bring greater certainty and stability to the indirect tax regime.

I am pleased to share that the Committee has revised its publication, *Handbook on Inspection, Search, Seizure and Arrest under GST*. The Handbook adopts a pragmatic and structured approach, combining legal interpretation with procedural clarity, and examines the impact of other related laws on the implementation of these provisions.

The Committee remains dedicated to safeguarding taxpayer interests, facilitating ease of compliance, and contributing meaningfully to policy and procedural improvements in the GST landscape. With the collective efforts of the profession, we look forward to building a stronger and more resilient indirect tax regime that fosters growth, certainty, and trust.

CA. Rajendra Kumar P

Chairman

GST & Indirect Taxes Committee

The Institute of Chartered Accountants of India

Navigating ITC Restrictions in respect of Immovable Property under GST : A Deep Dive into Critical Aspects of Blocked ITC

The restrictions pertaining to specific procurements made for the construction of immovable property (other than plant and machinery) are contained in sections 17(5)(c) and 17(5)(d) of the CGST Act. The categories of goods or services on which input tax credit (ITC) is disallowed under these provisions are: (i) works contract services; and (ii) any other goods or services or both. The common thread that links both these clauses is that the disallowance of ITC applies only if the works contract services or goods/services are used for the construction of immovable property.

The term “construction” is defined in the Explanation appended to both sections 17(5)(c) and 17(5)(d), which states that the expression “construction” includes re-construction, renovation, additions or alterations, or repairs, to the extent of capitalisation to the said immovable property. This inclusive definition expands the scope of the term “construction” to encompass not only original building activity but also subsequent modifications such as renovations and repairs, provided these expenses are capitalised in the books of account.

Where such expenses are treated as revenue expenditure, it is possible to argue that such expenses would fall outside the ambit of “construction”. Therefore, the correct accounting treatment adopted by the assessee assumes pivotal importance in determining whether ITC is barred.

The expression “immovable property” is not defined in the CGST Act. Accordingly, the meaning assigned to it General Clauses Act can be referred to. Section 3(26) of the General Clauses Act, 1897 defines immovable property to include land, benefits arising out of land, and things attached to the earth or permanently fastened to anything attached to the earth. Section 3 of the Transfer of Property Act, 1882 further clarifies that immovable property excludes standing timber, growing crops, and grass, and explains that “attached to earth” includes (a) rooted in the earth, such as trees and shrubs; (b) embedded in the earth, such as walls or buildings; and (c) attached to what is so embedded for the permanent beneficial enjoyment of that to which it is attached.

Indian Courts have developed judicial tests to determine whether a given article constitutes immovable property. One such case is the renowned case of *Bharti Airtel v.*

Commissioner of Central Excise, Pune, 2024 SCC Online SC 3374, wherein the Hon'ble Supreme Court held that the telephone towers and the pre-fabricated buildings are not immovable properties as they can be easily dismantled without any damage to itself and the property where it they are attached and further, the said attachment to earth is for the sake of operational stability and not perpetuity.

Tests for Movability of Goods:

In the *Bharti Airtel* case, the Hon'ble Supreme Court has laid down six overlapping tests which will determine the movability of goods which are stated as follows:

1. The nature of annexation
2. The object of annexation
3. The degree of permanency
4. The intention of the parties
5. The functionality test
6. The marketability test.

The first test is the degree or mode of annexation. If an article is so attached to the earth that it cannot be removed without substantial damage to itself or the land, it would qualify as immovable property. Reference can be drawn to the landmark decision of *In Wake v. Halt, (1883) 8 App Cas 195*, it was observed:

“The degree and nature of annexation is an important element for consideration; for where a chattel is so annexed that it cannot be removed without great damage to the land, it affords a strong ground for thinking that it was intended to be annexed in perpetuity.”

Further, in the case of *Solid & Correct Engineering Works, (2004) 170 ELT 431 (SC)*, an asphalt drum mix plant was held to be movable as its attachment to the earth was only to facilitate its operation.

Here, the mode of annexation is temporary annexation. It is further noted in the case that for an article to be deemed as an immovable good, both the degree of annexation and the intention behind the attachment are to be examined. Since the plant is annexed to the earth by using nuts and bolts, solely for the purpose of operational stability, it was held by the Hon'ble Court that the plant affixed temporarily is a movable good.

The test of permanency is similar to the test of “degree or mode of annexation”. If an article can be dismantled, relocated and sold without any damage and without losing its original form, then it implies that there is a lack of permanence. If an article is annexed temporarily, then such article should be considered as a movable property rather than as an immovable property. The principle of this test can also be found in the decision of *Jnan Chand Chug v. Jugal Kishore Agarwal* AIR 1960 Cal 331, where it has been observed by the Hon’ble Calcutta High Court that, “If the mode of attachment was imbedding in the earth as in the case of walls and buildings or if the object of attachment was for the permanent beneficial enjoyment of the land to which it was attached then the property would be immovable property within the meaning of Section 3 of the Transfer of Property Act but not otherwise.”

The second test is the object of annexation. This test evaluates the purpose of affixation: whether the intention is to enjoy the article as a chattel or as part of the land. In the decision of *Official Liquidator v. Sri Krishna Deo and Ors.*, AIR 1959 All. 247, the Hon’ble Allahabad High Court held that machinery affixed by bolts and nuts—although removable—was immovable since it was intended to be permanently used in the operations of a mill. This test may not be universal and have been given varied meaning by different Courts, which would be discussed in the latter part of this article.

In the case of *Triveni Engineering & Industries Ltd. and Anr v. Commissioner of Central Excise*, AIR 2000 SC 2896 the Hon’ble Court had laid down factors which are to be considered in order to determine whether a good is a movable good or not. These factors are permanency, marketability, intention and method of fixation. In this case, it is observed that when an object is intended to be temporary, such object shall be considered as a movable good.

Further, in the case of *Municipal Corporation of Greater Bombay and Ors v. Indian Oil Corporation Ltd.*, (1991) 2 SCC 18, it is discussed in Para 32 that permanency is the test. In this case, a petrol tank resting on its own weight was held to be immovable property because despite being capable of being shifted, as a fact, the tanks were never shifted from the place of erection.

The test of intention of the parties discusses that, if the parties in subject matter have attached an article with an intention to leave it as a permanent annexure, then such article shall be considered as an immovable property. If there is no intention of permanently attaching the article to the earth, then such article shall be considered as a movable property.

The functionality test is one of the six tests which are laid down in this case. According to this test, if an article is attached to the earth for the purpose of functionality, i.e., for better functioning or operational enhancement, then such property shall be considered as a movable property.

The last test is the marketability test. If an article is capable of being dismantled, relocated without damage to the core components or without causing damage to the ground/wall where the article had been attached and is capable of being brought to the market for being sold or bought, then such goods shall be considered as movable goods. In the case of *Delhi Cloth Mills* AIR 1963 SC 791, it has been held that the word, “goods” applies to those goods which can be brought to market for being bought and sold. The requirement of the goods being brought to the market for being bought and sold is known as the test of marketability.

