

Indirect Tax Digest

Legislative Updates: August 2026

Goods and Service Tax

JUDICIAL UPDATES

M/s. Goodluck India Limited & Anr. v. Union of India, 2026 (8) TMI 719- Supreme Court

Issue:

- Whether the omission of Rule 96(10) of the CGST Rules, 2017 by Notification No. 20/2024-Central Tax with effect from 08.10.2024, without any saving clause would apply to pending refund proceedings.
- Whether exporters can claim refund of IGST paid on exports in respect of pending proceedings without being subjected to the restrictions contained in the erstwhile Rule 96(10) of the CGST Rules, 2017.

Ratio:

- The Hon'ble Supreme Court held that the omission of Rule 96(10) of the CGST Rules, 2017 without incorporating any saving clause would operate in respect of pending proceedings as well.
- Relying upon the Constitution Bench judgment in *Kolhapur Canesugar Works Ltd. v. Union of India, 2000 (2) TMI 823*, the Hon'ble Court reiterated that upon omission of a statutory provision, the omitted provision stands obliterated from the statute book unless a saving clause is specifically provided for continuation of pending proceedings.
- Since Rule 96(10) was omitted without any saving clause, pending refund proceedings could not continue to be governed by the restrictions contained in the omitted provision. Accordingly, exporters could not be denied IGST refund solely by relying upon the erstwhile Rule 96(10).
- The Hon'ble Court further observed that the recommendations of the GST Council regarding prospective operation of the omission was advisory in nature and could not override the legal effect of the Notification.
- Accordingly, the Hon'ble Supreme Court upheld the relief granted by the High Courts to the exporters and dismissed the appeals preferred by the Revenue.

M/s. Manoj Bansal v. Deputy Directorate, Directorate of Goods and Services, Gurugram, 2026 (8) TMI 145- Punjab and Haryana High Court

Issue:

- Whether a Director of a company can be prosecuted individually under Section 132 of the CGST Act, 2017 for fraudulent availment of ITC when the company has not been arraigned as an accused in the criminal complaint.
- Whether the vicarious criminal liability can be fastened upon a Director under Section 137 of the CGST Act, 2017 in the absence of prosecution of the company as the principal offender.

Ratio:

- The Hon'ble Punjab and Haryana High Court held that prosecution of a Director under Section 137 of the CGST Act, 2017, on the basis of vicarious criminal liability is not maintainable unless the company itself is arraigned as an accused.
- The Hon'ble Court observed that under Section 16 of the CGST Act, 2017, ITC can be availed only by a registered person. In the present case, the alleged fraudulent ITC was availed by the company, which was the registered taxable person, and not by the petitioner in his individual capacity.
- Relying upon the principles laid down by the Hon'ble Supreme Court in *Aneeta Hada v. Godfather Travels & Tours Pvt. Ltd.*, 2012 (5) TMI 83- Supreme Court, *Anil Gupta v. Star India Pvt. Ltd.*, *Himanshu v. B. Shivamurthy*, 2019 (3) TMI 294- Supreme Court *Sharad Kumar Sanghi v. Sangita Rane*, 2015 (2) TMI 1117- Supreme Court and *Dayle De Souza v. Union of India*, 2021 (11) TMI 67- Supreme Court, the Hon'ble Court held that prosecution of directors or officers on the basis of vicarious liability requires the company, being the principal offender to be prosecuted.
- The Hon'ble Court rejected the Revenue's contention that the petitioner could be independently prosecuted as the alleged mastermind of the fraud.
- Accordingly, the Hon'ble Court quashed the criminal complaint and all consequential proceedings against the petitioner, while leaving it open to the department to initiate fresh proceedings in accordance with law.

M/s. Skoda Auto v. The Additional Commissioner CGST, Pune-I & Ors, Writ Petition No. 9802 of 2024 dated 03.08.2026- Bombay High Court

Issue:

- Whether the secondment of employees by overseas group companies to the Indian company amounts to a supply of manpower services liable to IGST.
- Whether the Revenue can rely on the Supreme Court's decision in *Northern Operating Systems Pvt. Ltd. v. CCE & ST*, 2022 (5) TMI 967- Supreme Court without considering the specific facts and terms of the employee secondment arrangement.

