THE GST INSIDER

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CA. SAMARPIT SHARMA

>>> PREFACE <<<

Welcome to our latest issue of **"The GST Insider"** meticulously compiled by **CA Samarpit Sharma**. As we navigate through the ever-evolving landscape of the Goods and Services Tax (GST), our aim is to bring you the most recent and pertinent updates, including circulars, notifications, press releases, relevant case laws, advance rulings, and other essential documents.

This Newsletter is designed to serve as a comprehensive resource for enhancing your understanding of GST regulations. Each edition is carefully structured to present complex legal content in an accessible and engaging format. Through the use of explanatory visuals and simplified explanations, we strive to make the material not only easier to comprehend but also more interesting to read.

It is important to note that the information provided herein is intended solely for knowledge sharing purposes and should not be utilized as a basis for any form of professional advice. For specific GST-related advice, we recommend consulting with qualified experts.

By integrating visual aids and reformulating the legal text into reader-friendly formats, we hope to enrich your learning experience and keep you updated on significant GST developments. Enjoy the read, and may it spark both your interest and understanding of GST.

Thank you for trusting "The GST Insider" as your go-to source for GST updates. We hope you find this edition both informative and easy to comprehend.

Thank You!

CA. SAMARPIT SHARMA

AUTHOR

> *Success doesn't come from what you do occasionally, it comes from what you do consistently*

NEWSLETTER

THE GST INSIDER

TOP CASE LAWS OF THE MONTH

LEGAL ANALYSIS OF GST PENALTIES UNDER SECTION 122 OF THE CGST ACT.
ALLAHABAD HIGH COURT

READ MORE

The High Court upheld that GST officers can proceed with penalties under Section 122 even if tax demands under Section 74 are dropped, affirming its independent operation and rejecting Patanjali's plea.

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READ MORE

The Punjab and Haryana High Court refused to quash the FIR against Vijay Kumar Jha, filed for alleged use of fake invoices and e-way bills, stating that the case involved cognizable offences warranting investigation.

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FIR QUASHING SOUGHT FOR ALLEGED USE OF FAKE INVOICES AND E-WAY BILLS TO DEFRAUD COMPLAINANT
PUNJAB AND HARYANA HIGH COURT

2025 JUNE

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	6	7
8	9	GSTR 7 (MAY 2025) GSTR 8 (MAY 2025)	GSTR 1 (MAY 2025)	12	GSTR 1/IFF (MAY 2025) GSTR 5 & 6 (MAY 2025)	14
15	16	17	18	19	GSTR 3B (MAY 2025)	21
22	23	24	PMT - 06 (MAY 2025)	26	27	GSTR 11 (MAY 2025)
29	30					

HIGHLIGHTS

A DETAILED LEGAL ANALYSIS OF GST PENALTY PROCEEDINGS UNDER SECTION 122 CGST ACT.

(M/S PATANJALI AYURVED LTD. VERSUS UNION OF INDIA AND OTHERS - ALLAHABAD HIGH COURT)

This case involves M/s Patanjali Ayurved Ltd., a well-known FMCG manufacturer, which approached the High Court by filing a writ petition under Article 226 of the Constitution of India. Patanjali challenged a Show Cause Notice dated 19th April 2024, issued by the Directorate General of GST Intelligence (DGGI), Ghaziabad, **which demanded a huge penalty of ₹2,735 crore under Section 122(1)(ii) and (vii) of the CGST Act.** These provisions relate to issuing invoices without supplying goods and availing Input Tax Credit (ITC) without actually receiving goods. Patanjali requested the court to cancel this notice, especially since the tax demand under Section 74 had already been dropped earlier by the tax authorities.

The facts of the case began when DGGI started an investigation against certain Delhi-based firms (M/s SG Agro India and M/s Magic Traders) due to suspicious GST activity like very high ITC claims without matching income tax records. This led the department to investigate several other companies, including Patanjali's three manufacturing units located in Haridwar (Uttarakhand), Sonipat (Haryana), and Ahmednagar (Maharashtra). The authorities alleged that Patanjali was involved in circular trading, which means raising invoices and claiming ITC without actual movement of goods. A common show cause notice was issued for all three units, covering the period from April 2018 to March 2022.

After Patanjali responded, the tax department conducted a detailed investigation and dropped all demands under Section 74 for the Uttarakhand unit through an adjudication order dated 10 January 2025. The department found that Patanjali had valid documentation for purchase and sale of goods, stock records matched, suppliers had affirmed transactions on affidavit, and tax was duly paid. The department accepted that no fraud or suppression of facts had occurred. However, for the other two units (Haryana and Maharashtra), though no tax was demanded, the department still wanted to impose penalties under Section 122 claiming that ITC was availed without receipt of goods and invoices were issued without actual supply.

Patanjali, represented by Senior Advocate Arvind Datar, argued that Section 122 is criminal in nature, meaning it deals with offences that need to go through proper criminal trial before a magistrate. He pointed out that terms like wilful suppression, aiding and abetting, and mens rea (guilty mind) are usually found in criminal laws. He emphasized that such penalties should not be imposed by tax officers in administrative proceedings but only after a court trial. Patanjali further argued that since Section 74 demand was dropped, penalty under Section 122 should also automatically fall, as both were linked to the same transaction. Datar referred to

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several Supreme Court cases and legal dictionaries to prove that words like "offence" and "penalty" are used in criminal law and must be treated accordingly.

On the other side, the Government, represented by Additional Solicitor General N. Venkatraman, defended the penalty under Section 122. He clarified that Section 122 imposes civil penalties, not criminal punishment. Civil penalties can be imposed directly by proper GST officers after following due process; they do not require criminal trial. He explained that Section 132 of the CGST Act deals with criminal offences and provides for jail or prosecution, while Section 122 is purely to penalize procedural and invoice-related violations, whether or not tax is ultimately payable. He said it was possible for a taxpayer to escape tax demand under Section 74 but still be penalized under Section 122 if he has violated the rules, such as availing fake ITC or issuing bogus invoices.

