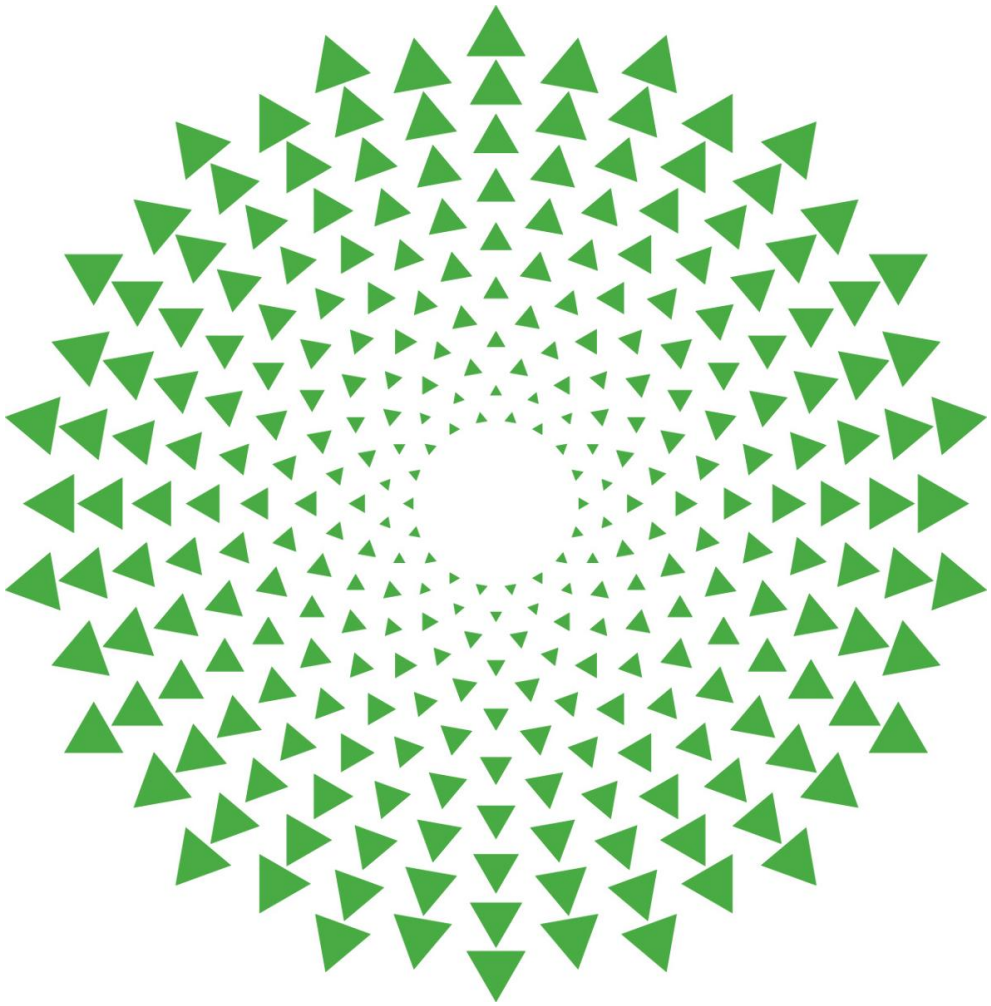
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Indirect tax newsletter

November 2026

We are delighted to share a few important judgments/advance rulings passed under the Goods and Services Tax (GST) Law that were available in the public domain in October 2026. This issue also covers some updates from a GST perspective.

GST

Jai Ganesh Enterprise vs. Union of India (2026) 46 Centax 249 (Guj.) (Gujarat High Court)

The petitioner challenged the confiscation of goods under Section 130 of the CGST Act, on the ground that State GST officers were not authorised to exercise powers under the IGST Act in the absence of a separate notification issued by the Central Government. The petitioner contended that the State GST officers were not competent to pass such orders and that the appeal against the same was not maintainable under the State GST/CGST Act, as the matter pertained to the IGST Act.

The Gujarat High Court held as under –

- Section 4 of the IGST Act authorises officers appointed under the State GST Act or the UTGST Act to act as "proper officers" for the purposes of the IGST Act, subject to such exceptions and conditions as may be specified by the Central Government, on the recommendations of the GST Council, by notification.

- No further central notification was required for cross-empowerment, as the State Commissioner's order designating proper officers in the State GST Act sufficed for the exercise of IGST powers.

- Reliance was placed on the judgments in the case of Bright Road Logistics [2023 (76) G.S.T.L. 446 (P&H.)], Jageswar Saw [2026 (110) G.S.T.L. 370 (Cal.)] and Advantage India Logistics (P.) Ltd.[2018 (19) G.S.T.L. 46 (M.P.)], which upheld the authority of State GST officers to act as proper officers under the IGST Act without additional Central notifications.