In the case of *Quality Steel Tubes (P) Ltd. v. Collector of Central Excise*, U.P 1995 SCC (2) 372, it is stated that there are two conditions for a goods to be considered as movable goods. Firstly, the article in question must be goods. Secondly, the article must be capable of being brought to market for selling and buying. Given the fact that e-commerce has been widely reached and rises now-a-days, the concept of physical market is being questioned. But in the case of *A.P. State Electricity Board v. CCE, Hyderabad*, 1994 (70) ELT 3 (SC), it had been held that the fact that the goods are not, in fact, marketed is of no relevance. So long the goods are marketable, they are goods. Further it has been observed by the Hon’ble Court that it is not necessary for the goods to be generally available in the market. In the case of *M/s. Escorts JCB Ltd. v. CCE*, 2002 (146) E.L.T. 31 (SC), it is observed by the Hon’ble Court that “marketability” is a decisive test for dutiability. It only means ‘saleable’, or ‘suitable for sale’. It need not be in fact ‘marketed’.

Applying these principles under GST, ITC would be disallowed under sections 17(5)(c) and 17(5)(d) only if the procurement relates to the construction of immovable property. Movable structures that can be shifted without dismantling or causing substantial damage would not attract the restriction.

Apart from the landmark decisions of the SC, various Advance Ruling Authorities have dealt with these issues. In *Las Palmas Cooperative Housing Society Ltd., In re*, 2020 (41) G.S.T.L. 548 (App. A. A. R. - GST - Mah.), the installation of a lift was held to result in immovable property, and ITC was denied. In *Tewari Warehousing Co. (P) Ltd., In re*, 2018) 170 ITD 339 (Kol) (Trib.) a pre-fabricated warehouse assembled on-site was treated as immovable property and ITC was disallowed.

Meaning of phrase 'for'

The language of sections 17(5)(c) and 17(5)(d) uses the expression "for construction of immovable property", which implies that the goods or services must be used directly for the said construction. The Hon'ble Supreme Court in *State of U.P. v. Ram Krishnan Burman*, 1971 AIR 87 held that the term "for" should be interpreted in a manner that requires a direct nexus. In *CCE Pune v. Tata Engineering & Locomotive Co. Ltd.*, 2006 (203) ELT 360 (SC), it was held that exclusions based on such language apply only where there is a direct link. Applying this principle, goods or services with only a remote or incidental connection to construction activity would not fall within the scope of the restriction. For example, project management consultancy services for overseeing factory construction would have a direct nexus and therefore be ineligible for ITC.

Summary of the tests

From the above, a composite three-fold test emerges for determining the applicability of the restriction under sections 17(5)(c)/(d):

- (i) whether the activity qualifies as construction (including capitalisation);
- (ii) whether the resultant output is immovable property; and
- (iii) whether the goods/services are used directly for the construction.

If all three conditions are satisfied, ITC would be restricted.

Exception to the tests

A notable exception exists in respect of plant and machinery. The Explanation to section 17 clarifies that "plant and machinery" includes apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supplies of goods or services or both and includes such foundation and structural supports, but excludes land, building, civil structures, telecommunication towers, and pipelines laid outside the factory premises.

Accordingly, if the construction activity results in the creation of plant and machinery as so defined, ITC shall not be barred, even if it involves embedding the apparatus in the earth. For example, a water purification plant installed in a factory premises, even if fixed to the earth, would not be immovable property if it meets the definition of plant and machinery and has a direct nexus with outward supply. At the same time, the definition also explicitly excludes

1. Land, buildings or any other civil structures,
2. Telecommunication towers and
3. Pipelines laid outside the factory premises.

Decision of Court in Safari retreats

One of the major rulings in the GST parlance in the context of the ITC eligibility is the decision of the Hon'ble SC in the case of *M/s. Chief Commissioner of CGST v. Safari Retreats Pvt. Ltd.*, 2024 (90) G.S.T.L. 3 (SC).

The decision dealt with three broad questions of law which are as follows:

- a. Whether the expression 'plant and machinery' as per explanation to section 17 of the CGST Act, 2017 also applies to the expression 'plant or machinery' used in section 17(5)(d)?
- b. If yes, what is the definition of plant for the purpose of section 17(5)(d)?
- c. Whether section 17(5)(c) and 17(5)(d) are constitutionally valid?

The Court propounded the 'functionality test' to determine the eligibility of ITC. The test examined whether the property serves an active, utilitarian role in generating business outputs or if it merely remains as a capital asset with no ongoing business relevance. The Hon'ble SC while discussing about the functionality test, has established a set of principles as given below.

- a. A plant is a tool to carry on business; a building may be considered as a plant if it is used as an essential for the facilitation of the trade.
- b. If construction of a building is essential for business activities, then it can be held to be a plant.

With respect to this, if a building is very essential for business activities and if such building is held as plant, the same shall be granted ITC. It is held in the case that renting or leasing of an immovable property shall be considered as a plant and thus shall be granted ITC. It is also to be noted that the same shall be taxed as an output supply. Further it is also mentioned in the same that deciding whether an immovable property will be depending on case-to-case basis based on facts and circumstances.

Plant and Machinery vs. Plant or Machinery

It is also to be noted that the Hon'ble Supreme Court has upheld the constitutionality of sections 17(5)(c) and 17(5)(d).

Further, the Hon'ble Supreme Court has held that both the sections are in different footings, and this is not a drafting error done by the legislature. Rather it has been made in such way deliberately. Further, it has also been stated that the taxing statute should be interpreted strictly.

Subsequent amendment made by the Finance Act, 2025

Further, it is to be noted that according to section 124 of the Finance Act, 2025, the term “plant or machinery” mentioned in section 17(5)(d) of the CGST Act, 2017 has been replaced by the term “plant and machinery”. The effect of the amendment would be that the benefit propounded by the Supreme Court in respect of section 17(5)(d) would no longer be valid.

Despite the amendment, the decision of the Supreme Court would still be equally interesting for various situations including the exception which has been carved out for ‘own use.’

Court in para 32 had held that ‘Construction is said to be on a taxable person’s “own account” when (i) it is made for his personal use and not for service or (ii) it is to be used by the person constructing as a setting in which business is carried out. However, construction cannot said to be on a taxable person’s “own account” if it is intended to be sold or given on lease or license.

This aspect of the ruling of Safari would be immensely helpful for various scenarios including construction intended for leasing. Having said that, the admissibility of ITC for many such cases would be a question to be pondered and argued upon.

Conclusion

The interplay between sections 17(5)(c) and 17(5)(d) of

the CGST Act and the definition of immovable property presents a complex framework that significantly influences the eligibility of ITC on construction-related procurements. These provisions, although designed to prevent revenue leakage in non-productive assets, must be interpreted with due consideration of their underlying intent and evolving judicial interpretation.

However, ambiguity remains, especially with hybrid elements like modular interiors, HVAC systems, or prefabricated structures, where each case demands a fact-based evaluation.

