



Indirect Tax newsletter

Indirect Tax updates

February 2026



Octantis Services Pvt. Ltd. vs. Union of India 2025 (35) Centax 298 (Bom.) (Bombay High Court)

The petitioner challenged the impugned order on the ground that the show cause notice (SCN) for FY 2020-21 was not served on the updated authorized registered email address within the limitation period prescribed under GST law. The SCN for FY 2020-2021 ought to have been served by 27 November 2024. The authorized email address on the GST portal was amended by the petitioner in February 2022 and all departmental correspondence thereafter including GST audit intimation letter, audit observation letter, and the pre-SCN consultation was served by the GST Department on the petitioner on its amended email address. The SCN was served by the department on the old email address on 27 November 2024, however, it was served on the amended email address only on 18 February 2025.

The High Court observed that the consistent use of the updated email address by the department showed that, it was well aware of the change. The issue of SCN being time barred is concerned, the same will apply to FY 2020-21. Accordingly, the High Court granted ad-interim relief staying the operation of the impugned order until further orders.



McLeod Russel India Limited vs. Union of India and others 2025-VIL-1262-GAU (Gauhati High Court)

The petitioner company has questioned the validity of the provisions contained in Section 16(2)(aa) of the CGST Act introduced through amendment w.e.f. 01 January 2022 i.e. Input Tax Credit (ITC) would be available to a purchaser, subject to supplier furnishing the invoice/ debit note details in his GSTR-1 return and that the details of such invoice/ debit note is communicated to the recipient in GSTR-2A/2B.

Petitioner contended that ITC should not be denied to the recipient for non-compliance by the supplier as the recipient had already paid tax to the supplier and supplier may not have filed their GSTR 1 or disclosed the invoice in GSTR 1 for multiple reasons. Further GST law does not provide the purchaser with any such mechanism to take any action against such non-disclosure. Reliance was placed on various judicial precedents¹ whereby the benefit of ITC was made available to the registered purchaser/ dealer, who paid taxes to the registered seller/ dealer on invoices raised by them, even though those sellers did not deposit the collected tax with the Government.

¹[Commissioner Trade and Tax, Delhi -Vs- M/s Shanti Kiran India (P) Limited [Civil Appeal No(s).2042-2047/2015, On Quest Merchandising India Private Limited - Vs- Government of NCT of Delhi & Ors. :: 2017 Scc OnLine (Delhi) 13037, Suncraft Energy Private Limited & Ors. -Vs- The Assistant Commissioner, State Tax, Ballygunge Charge & Ors :: (2023) 117 GSTR 78 (Cal) (affirmed by the Supreme Court reported in (2024) 121 GSTR 230), Diya Agencies -Vs- STO :: (2024) 124 GSTR 172 (Kerala High Court)]

The respondents defended the provision, asserting that ITC is a concession, subject to conditions prescribed under law. The said provision was introduced to curb fraudulent ITC claims and enhance supplier compliance.

The High Court has read down Section 16(2)(aa) of CGST Act, to the extent that, before denying ITC benefits to a bona fide purchaser in case the supplier does non-compliance, the purchaser ought to be given an opportunity to prove his bona fides, which can be verified by tax invoices and other documents. Merely because the ITC is not reflected as prescribed (i.e., in GSTR-2B) to a buyer, the ITC benefit to a bona fide buyer cannot be denied as that would be against the object and purpose of the GST law, i.e., to avoid any cascading effect of taxation. Such reading down of this provision has been done only till the time the CBIC provides a practical solution to this issue of ITC availability to the bona fide purchaser, which is contingent on factors which are in the hands of a supplier.



Clyde Pumps Private Limited vs. Union of India & Ors. 2025-VIL-1267-DEL (Delhi High Court)

The petitioner had obtained registration as an input service distributor (ISD) upon the advent of GST regime. It had credit pertaining to pre-GST regime i.e., March to June 2017. As required in Rule 39(1)(a) of CGST Rules, the petitioner was unable to distribute the credit within same month as transition was not permissible on the GST portal at that point in time. The petitioner could file a form TRAN-1 in August 2017 to avail the transitional credit under Section 140 of the CGST Act. After the transition took place, the credit was not reflected on the portal of the petitioner leading to repeated representations being made. However, the same was not allowed by the department which has led to filing of the present petition.

The department contended that, GST law neither envisaged electronic credit ledger (ECL) to be maintained for ISDs nor required distribution of ITC through TRAN-1. The only option available for the petitioner-ISD was to distribute the ISD credit to its different units before 1.07.2017 and thereafter the transferee unit ought to have filed TRAN-1 to transition it into their respective ECL. Filing of the TRAN-1 by the petitioner-ISD was not contemplated under the provisions of the CGST Act read with the CGST Rules.

The High Court observed that, as per Section 140(7) of the CGST Act, ITC which was available on account of any services received prior to the appointed date by ISD shall be eligible for distribution as credit within the time and manner as may be prescribed. Further, as per Rule 39(1)(a) of CGST Rules, distribution is permitted within a period of one month.

Referring to the case of Siemens Ltd. v. Union of India², it observed that as per Section 140(7) of CGST Act, the benefit would be liable to be passed on to ISDs, however the modalities have not been prescribed.

The High Court held that, the petitioner cannot be deprived of legitimate ITC on account of technical glitches and that the ITC which is clearly reflected in TRAN-1 would be liable to be reflected on the ECL of the petitioner for distribution within a period of three months. It further held that, from the date when the ECL reflects the said amount, upon intimation, the petitioner would have one month to distribute the credit to its sub-offices.



M/s KEI Industries Ltd. vs. Commissioner of Central Goods & Service Tax & Central Excise, Alwar
2025-VIL-2005-CESTAT-DEL-CE (Larger Bench)

The appellant had availed CENVAT credit of education cess (EC), secondary and higher education cess (SHEC) and Krishi Kalyan Cess (KKC) (all three referred to as 'cess') on inputs and input services prior to abolition of these cesses in 2015. On the date of the transition into GST regime, the appellant had closing balances of these cess credit in its CENVAT account. The appellant initially carried forward these balances to GST regime in Form TRAN-1. However, the credit was subsequently reversed upon the objection raised by the audit team alleging that it was not permissible under Section 140 of the CGST Act. A refund application under Section 142(3) of the CGST Act read with Section 11B of the Central Excise Act, 1944 was also rejected and hence an appeal was filed before the CESTAT. The matter was referred to the larger bench of the CESTAT as the division bench was confronted with contradictory views³ taken by co-ordinate benches of Delhi CESTAT on the issue of refund eligibility of unutilised balances of the cess.

The larger bench of the CESTAT held that there are no provisions under the GST law which allows transitioning of the cess credit to the GST regime. Also, the refund is not eligible ab initio and thus no refund can be granted.

Reliance was placed on the cases of Cellular Operators⁴ and Banswara Syntex⁵ to hold that cess was discontinued in 2015 itself. It was not fungible against service tax/ central excise credit nor refund was eligible. Thus, credit of cess cannot be a vested right/ indefeasible right. Following the Madras High Court judgement in the case of Sutherland global services⁶ it was observed that balance cess credit has become dead cenvat credit when they were abolished / exempted; hence the question of refunding the same would not arise.

²Siemens Ltd. v. Union of India (2023-VIL-577-BOM)

³ Nu Vista Ltd. v. Commissioner 2022 (381) E.L.T. 681 (Tri. - Del.), NMDC Ltd – Final Order No. 55722/2024 dated 02-05-2024 (Appeal No. E/50793/2021);

⁴ Cellular Operators Association of India vs. Union of India - 2018 (14) G.S.T.L. 522 (Del.)

⁵ Banswara Syntex Ltd. vs. Commr. Of C. Ex. & Service Tax, Udaipur – 2019 (365) E.L.T. 773 (Raj.)

⁶ Assistant Commissioner of CGST And Central Excise, Chennai Vs. Sutherland Global Services Pvt. Ltd. - (2023) 6 Centax 99 (Mad.)



Chennai Citi Centre Holdings Pvt. Ltd. vs. Commissioner of GST & Central Excise, Chennai South
Final Order No. 41456/2025 (Chennai CESTAT)

The appellant was engaged in renting of immovable property (shopping mall) for shops, offices, restaurants and food plazas. It had entered into an agreement (MOU) with a third-party granting right to display advertisements in the entire mall for which the appellant received 40% to 50% of the charges collected by such third-party. The appellant had not paid service tax on the said amount which was disputed by the department as service of ‘Sale or Space or Time for Advertisement’. The demand of service tax along with interest and penalties was confirmed by the adjudicating authority and upheld by the appellate authority.

The Appellant submitted that the third party would provide advertising services to various parties and pay appropriate service tax thereon. The total amount collected by them would be shared between the appellant and third-party in agreed ratio. Accordingly, the activity was on a collaboration basis and was hence not exigible to service Tax.

The Tribunal observed that the agreement is of ‘revenue-sharing’ nature. Both parties have undertaken responsibilities jointly towards the successful implementation of the scheme for their mutual interest and benefit. The amount received by the appellant is not fixed and depends upon the gross revenue earned. Such an agreement is not between two principals but is self-service to maximize profit. There is no “service receiver” / “service provider” relationship between the entities. The minimum amount guaranteed to the appellant does not take away from the fact that the joint intent of both the parties is to work together for mutual benefit. The Tribunal relied upon the decisions in the case of PVS Multiplex India Pvt. Ltd.⁷, and INOX Leisure Ltd.⁸ which dealt with a similar issue relating to self-service on a revenue sharing basis between a distributor/producer and an exhibitor of film.

Accordingly, the activity of the appellant would not be exigible to service tax.