- By virtue of cross-empowerment under the IGST Act, orders passed by State GST officers while exercising IGST powers are treated as orders under the State GST law. Therefore, appeals against such orders lie with the State appellate authority.

Accordingly, holding that the State GST officers were duly authorised and that an alternative remedy of appeal was available, the Court dismissed the writ petition.

Shaurya Alloys Pvt. Ltd. v. State of Punjab & Ors [TS-814-HC(P and H)-2026-GST] (Punjab & Haryana High Court)

The P&H High Court has addressed a batch of writ petitions filed by purchasing dealers challenging the denial/reversal of ITC under Section 16(2)(c) of the CGST Act, due to non-payment of tax by suppliers. The primary issue dealt with by the High Court was the obligation of a purchasing dealer under Section 16(2)(c) who has already paid the tax to the supplier, to ensure the deposit of such tax by the supplier with the government, especially when the purchasing dealer has no means to ascertain whether the supplier has deposited the tax.

The High Court took note of the previous judgments on this issue and upheld the constitutional validity of Section 16(2)(c) but held that ITC cannot be denied merely because the supplier has defaulted in payment of tax, filed NIL returns or had its registration cancelled retrospectively. Such facts may trigger an inquiry but do not automatically justify denial of ITC.

The Court issued the following comprehensive guidelines in this regard to be applied to the department's pending and future proceedings:

- The department must investigate before issuing an SCN - supplier details, invoices, tax periods, quantum of ITC, nature of default and recovery action taken against the supplier. In addition, check if there is any nexus between the purchasing dealer and the suppliers to prove a violation of Section 16(2).
- SCN must be specific and contain complete particulars, evidence relied upon, supplier details, invoice details and the specific basis for denial of ITC.
- Recipient can prove bona fides through tax invoices, proof of receipt of goods/services, e-way bills, transport documents, stock records, consumption records, proof of payment, etc.
- Statutory remedy against the selling dealer must be taken against the supplier, avoid double recovery of tax, and allow ITC re-availment, where admissible.
- Applicable legal framework: Proceedings must be assessed under the GST provisions applicable to the relevant tax period, without retrospective application of later amendments.

- Purchasing dealer's registration cannot be cancelled merely because the supplier's registration was subsequently cancelled.
- Procedural safeguards: A personal hearing must be granted, and requests for cross-examination must be decided through a reasoned order.
- Reasoned orders containing taxpayer's submissions and evidence, record findings on disputed Section 16(2) conditions, and specifically address fraud, wilful misstatement or suppression where Section 74/74A is invoked.

Deposits made during the investigation do not replace the requirement for a valid SCN.

Furthermore, the Court suggested several measures for consideration by the Government and GST Council, including:

- Immediate alerts on the common portal for suppliers' registration cancellation proceedings or where suppliers default under Rule 86B of CGST Rules, which requires a minimum quantum (1 percent) payment of output tax in cash as prescribed.
- Real-time verification mechanisms for tax payment by suppliers against specific invoices.
- Biometric and PAN/Aadhaar-based authentication for registrations, along with random physical verification of registrations.
- Notification of supplies such as scrap from unorganised sector under reverse charge mechanism.

As the case involved a batch of writ petitions, the following directions were given to the petitioners:

Sr. No.	Aspect	Direction of the court
1	Pending SCNs	Taxpayers may file replies or supplementary replies, and the proper officer must pass a reasoned order after granting a hearing.
2	Deficient SCNs	Proper officers must supply missing particulars or material to the noticee.
3	Supplementary notices	Petitioners may object to new grounds or provisions introduced in supplementary notices or corrigenda.
4	Adjudicated cases	Proper officers must revisit cases and issue fresh reasoned orders after granting a hearing.
5	Impugned orders	Existing orders are not interfered with but will be subject to fresh decisions by proper officers.
6	Deposited amounts	Any amounts deposited or recovered from petitioners will be adjusted or refunded as per the fresh decisions.
7	No coercive action	No fresh recovery actions will be taken against petitioners until the proper officer issues fresh decisions.
8	Open pleas	All factual and legal pleas remain open for petitioners.
9	Action against selling dealers	The department is free to proceed against defaulting selling dealers as per the law.

Gujarat Co-Operative Milk Marketing Federation Limited Versus Union of India & Ors [TS-861-HC(GUJ)-2026-GST] (Gujarat High Court)

The petitioner has its Head Office (HO) located in Gujarat. It holds GST registration as an Input Service Distributor (ISD) and two regular GST registrations for its branches and depots in Gujarat. For branches outside Gujarat, it holds distinct GST registrations. It incurred various corporate expenses at its HO, including advertising and publicity, IT infrastructure, annual maintenance service, legal fees, litigation, and employee salaries. These expenses benefit the HO and its branches and depots.