The Government also relied on Explanation 1(ii) to Section 74, which says that if proceedings under Section 74 are completed against the main person and tax is paid, then penalty proceedings under Section 122 and 125 may also be considered concluded. But in this case, since Patanjali had not paid any penalty and proceedings against the Haryana and Maharashtra units were not dropped under Section 74 (only not pursued), Section 122 proceedings were still valid.

After hearing both sides in detail, the High Court analyzed definitions of "offence" and "penalty" from legal dictionaries and previous court rulings. The Court observed that just because a section mentions "offence" or "penalty," it doesn't automatically become a criminal matter. Whether something is civil or criminal depends on the intent of the law. The Court also examined the CGST Act and found that Section 132 clearly deals with criminal offences and requires prosecution through courts, while Section 122 is meant to impose civil penalties by GST officers. It held that Section 122 is a preventive, administrative measure to curb GST fraud and ensure compliance, and not a criminal punishment. **It also clarified that GST officers are legally empowered to issue notices and adjudicate penalties under Section 122, even in cases where the tax demand under Section 74 has been dropped.**

In conclusion, the High Court rejected Patanjali's plea and allowed the penalty proceedings under Section 122 to continue. It upheld that the tax authorities have the power to impose penalties for issuing invoices without supply and availing ITC without receipt of goods, even if the actual tax demand is not sustainable. **The case sets an important precedent, confirming that Section 122 operates independently of Section 74.**

DELHI HIGH COURT UNCOVERS GST PETITION FRAUD INVOLVING FORGED SCNS AND FAKE IDENTITIES.

(M/S. S.R. ENTERPRISES, M/S. TRIX INDIA SALES CORPORATION, M/S. ROYAL ENTERPRISES, M/S. COMPACT ENTERPRISES V/S PR. COMMISSIONER OF GST - DELHI HIGH COURT)

This case involves four writ petitions that were filed before the Delhi High Court, each challenging the cancellation of GST registrations. The petitioners submitted copies of purported Show Cause Notices (SCNs) dated between September 2024 and February 2025, claiming that their GST registrations were cancelled without any reasons being provided. Relying on these SCNs, a previous bench of the Court had set aside the cancellation orders, referencing a precedent in Riddhi Siddhi Enterprises v. Commissioner of CGST. The Court had assumed that the SCNs filed with the writs were authentic.

However, things took a dramatic turn when the GST Department filed review petitions, revealing that the SCNs submitted by the petitioners were forged and manipulated. The real SCNs did, in fact, contain reasons for cancellation in the “remarks” column. When this information came to light in one of the writs (W.P. (C) 2461/2025), the Court took up all four related matters together.

On 20th May 2025, the Court issued multiple directions. First, it called upon the Unique Identification Authority of India (UIDAI) to verify the Aadhaar details of the petitioners’ proprietors. The names and Aadhaar numbers of four individuals—Mr. Satyapal, Mr. Rajan, Mr. Sahib Alam, and Mr. Aman—were provided, and UIDAI was directed to submit a sealed report verifying the Aadhaar details, including mobile numbers and addresses.

Simultaneously, the Oath Commissioner, Ms. Shilpa Verma, who had attested the affidavits in these cases, was directed to appear in person and submit her register for specified dates.

The Court also instructed the East Delhi GST Commissionerate to verify the authenticity of the petitioners' records and whether any SCNs were issued for past financial years, and to file a report on the next date.

On the following date, Inspector Neeraj Kumar from PS Shahdara appeared in court and filed a detailed status report. The report revealed disturbing facts. One of the petitioners, Mr. Aman, was found to be a domestic help living in Aaya Nagar, Delhi. His Aadhaar card, as submitted by the petitioner’s counsel, was found to be forged, as the photo on the Aadhaar card differed significantly from his actual photo. UIDAI confirmed this in a sealed report submitted to the Court.

Additionally, the bank records of one of the entities, M/s Compact Enterprises, revealed massive transactions totaling over ₹19.4 crore between January and April 2025 in a Yes Bank account. The firm had submitted a rent agreement for a shop in Shahdara, Delhi, signed with one Ms. Chandni Malu. Upon inquiry, her father, Mr. Laxmikant Malu, stated that Mr. Aman seldom visited the property. These statements were recorded by the police and submitted to the Court. The brother of Mr. Aman also confirmed that no such writ petition was filed by his

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brother on behalf of M/s Compact Enterprises.

In light of these shocking revelations, the Court directed the Station House Officer (SHO), PS Shahdara, to produce Mr. Aman in Court on 29th May 2025. The Court also heard from the Oath Commissioner, Ms. Shilpa Verma, who admitted that she could not recall whether the deponents physically appeared before her and confirmed that attestation usually happens based on original Aadhaar cards and identification by counsel. However, her register entries for the specified dates were submitted to the Court for review.

Further, the Counsel for the petitioners admitted that all fees were paid in cash, adding more suspicion to the case. The Court noted that the entire case appeared to be based on fictitious identities and forged documents, and that it was unclear if the petitioners even existed in reality. Yet, they managed to obtain favorable orders from the Court by using forged Aadhaar cards and affidavits.

The Court instructed that UIDAI data, which is normally protected under privacy laws, be shared with government legal representatives due to the gravity of the situation. These included counsels for the GST Department and the Standing Counsel (Criminal), GNCTD. They were directed to investigate further using the address and mobile number details from UIDAI.

