



LATEST CASE LAWS

- **Delhi High Court:** Kemexel Ecommerce Pvt. Ltd. v. STO: Writ Petition No. 16555/2025
- **Orissa High Court.:** Abhijit Nayak vs The Commr. of (CT & GST) and Ors. : Writ Petition No. 32643 of 2025
- **Kerala High Court:** U.S. Technology International Pvt. Ltd. vs. The State of Kerala & Ors. :WP(C) No. 14760 of 2025

UPDATES

- **Notification No. 18/2025**
- **GST Circular No. 253/10/2025**
- **Advisory: Import of Goods in IMS**

EDITOR'S COLUMN

- **Bombay HC:** West India Continental Oils Fats Pvt. Ltd. v. UOI and Ors. [W.P. No. 3000/2023] - This Judgement reinforced that the government cannot retain taxes collected without legal authority and must pay interest on refunds in such cases.

TAX BITES

- **Supreme Court:** The Commr. Trade and Tax Delhi v. M/s Shanti Kiran India Pvt. Ltd.: Civil Appeal No. 2042-2047/2015
- **Madras HC:** RA.A. Builders and Developers v. Commr. of Commercial Tax and Ors.: W.P.(C) 1919 of 2025
- **CESTAT Delhi :** Rajasthan State Road Transport Corp. v. Commr. of CGST & Central Excise, Jaipur: Service Tax Appeal No. 52212 of 2018

INDIRECT TAX UPDATES

NOVEMBER 2025

An E - Newsletter

**Delhi High Court: Kemexel Ecommerce Pvt. Ltd. v. STO:
Writ Petition No. 16555/2025**

**[Restriction on Reopening Tax Demand Upon Acceptance
of Explanation Under Section 61 of Delhi GST Act:
Quashing of Subsequent Demand Notice Under Section 73]**

Background: Kemexel Ecommerce Pvt. Ltd. received a notice under Section 61 of the Delhi GST Act regarding discrepancies in its GST returns for 2019-2020. After submitting explanations and documents, the tax department accepted the petitioner's explanation and closed the matter by order dated 26th April 2023. Despite this, a fresh demand notice under Section 73 was issued on the same grounds in May 2024, leading to the impugned order demanding Rs. 53,46,391.

Decision: The Court, held that the statutory scheme clearly bars further proceedings once the explanation for discrepancies is accepted. This principle was reinforced by precedents from the Rajasthan High Court (*Goverdhandham Estate Pvt. Ltd.*) and Madras High Court (*Radiant Cash Management Services Ltd.*) which held that once an explanation is accepted under Section 61/62, no further demand or assessment can be raised on the same grounds. The Court noted that Section 73 of the Act does not contain a non-obstante clause overriding Section 61. Therefore, any demand raised on the same grounds after acceptance of explanation under Section 61 is unsustainable.

Consequently, the Court quashed the impugned SCN and Order. The petition was disposed accordingly.

**Orissa High Court.- Abhijit Nayak vs The Commr. of (CT &
GST) and Ors. : Writ Petition No. 32643 of 2025**

**[Maintainability of writ petition rejected in view of
functional GSTAT and availability of appellate remedy
subject to statutory pre-deposit.]**

Background:-The petitioner assailed the order dated 8th February, 2022 passed under Section 74 of the GST Act for the tax periods July, 2017 to March, 2018, which stood affirmed by the Appellate Authority on 25th September, 2025. The principal contention of the petitioner was that though the statute provides a remedy of appeal under Section 112 before the GST Appellate Tribunal, such remedy could not be availed as the Tribunal was not constituted and functional, and consequently the petitioner could not be rendered remediless.

Decision: The Court held that when the appellate forum is not functional, the Writ Court can be approached, but any statutory conditions attached to filing of the appeal must be strictly complied with. Noting that the GSTAT has now been made functional and the period for filing appeals has been extended in a staggered manner, the Court found it inappropriate to keep the writ petition pending. The writ petition was disposed of with directions to the petitioner to deposit the amount mandated under Section 112(8) and file the appeal before the GSTAT within the stipulated timeline, without the Court expressing any opinion on the merits of the case.

