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Indirect tax newsletter

Indirect tax updates

June 2026

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

GST

Assistant Commissioner (Anti Evasion) vs. Aerocom Cushions Private Limited
2026-VIL-46-SC (Supreme Court)

The Supreme Court (SC) has dismissed the Department's Special Leave Petition (SLP) against the Bombay High Court ruling, which had held that assignment of leasehold rights of the land along with the building in favour of a third party is not liable to GST.

The Bombay High Court observed that the transaction pertains exclusively to the transfer of benefits arising out of an immovable property and has no nexus with the taxpayer's business. The essential requirement of the supply of service being in the course or furtherance of business was held to be absent. It had relied upon the Gujarat High Court decision in the Gujarat Chamber of Commerce and Industry v. UOI 2025-VIL-21-GUJ, and held that assignment by sale and a transfer of leasehold rights of a plot of land allotted by Corporation such as the Gujarat Industrial Development Corporation (GIDC) or Maharashtra Industrial Development Corporation (MIDC) to lessee in favour of third party-assignee for a consideration amounts to transfer of benefits arising out of immovable property and would not be subjected to GST levy.

Declining to interfere with the Bombay High Court judgment, the SC dismissed the SLP filed by the Department.

Novitech Health Care Private Limited vs. Commissioner CGST & Central Excise, Commissionerate Agra & Ors.
TS-350-HC(ALL)-2026-GST (Allahabad High Court)

The taxpayer had filed a writ petition before the Allahabad High Court praying to treat the amount deposited through DRC-03 during investigation as valid pre-deposit for filing appeal and to make appropriate changes in the GST portal to permit filing of such appeal.

The Allahabad High Court noted that Goods and Services Tax Network (GSTN) had already issued an advisory providing technical resolution for the adjustment of amounts deposited through DRC-03. Accordingly, the Allahabad High Court permitted the taxpayer to file an appeal and directed that any technical difficulties faced by the taxpayer be resolved by GSTN. The Court also directed that the order be communicated to the GST authorities for issuance of appropriate circulars/administrative instructions in similar cases.

Navin Vishwanathan vs. State of Maharashtra (2026) 41 Centax 440 (Bom.) (Bombay High Court)

The taxpayer's father operated a proprietorship business under a particular trade name, with a GST registration, which was cancelled before his demise. The taxpayer independently established a proprietorship business under the same trade name, obtained a separate GST registration and operated from a different location prior to the demise.

Post demise, tax authorities initiated recovery proceedings on the taxpayer for GST dues allegedly payable by his deceased father and attached the taxpayer's bank account. This was on the premise that since both proprietorship concerns bear the same trade name, the taxpayer must be treated either as a successor to, or continuation of, the business of his deceased father and consequently, liable for his outstanding tax dues per Section 93 of the Central Goods and Service Tax, 2017 (CGST Act), the show cause notice (SCN) was issued prior to attachment of bank account.

The Department has straightaway invoked recovery proceedings and frozen the taxpayer's bank account without first determining whether the taxpayer's proprietorship is legally distinct; whether he has, in fact, continued the business of the deceased; or whether statutory conditions under Section 93 stand satisfied. The issue for consideration was whether the Department's action of freezing the taxpayer's bank account to recover GST dues of his deceased father, without prior show cause notice, was legally permissible under the CGST Act.

The Bombay High Court held that just as two separate GST registrations have similar trade names, recovery cannot be initiated. It observed that the principles to attach the bank account of a taxpayer are well settled, namely that the designated officer is required to form an opinion on tangible material regarding the tax liability of a person against whom such action of attachment of the bank account is required to be taken. Freezing the taxpayer's bank account without following due process violated his constitutional rights under Article 300A, which protects against deprivation of property without legal authority.

Thus, the Court quashed the recovery action and directed the defreezing of the bank account, while granting liberty to the department to initiate fresh proceedings in accordance with law after due adjudication.

Vodafone India Ltd. Vs. UOI & Ors.
WP No. 6637/2025 (Bombay High Court)

The taxpayer was an entity formed by the merger of VM Co and VI Co, with approval from the National Company Law Tribunal (NCLT). Post-merger, the tax authorities issued an order against VM Co, alleging that it was not entitled to ITC in respect of a slump sale transaction undertaken prior to the merger. The taxpayer challenged the order before the Bombay High Court.