RELIEF GRANTED ON DUPLICATED ITC DEMAND

(RAJESH TANWAR VERSUS COMMISSIONER, CGST, DELHI WEST. - DELHI HIGH COURT)

In this case, the petitioner, Rajesh Tanwar, filed a writ petition under Article 226 of the Constitution of India, challenging two Orders-in-Original dated 1st February 2025 and 4th February 2025 respectively, issued by the CGST West Commissionerate. These orders were based on two Show Cause Notices (SCNs) issued on 31st July 2024 by the Directorate General of GST Intelligence (DGGI), proposing recovery of wrongly availed Input Tax Credit (ITC) — one of ₹2,83,56,714 and another of ₹60,73,541. The petitioner contended that the amount of ₹60,73,541 shown in both notices was a duplicated entry, arising from transactions with M/s Fortune Graphics Limited. He also submitted that he had already deposited ₹1,16,47,808 during the investigation, which should be allowed as adjustment toward the mandatory pre-deposit under Section 107 of the CGST Act for the purpose of appeal.

The Court examined the impugned orders and found that the adjudicating authority had briefly acknowledged the petitioner's contention about duplication but still upheld the entire demand without resolving this specific issue. Moreover, the authority denied the request for cross-examination and inspection of the investigation file, citing time constraints, and rejected other contentions of the petitioner by aligning them with unrelated matters involving different parties. The Court noted that the amount of ₹60,73,541 appeared to have been considered twice, and therefore, requiring a separate pre-deposit for the same would not be justified.

Taking a practical view, the Court held that the petitioner should be allowed to file two appeals—one against each of the impugned orders. However, only the larger demand of ₹2.83 crore would attract the pre-deposit requirement. In respect of the second appeal, which was based on the allegedly duplicated amount of ₹60.73 lakh, no pre-deposit would be insisted upon. Furthermore, the Court directed that the amount already deposited during investigation shall be adjusted towards the required pre-deposit. The Court permitted the petitioner to file both appeals by 15th July 2025, and clarified that if the appeals are filed by that date, they shall not be dismissed as being barred by limitation. Recognizing that practical difficulties may arise in adjusting the deposited amount through the online GST appeal portal, the Court also allowed the petitioner to file the appeals physically if needed.

With these directions, the writ petition was disposed of. This judgment is significant as it not only recognizes the taxpayer's right to avoid duplicated financial liability but also provides a flexible and just approach in allowing pre-deposit adjustments and alternate filing modes where technical limitations may exist.

QUASHING OF FIR SOUGHT FOR ALLEGED USE OF FAKE INVOICES AND E-WAY BILLS TO CHEAT COMPLAINANT

(VIJAY KUMAR JHA VERSUS STATE OF HARYANA AND ANOTHER - PUNJAB AND HARYANA HIGH COURT)

In this case, the petitioner Rajesh Tanwar approached the Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which is similar to Section 482 of the CrPC, seeking the quashing of FIR No. 127 dated 11.04.2025 registered under Sections 420 (cheating), 468 (forgery), and 471 (use of forged document) of the Indian Penal Code. The FIR had been registered on the complaint of Rajender Kedia, proprietor of J.M. Steels, who alleged that he had made advance payments to the petitioner for supply of iron goods based on representations that the petitioner also supplied to major steel companies. While goods were initially delivered on time, in January 2022, the petitioner allegedly raised invoices and e-way bills for about 239 metric tons of goods, collected ₹2.5 crores, but failed to deliver the goods. This led to allegations that the petitioner had issued fake documents with the intent to cheat, causing a total loss of around ₹3.5 crores.

In his defense, the petitioner argued that he had long-standing business ties with the complainant and acted merely as a middleman, connecting the complainant to one Anil Rai, the promoter of Orbit Electromech India Pvt. Ltd.. He claimed that the complainant pressured him into facilitating the transactions with Anil Rai, and that both parties had agreed on terms. Later, the complainant allegedly dealt with Anil Rai directly, ignoring the petitioner's warnings. According to the petitioner, Anil Rai was the actual fraudster, and he had even filed a police case against Rai in Raipur. The petitioner insisted that the money had been transferred to Rai, and he himself had no intention to defraud the complainant. He claimed that the FIR was a misuse of the legal process, especially after a previous complaint filed by the complainant was closed by the police in 2023, and that the current FIR was registered mechanically despite the earlier closure. He also argued that the dispute was civil in nature, being a failed business deal, and did not constitute a criminal offence.

On the other hand, counsel for the State and the complainant opposed the petition strongly. They argued that serious allegations had been made, and the case required thorough investigation, which was still at a very early stage. They pointed out that the petitioner had not yet joined the investigation and that this petition was an attempt to block the process.

The Court, after hearing both sides, held that it is well-established law that courts should not interfere in criminal investigations at the FIR stage unless there are exceptional circumstances. Citing the Supreme Court's rulings in cases such as Neeharika Infrastructure v. State of Maharashtra, Somjeet Mallick v. State of Jharkhand, and Union of India v. Prakash P. Hinduja, the Court

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emphasized that unless there is a clear abuse of process or no cognizable offence is made out, the police must be allowed to investigate. The Court observed that even if some facts appear doubtful, the FIR cannot be quashed at this stage, especially when investigation is still ongoing. Since prima facie, there were allegations of cheating, and the transaction involved forged documents and e-way bills, it would be premature to conclude that no offence was committed. The Court also noted that there was a three-year delay in lodging the FIR, but such issues must be examined during investigation.

Therefore, the Court dismissed the petition, holding that no grounds had been made out for quashing the FIR at this stage. However, it clarified that this order does not express any opinion on the merits of the case and that if, upon completion of the investigation, no offence is found to have been committed, the investigating agency may file a closure report under Section 173 of the CrPC.

COURT DECLINES QUASHING OF FIR IN ALLEGED ₹3.5 CRORE BUSINESS FRAUD, CITES NEED FOR INVESTIGATION.

