



d h r u v a

A Ryan LLC Affiliate

Dimensions

Indirect Taxes Bulletin

July 2026

The background features a complex geometric pattern of overlapping triangles in various shades of blue and red. The blue triangles are more numerous and form the primary background, while the red triangles are interspersed, particularly on the right side. The overall effect is a dynamic, low-poly aesthetic.

Judgements and Rulings

Notifications are ultra vires to the extent that they travel beyond the GST Council's recommendations; the GST Council cannot ratify notifications | Madras High Court | Guru and Co¹.

Issue for consideration

- Whether under Article 279A of the Constitution or the CGST Act, the GST Council, has the power to ratify a Notification already issued by the Government under Section 9 or Section 11 of the CGST Act?

Facts

- The Petitioners supplied pulses (Moong Dhal, Thoor Dhal) under brand names which were not registered under the Trademarks Act or Copyright Act. The GST department alleged demand of GST on pulses supplied by them on the grounds that their products were taxable even when the products were sold without a registered brand name.
- Notification No. 1/2017-Central Tax (Rate) dated June 28, 2017, levied 5% GST on dried leguminous vegetables put up in unit containers bearing a registered brand name, while Notification No. 2/2017-Central Tax (Rate) dated June 28, 2017, exempted supply of pulses made without a registered brand-name.
- The GST Council, in its 21st meeting, approved widening the definition of "registered brand name" by adding a condition that a mark or name in respect of which an "actionable claim" is available shall be deemed a registered brand name.
- Pursuant thereto, the Central and State Governments issued amendment Notifications No. 27/2017² (Central Tax/Integrated Tax, Rate) and 28/2017³ (Central Tax/Integrated Tax, Rate) and corresponding State notifications⁴, which introduced an additional expression not discussed in the GST Council meeting that "any enforceable right in a court of law" shall be construed as a brand name, along with an Annexure prescribing the procedure for voluntarily foregoing such claim/right.

¹ Guru and Co. vs. UOI, TS-451-HC(MAD)-2026-GST

² Notification No. 27/2017 - Central Tax (Rate) and Notification No. 27/2017 - Integrated Tax (Rate) dated September 22, 2017, amends Notification No.1/2017- Central Tax (Rate)

- Ratification of the amending Notifications No. 27/2017 and 28/2017 dated June 28, 2017, was subsequently done by the GST Council in its 22nd Meeting held on October 6, 2017, and the Revenue relied on this ratification to contend that the notifications validly captured the GST Council's original intent.
- Show Cause Notices ('SCN') were issued to the Petitioners, treating their brand names as covered by this expanded definition. The Petitioners challenged the amendment notifications as ultra vires Article 279A of the Constitution, contending they exceeded the GST Council's recommendation, and sought quashing of the consequential SCNs.
- The Revenue also contended that the GST Council's recommendations are not binding in the sense of requiring a mirror reproduction in the notification. Findings of the Court
- The Court affirmed that the GST Council recommendations do not ring-fence the legislature's primary law-making power. However, relying on the Supreme Court's ruling in **Mohit Minerals Pvt. Ltd.**⁵ the Court held that the Government is bound by such recommendations while exercising its rule-making power. And by parity of reasoning, the Government is equally bound by the recommendations of the GST Council when issuing statutory notifications under Sections 9 and 11 of the CGST Act, since both rules and notifications are subordinate legislation laid before Parliament under Section 166 of the CGST Act.
- On comparing the GST Council's 21st meeting's recommendation (which referred only to "actionable claim") with the impugned notifications, the Court found that the expression "enforceable right in a court of law", together with the accompanying Annexure procedure, was an addition not founded on any Council recommendation.
- The Court held that "actionable claim" and "enforceable right in a court of law" are not synonymous, and the latter is of much wider ambit, materially enlarging the scope of the levy.

