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INDIRECT TAX UPDATES

JULY - AUGUST '2025

An E - Newsletter

Madras HC: M/s. JIT Auto Comp, v. Assistant Commissioner, Hosur.: W. P. No. 16474 of 2024

[Proceedings initiated under section 74 on the ground of non submission of CA Certificate was unjustified]

Background: The petitioner was issued a show cause notice under section 74 of the CGST Act, 2017, for alleged excess availment of Input Tax Credit based on differences between GSTR 2A and GSTR 3B. The department alleged that the Petitioner had wrongfully availed ITC without actual receipt of goods and services. The department had initiated proceedings invoking fraudulent intent under section 74. The petitioner explained that their supplier had gone into liquidation, making it impossible to obtain a CA certificate from the supplier. Instead, they furnished a certificate from their own CA confirming supply, receipt of goods, and payment made. Despite this, the department ignored the certificate and passed an Order confirming the demand and penalty under section 74 and alleging fraudulent ITC claim.

Decision:

The Madras High Court held that the department mechanically invoked Section 74 without considering the CA certificate filed by the petitioner. It observed that mere non-submission of the supplier's CA certificate could not justify treating the case as fraud. Referring to Circular No. 183/15/2022-GST dated 27 December 2022, the Court held that verification of transactions could be independently done by the department. Accordingly, the Court set aside the impugned order and remanded the matter back, directing the authority to treat the proceedings under Sec. 73 instead of Sec. 74.

Karnataka HC: Alstom Transport India Ltd v. Commissioner of Commercial Taxes and Ors.: W.P No. 1779 OF 2025

[IGST not leviable on secondment of employee from overseas group companies]

Background: The petitioner, engaged in metro and railway infrastructure projects, had expatriate employees seconded from overseas group entities under separate employment agreements. These secondees were placed on the petitioner's Indian payroll, received salaries directly from the petitioner with TDS deduction, and were covered under Indian labour laws and company policies. Overseas affiliates continued social security contributions abroad, later reimbursed by the petitioner, on which GST under RCM was paid. The Department alleged that the arrangement amounted to "manpower supply services" by the foreign affiliates and sought GST on the entire salary and reimbursements.

Decision:

The Karnataka HC held that the secondees worked exclusively under the petitioner's control and were fully integrated into its workforce, establishing a genuine employer-employee relationship covered by Schedule III of the CGST Act and therefore outside GST. The Court distinguished the Supreme Court's ruling in *Northern Operating Systems* as fact specific and relied on CBIC Circular dated 26.06.2024 and the Delhi HC decision in *Metal One Corporation*, which clarify that where no invoice is raised in related-party cases with full ITC, the taxable value is deemed 'Nil'. Accordingly, the Court ruled that no GST was payable on the remuneration of seconded employees and quashed the demand.

Andhra Pradesh High Court: JPR Projects v. The State Of Andhra Pradesh: W. P. No. 18990 of 2025

[The petitioner had not filed its returns for the relevant period, and best judgment assessment was being carried out]

Background: The petitioner, a registered person under GST, failed to file returns for the relevant period. Consequently, the Assistant Commissioner passed a best judgment assessment order on 07.02.2024 under Section 62(1) of the CGST Act. Thereafter, the petitioner filed valid returns and paid the admitted tax along with late fee. However, the department continued recovery based on the said assessment order, leading the petitioner to file the present writ petition.

Decision:

The Hon'ble High Court held that under Section 62(2) of the GST Act, once a registered person files a valid return and pays the admitted tax along with the applicable late fee within the prescribed time, the best judgment assessment order passed under Section 62(1) stands automatically withdrawn in law. Since the petitioner had already fulfilled these statutory conditions, the assessment order dated 07.02.2024 was deemed to have been nullified and could not be made the basis of recovery.

The Court, therefore, directed that the sum of ₹12,92,346/-, which had been wrongfully adjusted from the petitioner's Input Tax Credit (ITC), be refunded/reinstated within four weeks. The impugned order of assessment was accordingly set aside, with liberty reserved to the Department to initiate fresh proceedings in accordance with law, if required.