In essence, a harmonized and purposive interpretation of these GST provisions is necessary to preserve the seamless credit chain envisaged by the law, while ensuring compliance and minimizing litigation. Stakeholders must carefully assess the nature, usage, and accounting treatment of their assets to determine ITC eligibility under the current framework.

In conclusion, sections 17(5)(c) and 17(5)(d) of the CGST Act embody crucial exceptions to the general ITC entitlement under GST. Their interpretation must be guided by principles of nexus, nature of construction, and the definition of immovable property. As jurisprudence evolves, particularly with potential clarification from the Supreme Court in the Safari Retreats matter, a more definitive position on the scope and limits of these provisions may emerge.

Contributed by CA. S Rahul Jain

Invitation to write articles on GST

Chartered Accountants and other experts, with academic passion and flair for writing are invited to share their expertise on GST through ICAI-GST Newsletter. The article may be on any topic related to GST Law. While submitting the articles, please keep the following aspects in mind:

- 1) Article should be of 2000-2500 words.
- 2) An executive summary of about 100 words may accompany the article.
- 3) It should be original and not published/should not have been sent for publishing anywhere else.
- 4) Copyright of the selected article shall vest with the ICAI.

Please send editable soft copy of the article at gst@icai.in.

From Courtrooms to Resolution - The GSTAT Journey

Introduction - The Missing Appellate Link in GST

India's journey under the Goods and Services Tax (GST) regime, which began on 1 July 2017, brought the promise of unified indirect taxation across the nation. The vision was to create a seamless national market by integrating various indirect taxes under one umbrella. While implementation was ambitious and commendable, the structural design overlooked a crucial component — a dedicated appellate forum to resolve GST disputes.

For the initial years, taxpayers had only one statutory right of appeal under section 107 of the CGST Act, 2017. However, in the absence of the Goods and Services Tax Appellate Tribunal (GSTAT), the natural second appellate remedy was missing. Aggrieved taxpayers had no recourse but to file writ petitions under Article 226 of the Constitution before High Courts — a route traditionally reserved for exceptional circumstances. While it placed significant demands on the higher judiciary, it also created opportunities for legal clarity, despite resulting in occasional inconsistencies and prolonged resolution of cases, especially on complex issues like classification disputes, transitional credits, and place of supply controversies. The resulting congestion in Courts, divergent judicial interpretations, and delayed justice led to pressing demands for the establishment of the (GSTAT).

Even the Supreme Court, while hearing appeals relating to pending disputes, echoed the Madras High Court's stance as taken in *Revenue Bar Association v. Union of India* (W.P. Nos. 21147-48 & 14919 of 2018, decided on 20 September 2019) and underscored that setting up GSTAT was not merely a policy issue but a constitutional imperative under Article 265 — which mandates that no tax shall be levied or collected except by authority of law. The Court observed:

"You have to constitute the GST Appellate Tribunal; no question of filing counter."

Thus, judicial scrutiny and constitutional doctrine converged to push the executive towards action.

Why GSTAT was Necessary: Judicial Endorsement of Statutory Rights

The legislative structure of the CGST Act, 2017 clearly envisaged a multi-tiered dispute redressal mechanism with the GSTAT as the second appellate authority under section 109. Yet, for over six years, its non-existence effectively suspended a crucial right under section 112—the right to appeal. Several High Courts recognized this lacuna.

In *Maa Tarini Traders v. State of Odisha* (2022 SCC OnLine Ori 296), the Orissa High Court granted interim relief by staying recovery proceedings on the ground

that the absence of the GSTAT effectively deprived the petitioner of a statutory appellate remedy. The Court held that compelling assesseees to directly approach the High Court in such circumstances was inconsistent with the principles of natural justice. Emphasizing the constitutional dimensions, the Court observed:

"the Petitioners must be extended the statutory benefit of stay under Sub-Section (9) of Section 112 of the CGST/ OGST Act, for the Petitioners cannot be deprived of the benefit, due to non-constitution of the Tribunal by the respondents themselves."

The ruling underscored that the legislative intent behind providing a statutory appeal under the GST regime cannot be rendered nugatory by executive inaction.

Why delay?

In the initial years of GST, there were protests from the advocates regarding their exclusion from the eligibility to become the Judicial members of the Tribunal. They also challenged the inclusion of member of Indian legal services in the eligibility of becoming the member of the Appellate Tribunal.

Further, there was a concern regarding the composition of the Tribunal. In the initial phase, there were majority of the administrative members in the Tribunal over the judicial members. There was only one judicial member as against two administrative members, both in the Central and the State bench.

As mentioned above, these issues were combinedly raised in the case of *Revenue Bar Association vs Union Of India* on 20 September, 2019

Earlier, the position of law is as follows :

- (i) Section 110(1)(b)(iii) of the CGST Act which states that a member of the Indian legal services, who has held a post not less than Additional Secretary for three years, can be appointed as a Judicial Member in GSTAT, is struck down.
- (ii) Sections 109(3) and 109(9) of the CGST Act, 2017, which prescribes that the Tribunal shall consists of one Judicial Member, one Technical Member (Centre) and one Technical Member (State), is struck down.
- (iii) The argument that sections 109 & 110 of the CGST Act, 2017 are ultra vires, in so far as exclusion of lawyers from the scope and view for consideration as members of the Tribunal, is rejected.

The Parliament had considered to amend sections for including lawyers to be eligible to be appointed as Judicial Members to the Appellate Tribunal in view of the issues which are likely to arise for adjudication under the CGST Act and in order to maintain uniformity in various statutes.

As a result, vide Finance Act, 2023, the composition was brought as it is today to bring that judiciary should not be overruled by the executive. Further, the eligibility for Judicial member coming from being the member of the Indian legal service was also removed.

The eligibility for the advocates was brought through CGST (Second Amendment) Act, 2023.

Legislative Activation and Notification

After prolonged delay, the Government notified the formation of GSTAT via *GSR 3048(E) dated 31 July 2024, effective 1 September 2023*, under the CGST (Amendment) Act, 2023. This notification finally activated sections 109 and 110 of the CGST Act.

In parallel, the GST Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2024, and later the GSTAT Procedure Rules, 2025, were notified. These rules provide the operational blueprint for functioning, digital filings, hearings, and member selection.

The legislative clarity was long overdue and reflected a strong pushback from industry bodies, trade associations, and judiciary-led nudges.

Structure and Composition of GSTAT

The Tribunal comprises a Principal Bench in New Delhi and 31 State Benches across India. The Principal Bench is headed by a President (a retired Supreme Court Judge or Chief Justice of High Court) along with one Judicial Member, one Technical Member (Centre), and one Technical Member (State).

State Benches each comprise two Judicial Members, a Technical Member (Centre), and a Technical Member (State). Justice Sanjaya Kumar Mishra, former Chief Justice of Jharkhand High Court, was appointed as the first President of GSTAT in May 2024.

