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CONTENTS

- President's Communication 3
- Photographs 4
- Chairman's Communication 5
- Blocked Input Tax Credit under Section 17(5) of the CGST Act, 2017 – Legislative Design, Judicial Trends and Emerging Issues 6
- Judicial Pronouncements 9
- GSTN Advisories 16
- GST Compliance Schedule 18
- Quiz 19



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President's Communication



Dear Professional Colleagues,

Greetings!

India's economy continues to demonstrate resilience and steady growth. The Goods and Services Tax (GST) regime has played a significant role in this journey by promoting greater transparency, formalisation, and efficiency in the indirect tax system. As the GST framework continues to evolve with greater digitisation and policy reforms, it presents significant opportunities for Chartered Accountants to contribute proactively towards strengthening compliance, governance, and ease of doing business in the country. In this context, the GST revenue collections for April 2026 present an encouraging picture of the country's economic momentum.

GST collections for April 2026 reached an all-time high of ₹ 2,42,702 crores, registering an impressive growth of 8.7% over the collections of ₹ 2,23,265 crores recorded in April 2025. Revenue from domestic transactions rose by 4.3% to ₹ 1,85,122 crores, indicating sustained consumption and steady business activity across sectors. At the same time, GST collections from imports witnessed a remarkable growth of 25.8%, reaching ₹ 57,580 crores. These record collections not only signify strong economic fundamentals and rising trade activity but also reflect improved tax compliance and the increasing effectiveness of technology-enabled administration under the GST regime.

The continued emphasis on digital processes and data-driven governance has further strengthened transparency and ease of compliance under the GST framework. These developments reaffirm the importance of GST as a key pillar of India's economic progress.

The GST & Indirect Taxes Committee of ICAI remains committed to supporting the evolving GST ecosystem through knowledge dissemination, stakeholder engagement, and capacity-building initiatives. The Committee continues to organise workshops, seminars, conferences, certificate courses and webinars to enhance the professional capabilities of Chartered Accountants in the field of indirect taxation.

The Committee has also been actively supporting the Government's capacity-building initiatives by providing specialised training programmes for the GST officers of the Central and State Governments. Continuing this endeavour, faculty support was recently extended for GST training programmes organised for Inspectors at NACIN Patna and Odisha.

I am confident that these initiatives will continue to support members and other stakeholders in strengthening their professional knowledge and ensuring effective GST compliance.

I extend my best wishes to the members and all stakeholders for continued growth, success, and professional excellence in the year ahead.

CA. Prasanna Kumar D

President,

The Institute of Chartered Accountants of India

PHOTOGRAPHS



CA. Umesh Sharma, Chairman, & CA. Rajendra Kumar P, Vice - Chairman, GST & IDTC met Dr. Shaifali G Singh, Director, GST Council Secretariat on 06.04.2026 to discuss knowledge partnership for strengthening GST implementation and enhancing taxpayer compliance.



CA. Umesh Sharma, Chairman, & CA. Rajendra Kumar P, Vice - Chairman, GST & IDTC met Mr. Siddhartha Gupta, Asst. Registrar, GSTAT on 06.04.2026 to discuss outreach prog. on the GSTAT with the objective of creating greater awareness among taxpayers.



CA. Umesh Sharma, Chairman, & CA. Rajendra Kumar P, Vice - Chairman, GST & IDTC met Mr. Pankaj Kumar Singh, Addl. Secy. GST Council Secretariat, on 06.04.2026 to discuss knowledge support for strengthening GST implementation & enhancing compliance ecosystem.



A "Training Programme on GST for Inspectors" was conducted at NACIN, Patna on 15.04.2026.

Chairman's Communication



**Esteemed Member,
Warm Greetings!**

It gives me great pleasure to share with you the 65th edition of the ICAI GST Newsletter, covering important developments, key judicial pronouncements, and recent updates under the GST regime.

GST law and technology continue to evolve with a clear focus on improving compliance and enhancing taxpayer experience. In line with this objective, GSTN has introduced an MS Excel-based offline utility for the Invoice Management System (IMS), enabling taxpayers to take bulk actions on invoices furnished through Form GSTR-1, Form GSTR-1A and IFF without continuous login to the GST portal. The utility is expected to make invoice management and return reconciliation more convenient for taxpayers.

GSTN has enabled taxpayers to edit the pre-deposit amount while filing appeals in Form GST APL-01 from 06.04.2026. Earlier, the portal auto populated a fixed 10% pre-deposit amount which could not be modified, causing practical difficulties. This enhancement would provide greater flexibility and ease in the appeal filing process, subject to verification by the appellate authority.

Further, GSTN has clarified the issue faced by taxpayers in filing appeals in NIL demand cases, where voluntary payments made during the SCN stage were restricting the filing of appeals in Form GST APL-01. It has now been clarified that such payments do not amount to acceptance of liability and taxpayers continue to retain their statutory right to appeal under Section 107, thereby reducing procedural hardships arising from system-related limitations.

Another important change relates to taxpayers registered under Rule 14A. With effect from 1st April 2026, applications for withdrawal through Form REG-32 can now be made after filing returns for one complete tax period instead of the earlier requirement of three months. This will provide greater ease and flexibility to small taxpayers.

With the operationalisation of the GST Appellate Tribunal, it is increasingly important for professionals to strengthen not only their technical knowledge but also their representation and advocacy skills. Keeping this in view, the Committee, jointly with the Members in Practice Committee, has launched **GSTART – GST: From Adjudication to Representation & Tribunal Practice (Level I)**, a structured three-day workshop covering the GST dispute journey from adjudication and first appeal to an introduction to GSTAT procedures. Members interested in participating may connect with their respective Branch or Region to host the workshop. Detailed information is available on the Committee's website.

I sincerely hope that the initiatives and knowledge resources of the Committee continue to support members in their professional journey and in navigating the evolving GST landscape effectively.

CA. Umesh Sharma

Chairman

GST & Indirect Taxes Committee

The Institute of Chartered Accountants of India

Blocked Input Tax Credit under Section 17(5) of the CGST Act, 2017 – Legislative Design, Judicial Trends and Emerging Issues

Executive Summary

Input Tax Credit (ITC) is a foundational element of the Goods and Services Tax (GST) framework, intended to promote tax neutrality and mitigate cascading. Section 17(5) of the Central Goods and Services Tax Act, 2017 (CGST Act) prescribes specific categories of inward supplies in respect of which ITC is expressly denied, even where such supplies are used in the course or furtherance of business. This article examines the structure and policy intent of Section 17(5), analyses its key clauses and leading judicial pronouncements, and highlights the principal interpretational and compliance challenges, including those arising from recent amendments and proposals.

1. Introduction

The Indian GST regime is premised on the principle of seamless flow of ITC across the supply chain, such that tax is effectively levied only on value addition at each stage. Section 16 of the CGST Act recognises the entitlement of a registered person to avail ITC on goods or services used or intended to be used in the course or furtherance of business, subject to prescribed conditions.

Section 17 qualifies this entitlement by providing for the apportionment of credits and by specifying categories of blocked credits. Sub section (5) of Section 17 opens with a non obstante clause overriding Sections 16(1) and 18(1), thereby placing a statutory embargo on ITC for certain enumerated inward supplies. Given its overriding nature and its direct impact on cost, pricing and working capital, Section 17(5) has emerged as one of the more frequently litigated provisions under the GST law.

2. Legislative Background and Policy Intent

The concept of blocked or ineligible credit is not new and is rooted in the earlier CENVAT Credit Rules, 2004, particularly regarding motor vehicles, outdoor catering, club related services and construction linked inputs and input services. The policy intent underlying Section 17(5) may broadly be discerned as follows:

- Restricting credit on items which are inherently susceptible to personal or mixed use.
- Excluding ITC on goods and services that are welfare oriented or capital in nature, where there may be no corresponding outward supply liable to GST.
- Safeguarding revenue by introducing objective, bright line exclusions in areas perceived to be vulnerable to misuse.

At the same time, the continuity and, in some

respects, expansion or clarification of blocked credit provisions under GST has given rise to debate as to whether such restrictions sit comfortably with the broader objective of GST as a comprehensive value added tax, particularly in sectors with long or investment intensive supply chains.

3. Structure and Scheme of Section 17(5)

Section 17(5) adopts a negative list approach and, through clauses (a) to (i), specifies inward supplies in respect of which ITC is not available. Broadly, these can be grouped into:

- Motor vehicles and other conveyances for transportation of persons, as well as vessels and aircraft, subject to limited exceptions.
- Specified goods and services with a predominantly personal or employee oriented character (for example, food and beverages, outdoor catering, club memberships).
- Works contract services and goods or services used for construction of immovable property, with specific carve-outs.
- Goods lost, destroyed, written off or disposed of without consideration, including by way of gift or free samples.
- Credits denied in consequence of findings of fraud, wilful misstatement or suppression of facts.

Owing to the enumerative and exclusionary drafting, adjudicating authorities and courts have, in general, favoured a strict interpretation of these clauses, subject to the usual principles of statutory construction.

4. Clause-wise Analysis

4.1 Motor Vehicles, Vessels and Aircraft

Section 17(5)(a) blocks ITC on motor vehicles designed for the transportation of persons having an approved seating capacity of not more than thirteen persons (including the driver), except where they are used for further supply of such vehicles, transportation of passengers or imparting training on driving such vehicles. Clause (aa) extends a similar scheme of restriction to vessels and aircraft, again subject to specified business use exceptions. In practice, judicial and advance ruling authorities have generally declined ITC on motor vehicles used for administrative purposes, employee transportation or managerial convenience, unless the factual matrix clearly falls within the statutory exceptions, such as a passenger transport operator or a driving school.