The dispute pertains to the period from July 2017 to March 2019, during which the petitioner incurred corporate expenses without allocating them to its branches and depots by cross-charging. The respondent authorities alleged that the petitioner failed to allocate these expenses and pay GST on the services provided by the HO to its branches, which were treated as distinct persons under GST Law.

The issue for consideration before the High Court was whether GST could be demanded on common expenses incurred by the HO, as the Head Office had failed to cross-charge such expenses to its distinct persons.

Taking note of the statutory provisions, valuation framework under Rule 28 and the CBIC clarifications in Circular no. 199/2023 dated 17.07.2023 and Circular no. 210/2024 dated 26.06.2024, the Gujarat High Court held that in the absence of any invoice raised by the Head Office, the value of services provided to branches eligible for full ITC could be regarded as 'Nil', resulting in no GST liability. The Court also observed that the ingredients necessary to invoke Section 74 (extended period of limitation in cases of fraud, wilful misstatement or suppression of facts) were absent, particularly when the transactions were fully disclosed and any cross-charge would have led to a revenue-neutral outcome. Accordingly, the Court quashed the demand, interest and penalty proceedings.

Ernst and Young LLP vs Union of India and Others [TS-859-HC(P and H)-2026-GST] (Punjab & Haryana High Court)

The taxpayer had exported services without payment of IGST under a Letter of Undertaking (LUT) in terms of Rule 96A of the CGST Rules. Rule 96A requires exporters to realise payment for export services in convertible foreign exchange within one year from the invoice date. Failure to do so in this case resulted in liability for tax and interest under Section 50 of the CGST Act. On realisation of export proceeds later, the department allowed refund of the tax component, but the refund of interest was denied, relying upon Paragraph 4.6 of CBIC Circular No. 197/09/2023-GST dated 17 July 2023 (Circular no. 197). Paragraph 4.6 of Circular No. 197 states that no refund of interest paid under Rule 96A shall be admissible on refund of tax upon subsequent realisation of export proceeds.

The primary issue before the High Court was:

Whether the interest paid under Rule 96A of the CGST Rules can be retained by the revenue after the tax deposited under the same rule has been refunded upon subsequent realisation of export proceeds.

The Punjab & Haryana High Court quashed para 4.6 of the circular no. 197 to the extent it provides no refund of interest and directed refund of interest to the taxpayer on the following grounds:

- Neither Rule 96A nor any other provision of the GST law permits the retention of interest once export proceeds are realised and the tax is refunded. Under Section 54(1) of the CGST Act, both tax and related interest are refundable.
- A circular cannot impose restrictions or liabilities that are not contemplated by the statute or rules.
- Interest is compensatory and dependent on the principal tax liability. Once the tax is refunded, the interest paid on it cannot survive independently unless explicitly provided by law.

Parag Garg & Ors. vs. Commissioner, Adjudication, CGST Delhi West & Ors.
TS-799-HC(DEL)-2026-GST (Delhi High Court)

The High Court addressed a batch of petitions wherein petitioners challenged the imposition of personal penalties under Section 122(1A) of the CGST Act, 2017. Section 122(1A), inserted by the Finance Act, 2020, provides for a levy of penalty on 'any person' who retains the benefit of specified transactions (namely, supply of goods or services without issuance of an invoice, issuance of an invoice without supply, wrongful availment or utilisation of input tax credit, or wrongful distribution of input tax credit) and at whose instance such transaction was conducted and the provision was made effective from 01.01.2021.

The tax authorities alleged that the company fraudulently availed ITC through circular trading and consequently imposed personal penalties on three former directors. The directors challenged the penalties, contending that they were merely employee-directors with no involvement in or benefit from the alleged transactions.

The principal issues before the High Court were whether a penalty under Section 122(1A) could be imposed on a person who is not a taxable person and whether the provision applies retrospectively to transactions undertaken before 01.01.2021.

The Delhi High Court held that Section 122(1A) applies to any person, whether registered under GST or not, who satisfies the statutory conditions, but operates prospectively from 01.01.2021. The reasoning is as follows:

- The expression "any person" under Section 122(1A) is not confined to a "taxable person" and includes any person, whether registered or liable to be registered, who i) retains the benefit of specified transactions and ii) at whose instance such transactions are conducted. These conditions must be independently established before personal penalty can be imposed.

- The court noted that Section 122(1A) was introduced to address the menace of fake invoicing and fasten liability on the actual beneficiaries of fraudulent transactions, not just the taxable person in whose name the registration exists.

- The provision, introduced with effect from 01.01.2021, cannot be invoked for transactions or acts committed before that date. The date of issuance of the SCN is irrelevant, as the applicability of a penal provision must be determined with reference to the date of the underlying transaction. Subsequent issuance of a notice cannot retrospectively create penal liability. Retrospective application of the provision would violate Article 20(1) of the Constitution, which prohibits ex post facto penal laws.