(VIJAY KUMAR JHA VERSUS STATE OF HARYANA AND ANOTHER - PUNJAB AND HARYANA HIGH COURT)

In this case, the petitioner approached the court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), seeking quashing of FIR No. 127 dated 11.04.2025, registered under Sections 420, 468, and 471 of the IPC at PS Urban Estate, Hisar. The FIR was lodged by Rajender Kedia, proprietor of J.M. Steels, who alleged that the petitioner, Director of Nirav Metals Pvt. Ltd., had induced him to make advance payments for iron goods by showing false credibility and initially supplying goods timely. Later, in January 2022, the petitioner allegedly issued seven invoices and E-Way bills, covering 238.930 metric tons of goods, and collected ₹2.5 crores without delivering the said goods. The complainant accused the petitioner of issuing fake invoices and E-Way bills with a dishonest intention, causing a total loss of ₹3.5 crores.

In defense, the petitioner claimed false implication, arguing that he was merely a connecting intermediary in a business arrangement between the complainant and a third party, Anil Rai of Orbit Electromech India Pvt. Ltd. He contended that the actual fraud was committed by Anil Rai, and that he himself had filed an FIR against Rai in February 2022. The petitioner emphasized that all funds were passed on to Rai, and the business was conducted transparently with written terms accepted by both parties. He further pointed out that an earlier complaint by the same complainant had been closed by police after inquiry, and that the current FIR was filed as a pressure tactic after the complainant failed to succeed in his claim before the NCLT. He argued that this was a civil dispute disguised as a criminal complaint.

The Court, however, held that since the investigation was at an early stage and the petitioner had not yet joined it, quashing the FIR would be premature. It relied on principles laid down in Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and other precedents, emphasizing that courts should not interfere in criminal investigations at the initial stage unless exceptional circumstances exist. The Court reiterated that at this juncture, it is not the function of the judiciary to determine the veracity of allegations or evaluate evidence, but to allow the investigating agency to complete its inquiry. Citing the delay in filing the FIR and the disputed facts, the Court concluded that no case for quashing was made out and dismissed the petition accordingly. However, it clarified that this order would not affect the merits of the case or the petitioner's rights during trial or investigation.

CHALLENGE TO BELATED SCN AND ORDER UNDER ULTRA VIRES N/N 56/2023 – VIOLATION OF NATURAL JUSTICE

(ANJU TUTEJA VERSUS COMMISSIONER OF STATE GOODS AND SERVICE TAX DELHI & ORS - DELHI HIGH COURT)

In this case, the Petitioner approached the Delhi High Court under Articles 226 and 227 of the Constitution of India, seeking to quash a Show Cause Notice (SCN) dated 29th May 2024 and the final order dated 10th August 2024 issued by the Sales Tax Officer (Respondent No. 4). The petitioner also challenged the constitutional validity of Notification No. 56/2023 – Central Tax, dated 28th December 2023.

The main contention was that the SCN was issued beyond the time limits prescribed by law, and the notification used to justify the extension of time was itself ultra vires (beyond legal authority). The petitioner claimed that Notification No. 56/2023 extended the limitation period improperly—without valid recommendation from the GST Council as mandated under Section 168A of the CGST Act.

This issue had already been raised in multiple High Courts across India. The Delhi High Court was hearing a batch of similar petitions, the lead one being DJST Traders Pvt. Ltd. vs. Union of India. Some High Courts like Patna had upheld the notification's validity, while others like Guwahati had struck it down. The Telangana High Court had also expressed doubts on the legality of the notification. The matter eventually reached the Supreme Court through SLP No. 4240/2025, where the apex court acknowledged the divergent views of different High Courts and issued notice to decide whether such extensions were legally valid under Section 168A of the CGST Act.

Meanwhile, other High Courts such as Punjab & Haryana and Bombay had decided not to delve into the validity of the notification, choosing instead to await the Supreme Court's verdict. The Punjab & Haryana High Court also passed interim orders protecting the petitioners until the Supreme Court's decision.

Returning to the present case, the High Court observed that although the Petitioner was served the SCN, no reply was filed, and the impugned order was passed ex parte (without hearing the Petitioner). This was evident from the order, which noted that no clarification or adjournment was sought by the Petitioner, and the final decision was made based on the best judgment of the officer.

Considering the principles of natural justice and the pending constitutional challenge in the Supreme Court, the Delhi High Court decided that the Petitioner should be given a fair opportunity to respond. Therefore, the impugned order was set aside, and the matter was remanded back to the adjudicating authority.

The Petitioner was granted time until 10th July 2025 to file a reply to the SCN. The Adjudicating Authority must also provide the Petitioner a personal hearing, to be informed via the given mobile number and email. Any new order passed will depend on the reply and submissions

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made during the hearing. However, the Court clarified that this remand will be subject to the final decision of the Supreme Court in the pending SLP regarding the notification's legality.

The Court also directed that access to the GST portal be restored so the Petitioner can file a reply and view documents.

In conclusion, the High Court disposed of the writ petition while leaving the question of notification validity open and protecting the Petitioner's right to a fair hearing.

COURT UPHOLDS ITC DENIAL, CONFIRMS JURISDICTION, AND DIRECTS STATUTORY APPEAL

(M/S GOYAL TRADING CO VERSUS UNION OF INDIA AND OTHERS - MADHYA PRADESH HIGH COURT)

In a batch of writ petitions involving identical issues, the Madhya Pradesh High Court delivered a common judgment, taking facts primarily from W.P. No. 15428 of 2025. The petitioner challenged the Order-in-Original dated 19.12.2024, passed by the Additional Commissioner, CGST & Central Excise, Bhopal, which related to recovery of Input Tax Credit (ITC), interest, and penalty for the period 2017–18 to 2018–19.