4.2 Specified Goods and Services Linked to Personal Consumption

4.2.1 Food, Beverages, Outdoor Catering, Beauty Treatment, Health Services, Cosmetic and Plastic Surgery, Rent-a-Cab, Life Insurance and Health Insurance

Section 17(5)(b) blocks ITC on a fairly wide set of categories — food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, rent-a-cab, life insurance and health insurance. The block is not absolute. Credit survives in two situations:

- Where the inward supply goes toward making an outward taxable supply of the same category, or forms part of a composite or mixed supply that is taxable.
- Where the employer is legally obligated to provide such goods or services to employees — for instance, under labour or factory legislation.

Most disputes in this space come down to one of two questions: was the facility genuinely required by law, or was it a voluntary benefit dressed up as a statutory obligation? And where a composite arrangement is involved — canteen services in a factory being the most common example — does it actually meet the “same category” condition? Neither question has a clean answer on the facts, which is why this area keeps generating litigation.

4.2.2 Membership of a Club, Health and Fitness Centre

Club memberships and gym or fitness centre memberships are also blocked under Section 17(5)(b), but the credit landscape here is narrower. Only one carve-out applies — the statutory obligation route. The “same category outward supply” carve-out, available for the categories in 4.2.1, simply does not extend here.

So practically speaking, ITC on a club or fitness membership is available only where an employer can show a legal requirement to provide it. That is a difficult bar to clear. Existing labour and factory legislation rarely mandates such facilities, which means credit is denied in most real-world situations.

4.3 Works Contract Services and Construction of Immovable Property

Section 17(5)(c) blocks ITC on works contract services when supplied for construction of an immovable property (other than plant and machinery), except where such services are used as input services for further supply of works contract services. Section 17(5)(d) further denies ITC on goods or services received for construction of an immovable property on one’s own account, including when such construction is undertaken in the course or furtherance of business.

The explanation to Section 17(5) defining “plant and machinery”, and specifically excluding land, buildings and civil structures from its ambit, has been the focal point of disputes in the context of

factories, warehouses, malls and similar projects, where the distinction between a civil structure and plant can be factually complex. Recent amendments proposed through the Finance Act, 2025, and related notifications seek to retrospectively substitute the phrase “plant or machinery” in Section 17(5)(d) with “plant and machinery”, with effect from 1 July 2017, and to clarify that this change shall apply notwithstanding contrary decisions of any court or tribunal. This is positioned as a clarificatory amendment intended to align the main provision with the explanation, though it has important implications for ongoing and past disputes involving construction related ITC.

4.4 Goods or Services for Personal Consumption

Section 17(5)(g) provides that ITC shall not be available in respect of goods or services used for personal consumption. This clause reinforces the conceptual boundary between business consumption, which generally falls within the credit chain, and personal or private consumption, which remains outside it. The provision typically applies where there is clear evidence of consumption unrelated to the taxable person’s business activities.

4.5 Goods Lost, Stolen, Destroyed or Disposed Of by way of gifts or free samples

Section 17(5)(h) blocks ITC on goods lost, stolen, destroyed, written off, or disposed of by way of gift or free samples. This has particular relevance for sectors such as pharmaceuticals, FMCG and consumer goods, where free samples, promotional packs and incentive schemes form a significant part of distribution and marketing strategies. Taxpayers in such sectors are required to maintain adequate records and controls to identify quantities falling within this clause and to ensure timely reversal of ITC to mitigate exposure to interest and penalties.

Picture this: You’ve paid GST on goods you bought, claimed the input tax credit (ITC), and then—oops—they get lost, stolen, destroyed, written off, or you give them away as gifts or free samples. Section 17(5)(h) of the CGST Act steps in and says, “Sorry, no ITC for you on those.” You have to reverse the credit, even if everything else was done by the book. Pharma, FMCG and consumer goods companies face this most acutely — free samples and promotional distributions are routine business expenses, but each one is a potential ITC reversal event. Good recordkeeping is the only reliable defense.

A few things that help in practice:

- Keep a running stock register. Quantities, values, supplier GSTIN, ITC claimed — all of it. Reconcile monthly against GSTR-2B and your books. Gaps discovered late are expensive.
- Ring-fence promotional inventory. Promo items, gifts and write-offs should sit in separate accounts from the start. Trying to carve them out later, at the time of reversal, is where errors creep in.

- Document the event, not just the outcome. Theft needs an FIR. Fire or damage needs a surveyor's report. A write-off decision needs a paper trail. The reversal entry alone is not enough.
- Reverse in the right period. The reversal should happen in the month the event occurs. Flag it correctly in GSTR-3B Table 4(B)(1). Late reversals attract interest, and the table reference matters during scrutiny.

4.6 Credits Denied in Consequence of Fraud or Suppression

Section 17(5)(i) provides that ITC shall not be available in respect of any tax paid in pursuance of an order passed under Section 74, where the demand arises due to fraud, willful misstatement or suppression of facts. The Finance (No.2) Act, 2024, effective 1 November 2024, has narrowed this clause in two ways it limits its operation to specified past financial years. It removes the references to Sections 129 and 130 dealing with detention and confiscation, as we advance. The intent to deter fraud remains. But the change reflects a more measured stance on when blocked credits should follow from serious violations and enforcement actions.

5. Judicial Trends and Key Decisions

Courts have consistently reiterated that ITC is a statutory right, which can be conditioned or curtailed by the legislature through clear and unambiguous provisions.

In *VKC Footsteps India Pvt. Ltd. v. Union of India* (2021), the Supreme Court held that ITC is a creature of statute and that the legislature is competent to define the contours of such entitlement, including the conditions and restrictions attached to it. While the case primarily dealt with the refund of unutilised ITC in an inverted duty structure and did not directly involve Section 17(5), the Court's observations have reinforced the principle that courts should be slow to read down or dilute explicit statutory exclusions in the credit chain.

Safari Retreats Pvt. Ltd. v. Chief Commissioner of CGST started at the Orissa High Court and eventually made its way to the Supreme Court, where it produced one of the more consequential rulings on construction-linked ITC.

The Court upheld the constitutional validity of Section 17(5)(c) and (d) — so the legislative competence to block credit on immovable property construction was never seriously in doubt after this. But the ruling was not simply a clean endorsement of the restriction. The Court introduced a functionality test: the relevant question is not just whether something is a building, but whether it functions as a “plant” in the context of the taxpayer's specific business. That single move cracked the provision open. Structures that would otherwise be dismissed as civil construction can now potentially qualify for ITC if the facts support a plant characterisation.

The judgment did not venture into policy territory or hint that the GST Council ought to revisit the provision. The contribution was interpretive, not advisory.

In the pre GST decision of *CCE v. Ultratech Cement Ltd.*, the Supreme Court emphasised that credit provisions are to be interpreted strictly, particularly where the legislature has expressly carved out exclusions. This principle continues to inform the interpretative approach adopted in cases involving Section 17(5). Recent High Court and Tribunal decisions have also addressed allied issues such as denial of ITC solely on account of a mismatch between GSTR 2A and GSTR 3B, though such decisions generally operate in a different conceptual space from the blocked categories under Section 17(5).

6. Practical and Compliance Challenges

From a practical standpoint, Section 17(5) gives rise to several compliance and risk management challenges for taxpayers and professionals, including:

- Ensuring accurate identification and segregation of blocked credits in enterprise systems, so that ineligible credits are not inadvertently availed or retained.
- Instituting robust procedures to track goods written off, lost or distributed as gifts or free samples, and effecting corresponding reversals of ITC.
- Navigating the continuing ambiguity around classification of expenditure as “plant and machinery” versus “building” or “civil structure” in capital intensive projects.
- Managing litigation and exposure relating to historic periods in light of evolving jurisprudence and proposed amendments to clause (i) dealing with fraud linked demands.

These factors collectively contribute to higher compliance costs, greater documentation requirements and sustained litigation, making blocked credits under Section 17(5) a critical focus area for internal tax controls and audits.

7. Concluding Observations

Section 17(5) of the CGST Act represents a conscious legislative choice to balance the ideal of seamless ITC against revenue considerations and perceived areas of vulnerability to misuse. While the rationale for preventing abuse of ITC is intuitively understandable, the breadth and rigidity of certain blocked credit categories have contributed to interpretational disputes and increased compliance burden for bona fide taxpayers.

Recent and proposed amendments—such as the clarification regarding “plant and machinery” and the calibrated narrowing of fraud-linked blocked credits—suggest an incremental move towards greater coherence, but significant areas of uncertainty continue. A measured rationalisation of the blocked credit framework, undertaken at the policy level and aligned to the core philosophy of GST as a destination-based value-added tax, would assist in reducing litigation, enhancing certainty and reinforcing confidence in the integrity of the ITC mechanism.