KEY HIGHLIGHTS OF THE 2025 OF GST:

INSTRUCTION NO. 03 of 2025-GST dated 09-07-2025: Grievance Redressal Mechanism for processing of application for GST registration-reg.

Instruction No. 04/2025-GST (02.05.2025) sets up a grievance redressal mechanism for GST registration applications. Applicants with ARNs under State jurisdiction, aggrieved by queries or rejection grounds issued contrary to Instruction No. 02/2025-GST, may approach the Additional Commissioner of State Tax (HQ). An official email ID will be publicized for submitting grievances with ARN, jurisdiction, and brief issue. Grievances relating to Central jurisdiction will be forwarded to the concerned authority with a copy to the GST Council Secretariat. The Additional Commissioner must resolve grievances promptly, advise applicants where queries are proper, and submit monthly redressal reports to the Commissioner of State Tax.

Circular No. 18/2025-Customs dated 22th July, 2025 [Submission of applications under MOOWR Scheme]

The Circular draws attention to Circular No. 34/2019-Customs dated 01.10.2019, wherein it had been notified that the Board had partnered with Invest India to provide an online platform through a microsite for the facilitation of investors under the MOOWR Scheme, including the facility to fill in and submit digitized applications online. However, it is now informed that the said online application facility hosted on the Invest India microsite will no longer be available for submission of applications. Consequently, applicants who wish to obtain a license under Section 58 and permission to operate under Section 65 of the Customs Act are required to submit their applications in the prescribed format directly to the jurisdictional Principal Commissioner or Commissioner of Customs. The field formations have been directed to take due note of this change and guide the trade accordingly to ensure smooth processing and facilitation of applications under the MOOWR Scheme.

Notification No. 35/2025-Customs dated 18.08.2025

The Central Government in exercise of power conferred by sub-section (1) of Section 25 of the Customs Act, 1962 (52 of 1962) read with Section 124 of the Finance Act, 2021 (13 of 2021), through the Ministry of Finance, has issued Notification dated 18th August 2025, granting a temporary exemption on the import of cotton (falling under heading 5201 of the Customs Tariff Act, 1975).

Under this notification, imports of cotton are exempted from both the basic customs duty leviable under the First Schedule to the Customs Tariff Act and the Agriculture Infrastructure and Development Cess (AIDC) leviable under Section 124 of the Finance Act, 2021.

This exemption will be in effect from 19th August 2025 and shall remain valid up to and inclusive of 30th September 2025.

Supreme Court : M/s ARMOUR SECURITY (INDIA) LTD. V. COMMISSIONER, CGST & ANR [SLP (C) No. 6092 of 2025]

[GST summons is a mere inquiry & formal ‘proceedings’ that bar parallel investigations by another authority are initiated only with the issuance of a SCN.]

Background

The case involves M/s Armour Security (India) Ltd., a company that provides security services. The company first received an SCN on November 18, 2024, from the State GST authority, alleging under-declaration of tax and excess claim of ITC. Subsequently, in January 2025, the Central GST authority conducted a search of the petitioner's premises and issued summons under Section 70 of the CGST Act, requesting documents related to similar issues, including ITC availed from cancelled suppliers. Aggrieved by what it considered parallel proceedings on the same issue, the petitioner filed a writ petition in the Delhi HC, arguing that the Central authority's action was barred under Section 6(2)(b) of the CGST Act because the State authority had already initiated proceedings. The HC dismissed the petition, prompting the appeal to the SC.

Petitioner’s and Department’s Contention

The petitioner argued that Section 6(2)(b) of the CGST Act prohibits both Central and State authorities from initiating proceedings on the “same subject matter” simultaneously. They contended that the term “any proceedings” should be interpreted broadly to include investigations and the issuance of summons, not just formal assessment proceedings under Sections 73 or 74. The petitioner asserted that since the State authority had already issued an SCN covering the issue of ITC, the subsequent summons by the Central authority on the same issue was without jurisdiction and violated the principle of cooperative federalism. Conversely, the department's position, as upheld by the courts, was that an “inquiry” under Section 70 is distinct from “proceedings” under Section 6(2)(b). The department maintained that a summons is merely an information-gathering tool and does not mark the formal “initiation of proceedings.” That stage, they argued, is only reached when an SCN is issued, which crystallizes the “subject matter” of the dispute.