Ratio:

- The Hon'ble Bombay High Court issued notice and granted an interim stay on the adjudication order confirming an IGST demand of approximately Rs. 110.64 crore against the assessee in respect of employee secondment.
- The assessee contended that the Revenue had mechanically applied the Supreme Court's decision in *Northern Operating Systems*, 2022 (5) TMI 967- Supreme Court without properly considering the differences between the arrangement in the present case and the arrangement examined by the Hon'ble Supreme Court.

- The assessee had also submitted a detailed comparison of the two arrangements before the adjudicating authority and relied upon the relevant CBIC Circular, which it claimed had not been properly considered.
- The Hon'ble Court while issuing notice, granted interim protection to the assessee against the Impugned adjudication order.
- The matter is significant as it highlights that the taxability of employee secondment arrangements may depend upon the specific terms and actual nature of the arrangement, and the Northern Operating Systems judgment cannot necessarily be applied mechanically without examining the facts of each case.

M/s. Sri Surendra Sharma v. The State of Assam, 2026 (8) TMI 845- Gauhati High Court

Issue:

- Whether the power to seal premises under Section 67(4) of the CGST/AGST Act, 2017 can be exercised after completion of search and seizure proceedings merely because the investigation is still pending.
- Whether the Department can use the taxpayer's premises to keep seized goods, books, documents or other items during the course of investigation.

Ratio:

- The Hon'ble Gauhati High Court held that the power to seal premises under Section 67(4) relates to the search and seizure power under Section 67(2) and can be used only when access to the premises or any access is denied.
- The Hon'ble Court held that once the search and seizure proceedings are completed, the premises cannot be kept sealed merely because the investigation is continuing.
- The Hon'ble Court further held that the first proviso to Section 67(2), which allows the Department to prohibit removal or disposal of goods where physical seizure is not practicable, applies only to goods liable to confiscation and not to books, documents or other items.
- Accordingly, the Hon'ble Court quashed the Order of Prohibition for the use or removal of laptops, desktops, files and ordinary office equipment and directed the Department to de-seal the petitioner's office.
- However, since the investigation was still pending, the Department was permitted to take fresh custody of any books, documents or other items required for the investigation by passing a fresh seizure order.
- The Hon'ble Court also directed the Department to consider providing copies of the seized documents, subject to the requirement that such disclosure should not prejudice the ongoing investigation.

M/s. Mirzapur Transport Service v. State of U.P., 2026 (8) TMI 409- Allahabad High Court

Issue:

- Whether an adjudication order passed ex-parte under Section 73 of the CGST/U.P. GST Act, 2017 can be sustained when the show-cause notice was served only through the GST Common Portal, more than three years after cancellation of the taxpayer's GST registration.

Ratio:

- The Hon'ble Allahabad High Court set aside the adjudication order passed under Section 73 of the U.P. GST Act, 2017 as the proceedings had been conducted ex parte.
- The Hon'ble Court observed that after cancellation of GST registration, a taxpayer may not regularly access the GST Common Portal and may therefore remain unaware of subsequent notices and proceedings.
- Relying upon the Uttar Pradesh Commissioner of Commercial Tax Circular dated 07.05.2025, the Hon'ble Court held that in such circumstances, notices should also be served through physical mode to provide the taxpayer a reasonable opportunity to respond.

M/s. Kumar Manish v. Union of India, 2026 (8) TMI 410- Allahabad High Court**Issue:**

- Whether the arrest and judicial custody of the petitioner under Sections 69 and 132 of the CGST Act, 2017 in connection with the alleged routing of online gaming transactions through fictitious entities and evasion of GST exceeding Rs. 460 crores, was justified and in accordance with law.
- Whether the grounds of arrest were properly communicated to the petitioner and whether the arrest was necessary for the investigation.

Ratio:

- The Hon'ble Allahabad High Court dismissed the habeas corpus petition challenging the petitioner's arrest and judicial custody under the CGST Act, 2017.
- The Hon'ble Court observed that the investigation had prima facie revealed the petitioner's involvement in routing online gaming transactions through fictitious entities, suppression of taxable value and alleged GST evasion of more than Rs. 460 Crores.
- After examining the grounds of arrest, the Hon'ble Court found that sufficient material and reasons had been recorded regarding the petitioner's role and the need for his arrest for proper investigation.
- The Hon'ble Court also noted that there was a possibility of the petitioner tampering with evidence or influencing witness.
- The grounds of arrest had been duly furnished to the petitioner, and the arrest was found to be in accordance with the CBIC Instruction dated 17.08.2022 regarding arrest and bail in relation to offences punishable under the CGST Act, 2017.
- The Hon'ble Court further held that the remand order was passed by the competent Magistrate after considering the relevant material. Accordingly, the Hon'ble Court held that the arrest and detention were not illegal or arbitrary and declined to order the petitioner's release.

M/s. Dot Truckers Limited v. Excise and Taxation Officer, Faridabad (West), 2026 (8) TMI 843- Punjab and Haryana High Court**Issue:**

- Whether uploading a Show Cause Notice or Order-in-Original only under the "View Additional Notices and Orders" tab of the GST portal amounts to valid service under Section 169 of the CGST Act, 2017.
- Whether the limitation period for filing an appeal starts merely from the date on which an Order-in-Original is uploaded on the GST Portal.

Ratio:

- The Hon'ble Punjab and Haryana High Court held that merely uploading an SCN or order on the GST portal does not, by itself, amount to valid service under Section 169 of the CGST Act, 2017.
- The Hon'ble Court observed that where the taxpayer had no knowledge of the SCN and an ex parte order was passed, the proceedings should be restored to the stage of the SCN.
- The Hon'ble Court relied upon its earlier decisions in *Luxmi Traders and The Amar Cooperative LC Society Ltd., 2026 (7) TMI 1602* while deciding the issue. The Hon'ble Court further held that merely uploading an Order-in-Original on the GST portal does not automatically start the limitation period for filing an appeal.
- Accordingly, where proper service of the SCN or order has not been established and the taxpayer had no actual knowledge of the proceedings, the taxpayer should be given an opportunity to respond before the matter is decided.

M/s. Lucknow Automotives v. Assistant Commissioner, 2026 (8) TMI 1488- GSTAT Lucknow**Issue:**

- Whether penalty under Section 129(3) of CGST Act, 2017 can be imposed merely because the E-Way Bill was generated after the vehicle carrying the goods had already been intercepted.
- Whether a procedural lapse relating to the E-Way Bill amounts to tax evasion when the goods are supported by genuine invoices and there is no other evidence of suppression or evasion.

Ratio:

- The Hon'ble GSTAT, Lucknow held that merely generating an E-Way Bill after interception does not, by itself, establish tax evasion.
- In the present case, the vehicle carrying motorcycles was intercepted at 7:25 A.M., while the E-Way Bill was generated at 7:34 A.M., i.e., nine minutes after inception.
- The goods were supported by proper invoices and challans, and there was no evidence of suppression, clandestine movement, undervaluation, fake documents or any other attempt to evade tax.
- The Hon'ble Tribunal also noted that the motorcycles were easily identifiable through their engine and chassis numbers and were subject to RTO registration, which further supported the genuineness and traceability of the transaction.
- Relying upon the decision of *M/s. OSR Creation vs. State of UP, 2025 (1) TMI 1311*, the Hon'ble Tribunal held that an E-Way Bill related lapse must be examined in the facts and circumstances of each case, particularly where the required document is subsequently produced and no other discrepancy is found.
- Accordingly, the Hon'ble GSTAT set aside the penalty imposed under Section 129(3) of the CGST Act, 2017 and also set aside the order of the First Appellate Authority confirming the penalty.

M/s. G.R. Infra Projects Limited Ratlam v. State of Madhya Pradesh, 2026 (8) TMI 1497- SC Order**Issue:**

- Whether a Show Cause Notice ("SCN") can be issued merely by using general expressions such as "fraud", "wilful misstatement" or "suppression of facts", without specifying the facts and circumstances supporting such allegations.
- Whether the Department can subsequently provide the missing details or reasons for invoking Section 74 through a counter-affidavit.

Ratio:

- The Hon'ble Supreme Court held that Section 74 of the CGST Act, 2017 cannot be invoked merely by using the words "fraud", "wilful misstatement" or "suppression of facts" in the SCN.
- The SCN must clearly state the specific allegations and the factual basis for invoking the extended limitation period under Section 74.
- The Hon'ble Court held that the Department cannot cure the defects or deficiencies in the SCN by providing additional reasons or explanations later through a counter-affidavit.
- In the present case, the SCN did not contain specific allegations or facts to justify the invocation of Section 74 and was also issued beyond the limitation period applicable under Section 73.
- Accordingly, the Hon'ble Supreme Court set aside the SCN as well as the order of the Hon'ble High Court which had upheld the SCN.

M/s. IBM India Pvt. Ltd. v. Union of India, 2026 (8) TMI 1848- Bombay High Court**Issue:**

- Whether an assessee is entitled to a proportionate refund of the pre-deposit where the First Appellate Authority has partly allowed the appeal and dropped a portion of the tax demand.
- Whether the entire pre-deposit can be retained merely because the assessee intends to challenge the remaining demand before a further appellate authority.

Ratio:

- The Hon'ble Bombay High Court held that once a portion of the demand is set aside by the First Appellate Authority and the Revenue does not challenge that decision, the proceedings attain finality in respect of the demand so dropped.
- In the present case, the original demand of approximately Rs. 48.96 crore was reduced to Rs. 17.50 crore, with approximately Rs. 31.45 crore being dropped by the First Appellate Authority.
- Since IBM intended to challenge only the remaining demand and the Revenue had not challenged the portion of the demand that was dropped, the Hon'ble Court held that IBM was entitled to a proportionate refund of the pre-deposit relating to the dropped demand.
- Accordingly, IBM was held entitled to a refund of approximately Rs. 3.14 crore, being the 10% pre-deposit attributable to the demand that had been set aside.
- The Hon'ble Court further held that once the demand was set aside, the assessee acquired a right to refund of the corresponding pre-deposit and continued retention of such amount by the Department was not justified.

Foreign Trade Policy

NOTIFICATION

30/2026-2027¹ The Ministry of Commerce has amended Paragraphs 2.52 and 2.53 of the Foreign Trade Policy to align the provisions relating to realisation of export proceeds in Indian Rupees and eligibility of FTP benefits, with the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023. This is a significant step towards rupee internationalisation by easing rules for exporters to receive payments in Indian currency, which will boost international trade and reduce reliance on the US dollar.

27/2026-2027² The Ministry of Commerce has introduced an Inventory-based Cross-Border E-commerce Export Framework to facilitate e-commerce exports through an inventory-based model, under which Exporters-on-Record hold export inventory and undertake export-related processes while enabling Sellers-on-Record to access global markets. The Framework prescribes requirements relating to eligibility, inventory management, traceability, payment to Sellers-on-Record, rebates and other operational aspects.

PUBLIC NOTICE

25/2026-2027³ The Ministry of Commerce has operationalised the Inventory-based Cross-Border E-commerce Export Framework introduced under the Foreign Trade Policy, 2023. This public notice prescribes the procedures for implementation of the Framework under the Handbook of Procedures, 2023, and introduces ANF-9A for registration of Exporters-on-Record.

¹Dated 20th August 2026

²Dated 5th August 2026

³Dated 5th August 2026

Customs

CIRCULAR

35/2026-Customs ⁴	The CBIC has prescribed Standard Operating Procedure ("SOP") for clearance of imported goods through foreign post offices under Postal Import Regulations, 2025. The said circular covers procedure for receipt and presentation of personal postal articles, customs assessment and examination and then clearance of personal postal articles.
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INSTRUCTION

14/2026 ⁵	The Ministry of Electronics and Information Technology has extended the implementation timeline prescribed under Notification S.O. 1929(E) dated 26 th April 2023 for "Television Sets" at Sl. No. 64 of the Schedule to the Electronics and Information Technology Goods (Requirements for Compulsory Registration) Order, 2021 for compliance with IS 18112:2022. The implementation date, originally scheduled for 26 th July 2026, has been extended to 26 th January 2027.
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⁴Dated 6th August 2026 | ⁵Dated 7th August 2026 |

JUDICIAL UPDATES

M/s. Imperial Fibres Pvt. Ltd. v. Commissioner, Kandla, 2026 (9) TMI 102- CESTAT AHMEDABAD

Issue:

- Whether the extended period of limitation under Section 28(4) of the Customs Act, 1962 can be invoked where the Certificates of Origin (CoO) submitted by an importer for claiming benefits under the ASEAN-India Free Trade Agreement are subsequently questioned as not authentic.
- Whether fraud, wilful misstatement or suppression of facts can be alleged against the importer without clear evidence of its knowledge or involvement in the alleged irregularities.

Ratio:

- An Hon'ble CESTAT Ahmedabad allowed the appeal and held that the extended period of limitation under Section 28(4) of the Customs Act, 1962 was not invocable in the absence of evidence establishing fraud, collusion, willful misstatement or suppression of facts by the importer.
- The Hon'ble Tribunal observed that there was considerable delay in verification of the Certificates of Origin and the Department had not established that the importer was aware of any alleged irregularity.
- Out of 29 Certificates of Origin, only 15 were verified, whereas the demand was confirmed in respect of all 29 certificates. The Hon'ble Tribunal also noted that there was no handwriting expert's opinion was produced to establish the alleged difference in signatures on the certificates.
- The Hon'ble Tribunal observed that a foreign authority merely stating that a certificate was "not verified" or "issued to others" was not, by itself, sufficient to establish fraud. Such allegations must be supported by proper evidence and examination of the relevant documents. The Hon'ble Tribunal further held that fraud cannot be established by a mere assertion and must be supported by tangible evidence.
- In the absence of conscious knowledge on the part of the importer, collusion, wilful misstatement or suppression of facts could not be alleged. Accordingly, the demand was held to be barred by limitation and the appeal was allowed.

Central Excise/Service Tax/ Value Added Tax

NOTIFICATION

43/2026- Central
Excise⁶

The Ministry of Finance has amended Notification No. 06/2026-Central Excise dated 26th March 2026 to revise the Special Additional Excise Duty ("SAED") applicable on export of petrol. The SAED applicable on petrol exports has been reduced from Rs. 3.50 per litre to Nil, with effect from 15th August 2026.

JUDICIAL UPDATES

M/s. TVS Motor Company Limited v. Commissioner of Central Excise, Chennai-III, 2026 (8) TMI 1141- Supreme Court

Issue:

- Whether penalty under Section 78 of the Finance Act, 1994 can be imposed when the assessee has paid the entire tax liability before the issuance of the Show Cause Notice.
- Whether penalty can be sustained where there was genuine confusion regarding the taxability of referral charges received by auto-dealers from banks and insurance companies.

Ratio:

- The Hon'ble Supreme Court set aside the penalty imposed under Section 78 of the Finance Act, 1994, noting that the assessee had paid the entire tax liability well before the issuance of the SCN.
- The Hon'ble Court referred to Section 73(3) of the Finance Act, 1994, which provides that where the tax and applicable interest are paid before issuance of the SCN, the Department should not issue a notice in respect of such amount.
- The Hon'ble Court observed that there was some confusion regarding the taxability of the referral charges, due to which the assessee had not initially disclosed the income arising from such charges.
- The Hon'ble Court held that even where an SCN is issued by invoking the extended period of limitation, penalty under Section 78 of the Finance Act, 1994 may still be set aside where the tax liability has already been discharged before the issuance of the SCN.
- The Hon'ble Court also noted that the Hon'ble CESTAT had already set aside the penalty imposed under Section 76 of the Finance Act, 1994. Accordingly, the penalty under Section 78 of the Finance Act, 1994 was set aside.

⁶Dated 14th August 2026

M/s. Shakti Enterprises v. The Principal Commissioner of Central Tax, GST Commissionerate, Mysore, 2026 (8) TMI 985- Karnataka High Court

Issue:

- Whether the mandatory pre-deposit required for filing a service tax appeal under Section 35F of the Central Excise Act, 1944 can be made by using Cenvat credit transitioned to GST under Section 140 of the CGST Act, 2017.
- Whether the amount of transitioned credit available in the Electronic Credit Ledger can be used for making the mandatory pre-deposit

Ratio:

- The Hon'ble Karnataka High Court held that the mandatory pre-deposit under Section 35F of the Central Excise Act, 1944 can be validly made by utilising Cenvat credit transitioned to GST and reflected in the Electronic Credit Ledger.
- The Hon'ble Court observed that Section 35F of the Central Excise Act, 1944 does not prescribe any specific or exclusive mode of payment for making the mandatory pre-deposit.
- The Hon'ble Court further noted that transitioned Cenvat credit is legally available under the GST law and can be utilised for payment of tax, interest or penalty through the prescribed procedure, including filing of Form GST DRC-03.
- The CBIC Instruction dated 28.10.2022, which deals with the procedure for making payments in cash, does not prohibit the utilisation of validly transitioned credit.
- The Hon'ble Court held that an executive instruction cannot take away or restrict a right that has been preserved by the legislature.
- The Hon'ble Court stated that denial of the right to use validly transitioned credit would place an unreasonable burden on the assessee and could adversely affect the statutory right of appeal.
- Relying upon the decision of *Army Welfare Housing Organisation, 2025 (12) TMI 1723*, the Hon'ble Court upheld the validity of making the pre-deposit through transitioned Cenvat Credit.

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