Contributed by CA. Peeyush Sharma

JUDICIAL PRONOUNCEMENTS

1. GST Portal Cannot Impose restriction beyond the Statute; Inter-State ITC Transfer on NCLT-Approved Amalgamation Upheld [Emerson Process Management (India) Pvt. Ltd. v. Union of India & Ors. - Gujarat High Court - R/Special Civil Application No. 7006 of 2024]

Background

The Petitioner, Emerson Process Management (India) Pvt. Ltd., a manufacturer of safety valves and components registered under GST in multiple states, amalgamated M/s. Pentair Valves and Controls India Pvt. Ltd. pursuant to a scheme of amalgamation approved by the NCLT vide order dated 14.11.2019. Under the scheme, all assets and liabilities of the transferor company stood transferred to the petitioner. The unutilized ITC balance lying in the books of the transferor company was also required to be transferred to the petitioner. When the petitioner attempted to file Form GST ITC-02 on the GST portal to effectuate this transfer, the portal threw an error message stating: "Transferee and Transferor should be of the same State/U.T." Despite multiple follow-ups and reminder letters to department, no resolution was provided by the department, compelling the petitioner to approach the Gujarat High Court.

Issue Involved

Whether the transfer of unutilized ITC from a transferor company to a transferee company, pursuant to an NCLT-approved scheme of amalgamation, can be denied on the ground that the two entities are registered in different States/ Union Territories?

Contentions of the Respondent

The Revenue contended that under the prevailing GST framework, ITC transfer in cases of amalgamation or merger is restricted to entities within the same State, and that cross-state transfer of ITC is impermissible. It was further argued that permitting inter-State ITC transfer would introduce audit challenges and increase the risk of tax evasion and fraud, thereby compromising the integrity of the GST system. Reliance was placed on Circular No. 133/03/2020-GST dated 23.03.2020 on apportionment of ITC in business reorganisations. The Revenue also sought to distinguish the Bombay High Court ruling in Umicore Autocat India (P) Ltd. v. Union of India and pointed out that the said judgment is pending challenge before the Supreme Court by way of SLP (Civil) Diary No. 67126 of 2025, wherein notices have been issued.

Court's Observations

The Court examine that neither Section 18(3) of the CGST Act nor Rule 41 of the CGST Rules contains any express prohibition or restriction on the transfer of ITC where the transferor and transferee are located in different States. The department cannot, through a portal restriction, introduce a condition absent from the statute.

The Court concurred with the reasoning of the Bombay High Court in Umicore Autocat India (P) Ltd. and found no convincing reason to take a contrary view. It reaffirmed that the legislative intent behind ITC was to provide a continuous

chain of set-off and eliminate the cascading burden of taxes, and that CGST credit — being a Central levy — does not cause any financial loss to the Union even when utilised across State lines.

The Court also noted that the ITC balance had already been manually transferred in the books of accounts of the petitioner, making the portal restriction contrary to the very scheme approved by the NCLT.

Since the petitioner has restricted his transfer of ITC to the CGST only, the transfer of ITC relating to the GST enactments are not touched upon by us also since before the Bombay High Court, the petitioner therein had given up the claim for unutilized ITC.

Order

The Court held that the departmental endorsement on Form GST ITC-02 denying inter-State ITC transfer is de hors the statutory scheme. The Court further directed that until a proper amendment or mechanism is incorporated in the GSTN portal for uploading Form ITC-02 in such cases, the department shall accept manually filed ITC-02 forms and process the same within six weeks from the date of receipt of the Court's order.

2. Same-Month Rule Under Rule 39(1)(a) Cannot Mandate Distribution Merely on Invoice Issuance [Reliance Jio Infocomm Ltd. v. Union of India - High Court of Judicature at Madras - W.P. Nos. 27038 & 28371 of 2025]

Background

The Petitioner, Reliance Jio Infocomm Ltd., a telecom company with GST registrations across States/UTs, was also registered as an Input Service Distributor (ISD) for distributing common input service among its branch offices.

Before 01.04.2025, Section 20 of the CGST Act did not empower the Government to prescribe a time limit for ISD credit distribution. Such power was introduced only w.e.f. 01.04.2025 by amendment to Section 20(2).

Show Cause Notices were issued for FY 2018-19 to 2023-24, alleging contravention of Rule 39(1)(a) on the ground that ITC was not distributed in the same month as receipt of the underlying input service invoice.

Issue Involved

whether the statutory mandate engrafted in Rule 39(1)(a) of the CGST Rules is ultra vires the enabling Act and whether the legal requirement of distribution of credit by the distributor in the same month of receipt of invoice is manifestly arbitrary and violative of Article 14 of the Constitution of India.

Whether the SCNs alleging delayed distribution from the date of invoice issuance were legally sustainable.

Contentions of the Respondent

Rule 39(1)(a) was validly framed under Section 164 read with Section 20 of the CGST Act; the same-month requirement is neither impossible nor arbitrary and serves the legitimate purpose of preventing revenue leakage.

The amendment to Section 20(2) w.e.f. 01.04.2025 is merely

clarificatory, making explicit what was always implicit in the rule-making power, and validates the pre-existing Rule 39(1)(a).

ISD distribution is merely an internal accounting adjustment — a book entry — and is distinct from actual availing of ITC under Section 16. Conditions under Section 16(2) are relevant only when the recipient branch avails the credit, not when the ISD distributes it.

Section 16(4) has no connection with the ISD's obligation to distribute credit and the petitioner's attempt to conflate the two must be rejected.

The SCN is based on detailed audit findings revealing systematic contraventions and lack of cooperation during audit proceedings.

Court's Observations

The Court observed that the argument that Section 20(2) of the CGST Act requires the ISD to distribute credit in the same month of receipt of invoice, at first blush appears to be attractive; however, on a deeper examination, such an interpretation would lead to a situation where the ISD, whether or not entitled to avail ITC under Section 16 of the CGST Act, would be required to distribute credit as per the invoice alone, which cannot be the legislative intent.

Adverting to the scheme of the CGST Act, the Court noted that there is no discernible guiding principle or rationale as to what purpose would be served in providing for distribution without fulfilment of conditions for taking ITC under Section 16; significantly, had such been the legislative intention, the legislature could well have incorporated an express provision to that effect, however, it has not chosen to do so.

On the language of Section 20, the Court found that the said provision does not speak of distribution of "invoice" but of "credit"; merely because the expression employed is distribution of credit upon receipt of "invoice", it cannot be taken to mean that the legislative intention is to mandate distribution of credit indicated in the invoice even before the registered person becomes entitled to claim ITC under the Act.

Applying the principle of harmonious construction, the Court concluded that the expression "credit available for distribution" in Rule 39(1)(a) of the CGST Rules is required to be interpreted in consonance with Sections 16 and 20 of the CGST Act to mean credit that has become available in accordance with law, i.e., upon fulfilment of mandatory conditions prescribed under Section 16(2); the stage of distribution, therefore, arrives only upon such fulfilment and not otherwise.

Order

The Court held that Rule 39(1)(a) of the CGST Rules is not ultra vires the enabling Act and sustained the same, construing the expression "ITC available for distribution in a month" to mean ITC available upon fulfilment of conditions under Section 16(2).

Consequently, it was held that the distribution requirement under Rule 39(1)(a) shall mean distribution in the month in which the registered person becomes entitled to ITC under Section 16(2), and not in the month of invoice issuance.

The Court further directed that the show cause notices, to

the extent they allege contravention on account of delayed distribution, shall be adjudicated afresh by the concerned authority in light of the interpretation laid down herein.

Accordingly, the writ petitions were allowed to the extent stated.

3. Affiliation Fees Collected by Statutory University Not Liable to GST — Proper Officer Lacked Jurisdiction to Invoke Section 74 [University of Mumbai v. Union of India & Ors. — High Court of Judicature at Bombay — WP No. 4389 of 2025]

Background

The Petitioner, University of Mumbai, a statutory university constituted under the Maharashtra Public Universities Act, 2016, was issued a show cause notice under Section 74 of the CGST Act proposing to demand GST on affiliation fees collected from colleges for the period FY 2017-18 to 2022-23. The adjudicating authority confirmed the GST demand of Rs. 16,90,05,337/- along with equivalent penalty. The rectification application filed by the Petitioner was also rejected. The Petitioner challenged the order-in-original, the rectification order and the circulars No. 151/07/2021-GST dated 17/06/2021 issued by CBIC before the High Court.

Issue Involved

Whether the collection of affiliation fees by the petitioner, which is a statutory University, would attract levy of the GST?

Whether the proper officer had jurisdiction to issue show cause notice and pass the order-in-original under Section 74 demanding GST on affiliation fees?

Contentions of the Respondent

The activities of the petitioner are clearly in the nature of supply, which includes all forms of services made for consideration; the term "business" under Section 2(17) is of wide amplitude covering activities irrespective of profit motive, and systematic collection of fees for affiliation constitutes supply attracting levy under Section 9.

The exemption notification dated 28 June 2017 is applicable to educational institutions and not to the University itself; the decision of Goa University is distinguishable on facts and does not lay down a universal proposition; taxability under GST is activity-specific and must be independently examined.

Court's Observations

The Court observed that on a plain reading of Section 7(1)(a), the expression "supply" contemplates all forms of supply such as sale, transfer, barter, exchange, licence, rental, lease or disposal made for a consideration in the course or furtherance of business. The words "furtherance of business" cannot be read in isolation but must be read in the context of the preceding contents of clause (a). None of those contents would imply inclusion of statutory activities of granting affiliation or collection of affiliation fees therefor.

Adverting to the scheme of the Maharashtra Public Universities Act, 2016, the Court noted that all activities under Chapter X relating to affiliation are within the statutory framework and not for any profit or per se any service being provided under any business as the law would envisage; the considerations of commerce are alien to the object and purpose of a statutory university founded under law. (Para 20)

On the definition of "business" under Section 2(17)(a), the

Court found that applying the rule of ejusdem generis, the said provision contemplates activities of commercial or pecuniary character; it is difficult to accept that the activities of the University, which are singularly and purely intended to further the object of the statute, can at all be categorized as trade, commerce, manufacture, profession, vocation, adventure or wager.

