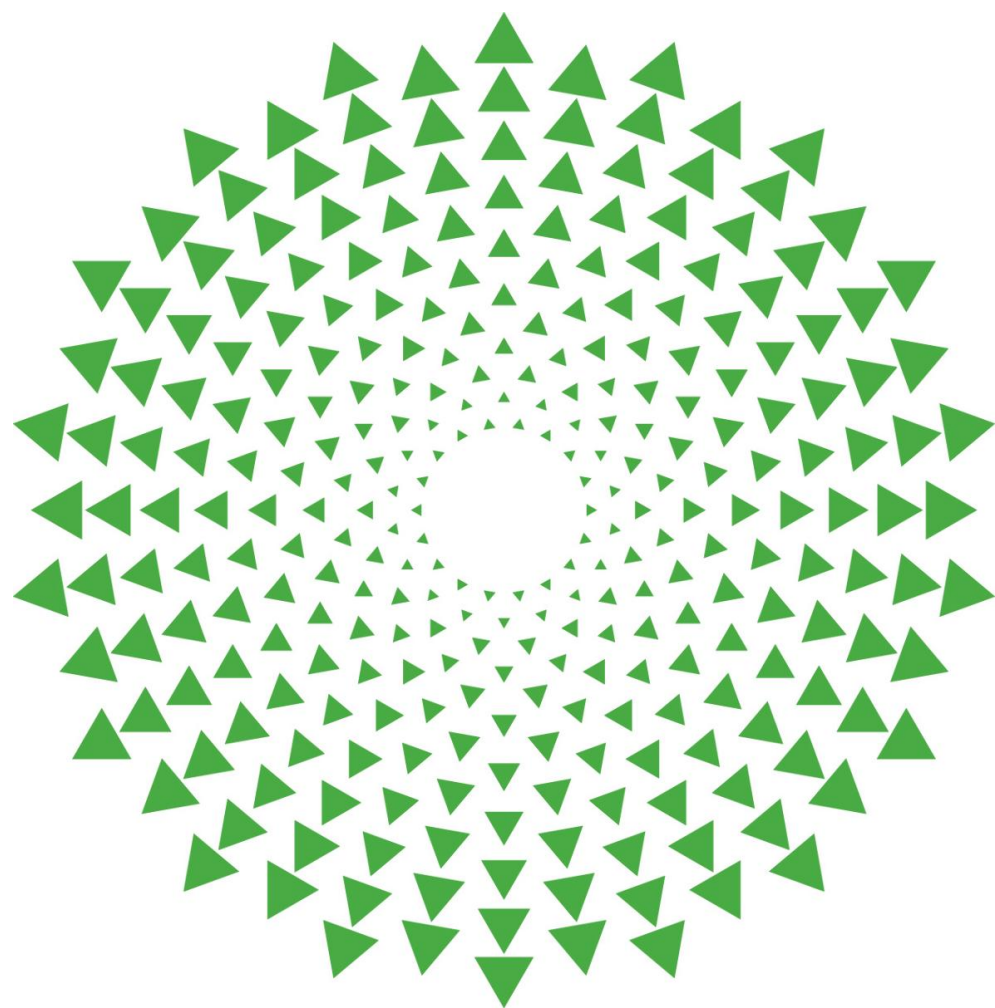




Indirect Tax newsletter

October 2026

We are delighted to share a few important judgements/updates from a Goods and Services Tax (GST) perspective. advance rulings passed under GST, Central Excise and Service Tax that were available in the public domain for September 2026. This issue also covers some of these updates.

GST



Tata Steel Limited vs. Union of India & Ors. 2026-VIL-87-SC (Supreme Court)

The Department issued Show Cause Notices (SCNs) under Section 74 for FY 2018–19 to 2020–21 based on audit objections concerning Input tax Credit (ITC) mismatch and short payment of tax. The taxpayer contended that the SCN lacked allegations of fraud, willful misrepresentation or suppression of facts, which are necessary to invoke the extended limitation period. The Jharkhand High Court had dismissed the writ petition on the ground that the taxpayer had an efficacious statutory remedy of appeal. The matter was thereafter challenged before the Supreme Court.

