



INDIRECT TAX UPDATES

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An E - Newsletter

LATEST CASE LAWS

- **Shree Arihant Oil and General Mills v. Union of India and Ors.: D.B. Civil Writ Petition No. 2923/2023. – Rajasthan High Court**
- **Hikal Limited v. Union of India Writ Petition No. 78 of 2025: Bombay High Court**
- **M/S Soraza Recycling Private Limited v. Union of India and Ors: Writ Tax No. 4630 of 2025: Allahabad High Court**

UPDATES

- **Customs Notification No. 37/2025-Customs dated 17 September 2025**
- **GST Circular No. 251/08/2025-GST dated 12 September 2025.**

EDITOR'S COLUMN

- **Delhi HC: Genesis Enterprises v. Principal Commissioner CGST Delhi East [W.P. C. 13821/2025]**

TAX BITES

- **Union of India v. M/S Adani Power Ltd : Civil Appeal No.4489 of 2023: Supreme Court**
- **M/s Renaatus Projects Pvt. Ltd. v. DGGI & Ors : WP(C) :32465/2024 – Madras HC**
- **O.C. Infraventures & Construction Pvt. Ltd. v. Joint Commissioner (Appeals), Customs, CGST & Central Excise, Lucknow: Writ Tax No. 837 of 2025 - Allahabad HC**

Rajasthan High Court: Shree Arihant Oil and General Mills v. Union of India: D.B. Civil Writ Petition No. 2923/2023

[Rajasthan HC quashes a restrictive CBIC Circular]

Background: The petitioner, a manufacturer of mustard oil (HSN 1514) and had accumulated Input Tax Credit under the inverted duty structure before 18 July 2022. However, Notification No. 09/2022-Central Tax (Rate), effective from 18 July 2022, barred refunds of accumulated ITC for certain goods, including those under HSN 1514. The petitioner filed refund claims after 18 July 2022, which were rejected based on CBIC Circular No. 181/13/2022-GST (dated 10 November 2022), stating that refund applications filed after 18 July 2022 were ineligible. The petitioner challenged this circular, argued that it imposed restrictions not present in the law or the notification.

Decision: The Rajasthan High Court held that Notification No. 09/2022 operates prospectively and does not bar refunds for ITC accumulated prior to 18 July 2022. It ruled that Point No. 2 of Circular 181/13/2022, which denied refunds merely because the claim was filed after 18 July 2022, was illegal and arbitrary. The Court observed that the circular created an irrational classification and curtailed a vested right of refund without legal backing. Accordingly, the Court quashed Point No. 2 of the circular and directed authorities to process the petitioner's refund claim within three months, in accordance with law.

Bombay High Court: Hikal Limited v. Union of India and Ors: Writ Petition No. 78 of 2025

[Omission of Rule 96(10) of the CGST Rules without a savings clause nullifies pending proceedings]

Background:-Hikal Limited, an exporter of chemicals, was issued show cause notices and recovery orders for alleged violation of Rule 96(10) and Rule 89(4B) of the CGST Rules, which restricted the refund of IGST on exports where benefits under schemes like Advance Authorisation or EPCG were availed. On 8 October 2024, these rules were omitted by the government without any savings clause. The petitioner argued that after such omission, all proceedings, notices, and appeals based solely on these rules automatically lapsed. The department contended that Section 6 of the General Clauses Act and other CGST provisions saved these proceedings.

Decision: The Bombay High Court held that once Rules 96(10) and 89(4B) of the CGST Rules were omitted without any savings clause, they stood completely obliterated from the statute book, and all pending or non-final proceedings based solely on these rules lapsed automatically. The Court ruled that Section 6 of the General Clauses Act, which saves actions upon repeal does not apply to Rules made under the CGST Act. It further clarified that no other provision, including Sections 174(3) or 166 of the CGST Act, could preserve such proceedings. Only "transactions past and closed" could survive omission, which was not the case here. Accordingly, the Court quashed the show cause notices, recovery orders, and appeals based on the omitted rules and directed the authorities to restore and reconsider refund claims previously rejected under them within four months.