The Court further observed that to regard the petitioner-university as undertaking “business” in collecting affiliation fees would amount to doing violence to the purpose and intention of the legislation and would be a gross absurdity; once the activity itself is not a “supply” and not in the course or furtherance of business, Section 9 being the charging provision would be inapplicable, and consequently the proper officer lacked jurisdiction to invoke Section 74.

Additionally, the Court observed that even assuming affiliation fees were to attract GST, the exemption notification covering services under heading 9992 or heading 9963 relating to education would also extend to the University; affiliation forms part of the educational framework through which colleges admit students, conduct courses and lead to conferment of degrees, and such services cannot be read so narrowly as to exclude the University.

Order

The Court held that the collection of affiliation fees by the statutory University in discharge of its statutory functions does not constitute “supply” under Section 7 of the CGST Act and Section 9 being the charging provision is consequently inapplicable; the proper officer therefore lacked jurisdiction to issue the show cause notice and pass the order-in-original under Section 74.

The Court clarified that the challenge to the circulars was not adjudicated; however, it was observed that no circular which is not conforming to the substantive provisions of law can stand and be applied.

The writ petition was accordingly allowed in terms of prayer clauses (a) quash the order in original and (b) Rectification Order.

4. Omission of Rule 96(10) Without Saving Clause — All Pending Proceedings Stand Lapsed — SCNs and Orders Quashed [Rohan Dyes and Intermediates Ltd. v. Union of India — High Court of Gujarat at Ahmedabad — R/Special Civil Application Nos. 8472 & 8790 of 2025]

Background

The Petitioner, a member of Gujarat Dyestuff Manufacturers’ Association, had claimed IGST refund on export of goods. On the basis of specific intelligence received from Deputy Commissioner, Customs, Mundra, it was alleged that the Petitioner had availed IGST refund in violation of Rule 96(10) of the CGST Rules. Accordingly, proceedings were initiated, summons were issued, and a show cause notice was issued on 24.08.2023 without considering the reply of the Petitioner. An order was thereafter passed denying the refund claim. The Petitioner challenged the said SCN and order by way of writ petitions before the High Court.

Issue Involved

Whether the omission of Rule 96(10) of the CGST Rules by Notification No. 20/2024 dated 08.10.2024, without any

saving clause, would apply to pending proceedings including the impugned show cause notices and orders?

Court’s Observations

The Court observed that the issue raised in the present writ petitions was squarely covered by the decision of the coordinate bench of this Court dated 20.11.2025 in J.J. Plastalloy (P.) Ltd. v. Union of India, which had extensively considered the effect of Notification No. 20/2024 dated 08.10.2024 omitting Rule 96(10).

Placing reliance on the coordinate bench decision in Addwrap Packaging Pvt. Ltd., the Court noted that the omission of Rule 96(10) by Notification No. 20/2024 would apply prospectively but also to all pending proceedings and cases where final adjudication had not taken place as on 08.10.2024; accordingly, no further proceedings were required to be carried forward and the petitioners would be entitled to maintain refund claims of IGST paid on export of goods.

Adverting to the decision of the Bombay High Court in Hikal Ltd. v. Union of India, the Court noted that under common law, the repeal or omission of a statute without a saving clause obliterates the repealed provision completely as if it had never existed; all pending proceedings including undisposed show cause notices, orders not yet finalised due to appeals or challenges before the Court, not constituting “transactions past and closed”, would not be preserved and would stand lapsed. (Para 7)

The Court further observed that since the Appellate Tribunal is not yet constituted, the remedy of filing an appeal is not available to the petitioners; it cannot therefore be said that the orders-in-appeal have become final, and hence such orders will not constitute “transactions past and closed” and will stand lapsed in view of the omission of Rule 96(10).

Order

The Court held that the omission of Rule 96(10) by Notification No. 20/2024 dated 08.10.2024, without any saving clause and without aid from Section 6 of the General Clauses Act, would apply to all pending proceedings/cases/petitions; the impugned orders dated 10.10.2024 and 24.03.2025 were accordingly quashed and set aside.

The Court further directed that the Petitioners are entitled to refund; all pending applications for refund shall be processed and, in case of rejection, the same shall stand restored and be further processed within a period of twelve weeks from the date of receipt of the order. Rule made absolute. No order as to costs.

5. Penalty Not Specified in Statutory Form GST DRC-01 Cannot Be Confirmed in Adjudication Order — Procedural Defect Vitiates Demand [M/s Comfort Battery v. Additional Commissioner, Central Goods and Services Tax — High Court of Judicature at Allahabad — Writ Tax No. 2097 of 2026]

Background

The Petitioner was issued a show cause notice dated 24.06.2025 along with Form GST DRC-01 dated 26.06.2025 under Section 74 of the CGST Act for the period FY 2018-19 to 2022-23 alleging wrongful availment of ITC of Rs. 4,36,18,072/-. However, in the column of Form GST DRC-01 meant for specification of proposed penalty, the amount was described as “0”. The adjudicating authority thereafter passed

an order dated 15.12.2025 confirming penalty equivalent to Rs. 4,36,18,072/-, though no such amount was specified in the statutory Form DRC-01. The Petitioner challenged both the show cause notice and the adjudication order before the High Court. (Paras 2, 3, 4)

Issue Involved

Whether a penalty demand can be confirmed in an adjudication order when the proposed penalty was not specified in the statutory Form GST DRC-01 but was mentioned only in the annexed detailed show cause notice for which no statutory form is prescribed.

Whether the absence of clear specification of proposed penalty in Form DRC-01 constitutes a procedural defect vitiating the adjudication order.

Contentions of the Respondent

Though no amount of penalty was mentioned in Form DRC-01, there was a clear recital of the demand of penalty in Clause 16(3) of the detailed show cause notice dated 24.06.2025, wherein it was clearly stated that penalty equivalent to the ITC disallowed and demanded should not be imposed under Section 74 of the CGST Act.

Court's Observations

The Court observed that Rule 142 of the CGST Rules prescribes Form GST DRC-01 as the statutory form which must accompany a notice issued under Section 74, and the said form itself contemplates clear disclosure of the amounts proposed towards tax, interest, penalty and other dues in a tabular format; it would be dangerous to allow the Revenue to pursue confirmation of demand solely on the strength of disclosures made in an annexure to the statutory form, for which no form is prescribed. (Paras 13, 14)

Adverting to Section 74(8) of the CGST Act, the Court noted that the noticee has a statutory right to conclude the proceedings by paying the tax along with interest and a penalty equivalent to twenty-five percent of the proposed demand within thirty days of issuance of the notice; to avail of this statutory right, the amount of tax, penalty and other dues must be clearly and unambiguously specified in Form DRC-01, failing which the noticee is effectively deprived of this right.

The Court further observed that there is no warrant to allow the Revenue any margin to not specify the amount of tax or penalty in the statutory Form DRC-01, or to seek confirmation thereof on the strength of disclosures made otherwise in the annexure to the statutory form; the demand may either be confirmed by following the statutory prescription or not at all.

Order

The Court held that since the amount of penalty confirmed in the adjudication order was not specified in the statutory Form DRC-01, a procedural error had crept into the proceedings which did not permit the demand to be confirmed in the face of such ambiguity; the impugned adjudication order dated 15.12.2025 was accordingly set aside.

The adjudicating authority was permitted to issue a rectified show cause notice within one week, specifying the exact demand of tax, penalty and interest; the Petitioner was granted two weeks to file a final reply, followed by a personal hearing with fifteen days advance notice, and the proceedings were

directed to be concluded by a reasoned order on or before 30.06.2026.

6. Erroneous claim and distribution of Input Tax Credit – Ignoring material evidence on record, including audit report – Fresh adjudication directed [Abbott Healthcare Pvt. Ltd. Versus Union of India & Ors. - Himachal Pradesh High Court - CWP No. 2696 of 2024]

Background

The petitioner, Abbott Healthcare Pvt. Ltd., challenged an adjudication order passed by the Additional Commissioner, CGST, wherein a substantial demand was raised on account of alleged wrongful availment and distribution of Input Tax Credit (ITC) through its Input Service Distributor (ISD) mechanism for the financial years 2018–19 and 2019–20. The department alleged that ITC amounting to ₹17.67 crore had been wrongly distributed and was recoverable under the provisions of the CGST Act read with IGST Act. The petitioner, however, relied heavily on an audit conducted under Section 65(6) of the CGST Act, which reportedly gave it a clean chit regarding the disputed ITC. Despite this, the adjudicating authority proceeded to confirm the demand without adequately addressing or evaluating the audit report. Aggrieved by this omission and the adverse findings, the petitioner approached the High Court seeking relief against the impugned order.

Issue Involved

The central issue before the Court was whether the adjudication order could be sustained when a crucial piece of evidence—namely the audit report under Section 65(6) that allegedly exonerated the petitioner—was not considered by the adjudicating authority. The question essentially revolved around the principles of proper adjudication, application of mind, and whether failure to consider material evidence vitiates the order.

Contentions of the Respondent

The respondents (Revenue authorities) defended the adjudication order and sought time before the Court to respond to the petitioner's reliance on the audit report. However, notably, they failed to place any material on record to rebut or contradict the findings of the audit report that had been relied upon by the petitioner. Their stance remained largely procedural, without substantively addressing the evidentiary value of the audit findings.