The Supreme Court held as follows –

- The foundational facts leading to inference of fraud/ wilful misrepresentation/ suppression must be evident from the SCN itself; the mere employment of such words would not suffice.
- The SCN contained only a “bland statement” of suppression and no foundational facts or material showing any deliberate device to evade tax or avail excess input tax credit (ITC).
- Considering that the extended period is not over, the Department was given liberty to initiate fresh proceedings under Section 74, with the foundational facts coming out from the notice itself and the order being passed by 28.02.2027.



**M/s Cart Infralog Ltd. & Anr. vs. Additional Commissioner, HQ
Anti-Evasion Unit, CGST & CX
2026-VIL-974-CAL (Calcutta High Court)**

The petitioners were denied ITC on the grounds that their suppliers had defaulted in depositing tax and filing GSTR-3B. The invoices were not reflected in GSTR-2A of the petitioners and an SCN was issued.

The Court held as follows:

- Mere non-reflection of invoices in GSTR-2A cannot by itself lead to automatic denial of ITC to a bona fide purchaser, particularly where the recipient possesses tax invoices and has received the goods or services, thereby satisfying the conditions under Section 16(2)(a) and (b) of the CGST Act.
- Since the Department had itself initiated proceedings against the defaulting supplier, it cannot doubly recover the tax, once from the supplier and again from the recipient and must first proceed against the supplier.
- In the absence of any allegation or finding of collusion, the ratio of Suncraft Energy Pvt. Ltd. 2023-VIL-487-CAL, affirmed by the Supreme Court [2023-VIL-99-SC], was held to squarely apply.
- The SCN for FY 2018–19 was time-barred and that extended limitation cannot be mechanically invoked merely to cover up delay by using the expressions “fraud”, “wilful misstatement” and “suppression of facts” without stating how fraud was inferred or concealment detected
- Accordingly, the impugned order was quashed with directions for fresh adjudication. Petitioners were directed to produce all relevant documents for adjudication.



Jain Cement Udyog vs. Union of India & Anr 2026-VIL-1099-DEL (Delhi High Court)

The taxpayer was investigated by Directorate General of GST Intelligence (DGGI) for alleged fraudulent availment and passing on of ITC through non-existent firms. While an appeal against the DGGI proceedings was pending, the Department issued a separate SCN under Section 73 alleging wrongful availment of ITC on purchases from suppliers whose GST registrations were subsequently cancelled. The demand was confirmed by the adjudicating authority.

The taxpayer challenged the SCN and order before the Delhi High Court, contending, inter alia, that ITC could not be denied to a bona fide recipient under Section 16(2)(c) of CGST Act and that the subsequent proceedings amounted to duplication of proceedings. Section 16(2)(c) provides that the supplier should have deposited the tax to the Government for the recipient to claim credit.

The Delhi High Court held as follows:

- Relying on *Bhandari Scrap Traders* [(2026) 161 GSTR 150], the Court noted that the constitutional validity of Section 16(2)(c) had already been upheld by the Supreme Court. Accordingly, the recipient must establish through “cogent material” that the tax charged has actually been deposited by the supplier.
- The Court declined to interfere in writ jurisdiction and directed the petitioner to avail the statutory remedy of appeal due to the following reasons:
 - The exercise of determination of actual receipt of goods and actual payment of tax by the suppliers is a question of fact and is not a matter that ought to be adjudicated for the first time in the exercise of writ jurisdiction.
 - The subject matter of the two proceedings whether identical or not, is a mixed question of fact and law to be examined by the Appellate authority.



Faiz Enterprise vs. State Tax Officer & Anr. TS-646-HC(GUJ)-2026-GST (Gujarat High Court)

The Gujarat High Court examined the validity of GST proceedings where the adjudicating authority had relied upon AI-generated judicial precedents that were either non-existent or irrelevant to the issues involved. The taxpayer challenged the show cause notice, cancellation of GST registration, rejection of the revocation application and the appellate order on the ground that the adjudicating authority had based its findings on fictitious and inapplicable case laws.