Allahabad High Court: M/s Soraza Recycling Private Limited v. Union of India and Ors : Writ Tax No. 4630 of 2025

[Provisional Attachment of Bank Accounts Cannot Be Done Solely on Show Cause Notice]

Background: The case arose from a challenge to an ex parte adjudication order dated 09.03.24 and SCN dated 06.12.23, issued under the CGST Act, 2017. The petitioner contested the validity of the SCN, which was uploaded on the GST portal's "Additional Notices Tab". Additionally, the petitioner challenged the vires of Notifications No. 56/2023 (Central and State Tax), contending that they were issued without the requisite recommendation of the GST Council under Section 168A of the CGST Act.

Decision: The Allahabad High Court held that provisional attachment of bank accounts cannot be executed merely upon the issuance of a show cause notice under Section 74. Citing the Supreme Court's judgment in *Radha Krishan Industries v. State of H.P.*, the Court emphasised that such powers are 'draconian' and must be exercised only after forming an opinion based on tangible material and necessity to protect the revenue. Since the order lacked adequate reasoning and material, the Court quashed the provisional attachment of the petitioner's bank accounts. The court highlighted that the attachment of bank accounts interferes with the fundamental right to carry on trade, use property, and conduct business. Therefore, such measures must be just, reasonable and proportionate. In the absence of material or reasoning, the provisional attachment of the petitioner's bank accounts was quashed. The judgment sets a precedent limiting the arbitrary use of section 83, requiring officers to exercise caution and provide reasons before attaching taxpayer assets.

Key Highlights of the September 2025 of GST:

Notification No. 37/2025-Customs dated 17 September 2025

Vide this notification, the amendment has been brought to the previous notification amends Notification No. 19/2019-Customs dated 6 July 2019 that was published by the Ministry of Finance (Department of Revenue)

- The amendment inserts new entries (after Sl. No. 23) into the table of Notification 19/2019, thereby adding specified defence equipment and parts to those exempt from Basic Customs Duty (BCD) and Integrated Tax / IGST when imported by the Ministry of Defence, defence forces, or defence PSUs.
- The exemption is effective from 22 September 2025 onward.
- The aim is to ease import burdens on critical defence imports e.g. military aircraft, unmanned vessels, specialized batteries, electronics, weapons parts, etc.
- The amendment exercises powers under section 25 of the Customs Act, 1962 and Section 3(12) of the Customs Tariff Act, 1975.

Circular No. 251/08/2025-GST dated 12 September 2025: Clarification on various doubts related to treatment of secondary or post-sale discounts under GST – reg.

- Issued on 12 September 2025 to clarify GST treatment of secondary or post-sale discounts.
- Financial or commercial credit notes issued without GST adjustment do not require ITC reversal by the recipient.
- Supplier's GST liability cannot be reduced by issuing such non-GST credit notes.
- Post-sale discounts from manufacturer to dealer are not treated as consideration for supply to end customers if there is no direct agreement with the customer.
- If there is an express agreement between manufacturer and end customer, the discount via dealer is treated as consideration and taxable.
- Dealer-initiated promotional activities without agreement are not considered services to manufacturer, so discounts are not taxable.
- If promotional activities are contractually agreed as services, they are treated as a separate taxable supply.
- Refers to and supersedes earlier circulars, especially Circular No. 92/11/2019-GST, and resolves ambiguities left after withdrawal of Circular No. 105/2019.
- Field formations asked to issue trade notices and report implementation issues to the Board.