Court's Observation

The High Court observed that the audit report under Section 65(6), which allegedly gave a clean chit to the petitioner, constituted a vital piece of evidence that ought to have been considered by the adjudicating authority. The Court noted that the respondents had not produced any material to counter the petitioner's reliance on the audit report. Therefore, the failure to consider such relevant material indicated non-application of mind and rendered the adjudication process defective. Importantly, the Court clarified that it was not expressing any opinion on the merits of the case, including the correctness of the ITC claim or the legality of the show cause notice. Instead, its interference was limited to the procedural lapse of non-consideration of relevant evidence, which is a violation of principles of natural justice and fair adjudication.

Order

The Court set aside the impugned adjudication order dated 29.12.2023 and remanded the matter back to the Additional Commissioner for fresh adjudication. It directed that the authority must consider all submissions and material on record, including the audit report, and pass a reasoned order. The Court further directed that the exercise be completed expeditiously, preferably within two months. All issues on merits were left open for fresh consideration.

7. Grant of bail in economic offences – Presence of prima facie case – Seriousness of offence weighed [Hansraj Gurjar vs Union of India - Rajasthan High Court - 2026: RJ - JP:16356]

Background

This case involved a bail application filed by the petitioner, Hansraj Gurjar, who had been arrested in connection with alleged large-scale GST fraud involving fake invoicing, bogus e-way bills, and fraudulent ITC claims. The Directorate General of GST Intelligence (DGGI) accused the petitioner of operating multiple fake firms and being part of a syndicate engaged in tax evasion exceeding ₹48 crore. The petitioner had been in judicial custody for a significant period and sought bail under the provisions of the Bharatiya Nagarik Suraksha Sanhita (BNSS), particularly invoking Section 480(6), arguing delay in trial and prolonged detention.

Issue Involved

The primary issue was whether the petitioner was entitled to bail considering the nature of the offence, the period of custody, and the applicability of Section 480(6) BNSS. Another important issue was whether delay in trial automatically entitles an accused to bail in economic offences.

Contentions of the Respondent

The respondent authorities strongly opposed the bail application, arguing that the petitioner was actively involved in a well-organized GST fraud syndicate. They contended that the petitioner played a key role in creating fake firms, issuing bogus invoices, and facilitating wrongful ITC claims. The magnitude of tax evasion was substantial, and the offence was cognizable and non-bailable. The respondents further argued that economic offences are grave in nature and affect the economy, and therefore require a stricter approach in bail matters.

Court's Observation

The Court observed that the material on record, including documentary evidence and statements recorded under Section 70 of the CGST Act, prima facie established the petitioner's involvement in the alleged fraud. It emphasized that economic offences constitute a separate class of offences requiring stricter judicial scrutiny, as held by the Supreme Court in Y.S. Jagan Mohan Reddy case. The Court also clarified that Section 480(6) BNSS does not create an automatic right to bail but only confers discretion upon the Court. It further held that mere length of custody is not a decisive factor in serious economic offences, especially when the allegations involve deep-rooted conspiracies and significant loss to the public exchequer.

Order

The High Court dismissed the bail application, holding that the petitioner was not entitled to bail in view of the seriousness of the offence, the magnitude of tax evasion, and the prima facie

evidence on record. It concluded that continued detention was justified at this stage.

8. Parallel proceedings under GST – determination of identical subject matter – dispute relating to wrongful input tax credit – breach of principles of natural justice – availability of alternate remedy – bar under Section 6(2)(b) against Section 74 proceedings where Section 73 already invoked for another period [M/s Ramada Engineering Industry vs Additional Commissioner (Adjudication) - Delhi High Court -W. P. (C) 1036/2026]

Background

The present case arose out of a writ petition filed by M/s Ramada Engineering Industry challenging an adjudication order passed under Section 74 of the CGST Act for the Financial Year 2018–2019. The petitioner was a registered partnership firm engaged in the supply of scientific products and was duly compliant under the GST regime. Prior to the impugned proceedings, the department had already initiated action against the petitioner under Section 73 of the SGST Act for the Financial Year 2019–2020, alleging discrepancies in the declaration of tax liability in its annual returns and wrongful avilment of Input Tax Credit (ITC). That proceeding culminated in confirmation of demand through an Order-in-Original. Subsequently, the department issued another show cause notice under Section 74 of the CGST Act for Financial Year 2018–2019, alleging wrongful avilment of ITC based on invoices issued by a non-existent entity, namely M/s Sawariya Traders. The demand raised in this proceeding was also confirmed through an adjudication order dated 30th September 2025. Aggrieved by this second proceeding, the petitioner approached the High Court contending that such parallel proceedings were barred under Section 6(2)(b) of the CGST Act and also alleging violation of principles of natural justice.

Issue Involved

The principal issue before the Court was whether the proceedings initiated under Section 74 of the CGST Act for Financial Year 2018–2019 were barred by virtue of Section 6(2)(b), given that earlier proceedings under Section 73 had already been initiated for Financial Year 2019–2020. The Court was required to examine the scope and applicability of the “same subject matter” test under Section 6(2)(b). A secondary issue was whether the adjudication order suffered from violation of principles of natural justice, particularly whether the petitioner's reply had been duly considered and whether proper opportunity of hearing had been granted.

Contentions of the Respondent

The respondent authorities contended that the proceedings under Section 74 were valid and not barred under Section 6(2)(b), as the two proceedings pertained to different financial years and different factual matrices. It was argued that the earlier proceedings under Section 73 related to discrepancies in tax declarations without any allegation of fraud or suppression, whereas the later proceedings under Section 74 involved serious allegations of fraudulent ITC claims through goods-less invoices issued by a non-existent entity. The respondents further submitted that the impugned order had been passed after due consideration of the petitioner's reply, and therefore, there was no violation of principles of natural justice. It was also contended that the petitioner

had an effective alternative remedy by way of appeal under Section 107 of the CGST Act, and hence, the writ petition was not maintainable.

Court's Observation

The Delhi High Court undertook a detailed analysis of Section 6(2)(b) of the CGST Act and clarified that the bar on parallel proceedings is not absolute but is attracted only when both proceedings relate to the "same subject matter." The Court explained that for the bar to apply, the proceedings must involve the same tax liability, arise from the same set of facts, relate to the same contravention, and pertain to the same period. Applying this test, the Court found that there was no overlap between the two proceedings in the present case. The proceedings under Section 73 pertained to Financial Year 2019–2020 and were based on discrepancies in tax declarations, whereas the proceedings under Section 74 related to Financial Year 2018–2019 and involved allegations of fraudulent ITC claims based on fictitious transactions. The Court emphasized that proceedings under Section 73 and Section 74 operate in distinct fields, the former dealing with non-fraud cases and the latter addressing fraud, suppression, or willful misstatement.

On the issue of natural justice, the Court observed that the impugned order clearly reflected consideration of the petitioner's reply and submissions. Therefore, the contention regarding non-consideration of reply was rejected. The Court also noted that the petitioner had an efficacious alternative remedy of appeal under Section 107, which further weighed against interference under writ jurisdiction.

Order

Based on the above findings, the High Court dismissed the writ petition. It held that the proceedings under Section 74 for Financial Year 2018–2019 were not barred by the earlier proceedings under Section 73 for Financial Year 2019–2020, as the two did not involve the same subject matter. The Court further held that there was no violation of principles of natural justice and that the petitioner should avail the statutory appellate remedy. However, it granted relief to the extent of directing that the period spent in pursuing the writ petition would be excluded while computing the limitation period for filing the appeal.

9. Non-speaking cancellation of GST registration – rejection of revocation request – failure to provide reasons or grant personal hearing – breach of natural justice [Skva Rubber Solution Private Limited Versus Union of India - Bombay High Court - Writ Petition No. 17755 OF 2024]

Background

The present writ petition was filed by Skva Rubber Solution Pvt. Ltd., a company engaged in the business of trading crumb rubber granulate, challenging the cancellation of its GST registration and the subsequent rejection of its application for revocation of such cancellation. The petitioner had obtained GST registration in Maharashtra in July 2018 and was initially compliant in filing returns. However, due to financial difficulties during the financial year 2018–19, the petitioner failed to discharge its tax liabilities and file returns within the prescribed timelines, which ultimately led to suspension of its business operations from February 2020 onwards. Thereafter, a show cause notice dated 31st December 2020 was issued

proposing cancellation of registration. Subsequently, the registration was cancelled by an order dated 2nd February 2021 with retrospective effect from 1st May 2019. The petitioner contended that this cancellation was effected without granting any opportunity of personal hearing.

In order to regularize its compliance and avail the benefit of the amnesty scheme, the petitioner filed pending returns and later applied for revocation of cancellation in June 2023. Another show cause notice was issued regarding the revocation application, to which the petitioner submitted a reply along with supporting documents. Despite this, the application for revocation was rejected by order dated 30th August 2023 without proper consideration of submissions. The appeal filed by the petitioner was also rejected on the ground of limitation without examining the merits. Aggrieved by the entire chain of actions, the petitioner approached the Bombay High Court under Article 226.

Issue Involved

The key issue before the Court was whether the cancellation of GST registration and rejection of the revocation application were valid in law when passed without granting an opportunity of personal hearing and without recording proper reasons. The Court also examined whether such non-speaking orders and procedural lapses amounted to a violation of the principles of natural justice. Additionally, the Court considered whether dismissal of appeal solely on limitation, without examining the legality of the foundational order, was justified.