A critical feature of GSTAT's design is its federal balance, with equal representation from the Centre and States—a structural move to prevent bias and preserve fiscal federalism.

Jurisdiction and Functionality

The GSTAT constitutes the second appellate authority under the CGST framework, empowered to adjudicate appeals arising from decisions or orders passed by the Appellate Authority or the Revisional Authority in accordance with sections 107 and 108 of the CGST Act, 2017, respectively.

The Principal Bench, established at New Delhi, holds exclusive jurisdiction over matters involving inter-State supplies and place-of-supply disputes. In contrast, the State Benches are vested with authority to adjudicate disputes pertaining to intra-State transactions.

Appeals before the Tribunal must be preferred within a limitation period of three months from the date of communication of the impugned order, which may be extended by a further period of three months upon

demonstration of sufficient cause, as per section 112(6) of the CGST Act.

A mandatory pre-deposit equivalent to the amount of tax, interest, fine, fee and penalty arising from the impugned order as admitted by the registered person, and 10% of the disputed tax amount in addition to the amount paid under sub-section (6) of section 107, subject to a ceiling of ₹20 crore each under CGST and SGST, is required under section 112(8) for admission of the appeal. Such appeals are to be instituted electronically in Form GST APL-05, in compliance with rule 110 of the CGST Rules, 2017, via the Tribunal's dedicated e-filing portal.

The Tribunal is vested with powers akin to those of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of discovery and inspection, summoning and enforcing attendance, requiring the production of documents, and examining witnesses under oath, as delineated under section 111(2) of the CGST Act.

Orders rendered by the GSTAT shall attain binding force unless challenged through a statutory appeal before the respective jurisdictional High Court under section 117, or, where applicable, before the Hon'ble Supreme Court of India under section 118 of the CGST Act.

GSTAT (Procedure) Rules, 2025 – Salient Features

The Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, notified on 24 April 2025, outline the procedural framework governing the Tribunal's operations. The key features are as follows:

- A fully electronic system has been implemented for the filing of appeals, interlocutory applications, rectification petitions, and related documents, facilitating a paperless adjudication process.
- Proceedings before the Tribunal may be conducted in either physical or virtual mode, as per the discretion of the Bench, ensuring procedural flexibility and broader access.
- The Tribunal has been vested with powers equivalent to those of a Civil Court under the Code of Civil Procedure, 1908, including the authority to summon witnesses, compel the production of documents, and enforce compliance with its orders.
- A structured case management system has been mandated through the use of cause lists, digital case registers, and prescribed timelines to ensure systematic and time-bound hearings.
- The Tribunal is required to issue detailed speaking orders, containing judicial reasoning and findings, to ensure transparency and appellate accountability.
- A provision for expedited hearings exists, wherein matters involving urgency, potential irreparable harm, or significant revenue implications may be listed on priority, subject to judicial satisfaction.

Interim Judicial Relief Amid Operational Delays

In the absence of operational GSTAT benches, High Courts continued to provide relief. A notable case is *Dinesh Brothers Pvt. Ltd. v. Superintendent of Central Tax (W.P. No. 5981 of 2025, Calcutta HC)*, where the Court granted interim stay on recovery after acknowledging the unavailability of GSTAT. The petitioner was allowed to deposit 10% additional tax for the stay. The Court took a balanced view, emphasizing protection of taxpayer rights without compromising revenue interest.

The judiciary's proactiveness acted as a moral and legal nudge for the executive to accelerate GSTAT's activation.

Present Status: Partial Functionality

As of July 2025, the status is as follows-

- The Principal Bench and multiple State Benches have been notified, with infrastructure in varying stages of readiness.
- President and several members have been appointed; remaining vacancies are under process.
- The GSTAT e-portal is operational, with functionality for filing, tracking, and managing appeals.

However, some States continue to lag in providing logistical support, delaying the Tribunal's full-scale functionality. Approximately 8,100 appeals are pending across the country, including over 2,800 cases delayed beyond one year, as per CBIC disclosures.

In a landmark proceeding dated 1 July 2025, GSTAT conducted its first-ever hearing on pending anti-profiteering cases, marking a significant milestone in India's GST jurisprudence.

Key Facts & Developments:

- This session followed the implementation of section 148 of the Finance (No. 2) Act, 2024, and an amendment to section 171 of the CGST Act.
- Under the amended legal framework, GSTAT assumed jurisdiction over unresolved cases previously handled by the now-defunct National Anti-Profiteering Authority (NAA). The President of GSTAT, Justice (Retd.) Sanjaya Kumar Mishra, presided over the hearing. He opened proceedings by expressly reminding counsel for the Directorate General of Anti Profiteering (DGAP) about court decorum and professional attire — signaling the Tribunal's emphasis on procedural propriety.

The order has been passed on 5th August. President Justice (Retd.) Sanjaya Kumar Mishra, upheld the findings of the Directorate General of Anti-Profiteering (DGAP). The DGAP had concluded that Urban Essence did not reduce the prices of its food products in line with the GST rate cut on restaurant services from 18% to 5%, effective November 15, 2017.

The Tribunal directed the Pune-based franchisee to deposit ₹ 5,47,005, along with 18% interest calculated from November 15, 2017, into the Maharashtra Consumer

Welfare Fund within three months.

What Can Be Improved: Forward-Looking Considerations

Despite progress, several areas merit urgent attention:

1. **Expedited State-Level Activation:** Infrastructure and appointments must be fast-tracked in states like West Bengal, and parts of the North-east.
2. **Taxpayer Training & Awareness:** User guides, webinars, and helplines should be launched to help taxpayers navigate digital filing, procedural norms, and rights.
3. **Integration with GSTN:** Real-time data sharing and docket updates via GSTN must be ensured for seamless appeal linkage.
4. **Performance Metrics:** Bench-wise disposal rates, pendency dashboards, and compliance reviews can create accountability.
5. **Regional Language Support:** Local language access in Tribunals can ensure greater inclusiveness.
6. **Tribunal Modernisation Fund:** A separate allocation to develop infrastructure, digitisation, and training of staff.
7. **Periodic Review and Feedback Loop:** Establish an oversight mechanism to review operations, case backlogs, and taxpayer experience quarterly, feeding into policy enhancements.
8. **Dedicated Taxpayer Helpdesks:** Establish GSTAT helpdesks at GST Seva Kendras and State GST offices for local support in filings, especially in Tier II and Tier III cities.
9. **Incentivising Member Tenure Continuity:** Introduce minimum tenure commitments to maintain institutional memory and reduce disruption.
10. **Tribunal Annual Report:** A mandatory public report on its functioning, case statistics, and improvement roadmap can bolster transparency.
11. **Feedback Mechanism:** Allow feedback forms post-judgment to improve user experience and address pain points.

Conclusion: A Tribunal whose Time has Come

The constitution and operationalisation of GSTAT signal a long-awaited evolution in India's GST ecosystem. Backed by statutory mandate, judicial affirmation, and institutional clarity, GSTAT is poised to reduce litigation burdens on High Courts, bring consistency in interpretation, and provide taxpayers a credible forum for justice. However, its success depends on institutional commitment, procedural efficiency, and technological robustness. As recent High Court and Supreme Court rulings have shown, the judiciary has laid the groundwork—the baton now rests with the executive and the tax community to ensure that GSTAT delivers on its transformative promise.