The High Court relegated the petitioners to the appellate remedy and directed the Appellate Authority to determine whether the ingredients of Section 122(1A) were met and whether the impugned transactions fell within the period for which the provision was legally applicable.



Gudla Vanaja And Others. Vs. Assistant Commissioner (St), Saroor Nagar-I Circle, Telangana And Others
2026-VIL-1135-TEL (Telangana High Court)

The full bench of the Telangana High Court has addressed a batch of writ petitions challenging the validity of SCNs and adjudication orders issued under the GST law. The case primarily examines whether unsigned documents or the absence of visible digital or physical signatures on documents uploaded to the GST common portal are valid under the law.

Conflicting judgments have been pronounced by the division benches of this court on the said issue in the cases of Bigleap Technologies and Solutions Private Limited 2025-VIL-200-TEL, M/s. Silver Oak Villas LLP 2024-VIL-281-TEL and M/s. Sahithi Marketers 2025-VIL-1501-TEL, which led to the matter being referred to the full bench for an authoritative pronouncement.

The Telangana High Court held that SCNs and orders electronically authenticated by the proper officer and uploaded on the common portal are valid documents in law, even in the absence of a visible digital signature on the PDF version. The limitation period for availing statutory remedies or making other compliances would begin from the date of upload on the common portal. The reasoning for the same is as follows:

- The GST Network (GSTN) demonstrated that notices/orders/ forms are electronically authenticated through a secure system using a Digital Signature Certificate (DSC) and a hash value created through asymmetric cryptography. This process satisfies the requirements of Sections 3, 3A, and 5 of the Information Technology Act, 2000. Such documents are thus electronically authenticated through the GST common portal.

- The absence of a visible physical or digital signature on the downloaded PDF version does not render such documents invalid.

- Rule 26(3), which prescribes the mode of electronic authentication, is confined to Chapter III of the CGST Rules dealing with registration and cannot be imported into Chapter XVIII of the CGST Rules governing demands and recovery. Chapter XVIII does not require the documents to bear a digital signature.

- Forms are subservient to the rules and cannot override or supplant them. The requirement of a signature in the prescribed forms (viz. DRC-01, DRC-07, etc.) cannot override the rules under which they are prescribed.

- The common portal is maintained following all the security protocols, and the procedure for verification at the recipient end, as contended by the petitioners, is not required, as only a registered taxpayer can access it through its user ID and password.

- Uploading an SCN or order on the common portal amounts to valid service under Section 169(1)(d) of the CGST Act.

- The date of upload on the common portal is considered the date of receipt of the notice or order under Section 13(2) of the Information Technology Act, as per which receipt occurs when the electronic record enters the designated computer resource (common portal).

- Orders or notices must quote either the Document Identification Number (DIN) or the Reference Number (RFN).

- The court noted that the GST portal contains a "Note" clarifying that certain notices and orders are available under the "Additional Notices and Orders" tab. For notices issued after the inclusion of this note on 16.01.2024, taxpayers cannot claim ignorance of service.

Navitas Eduservices Private Limited vs. Commissioner of CGST, South Delhi
2026-VIL-209-GSTAT-DEL-PB (Delhi GSTAT Principal Bench)

The taxpayer, an Indian subsidiary of an Australian group engaged in education services, provided marketing support and IT-enabled services to its foreign parent under a Master Services Agreement on a cost-plus basis and received consideration in convertible foreign exchange.

The services included promoting educational programs, supporting recruitment agents, providing student counselling, verifying documents, digital marketing, and other back-office support functions. The taxpayer claimed a refund of unutilised ITC, treating the supplies as exports of services. However, the Department rejected the refund claims on the ground that the taxpayer was providing "intermediary services".

The Principal Bench of GSTAT held that the services rendered by the taxpayer qualify as export of services and were not intermediary services. Consequently, the taxpayer was entitled to refund of unutilised ITC along with applicable interest. The reasoning is as follows:

- The taxpayer provided services to the foreign parent under a principal-to-principal arrangement, with the foreign parent remaining solely responsible to the partner universities and merely subcontracting part of its obligations to the taxpayer.

- The taxpayer was neither a party to the agreements with recruitment advisors nor remunerated on a commission basis. The agreements expressly characterised the parties as independent contractors and prohibited them from acting on behalf of or binding the universities.

- The Tribunal relied on the principles laid down in Genpact India Pvt. Ltd., Blackberry India Pvt. Ltd., Columbia Sportswear India Sourcing Pvt. Ltd. and Fateh Education Consulting India Pvt. Ltd., wherein it has been held that support, marketing, back-office services rendered by an Indian entity to a foreign recipient on a principal-to-principal basis do not become intermediary services.

- The Tribunal also relied on CBIC Circular No. 159/15/2021-GST, which clarifies that a subcontractor providing services on its own account is not an intermediary.