During the proceedings, the State Tax Officer acknowledged that the judgments cited in the impugned order had been generated using Artificial Intelligence (AI) and tendered an unconditional apology, attributing the error to lack of experience and inadequate verification of AI-generated content. The Gujarat High Court appreciated the corrective measures adopted by the tax administration, including issuance of detailed instructions governing the use of AI by adjudicating and quasi-judicial authorities.

The Court quashed the show cause notice, cancellation order, revocation rejection order and the appellate order. It directed the authorities to issue a fresh notice, duly consider the taxpayer's submissions and pass a reasoned order in accordance with law.



Lalitha S. vs. Deputy Commissioner & Ors TS-661-HC(KAR)-2026-GST (Karnataka High Court)

The taxpayer's land was acquired by the Union of India for widening the Highway against appropriate compensation. The authorities deducted 18 percent GST from the compensation amount. The taxpayer challenged the deduction, contending that acquisition of land by the State does not involve any "supply of goods or services" and therefore cannot attract GST

The Karnataka High Court held as follows:

- Acquisition of land by the State in exercise of its power of eminent domain does not involve any "supply of goods or services" and, therefore, GST cannot be levied on the compensation payable for such acquisition.
- Accordingly, the Court quashed the deduction and directed refund of the amount along with interest.



BA Continuum India Pvt. Ltd. vs. State of Maharashtra & Ors. 2026-VIL-1032-BOM (Bombay High Court)

The taxpayer's refund application was rejected by the original authority, against which an appeal was filed before the Appellate Authority. Despite issuance of hearing notices, the taxpayer failed to appear before the Appellate Authority. The Appellate Authority dismissed the appeal for non-attendance and non-compliance confirming the original demand order. The taxpayer challenged the Appellate order, contending that the Appellate Authority was required to decide the appeal on merits and pass a reasoned order.

The Bombay High Court held as follows:

- Referred to Punjab and Haryana High court judgement in the case of Arval India Pvt. Ltd. [CWP No.24183 of 2025], wherein it has been held that the Appellate Authority do not have an option to dismiss an appeal on non-appearance of the appellant.
- Held that the impugned order was not a reasoned order and, relying on ASP Traders [(2026) 2 SCC 641], reiterated that a reasoned and speaking order is a substantive safeguard ensuring fairness in quasi-judicial proceedings.

Accordingly, the Court quashed and set aside the impugned order and remanded the appeal to the Appellate Authority for decision on merits. The petitioner to remain present and cooperate with the Authority.



M/s LUCKNOW TEST HOUSE Vs SHASHI BHUSHAN SINGH, ADDITIONAL COMMISSIONER GRADE-II, STATE TAX LUCKNOW & ORS. (2026-VIL-65-GSTAT-LCK)

The GSTAT, Lucknow considered the issue whether ITC could be denied merely because the credit was reported under incorrect tax heads, namely CGST and SGST instead of IGST, despite there being no dispute regarding the taxpayer's overall eligibility to the credit. The taxpayer contended that the alleged discrepancy arose solely due to inadvertent classification of eligible IGST credit under the CGST and SGST heads and that the aggregate eligible ITC available to it had never been exceeded.

Reliance was placed on the Kerala High Court's decision in Rejimon Padickapparambil Alex vs. UOI, [2024-VIL-1284-KER], wherein the Court, while referring to Circular No. 192/04/2023-GST, recognised that the electronic credit ledger is to be viewed as a unified pool of ITC comprising IGST, CGST and SGST balances and that the aggregate balance, rather than individual tax compartments, is relevant for determining utilisation and interest implications.

Reliance was placed on the Kerala High Court's decision in *Rejimon Padickapparambil Alex vs. UOI*, [2024-VIL-1284-KER], wherein the Court, while referring to Circular No. 192/04/2023-GST, recognised that the electronic credit ledger is to be viewed as a unified pool of ITC comprising IGST, CGST and SGST balances and that the aggregate balance, rather than individual tax compartments, is relevant for determining utilisation and interest implications.