Contributed by CA. Aditya Agarwal

JUDICIAL PRONOUNCEMENTS

1. Whether the issuance of summons constitutes “initiation of proceedings” as defined under section 6(2)(b) of the CGST Act; and the scope of “subject matter” within the meaning of section 6(2)(b). Additionally, the interpretation of the term “Order” under section 6(2)(a) of the CGST Act [M/s. *Armour Security (India) Ltd. vs. Commissioner and Others - Supreme Court (Special Leave Petition (C) No. 6092 of 2025 dated 14.08.2025*)]

The Madras High Court, in the case of *Kuppan Gounder P.G. Natarajan v. Directorate General of GST Intelligence*, dealt with a challenge to summons issued on jurisdictional grounds, observing that section 6(2)(b) and section 70 serve distinct purposes. Section 6(2)(b) prohibits simultaneous proceedings on the same subject matter, while section 70 authorizes summons during inquiries. Thus, the terms “proceedings” and “inquiry” are not interchangeable, and issuance of summons under section 70 should not be considered as initiation of formal proceedings.

In this case, the petitioner received a Show Cause Notice (SCN) dated November 18, 2024, under section 73, which formally commenced proceedings. The petitioner challenged summons dated January 16 and 23, 2025. The Court noted that a summons issued at the inquiry stage cannot conclusively predict that proceedings initiated are upon the same subject matter, as overlap alone does not confirm identity of subject matter.

Merely issuing summons does not imply that a proceeding for recovery of liability is underway since the Department retains discretion to proceed or not. Thus, summons cannot be equated with “initiation of proceedings” because at that phase the Department may irrevocably decide not to proceed.

“Subject matter” under section 6(2)(b) must be understood in light of proceedings that commence upon issuance of a SCN. A SCN delineates charges and grounds, inviting the assessee to respond; this crystallizes the subject matter. Any claim or arguments disregarded in the SCN cannot later be introduced adversely against the assessee.

In this case, the petitioner argued that the subject matter pertained to input tax credit on cancelled dealers. The Court rejected this argument, noting that summons alone do not define the subject matter; only a SCN does so. Overlapping aspects in inquiry and formal proceedings do not equate to the same subject matter. Upon crystallization by a SCN, other tax authorities cannot assert jurisdiction over the same subject, provided subsequent Departmental actions deal with the same cause.

Concerning section 6(2)(a), the Court held that this provision empowers and mandates the proper officer to issue corresponding orders under State or Union Territory GST Acts when an order is issued under the CGST Act. The word “order” is broadly construed to include any order the officer is authorized to issue, ensuring uniform adjudication and avoiding multiple proceedings.

Finally, “initiation of proceedings” in section 6(2)(b) refers to adjudicatory proceedings formally commenced by a SCN, excluding issuance of summons, searches, or seizures. The term “subject matter” pertains to tax liability or contravention which the Department seeks to recover or assess. Distinct infractions with similar liability do not amount to the same subject matter, and thus do not attract the bar under section 6(2)(b).

Petition disposed off.

2. Issuance of SCN u/s 74 of the UPGST Act on the ground that the petitioner has claimed ITC through GSTR-3B for the tax period April, 2021 - claim of forged ITC - purchases from different firms who did not deposit the tax [M/s. *Safecon Lifescience Private Limited vs. Additional Commissioner Grade II - Allahabad High Court (Writ Tax No. 389 of 2023 dated 09.09.2025)*]

The Allahabad High Court in *M/s Safecon Lifescience Private Limited vs Additional Commissioner Grade 2 (Appeal)-II State Tax, Agra & Another (Writ Tax No. 389 of 2023, judgment dated 09.09.2025)* quashed GST orders denying ITC under section 74 of the UPGST Act where the supplier's registration stood cancelled post-transaction. The Court held that section 74 can only be invoked in cases involving fraud, wilful misstatement, or suppression of facts to evade tax, as clarified in CBIC Circular dated 13.12.2023 and as previously settled in *Khurja Scrap Trading Company (2025: AHC 151783)*. The petitioner had provided complete documentary evidence: tax invoices, e-way bill, transporter bill, purchase orders, banking channel payments, and both parties, GSTR filings reflecting the transaction and tax deposit. The authorities, however, proceeded solely on the basis of unverified intelligence and doubts about upstream supplier compliance, without affording material or opportunity to the petitioner and without establishing any evidence of fraud or suppression. Citing the Supreme Court in *Continental Foundation Joint Venture Holding v. CCE [(2007) 10 SCC 337]*, the Court reiterated that “suppression of facts” and “misstatement” under section 74 must involve deliberate intent to evade tax. Mere incorrect statements or supplier cancellation post-transaction do not justify invocation of penal action. Since no findings of fraud, wilful misstatement,

or suppression were made on record, the impugned orders were unsustainable and were thus quashed, reaffirming that ITC cannot be denied when all statutory conditions are duly fulfilled by the recipient dealer.

3. Seizure of unaccounted assets - interpretation of statute - section 67 of GST Act - Seeking unconditional release of goods - two silver bars - Indian currency - Mobile Phones [Commissioner of CGST vs. Deepak Khandelwal - Supreme Court (Review Petition (C) No.... of 2025 [Diary No(s). 59521/2024] in special leave petition (C) No. 18536 of 2024 dated 19.08.2025)]

The jurisdiction of a proper officer under section 67 of the CGST Act to seize assets during search operations is limited and subject to strict interpretation. The Hon'ble High Court held that movable assets like silver bars fall under 'goods' and can be seized only if liable for confiscation, but cash and valuables cannot be seized merely as unaccounted wealth. The power to seize under section 67(2) extends only to goods liable for confiscation and documents or things relevant to GST proceedings. Cash does not fall under the definition of "goods" per the CGST Act, and therefore could not be seized under these provisions. The provision is not meant to seize assets for tax recovery or on suspicion alone.

The Hon'ble High Court had ordered release of seized currency, silver bars, and mobiles as no link to GST evasion or confiscation was established.

The Hon'ble Supreme Court dismissed special leave petitions challenging this ruling, affirming the High Court's interpretation and release direction.

It was held by Hon'ble Supreme Court that 'No case for interference is made out in exercise of our jurisdiction under Article 136 of the Constitution of India.'

