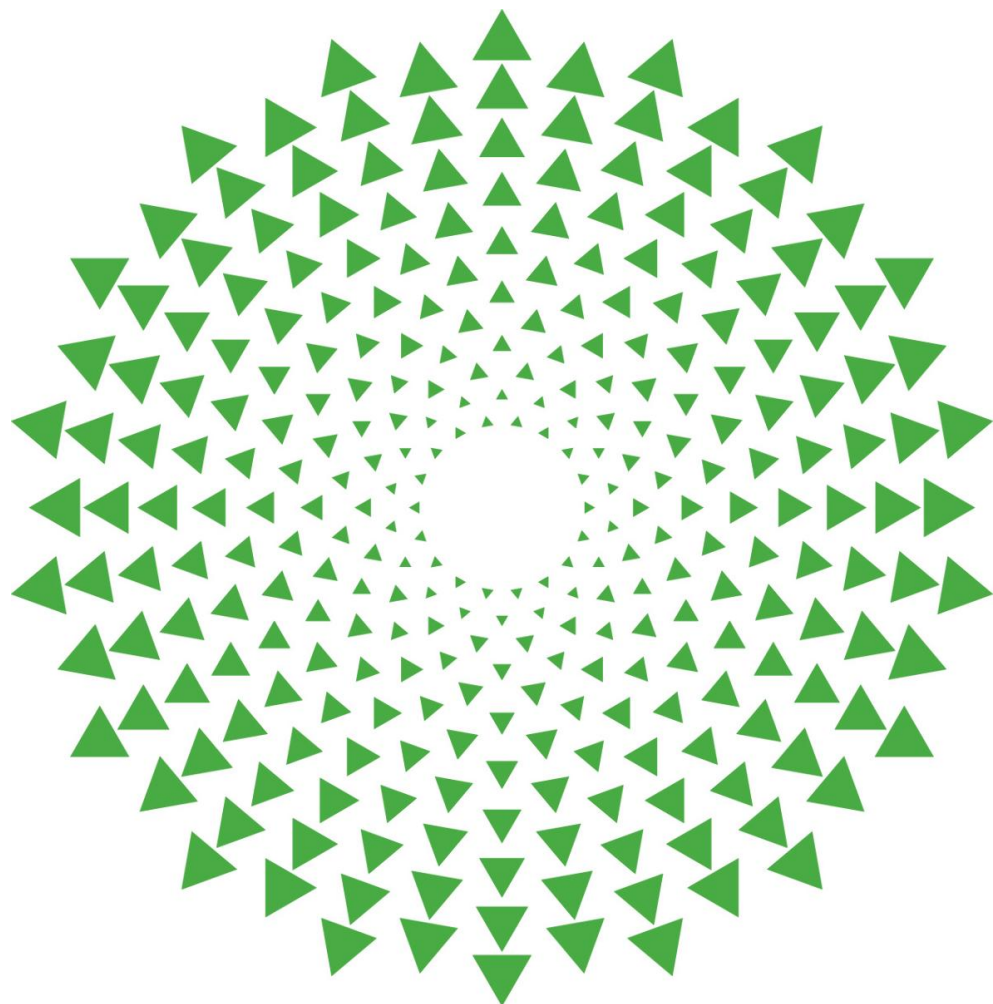




Indirect Tax newsletter
Indirect Tax updates

January 2026

GST



Aggrieved by the said SCN, a petition was filed before the Kerala High Court contending that the proceedings were initiated against the recipient without initiating proceedings against the suppliers, as contemplated under Section 42 of the CGST Act, as it stood at the relevant time, i.e. FY2019–20. The petitioner also relied on multiple High Court and Supreme Court decisions supporting the position that proceedings against the recipient are unsustainable without first initiating action against the supplier.

The Court noted that no proceedings should have been initiated against the petitioner without issuing a notice to the supplier. Relying on the decision in *Suncraft Energy Pvt. Ltd. vs. Assistant Commissioner, State Tax, Ballygunge Charge* [2023-VIL-487-CAL], it was reiterated that recovery proceedings cannot be initiated against the purchaser without first initiating proceedings against the supplier, unless there is evidence of collusion between both parties. Accordingly, the SCN issued to the petitioner was quashed, giving liberty to the authorities to initiate proceedings against the suppliers in accordance with law.