The order was a result of an investigation conducted by DGGI Bhopal against M/s R.A. Enterprises for allegedly availing and passing on fake ITC worth over ₹1.39 crore. Following this, 18 show cause notices were issued under Sections 74 and 122(1)(ii) of the CGST Act read with Section 20 of the IGST Act. After assessment proceedings, the impugned final order was passed.

Instead of appealing under Section 107 of the CGST Act, the petitioner approached the High Court under Article 226, claiming gross violation of natural justice, particularly denial of cross-examination of witnesses and improper consideration of submissions. The petitioner also objected to the issuance of a common SCN for multiple financial years. In support, they cited several high court and Supreme Court decisions, asserting that a writ was maintainable in such cases.

The respondents argued that the writ petition was not maintainable due to the availability of a statutory appellate remedy, and the petitioner was merely trying to avoid the mandatory 10% pre-deposit condition. Citing precedents such as Greatship (India) Ltd. and a recent Division Bench ruling in Shrigovind Niranjan, they maintained that such matters must be taken up through the designated appellate route.

The Court first addressed the territorial jurisdiction issue, noting that since the petitioner's principal place of business and GST registration was at Indore and the search and relevant transactions occurred in Indore, jurisdiction could not be denied merely because the order was passed from Bhopal. The Bench held that under Article 226(2), even a fraction of cause of action arising in the territory is sufficient to confer jurisdiction.

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COURT UPHOLDS ITC DENIAL, CONFIRMS JURISDICTION, AND DIRECTS STATUTORY APPEAL

(M/S GOYAL TRADING CO VERSUS UNION OF INDIA AND OTHERS - MADHYA PRADESH HIGH COURT)

On the maintainability of the writ petition, the Court acknowledged that while writ jurisdiction could be exercised despite an alternative remedy, it should be reserved for cases involving: lack of jurisdiction, constitutional challenges, or egregious violations of natural justice. In this case, the petitioner's claim of natural justice violation rested only on the denial of cross-examination, without showing when such a request was made or if any prejudice was actually caused. The Court held that such issues were best examined by the appellate authority, which had the power to assess the impact and relevance of witness depositions.

Referring to the Supreme Court's decision in Greatship (India) Ltd., the Court emphasized that even if writ petitions are technically maintainable, judicial prudence demands non-interference when statutory remedies are available and adequate. The Court expressed that there was no valid reason for bypassing the appellate route, and no exceptional circumstances existed to justify intervention under Article 226.

In light of these observations, the High Court dismissed all the writ petitions, granting liberty to the petitioners to avail the appropriate statutory appellate remedy. The Court directed that if the appeal was filed within four weeks, the appellate authority shall entertain it without raising limitation issues, though other statutory conditions such as pre-deposit must be complied with.

TAXPAYER SECURES GST REFUND; DEPARTMENT DIRECTED TO REIMBURSE WITH INTEREST UNDER RULES 89 AND 90

(MATRIX CELLULAR (INTERNATIONAL) SERVICES PVT LTD. VERSUS THE PRINCIPAL COMMISSIONER STATE TAX DELHI - DELHI HIGH COURT)

The petitioner filed a writ under Article 226 of the Constitution of India seeking a refund of ₹3,39,79,974, along with applicable interest, for an amount mistakenly deposited in the Electronic Cash Ledger (ECL) between August 2017 and January 2018 under its Input Service Distributor (ISD) registration. The refund application was filed on 12th April 2018. The petitioner contended that the deposit was made under a mistaken belief that cash, and not just Input Tax Credit (ITC), could be distributed through the ISD registration.

The department issued a deficiency memo (RFD-03) on 3rd March 2020. Believing the issue had been resolved, the petitioner withdrew the refund application on 16th March 2020 but received no refund despite repeated follow-ups. The first written follow-up was only made on 29th August 2023, citing disruption due to the Covid-19 pandemic.

The GST Department opposed the petition by asserting that refund applications required physical submission of documents, and the petitioner had failed to comply with procedural formalities. However, the department, in its counter affidavit, expressed willingness to re-credit the amount to the ECL using FORM PMT-03, even though the refund application process was not formally completed. Still, the department opposed any interest payment, stating that the refund process was never properly completed.

The Court considered whether the petitioner was entitled to (i) a refund and (ii) interest on the amount. It noted that under Rule 90 of the CGST Rules, a refund application must be scrutinized within 15 days, with a deficiency memo issued promptly if required. The Court found that the department did not act within this timeline. The deficiency memo was issued almost two years after the refund application was filed. Moreover, the department failed to process the refund even after issuing the deficiency memo and accepting that the money was wrongly deposited.

Although the petitioner withdrew the refund application in 2020 and only resumed written follow-ups in 2023, the Court noted that the refund ought to have been processed, and the department cannot retain the petitioner's money indefinitely.

Citing the decision in Bansal International v. Commissioner of DGST, the Court held that under Section 56 of the CGST Act, interest at 6% per annum is payable if the refund is not issued within 60 days of filing a valid application. The enhanced 9% rate under the proviso applies only in cases where refund entitlement is upheld in appellate or judicial proceedings.

The Court concluded that the petitioner is entitled to the refund of ₹3,39,79,974 and interest at 6% per annum for the following periods:

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- 11th June 2018 to 2nd March 2020 (post 60 days from the original refund application date),
- 29th August 2023 to 20th May 2025 (the resumed follow-up period).

No interest was granted for the intervening period (3rd March 2020 to 28th August 2023) due to the withdrawal of the refund application by the petitioner.

The department was directed to credit the refund along with interest to the petitioner's bank account by 30th May 2025. Failing that, interest at 18% per annum would apply from 1st June 2025 onwards.

The writ petition and pending applications were accordingly disposed of.

SUPPLIER'S TAX DEFAULT BARS ITC CLAIM UNDER SECTION 16(2)(C) DUE TO STATUTORY NON-COMPLIANCE

(TRENDSHIPS ONLINE SERVICES PRIVATE LIMITED VERSUS COMMISSIONER COMMERCIAL TAXES U.P. AT LUCKNOW AND ANOTHER - ALLAHABAD HIGH COURT)

The petitioner, a registered dealer under the U.P. GST Act, 2017 engaged in soil testing services, claimed input tax credit (ITC) on purchases of filter paper from a registered supplier, Shree Radhey International, during March–April 2018. All payments were made via banking channels, and ITC was claimed in the GSTR-3B return. However, a show-cause notice was issued under Section 74(1) of the Act on 06.09.2021, followed by an adverse order demanding tax, interest, and penalty, which was upheld in appeal. The petitioner approached the High Court under Article 226.

The petitioner contended that the transaction was genuine, tax invoices were in place, goods were received without third-party transportation, and payments were made. The supplier's registration was cancelled only in 2019—well after the transaction. It was argued that the supplier's failure to deposit tax cannot be grounds to deny ITC to the purchaser.

The State, relying on Section 16(2)(c) of the CGST Act, 2017, asserted that ITC is conditionally available only if tax is actually paid to the government by the supplier. The petitioner allegedly failed to prove that the supplier deposited the tax. The Department cited several rulings, including the Supreme Court's judgment in Ecom Gill Coffee Trading Pvt. Ltd., holding that the onus lies on the purchaser to prove the genuineness of the transaction and physical movement of goods.

The Court analyzed Section 16(2)(c) in detail and reiterated that ITC eligibility is contingent upon actual tax payment by the supplier. It emphasized that the provision is unambiguous, and mere possession of tax invoices or evidence of payment to the supplier is insufficient. The Court distinguished precedents relied upon by the petitioner, noting that they did not adequately address the mandatory condition under Section 16(2)(c).

The Court also highlighted that Section 74 allows the department to recover wrongly availed ITC in cases of fraud or misstatement. Since the petitioner failed to discharge the burden of proof regarding the actual deposit of tax by the supplier, and considering the statutory scheme designed to curb fraudulent ITC claims, no interference was warranted in the adjudication and appellate orders.

The writ petition was dismissed. ITC was rightly denied due to non-compliance with Section 16(2)(c) as the supplier failed to deposit tax. Interim relief stood vacated.

TAXPAYER PERMITTED TO FILE CONSOLIDATED APPEAL UNDER SECTION 107 CHALLENGING ITC DEMAND.

(METALAX INDUSTRIES VERSUS ADDITIONAL COMMISSIONER AND ANR. - DELHI HIGH COURT)

The petitioner, Metalax Industries, filed the present writ petition under Article 226 of the Constitution of India, challenging the Order-in-Original No. 10/CGST/ADC(SKJ)/2024-2025 dated 3rd February 2025 and the consequent Form GST DRC-07 dated 5th February 2025, issued by the Additional Commissioner, Central GST, Delhi West Commissionerate. These orders relate to the alleged wrongful availment of Input Tax Credit (ITC) based on issuance of invoices without actual supply of goods (commonly termed "goodless invoices").

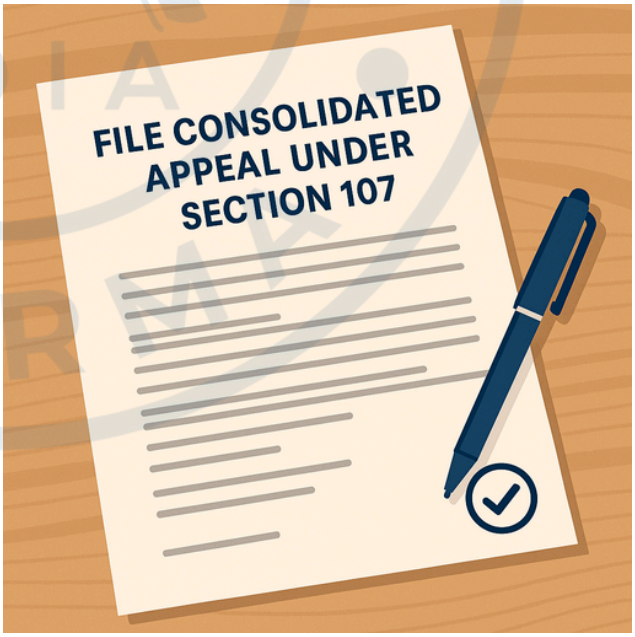
The proceedings originated from a search conducted at the petitioner's premises on 29th December 2020, which resulted in the arrest of the proprietor on 30th December 2020. Subsequently, a Show Cause Notice (SCN) dated 31st August 2022 was issued by DGGI Gurugram for the period 2017–18 to 2019–20, alleging fraudulent ITC claims. The petitioner responded to the SCN, but the adjudicating authority passed an adverse order confirming a tax demand of ₹6,35,39,210, and issued Form DRC-07.

Although Form DRC-07 mentions only the financial year 2017–18, the Department clarified that it applies to the entire period from July 2017 to March 2020, and the earlier year was cited only to indicate the action was within the limitation period.

Petitioner's counsel, Ms. Vibhooti Malhotra, raised concerns that since the SCN covered three financial years, the petitioner might be forced to file three separate appeals. The Court, however, held that since the SCN and order are common and consolidated, the petitioner is permitted to file one consolidated appeal under Section 107 of the CGST Act, 2017.

The Court granted the petitioner time till 10th July 2025 to file the appeal along with the required pre-deposit, directing that the appeal must be heard on merits and not rejected on limitation grounds. It was also clarified that any issue related to the alleged impropriety in the issuance of Form DRC-07 may be raised before the appellate authority.

The writ petition was disposed of with liberty to file a consolidated appeal. All pending applications were also disposed of.



GST GOODS TRANSPORT CASE HIGHLIGHTS KEY LAPSES IN VEHICLE DETENTION AND DOCUMENTATION PROCEDURES.

(MR LUB INDUSTRIES & ANR. VERSUS STATE OF GUJARAT & ORS. - GUJARAT HIGH COURT)

In the present case, the petitioners, represented by Advocate Mr. Nadeem B. Mansuri, challenged the legality of the confiscation proceedings initiated under Section 130 of the Gujarat Goods and Services Tax Act, 2017. The matter was heard by the Court, with Assistant Government Pleader Ms. Shrunjal Shah appearing for the respondent on advance notice. The petitioners contested the order passed in Form GST MOV-11, arguing that the Appellate Authority cited reasons beyond those stated in the original confiscation order.

The petitioner's counsel pointed out that the only allegation made in the show-cause notice (Form GST MOV-10) and in the confiscation order (Form GST MOV-11) was the non-production of the invoice and e-way bill at the time of detention by the police on 30th April 2022.

However, it was highlighted that the respondent authorities issued Form GST MOV-1 and MOV-2 two months later, in June 2022, significantly after the initial detention. The vehicle and goods had by then already been taken into custody and stored at GIDC, Matar, Kheda.

It was contended that invoking Section 130 of the GST Act—which deals with confiscation due to intent to evade tax—was inappropriate in this context since the only allegation was the absence of documents. Such a situation, according to the petitioner, falls squarely within the scope of Section 129, which pertains to goods detained during transit for procedural lapses. Furthermore, the petitioner argued that even Section 129 could not have been invoked since the goods were no longer in transit by the time the MOV-1 form was issued.

Upon consideration of these submissions, the Court issued notice to the respondents, returnable on 7th May 2025, and allowed direct service of the notice through email.

ASSESSMENT APPEAL DISMISSED: DUE PROCESS UPHELD, FURTHER APPEAL ALLOWED ON 25% TAX PRE-DEPOSIT.

(M/S. SK BROTHERS, REP BY ITS PARTNER, ASHWIN BAGDI VERSUS THE DEPUTY STATE TAX OFFICER, CHENNAI - MADRAS HIGH COURT)

The present writ petition was filed by the petitioner challenging the assessment order dated 29.04.2024 passed by the respondent under the GST laws. The case was taken up for final hearing at the admission stage itself, with the Government Advocate Ms. P. Selvi appearing on behalf of the respondent and consent being recorded from both parties. The primary grievance raised by the petitioner was that the assessment order confirmed the demand of tax, interest, and penalty solely on the basis that the values of credit notes and their corresponding Input Tax Credit (ITC) reversals were not reflected in the petitioner's GSTR-9 annual return. The petitioner's counsel contended that detailed replies had already been filed in response to both the ASMT notice dated 11.05.2023 and the show cause notice dated 27.06.2023, on 25.07.2023 and 10.08.2023 respectively. Despite this, the assessing officer passed the impugned assessment order confirming the liability, which the petitioner claimed was incorrect and legally unsustainable.

In response, the learned Government Advocate argued that the respondent authority had complied with the due process of law and had provided ample opportunity to the petitioner before passing the assessment order. The show cause notices were duly served, replies were considered, and a personal hearing was granted. Therefore, the petitioner could not claim any violation of the principles of natural justice. It was further submitted that if the petitioner was aggrieved by the assessment order, the appropriate remedy was to file an appeal before the Appellate Authority under the CGST Act.

Faced with the expiration of the statutory limitation period for filing the appeal, the petitioner's counsel requested the Court to condone the delay and sought permission to file the appeal. It was stated that the petitioner was ready and willing to deposit 25% of the disputed tax amount—comprising 10% as the mandatory statutory pre-deposit for appeal and an additional 15% to justify condonation of delay by the appellate forum. The Government Advocate did not object to this proposal and left it to the discretion of the Court.

Upon hearing both parties and perusing the records, the Court noted that the respondent had indeed followed the procedural requirements, including issuance of notices, acceptance of replies, and granting a hearing. As such, there was no violation of natural justice. However, given the petitioner's submission regarding the missed limitation period and their expressed willingness to deposit the requisite 25% of the disputed amount, the Court exercised its discretion in favor of allowing the petitioner to pursue the statutory appellate remedy.

Consequently, the Court dismissed the writ petition, holding that direct judicial

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interference was not warranted in light of the alternate statutory remedy. However, the Court granted liberty to the petitioner to file an appeal against the assessment order dated 29.04.2024 before the competent Appellate Authority within 30 days from receipt of a copy of this order, provided the petitioner deposits 25% of the disputed tax amount—10% for pre-deposit and 15% towards delay condonation. The Court also directed the Appellate Authority to consider the appeal on its own merits, without rejecting it on grounds of limitation, and to afford the petitioner due opportunity to be heard.
All connected miscellaneous petitions were closed, and no costs were imposed.

GST LEVIED ON RWA CORPUS AND MAINTENANCE CHARGES, WITH EXEMPTION LIMITS AND ITC ELIGIBILITY.

(IN RE: M/S. CRIMSON DAWN APARTMENT OWNERS WELFARE ASSOCIATION - AAR, TAMILNADU)

>>> FACTS OF THE CASE

The matter pertains to a Resident Welfare Association (RWA) responsible for maintaining a residential housing complex, including providing services like security, housekeeping, facility upkeep, and administration. In the course of its functions, the RWA collected regular monthly maintenance charges from its members, along with a one-time corpus fund contribution. The corpus fund was meant to serve as a reserve for future repairs, capital works, or emergency expenditures, and was collected at the time of allotment or possession. The RWA argued that this corpus amount was a capital receipt and not a consideration for any service rendered. Moreover, it claimed exemption from GST on monthly maintenance charges, invoking Entry No. 77 of Notification No. 12/2017–Central Tax (Rate) dated 28.06.2017, which exempts maintenance charges up to ₹7,500 per month per member. However, the department took a contrary view and issued a notice demanding GST on both maintenance charges and corpus contributions, treating them as consideration for supply of services. The matter was brought before the Authority for Advance Ruling (AAR) to determine the correct GST implications.