Contentions of the Respondent

The respondent authorities contended that the cancellation of GST registration was justified on valid grounds, namely that the petitioner had failed to file returns within the prescribed time and had not discharged its tax liabilities. It was also argued that the petitioner's place of business was found to be non-operational, thereby warranting cancellation of registration. The respondents defended the orders passed by the adjudicating authority and opposed the relief sought by the petitioner. They maintained that due procedure had been followed and that the petitioner's non-compliance justified the action taken.

Court's Observation

The Bombay High Court, after examining the facts and records, observed that the impugned show cause notices and consequential orders did not reflect due consideration of the petitioner's submissions. The Court noted that both the cancellation order and the order rejecting the revocation application were non-speaking in nature, as they failed to record any reasons or address the petitioner's contentions. It emphasized that cancellation of GST registration has serious civil consequences, as it effectively disables a taxpayer from carrying on business, and therefore strict adherence to principles of natural justice is mandatory.

The Court further observed that no opportunity of personal hearing had been granted to the petitioner before passing the cancellation order, which was a clear violation of procedural fairness. It also criticized the appellate authority for adopting a hyper-technical approach by rejecting the appeal solely on the ground of limitation without examining the legality of the underlying order, particularly when the foundational order itself appeared to be void and arbitrary. The Court reiterated that non-speaking orders passed without affording an opportunity

of hearing are liable to be quashed, as consistently held in various precedents. It stressed that authorities must pass reasoned orders demonstrating application of mind and proper consideration of submissions.

Order

In light of the above findings, the Bombay High Court allowed the writ petition and set aside the impugned show cause notices as well as the consequential orders cancelling the GST registration and rejecting the revocation application. The Court remanded the matter back to the original adjudicating authority with directions to decide the case afresh in accordance with law. It specifically directed that the petitioner be given an opportunity to submit its contentions and be afforded a personal hearing. The authority was further instructed to pass a reasoned and speaking order within a stipulated time frame. The Court also clarified that all contentions of both parties were kept open and that the department was at liberty to initiate fresh proceedings in accordance with law.

10. Impugned assessment orders upheld – appeal rejected as time-barred – delay exceeding condonable limit – requirement of pre-deposit – mismatch-based GST liability – remand for de novo adjudication on compliance [Tvl. J.V.N Enterprises & vs Assistant Commissioner - Madras High Court - WP Nos.13180 of 2026]

Background

The present batch of writ petitions was filed by Tvl. J.V.N Enterprises and connected petitioners challenging the impugned GST assessment orders passed for different financial years, primarily arising out of mismatch-related demands. The disputes related to inconsistencies between returns filed under various GST forms such as GSTR-3B, GSTR-9, and reconciliation statements in GSTR-9C, as well as mismatches with Form 26AS under the Income Tax Act. The department had issued show cause notices (DRC-01) for the relevant tax periods, followed by adjudication orders confirming the demands. Aggrieved by these orders, the petitioners had filed statutory appeals under Section 107 of the CGST Act after depositing the mandatory pre-deposit of 10% of the disputed tax. However, the appeals were dismissed by the appellate authority on the ground that they were filed beyond the prescribed limitation period, including the condonable period. Subsequently, the petitioners approached the Madras High Court under Article 226 seeking relief against both the assessment orders and the appellate orders rejecting their appeals. During the hearing, the petitioners expressed willingness to deposit the balance disputed tax and sought an opportunity for fresh adjudication on merits.

Issue Involved

The primary issue before the Court was whether the dismissal of statutory appeals on the ground of limitation, when filed beyond the condonable period, was legally sustainable. The Court also had to consider whether, despite such dismissal, it could grant relief by directing fresh adjudication on merits subject to certain conditions. Another issue was whether the assessment orders arising from mismatch-based demands

warranted interference at the writ stage, particularly when statutory remedies had been exhausted or were no longer available due to limitation.

Contentions of the Respondent

The respondent authorities contended that the dismissal of appeals by the appellate authority was strictly in accordance with the statutory provisions governing limitation under Section 107 of the CGST Act. It was argued that once the appeal is filed beyond the condonable period, the appellate authority has no power to condone the delay, and therefore, the rejection of appeals was legally justified. The respondents further submitted that the impugned assessment orders were based on valid grounds, namely mismatches in returns and discrepancies identified through departmental scrutiny, and that due process had been followed, including issuance of notices and intimations. They also relied on judicial precedents of the Supreme Court to assert that statutory timelines must be strictly adhered to and cannot be relaxed by the High Court in writ jurisdiction.

Court's Observation

The Madras High Court upheld the legal position that the appellate authority was correct in dismissing the appeals on the ground of limitation, as the delay was beyond the condonable period prescribed under the statute. The Court referred to established precedents of the Supreme Court, including cases like Singh Enterprises and Hongo India Pvt. Ltd., to reiterate that statutory limitation provisions are mandatory and cannot be extended beyond the permissible limits. Accordingly, the Court declined to interfere with the appellate orders rejecting the appeals.

However, the Court took a pragmatic and equitable approach while dealing with the substantive dispute. It noted that the assessment orders were based on mismatch-related issues and that the petitioners had expressed willingness to comply with the requirement of depositing the disputed tax. Considering this, the Court exercised its writ jurisdiction to provide an opportunity for fresh adjudication on merits. It directed that the impugned assessment orders be treated as addenda to the show cause notices and that the petitioners be allowed to file detailed replies along with supporting documents. The Court emphasized that such relief was conditional and intended to balance the interests of revenue with the need to provide a fair opportunity to the taxpayers.

Order

The Madras High Court disposed of the writ petitions by sustaining the appellate orders dismissing the appeals on limitation, thereby affirming the strict application of statutory timelines. However, it granted conditional relief by remanding the matter to the original adjudicating authority for fresh adjudication on merits. The Court directed the petitioners to deposit the balance disputed tax (generally 90% or as applicable in specific cases) within a stipulated period and to submit detailed replies to the show cause notices along with supporting evidence. Upon such compliance, the adjudicating authority was directed to pass fresh reasoned orders within a specified timeframe. The Court also ordered that any bank attachment would be lifted upon compliance with the deposit conditions. It further clarified that failure to comply with these conditions would result in revival of recovery proceedings.

Contributed by CA. Kapil Sharma & CA. Madhav Jha

GSTN ADVISORIES

(A) Subject: Difficulty in filing appeals on the GST portal in cases where adjudication orders reflect “NIL” demand due to prior voluntary payment

1. Introduction

It has come to the notice of GSTN that certain taxpayers are facing difficulties in filing appeals on the GST portal against demand orders wherein the demand amount is reflected as “NIL,” despite the existence of a dispute regarding tax liability.

This situation generally arises in cases where the taxpayer has made payment of tax, interest, or penalty (fully or partially) at the stage of issuance of the Show Cause Notice (SCN), without admitting the liability, and the adjudicating authority has subsequently issued a demand order treating such payment as full discharge of the demand without explicitly determining and recording the liability.

2. System Behaviour on GST Portal (Demand and Collection Register – DCR)

When a demand order is issued by the tax officer, the GST portal creates a Demand ID in the Demand and Collection Register (DCR), also known as the liability ledger.

In cases where the tax officer issues a demand order with a NIL amount, an entry is created with zero value, indicating that there is no outstanding liability. When the taxpayer attempts to file an appeal application (APL-01) against such a demand order, the portal restricts the filing of the appeal and may display an error such as: “Disputed amount cannot be more than demand amount itself.”

Since no liability is reported by the tax officer on the GST portal, the system blocks the taxpayer from filing an appeal.

3. Nature of Issue:

It is clarified that:

- Payment made during the SCN stage, without explicit admission of liability, does not amount to acceptance of the demand.
- In such cases, the taxpayer retains the right to contest the liability and file an appeal under Section 107 of the Central Goods and Services Tax Act, 2017.

However, where the adjudication order incorrectly reflects a “NIL” demand, the taxpayer is unable to exercise this statutory right due to the NIL demand reflected in the system.

4. Alternate solution:

In cases where a dispute regarding liability exists but is not captured by the department in the demand order, and payment has been made prior to the issuance of the demand order, the taxpayer is advised to approach the adjudicating authority for issuance of a rectification order.

The taxpayer may file such rectification requests using the option available on the GST portal. Upon receipt of the rectification order reflecting the correct demand amount, the taxpayer may proceed to file an appeal on the GST portal within the prescribed time limits.

(B) Pre-deposit Percentage in the GST Portal

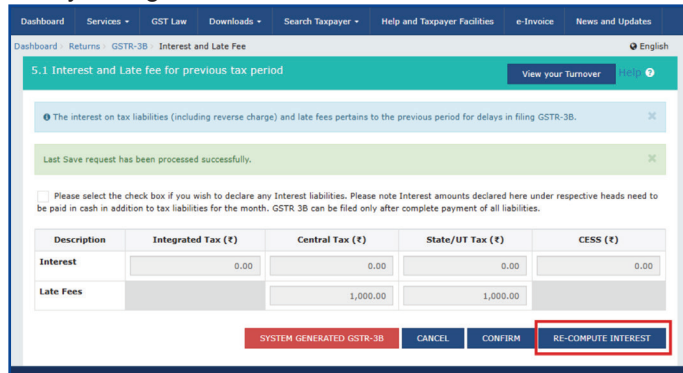
While filing an appeal in Form APL-01 on the GST portal, the pre-deposit percentage is auto-populated as 10% in accordance with Section 107(6) of the CGST Act, 2017, and was previously non-editable. Due to this restriction, taxpayers faced difficulties in cases where the pre-deposit had already been made through other means or where the demand amount was incorrectly reflected under the appropriate head. To address these issues, GSTN has now made the pre-deposit field editable at the time of filing the appeal, from April 6th, 2026. This allows taxpayers to modify the pre-deposit percentage as applicable to their specific case and calculate and pay the required amount accordingly while submitting the appeal. The appellate authority will subsequently verify the correctness of the pre-deposit amount and the mode of payment during the adjudication of the appeal.