We are delighted to share a few important judgements/advance rulings passed under the Goods and Services Tax (GST), Central Excise and Service Tax that were available in the public domain for November 2025. This issue also covers some updates from the Indirect Tax perspective.

GST



M/s K.V. Joshy and C.K. Paul vs. Assistant Commissioner, Central Tax and Central Excise and others **2025-VIL-1211-KER (Kerala High Court)**

The petitioner was issued a Show Cause Notice (SCN) under Section 73 of the Central Goods and Service Tax Act, 2017 (CGST Act), proposing disallowance and recovery of Input Tax Credit (ITC) on the ground that the suppliers had failed to furnish details of outward supplies and had not paid the tax covered by the invoices.

Aggrieved by the said SCN, a petition was filed before the Kerala High Court contending that the proceedings were initiated against the recipient without initiating proceedings against the suppliers, as contemplated under Section 42 of the CGST Act, as it stood at the relevant time, i.e. FY2019–20. The petitioner also relied on multiple High Court and Supreme Court decisions supporting the position that proceedings against the recipient are unsustainable without first initiating action against the supplier.

The Kerala High Court held that Section 42 of the CGST Act imposes an obligation on the assessing authority to communicate discrepancies to both the supplier and the recipient, and that only in the absence of rectification by the supplier could the output tax liability be added to the recipient.

The Court noted that no proceedings should have been initiated against the petitioner without issuing a notice to the supplier. Relying on the decision in *Suncraft Energy Pvt. Ltd. vs. Assistant Commissioner, State Tax, Ballygunge Charge* [2023-VIL-487-CAL], it was reiterated that recovery proceedings cannot be initiated against the purchaser without first initiating proceedings against the supplier, unless there is evidence of collusion between both parties. Accordingly, the SCN issued to the petitioner was quashed, giving liberty to the authorities to initiate proceedings against the suppliers in accordance with law.



V.K.G. Packers vs. Union of India (2025) 36 Centax 16 (Kar.) (Karnataka High Court)

The petitioners are engaged in the business of manufacturing chewing tobacco with lime tubes. They challenged Notification No. 2/2023-Compensation Cess (Rate) dated 31 March 2023 and Notification No. 3/2023-Compensation Cess (Rate) dated 26 July 2023 issued under the GST (Compensation to States) Act, 2017 (Compensation Act). These notifications required compensation cess (cess) to be calculated on the Maximum Retail Price (MRP) of specified tobacco products, rather than on the transaction value determined under Section 15 of the CGST Act.

The petitioners contended that the imposition of cess on MRP is contrary to GST enactments, as Section 15 of the CGST Act excludes any discount explicitly given on the MRP from the value of supply. Therefore, compensation cannot be calculated on the MRP when the parent act itself excludes discounts from the computation of the value of supply. Accordingly, compensation cess can be levied only on the transaction value, not on the MRP.

The Revenue contended that the notifications were issued to address revenue leakages at later stages of the product supply chain, as most end retailers of these products are below the mandatory GST threshold limit.

The High Court observed that Section 15 of the CGST Act clearly holds that the value of supply of goods is the transaction value, which is the price actually paid or payable for the supply of goods. The proviso to Section 8(2) of the Compensation Act states that the value of compensation cess chargeable on any supply shall be determined per Section 15 of the CGST Act. Therefore, the notification linking cess to the MRP rather than the transaction value runs counter to the act. A notification issued under the powers conferred by the parent act cannot run counter to the said act. Accordingly, the impugned notification, being delegated legislation, is ultra vires the Compensation Act and needs to be declared a nullity. Thus, the impugned notifications were quashed, clarifying that the legislature remains free to enact appropriate provisions on the subject.



M/s Merck Life Science Pvt. Ltd. vs. Union of India and Others, Writ Petition No. 27259 of 2024 (Karnataka High Court)

The petitioner has been engaged in providing intermediary services to foreign entities. It had paid Integrated Goods and Services Tax (IGST) from July to November 2017 under the impression that services provided to foreign entities qualified as exports. Later, realising that these were intra-state supplies, the petitioner discharged State Goods and Services Tax (SGST) liability in March 2018 and filed refund applications on 30 March 2024 for the IGST paid earlier. The central authorities rejected the claims on the basis that the applications were filed beyond the two-year limitation period under Section 54 of the CGST Act. Aggrieved by the refund rejection orders, the petitioner filed a writ petition.