The Bombay High Court noted that it was undisputed that the amalgamating entities ceased to exist upon the merger, and this fact was duly intimated to the GST authorities. Relying on the Supreme Court decision in Principal Commissioner of Income Tax, New Delhi v. Maruti Suzuki India Ltd. [2019] 416 ITR 613 and the Bombay High Court's decision in Reliance Industries Limited v. P. L. Roongta [2025] 479 ITR 770, the Court held that the initiation of assessment proceedings against an entity which had ceased to exist was void ab initio.

Accordingly, the Bombay High Court quashed the impugned order while leaving it open to the department to proceed in accordance with law against the appropriate entity.

Tata Sons Private Ltd. Vs. UOI & Ors.
WP No. 4914 of 2022 (Bombay High Court)

The taxpayer challenged an SCN, contending that GST was applicable to damages for breach of contract paid to another company (the recipient company) pursuant to an arbitral award. On payment of the award amount, the recipient company had agreed to withdraw enforcement proceedings in other jurisdictions. Tax authorities contended that the payments constituted a taxable supply of services under entry 5(e) of Schedule II of the CGST Act, i.e. agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act.

The Bombay High Court referred to the CBIC Circular No. 178/10/2022-GST and Circular No. 214/1/2023-Service Tax, which clarified that liquidated damages for breach of contract do not constitute consideration for a supply of services unless they arise from a distinct agreement to tolerate an act or refrain from acting. It held that the agreement to withdraw enforcement proceedings upon receipt of the award amount was a natural corollary/logical consequence of the satisfaction of the decree and cannot be regarded as an independent agreement involving any consideration. The Bombay High Court held that the settlement of the arbitral award did not fall within the scope of “supply” and GST was not applicable.

Lupin Limited vs. State of Maharashtra
(2026) 41 Centax 317 (Bom.) (Bombay High Court)

The taxpayer, a Special Economic Zone (SEZ) unit, had claimed a refund of tax paid on input services for the period March 2020 to June 2023. In an earlier remand order, the High Court had directed the adjudicating authority to examine whether the services were used for “authorised operations” as endorsed by the specified officer of the SEZ. A review was sought on whether the said condition could be applied for the period prior to 01.10.2023, as it was inserted in Section 16 of the IGST Act to qualify a supply to SEZ developer/SEZ unit as a zero-rated supply, with effect from 01.10.2023. It was also contended by the taxpayer that this condition would apply to a supplier of services who may file an application for refund with evidence of receipt of services for authorised operations, and not to entities, like the taxpayer, which are units located in SEZs.

The Bombay High Court held that, though there is a reference to the said expression under Rule 89 of the CGST Rules, 2017 (CGST Rule), it was added in Section 16 of the CGST Act in October 2023, the direction to examine whether the services under question were for authorised operations will have to be deleted from its earlier order.

The Bombay High Court granted liberty to the department to raise such a plea before the adjudicating authority, to be considered on its own merits.

DLF Limited vs. The Commissioner Of Central Goods And Service Tax 2026-VIL-514-P&H (Punjab & Haryana)

The taxpayer, a real estate developer, had sought an advance ruling on whether charges collected towards the preferential location of flats (PLC) were to be taxed independently or as part of construction services. The Authority of Advance Ruling (AAR) held that such charges were liable to be taxed separately, a view that was upheld by the Appellate Authority of Advance Ruling (AAAR).

Subsequently, the GST Council in its 54th meeting recommended that PLC form an integral part of construction services and should not be taxed separately. Pursuant to this recommendation, the Government issued a Circular No. 234/28/2024-GST dated 11.10.2024 clarifying that PLC is naturally bundled with construction services (main service) and would attract GST at the same rate as the main supply.

The Punjab & Haryana High Court held that the Circular is binding on the departmental authorities. It was further observed that the Circular is clarificatory in nature and would apply retrospectively. Accordingly, the Punjab & Haryana High Court held that PLC would attract GST at the same rate as applicable to construction services before issuance of the apartment's completion certificate.

The Punjab & Haryana High Court quashed the orders of the AAR and AAAR being contrary to the binding clarification and granted consequential relief to the taxpayer.

Bharat Hotels Limited vs. Commissioner of CGST, New Delhi 2026-VIL-696-CESTAT-DEL-ST (CESTAT Delhi)

The issue was whether the forfeited advance amounts, collected as "room retention charges" by the taxpayer upon cancellation of hotel bookings by customers, are liable to service tax under Section 66E€ of the Finance Act, 1944, treating the same as consideration for "tolerating an act".

The appellant had discharged the service tax liability as and when the advances were received at the time of hotel booking, and if the customer did not show up, the advance amount was forfeited as penal charges.

The Tribunal held that the contract was for the enjoyment of accommodation, and the forfeited amounts were damages or compensation for the customers' breach of contract and could not be regarded as consideration.

Reliance was placed upon earlier decisions in cases of Indian Hotels Company Ltd. 2025-VIL-2229-CESTAT-DEL-ST, The Lalit, 2025-VIL-2230-CESTAT-DEL-ST, Shiv Vilas Resorts (P) Ltd. 2023-VIL-1383-CESTAT-DEL-ST, Lemon Tree Hotel 2020-TIOL-1114-CESTAT-DEL and Narayan Builders and Developers 2025-VIL-2231-CESTAT-DEL-ST.

Reference was also made to the Supreme Court's affirmation in the South Eastern Coalfields Ltd. case (2020-VIL-559-CESTAT-DEL-ST, 2023-VIL-131-SC-ST), which held that damages or penalties for breach of contract are not consideration for any service and are not taxable.

Accordingly, the Tribunal set aside the demand for service tax on forfeited advance amounts.

Commissioner of CGST & Central Excise, Uttarakhand vs. M/s Dana India Private Ltd
2026-VIL-865-CESTAT-DEL-ST (Delhi CESTAT)

The issue before the CESTAT was whether service tax under the reverse charge mechanism was payable on "un-invoiced allocations" made by the overseas parent company towards "Selling General and administration expenses" (SG&A expenses), despite no invoices being raised and no consideration being paid by the taxpayer.

The Tribunal observed that the taxpayer had already discharged service tax on the invoiced allocations for services rendered by the parent company. However, the un-invoiced allocations represented stewardship/shareholder activities, such as developing and/or maintaining investor relations, external audit compliance, etc., incurred by the parent company for its own benefit and were neither invoiced nor recorded in the taxpayer's books of account.

The Tribunal held that the services pertaining to un-invoiced allocations were not consumed by the taxpayer but were intended for the parent company's self-consumption. Mere entries made in the parent company's books could not trigger service tax liability.

M/s Kobelco Construction Equipment India Pvt. Ltd.
2025-AP-AAAR-02 (Andhra Pradesh AAAR)

The taxpayer proposed to transfer unexpired leasehold rights in industrial land situated in Sri City, Andhra Pradesh, along with superstructure and related rights, in favour of another entity for consideration. The Andhra Pradesh AAR held that the assignment of leasehold rights and the recovery of land development costs are liable to GST, while allowing ITC on GST paid on transfer commission.

Aggrieved, the taxpayer preferred an appeal before the Andhra Pradesh AAAR. The Andhra Pradesh AAAR upheld the AAR's ruling, holding that the transfer of leasehold rights merely grants the right to use immovable property for the remaining lease term and does not amount to a transfer of title to land. It observed that Section 7 read with Paragraph 2(a) of Schedule II specifically treats transfer of right to use immovable property for consideration as supply of service, and therefore long-term leasehold assignments cannot be treated as sale of land covered under Schedule III.

The AAAR declined to follow the Gujarat High Court ruling in the case of Gujarat Chamber of Commerce & Industry v. UOI (2025) 170 taxman.com 251 (Gujarat) and Dhiraj Can Co. Pvt. Ltd. v. UOI (2025)176 taxman.com 311 (Gujarat), observing that departmental appeal against the Gujarat High Court judgement in the case of Gujarat Chamber of Commerce & Industry has been admitted by the Supreme Court and the issue has not attained finality. It also held that the intention of the GST law is to tax transactions involving the transfer of rights in immovable property where the title is not transferred.

The AAAR also upheld the GST levy on the recovery of land development and infrastructure costs, such as the formation of internal roads, drainage, levelling and compound walls, holding that such amounts represented consideration for construction and development services that enhance the usability and value of the land.
Accordingly, the AAAR dismissed the appeal and upheld the Andhra Pradesh AAR ruling in its entirety.

Flipkart India Private Limited
TS-339-AAAR(WB)-2026-GST (West Bengal AAAR)

The taxpayer had proposed to undertake transportation and doorstep delivery of goods purchased by customers through various E-Commerce Operators (ECO) platforms. Sellers of goods would be responsible for delivering them till the nearest “Source Mother Hub”, after which the taxpayer would be responsible for pick-up, sorting, transshipment, tracking and last-mile delivery of goods to customers through multiple transit points and different vehicles. Transportation charges would be recovered from customers, and a “single consignment note” for transportation from the Source Mother Hub to the customer’s address.

The questions raised before West Bengal AAR were whether the proposed services would qualify as Goods Transport Agency (GTA) services and whether services supplied to unregistered customers would qualify for exemption under Sl. No. 21A of Notification No. 12/2017-CT(R).

The West Bengal AAR had ruled in favour of the taxpayer, holding that transportation would be undertaken exclusively by road and consignment notes would be issued. Accordingly, it was held that services supplied to unregistered customers would qualify for exemption under Sl. No. 21A (supra). The Department challenged the ruling before the West Bengal AAAR.

The AAAR examined the true nature of the transaction, focusing on commercial substance, the flow of goods, the flow of consideration and the actual conduct of the parties. It ruled that the transportation would not be classified as a GTA service supplied to unregistered end customers and consequently the exemption under Sl. No. 21A (supra) would not be available.

The AAAR provided the following reasons:

- The alleged contract between the end customer and the taxpayer lacked certainty regarding the identity of the transporter, which is essential for a valid contract of transportation.
- The last-mile delivery often involves two-wheelers, electric vehicles or other modes that may not qualify as “goods carriage” under the Motor Vehicles Act, 1988. To classify a service as a GTA service, goods must be transported by road in a goods carriage.
- Issuance of a document styled as a “consignment note” is not, by itself, determinative of classification as a GTA service. The document must reflect a genuine GTA transaction, including material particulars such as vehicle details and compliance with e-way bill requirements.

- Taxpayer would be undertaking an organised logistics and fulfilment chain involving hub movement, sorting, staging, transshipment, tracking and last-mile doorstep delivery. Accordingly, the activity had borne essential characteristics of organised courier/logistics operations rather than conventional GTA transport.
- Reliance was placed on the Supreme Court judgement in the case of McDowell & Co. Ltd. v. Commercial Tax Officer (1985) 3 SCC 230 to observe that examination cannot be done merely based on documentation but based on its real commercial substance. Mere description of the activity as GTA service, or issuance of a document styled as a consignment note, cannot override the actual nature of the service rendered.
- The end customer does not independently appoint the transporter, negotiate freight or exercise control over the transportation process. The alleged transportation arrangement is embedded in standard platform terms and lacks real commercial negotiation.
- The customer remains under the bona fide belief that he/she is merely purchasing goods from the platform, with delivery being an incidental obligation of the supplier.
- The transaction was artificially split into the value of goods, platform charges and transportation charges. Substance of the arrangement indicates an integrated e-commerce delivery/logistics service, not an independent GTA service.

Frutta Services Private Limited
2026-VIL-18-AAAR (Tamil Nadu AAAR)

The taxpayer was engaged in supplying food and beverages to corporate clients for distribution to staff. The food would be procured in individual or bulk packages from third-party kitchens/vendors, without itself undertaking cooking or preparation. The taxpayer arranged for the pickup and delivery of freshly cooked food to the client's doorstep, ensuring quality and hygiene.

The issue before the Tamil Nadu AAR was whether the taxpayer was eligible to claim ITC and charge the client according to the category of supply of goods. The AAR held that GST would be applicable at 18 percent on the composite supply of services involving the supply of food, under Paragraph 6(b) of Schedule II of the CGST Act, and that ITC would be eligible.

Aggrieved by the ruling, the taxpayer appealed before the Tamil Nadu AAAR, contending that the supply of food and providing logistics for the delivery of those food items were two different activities and that the supply of food was liable to GST at the rate of 5 percent as a restaurant/food service. It mentioned that the company was already discharging GST at 18 percent separately on logistics, delivery and facilitation services.

The AAAR affirmed the AAR's ruling, holding that the taxpayer's activity constituted a composite supply of services under Paragraph 6(b) of Schedule II. It further concluded that the activity does not fall within the categories of restaurant service, outdoor catering, or any other specified classification, and instead falls under the residual category of food and beverage services.

M/s JBM Ecolife Mobility Surat Pvt. Ltd.
2026-VIL-94-AAR (Gujarat AAR)

The taxpayer provides comprehensive services for operating and maintaining electric buses on designated routes and schedules, using its own personnel. It was compensated under a Gross Cost Contract at a fixed per-kilometre rate based on the distance travelled by the buses.

The issue before the Gujarat AAR was whether rental services of electric buses would fall under Entry 10(i) of Notification No. 11/2017-CT(R), applicable to renting of motor vehicles where the cost of fuel is included in the consideration as per which the GST rate is 5 percent without ITC or 12 percent with ITC, or under the residual Entry 10(iii) taxable at 18 percent.

The AAR observed that the services would fall under SAC 996601, as the buses are given on rent to the recipient, along with the driver (operator) and the recipient was determining the schedules and routes.

It observed that electricity is not "consumed" through combustion to create energy, but is itself the energy being transmitted; it cannot be classified as a fuel in the traditional or scientific sense. Further, the use of specific terms such as "electrically operated vehicles" and "fuel" across different notifications indicates legislative intent to treat them as separate categories.

Accordingly, the AAR held that rental services of electric buses would not qualify for concessional GST rates applicable where the cost of fuel is included in the consideration and would instead attract GST at 18 percent.

Allen Career Institute Private Limited
2026-VIL-93-AAR (Rajasthan AAR)

The taxpayer provided education to students for competitive exams, such as IIT-JEE and NEET, and has three business models: offline classroom coaching, online live classes and pre-recorded videos for a certain period.

The issues for consideration were whether the taxpayer’s online coaching services, delivered through live and recorded digital platforms, should be classified as OIDAR services under HSN 998433 or as Commercial Training and Coaching Services under HSN 999293. The second issue was to determine the applicable GST liability under CGST and SGST, particularly in cases where the students are located outside Rajasthan.

The AAR made the following observations:

- Although the services are delivered online, competitive exam coaching has traditionally been conducted offline, and the use of technology only changes the mode of delivery, not the nature of the service. Therefore, the “impossibility test” is not met, as the service can be provided without relying on information technology.

- Even recorded lectures form part of a structured curriculum designed and updated by faculty, supplemented with academic support systems such as test series and mentoring.

- The taxpayer’s headquarters, technical infrastructure, faculty, content development and administrative functions were entirely based in Rajasthan, and even the physical study materials were dispatched from there. Accordingly, the actual performance and delivery of the coaching services occurred within Rajasthan, distinguishing the place of performance from the location of the unregistered students who merely access or consume the content elsewhere.

The AAR held that the services fall under SAC 999293 for “Commercial Training and Coaching Services” rather than under OIDAR. For services provided to unregistered students (including those outside Rajasthan), the place of supply is the location where the services are actually performed, thereby attracting CGST and SGST as an intra state supply.

Notifications/circulars/instructions/advisory

Empowers the Principal Bench of GSTAT as the National Appellate Authority for Advance Ruling (NAAAR)

The Central Government has empowered the Principal Bench of the Appellate Tribunal, New Delhi, to hear appeals made to NAAAR, in cases of conflicting advance rulings given by Appellate Authorities of Advance Ruling (AAAR) of two or more states/union territories or differences of views between members of the AAAR in an appeal.

The notification shall be deemed to have come into force from 1 April 2026.

(Notification No. 02/2026–Central Tax dated 7 May 2026)

Advisory on filing of Annexure-B for refund applications involving accumulated ITC using the offline utility

To automate the refund process and enable system-based verification of invoices and documents, the Annexure B Offline Utility has been introduced, replacing the need to upload Annexure B as a PDF. Going forward, Annexure B must be submitted only through this prescribed utility for the specified refund categories involving accumulated ITC as follows:

- Export of goods/services/electricity without payment of tax
- Supplies made to SEZ Unit/SEZ Developer without payment of tax
- ITC accumulated due to Inverted Tax Structure

The advisory provides the way the invoice details are required to be uploaded, duplicate document validation check, reporting of ITC reversals, filing process, limits, etc.

(GST advisory dated 10 April 2026)

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