Sansco Technologies (Kerala) Private Limited vs. Commissioner of State Tax, State GST Department, Thiruvananthapuram 2026-VIL-225-GSTAT-ERN (Ernakulam GSTAT)

The taxpayer was issued an SCN under Section 73(1) of the CGST Act, 2017, alleging excess ITC availed based on a comparison of GSTR-2A and GSTR-3B. The Department alleged excess availment of credit under the CGST and SGST heads. The taxpayer contended that the department failed to account for IGST paid on imports and that the latest GSTR-2A figures, if considered, would result in an overall surplus ITC position.

The primary issue before the GSTAT was whether the excess availment of ITC could be determined on an aggregate basis.

The GSTAT held that ITC reconciliation must consider the aggregate credit across IGST, CGST, and SGST, and surplus IGST credit can be used to offset shortfalls in CGST/SGST.

The observations of the GSTAT are as follows:

- GSTR-2A is a dynamic return, and the authorities were obliged to examine the latest GSTR-2A data at the time of adjudication.
- Section 49(5)(a) of the CGST Act, which explicitly allows surplus IGST credit to be utilised for discharging shortfalls in CGST and SGST liabilities.
- Reliance was placed on the Kerala High Court's decision in Rejimon Padickaparamabil Alex (2024-TIOL-2024-HC-KERALA-GST). The High Court had upheld the fungibility of ITC between CGST/SGST and IGST and recognised the unified nature of the electronic credit ledger, treating it as a pool of funds for IGST, CGST and SGST.
- The taxpayer's reconciliation, including the latest GSTR-2A/ GSTR-9 figures and IGST credit on imports (not disputed/rebutted by the Department), established that the aggregate eligible ITC exceeded the credit availed in GSTR-3B.

T. Stanes and Company Limited vs. Sulakshana S N, JCCT (Appeals), Mangaluru
2026-VIL-139-GSTAT-BLR (Bengaluru GSTAT)

The issue for the Tribunal's consideration was whether the imposition of a penalty under Section 129 of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017) is justified, on the ground that the taxpayer's goods were intercepted while being transported under an expired e-way bill. The e-way bill expired due to an error in the consignor's PIN code, resulting in a reduction of the travelling distance in the e-way bill. Section 129 empowered the Department to impose the prescribed penalty in case of violation of the provisions of the GST Law during the transport of goods.

The GSTAT held the following:

- Although Section 129 does not expressly provide for mens rea, the object of the provision is to prevent evasion of tax and, therefore, mens rea should be read into Section 129.

- CBIC Circular No. 64/38/2018-GST clarified that penalty under Section 129 should not be levied in cases of specified procedural errors in the e-way bill, and it is binding on the Department.

- The goods were accompanied by an e-way bill and delivery challan; the physical verification revealed no discrepancy in terms of mention of quantity and description of goods, and it was the error in the PIN code that had resulted in expiry of the e-way bill.

- Relying on the Madras High Court judgment in the case of Caterpillar India (Madras) 2019-VIL-746 -MAD and Podaran Foods India Ltd. 2021-VIL-30-KER, it held that invocation of Section 129 was not valid or justified in the absence of mens rea/ evasion of tax and accordingly set aside the penalty.

LTM Limited Vs the Commissioner of GST & Central Excise, Chennai South Commissionerate
2026-VIL-187-GSTAT-CHE (Chennai GSTAT)

The issue for consideration before the GSTAT was whether a taxpayer is required to make a fresh pre-deposit under Section 112(8)(b) of the CGST Act for maintaining an appeal before the Tribunal, even where the amount deposited at the first appellate stage exceeded the aggregate pre-deposit requirement on the tax demand surviving after the appellate order.

The GSTAT held that the pre-deposit requirement under Section 112(8) is satisfied by adjustment against the pre-deposit previously paid, and no further pre-deposit is required. The reasoning for the same is as follows:

- The phrase "in addition to the amount paid under sub-section (6) of section 107" establishes a cumulative quantum of 10 percent at the first stage (Section 107(6)) and a further 10 percent at the second stage (Section 112(8)), totalling 20 percent of the tax in dispute.

- The Act does not require a separate challan for the second-stage pre-deposit and does not prohibit adjustment of earlier amounts lying with the Revenue. The pre-deposit requirements under Sections 107(6) and 112(8) can be adjusted against each other.

- Pre-deposit is not a separate levy but a portion of the disputed tax itself. It is adjusted against the demand if the taxpayer loses the appeal or refunded with interest if the taxpayer succeeds.

- Revenue's interpretation necessitates a wholly circular exercise of refunding the excess pre-deposit with interest and requiring its immediate redeposit. Such an absurd and purposeless outcome ought to be avoided.

- The reduction of the pre-deposit requirement under Section 112(8) from 20 percent to 10 percent was intended to ease the financial burden on taxpayers and align with the erstwhile law.