The petitioner contended that by virtue of the doctrine/principle of unjust enrichment, central authorities were not entitled to retain the excess amount collected or received by them, especially when exactly the same amount had been paid to the state authorities. It was also submitted that the time period prescribed under Section 54 of the CGST Act is directory in nature and not mandatory, citing judgements in *Lenovo (India) Pvt. Ltd. vs. Joint Commissioner of GST*, *Louis Dreyfus Company Pvt. Ltd. vs. Union of India* and *Nspira Management Services Pvt. Ltd. vs. Assistant/Deputy Commissioner of Central Tax*. The central authorities contended that the two-year time limit under Section 54 of the CGST Act and Rule 89(1A) of the CGST Rules was mandatory.

The High Court observed that the IGST paid to the central authorities has not been disputed by them. It noted that, per the HC judgements cited by the petitioner, Section 54 is directory and not mandatory. According to Article 265 of the Constitution of India, the central authorities were not entitled to retain IGST when the same amount was subsequently paid to the state GST authorities, applying principles of restitution and unjust enrichment. It was held that the refund claim is not barred by limitation, and the matter was remitted after the impugned orders were set aside.



**Kuehne Plus Nagel Private Limited vs. Union of India and Ors.
2025-VIL-1203-GUJ (Gujarat High Court)**

The petitioner is engaged in the export of services, and the Reserve Bank of India (RBI) has granted permission to operate on a gearing account basis with its other offices worldwide. Therefore, the petitioner has been permitted to receive foreign currency on exports after letting off any payments in foreign currency.

The petitioner had filed refund applications under Section 54 of the CGST Act, seeking a refund of unutilised ITC in respect of exports of services. The refund claims were rejected on the ground that the petitioner had not submitted Foreign Inward Remittance Certificates (FIRC) and had instead furnished Foreign Inward Remittance Advice (FIRA). The Chartered Accountant's certificate submitted by the petitioner was also not acceptable as it stated the amount in euros, whereas the FIRA stated the amount in US \$.

Aggrieved by the rejection of the refund claims and the appellate order upholding such rejection, the petitioner approached the Gujarat High Court. Reliance was placed on the earlier decision of the Gujarat High Court in the petitioner's previous case, wherein it was held that the Chartered Accountant's certificate clearly established receipt of convertible foreign exchange for exports of services, and a refund was allowed.

Eventually, the High Court directed the authorities to process the refund claims in accordance with the law, taking the Chartered Accountant's certificate into account.



**South East Asia Company vs. Superintendent, CGST Range-28, Central Taxes, GST Delhi North
(2025) 37 Centax 161 (Del.) (Delhi High Court)**

The Delhi High Court held that where a single common order-in-original is passed covering demands for multiple financial years, a single consolidated appeal is maintainable under Section 107 of the CGST Act.

The High Court observed that although the demands pertained to different financial years, the impugned order recorded separate audit sub-paras for each issue, and the amounts were clearly decipherable from the order-in-original. Since the impugned order is a single common order, the petitioner is permitted to file one consolidated appeal before the Appellate Authority.



M/s Duphar Interfran Ltd. vs. State of Maharashtra 2025-VIL-1241-BOM (Bombay High Court)

The applicant, a company incorporated in India, entered into an agreement in 1996 to assign the trademark “Crocin” to a UK-based company. The agreement was executed in London. Pursuant to the agreement, the buyer/assignee preferred an application to the Registrar of Trademarks to enter the buyer’s name in the trademark register as the proprietor of the said trademark.

The Sales Tax Department issued an order resolving the disputed question and thereafter an assessment order, wherein it treated the assignment of the trademark as a local sale in Maharashtra, liable to Sales Tax. Aggrieved by the Tribunal’s decision holding the transaction to be an intra-state sale, the applicant approached the Bombay High Court. The applicant contended that the situs of the trademark is the owner’s location, and that the assignment of the trademark constituted a sale in the course of exports and was therefore not liable to Sales Tax.

The Bombay High Court examined the transaction under Section 5(1) of the Central Sales Tax Act, 1956 (CST Act), to determine whether the assignment of the trademark constituted a local sale within Maharashtra or a sale in the course of exports.