>>> FINDINGS OF THE CASE

The AAR examined the nature and purpose of the collections in question and emphasized that under Section 2(31) of the CGST Act, any payment made in respect of, in response to, or for the inducement of the supply of goods or services qualifies as "consideration." It noted that although the term "corpus" may imply a capital nature, in practice, the fund was used for maintenance, security, or other services rendered by the RWA to its members. The distinction between corpus and maintenance contributions was found to be not substantive, as both were intended to support the continuous provision of services. As per the AAR, even if the fund is intended for future use or is non-refundable, it forms part of the consideration if it is utilized for service provision. With respect to monthly maintenance charges, the AAR reiterated that the ₹7,500 exemption limit is absolute—if the charge exceeds this threshold, GST is payable on the entire amount, not merely on the portion exceeding ₹7,500. Regarding input tax credit, it was acknowledged that the RWA was providing taxable services and was therefore eligible to avail ITC on inward supplies used for these purposes, provided other conditions under Section 16 of the CGST Act were fulfilled.

>>> RULING

The AAR ruled that both monthly maintenance charges and corpus fund collections are subject to GST if they are used for providing services to members, regardless of how the funds are labeled or whether they are refundable. The

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exemption under Notification No. 12/2017 – CT (Rate) is applicable only if the monthly charge per member does not exceed ₹7,500. If even a single rupee more is collected, GST becomes applicable on the entire sum collected from that member. As such, RWAs must carefully monitor their billing structures to remain within the exemption threshold. Additionally, corpus fund contributions collected with the objective of creating a reserve for future service provision, even if received as a lump sum, are also taxable under GST. However, the RWA is entitled to claim Input Tax Credit (ITC) on goods and services procured for use in delivering these services, subject to the satisfaction of conditions under the GST law. The ruling clarified the principle that substance prevails over form and emphasized that the functional use of funds determines taxability.

ITC DENIAL SET ASIDE: BUYER NOT LIABLE FOR SELLER'S NON-COMPLIANCE WHEN TAX PAID VIA BANKING CHANNELS.

(M/S R.T. INFOTECH VERSUS ADDITIONAL COMMISSIONER GRADE 2 - ALLAHABAD HIGH COURT)

The petitioner, a registered GST supplier, approached the High Court to challenge two orders—one passed by the Deputy Commissioner, State Tax, Meerut (dated 22.10.2021), and the other by the Additional Commissioner (Appeals) (dated 24.06.2022)—both pertaining to the tax period from July 2017 to March 2018. The petitioner had purchased mobile recharge coupons from M/s Bharti Airtel Ltd. against seven tax invoices totaling ₹1.58 crore and claimed an Input Tax Credit (ITC) of ₹28.52 lakhs on the same. The GST component of ₹14.26 lakhs each for CGST and SGST was paid via RTGS banking channels. However, discrepancies were later pointed out through a notice under ASMT-10. Despite providing clarifications and proofs of payment, a show cause notice under Section 73 of the CGST Act was issued, alleging that ITC had been wrongly claimed under Section 16(2)(c), since the tax had not been deposited by the supplier.

The petitioner's defense emphasized that it had no control over the seller's statutory obligations to file returns or deposit tax, and therefore should not suffer for the supplier's non-compliance. It was submitted that the seller's defaults had already been taken up by the department, as evidenced by a departmental communication dated 05.09.2022. The petitioner relied on the Supreme Court's ruling in Assistant Commissioner vs. Suncraft Energy Pvt. Ltd., which had held that action must be first taken against the supplier before denying the purchaser's ITC. Similarly, the Madras High Court's decision in D.Y. Beathel Enterprises vs. STO was cited, which ruled that penalizing buyers without parallel proceedings against defaulting suppliers was legally untenable.

The High Court found merit in the petitioner's arguments, holding that the purchaser had made payment against genuine tax invoices through banking channels and had fulfilled its obligations. It noted that the authorities had not sufficiently considered the evidence presented, particularly the fact that action had already been initiated against the seller. The Court reiterated that a buyer cannot be held accountable for a supplier's failure to file returns or deposit tax with the government.

Consequently, the High Court quashed both the assessment and appellate orders and allowed the writ petition. The matter was remanded back to the concerned tax authority for fresh adjudication. The authority was directed to pass a reasoned and speaking order after hearing all stakeholders within two months from the date of receiving the certified copy of the court order. The judgment upholds the principle that genuine and diligent taxpayers must not be penalized for non-compliance committed by their vendors.

MORE INFORMATION ABOUT US

The GST Insider: Stay Informed, Stay Compliant

As we conclude this edition of **The GST Insider**, we hope the insights and updates have provided valuable knowledge to our readers. Our commitment remains steadfast in delivering timely, accurate, and relevant information to help you navigate the complexities of the GST landscape. We have explored significant developments and shared expert opinions to help you stay compliant and maximize benefits.

We are grateful for your continued support and engagement. Your feedback and suggestions are invaluable as we strive to make "The GST Insider" a trusted resource for all your GST-related needs.

Until the next issue, stay informed, stay compliant, and keep thriving in your business endeavors.

Email us for a copy and for more info!

CONTACT US :

Phone Number
+91-9718668812

Email Address
casamarpitsharma@gmail.com