Delhi HC: Genesis Enterprises v. Principal Commissioner CGST Delhi East [W.P. C. 13821/2025] [CCTV Footage of Assessee's Family Cannot Be Used by GST Dept]

Background

The petitions were filed by Genesis Enterprises and related firms of the Gumber family, alleging that searches and seizures conducted by the CGST Department at residential and business premises were unlawful, breached privacy (especially due to seizure of CCTV footage from home), and were accompanied by coercion leading to withdrawal of refund applications and reversal of ITC. The petitioners challenged the conduct and legality of these GST enforcement actions, seeking return of footage, de-sealing of premises, and other reliefs

Department Contention :

The department submitted that multiple fictitious firms linked to the Gumber family were detected, created solely for passing fraudulent ITC and securing improper refunds. "Reasons to believe" were duly recorded as per Section 67 of the CGST Act. The department argued that their searches were lawful, based on evidence of large-scale GST fraud, and that all legal and procedural safeguards—including access to premises and seizure protocols were followed. The department stated that any seized CCTV would not be accessed except in the presence of the Petitioner.

Decision of the court:

The Court held that search and seizure powers under Section 67 of CGST Act are to be exercised with due safeguards and reasons to believe, which were found to be present and recorded in this case. The Court clarified that privacy-related family CCTV footage cannot be accessed or used except when a family member and a representative are present, and only relevant data may be copied. It was not convinced that business premises were accessed unlawfully, as the tenant provided keys. Allegations of coercion were left for deeper scrutiny in future proceedings. All further reliefs stood disposed. Directions were given for proper official communications, strict process for footage access, and adherence to law in ongoing investigations

Comment:

The Court reaffirmed the principle that the right to privacy is a fundamental facet of Article 21 and cannot be overridden by statutory powers of investigation. Even during tax or GST searches, authorities must act within constitutional limits, ensuring that only material relevant to the inquiry is accessed, while personal and family privacy remains protected.



EDITOR'S COMMENTS

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Supreme Court: Union of India v. M/S Adani Power Ltd: Civil Appeal No.4489/2023

The Apex court found that the High Court had correctly interpreted the provisions of the Customs Act, 1962 (which is the charging section under Section 12) in conjunction with the Special Economic Zones Act, 2005 (SEZ Act), which contains an overriding provision under Section 51. Although the SEZ Act defines "export" to include DTA-to-SEZ supplies, the Supreme Court ultimately affirmed the High Court's conclusion, finding no reason to interfere with the decision that disallowed the imposition of export duty on such transactions.

Madras HC: M/s Reanutas Projects Pvt. Ltd. v. DGGI & Ors : WP(C) :32465/2024

The petitioner, a Chennai-based company engaged in construction, challenged a show cause notice (SCN) issued by the Directorate General of GST Intelligence (DGGI), alleging tax liability on services rendered for constructing the Supreme Court building in Mauritius. The petitioner argued that the project was executed entirely through its foreign branch in Mauritius, with both the supplier and recipient located outside India, making it an offshore transaction not liable to GST under Indian law. The Madras High Court, however, dismissed the writ petition as premature, holding that the petitioner should first file a detailed reply to the SCN and exhaust the statutory adjudication process. The Court reiterated that a show cause notice is not a final order, and unless it is issued without jurisdiction or in violation of natural justice, the High Court should refrain from interfering at this stage. It thus directed the petitioner to participate in the proceedings and raise all contentions before the adjudicating authority.

Allahabad HC : O.C. Infraventures & Construction Pvt. Ltd. v. Joint Commissioner (Appeals), Customs, CGST & Central Excise, Lucknow: Writ Tax No. 837 of 2025

The High Court quashed the appellate authority's order dismissing the petitioner's appeal on the ground that the mandatory pre-deposit under Section 107(6) of the CGST Act was made through the Electronic Credit Ledger and was therefore invalid. The Court held that such a view was contrary to the Gujarat High Court's ruling in Yasho Industries Ltd. v. Union of India and the CBIC Circular dated 6 July 2022, which recognises payment through the credit ledger as valid. The Court observed that even if there was any deficiency, the petitioner should have been given an opportunity to rectify it instead of outright rejection. Accordingly, the impugned order was set aside.

- [Press release of 56th GST Council Meeting](#)
- [Next-Gen GST Reforms Simplify India's Tax System](#)