³ Notification No. 28/2017 - Central Tax (Rate) and Notification No. 28/2017 - Integrated Tax (Rate) dated September 22, 2017, amends Notification No.2/2017- Central Tax (Rate)

⁴ GO(MS) No. 114 dated 22.09.2017

⁵ Union of India vs. Mohit Minerals Pvt. Ltd, TS-246-SC-2022-GST

- The Court accordingly held that the expression "enforceable right in a court of law" in the notifications, lacked the foundation of recommendation and hence were not issued "on the recommendation" of the GST Council, rendering this ultra vires the parent statute to that extent.
- The Court further held that ratification is a principle alien to the exercise of statutory power. Since Article 279A of the Constitution of India confers on the GST Council only the power to make recommendations on matters under Article 279A(4), and no power of review or ratification is conferred expressly or by necessary implication, the Court held that the GST Council's purported ratification of the notifications in its 22nd meeting was without jurisdiction.

Conclusion

- The Madras High Court declared the impugned Notifications (No. 27/2017 and 28/2017 - Central Tax/Integrated Tax (Rate), and corresponding State notifications) as ultra vires the parent statute to the extent they incorporate the expression "enforceable right in a court of law", while holding the notifications intra vires without this expression.
- The consequential SCNs, were therefore set aside, with liberty to the Department to issue fresh SCNs to the extent the notifications have been held valid.

Dhruva Comments

This ruling is a significant affirmation of the principle that subordinate tax legislation, including rate and exemption notifications under Sections 9 and 11 of the CGST Act, cannot exceed the bounds of the GST Council's recommendation, even where the Government's intent in drafting the wider expression may have been to capture the substance of the Council's discussion.

The decision draws a clear distinction between a recommendation (which must precede and result in a notification) and a ratification (which cannot retrospectively cure a notification issued without due recommendation); holding that the GST Council possesses no inherent or implied power of ratification under Article 279A of the Constitution.

The ruling raises question on the validity of all the notifications thus far issued by the Government which have been post facto ratified by the GST Council (such as COVID relief time limited extension notifications, presently under challenge before the Hon'ble Supreme Court in SLP (C) No. 4240 of 2025).

ITC concerning invoices not appearing in GSTR-2A constitutes "wrongful availment and utilisation of ITC", attracting higher interest under Section 50(3) | Madras High Court | Jayashree Enterprises⁶

Issue for consideration

- Whether interest under Section 50(3), can be levied on ITC concerning invoices not appearing in GSTR-2A considering the same as "wrongful availment and utilisation of ITC"?

Facts

- The Petitioner, Jayashree Enterprises, challenged an order dated February 12, 2025, insofar as it imposed interest on account of a discrepancy between the ITC claimed in the GSTR-3B return and the ITC reflected in the auto-populated GSTR-2A return.
- The Petitioner contended that such a discrepancy could not be characterised as "wrongful availment and utilisation of ITC", and that the Petitioner was entitled to the benefit of CBIC Circular F.No. CBEC-20/01/08/2019-GST dated September 18, 2020. (directs tax authorities to levy interest under Section 50(1) of the CGST Act solely on the net cash tax liability)
- Relying on the proviso to Section 50(1) of the CGST Act, the Petitioner argued that interest is payable only on the portion of tax paid by debiting the electronic cash ledger, and since the tax liability was paid using electronic credit ledger in this case, no interest was leviable.
- The Revenue contended that Section 50(3), read with Rule 88B(3) of the CGST Rules, specifically covers cases of wrongful availment and utilisation of ITC, and provides for interest to be levied from the date of

⁶ Jayashree Enterprises vs. Assistant Commissioner (ST), TS-457-HC(MAD)-2026-GST]

wrongful utilisation till the date of reversal, regardless of the ledger debited.

of the CGST Act, to cover any availment of ITC that does not match the auto-populated GSTR-2A.

Findings of the Court

- The Court held that Section 50(1) of the CGST Act deals generically with belated payment of tax (capped at 18% interest), while Section 50(3) of the CGST Act deals specifically with wrongful availment and utilisation of ITC (with a higher ceiling of 24%), indicating that Section 50(1) of the CGST Act and the proviso to Section 50(1), restricting interest to the extent of payments made through electronic cash ledgers as inapplicable to cases of wrongful ITC availment.
- Since "wrongful availment and utilisation" is not statutorily defined, and in the absence of any definition curtailing its scope to fraudulent or bad-faith conduct, any availment and utilisation of ITC to which the assessee is not entitled would qualify as wrongful availment and utilisation.
- Further, Section 74 of the CGST Act specifically prescribes a higher penalty on account of wrong utilisation involving fraud; accordingly, wrongful availment and utilisation under Section 50(3) of the CGST Act need not involve fraud or bad faith.
- Reading Section 50(3) with Rule 88B(3) of the CGST Rules, the Court held that in a case of wrongful availment and utilisation of ITC, such utilisation necessarily occurs by debiting the electronic credit ledger and not the electronic cash ledger; hence, reliance on Section 50(3) of the CGST Act by the Revenue, and the consequent levy of interest computation, was upheld.