4. Grant of bail and lawfulness of arrest without a prior notice under section 35(3) of the Bharatiya Nyaya Sanhita, 2023 (BNSS, 2023) – assessment of "reason to believe" in the case of alleged tax evasion on supply of coke – compliance with CBIC instructions No. 02/2022-23 [GST-INV] dated 17.08.2022] - Gauhati High Court [Deepak Garg vs. The Union of India and others (No.- Bail Appln/2836/2025)]

It is undisputed that the offence involved carries a maximum punishment of five years imprisonment along with a fine. Pursuant to the Supreme Court's guideline in *Arnesh Kumar v. State of Bihar* [2014 (8) SCC 273], the requirement for issuance of a notice under section 35(3) of BNSS, 2023 applies in this case. If the authorities choose to forgo this notice, the arresting officer must explicitly state in writing the grounds on which they are satisfied that any of the conditions enumerated in clause (a) to clause (e) of section 35(1)(b)(ii) of BNSS, 2023, are met.

In the present matter, the memo authorizing the petitioner's arrest, signed by the Additional Director General of DGGI, alleges that the petitioner may tamper with evidence or influence witnesses. However, there is no written, substantiated reasoning explaining the basis for such a conclusion, which is mandatory under section 35(1)(b)(ii) of BNSS, 2023.

Section 69 of the CGST Act, 2017 empowers the Commissioner to arrest, but this power can only be exercised if there is reason to believe the accused has committed an offence under clauses (a) to (d) of sub-section (1) of section 132 of the Act. The Guidelines for arrest and bail issued by the GST Investigation Wing on 17.08.2022 explicitly distinguish between the existence of power to arrest and the justification for its exercise. In this case, the arresting authority did not provide any written justification at the time of arrest. The mere rote repetition of statutory conditions such as potential evidence tampering or witness influence, without any material on record to support such satisfaction and without recording reasons in writing, violates statutory requirements.

Consequently, the bail application was allowed.

5. Validity of second provisional attachment order - initial provisional attachment order ceases, by reason of efflux of a year from the date of its issuance - power of authorities to impose the provisional attachment time and again [Smt. Lalita vs. Union of India and another Madras High Court (Writ Tax No. – 4082 of 2025 dated 25.08.2025)]

The Madras High Court, relying on the authoritative ruling by the Supreme Court in *Kesari Nandan Mobile* [2025 INSC 983], unequivocally held that the powers granted to authorities under the law do not permit the imposition of provisional attachment orders repeatedly beyond the initial one-year period. The Supreme Court's decision clearly establishes that in the absence of any statutory provision specifically permitting extensions, renewals, re-issuances, or revivals of provisional attachment orders, such actions by the authorities are unlawful and amount to executive overreach beyond the limits set by the statute.

In this case, the impugned provisional attachment order dated 01.05.2025, which was the fourth attachment of the petitioner's bank account, was declared invalid and was accordingly quashed and set aside.

The Court ordered that the authorities immediately de-freeze the petitioner's bank account within three days from the date of the order.

6. The petitioner objected to the Department's withholding of refund processing and disbursement despite the Appellate Authority's order being in their favour and remaining unchallenged [Omega Qms. vs. Commissioner, CGST, Delhi West & Anr. - Delhi High Court (W. P. (C) No. 11815/2025 & CM Appl. 48226/2025 dated 19.08.2025)]

The Court opined that the Department's mere opinion under section 54(11) of the CGST Act cannot, on its own, justify withholding a refund. In the absence of any pending appeal or other proceeding challenging the Appellate Authority's order, such an opinion is insufficient to delay the refund. Since the Appellate Authority has granted the refund and no review or stay order exists, the Department is not entitled to withhold the refund amount.

The Court referred to the coordinate bench decision in *G.S. Industries [2023 (75) G.S.T.L. 309 (Del.)]*, which observed that where no appeal or stay is filed against an appellate order, that order cannot be disregarded merely because the revenue department considers it erroneous or seeks to overturn it.

Consequently, the refund due in favor of the petitioner would be liable to be allowed in terms of the order passed by the Appellate Authority.

7. Whether issuance of a single SCN by the authorities covering multiple financial years, combining demands for those years, aligns with the time limitation provisions for SCN issuance and the compounding of offences under section 138 of the GST Act. Additionally, whether the authorities can pass a single assessment order for more than one financial year [M/s. Oriental Lotus Hotel Supplies Pvt. Ltd., Rep. by its Senior Manager and others vs. The Joint Commissioner, Chennai GST Audit II Commissionerate and others - Madras High Court (W. P. No. 30032 of 2025 and W. M. P. Nos. 33654 & 33656 of 2025 dated 08.08.2025)]

The Court considered the provisions of sections 73(1) and 74(1) of the GST Act, which relate to the issuance of SCN in specific circumstances. Further, according to sections 73(2) and 74(2), the proper officer must issue the SCN at least three or six months before the expiry of the time limit prescribed under sections 73(10) and 74(10) for passing the order.

The time limit for passing assessment orders is defined as up to three or five years from the last date for filing the annual return for the financial year concerned. The GST Act treats each financial year as a separate and independent tax period, with limitation periods applying distinctly for each year.

Given this, the Court found that consolidating more than one financial year into a single SCN is not consistent with the provisions of sections 73 and 74. For this reason, the practice of issuing a composite SCN covering multiple financial years is impermissible. Issuing a combined SCN for multiple years, which demands tax for those years collectively, frustrates the statutory limitation scheme and denies the petitioner the opportunity to provide rebuttals specific to each year. Such an action constitutes jurisdictional overreach by the proper officer, acting beyond lawful authority, thereby rendering the order void ab initio.

The Act allows issuance of SCNs strictly according to the relevant tax period. Once an annual return is filed, that year is deemed the tax period, and the SCN must be issued based on that annual return.

8. Challenge was made to proceedings initiated under section 129 of the CGST Act regarding the detention of certain goods transported by the petitioner. The question was whether the petitioner complied sufficiently with the statutory requirements as stipulated in rule 138A of the CGST Rules. [Ajith Gopi vs. State of Kerala and others - Kerala High Court (WP(C) No. 27049 of 2025 dated 25.07.2025)]

The proceedings under section 129 were initiated solely on the ground that the petitioner failed to produce an invoice evidencing the purchase of the goods from an unregistered dealer. However, since the vehicle was intercepted while in transit from the petitioner's registered premises to the purchaser, it was the petitioner's responsibility to ensure that the consignment was accompanied by the necessary documentation under rule 138A, namely the invoice issued by the petitioner and the corresponding e-way bill.

It was established by evidence (Exhibit P2) that at the time of interception, both the invoice and e-way bill were duly in existence. The statement referred to by the learned Government Pleader constitutes a disputed fact and, importantly, no such allegation was mentioned in any of the notices issued. When assessing the validity of the impugned notices, such unraised or after-the-fact discrepancies hold no significance. If such discrepancies had existed, they ought to have been made clear in the notices related to this writ petition. Since none of the notices, orders, or statements highlighted such discrepancies, they cannot now be asserted on the basis of subsequent documents.

9. Violation of natural justice due to non-service of notices, resulting in an ex-parte assessment order and subsequent demand raised through Form DRC-07 on 28.08.2024, passed without granting the petitioner any opportunity for hearing as mandated under section 75(4) of the BGST Act, 2017 [M/s Durga Paper Plate Industries vs. The Union of India and others - Patna High Court (Civil Writ Jurisdiction Case No. 7911 of 2025 dated 14.07.2025)]

The Court observed that the notices and orders were merely uploaded under the category 'Additional Notices and Orders' on the GST portal. Upon review of the counter-affidavit, it was noted that summary assessment orders in Form DRC-07 as well as notices related to the return module (GST DRC-01B and GST DRC-01C) are required to be uploaded specifically under the 'Notices and Orders' section.

Section 75(4) of the CGST/BGST Act clearly mandates that an opportunity for hearing shall be provided when a written request is received from the person against whom tax or penalty is chargeable or when any adverse decision is contemplated. It is explicit from this provision that the hearing stage follows only after the SCN has been received by the assessee and when the authority is considering any adverse action.

In the case at hand, when Annexure 'P/3' was issued, no hearing date was fixed. The Court held that this was appropriate as the authorities were still awaiting a response and thus, Annexure 'P/3' cannot be construed as an opportunity for a personal hearing.

Significantly, the petitioner was never granted a personal hearing as required by the statutory provisions. Therefore, the Court set aside the impugned orders on account of non-compliance with the mandatory procedural requirements under the statute.

10. Alleged violation of natural justice for failing to provide the petitioner a hearing before passing the appellate order. The petitioner sought restoration of its registration certificate. [Vraj Traders through Proprietor Mr. Vrajesh Bhikhubhai Pansuriya vs. State Of Gujarat & Ors. - Gujarat High Court (Special Civil Application No. 9080 of 2025 dated 28.08.2025)]

The Court referenced the decision in *Agarwal Dyeing and Printing Works [2022 (66) G.S.T.L. 348 (Guj.)]* by the Coordinate Bench of the Gujarat High Court,

wherein the principles regarding SCN and fundamental natural justice were extensively discussed. The Coordinate Bench had held that writ petitions deserve to be allowed solely on the ground of violation of natural justice. The present petition was decided on the same basis.

In the present matter, the Court found that the petitioner was not granted any hearing prior to the issuance of the appellate order. Additionally, the notice proposing cancellation of registration and the impugned order dismissing the revocation application dated 06.07.2022 were issued without any reasons and were in clear violation of natural justice principles, as well as contrary to the precedent set by the Coordinate Bench in *Agarwal Dyeing & Printing Works*.

Given the close factual similarity between the current case and *Agarwal Dyeing & Printing Works*, the Court was compelled to follow the earlier precedent and uphold the violation of natural justice.

As a result, the appellate order dated 22.09.2022, the order rejecting the revocation application dated 06.07.2022, and the cancellation order dated 16.06.2022 were set aside. The Court granted liberty to the respondent No. 2 to issue a fresh notice specifying detailed reasons, provide the petitioner with a reasonable opportunity for hearing, and thereafter pass an appropriate speaking order on merits.

Contributed by CA. Nikhil Gupta & CA. Pallavi Garg

GST UPDATES

Extension of due date of Form GSTR-3B in selected districts of Maharashtra

The due date of filing of monthly return in Form GSTR-3B for the month of July, 2025 has been extended to 27th August, 2025 for the registered persons having principal place of business in the districts of Mumbai (City), Mumbai (sub-urban), Thane, Raigad and Palghar in the State of Maharashtra.

Notification No. 12/2025 – CT dt. 20.08.2025

GSTN ADVISORIES

Advisory–System Enhancement for Order-Based Refunds

As per the available functionality, taxpayers could claim refunds under the category “On account of Assessment/ Enforcement/Appeal/Revision/Any Other Order” only if:

- The cumulative amount of the Demand ID showed a negative balance (i.e., refund eligible).
- The status of the Demand ID was “Refund Due”.

This restriction prevented taxpayers from claiming refunds

when individual components (minor heads) of a demand showed negative balances and the overall cumulative balance was zero or positive.

For the above scenario, many taxpayers and tax officers are stating that the taxpayers are not able to claim the refund. Accordingly, the following changes have been implemented in the system:

- Refunds can now be claimed irrespective of the Demand ID status.
- Refunds are allowed even when the cumulative balance is positive or zero, provided any minor head has a negative balance.
- Only negative balances will be auto-populated in the refund application (Form RFD-01); taxpayers cannot claim any refund for the positive amounts within the demand.
- Order Number Suggestions: The system automatically suggests the most recent demand order associated with a negative balance such as order-in-original, rectification order or appellate order etc.
- Tooltips: Clear guidance is provided near the Order No. and Demand ID fields to help taxpayers enter the correct details.

GST Compliance Schedule

Compliances for the month of September, 2025 or the Quarter ended September, 2025

Forms	Compliance Particulars	Due Dates
GSTR 7	Return to be furnished by the registered persons who are required to deduct tax at source.	10.10.2025
GSTR 8	Return to be furnished by the registered electronic commerce operators who are required to collect tax at source on the net value of taxable supplies made through it.	10.10.2025
GSTR 1	Statement of outward supplies by the taxpayers having an aggregate turnover of more than ₹ 5 crore or the taxpayers who have opted for monthly return filing.	11.10.2025
GSTR 1	Statement of outward supplies by the taxpayers having an aggregate turnover up to ₹ 5 crore and who have opted for the QRMP scheme.	13.10.2025
GSTR 1A	Amendment of outward supplies of goods or services for the current tax period	
GSTR 5	Return to be furnished by the non-resident taxable persons containing details of outward supplies and inward supplies.	13.10.2025
GSTR 6	Return to be furnished by every Input Service Distributor (ISD) containing details of the input tax credit received and its distribution.	13.10.2025
CMP 08	Statement containing the details of self-assessed tax for Quarter 2 of FY 2025-26 by the registered person paying tax under section 10.	18.10.2025
GSTR 3B	Return to be furnished by all the taxpayers other than who have opted for QRMP scheme comprising consolidated summary of outward and inward supplies.	20.10.2025
GSTR 5A	Return to be furnished by Online Information and Data base Access or Retrieval (OIDAR) services provider for providing services from a place outside India to non-taxable online recipient (as defined in Integrated Goods and Services Tax Act, 2017) and to registered persons in India and details of supplies of online money gaming by a person outside India to a person in India.	20.10.2025
GSTR 3B	Return to be furnished by the taxpayers who have opted for QRMP scheme for Quarter 2 of FY 2025-26 comprising consolidated summary of outward and inward supplies. (For registered taxpayers having their place of business in the states of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep)	22.10.2025
GSTR 3B	Return to be furnished by the taxpayers who have opted for QRMP scheme for Quarter 2 of FY 2025-26 comprising consolidated summary of outward and inward supplies. (For registered taxpayers having their place of business is in states of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi)	24.10.2025



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

6 Day Workshop on GST Dispute Mechanism

(Strategies & Advocacy)

An Initiative by GST & Indirect Taxes Committee
&
Committee for Members in Practice



Benefits of the Workshop



Practical Hands-on Learning

Participate in case studies, drafting exercises & mock hearings to build confidence and practical skills.