(C) Advisory on Re-Computation of Interest under Table 5.1 of GSTR-3B

1. As a facilitation measure for taxpayers and assisting the taxpayers in doing a correct self-assessment, GST Portal auto-calculates interest on delayed filing of GSTR-3B based on the tax liability discharged and tax liability breakup provided in “Tax Liability Breakup, As Applicable” table.
2. This system computed interest is auto-populated and collected in the Table-5.1 of the **subsequent period GSTR-3B**. The facility is similar to the collection of late fees for GSTR-3B, which is also calculated after filing of GSTR-3B and collected in subsequent GSTR-3B period.
3. The detailed breakup of interest computation can be verified from the System Generated GSTR 3B PDF, which can be accessed through the following navigation path:
Login → Return Dashboard → Select Return Period → GSTR 3B → Prepare Online → System Generated GSTR 3B PDF.
4. Due to some technical glitch for few taxpayers interest for Feb-2026 period appearing in Table 5.1 of March-2026 period may have been calculated incorrectly without providing benefit of the minimum cash balance available in the Electronic Cash Ledger as per the proviso to Rule 88B(1) of the CGST Rules, 2017. In case any taxpayer observes any discrepancy in the system calculated interest, an option to recompute interest is available on GST Portal.

The taxpayer may click on the “**RE-COMPUTE INTEREST**” button provided under Table 5.1 of GSTR 3B. Upon clicking this option, the system recalculates

the interest based on the latest and updated parameters available in the system and the revised interest amount will then be reflected in the updated system generated GSTR-3B PDF.



5. Taxpayers are advised to refer to the updated GSTR-3B system generated PDF for the revised interest values and accordingly, update the interest figures in Table 5.1 by manually editing the already autopopulated values in Table 5.1. The revised interest will also be visible on hover of respective field in Table 5.1 of GSTR-3B. Kindly note that the manually edited interest value shall not be less than the recomputed interest appearing in system generated GSTR-3B pdf.

Disclaimer – This advisory has been prepared solely for educational purposes. It is not a legal advice hence, taxpayer must rely on statutory provisions for compliance requirements. For any official or legal purpose, please refer to the applicable GST laws, rules, and notifications.

(D) Advisory for IMS Offline Tool on GST Portal

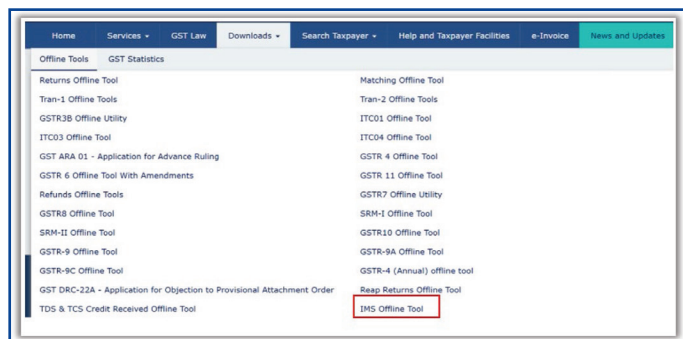
The Invoice Management System (IMS) was introduced on the GST portal effective from the October 2024 tax period. The system enables recipient taxpayers to take actions on invoices uploaded by their suppliers through GSTR-1, GSTR-1A, or IFF, including accepting, rejecting, or keeping such records pending.

With a view to further enhancing taxpayer convenience and facilitating ease of compliance, the IMS Offline Tool is Excel based offline tool which has been now made available on GST Portal. This offline utility enables taxpayers to undertake actions on both individual as well as bulk invoices in an efficient manner.

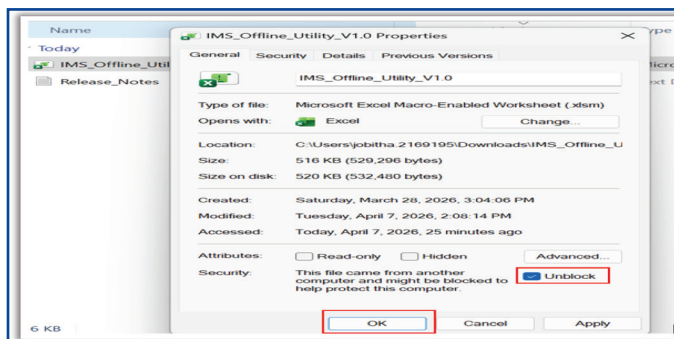
1. Steps to use the IMS offline tool:

a) Download the Tool:

- Visit GST Portal: www.gst.gov.in
- Navigate to Downloads -> Offline Tools -> IMS Offline Tool to download the tool.

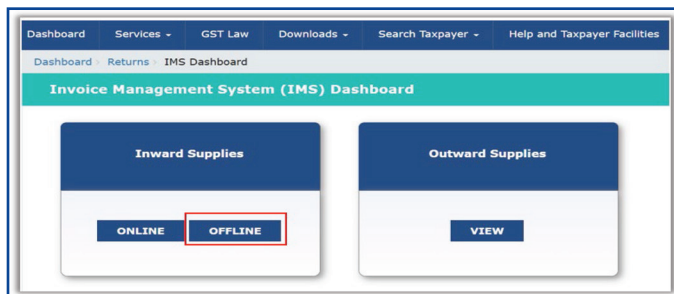


- The tool will be downloaded as a zip file. Extract the zip file, enable the macros through the fileproperties and open the Excel utility.

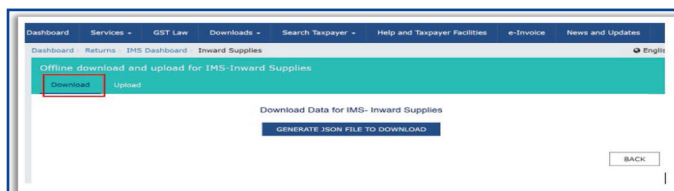


b) Download IMS Data from Portal:

- To download data from GST Portal, navigate to Services -> Returns -> Invoice ManagementSystem (IMS) Dashboard -> Offline

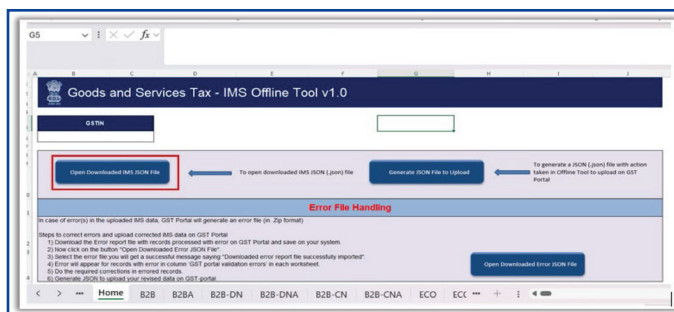


- Click on Download Json. Save the Json file on your system.

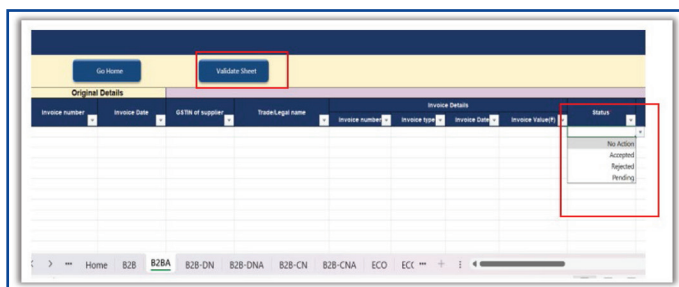


2. Import downloaded Json File and Validate Sheet:

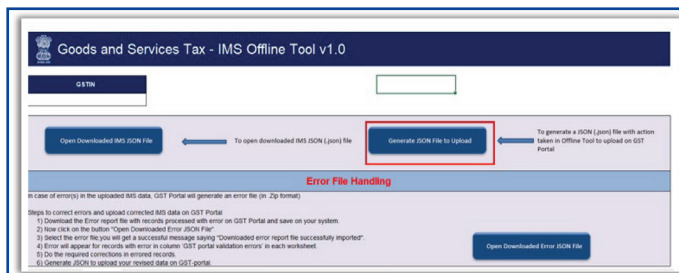
- Click on Open Downloaded IMS Json File in Home sheet.



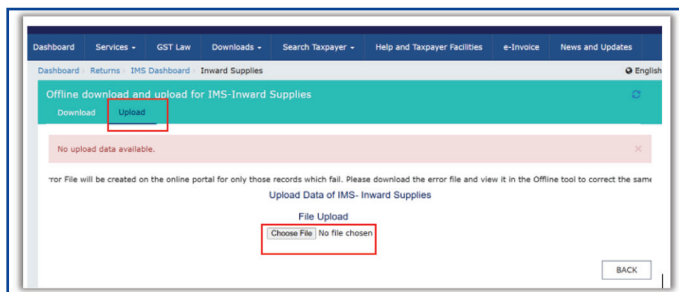
- Select the downloaded file from the online portal to auto-populate invoice data.
- Perform the following actions:
 - Accept/Reject/Pending/No Action
 - Add remarks (if applicable)
- Click on Validate Sheet button.



3. Generate and Upload Json on GST Portal:
- Click on Generate Json File to Upload to create the Json.

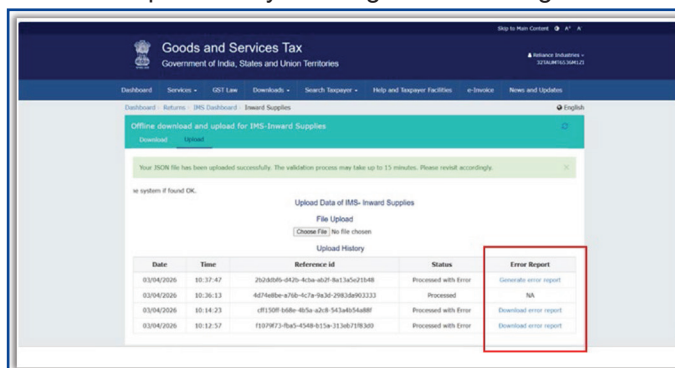


- To upload the Json, login to GST Portal.
- Navigate to: Services -> Returns -> Invoice Management System (IMS) Dashboard -> Offline.
- Click on Upload Json to upload the generated file.



Some important points/validations related to using offline tools are:

- The IMS offline tool follows the same validations and business rules as applicable on the IMS dashboard portal, including treatment of accepted, rejected, pending, and no-action records.
- If no changes are made on the records after importing the JSON file into the offline tool, the generated JSON file will be empty.
- The tool provides filter options to filter the invoices based on relevant parameters. Filters are cleared while performing the 'Validate Sheet' action.
- Click on 'Validate Sheet' button, to validate data in each worksheet in offline tool, after all the actions required are taken in the sheet.
- In case of validation failure of details on uploading JSON file, an error file will be generated with status as 'Processed with Error'. This file can be downloaded, open in offline tool, take relevant actions to remove the highlighted errors and can be uploaded by creating a JSON file again.



- Upon uploading this JSON file, these records will get incrementally added to the records uploaded earlier. If there are pre-existing records on the Portal, against same GSTIN, those details will get replaced/updated.

GST Compliance Schedule

Compliances for the month of May 2026

Forms	Compliance Particulars	Due Dates
GSTR 7	Return to be furnished by the registered persons who are required to deduct tax at source.	10.06.2026
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.	10.06.2026
GSTR 1	Statement of outward supplies by the taxpayers having an aggregate turnover of more than Rs. 5 crore or the taxpayers who have opted for monthly return filing.	11.06.2026
GSTR 1A	Amendment of outward supplies of goods or services for the current tax period.	
IFF	Statement of outward supplies by the taxpayers having an aggregate turnover up to ₹ 5 crore and who have opted for the QRMP scheme.	13.06.2026
GSTR 5	Return to be furnished by the non-resident taxable persons containing details of outward supplies and inward supplies.	13.06.2026
GSTR 6	Return to be furnished by every Input Service Distributor (ISD) containing details of the input tax credit received and its distribution.	13.06.2026
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.	20.06.2026
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.	20.06.2026
PMT-06	Payment of GST for a taxpayer with aggregate turnover up to ₹ 5 crores during the previous year and who has opted for quarterly filing of return under QRMP scheme.	25.06.2026
GSTR-11	Statement of inward supplies by persons having Unique Identification Number (UIN)	28.06.2026

QUIZ

- A principal sent inputs to a job worker on 1 April 2022 under a delivery challan. The job worker used the inputs to make semi-finished goods, which were not returned within the prescribed time limit, and no extension was obtained. In August 2024, the job worker scrapped the goods and sold the scrap on payment of GST. The principal did not issue any tax invoice for the inputs or semi-finished goods. In 2025, the GST department issued a show cause notice to the principal.
Which is the most legally correct position under GST law?
 - The principal is not liable to pay any GST since the job worker has paid tax on the sale of scrap.
 - GST is payable only by the job worker, as the goods were in his possession at the time of scrapping and sale.
 - The principal is liable to pay GST along with interest starting from 1 April 2022, when the inputs were sent out to the job worker
 - The principal is liable to pay GST from August 2024 when the scrap was sold by the job worker.
- Consider the following persons carrying on business from Delhi during a financial year:
 - Person A exclusively supplies ice cream within the State, with an aggregate turnover of ₹25 lakh.
 - Person B exclusively supplies exempt goods, with an aggregate turnover of ₹45 lakh.
 - Person C supplies taxable goods worth ₹25 lakh and taxable services worth ₹10 lakh within the State. Which of the above persons is/are NOT required to obtain registration?
 - Person A only
 - Person B only
 - Person C only
 - None of the above
- ABC Traders dispatched goods to a customer on 10 June 2025. The tax invoice was issued on 9 June 2025. Payment for the supply was received on 5 July 2025. The goods were received by the recipient on 4 July 2025.
What will be the time of supply under the GST law?
 - 09-Jun-2025
 - 10 June 2025
 - 05-Jul-2025
 - 04-Jul-2025
- An Order-in-Original was issued by the Assistant Commissioner, CGST under Section 74 of the CGST Act, 2017 on account of a difference in ITC between GSTR-3B and GSTR-2A. The Appellate Authority, in appeal, set aside the order and directed the Assistant Commissioner to pass a fresh order under Section 73 by invoking the powers under Section 75(2) of the CGST Act, 2017. In this situation, which of the following actions should the Assistant Commissioner legally take?
 - Directly issue a fresh Order-in-Original
 - Issue a fresh show cause notice under Section 73, adjudicate the matter thereafter, and then pass a new Order-in-Original
 - Adjudicate the matter afresh after granting an opportunity of being heard and thereafter pass a new Order-in-Original without issuing a fresh show cause notice
 - Rectify the original Order-in-Original
- The Finance Act, 2026 omitted Section 13(8)(b) relating to the place of supply for intermediary services under the Integrated Goods and Services Tax Act, 2017, thereby making such services subject to the general place of supply provisions. The Finance Act, 2026 was:
 - Passed by Lok Sabha (lower house) on 25 March 2026
 - Received the assent of the President on 30 March 2026
 - Published in the Official Gazette on 31 March 2026

The amendment does not specify any separate date of commencement.
The omission of Section 13(8)(b) shall be effective from:

 - 25 March 2026, being the date of passing by both Houses
 - 30 March 2026, being the date of Presidential assent
 - 31 March 2026, being the date of publication in the Official Gazette
 - 1 April 2026, being the beginning of the next financial year
- XYZ Ltd. (DTA unit) supplies goods to an Export Oriented Unit (EOU) against an Advance Authorization. Who is eligible to file the refund application for the tax paid on this transaction?
 - Only the Supplier (XYZ Ltd.).
 - Only the Recipient (EOU).
 - Either the (XYZ Ltd.) or the EOU unit, subject to an undertaking that the other will not claim refund or avail ITC.
 - Neither; Deemed Exports are not eligible for refunds, only duty drawback.
- Refund of unutilised input tax credit is not admissible in which of the following cases?
 - Zero-rated supply made without payment of tax
 - Inverted duty structure
 - Where the supplier avails the benefit of duty drawback
 - Supplies to SEZ unit within India
- Company X has its head office in Karnataka and a branch in Tamil Nadu (with separate GSTINs), and both are making only taxable supplies. The head office incurs audit fees of ₹10 lakh and does not cross-charge the same to the branch.
Which statement is the most appropriate?
 - No issue as services were consumed by Head office
 - Cross-charge mandatory even without consideration
 - Cross-charge optional if ITC is fully available
 - ISD registration mandatory for HO to distribute ITC to Branch
- The recipient has availed input tax credit (ITC) on an invoice. The value of supply, excluding GST, was paid to the supplier within 180 days, while the GST component was paid after 200 days.
Which of the following is the correct treatment of ITC?
 - Entire ITC is to be reversed and is eligible to be re-availed after payment is made
 - Proportionate ITC is to be reversed with interest and is eligible to be re-availed after payment is made
 - Proportionate ITC is to be reversed without interest and is eligible to be re-availed after payment is made
 - No reversal is required since only the tax portion was unpaid
- Mr. A applied for GST registration under Rule 8 and opted for registration under the special procedure prescribed in Rule 14A of the Central Goods and Services Tax Rules, 2017. He successfully completed Aadhaar authentication on 10th March 2026.
No discrepancy or notice was issued by the department. By when should the registration be granted to Mr. A as per the provisions?
 - Within 3 calendar days
 - Within 3 working days
 - Within 7 days from the date of application
 - Only after physical verification by the officer

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

Name	Membership No.
CA. Surya Prabha Chivukula	243865
CA. Goyal Manish Kanhaiya Lal	482966
CA. Sunil Rajpurohit	178185
CA. Shrushti Oswal	184221
CA. Lokeshwar Nath	321561

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/UtGAeXEYSaiFmYGBA>



GSTART

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At the Helm



CA. Prasanna Kumar D
President, ICAI



CA. Mangesh Kinare
Vice-President, ICAI



CA. Umesh Sharma
Chairman, GST & IDTC



CA. Madhukar Narayan Hiregange
Chairman, MPC



CA. Rajendra Kumar P
Vice-Chairman, GST & IDTC



CA. Chandrashekhar Vasant Chitale
Vice-Chairman, MPC

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