After analysing the relevant provisions of the CST Act, the High Court held that the provisions would equally apply to intangible goods. Furthermore, it relied on the principle of “*mobilia sequuntur personam*,” i.e. the situs of an intangible asset follows its owner, as adopted in the decision in the case of Mahyco Monsanto and Lal Products. In the present case, as the assignee of the trademark was located outside India, the trademark’s situs moved outside India upon assignment.

Accordingly, the transaction could not be regarded as a local sale within Maharashtra but qualified as a sale in the course of exports. The High Court further observed that registration under the Trade and Merchandise Marks Act is not compulsory, and that the assignee acquires title to a registered trademark on assignment and not by registration. The registration does not have any impact on the assignment of the trademark.

The High Court held that, upon assignment, the trademark moved with the owner/assignee, i.e. outside India to the UK and would be considered within the scope of “exports”.



NAVALT Solar & Electric Boats Pvt Ltd
2025-VIL-183-AAR (Kerala AAR)

The applicant manufactures and supplies custom-built solar and electric boats and receives partial payments at various stages prior to the delivery of goods. The manufacturing process for each boat may take several months or even longer than a financial year. Currently, the applicant issues only a receipt and does not pay GST on advances, and tax invoices are issued only upon final delivery. However, the issue for consideration before the Authority of Advance Ruling (AAR) was whether an invoice could be raised upon receipt of advances. Under this process, there would be a difference between the value of the e-way bill and the final invoice value. The concern was whether the applicant could raise a tax invoice for the total value of the supply at the time of delivery of the goods and issue credit notes to adjust the earlier invoices issued on advance receipts.

The AAR held that the applicant cannot issue multiple tax invoices against a single supply of goods. Instead, receipt vouchers must be issued upon receipt of advances, and a single tax invoice should be issued at the time of final delivery of the goods. The corresponding e-way bill shall be generated against the final invoice, reflecting the entire value of the consignment. Recognition of unbilled revenue in financial statements does not create a mandatory GST liability. It also observed that under the GST law, credit notes are permissible only in respect of valid tax invoices issued against actual supplies.



M/s Agratas Energy Storage Solutions Pvt Ltd
2025-VIL-179-AAR (Gujarat AAR)

The applicant has entered into a 50-year lease agreement with the Government of Gujarat, under which the government has granted leasehold rights to use a plot for industrial purposes. The applicant will use the land for carrying out its business activities, including industrial construction, erection, repair or demolition of structures required for the concerned purpose, etc. The applicant would be liable to discharge GST under the Reverse Charge Mechanism (RCM). The applicant sought an advance ruling on the eligibility of ITC for the GST paid on such lease rental. The issues for consideration, along with the rulings thereon, are tabulated as follows:

Issue	Ruling
Whether ITC of GST paid on lease rental is available where the factory building is constructed on the leased land	The AAR referred to earlier advance rulings wherein it was held that services received in the form of leasehold rights to land are used for the construction of immovable property. Hence, ITC on such services is blocked under Section 17(5)(d) of the CGST Act. The term “for” does not restrict but enlarges the scope of the provision. Thus, ITC is not eligible.
Whether ITC is available on lease rental for the period prior to the commencement of construction	The AAR observed that the land has been leased out specifically for the purpose of industrial construction. Therefore, ITC is not available even for the period prior to the construction activity. Thus, ITC is not eligible.
Whether ITC is available on lease rental for the period after completion of the construction	It was held that ITC is not available even for the period post the construction activity, as the restriction under Section 17(5)(d) applies irrespective of the stage of construction. Thus, ITC is not eligible.
Whether ITC is available on lease rental during repairs, maintenance or renovation of the factory building	The AAR observed that the expression “construction” includes reconstruction, renovation, addition or alterations, or repairs. Therefore, ITC of GST paid on lease rental would not be available when such activities are undertaken. Thus, ITC is not eligible.
Whether ITC is available on lease rental attributable to the vacant portion of land	The AAR observed that any portion of land kept vacant for meeting mandatory environmental guidelines forms part of the industrial unit being constructed. Hence, ITC of GST paid on lease rental would not be available even for the vacant portion of the land. Thus, ITC is not eligible.