End-to End GST dispute resolution

Gain comprehensive knowledge of GST litigation process, from responding to pre-SCN intimations to navigating Appellate Proceedings.

Emphasis on Ethical & Professional Conduct

Learn to uphold the highest standards of ethics and professionalism while representing Clients before Authorities.

Tech & Compliance Readiness

Training on digital tools essential for online filing, documentation & virtual hearings.

Expert-Led Sessions

Seasoned professionals share real-life insights, legal strategies and best practices.

Skill Enhancement

Sharpen your expertise in handling Adjudication, Appeal drafting, Advocacy & Client representation.

This program empowers CAs with legal, procedural, and advocacy skills to handle GST disputes confidently, ensuring professional excellence and compliance with regulatory requirements.

For details visit - <https://idtc.icai.org/programme-seminar.php>

QUIZ

1. **ABC Ltd. purchased raw materials worth ₹10,00,000 + GST @18% in July 2025. It has not made the payment to the supplier within 180 days from the date of invoice. However, Input Tax Credit (ITC) relating to the same has been availed by ABC Ltd. in July 2025. Which of the following statement is correct?**
 - a) ITC cannot be availed until payment of value and tax is made to the supplier.
 - b) ITC once availed need not be reversed; interest liability will arise after 180 days from the date of invoice.
 - c) ITC availed needs to be reversed along with interest and can be re-availed after the payment is made to the supplier.
 - d) ITC availed must be reversed only and it cannot be re-availed once reversed.
2. **Mr. A transfers 50% of his business to Mr. B on 01.08.2025. Certain tax dues relating to the period prior to transfer remain unpaid. Who is liable to pay such dues?**
 - a) Mr. A (transferor)
 - b) Mr. B (transferee)
 - c) Both Mr. A and Mr. B are jointly and severally liable for dues up to the time of transfer to the extent of such transfer.
 - d) Neither, as the transfer was partial
3. **M/s XYZ Traders, registered under GST claimed an erroneous refund of ₹9,000/- in FY 2024-25. The proper officer notices this and contemplates issuing a show cause notice (SCN) under section 74A. Which of the following statements is correct?**
 - a) No SCN can be issued because the erroneous refund amount is below the ₹10,000/- threshold.
 - b) No SCN can be issued for erroneous refund under section 74A.
 - c) The SCN can be issued within 42 months from the due date of filing the annual return.
 - d) No penalty is leviable because the amount involved is under ₹10,000/-.
4. **Mr. X, registered under GST in Pune is engaged in intra-State supply of electronic goods. The turnover in State was Rs. 125 lakhs in the preceeding financial year whereas the turnover of taxable goods was Rs. 105 lakhs. Specify the limit upto which Mr. X can provide services under composition scheme as per section 10(1).**
 - (a) ₹ 5 lakhs
 - (b) ₹ 10 lakhs
 - (c) ₹ 10.5 lakhs
 - (d) ₹ 12.5 lakhs
5. **What are the instances under which no amendment in order of Appellate Tribunal shall be made without giving the party an opportunity of being heard by the Appellate Tribunal?**
 - (a) Enhancing assessment
 - (b) Reducing the amount of ITC or refund
 - (c) Increasing liability of other party
 - (d) All the above
6. **When goods are liable to confiscation, the fine in lieu of confiscation shall not exceed -**
 - (a) ₹ 10,000/-
 - (b) taxable value of goods
 - (c) the market price of goods confiscated, less tax charged thereon
 - (d) the amount of tax payable on goods
7. **For the financial year 2024-25, a registered person paying tax under the composition scheme is required to furnish the return in -**
 - a) Form GSTR-4 by 15th April following the end of such financial year.
 - b) Form GSTR-4 by 30th April following the end of such financial year.
 - c) Form GSTR-4 by 31st May following the end of such financial year.
 - d) Form GSTR-4 by 30th June following the end of such financial year.
8. **Under the GST law, in which of the following situations is the onus of proof placed on the taxable person?**
 - a) When the Department disputes the taxability of a particular turnover
 - b) When the taxpayer claims entitlement to Input Tax Credit
 - c) When classification of goods is questioned during a departmental audit
 - d) When the Department disputes whether a transaction is inter-State or intra-State supply
9. **XYZ Ltd. issues a GST credit note to its buyer for returned goods. Which condition must be fulfilled for XYZ Ltd. to reduce its output tax liability?**
 - a) Credit note can be issued only if goods are returned within 30 days of supply.
 - b) The buyer must reverse the ITC already availed on such goods/services.
 - c) No condition; supplier can reduce liability unconditionally.
 - d) Credit note can be issued only if goods are returned within 60 days of supply.
10. **What will be the place of supply in case of goods supplied to an unregistered person with different billing and delivery addresses?**
 - a) Billing address of the recipient
 - b) Delivery address mentioned on the invoice
 - c) Supplier's place of business
 - d) Location of the transporter

The names of first five members who were the top scorers in the last Quiz are as under:

Name	Membership No.
CA. Swapnil Jain	300170
CA. Aditya Banshal	306083
CA. Aman Rathi	606341
CA. Aditya Dhanuka	305212
CA. Akshay Verma	443477

Please provide reply of the above MCQs in the link given below. **Top five scorers will be awarded hard copy of the publication 'GST Act(s) and Rule(s)- Bare Law' & their names will be published in the next edition of the Newsletter.**
Link to reply: - <https://forms.gle/g4vwsmhQTWpStTRw6>



GST & INDIRECT TAXES COMMITTEE

A ONE STOP SOLUTION FOR GST AND OTHER INDIRECT TAXES

www.idtc.icai.org



The website of GST & Indirect Taxes Committee viz. idtc.icai.org provides the users a well-set platform for sharing and gaining knowledge on GST and easy accessibility to the Committee.

- ✓ Publication on GST & other Indirect Taxes (Available for free download and online ordering)
- ✓ Regular GST Updates
- ✓ Previous Issues of ICAI-GST Newsletter
- ✓ Knowledge resources on GST such as Articles, Legal Updates etc.
- ✓ Details of Certificate Courses, Programmes, Seminars etc. on GST & other Indirect Taxes
- ✓ Upcoming Events



GST Acts



GST Rules



Notifications including the amended notifications



Circulars/ Orders

GST STATUTES



Minutes of GST Council meetings



GSTN Advisories



GST Press releases



Other useful links



Instructions/ Guidelines

Your suggestions on the website are welcome at gst@icai.in

GST and Indirect Taxes Committee
The Institute of Chartered Accountants of India
ICAI Bhawan, A-29, Sector-62, Noida, U.P.
Telephone Board: +91-120-3045900 Ext. 954
Website: <http://www.idtc.icai.org>

The ICAI-GST Newsletter being the property of The Institute of Chartered Accountants of India published from ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi-110002 and Printed from M/s CDC Printers Pvt Ltd, Tangra Industrial Estate- II (Bengal Pottery), 45, Radhanath Chaudhary Road, Kolkata-700015. Compiled by CA Rajendra Kumar P