**Kerala High Court- U.S. Technology International Pvt. Ltd. vs. The
State of Kerala & Ors. : WP(C) No. 14760 of 2025**

**[Kerala High Court Quashes Appellate Order, Mandates Liberal
Approach to Evidence in GST Appeal]**

Background: The petitioner challenged an adverse assessment order for FY 2018-19 where tax was demanded due to a mismatch between GSTR-3B and GSTR-2A figures. The petitioner claimed this discrepancy stemmed from a data duplication error in their ERP system related to telecom invoices and asserted they were denied a reasonable opportunity by the Adjudicating Authority (3rd respondent), who scheduled hearings prematurely, culminating in an ex-parte order. Following the initial rejection of their rectification request, the petitioner filed an appeal, but the Appellate Authority (2nd respondent) rejected the voluminous supporting documents, holding that the petitioner failed to satisfy the criteria for accepting additional evidence under Rule 112 of the CGST Rules.

Decision: The High Court by quashing the Appellate Order, held that the Adjudicating Authority did not provide a proper opportunity, particularly by scheduling a personal hearing before the 30-day reply period expired. The Court critically ruled that the Appellate Authority erred in rejecting the additional evidence, emphasizing that given the inadequacy of the initial opportunity and the statutory prohibition on remanding GST cases, the Appellate Authority was mandated to adopt a "liberal approach" and accept the relevant documents under Rule 112(1)(c). Consequently, the matter was remitted to the 2nd respondent with a direction to accept the documents, reconsider the appeal on its merits based on the new evidence, and pass a fresh order within three months.

Key Highlights of the October 2025 of GST:

Notification No. 18/2025– Central Tax

Ministry of Finance (Department of Revenue) through Notification No. 18/2025–Central Tax dated 31 October 2025 has issued the Central Goods and Services Tax (Fourth Amendment) Rules, 2025, effective from 1 November 2025.

- Inserted Rule 9A: GST registration granted automatically within 3 working days from the date of submission.
- Inserted Small Taxpayer Option (Rule 14A): For monthly tax liability \leq ₹2.5 lakh shall have an option to get registration electronically.
- Aadhaar Authentication: Mandatory for registration/withdrawal under Rule 14A.
- Withdrawal Process: Via FORM GST REG-32, after filing pending returns.
- Provides procedure for withdrawal from the option via FORM GST REG-32 with specified conditions.
- Amends or inserts new GST registration forms (REG-01 to REG-05, REG-32, REG-33) to facilitate compliance under Rule 14A.

GST Circular No. 253/10/2025 – GST dated 1st October, 2025: Withdrawal of circular No. 212/6/2024-GST dated 26th June, 2024 – reg

- Suppliers no longer need to provide evidence of compliance under Section 15(3)(b)(ii) of CGST Act, 2017.
- Ensures uniform implementation across GST field formations.
- Trade notices may be issued to publicize the withdrawal.
- Any implementation difficulties should be reported to the Board.

Advisory: Import of Goods in IMS (Oct 30th, 2025)

From Oct 2025, Bill of Entry (BoE) details for imports, including SEZ, will appear in the IMS for taxpayers to accept, reject, or keep pending. If no action is taken, it will be deemed accepted and reflected in draft GSTR-2B.

Bombay HC: West India Continental v. UOI and Ors. [W.P. No. 3000/2023]

[Interest is payable on tax collected without authority of law — retention amounts to unjust enrichment]

Background: The petitioner, West India Continental Oils Fats Pvt. Ltd., engaged in importing palm oil, had paid ₹2.62 crore as IGST on ocean freight under reverse charge, in terms of Notifications No. 8/2017 and 10/2017 – Integrated Tax (Rate). Subsequently, these notifications were declared unconstitutional by the Bombay High Court in the petitioner's own earlier case following the Supreme Court's ruling in Union of India v. Mohit Minerals Pvt. Ltd. The Court had directed refund of the IGST along with applicable interest. Pursuant to that, the petitioner sought refund of ₹2.62 crore along with interest of ₹71.31 lakh. Though the refund of tax was sanctioned, interest was denied by the Department vide order dated 31 January 2023.

Department Contention : The Department contended that the refund was granted within the prescribed 60 days under Sections 54 and 56 of the CGST Act, and therefore no interest was payable. It was further argued that the petitioner failed to file the refund application within eight weeks as directed by the earlier judgment and was thus not entitled to claim interest. The respondents maintained that the refund process was done through the GST portal and completed within time, making the claim of interest inadmissible and illegal.