The Tribunal observed that the Department had not established any actual excess availment of ITC beyond the taxpayer's aggregate eligible entitlement nor demonstrated any revenue loss arising from the alleged misclassification. Accordingly, subject to verification of the eligibility and sufficiency of the IGST ITC balance the demand was dropped.



**Santhome Latex Enterprises vs. Commissioner of CGST,
Thiruvananthapuram
2026-VIL-61-GSTAT-TVP (GSTAT Thiruvananthapuram)**

Pursuant to audit, the Department issued a SCN under Section 74 alleging ineligible/excess ITC availment along with interest and penalty. It was contended that there was suppression of facts with the intent to evade tax.

The Tribunal held as follows:

- In absence of any statutory presumption, mere act of taking ineligible self-assessed ITC in the Electronic Credit Ledger without due verification would not amount to suppression of facts.
- Every transgression of Sections 16(2) and 42(1) cannot invite Section 74 proceedings unless clear and categorical evidence establishes fraud, wilful misstatement or suppression of facts with intent to evade tax.
- Relying on CBIC Instruction No. 05/2023-GST dated 13.12.2023, the Tribunal observed that extended period can be invoked only where the investigation establishes material evidence of fraud, wilful misstatement or suppression of facts, which must also form part of the SCN.
- Relevant facts and reconciliation had already been disclosed through Form GSTR-9C/ annual return filings and were available on the GST portal.
- Accordingly, the Order-in-Appeal was set aside and the appeals were allowed with consequential relief.



Peekay Industries vs Commissioner of Commercial Taxes, Karnataka TS-683-GSTAT-2026-GST (Bengaluru GSTAT)

The taxpayer was issued adjudication order for FY 2019–20 alleging excess availment of ITC on the basis of a difference between ITC availed in GSTR-3B and ITC reflected in GSTR-2A. The SCN alleged a mismatch pertaining to IGST however, the demand ultimately confirmed was on account of CGST and SGST mismatch. The first appellate authority upheld the demand holding that the taxpayer failed to furnish supplier certificates contemplated under CBIC Circular Nos. 183/15/2022-GST and 193/05/2023-GST. Aggrieved, the taxpayer approached the GSTAT challenging the appellate order.

The Bengaluru Tribunal held as follows –

- A mere difference between GSTR-2A and GSTR-3B cannot, by itself, establish wrongful availment of ITC. Verification of the taxpayer's reconciliation statements, tax invoices, purchase register, books of account and other supporting material is necessary,
- The demand cannot be sustained without first resolving the factual inconsistency and without giving the taxpayer a proper opportunity to meet a CGST/SGST demand that was never put to it in any notice.
- Section 16(2)(aa), which gives statutory recognition to GSTR-2A/2B matching, was not applicable to the disputed period (April 2019 to March 2020).
- CBIC Circular No. 183/15/2022-GST and Circular No. 193/05/2023-GST were not applied correctly. The latter Circular only extended the verification mechanism to the period April 2019 to 08.10.2019, while the dispute spanned a wider period.

The Tribunal set aside the orders and remanded the matter to the Adjudicating Authority for fresh adjudication, with directions to reconcile the conflicting computations, undertake invoice-wise and supplier-wise verification, examine the relevant records and pass a fresh reasoned order within the scope of the SCN.



Commissioner, CGST & CX, Kolkata North vs. Power Tech Global Pvt. Ltd. (2026) 45 Centax 389 (GSTAT Kolkata)

The taxpayer had sold MEIS duty credit scrips (exempt supplies) during the financial years 2017–18 to 2019–20. The dispute was whether the taxpayer was entitled to claim ITC retrospectively based on an amendment made in 2022 which excluded duty credit scrips from the value of exempt supply for the purpose of computing reversal of ITC.

The GSTAT Kolkata held as follows:

- Amendment to Rule 43 of the CGST Rules, inserting clause (d) in Explanation 1 to exclude the value of supply of duty credit scrips from the aggregate value of exempt supplies, came into force with effect from 05.07.2022 and the Rule Making Authority, despite having power under Section 164(3) to give it retrospective effect, intended to give the provision a prospective effect.
- Amendment was not brought to cure or clarify any doubts or ambiguity and ITC being concessional in nature, could not be claimed retrospectively as a vested right
- Regarding invocation of extended limitation, it was held that the taxpayer had disclosed all transactions in GSTR-3B returns and annual filings, and there was no evidence of fraud or deliberate suppression. Accordingly, Section 74 proceedings were set aside.

The proper officer was directed to determine the tax liability as if the notice had been issued under Section 73, after granting the taxpayer an opportunity of hearing.



**M/s SOFTWARE TECHNOLOGY PARK OF INDIA Vs PR. COMMISSIONER
OF CENTRAL TAX, RANGAREDDY-GST
2026-VIL-1509-CESTAT-HYD-ST (CESTAT Hyderabad)**

The Hyderabad Bench of the CESTAT considered an issue whether charges collected by Software Technology Parks of India (STPI) towards certification of SOFTEX forms, issuance of No Objection Certificates (NoCs) and allied assistance rendered to Software Technology Park units were liable to Service Tax under the category of “Business Support Service”.

The Tribunal observed that –

- Although STPI functions under the administrative control of the Government of India and performs functions under the STP Scheme, it is incorporated and registered as a society and does not thereby become a Department of the Government.
- Mere fact that an activity is regulated by law or that an organisation has been authorised by the Government to perform the activity does not, by itself, convert every such activity into a sovereign function.
- Certification of SOFTEX forms, issuance of NoCs and other assistance rendered to STP units are intrinsically connected with the business activities of software exporters, as such certification and approvals facilitate exports, foreign exchange realisation and compliance with the regulatory framework. Accordingly, the services had a nexus with business or commerce and were covered within the scope of Business Support Service.
- The charges collected was not a compulsory statutory levy payable into the Government Treasury. On the contrary, the amounts were credited to funds maintained by STPI and utilised towards its establishment and administrative expenditure.

The Tribunal concluded that the charges represented consideration for services rendered to business entities and not sovereign or statutory exactions. The demand of Service Tax under Business Support Service, along with invocation of the extended period and imposition of penalty, was accordingly upheld.



National Engineering Industries Ltd. vs. Commissioner of CGST & Central Excise, Jaipur
Final Order No. 51405/2026 (CESTAT Delhi)

The issue before the CESTAT was whether accounting entry of vendor retention amounts, advance payments from customers to unclaimed/unpaid balance account in its books of accounts would trigger service tax liability. The Department treated these amounts as consideration for tolerating an act and raised a demand of service tax, along with interest and penalty.

The CESTAT, New Delhi held as follows:

- Mere recording of an amount as income in the books of account cannot make the amount consideration for a declared service unless it is first established that the amount was received towards rendering a taxable service.
- The amounts in question represented unclaimed balances, including amounts remaining unpaid to vendors and cheques that had become invalid, and there was no evidence of any taxable activity being undertaken by the taxpayer against retention of such amounts.
- Referring to CBIC Circular No. 178/10/2022-GST and South Eastern Coalfields Ltd. [2021 (55) GSTL 549], it held that the said amounts cannot be treated as consideration for tolerating an act.

Accordingly, the impugned order was set aside and the appeal was allowed.



Om Prakash vs. Islam Trading Co.
[(2026) 45 Centax 310 (Tri.-GST-Lucknow)]

The taxpayer transported a consignment of goods accompanied with a tax invoice and other supporting documents but without the mandatory E-Way Bill. Proceedings were initiated resulting in an order confirming tax and penalty under section 129 of CGST Act. The First Appellate Authority allowed the appeal on the ground that the E-Way Bill was subsequently produced during the proceedings. The Department appealed before the Tribunal.

The Tribunal held as under:

- The generation of an E-Way Bill is a mandatory statutory requirement and forms an integral part of the GST mechanism for monitoring the movement of goods and preventing tax evasion.
- Generation of an E-Way Bill is an online process, whereas the tax invoice may be issued manually by the taxpayer. The absence of an E-Way Bill could facilitate manipulation of the taxpayer's books of account at his convenience and thus the transportation of goods without an E-Way Bill established an intention to evade tax.
- Accordingly, the Tribunal restored the order imposing tax and penalty.



Woods India Engineering and Projects Private Limited (Case No. WBAAR 05 of 2026-27 - West Bengal AAR)

The Taxpayer received IT-related services from its foreign affiliate which are charged on a cost-to-cost basis. The foreign entity raises debit notes for these services, and the taxpayer discharges GST liability under the Reverse Charge Mechanism (RCM) by issuing self-invoices and claims full ITC on the tax paid under RCM. The taxpayer sought an advance ruling on whether the value mentioned in its self-invoice can be deemed as the open market value for GST purposes under Circular No. 210/4/2024-GST dated 26th June 2024.

The West Bengal Authority for Advance Ruling held that the value mentioned in the self-invoice raised by the taxpayer can be deemed as the open market value for GST purposes as per the GST provisions read with Circular No. 210/4/2024-GST dated 26th June 2024, in cases where taxpayer is eligible for full ITC.



D.S. TRADERS Vs COMMISSIONER, SGST DEPARTMENT, LUCKNOW (2026) 46 Centax 55 (Tri. - GST - Lucknow)

The GST Appellate Tribunal, Lucknow considered whether penalty under Section 129 of the UPGST Act was sustainable where an excavator machine was intercepted during transit without an e-Way Bill. The taxpayer contended that the machine was being returned from a project site to its registered place of business under a delivery challan, that no sale or taxable supply was involved and the absence of the e-Way Bill was merely a technical or procedural lapse without any intention to evade tax.

The Tribunal held as under –

- The prescribed documents/e-Way Bill is required for movement of goods, including movement for reasons other than supply, subject to the specified exemptions.
- Transportation without an e-Way Bill, coupled with the failure to establish the tax treatment of the consideration relating to the use of the excavator, gave rise to a reasonable inference of intention to evade tax and could not be treated as a mere technical lapse.

Accordingly, the Tribunal held that the taxpayer had failed to establish either a valid exemption from the e-Way Bill requirement or that the lapse was merely procedural and without revenue implications. Thus, penalty was upheld rejecting the appeal.

Notifications/circulars/instructions/advisory

Enabling filing of appeals in cases involving NIL or Zero demand amount

The GSTN has issued a clarification addressing procedural difficulty, enabling taxpayers to file appeals in cases where the dispute pertains to tax liability, but the demand order reflects a “NIL” or “Zero” demand amount. This situation typically arises where the taxpayer has discharged the tax liability prior to issuance of the demand order, resulting in no outstanding demand being reflected in the order.

The validation restriction on the GST Portal that previously prevented filing of appeals against NIL or Zero demand orders has been removed. Consequently, taxpayers can now file appeals in Form GST APL-01 against such demand orders notwithstanding the absence of any quantified demand in the order. Taxpayers encountering any issues while filing such appeals may seek assistance through the GST Helpdesk.

GST Advisory dated 7 September 2026

Advisory on use of version 3.3 of emSigner

The GSTN has issued an advisory informing taxpayers and tax officers using Digital Signature Certificates (DSCs) on the GST Portal regarding the availability of emSigner Version 3.3. The new version is being made available to provide compatibility with tokens (USB dongles) issued on or after 21 September 2026.

The advisory clarifies that existing users having valid DSCs and functioning USB dongles may continue using their current emSigner version. However, users facing issues while using DSCs on the GST Portal, such as signing failures or non-display of certificates, as well as users who have obtained a new DSC/token on or after 21 September 2026, may refer to the said advisory for the applicable technical requirements, emSigner version specifications and system compatibility details.

GST Advisory dated 19 September 2026

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