Decision of the court

Hon’ble Supreme Court agreed with the tax department and dismissed the appeal. It clarified that the “initiation of any proceedings” under Section 6(2)(b) refers to the formal start of adjudication, marked by the issuance of an SCN, not preliminary actions like a summons or search. The Court held that the “subject matter” of a case is determined by the SCN, not by the broader scope of an initial inquiry. Therefore, the Central authority’s investigation was permissible. The judgment also included guidelines to ensure better coordination between Central and State authorities to avoid placing an undue burden on taxpayers during investigations.



EDITOR'S COMMENTS

The Court has cleared the confusion around what counts as the “start of proceedings” under GST. It explained that steps like issuing a summons are only part of an inquiry, while formal proceedings begin only when an SCN is issued. The SCN is where the dispute is clearly defined, so only then does the bar on parallel investigations apply.

This judgment provides much-needed clarity, streamlining the investigative and adjudicatory processes under the GST regime and reinforcing the principle of preventing undue harassment to taxpayers from multiple authorities.

Sikkim HC: SICPA India Private Limited and Another v. Union of India and Others: W.P. (C) No. 54 of 2023

In SICPA India Private Limited and Anr. v. Union of India and Ors., the Sikkim HC dealt with the issue of whether the refund of unutilized ITC lying in the Electronic Credit Ledger can be denied on the closure of business. The petitioners, who had discontinued their manufacturing operations in Sikkim, sought a refund of around Rs. 4.37 crores of accumulated ITC, which was rejected by the tax authorities on the ground that Section 54(3) of the CGST Act permits refund only in cases of zero-rated supplies and inverted duty structure. The petitioners contended that Section 49(6) independently allows refund of balances in the Electronic Credit Ledger, while Section 54 merely prescribes the procedure. The HC held that there is no express bar in the CGST Act against such a refund on business closure, observed that tax cannot be retained without authority of law, and clarified that the existence of an alternative statutory remedy does not prevent the Court from exercising writ jurisdiction in a case involving pure questions of law.

Delhi HC: Ganpati Polymers v. Commissioner of Central Goods and Service Tax: W.P.(C) 11906/2025

In the case of Ganpati Polymers v. Commissioner of Central Goods and Service Tax, the Delhi High Court dismissed a writ petition challenging a GST demand of Rs. 50.33 crores for fraudulent ITC, imposing costs of Rs. 50,000 on the petitioner. The court rejected the petitioner's excuse for not replying to the SCN or attending hearings, namely, that their GST registration was suspended and they were not a frequent visitor to the GST portal. The bench described this as "callous conduct," affirming that it is standard practice to upload notices to the portal and that the petitioner was aware of the investigation against them. While dismissing the petition, the Court granted the petitioner a final opportunity to file a statutory appeal by August 31st, 2025, to be heard on its merits if filed within the stipulated time.

Bombay HC: Umicore Autocat India Private Limited v. UOI & Ors. : WP NO. 463 of 2024

The Bombay High Court addressed whether unutilized Input Tax Credit could be transferred between companies in different states following an amalgamation. A Maharashtra-based company was denied the ITC of a Goa-based company it had merged with, because the GSTN portal required both entities to be in the same state. The Court ruled in favor of the petitioner, holding that Section 18(3) of the CGST Act contains no such restriction. It found that a technical limitation of the GST portal cannot override a legal entitlement and directed the authorities to permit the transfer of the CGST and IGST credit, instructing the GST Council to create a proper mechanism for such inter-state transfers.

- [GST Rate cut announced by FM Sitharaman! 5% and 18% to be the two main slabs; new rates effective September 22.](#)
- [GST Return Filing Rule Changes from July 2025: GSTR-3B Hard-Lock, Time Bar & New E-Way Bill Portal 2](#)