Decision of the court: The Court rejected the Department's contention, holding that Sections 54 and 56 apply only to tax lawfully collected, and not to amounts collected without authority of law. Since the levy of IGST on ocean freight was held unconstitutional, the Department's retention of such amount was illegal and violated Article 265 of the Constitution. The Court emphasized that the Government could not unjustly enrich itself and was bound, under the doctrine of restitution, to compensate the petitioner by paying interest from the date of deposit till refund. The Court further observed that the petitioner had bona fide pursued the refund claim and could not be penalized for procedural delays. Accordingly, the Court directed the Department to sanction and pay interest of ₹71,31,225 within four weeks, holding that denial of interest would amount to a premium on unjust enrichment. The rule was made absolute, with no order as to costs.

Comment: The court underscores that the IGST collected under the reverse charge mechanism on ocean freight was "itself illegal and in fact unconstitutional," and that the petitioner "cannot therefore be deprived of its right to be paid interest on the amount of IGST refunded to the Petitioner who was, in the very first place, not at all liable to pay such tax." It rejected the notion that timely refunds under Section 54/56 negate interest, noting that withholding money collected without authority of law would amount to unjust enrichment. The court emphasizes constitutional mandate and restitution principles, stating that denying interest in such circumstances would constitute a premium on unjust enrichment.



EDITOR'S **COMMENTS**

This decision reinforced that the government cannot retain taxes collected without legal authority and must pay interest on refunds in such cases.

The ruling rightly protects taxpayers from unconstitutional tax levies.

The judgment also clarifies that statutory provisions like Section 54 of the CGST Act, which prescribe timelines for interest on refunds, apply only when the tax itself is lawfully paid. When the collection itself is illegal, the doctrine of restitution prevails, requiring payment of interest to prevent unjust enrichment by the revenue.

Supreme Court: The Commr. Trade and Tax Delhi v. M/s Shanti Kiran India Pvt. Ltd.: Civil Appeal No. 2042-2047/2015

The Apex court dismissed the Appeal filed the department and upheld the HC order directing grant of ITC to the registered purchasing dealers who has paid the tax to the registered selling dealer. The Court held that Section 9(1) of DVAT Act permits ITC to a registered dealer in respect of turnover of purchases occurring during the tax period where the purchase arises in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making sales which are liable to tax under Section 7 of the DVAT Act. Clause (g) of sub-section (2) of Section 9 made ITC benefit available to a purchasing dealer only when the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period.

Madras HC: RA.A. Builders and Developers v. Commr. of Commercial Tax and Ors.: W.P.(C) 1919 of 2025

The Court in this matter held that it is not in dispute that the notice under Section 73 of the GST Act was issued raising total demand of Rs. 5,11,145.80, whereas the order enhanced the demand to Rs. 38,60,604/-, which is prima facie against Section 75(7) of the Act. Identical issue has been decided in M/s Unique Computer & Communication Shop, holding that the amount demanded in the order shall not exceed the amount specified in the show cause notice. In view of violation of Section 75(7), the impugned orders cannot be sustained and was quashed. Matter remanded to respondent to provide opportunity to file response and thereafter pass fresh order in accordance with law

CESTAT Delhi : Rajasthan State Road Transport Corp. v. Commr. of CGST & Central Excise, Jaipur: Service Tax Appeal No. 52212 of 2018

Hon'ble CESTAT held that appellant is a state owned corporation, a statutory body it cannot having an intent to evade payment of tax. A statutory body established under Road Transport Act, 1950 with the objection of providing economic and adequate transportation facility to the public at large. It cannot have an intent to evade the payment of tax and had relied in the judgment of this Tribunal Chandigarh Bench in the case of M/s Chandigarh Transport Corporation Vs. CCE, Raipur in appellant's own case, it was held that 'Whereas the demands are relatable to the period 01.05.2006 to 30.06.2008'. Show cause notice has been issued on 21.01.2010, clearly beyond the limitation.

[Fiscal deficit at 52.6% of annual target till Oct](#)

[GST relief yet to translate into consumption boost, warns Dhananjay Sinha](#)

[GST registration to be suspended if you do not give bank account details at the earliest](#)

[Bills to replace GST compensation cess may be tabled in Lok Sabha on Monday](#)

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