- Reliance was placed on judicial precedents on this issue and the relevant CBIC circular no. 224/2024-GST recognising adjustment of advance payments towards pre-deposit obligations.

Hero Wiretex Limited vs. Commissioner of CGST, Hyderabad-I & Ors.,
2026-VIL-121-GSTAT-HYD (Hyderabad GSTAT)

The issue under consideration was whether the taxpayer was required to make a 10 percent pre-deposit when filing an appeal against an order passed before the proviso to Section 112(8) became effective, i.e., 01.10.2025.

The GSTAT Hyderabad admitted the appeal and rejected the objection of appeal being filed without pre-deposit on the ground that –

The Delhi High Court held as follows:

- The Supreme Court's decision in Hoosein Kasam Dada (India) Ltd [2002-TIOL-363-SC-CT] held that the right of appeal is a vested substantive right that accrues to a party when proceedings are first initiated. Such a vested right cannot be taken away except by express enactment or necessary intendment.

- Reliance was also placed on the Delhi High Court's decision in Gaurav Jain [2026-TIOL-914-HC-DEL-GST], wherein the Delhi High Court observed that the rights and obligations arising from a proceeding are governed by the law prevailing at the time of its commencement. A statutory provision imposing an additional substantive burden cannot be applied retrospectively to pending proceedings in the absence of a clear legislative mandate.

- In the present case, the SCN was issued on 24.12.2021, whereas the adjudication order was passed on 31.10.2025. Since the dispute originated upon issuance of the SCN, i.e., prior to 01.10.2025, the taxpayer's appellate rights were required to be tested against the legal position prevailing on the date the proceedings were initiated.

- Consequently, the newly inserted requirement of 10 percent pre-deposit under the proviso to Section 112(8) could not be retrospectively imposed on the taxpayer.

Shri Shyam Ispat India Private Limited vs. Commissioner, State GST, Raipur & Ors.,
2026-VIL-146-GSTAT-RPR (Raipur GSTAT)

The taxpayer filed GSTR-3B returns belatedly for FY 2017–18, FY 2018–19, and FY 2019–20, although sufficient amounts had been credited to its Electronic Cash Ledger (ECL) on or before the due dates and such amounts remained available until the returns were filed. Among other issues, the primary issue before the GSTAT was whether interest continued to accrue until debit of the ECL, despite the timely deposit of sufficient funds into the ECL.

The GSTAT upheld the interest demands on the following grounds:

- ECL credit vs. payment: Mere deposit or credit of sufficient cash in the ECL did not constitute payment of the return liability under the pre-10.07.2024 law. Payment occurs only upon debit of the ECL, per GST provisions.

- Prospective effect of proviso: Proviso inserted in Rule 88B(1), which excludes amounts continuously lying in the ECL from interest computation, took effect prospectively from 10.07.2024. The notification contained no provision for retrospective or deemed operation.

- Previous judgments: The Tribunal declined to follow contrary High Court decisions, such as Eicher Motors 2024-VIL-72-MAD] and Arya Cotton Industries [2024-VIL-634-GUJ], which treated ECL deposits as sufficient to terminate interest liability. Instead, it preferred the reasoning in RSB Transmissions [2022-VIL-745-JHR], Sincon Infrastructure [2024-VIL-366-PAT], and India Yamaha Motor [2022-VIL-605-MAD], which upheld the distinction between a deposit and a payment made by debit.

- Reliance was placed on Abis Export India Private Limited [2022-VIL-730-CHG], to recognise the retrospective operation of the proviso to Section 50(1), which describes interest relief based on tax paid by debiting the ECL, reinforcing the statutory significance of the debit mechanism for discharge of liability

- Compensatory nature of interest vs. payment of liability: The Tribunal acknowledged the compensatory nature of interest but emphasized that the statute identifies when a liability is legally paid.

- Late fee v. interest: Late fees for delayed return filing and interest for delayed payment operate in distinct fields and do not displace one another.

M/s Flora Kingdom Farm Resort vs. Commissioner of Commercial Taxes, Karnataka, 2026-VIL-147-GSTAT-BLR (Bengaluru GSTAT)

The taxpayer, which operates a resort offering accommodation, restaurant and event services, claimed ITC on goods and services used in constructing the resort during FY 2019–20. The Department denied the credit under Section 17(5)(d), holding that the resort was an immovable property built "on its own account". The taxpayer relied on the Supreme Court's decision in Safari Retreats (2024 INSC 756), contending that the resort was a "plant" and was not constructed "on its own account".

The GSTAT held that the resort building and related civil structures do not qualify as "plant and machinery", nor does the functionality test in Safari Retreats extend to hotel or resort buildings. As the resort was constructed on the taxpayer's own account, as the setting of its own hotel, restaurant and events business; and credit on all eligible items has already been allowed, the denial of the disputed credit, along with interest and penalty, was sustained.