M/s Kobelco Construction Equipment India Pvt. Ltd
AAR No.07/AP/GST/2025 (Andhra Pradesh AAR)

The applicant had originally obtained land on a 99-year lease from Sri City Private Limited (Sri City) and now proposes to assign the remaining 89-year leasehold interest to India Metal One Steel Plate Processing Pvt. Ltd. (IMOP) for a consideration that includes an amount towards the value of land and the balance amount towards the development of road, structures and facilities on the land. Additionally, a fee towards the leasehold rights commission is payable to Sri City Private Limited.

The issue was whether GST is applicable to the assignment of leasehold rights and recovery of development costs, and whether ITC is available on GST paid on the commission payable to Sri City.

The applicant contended that leasehold rights constitute “benefits arising out of land” and therefore amount to a “sale of land,” which is excluded from GST under Schedule III of the CGST Act. They relied on the Gujarat High Court’s judgement in the case of Gujarat Chamber of Commerce and Industry & Ors. vs. Union of India & Ors. to argue that such transactions should not be taxed.

The applicant further submitted that if GST is applicable, ITC should be allowed on the transfer fee paid to Sri City, as it is incurred in the course of business. The jurisdictional authorities, however, maintained that the assignment of leasehold rights is treated as a supply of service under Schedule II of the CGST Act and attracts GST.

The AAR held that:

- The assignment of leasehold rights does not amount to a sale of land but constitutes a taxable supply of service under Section 7 of the CGST Act.
- In the case of Gujarat Chamber of Commerce and Industry (supra), a special leave petition is pending before the Supreme Court.
- Related civil development work undertaken by the applicant and reimbursed by the transferee qualifies as a taxable supply of service and attracts GST at the appropriate rate in terms of 5(b) of Schedule II of the CGST Act. According to the act, the construction of a building or civil structure intended for sale, wholly or partly, constitutes a supply of service, as clarified in the Central Board of Indirect Taxes and Customs (CBIC) Circular No. 177/09/2022-GST dated 03 August 2022.

- Regarding the ITC eligibility of GST paid on transfer fee, the fee is a consideration for tolerating an act that the applicant would otherwise refrain from engaging in, according to the Lease Deed and is a service classifiable under “other miscellaneous service” (SAC 999794) and taxable at 18 percent. As it is the consideration payable to the lessor for providing a service in the course or furtherance of business, the GST on such transfer fee is admissible as ITC.

Notifications/circulars/instructions/advisory

Advisory on Simplified GST Registration Scheme

The GST authorities have issued an advisory on the Simplified GST Registration Scheme introduced under Rule 14A of the CGST Rules, aimed at reducing the compliance burden and enhancing ease of doing business for small taxpayers.

Taxpayers whose monthly output tax liability does not exceed INR2.5 lakh (inclusive of CGST, SGST/Union Territory Goods and Services Tax [UTGST], IGST and compensation cess), based on self-assessment, may opt for registration under this scheme. However, multiple registrations under Rule 14A in the same state or union territory against the same Permanent Account Number (PAN) are not permitted.

The GST portal has provided the option to select the scheme in FORM GST REG-01, requiring Aadhaar authentication of the primary authorised signatory and at least one promoter/partner. Registration shall be granted electronically within three working days of the generation of the Application Reference Number (ARN), subject to successful Aadhaar authentication.

The advisory also lists the conditions for cases where the taxpayers opting for registration under Rule 14A intend to withdraw from the scheme at a later stage.

(Goods and Services Tax Network [GSTN] advisory dated 01 November 2025)

Advisory on furnishing of bank account details under Rule 10A

The GSTN has issued an advisory reminding taxpayers (other than those registered under Tax Deducted at Source [TDS], Tax Collected at Source [TCS] or suo-moto registrations) to furnish their bank account details within 30 days of the grant of registration or before filing GSTR-1/IFF, whichever is earlier, in terms of Rule 10A of the CGST Rules, 2017. Failure to furnish bank details may result in the suspension of GST registration.

(GSTN advisory dated 20 November 2025)

For more information, please contact:

Mahesh Jaising

Deloitte Touche Tohmatsu India LLP

mjaising@deloitte.com

Nitesh Kancharla

Deloitte Touche Tohmatsu India LLP

knitesh@deloitte.com



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organisation”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which is a separate and independent legal entity, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Bengaluru, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Mumbai, New Delhi, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

This communication contains general information only, and none of DTTL, its global network of member firms or their related entities is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication.