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ICAI-GST NEWSLETTER

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President's Communication

Dear Professional Colleagues,

Greetings!

On the occasion of India's 80th Independence Day on 15th August 2026, the Hon'ble Prime Minister of India, Shri Narendra Modi Ji, in his address to the Nation, reiterated the Nation's resolve to realise the vision of a Viksit Bharat by 2047. This vision calls for sustained economic growth, enhanced competitiveness and continued reforms across sectors. In this transformative journey, the Goods and Services Tax (GST) remains an important pillar of India's economic reforms, contributing to a unified, transparent and technology-driven tax framework. Its continued evolution is significant in strengthening the foundations of a competitive, formal and replace Indian economy.

The strength of the GST framework is reflected in the continued buoyancy in tax collections. GST collections in August 2026 stood at ₹1,99,853 crore, registering a year-on-year growth of 14.8% over August 2025. Revenue from domestic transactions increased by 9.3%, while GST revenue from imports recorded a significant growth of 29%. The sustained growth in revenues reflects the expansion of the formal economy, improved compliance and the resilience of economic activity amidst global uncertainties.

For a tax reform of such scale and significance to achieve its full potential, continuous capacity-building of both professionals and tax administration is essential. The GST & Indirect Taxes Committee of ICAI has been consistently contributing to this endeavour by supporting the capacity-building of GST officers through training programmes and faculty support for Central and State GST Departments. The recent initiatives include faculty support for the training programme for State GST Officers in Odisha on 17th August 2026 and the training programme conducted at NACIN, Patna, from 3rd to 7th August 2026. Such initiatives reaffirm ICAI's commitment to enhancing administrative efficiency and promoting greater uniformity in the implementation of GST.

ICAI has also been actively contributing towards raising awareness about the GST Appellate Tribunal (GSTAT) and promoting its effective utilisation. With the Tribunal becoming operational, the Committee organised Public Outreach Programmes at Coimbatore on 20th August 2026 and Puducherry on 27th August, 2026. Shri Shaik Khader Rahman, Hon'ble Member (Technical), GSTAT, Chennai, graced both programmes as the Chief Guest, while Shri M. Mathew Jolly, Hon'ble Member (Technical), GSTAT, Coimbatore Bench, also graced the Coimbatore programme. These programmes provided an important platform for sensitising members and other stakeholders about the functioning and significance of GSTAT and its role in facilitating timely, effective and accessible resolution of tax disputes. A well-functioning appellate mechanism is vital for fostering greater certainty, consistency and confidence in the tax system, while strengthening the overall framework for dispute resolution.

As India progresses towards the goal of a Viksit Bharat, the accounting profession has an important role to play in strengthening transparency, accountability and sound economic governance. I encourage our members to remain committed to continuous learning, uphold the highest standards of professional excellence and contribute meaningfully to the nation-building.

I extend my best wishes to all members and stakeholders for continued growth, success and professional excellence in the times ahead.

With warm regards,

CA. Prasanna Kumar D
President
The Institute of Chartered Accountants of India

PHOTOGRAPHS

Shri Shaik Khader Rahman, Hon'ble Member (Technical) GSTAT, Chennai Bench visited ICAI Head Office, New Delhi on 21.08.2026. CA. Rajendra Kumar P, Vice-Chairman, GST & Indirect Taxes Committee of ICAI welcomed the Hon'ble Member and discussed issues relating to filing of appeals on GSTAT Portal and other matters related to Tribunal.

GST & IDTC of ICAI, in association with The Indian Chamber of Commerce & Industry (ICCI), Coimbatore, organised a Public Outreach Programme on GSTAT at Coimbatore on 20.08.2026. CA. G. Ramaswamy, Hon'ble President, ICAI (2011–12), delivered the Keynote Address. Shri Shaikh Khader Rahman & Shri M. Mathew Jolly, Hon'ble Members (Technical), GSTAT, shared valuable insights on GSTAT appeal filing procedures.

The GST & Indirect Taxes Committee of ICAI organised a Two-Day National Conference on GST, hosted by NIRC of ICAI, on 23rd and 24th August 2026 in New Delhi.

The GST & Indirect Taxes Committee of ICAI organised Residential Refresher Course on GST on August 8th and 9th, 2026 Jointly Hosted By: Chhatrapati Sambhajinagar Branch (WIRC) with Vasai Branch (WIRC).

The GST & Indirect Taxes Committee of ICAI organised Training programme for the Appellate Authorities of State GST Officers, Bhubaneswar, Odisha on 17.08.2026.

GST & IDTC of ICAI, in association with the Chamber of Commerce – Puducherry and CII – Puducherry, and hosted by the Puducherry Branch of SIRC of ICAI, organised a Public Outreach Programme on GSTAT at Puducherry on 27.08.2026. Shri Milind R. Lanjewar, Hon'ble Commissioner (GST Central), delivered the Keynote Address, while Shri Shaikh Khader Rahman, Hon'ble Member (Technical), GSTAT, shared insights on GSTAT appeal procedures.

Chairman's Communication

Esteemed Members,

Warm Greetings!

I trust this message finds you well and progressing in your respective professional endeavours. It gives me immense pleasure to present the 69th edition of the ICAI GST Newsletter, which brings together the latest developments in GST including significant judicial pronouncements, and other important updates.

Among the significant judicial developments, the Hon'ble Supreme Court's ruling on the invocation of Section 74 of the CGST Act is particularly noteworthy. The Hon'ble Supreme Court has held that the mere use of expressions such as "fraud, wilful misstatement or suppression of facts" is not sufficient to invoke Section 74 and that the Show Cause Notice must clearly disclose the factual basis for such allegations. The ruling reinforces the principles of clarity, fairness and due process in GST proceedings and has important implications for both taxpayers and tax authorities. This decision along with some other important rulings has been reported in the "Judicial Pronouncements" section of this Newsletter.

The GST & Indirect Taxes Committee of ICAI continues to focus on strengthening the professional knowledge ecosystem and providing members with relevant, practical and updated resources. In this endeavour, the Committee has released the second publication in its Industry-Specific GST Publication Series, "GST Sectoral Guide on Fast-Moving Consumer Goods (FMCG)", providing comprehensive and sector-specific insights into the GST framework applicable to the FMCG sector. The Committee has also released the 14th Edition (July 2026) of the Background Material on GST, updated up to the Finance Act, 2026, incorporating GST 2.0 amendments and significant legal and judicial developments up to 30 June 2026. These publications offer practical insights and serve as valuable reference resources for the profession. They are available for free download on the Committee's website and the printed copies can be purchased through CDS Portal.

Recognising that continuous learning is essential in a rapidly evolving tax environment, the Committee has also been organising weekly webinars on important and contemporary GST topics. I encourage members and stakeholders to make the most of these knowledge-sharing initiatives. Those unable to attend the sessions live may access the recorded webinars at their convenience on the Committee's website at https://idtc.icai.org/webinar2026.html.

Members are also encouraged to stay connected with the Committee through its official WhatsApp Channel and X (formerly Twitter) for regular updates on important GST developments, knowledge initiatives and publications.

I invite members and stakeholders to share their valuable insights and suggestions at gst@icai.in, including their views on themes and issues that may be considered for future editions. Your feedback and suggestions will help the Committee serve you more effectively and continue to strengthen the knowledge resources and professional support provided to the profession.

I look forward to your continued support and active participation in the Committee's initiatives.

CA. Umesh Sharma
Chairman
GST & Indirect Taxes Committee
The Institute of Chartered Accountants of India

GSTAT Appeal – A Respondent's Perspective

Synopsis

Dispute can be initiated in GST if a person is "aggrieved" by decision passed in an Order of assessment (computation of tax liability by GST department) or Order of adjudication (evidence-based determination) or Order of lower Appellate authority (re-appraisal of original determination by an independent authority of higher rank). Forms APL-5 / APL-06 / APL-07 are for persons aggrieved by a decision in GST. Opposite party may defend their case by filing objections (called 'reply to appeals' under Goods and Services Tax Appellate Procedure Rules, 2025 or GSTAT Rules) to claims made by an aggrieved, if they do not accept the contentions in appeal memorandum or in memorandum of cross objections.

GST law permits filing of further objections - replication or re-joinder, to object or rebut facts newly introduced in other party's submission in their reply to appeal or in reply to cross objections. Objections may be filed in a case before GSTAT by each opposite party.

Below article tries to explain few rights for Respondents under GST law upon appeals filed, more specifically before GST Appellate Tribunal.

Introduction

Although show cause notice is said to commence lis, conclusion of adjudication and determination under a tax law gives right to an aggrieved to institute a dispute. Where aggrieved party denies determination made during assessment or in adjudication, he may exercise his right to dispute. However, aggrieved may also accept the demand and discharge – resulting in determination undisputed.

GST law permits affected party to apply to same authority (rectification) or call for interference of a higher authority (appeal or revision), to check the validity of a tax decision. Above mentioned rights provided in law are statutory nature and are subject to conditions and safeguards therein. Party aggrieved may object to the determination by filing appeal upon knowledge of the decision or, upon opposite party initiating a dispute, file cross-objections (to extent they are aggrieved in that Order).

Objections may be filed by Respondents (for issues in their favor) against appeal filed by an opposite party and a cross-objections also be filed on issues therein aggrieved (unfavorable). Only a Respondent to appeal can file both objections in the nature of 'reply to appeal' and cross objections in the nature of 'cross appeals'. It is to be noted, however, that in GST first appeal (before First Appellate Authority or FAA), there is no right to file a cross-objection.

Manner of filing objections or defense to a GSTAT appeal – "Reply to appeal"

Objections in GST is filed at various stages. However, extent and manner of response varies based on the stage at which questions are sought. The variations in defense strategy is to ensure that safeguards in law are appropriately exercised. Few examples tabulated below:

Stage of dispute	Defense method
Assessment by GST department	Reply to notice in ASMT-14
Original proceedings	Reply in ASMT-11 or Reply to ADT-2
Pre-adjudication consultation	Reply in DRC-1A (Part B) – optional
During adjudication	Reply to show cause notice in DRC-06
Determination completed and review to same authority	Application for review in REG-21 and thereafter reply to Notice in REG-24
Determination completed and dispute before appellate authority	Reply to appeal filed in Form APL-01 / APL-03
Second appeal before GSTAT	Objections by department to APL-05, to APL-06 (by opposite party to cross-objection) and by taxpayer to APL-07

Replying by way of objection to an appeal memorandum or a memorandum cross-objection filed before GSTAT is permitted within one (1) month from date of communication of notice intimating about such appeal or cross-objections, respectively. Filing of reply may be done along with paper-book (documents to be submitted on record) and compilations (favorable decision). Objections before FAA doesn't require any fees. Objections before GSTAT too does not expressly mandate payment of a court fee. However, it is to be seen if GSTAT regards reply to appeal as other applications and demand minimum prescribed court fees.

Contents of reply to appeal

Objections to appeal may be filed before GSTAT so that points of Respondent's objections against grounds raised in appeal (by Appellant) is known in advance, before placing oral arguments at hearing. Central GST Act or Rules do not specifically provide for filing reply to appeal. However, GSTAT Rules permits filing of such objection by way of 'reply to appeal'. Reply to appeal, per se, is not an appeal like a cross-objection or a cross appeal. Such reply may contain following details to object grounds taken in appeal memorandum or in Cross objections:

i. Jurisdiction for filing subject appeal before GSTAT.

ii. Maintainability of appeal filed by opposite party.

iii. If departmental appeal, whether threshold requirements are adhered.

iv. Due process adherence before filing the appeal.

v. Validity of facts in the appeal.
vi. Validity of evidence to support facts in appeal.
vii. Validity of legal interpretation, authorities and clarifications relied upon supporting their claims.

In addition to reply to appeal, Respondent may also file paper-book of documents relied upon and compilations of cases. Alternatively, compilation may be filed along with synopsis before hearing.

Statutory limitation for filing an appeal before GSTAT is three (3) months for taxpayers and six (6) months for GST department. Limitation to file cross objections is 45 days from date of communication of notice about appeal. GSTAT Rules provide only one (1) month to file objections by way of 'reply to appeal' or 'cross-objections'. Therefore, in partly favorable Orders, where cross-appeal is not filed, Respondents to appeal may file:

1. Cross-objection within 45 days from receipt of notice about appeal. Filing with condonation is allowed within next 45 days.
2. Reply to appeal within 30 days from receipt of the appeal / cross objections.

GSTAT portal in its User Manual ver - 2.7 explains e-filing process for reply or cross-objections. If a party has received partly favorable order and wishes to dispute on aggrieved points, it appears that one may use GSTAT portal to file both cross-objections as well as a reply to appeal (in same e-form APL-6).

GSTAT portal does not provide facility to file only a 'reply to appeal'. While GSTAT Rules does not prescribe fees for filing objections, filing of cross-objection is subject to same fees as filing of an appeals. Clarity is awaited if a minimum court fee will apply for reply to appeal is filed online – along with cross-objection.

Few aspects for consideration about reply to appeals

While filing objections, in case of appeal filed by Appellant or cross-objections filed by Respondent to appeal, following aspects may be considered:

- Filing of reply to appeal is not a statutory right.
- No specific e-form prescribed for filing reply to appeals.
- GSTAT portal states that reply to appeal can be filed online along with memorandum of cross-objections.
- No requirement of pre-deposit in reply to appeal.
- No court fee explicitly prescribed for filing reply to appeal.
- Respondent cannot raise new issues in their reply.
- Respondent cannot produce new evidence, unless allowed by GSTAT.
- Respondent to be careful that defense presented in reply to appeal should not result in shifting burden of proof on oneself.

Each opposite party may file their 'reply to appeal' against an appeal or a cross-objections filed before GSTAT.

More than one appeal against a single decision - "Cross appeals"

When a decision is partly in favor of parties to dispute, each aggrieved party may file appeal against issue that was not decided in their favor. When more than one party files appeal against an order, it is known as cross appeal. Procedure for filing is same as e-filing of appeal in GSTAT.

Each party registers themselves on GSTAT portal as an appellant and files their respective appeal. Notice about each party filing their appeal will be sent to others parties, who may then file 'reply to appeal'. Some Important features about cross appeals are:

i. All such cross appeals may be tagged together and heard.
ii. Pre-deposit and court fee would be filed by each of the parties, based on their disputed demands.
iii. While GST law is unclear about applicability of cross-objections to extent of issues undisputed by any party (in cross-appeals). Language under Section 112(5) of Central GST Act doesn't restrict filing of cross objections even if appeal is filed and grounds not raised on any issue.

It is to be noted that unlike cross-objections, cross appeal is possible even before FAA. Objections allowed to be filed against appeal filed by opposite parties. As FAA is statutorily mandated only to hear an appellant, procedure of tagging such cross appeals before FAA for single personal hearing is doubtful, although a common Appellate Order (OIA) may be passed. Natural justice demands hearing appeals and objections of both parties before arriving at a decision.

Memorandum of Cross-Objections (MOCO)

It is not compulsory to dispute every adverse decision. However, statute permits aggrieved party to file an appeal before statutory appellate forum within timelines therein. If aggrieved party, GST department or taxpayer, avails of this right ab initio they file an appeal under Section 112(1) of Central GST Act (taxpayer in APL-5) or Section 112(3) of Central GST Act (GST department in APL-7), unless appeal right are barred under Section 120 of Central GST Act. GST law provides two (2) levels of appellate remedy for factual issues (FAA and GSTAT) and four (4) levels of appellate remedy on substantial legal issues (FAA, GSTAT, High Court and Supreme Court).

In an Order partly in favor of parties to dispute, if one of the aggrieved parties files GSTAT appeal within statutory timelines under Section 112 of Central GST Act but other party failed to dispute, party who missed to appeal is given another chance to file an appeal against points he was aggrieved in Order. Cross objections to be treated as valid appeal and all provisions applicable to filing appeal would be revived as right under Section 112(5) of Central GST Act is in separate and addition to right under Section 112(1) or Section 112(3). Cross objections to be filed on GSTAT e-filing portal, in format Form APL-06.

Few aspects about memorandum of cross objections

Unlike reply to appeal, memorandum of cross objections has been statutorily prescribed in Central GST Act. Manner of preparation and filing is similar to filing appeal under GST. However, there are a few distinguishing factors between appeals and cross objections, which are as follows:

1. Memorandum of cross objections to be filed only against points which Respondent to appeal is aggrieved in the Order.
2. Only if a person had a right to file appeal (against an order) can he file cross-objections.
3. Pre-deposit and court fee payable as if an appeal is being filed.
4. No cross objections against issues mentioned under Section 120.
5. Issues in appeal memorandum and memorandum of cross objections will be taken together and tagged - for common hearing and disposal.

Respondent submissions and GSTAT portal

Cross appeal is filing of independent appeal (by respective parties to dispute), process of filing is same as process of filing an appeal. There is no separate facility on GSTAT e-filing portal to file reply to appeal. While Form APL-05 is for taxpayer appeal and Form APL-07 for GST department appeal, Form APL-06 is a common form for both to file cross-objections.

As memorandum of cross objections is available only if appeal is already filed by another party to decision, 'basic details' tab and 'details of appellant' tab is already pre-filled on GSTAT portal – under 'Respondent' module. However, each Respondent may appoint its own authorized representative and choose them under 'Authorized representative details' tab.

'File reply details' tab is significant as it contains most of details in relation to cross objections or objections filed by Respondent to appeal. The tab shall contain the following details:

i. Grounds and relief claimed in cross objection or reply.
ii. Table showing category of demand and details of demand quantified at stages of OIO, OIA / ORA and in cross objection.
iii. Summary of issues as per Annexure A to APL-06, amount involved and short replies to issues.
iv. Summary of issue as per Annexure B to APL-06 and reply to each in short before GSTAT.
v. Upon filling aforesaid, details of documents uploaded by Appellant would be made available for perusal. In said page under 'Upload documents' tab, party would be provided facility to upload documents they require to be submitted with cross objections.
vi. Once documents are uploaded, final preview and submit can be made.

The application would be sent to registry for their scrutiny and in case of any defects, one can file 'Refile Reply/ Cross-objections' and facility to replace any documents submitted in original filing is also possible. Although filing cross-objections is similar to filing appeal, as most of the details are already uploaded by original Appellant, they are auto-populated. GSTAT portal seeks minimal details containing objection / reply to points from Respondents to main appeal.

Conclusion

While cross appeals are independent appeals filed by both (or all) aggrieved parties in a decision partly in their favor, before notice of other party filing an appeal, a cross objections are in the nature of cross appeal to points aggrieved in decision where opposite party has filed an appeal but Respondent to main appeal has not appealed against decisions they are aggrieved. Effect of cross objections in comparison to cross appeal is:

i. Cross objection right is under Section 112(5) and not under Section 112(1) or Section 112(3). It is altogether separate right compared to right of appeal.
ii. Limitation for cross-objection runs from knowledge of notice of appeal filed by opposite party as against date of communication of Order-in-appeal.

Whether cross appeals or cross objections, in both cases two appeals would be tagged and heard together. Filing rights and process alone vary. On the other hand, "reply to appeal" is filed by Respondents on point of grounds raised by appellant or filed by Appellant on points of grounds raised in memorandum of cross objections (i.e. on points not aggrieved). Rebuttal grounds and evidence are limited to issues raised in appeal memo / cross-objections filed, respectively. Where opposite party has filed a 'reply to appeal' and objections therein contain new facts that require admission, denial or rebuttal, other party is allowed to file a re-joinder against reply to appeal.

While the right to initiate dispute is statutory under GST law, whether by Appellant filing appeal or Respondent to appeal filing cross-objection, right to file defense submissions (reply to appeal) arises from principle of natural justice. GSTAT Rules however is explicit about this and provides procedure for filing a 'reply to appeal' before GSTAT.

GST department's limitation to file GSTAT appeal for legacy FAA Orders passed before 1 Feb 2026 was 31 Jul 2026, unless tokens were obtained for filing within 60 days. Taxpayers in these cases may now file cross objections [where redressal under Section 112(1) missed] and reply to appeals of GST department.

Respondent's rights have short timelines in GST. It is imperative that rights are not foregone in order to be eligible to present arguments effectively during hearing. Clarification may be required to understand if 45 days / 1 month limitation will commence from date of intimation about Appellant having filed an Appeal on GSTAT portal or from the date of Notice from GSTAT about same i.e. upon information about valid admission of Appeal / Cross-objections.

Contributed by CA Akash Srivatsan R

JUDICIAL PRONOUNCEMENTS

1. Interest on Delayed GST Refund – CA/CMA Certificate Not Required Where Principal Refund Already Sanctioned *[Synchrony International Service Pvt. Ltd. Versus Assistant Commissioner (ST) - Telangana High Court - W.P. Nos. 12047 and Ors. of 2026 - decided on 30.07.2026]*

Background

The petitioners, Synchrony International Service Pvt. Ltd., had received refunds of the principal amounts for various tax periods from July 2018 to March 2021, either pursuant to orders of the Refund Sanctioning Authority or appellate authorities. As the refunds had been delayed, the petitioners subsequently claimed interest under Section 56 of the CGST Act, 2017.

The interest claims remained pending before the Proper Officer, and deficiency memos were issued requiring submission of various documents, including an undertaking under Section 16(2)(c) and certification under Rule 89(2)(m) of the CGST Rules, 2017.

Issue Involved

Whether, where the principal refund has already been sanctioned and disbursed, the taxpayer is required to furnish the CA/CMA certificate prescribed under Rule 89(2)(m) for claiming statutory interest on such delayed refund under Section 56 of the CGST Act.

Contentions of the Respondent

The Respondent Department relied upon Circular No. 125/44/2019-GST dated 18.11.2019, which prescribes the documents required to accompany a refund application. Since the petitioners had filed the application under "any other ground", the Department contended that the prescribed undertaking and supporting documents, including self-declaration/certification under Rule 89(2)(l)/(m), were required to be furnished.

Court's Observations

The Court noted that the petitioners' claim related only to interest on refunds that had already been sanctioned and disbursed. The Court observed that once the principal refund had already been sanctioned, the interest component could not have been passed on to any end consumer.

Accordingly, the Court held that insisting upon the Rule 89(2)(m) certification was unnecessary where the claim was confined to interest on the already sanctioned refund. The Proper Officer was directed to scrutinise the refund orders and the interest claim without insisting on such certification.

Order

The petitioners were directed to produce the summary of refund claims and the corresponding interest claims before the Proper Officer. The Proper Officer was directed to scrutinise and sanction the interest on the principal refund without insisting upon certification under Rule 89(2)(m) and to take a decision in accordance with law within two weeks. The writ petitions were accordingly disposed of, with no order as to costs.

2. ITC Recovery – Order Quashed for Denial of Personal Hearing and Non-Speaking Order *[Aarya Metals Versus State of Gujarat- Gujarat High Court - R/Special Civil Application No. 7535 of 2026 -decided on 28.07.2026]*

Background

The respondent authorities issued a Show Cause Notice dated 04.08.2024 under Section 74(1) of the CGST Act proposing recovery of ITC of ₹7,63,026 along with applicable interest, alleging that the inward supplies received from M/s. RK Battery and Scrap were non-genuine as the supplier was found to be non-genuine and non-existent.

The petitioners subsequently received three reminders dated 12.09.2024, 07.11.2024 and 18.11.2024 and filed a reply in FORM GST DRC-06 on 21.11.2024, enclosing the relevant tax invoices. Thereafter, the authorities passed an order in FORM GST DRC-07 dated 07.12.2024, directing recovery of ITC along with interest and penalty.

Issue Involved

Whether an order confirming recovery of ITC, interest and penalty is sustainable when:

1. The SCN and subsequent reminders did not intimate the date, time and venue of personal hearing;
2. The taxpayer's reply and supporting documents were not properly considered; and
3. The impugned order was a cryptic, non-speaking order without reasons.

Contentions of the Respondent

The Respondent contended that the petitioners had been issued three reminders and had responded to the proceedings. It was further submitted that, in their reply, the petitioners had selected "No" in the column relating to personal hearing and were therefore fully aware of the proceedings. Accordingly, the Respondent argued that the writ petition ought not to be entertained.

Court's Observations

The Court observed that the SCN as well as the three subsequent reminders failed to specify the date, time and venue of personal hearing. The Court referred to Section 75(4) of the CGST Act, which requires an opportunity of hearing where an adverse decision is contemplated.

The Court further held that merely because the petitioners had selected "No" for personal hearing in FORM GST

DRC-06, the statutory obligation to afford an effective opportunity of hearing was not dispensed with. The Court relied upon its earlier decisions, including Aarti Enterprise and Komal Jayeshbhai Hemavat, concerning the requirement of proper hearing under Section 75.

The Court identified three grounds vitiating the impugned order:

- Failure to intimate the date, time and venue of personal hearing;
- Passing of a non-speaking order; and
- Failure to afford the petitioner three opportunities of personal hearing contemplated under Section 75(4).

Order

The High Court quashed and set aside the impugned order and remanded the matter to the jurisdictional State Tax Officer for passing a fresh order after affording the petitioners an opportunity of hearing in accordance with law.

The fresh order was directed to be passed within 12 weeks from the date of receipt of the certified copy of the order. The Court further clarified that the petitioners' claim for refund along with interest would remain subject to the fresh order passed in the remanded proceedings.

3. GST Appeal – Delay Condoned Due to Proprietor's Hospitalisation; Appeal to be Decided on Merits *[Usha Enterprises Versus State of Andhra Pradesh - Andhra Pradesh High Court - W.P. No. 17704 of 2026 - decided on 03.07.2026]*

Background

The petitioner, Usha Enterprises, a proprietary concern registered under the APGST and CGST Acts, was subjected to an assessment for the period 1 April 2023 to 31 March 2024, resulting in a demand of ₹11,75,523 through FORM GST DRC-07.

The petitioner contended that the assessment order was not duly served and that its sole proprietor was hospitalised and under continuous medical treatment from March 2025 to June 2025. Since the proprietor alone had access to the GST portal, the appeal could not be filed within the prescribed period. The appeal was ultimately filed with a delay of 17 days.

Issue Involved

Whether the Appellate Authority was justified in rejecting the appeal at the admission stage on the ground of limitation, without examining whether sufficient cause existed for the delay of 17 days.

Contentions of the Respondent

The Respondent contended that the Appellate Authority's endorsement rejecting the appeal was valid and legal and did not warrant interference by the High Court.

It was further submitted that the petitioner had an alternative remedy of appeal against the impugned endorsement and, accordingly, the writ petition should be dismissed.

Court's Observations

The Court observed that the Appellate Authority had not examined whether sufficient cause existed for condonation of the delay. Instead, the rejection was based merely on reliance upon an earlier decision, without independently examining its applicability to the facts of the present case.

The Court further observed that, considering the statutory limitations, the alternative appellate remedy would not be efficacious in the circumstances.

Relying upon Mastek Engineering (P.) Ltd. v. Appellate Authority and Additional Commissioner, State Tax, the Court emphasised that an appeal is a valuable statutory right and that, where sufficient cause exists, the interest of justice may warrant condonation of delay to enable adjudication on merits.

Order

The High Court set aside the endorsement dated 23.08.2025 and condoned the 17-day delay, subject to payment of ₹25,000 as costs.

The petitioner was directed to deposit the costs before the Appellate Authority within two weeks, following which the Appellate Authority was directed to consider and decide the appeal on merits in accordance with law.

4. GST Proceedings Against Deceased Proprietor Held Void for Want of Notice to Legal Representatives *[Gita Rani Pan Versus Union of India & Ors. - Calcutta High Court - W.P.A. No. 10402 of 2025 - decided on 27.08.2025]*

Background

The petitioner challenged the Order-in-Original dated 21.01.2025 passed under Section 74 of the CGST Act, 2017, whereby a tax demand of ₹38,44,674 along with applicable interest and penalty was raised for the period July 2017 to September 2021.

The proprietor, Late Haradhan Pan, had died on 20.05.2021. Despite his death, the Department issued a Show Cause Notice dated 08.03.2022 in his name. The petitioner, his wife, had subsequently obtained a fresh GST registration in her own name. The Department thereafter passed the Order-in-Original and initiated recovery proceedings in the name of the deceased proprietor.

Issue Involved

Whether a Show Cause Notice and consequential tax determination under the CGST Act, 2017, issued in the name of a deceased proprietor, without issuing notice to and providing an opportunity of hearing to his legal representatives, are legally sustainable.

Contentions of the Respondent

The CGST authorities contended that:

- The petitioner had not intimated the Department within the prescribed time regarding the death of the proprietor; hence, the objection regarding issuance of notice in the name of a deceased person was not acceptable.

- Section 93(1)(b) of the CGST Act creates liability upon the legal representatives where tax, interest or penalty is determined after the death of the taxable person. Therefore, the liability does not get extinguished merely because the tax was not determined during the lifetime of the proprietor.
- The application for cancellation of the deceased proprietor's GST registration was filed belatedly and, therefore, could not invalidate the proceedings.
- Reliance was placed on Section 29(3), which provides that cancellation of registration does not affect liability for tax and other dues pertaining to the period prior to cancellation.
- Reliance was also placed on Section 93(1)(b) to contend that the legal representative is liable to pay the tax, interest and penalty due from the deceased to the extent of the estate capable of meeting the charge.

Court's Observations

The Court held that issuance of a notice in the name of a dead person is a nullity, non-est and void ab initio.

The Court observed that although Section 93(1)(b) creates liability upon the legal representative, the liability has to be determined through the appropriate machinery provisions. Sections 73 and 74 require issuance of a Show Cause Notice to the person liable. Therefore, where the proprietor has died, the Show Cause Notice must be issued to the legal representative in his/her own capacity as legal representative of the deceased, followed by an opportunity to respond and be heard.

The Court specifically distinguished between the charging provision and the machinery provision. Section 93(1) creates liability of the legal heirs, limited to the extent of the estate of the deceased, whereas the machinery for determination of such liability is contained in Sections 73 and 74. The Department cannot issue a notice to the deceased and thereafter require the legal heirs to respond to that notice.

Accordingly, the Court held that tax determination against a non-existing person is legally impermissible and stands vitiated.

Order

The Calcutta High Court:

- Quashed and set aside the Show Cause Notice dated 08.03.2022, the Order-in-Original dated 21.01.2025 and the recovery notice dated 08.06.2024.
- Directed the Department to issue a fresh Show Cause Notice in the names of the legal heirs of the deceased proprietor.
- Directed the legal heirs to file their replies within three weeks of receipt of the fresh notice and thereafter to be afforded an opportunity of personal hearing.
- Directed the Department to determine the liability in accordance with Section 93(1)(b), restricted to the extent to which the estate of the deceased is capable of meeting the tax, interest and penalty liability.
- Directed that the adjudication exercise be completed within six weeks from receipt of the replies.
- Disposed of the writ petition without examining the merits of the underlying tax demand.

5. Consolidation of Multiple Financial Years in a Single SCN under Section 73 of the CGST Act is Impermissible *[M/s. Mehadia & Sons C & F Division Versus Assistant Commissioner of CGST & Central Excise, Nagpur-II - Bombay High Court - Writ Petition No. 4844 of 2026 - decided on 28.08.2026]*

Background

The petitioner challenged a Show Cause Notice (SCN) dated 24 April 2025 issued under Section 73 of the CGST Act, 2017, alleging suppression of taxable value and consequent short payment of CGST for the financial years 2021-22 to 2023-24. The SCN clubbed the alleged tax shortfalls pertaining to multiple financial years.

Issue Involved

Whether a Show Cause Notice issued under Section 73 of the CGST Act can consolidate alleged tax shortfalls pertaining to multiple financial years/tax periods in a single notice.

Contentions of the Respondent

The respondents contended that clubbing of multiple financial years in a single SCN is permissible. They relied upon the Delhi High Court's decision in M/s. Mathur Polymers v. Union of India, wherein it was held that a consolidated notice may be warranted where fraudulent availment of ITC involves transactions spread over several years.

The respondents further submitted that the Delhi High Court judgment had been challenged before the Supreme Court, which declined to interfere and therefore the Delhi High Court's view had attained finality. They also referred to the subsequent Delhi High Court decision in M/s. Technosys Integrated Solutions Pvt. Ltd. and submitted that the Bombay High Court's earlier decisions in Milroc Good Earth Developers and Rite Water Solutions were proposed to be challenged before the Supreme Court.

Court's Observations

The Court relied upon its earlier decisions in M/s. Milroc Good Earth Developers v. Union of India and Rite Water Solutions (India) Ltd. v. Joint Commissioner, CGST & Central Excise, which held that there is no scope for consolidating different financial years/tax periods in a Section 73 SCN.

The Court observed that the GST statutory framework operates on a year-wise basis, with separate returns, annual-return due dates and limitation periods for each financial year. Consolidating different years into one SCN would therefore aggregate tax periods having distinct statutory timelines, which is inconsistent with the scheme of the CGST Act.

The Court also held that the Supreme Court's dismissal of the challenge to the Delhi High Court judgment in limine and not on merits did not attract the doctrine of merger. Further, as the Bombay High Court had subsequently taken a contrary view, the authorities within its jurisdiction were bound by the Bombay High Court's decisions.

Order

The Bombay High Court partly allowed the petition and quashed and set aside the SCN dated 24 April 2025. However, the respondents were granted liberty to issue a fresh notice strictly in accordance with Section 73 of the CGST Act, subject to there being no other legal impediment. The petition was accordingly disposed of with no order as to costs.

6. Section 74 cannot be invoked through a mechanical allegation of Fraud *[G.R. Infra Projects Limited Ratlam Versus The State of Madhya Pradesh & Ors – Supreme Court of India – Appeal (C) No. 11277 of 2026 arising out of SLP (C) No. 33594 of 2025 - decided on 19.08.2026]*

Background

The petitioner is a company engaged in the design and construction of roads and highway projects. The dispute arose after a Show Cause Notice (SCN) dated 13 June 2025 under Section 74 of the CGST Act, 2017 for the assessment year 2018-19 was issued. The petitioner contended that the proceedings were, in substance, beyond the limitation period prescribed under Section 73 and that the requirements for invoking Section 74 had not been satisfied in the SCN itself. Subsequently, the company challenged the SCN before the High Court of Madhya Pradesh. The High Court declined to interfere, holding that the taxpayer had already replied to the SCN and a statutory appeal under Section 107 could be pursued. Hence, it was held that a writ petition was not maintainable at the SCN stage. The petitioner challenged the decision before the Supreme Court by way of a Special Leave Petition (SLP).

Issue Involved

Whether a Show Cause Notice (SCN), which was otherwise time-barred under Section 73, could be sustained under Section 74 merely by referring to fraud or concealment of facts without setting out the factual basis for such allegations in the notice itself.

Contentions of the Respondent

The Revenue contended that the taxpayer had already filed replies to the SCN and had an alternative remedy of appeal under Section 107 of the CGST Act, 2017. Therefore, the writ petition challenging the SCN was held to be non-maintainable. It was further stated that a counter-affidavit had been filed to explain and elaborate on the allegations of fraud and suppression.

Court's Observations

The Supreme Court observed that :

- A counter-affidavit cannot cure a defective notice. Where the validity of a notice or order is questioned, the requirements necessary to sustain that notice or order must be contained within the notice or order itself. It cannot be subsequently cured by explanations in a counter-affidavit.
- The due date for filing the annual return for FY 2018-19 had been extended to 31 December 2020. Hence, the limitation for issuing notice under Section 73 expired on 31 December 2023. Considering the COVID-19 limitation exclusion, the period was further extended, expiring on 28 February 2025. Since the SCN was issued only on 13 June 2025, the demand was time-barred under Section 73.
- The SCN was issued based on a bland statement of fraud or concealment of facts without an explanation of how fraud was inferred or how concealment of facts was detected. What is required for the extended time to be applied are allegations that lead to the inference of fraud or concealment as attempted by the taxpayer, resulting in the suppression of facts; these should emanate from the notice itself.
- Expressions like 'fraud', 'wilful misstatement', or 'suppression of facts' cannot be invoked mechanically.

Order

The Supreme Court set aside the High Court's order upholding the Show Cause Notice (SCN). The Show Cause Notice (SCN) dated 13 June 2025 was also set aside. The respondent-State was directed not to take any further proceedings in pursuance of the SCN. Consequently, the Civil Appeal was allowed.

7. Gujarat High Court Upheld Taxability of Corporate Guarantee Under GST, Rule 28(2) "Whichever is Higher" Read Down *[Torrent Power Ltd Versus Union of India & Ors – High Court of Gujarat - R/Special Civil Application No. 12175 of 2024 - decided on 14.08.2026]*

Background

The petitioners were holding companies that had furnished corporate guarantees in favour of banks or financial institutions to secure credit facilities availed by their subsidiaries. The challenge was primarily directed against the levy of GST on corporate guarantees under Rule 28(2) of the CGST Rules, 2017, and the validity of Section 15(4) of the CGST Act dealing with the valuation and taxability of corporate guarantee transactions. The petitioners contended that a corporate guarantee without consideration does not constitute a "supply" under Section 7 of the CGST Act. It was also argued that Rule 28(2)—which deems the value of a corporate guarantee service at one percent of the guarantee amount per annum or the actual consideration, whichever is higher—is arbitrary and ultra vires. The pre-26.10.2023 levy under Rule 28(2) on guarantees issued was also challenged. A group of writ petitions were filed by holding companies before the Gujarat High Court to challenge the levy of GST on corporate guarantees.

Issue Involved

The principal issues before the High Court were:

- Whether a corporate guarantee furnished by a holding company for its subsidiary without consideration constitutes a "supply" under Section 7(1)(c) read with Schedule I of the CGST Act.
- Whether a corporate guarantee constitutes a "continuous supply of services" under Section 2(33) of the CGST Act.
- Whether Rule 28(2) prescribing the valuation of corporate guarantees and Section 15(4) of the CGST Act are valid.
- Whether the GST levy under Rule 28(2) can be applied to corporate guarantees furnished before 26.10.2023, and whether impugned Circular No. 204/16/2023 – GST dated 27.10.2023 and Circular No. 225/19/2024 – GST dated 11.07.2024 were valid.
- Whether proceedings under Section 74 for corporate guarantee transactions were sustainable.

Contentions of the Respondent:

The Revenue contended that GST is a supply-based levy, unlike the Service Tax regime, which was a consideration-based levy. GST contains a specific deeming fiction under Section 7(1)(c) read with Schedule I, under which certain supplies between related persons are treated as supplies even without consideration. Therefore, the absence of consideration does not prevent the transaction from being treated as a supply.

The Revenue further submitted that furnishing a corporate guarantee helps the subsidiary obtain finance and is an activity connected with or incidental to business under Section 2(17). Referring to Sections 15(4) and 15(5) of the CGST Act, it was contended that recourse must be made to rules prescribed under the Act to value a supply between related parties since related parties fall outside the scope of Section 15(1). Rule 28(2) of the CGST Rules was amended on 10.07.2024 w.e.f 26.10.2023, the date of its original insertion. The value of supply, which was fixed at 1%, was deemed to be 1% of the amount of guarantee offered per annum. It is either 1% of the guarantee per annum or actual consideration, whichever is higher. If an agreement is entered into for a higher consideration for providing the guarantee, then such a transaction would be valued at the higher consideration and not 1%.

It was further argued that the value deemed under Rule 28(2) is treated as deemed consideration for corporate guarantee transactions; following such interpretation, Schedule I transactions fall within the scope of Section 2(33) of the CGST Act, which defines continuous supply of services even in the absence of periodic payment obligations.

Court's Observations

- The Court accepted that GST applies to a corporate guarantee even where the holding company does not charge a separate guarantee fee. It was held that a corporate guarantee furnished between related persons falls within the scope of Schedule I read with Section 7(1)(c) of the CGST Act.
- The Court observed that the furnishing of guarantees need not itself constitute the taxpayer's principal business. Where a guarantee enables a subsidiary to secure finance, it is connected with the group's financial and commercial interests, and the activity can be treated as incidental or ancillary to business.
- Section 2(33) defines "continuous supply of services" as a supply of services provided or agreed to be provided on a recurrent basis under a contract for a period exceeding three months with periodic payment obligations. A corporate guarantee may create a continuing obligation, but it does not involve periodic payment obligations. Therefore, it does not fall within the definition of continuous supply of services.
- The validity of Rule 28(2) and Section 15(4) was upheld. However, the expression "whichever is higher" was found arbitrary. Where the actual consideration is ascertainable and lower than one percent, compelling a valuation at one percent would be unreasonable. Accordingly, the Court read down the words "whichever is higher".
- Rule 28(2) has been inserted with effect from 26.10.2023. The corporate guarantees were furnished before GST and 26.10.2023. Applying the rule to such past guarantees was treated as retroactive.
- A taxpayer adopting a particular interpretation of a complicated GST provision cannot, by that fact alone, be said to have committed fraud, wilful misstatement, or suppression of facts. Consequently, where the dispute was about the interpretation of GST provisions concerning corporate guarantees, the extended Section 74 machinery could not be automatically invoked. Show cause notices and orders passed under Section 74 were quashed.

Order

- The writ petitions were allowed in part with the following reliefs:
- The provision of Rule 28(2) of the GST Rules, 2017 is held to be intra vires the CGST Act and Articles 14, 19(1)(g), and 265 of the Constitution of India, except to the extent that the expression "whichever is higher" shall be read down.
- The levy of GST on corporate guarantees furnished prior to 26 October 2023 under Rule 28(2) is declared violative of Articles 14 and 19(1)(g) of the Constitution of India; however, the levy gets attracted from this date in case the guarantees continue.

- The proceedings under Section 74 of the GST Act are quashed and set aside.
- The clarification issued vide Circulars dated 27.10.2023 and 11.07.2024 is set aside to the extent it runs contrary to the observations and directions issued by this Court.

8. Services Rendered by an Advocate Registered as an Insolvency Professional Were Not Classified as Legal Services and Not Covered Under Reverse Charge – Professional Liable Under Forward Charge *[Kanwal Chaudhary Versus Insolvency and Bankruptcy Board of India - High Court of Delhi – Writ Petition No. 9410 of 2021 - decided on 13.08.2026]*

Background

The petitioner, Mr. Kanwal Chaudhary, is an advocate registered with the Bar Council of Delhi and had been practising since 1995. Upon the enactment of the Insolvency and Bankruptcy Code, 2016, he qualified for the Limited Insolvency Examination and was registered as an Insolvency Professional on 27.07.2017. The National Company Law Tribunal (NCLT), Delhi Bench, appointed the petitioner as the Interim Resolution Professional (IRP) of Ireo Fiveriver Private Ltd. Invoices for his professional fees as Interim Resolution Professional were raised on 13.08.2019 and 31.10.2019 upon the corporate debtor. Subsequently, another professional, Mr. KV Jain, was appointed as Resolution Professional and took over the assignment from the petitioner. Since the payments had not been made to the petitioner by the Corporate Debtor, the petitioner preferred applications before the NCLT seeking appropriate directions for the release of the payments. The NCLT ultimately directed payment of the outstanding amount of Rs. 49,04,988 and sought clarification from the Insolvency and Bankruptcy Board of India (IBBI) pertaining to the payment of GST. The IBBI, by order dated 9 March 2021, issued a clarification that "Insolvency and Receivership" services were not covered by the Reverse Charge Mechanism (RCM). It was therefore required that the petitioner submit GST-compliant invoices for his professional fees as an Insolvency Resolution Professional. Challenging this decision, the petitioner approached the Delhi High Court.

Issue Involved

Whether an advocate who acts as an Insolvency Professional under the IBC Code 2016 continues to act as an advocate providing "legal services" with GST payable by the recipient under the Reverse Charge Mechanism, or whether the services are "Insolvency and Receivership Services" taxable under the Forward Charge Mechanism by the Insolvency Professional himself.

Contentions of the Respondent

The Revenue contended that whenever an advocate is appointed as an Insolvency Professional, the nature of the services is different from conventional legal services. It was submitted that the nature of services determines the GST taxability and not the professional status of the person rendering such service. When an advocate acts as an Insolvency Professional, he performs functions under IBC, such as managing the affairs of the corporate debtor, inviting claims, convening meetings of the Committee of Creditors, and taking steps in the corporate insolvency resolution process. These functions are not conventional legal services. The Revenue relied on the separate classification of services under GST. Legal services fall under heading 99821, whereas insolvency and receivership fall under the specific entry 998241. Since insolvency and receivership services are specifically and separately classified, they cannot be categorized as legal services. The Bar Council of India also supported the view that an advocate acting as an Insolvency Professional provides services distinct from conventional legal services. Consequently, it was submitted that advocates who are Insolvency Professionals have to be governed by the forward charge mechanism and not by the reverse charge mechanism.

Court's Observations

The Court held that Reverse Charge is applicable to advocates in respect of legal services pursuant to Notification No. 13/2017 – Central Tax (Rate) covering legal services supplied by advocates to business entities. The Court examined the Insolvency and Bankruptcy Code, 2016, and IBBI Regulations and observed that Insolvency Professionals operate under a comprehensive and self-contained regulatory framework. The Court applied the principle that a specific entry prevails over a general entry. Accordingly, insolvency and receivership services cannot be classified as legal services merely because the service provider is an advocate. The specific description under heading 998241 governs the classification.

Order

The Court held that advocates enrolled with the Bar Council, who act as Insolvency Professionals under the IBC, shall be governed by the 'forward charge mechanism'. Accordingly, they shall be liable to obtain GST registration and comply with the consequential requirements of the CGST Act, rules, and notifications applicable to Insolvency Professionals. It was further clarified that the aforesaid direction shall apply only insofar as services rendered by an advocate in the capacity of an Insolvency Professional and shall not, in any manner, affect or alter the GST payment mechanism otherwise applicable to advocates in respect of legal services rendered by them, which shall continue to be governed by the 'reverse charge mechanism'. The petitioner was directed to furnish GST-compliant invoices in respect of the professional fee charged by him for services rendered as an Interim Resolution Professional.

9. Protection of Bona Fide Purchasers from Arrest and Criminal Prosecution for Alleged Wrongful ITC *[Abdul Majid v. The Assistant Commissioner of Commercial Taxes, Bengaluru - High Court of Karnataka - CRL.P No. 9260 of 2026 - decided on 05.08.2026]*

Background

The petitioners were the proprietors of M/s. ANZ Traders, M/s. Z.M.S Enterprises, and M/s. AF Trading, dealing in steel and old scrap materials. The petitioners had purchased aluminium scrap from supplier firms, namely M/s. KH E-Waste Recyclers and M/s. SKS Traders. The authorities conducted raids at the suppliers' premises and arrested their proprietors on allegations that the suppliers were fictitious entities that had issued fake invoices without any actual movement of goods, fraudulently availing Input Tax Credit of Rs. 231.7 crores and Rs. 567 crores respectively, and routing part of the proceeds to petitioners through hawala transactions. Thereafter, summons under Section 70 of the CGST Act, 2017 were issued to the petitioners, requiring them to appear before GST authorities and produce supporting documents concerning their purchases of aluminium scrap. Apprehending arrest in connection with the investigation under Section 132 of the KGST Act, the petitioners approached the Sessions Court for the grant of anticipatory bail. The applications were rejected on 19.06.2026. Following this, the petitioners approached the Karnataka High Court seeking anticipatory bail. The petitioners contended that they had purchased goods against tax invoices, paid the invoice value and GST through banking channels, filed periodic returns, and were willing to cooperate with the investigation.

Issue Involved

The principal issue before the High Court was whether purchasers holding valid GST registrations who have invoices and have made payments through banking channels are entitled to anticipatory bail where suppliers are alleged to have fraudulently availed ITC, in the absence of any proof that the purchaser colluded in the fraud. The Court also examined whether custodial interrogation of purchasers is necessary merely to verify the actual receipt of goods.

Contentions of the Respondent

The revenue authorities opposed the anticipatory bail. The Revenue argued that the petitioners were involved in large-scale economic offences involving fraudulent availment and passing of bogus Input Tax Credit (ITC). According to the respondents, the suppliers were fictitious firms that issued fake invoices without actual supply of goods. Suppliers had availed ITC of Rs. 231.7 crores and Rs. 567 crores, respectively, and had paid part of the amount in cash to petitioners through hawala transactions. The respondent countered that the fact that the alleged offence was compoundable could not by itself constitute a ground for granting anticipatory bail. Consequently, it was argued that custodial interrogation of the petitioners was necessary to identify the involvement of other firms in the alleged racket.

Court's Observations

The High Court explained that the GST framework is based upon self-assessment and voluntary compliance. A registered person claiming ITC must possess tax invoices, receive goods or services, ensure that tax is charged on the invoice, file returns, and pay the invoice value plus tax within the statutory framework.

It was accepted by the Court that the petitioners possessed invoices, had paid the invoice value and GST through bank transactions, and had filed periodic returns. Therefore, for the purpose of anticipatory bail, the petitioners could not be treated at par with the suppliers because the suppliers were alleged to have committed fraud.

With respect to custodial interrogation, the Court observed that the actual receipt of goods can be verified through documentary evidence. The Court relied on Radhika Agarwal v. Union of India (2025), SC, where the Supreme Court held that arrest must be based on reasons supported by material, not on suspicion alone. Arrest cannot be made merely to investigate whether the conditions for arrest are satisfied.

The Court also observed that under Section 132, in cases involving the issue of invoices without supply, the principal offender would be the supplier. In the present case, the suppliers had already been granted regular bail. The Court further held that the nature of punishment, absence of antecedents, willingness to cooperate, banking channel payments, and readiness to produce documents are relevant factors when considering anticipatory bail.

Order

The High Court granted anticipatory bail to the petitioners, directing them to appear before the investigating authorities on 10.08.2026 for interrogation, subject to the following conditions:

The authorities were permitted to take them into custody, if necessary, for interrogation on that date but were required to release them on the same day on or before 6 pm, subject to the execution of a personal bond of Rs. 5,00,000 each with two sureties.

To cooperate with the investigation, appear when summoned, not induce or threaten any person acquainted with the facts, keep their mobile phones operational, and drop a PIN on Google Maps for location availability.

Surrender their passports and not leave India without prior permission.

Breach of conditions would entitle the authorities to seek cancellation of anticipatory bail.

10. GST Refund Cannot be Withheld Due to Pendency of Revenue Appeal *[KPIL-JWIL Joint Venture Versus The State of Bihar, Joint Commissioner – High Court of Patna - Civil Writ Jurisdiction Case No. 5398 of 2026 - decided on 13.08.2026]*

Background

The petitioner is a works contractor and had applied for a refund of excess balance in its Electronic Cash Ledger of Rs. 1,75,00,000/- on 15.12.2023. The refund application was rejected on 31.05.2024 for the reason of availment of ineligible Input Tax Credit of Rs. 24,13,37,314 for the year 2022-23. The petitioner challenged the rejection of the refund claim before the Appellate Authority. The Appellate Authority set aside the refund rejection order on 31.12.2024. A revision application was filed by the Revenue on 28.01.2025, challenging the order passed by the Appellate Authority before the Commissioner of Taxes under Section 108. The petitioner filed a fresh refund application on 05.02.2025. A Deficiency Memo in Form GST – RFD 03 dated 01.03.2025 was issued. The Revenue contended that the refund was not admissible because of undischarged assessed tax liability for previous years as per data available on GSTBO. During the pendency of the writ application, the respondent authorities filed an appeal on 30.06.2026 under Section 112 of the CGST Act, 2017 before the GST Appellate Tribunal, Patna.

Issue Involved

Whether a GST refund can be withheld during the pendency of the Revenue's appeal without a specific order passed by the Commissioner under Section 54(11) of the CGST Act, 2017.

Contentions of the Respondent

The Revenue contended that the Show Cause Notices (SCN) had been issued to the petitioner. But the petitioner, without awaiting the final order of the Joint Commissioner, had filed the writ application before the High Court, which was premature in nature.

Court's Observations

The High Court accepted that the withholding of a refund during the pendency of the Revenue's appeal has to be considered specifically under Section 54(11) of the CGST Act, 2017.It was further observed that the Commissioner had not undertaken any proceeding under Section 54(11) warranting the Revenue to withhold the Rs. 1,75,00,000 refund.

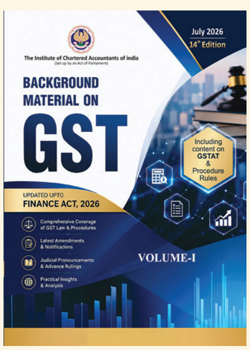
It was held that the pendency of an appeal by the Revenue is not, by itself, sufficient authority to withhold the refund. The statutory mechanism under Section 54(11) of the CGST Act, 2017 has to be followed.

Order

The writ petition was disposed of. A direction was issued to the Commissioner to issue a Show Cause Notice to the petitioner within one week from the date of the judgement. The petitioner was given the liberty to file a reply within a further period of one week after the receipt of the Show Cause Notice. After receipt of the reply filed by the petitioner, a date shall be fixed by the Commissioner with prior information to the petitioner for a personal hearing. After considering the reply and hearing the petitioner, the Commissioner shall pass a reasoned order within a period of one month from the date of closure of the hearing.

Contributed by CA. Tanya Pandey and CA. Gitika Passi

PUBLICATIONS



Background Material on GST

The GST & Indirect Taxes Committee of ICAI is pleased to announce the release of the 14th (July 2026) Edition of the Background Material on GST, updated up to the Finance Act, 2026, including the GST 2.0 amendments, along with all relevant notifications, circulars, instructions and important judicial pronouncements issued up to 30th June 2026. Access & Download the Publication: https://idtc.icai.org/publications.php Purchase the Printed Copy: https://cds.icai.org/cds/marketplace/pdp/4662

GST Sectoral Guide on Fast-Moving Consumer Goods

The "GST Sectoral Guide on Fast-Moving Consumer Goods" is the second publication in the GST & Indirect Taxes Committee's Industry-Specific GST Publication Series. It provides a comprehensive overview of the FMCG sector from a GST perspective, covering the applicable legal framework, compliance requirements, judicial developments, practical issues and key sectoral considerations.

GST Compliance Schedule

Compliances for the month of September 2026

Forms	Compliance Particulars	Due Dates
GSTR 7	Return to be furnished by the registered persons who are required to deduct tax at source.	10.10.2026
GSTR 8	Return to be furnished by the registered electronic commerce operators who are required to collect tax at source on the net value of taxable supplies made through it.	10.10.2026
GSTR 1	Statement of outward supplies by the taxpayers having an aggregate turnover of more than Rs. 5 crore or the taxpayers who have opted for monthly return filing.	11.10.2026
GSTR 1A	Amendment of outward supplies of goods or services for the current tax period.	
IFF	Statement of outward supplies by the taxpayers having an aggregate turnover up to ₹ 5 crore and who have opted for the QRMP scheme.	13.10.2026
GSTR 5	Return to be furnished by the non-resident taxable persons containing details of outward supplies and inward supplies.	13.10.2026
GSTR 6	Return to be furnished by every Input Service Distributor (ISD) containing details of the input tax credit received and its distribution.	13.10.2026
CMP 08	Statement containing the details of self-assessed tax for Quarter 2 of FY 2026-27 by the registered person paying tax under section 10.	18.10.2026
GSTR 3B	Return to be furnished by all the taxpayers other than who have opted for QRMP scheme comprising consolidated summary of outward and inward supplies.	20.10.2026
GSTR 5A	Return to be furnished by Online Information and Data base Access or Retrieval (OIDAR) services provider for providing services from a place outside India to non-taxable online recipient (as defined in Integrated Goods and Services Tax Act, 2017) and to registered persons in India and details of supplies of online money gaming by a person outside India to a person in India.	20.10.2026
GSTR 3B	Return to be furnished by the taxpayers who have opted for QRMP scheme for Quarter 2 of FY 2026-27 comprising consolidated summary of outward and inward supplies. (For registered taxpayers having their place of business in the states of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep)	22.10.2026
GSTR 3B	Return to be furnished by the taxpayers who have opted for QRMP scheme for Quarter 2 of FY 2026-27 comprising consolidated summary of outward and inward supplies. (For registered taxpayers having their place of business is in states of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi)	24.10.2026

QUIZ

1. **PQR Ltd, registered in Delhi, sells goods to XYZ Ltd, registered in Gujarat. However, on instructions of XYZ Ltd, PQR Ltd directly dispatches the goods to ABC Ltd in Rajasthan. The invoice is raised on XYZ Ltd, while goods are physically delivered to ABC Ltd.**
   PQR Ltd is required to generate E-way Bill for the movement. Which of the following is correct manner of reporting the transaction in E-Way Bill Generation
   A) PQR Ltd should select "Regular" transaction and enter ABC Ltd as the recipient because ABC Ltd receives the goods.
   B) PQR Ltd should select "Bill to – Ship to," report XYZ Ltd as the Bill-to party and provide ABC Ltd's details as Ship to destination.
   C) PQR Ltd should select "Bill From – Dispatch From" because goods are physically dispatched by PQR Ltd.
   D) PQR Ltd cannot generate an E-Way Bill because the billing party and recipient of goods are different.
2. **M/s. Tushar Enterprises had its GST registration cancelled suo-moto by Proper Officer. The Proper Officer passed the cancellation order on August 5, 2026 and the official cancellation order was digitally served to taxpayer on August 10, 2026.**
   The management wants to file an application for revocation of this cancellation. As per the CGST Rules, what is the last date by which taxpayer must file the revocation application?
   A) September 4, 2026
   B) September 9, 2026
   C) November 3, 2026
   D) November 8, 2026
3. **Mr. Raj, a sole proprietor, was carrying on business of Textile Trading. On 13th August 2026 he passed away. His son, Mr. Akash, decided to take over the business and obtained a fresh GST registration in his own name. As on the date immediately preceding the transfer, the electronic credit ledger of Mr. Raj showed Rs. 6 lakhs as unutilized ITC. Mr. Akash wants to use the unutilized ITC lying in electronic credit ledger. Which of the following statements correctly reflects the statutory provisions of the CGST Act, 2017**
   A) Mr. Akash can automatically utilize the entire Rs. 6 lakh ITC after obtaining fresh GST registration.
   B) The ITC cannot be transferred because the original proprietor died.
   C) The unutilized ITC can be transferred subject to prescribed conditions and procedure for transfer of business, including filing FORM GST ITC -02
   D) Mr. Akash can claim the Rs. 6 lakhs as refund from the Government instead of transferring the Credit.
4. **XYZ Ltd has three registered units in Delhi, Maharashtra and Rajasthan. Delhi office is registered as an Input Tax Distributor (ISD). During August 2026, the ISD receives the following input services:**
   1. **Common Legal consultancy service - Taxable value Rs. 10,00,000, GST – 18%. The service is attributable to all 3 units.**
   2. **Software license service - Taxable value – Rs. 6,00,000 GST – 18%. The service is attributable exclusively to Maharashtra Unit.**

   The Turnover of the units during the relevant period is as follows:

Particulars	Delhi	Maharashtra	Rajasthan
Taxable Supplies	Rs. 35 crores	Rs. 40 crores	Rs. 25 crores
Exempt Supplies	Rs. 65 crores	Rs. 10 crores	Rs. 75 crores
Total Turnover	Rs. 100 crores	Rs. 50 crores	Rs. 100 crores

   What is the total amount of ITC that the ISD should distribute to the Maharashtra Unit?
   A) Rs. 1,08,000
   B) Rs. 1,44,000
   C) Rs. 1,36,800
   D) Rs. 1,80,000
5. **M Ltd, a holding company registered in Rajasthan, provides a corporate guarantee to bank on behalf of its subsidiary, N Ltd, registered in Gujarat. M Ltd furnishes a corporate guarantee with a sanctioned limit of Rs.40 crore, valid for full financial year. During the year, N Ltd actually utilizes only Rs. 15 crore. M Ltd. does not charge any separate consideration.**
   What is the correct taxable value of this supply of service under Rule 28(2) of the CGST Rules, 2017
   A) 1% of Rs. 15 crores
   B) 1% of Rs. 40 crores
   C) 1% of the Rs. 27.5 crore
   D) Nil, since no consideration was charged by M Ltd.
6. **Zydus Tech Pvt Ltd (Maharashtra) is an associated enterprise of Zydus Corp, USA, which provides software development services under a cost-plus agreement. As per the agreement, Zydus Corp raises a single consolidated invoice annually after year-end, once costs are finalized. No invoice was raised this year. Zydus's accounts team, based on internal estimates, passed the following entries:**
   31 Dec 2025: Provisional entry of USD 3,00,000 booked
   31 Mar 2026: Above entry reversed; revised entry of USD 3,50,000 booked
   No payment has been made as on 31 March 2026. The account head claims that GST under reverse

charge cannot arise without an invoice or payment, since the entries were merely provisional.
What is the correct time of supply and amount liable to GST?

A) Time of supply arises only when Zydus Corp issues the final invoice.
B) Time of supply is 31 December 2025, GST is payable on USD 3,00,000.
C) Time of supply is 31 December 2025 for USD 3,00,000, and separately 31 March 2026 for the additional USD 50,000.
D) Time of supply is 31 March 2026, GST is payable on USD 3,50,000, since the earlier entry stands reversed.

7. M/s. Beta Exports filed an application for refund of tax of Rs. 75 Lakh u/s 54 of the CGST Act on 1 February 2026. The refund was rejected by Proper Officer. The Rejection order was challenged before the Appellate Authority which passed a consequential order on 15 June, 2026 directing sanction of refund of Rs. 75 lakhs. The refund amount was finally paid on 25th August 2026.
Which of the following date should be considered as period for determining interest on delayed refund under Section 56 in above case scenario?

A) From 1st February 2026, because interest is always payable from date of original refund application.
B) From 3rd April 2026, being date immediately following expiry of 60 days from original refund application.
C) From 15th June 2026, because refund became payable only pursuant to the consequential appellate order.
D) From 4th March 2026, being the day immediately after expiry of 30 days from the date of filing the original refund application.

8. A State Government department registered in Maharashtra enters into a works contract of Rs. 4,00,000 (excluding GST) with XYZ Constructions Pvt Ltd, registered in Gujarat for construction of building. The Construction site is situated at Vadodara.
Is TDS under GST is required to be deducted by Government department on payment made to XYZ Constructions Pvt Ltd

A) Yes, because recipient is a government department and contract value exceeds Rs. 2, 50, 000
B) Yes, because the supply is an inter state works contract
C) No, because the location of supplier and place of supply are in States different from the State in which recipient is located.
D) No, because GST TDS is not applicable to works contract supplied by a supplier registered in another State.

9. M/s ABC Industries is found to have short-paid GST of Rs. 32 lakhs for FY 2024-25. The short payment is determined by the proper officer to be attributable due to fraud or wilful misstatement / suppression of facts. A notice under u/s 74A is subsequently served on ABC Industries on 15th May 2026. The taxpayer accepts the entire tax liability and pays the tax of Rs.32 Lakhs along with applicable interest on 13th July 2026.
What is the penalty payable by M/s ABC Industries under Section 74A

A) Rs.4,80,000
B) Rs.8,00,000
C) Rs.16,00,000
D) Rs.3,20,000

10. Mr. Prakash, the proprietor of MSN Enterprises, is undergoing an inspection of business premises authorized under Section 67 by a Senior Intelligence Officer (SIO). During the inspection, the SIO concludes that Mr. Prakash has been involved in passing fraudulent Input Tax Credit (ITC) amounting to Rs.4.8 crores. Accordingly, SIO immediately takes him into custody, stating "I have a valid search warrant for these premises, and that gives me authority to arrest you".
Based on the provisions of the CGST Act 2017, which of the following statements accurately evaluates the legality of SIO's action?

A) The arrest is legal because search warrant issued u/s 67 inherently encompasses the authority to arrest an individual present at the premises
B) The arrest is illegal because a search warrant under Section 67 does not give arrest power. Arrest under Section 69 needs a separate written authorization ("reasons to believe") from the Commissioner.
C) The arrest is legal because, for any ITC fraud involving an amount exceeding Rs. 2 crores, the law mandates automatic and immediate arrest of person involved.
D) The arrest is legal because since the offence committed is cognizable and non-bailable.

The names of first five members who were the top scorers in the last Quiz are as under:

Name	Membership No.
CA Deepak Aggarwal	510943
CA Bhaskar Aabad	480421
CA Deepak Kumar Sharma	544693
CA Nilankar Kumar Arya	535018
CA Rinkesh Ashokkumar Mamrawala	611603

Please provide reply of the above MCQs in the link given below. ***Top five scorers will be awarded hard copy of the publication 'GST Act(s) and Rule(s)- Bare Law' & their names will be published in the next edition of the Newsletter.***
Link to reply: - ***https://forms.gle/vZN4VAR7QKkE73yN6***

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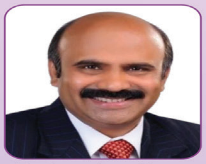

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