The reasoning provided by the GSTAT is as follows:

- The Finance Act, 2025 substituted "plant and machinery" for "plant or machinery" with effect from 01.07.2017. The definition of "plant and machinery" expressly excludes "land, building or any other civil structures". Accordingly, the resort building and its civil structures cannot qualify as "plant and machinery" for the purpose of claiming ITC.

- The taxpayer's claim fails even under the unamended clause (d) of Section 17(5). In Safari Retreats, the Supreme Court confined the functionality test to buildings other than hotels and cinema theatres, relying on Anand Theatres (2000) 5 SCC 393, wherein it was held that a building used for running a hotel or a cinema is not the apparatus with which the business is carried on, but merely the setting from which it is conducted.

- The resort building is, in substance, a hotel building. A hotel or resort that uses its own building to supply accommodation, food and event services constructs that building on its own account.

- Clause (d) restricts credit only in respect of goods and services used for construction. Whether a particular item falls within its ambit depends on its nature and purpose, and not on its accounting treatment. The onus under Section 155 of the CGST Act rests on the taxpayer to specifically identify and substantiate those items that fall outside the restriction.

GOPINATH TM vs. MUKAND LIMITED, CHIRMAN MANAGING DIRECTOR
2026-VIL-173-GSTAT-BLR (Bangalore GSTAT)

The issue under consideration was whether interest under Section 50 of the CGST Act, 2017, is payable on the differential tax paid through debit notes issued under Section 142(2)(a) of the CGST Act for a retrospective upward price revision of goods cleared during the pre-GST regime. Additionally, the Tribunal examined whether the penalty under Section 122 of the CGST Act was imposable in such a scenario.

The Bengaluru Tribunal upheld the interest demand but set aside the penalty on the following grounds:

- Supreme Court's decision in the case of Steel Authority of India Ltd. vs Commissioner of Central Excise (2019-VIL-17-SC-CE) held that when a price escalation has retrospective operation, the finalised price becomes the true value of the goods at the time of the original clearance.

- The deeming fiction in Section 142(2)(a) of the CGST Act serves a procedural purpose, allowing taxpayers to report differential transactions and discharge tax. However, it does not alter the original time when the value accrued. The enhanced value due to the price escalation relates to the original clearance period, and interest under Section 50 automatically attaches to the delayed payment of tax.

- Sections 34(4) of the CGST Act, which provide for issuance of a debit note, and 39(7) of the CGST Act, regarding payment of tax on furnishing of return, are purely procedural and administrative reporting mechanisms and do not alter the original time when the value accrued.

- Penalties under fiscal statutes are intended to punish deliberate infractions. In the absence of deliberate non-compliance or suppression, the imposition of a penalty was deemed unwarranted.

M/s Jupiter Buildtech Pvt Ltd vs. Commissioner of State Tax – UP 2026-VIL-119-GSTAT-AGR (Agra GSTAT)

The taxpayer, a real estate developer, had collected advances towards booking of residential flats during the pre-GST regime and discharged service tax on such amounts. Subsequently, during the GST regime, certain bookings were cancelled, and the advances along with the service tax component were refunded to the customers. The taxpayer claimed an ITC under the GST regime for service tax, which was refunded and adjusted against its GST liability. The availment of credit was disputed, and the authorities confirmed the demand with interest and penalty.

The GSTAT held that the service tax deposited by the taxpayer under the Finance Act, 1994, is not an input tax under the GST Law and, hence, its credit would not be allowed as ITC. As the services promised through bookings were not ultimately provided by the taxpayer, the refund of service tax deposited must be dealt with under the Finance Act, 1994 as provided under the transition provision section 142(5) of the CGST Act. The taxpayer cannot adopt his own mechanism by claiming ITC which is not supported by Law.

Thus, it was held that the refundable service tax (paid under the Finance Act, 1994) could not be availed as ITC under the GST Law.

Lufthansa German Airlines vs. Additional Director General (Adjudication), DG GST Intelligence & Principal Commissioner, CGST, Delhi South 2026-VIL-1734-CESTAT-DEL-ST (Delhi CESTAT)

The taxpayer, an airline, collected cancellation fees, refund fees and no-show charges from passengers who cancelled tickets or failed to travel. It treated these charges as part of its passenger transport service and paid service tax after claiming the applicable abatement. The Department, however, treated the charges as a separate declared service under Section 66E(e) (service of tolerating an Act) of the Finance Act, 1994, and demanded service tax on the full amount without abatement.

The CESTAT held that cancellation charges compensate the airline for the passenger's non-performance of the contract to fly and cannot be treated as consideration for a separate service of tolerating an act. The reasoning is as follows:

- The parties enter the ticket contract with the intention that the passenger will travel and the airline will provide transportation. Cancellation charges arise only upon the passenger's cancellation and serve to compensate the airline for the resulting loss, rather than represent consideration for a separate supply.

- Reliance was placed on the CESTAT judgment in the case of South Eastern Coal Fields Ltd. [2021 (55) G.S.T.L. 549 (Tri. - Del.)] in this regard. Reference was also made to the CBEC circular dated 28.02.2023 under the GST regime, wherein the interpretation of the expression "tolerating of an Act" has been dealt with.

- Since cancellation charges are not chargeable to service tax, the taxpayer's erroneous payment of tax, whether with or without abatement, is of no legal consequence.

P.C. Snehal Construction Pvt. Ltd.
(2026) 46 Centax 234 (A.A.R. - GST - Guj. (Gujarat AAR)

The taxpayer, a government contractor engaged in the construction, operation and maintenance of stormwater drainage systems for Ahmedabad Urban Development Authority (AUDA), sought an advance ruling on the GST applicability of mobilisation advances received under the contract. Under the tender terms, AUDA provided 10 percent of the contract value as an interest-free mobilisation advance against a corresponding security. The taxpayer contended that the amount was a loan to facilitate project execution, was subsequently recovered from Running Account (RA) bills, and therefore GST should become payable only when such bills were raised.

The Gujarat AAR held as follows:

- The mobilisation advances constituted "consideration" under Section 2(31) of the CGST Act as the advances were adjusted in the RA bills raised by the taxpayer from time to time.
- The time of supply of services would be the date of receipt of payment of the advance and consequently, liability to pay tax would be on the date of receipt of payment.
- The Authority relied on its earlier ruling in S.P. Singla Construction (P.) Ltd., which was affirmed by the appellate authority (2025) 27 Centax 73 (App. A.A.R. - GST - Guj.), wherein it was held that the time of supply of mobilisation advances received towards supply of services is the date of receipt of such advances.

Notifications/circulars/instructions/advisory

GSTAT introduces an online facility for transfer of appeals across benches

A Standard Operating Procedure (SOP) has been provided outlining the process for filing a Transfer Appeal in cases where multiple appeals involving an identical question of law have been filed across different GSTAT Benches in India. Where a taxpayer has multiple GSTINs linked to the same company PAN and has filed multiple appeals before various Benches, the taxpayer may consolidate such matters into a single Transfer Appeal.

Advisory on "Multistate Registration" facility for GST registration

The GSTN has introduced a "Multistate Registration" facility that enables taxpayers seeking GST registration in multiple States/UTs under the same PAN to submit registration applications through a single, streamlined process. The functionality is currently available only for Normal Taxpayers.

This functionality reduces data entry duplication across multiple registration applications and facilitates ease of doing business.

GSTN Advisory dated 1 October 2026.

FAQs in relation to recommendations of the 57th GST Council meeting

The Government has released FAQs explaining various recommendations of the 57th GST Council Meeting, providing clarifications on key implementation and compliance implications.

The FAQs cover key areas, including GST registration and amendment/cancellation processes; simplified registration for eligible e-commerce sellers; faster, automated refund processing; proposed changes to refund calculations; classification; etc.

GSTN Advisory dated 13 October 2026.

Notifications/circulars/instructions/advisory

Annual returns in the form of GSTR-9/9C for FY 2025-26

The GSTN has enabled GSTR-9/9C filing for FY 2025-26 on the GST Portal, with effect from 8 October 2026. Taxpayers should ensure that all GSTR-1 and GSTR-3B returns for the year are filed to enable the filing of GSTR-9/9C. In case of any assistance in filing the annual returns, the taxpayers are advised to raise a ticket on the GSTN helpdesk

GSTN Advisory dated 13 October 2026.

Introduction of e-Invoicing facility for recipient-generated self-invoices under Reverse Charge Mechanism for Domestic Supplies from Unregistered Persons (RCMDOM) and Import of Services (RCMIMP)

Pursuant to the recommendations of the 57th GST Council Meeting, GSTN has announced enhancements to the e-Invoicing framework to facilitate reporting of specified recipient-generated self-invoices under the Reverse Charge Mechanism (RCM).

Under the enhanced framework, two new supply types have been introduced:

- RCMDOM to report self-invoices relating to specified domestic supplies received from unregistered persons and liable to GST under RCM; and
- RCMIMP to report self-invoices relating to import of services on which GST is payable under RCM.

Eligible taxpayers will be able to obtain Invoice Reference Numbers (IRNs) for such self-invoices in accordance with the applicable provisions of GST law.

The functionality is intended for taxpayers with an Aggregate Annual Turnover (AATO) of INR5 crore or more, in line with the existing e-Invoicing threshold, subject to the relevant statutory provisions and notifications to be issued by the Government.

The functionality is currently available in the sandbox environment for authorised IRPs for testing and integration purposes. The production rollout date is yet to be notified. Taxpayers should evaluate the impact of the proposed changes and undertake necessary system development, integration and testing activities to ensure implementation readiness.

GSTN Advisory dated 16 October 2026.

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