⁷ PVS Multiplex India Pvt. Ltd. (2017 (11) TMI 156-CESTAT Allahabad)

⁸ INOX Leisure Ltd. [2022 (61) G.S.T.L. 342 (S.C.)]

Notifications/circulars/instructions/advisory

Auto-populated values in Table 3.2 of GSTR-3B made non-editable on the portal

The GSTN has informed that from the November 2025 tax period onwards, the values auto-populated in Table 3.2 of Form GSTR-3B (inter-State supplies to unregistered persons, composition taxpayers and UIN holders) shall be non-editable. Taxpayers will be required to file GSTR-3B using only the system-generated auto-populated values.

Any correction in the auto-populated values of Table 3.2 may be carried out through Form GSTR-1A for the same tax period, which will update the values in GSTR-3B instantly. Amendments can also be reported through Form GSTR-1/IFF in subsequent tax periods.

(GSTN advisory dated 5 December 2025)

Auto-suspension of GST registration for non-furnishing of bank account details under Rule 10A

The GSTN has implemented system-based controls for automatic suspension of GST registration where taxpayers (except those registered under TCS, TDS, or Suo-moto registrations) fail to furnish bank account details as required under Rule 10A of the CGST Rules, 2017. If bank details are not furnished within 30 days of grant of registration or before filing GSTR-1/IFF, whichever is earlier, the registration will be automatically suspended by the system.

Upon furnishing bank account details through a non-core amendment, the cancellation proceedings shall be automatically dropped. Where the proceedings are not dropped on the same day, taxpayers may manually initiate the process using the “Initiate Drop Proceedings” option on the portal. The requirement does not apply to OIDAR and NRTP taxpayers, except where OIDAR taxpayers have appointed a representative in India.

(GSTN advisory dated 5 December 2025)

Notifications/circulars/instructions/advisory

Consolidated FAQs on GSTR -9/9C for FY 2024-25

The GSTN has issued consolidated FAQs to assist taxpayers in filing Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C) for FY 2024-25, consolidating earlier FAQs released on 16 October 2025 and 4 December 2025.

The FAQs clarify key aspects relating to auto-population of tables, reporting of ITC (including claim, reversal and reclaim across financial years), treatment of Table 8A/8C, late fee computation, and reporting of ITC availed or reversed in different financial years.

(GSTN advisory dated 17 December 2025)

Central Goods and Services Tax (Fifth Amendment) Rules, 2025

The Central Government has notified the Central Goods and Services Tax (Fifth Amendment) Rules, 2025, prescribing amendments to the CGST Rules, 2017 to introduce a special valuation mechanism for specified goods.

A summary of the key amendments is as follows:

Insertion of New Rule	Summary
Rule 31D – Value of supply of goods on basis of retail sale price	<p>The value of supply of specified tobacco products shall be determined basis the retail sale price (RSP) declared on the package using the following formula:</p> $\text{Tax Amount} = (\text{Retail Sale Price} \times \text{Applicable Tax Rate}) \div (100 + \text{Total Applicable Tax Rate})$ <p>The term RSP has been defined in the rule considering different scenarios.</p>
Insertion of clause (f) in first proviso to Rule 86B	<p>Rule 86B provides for restrictions on use of amount available in electronic credit ledger more than ninety-nine per cent. of tax liability outlining certain exceptions.</p> <p>Registered persons (other than manufacturers) shall be exempt from this restriction in respect of goods covered under Rule 31D, where tax has been paid by the supplier based on retail sale price.</p>

Notifications/circulars/instructions/advisory

This notification shall come into force on the 1st day of February 2026.

(Notification No. 20/2025 - Central Tax dated 31 December 2025)

Government notifies supplies under section 15(5) of CGST Act for valuation based on Retail sale price (RSP)

The Central Government has amended Notification No. 49/2023–Central Tax (dated 29 September 2023) by inserting a new clause under the powers of Section 15(5) of the CGST Act, 2017. This amendment notifies certain tobacco-related products where retail sale price is declared) for RSP-based valuation under GST.

This notification shall come into force on the 1st day of February 2026.

(Notification No. 19/2025 - Central Tax dated 31 December 2025)

Amendment to Notification No. 9/2025-Central Tax (Rate) to make changes to GST rates on specified tobacco products

The Central Government has amended Notification No. 9/2025–Central Tax (Rate) dated 17 September 2025 to make CGST rate changes in respect of specified tobacco products from 14% to 20%. The CGST rate on Biris has been changed from 14% to 9%.

Similarly, corresponding notifications are being issued under the IGST Act (Notification No. 19/2025 - Integrated Tax (Rate) dated 31 December 2025 and State GST Acts. Notification No. 03/2025-Compensation Cess (Rate) dated 31 December 2025 has been issued to give effect to the change in compensation cess rates for specified tobacco products to 'Nil'.

These amendments shall come into force from 1 February 2026.

(Notification No. 19/2025 - Central Tax (Rate) dated 31 December 2025)

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