Conclusion

- The Madras High Court dismissed the Petitioner's writ petition, upholding the levy of interest under Section 50(3) of the CGST Act by the Revenue.

Dhruva Comments:

The decision plainly holds that the term "wrongful availment and utilisation" used in Section 50(3) of the CGST Act extends to all cases and not just those involving fraud or ineligible credit under Section 17(5)

Reimbursement of incremental GST post-transition from VAT regime is a matter between contractor and employer | Karnataka High Court | Unique Constructions⁷

Issue for consideration

- Whether contractors who entered into works contracts under the pre-GST (KVAT) regime, and who subsequently incurred incremental tax liability on account of the transition to GST with effect from July 1, 2017, can seek reimbursement of such incremental GST from the State Government/tax authorities, or whether the claim lies only against the contracting employer.

Facts

- The Respondents (writ petitioners), contractors registered under the erstwhile KVAT regime and subsequently under GST, had entered into works contracts/composite supply contracts with various State departments/agencies (the 'Employers') prior to the rollout of GST on July 1, 2017.
- The consideration in the contracts was based on the pre-GST Schedule of Rates ('SR'), which the contractors claimed did not factor in the GST liability, resulting in an increased tax burden upon the introduction of GST.
- The contractors sought reimbursement of the differential/incremental GST from the Employers and, by way of writ petitions, sought directions for such reimbursement as well as a policy/circular from the State Government addressing the issue.
- The Single Judge allowed the writ petitions, following the earlier decision in **Sri Chandrashekaraiiah**⁸, and issued directions including:
 - reimbursement of the GST amount by the "concerned respondents"
 - permission to file GST returns/amended returns beyond the statutory period without insisting on interest, penalty or limitation

⁷ State of Karnataka & Ors vs. Unique Constructions, TS-453-HC(KAR)-2026-GST

⁸ Sri. Chandrashekaraiiah vs. The State of Karnataka, WP.No.9721/2019

- restraining GST authorities from taking precipitative action.
- The State, aggrieved by the directions issued against it and the GST authorities, preferred a writ appeal, contending that: (i) it was not liable to reimburse the contractors, that liability being confined to the concerned Employer under the contract; and (ii) directions permitting filing of revised returns and waiving interest/penalty/limitation were impermissible and contrary to the statutory scheme.

Findings of the Court

- The Court held that the dispute as to entitlement to reimbursement of incremental tax is strictly a matter between the contractors and the Employers with whom they had contracted, and that the contract between them cannot alter the statutory scheme for levy of GST.
- The liability to pay GST (under the CGST, SGST or IGST enactments) must be determined strictly in accordance with the provisions of the relevant statute; the levy, assessment, recovery and enforcement of GST is a matter of statutory prescription and cannot be altered by contractual arrangements.
- No directions could have been issued permitting the filing of revised returns contrary to statutory provisions, or granting blanket waiver of interest, penalty or limitation under the GST laws.
- Since the dispute was confined to reimbursement of tax burden under a works contract, no directions could be issued to the tax authorities regarding levy, assessment, or collection of tax, penalty or interest.
- The direction for reimbursement was accordingly construed as binding only on the concerned Employer, and not on the State Government or GST authorities.

Conclusion

- The Karnataka High Court partly allowed the State's appeal and set aside the impugned order to the extent it issued directions against the tax authorities/State,

while affirming that the reimbursement direction survives as against the concerned Employer.

Dhruva Comments

This ruling reaffirms the settled principle that the statutory scheme for levy and administration of GST cannot be recast through contractual arrangements or through writ directions issued in disputes that are essentially contractual in nature.

Penalties for fake invoices and hawala-routed ITC fraud upheld on partners; Section 122(1A) action against firm and partners both sustainable | Gujarat High Court | Manoj Ramkishan Agrawal⁹

Issue for consideration

- Whether separate penalties can be imposed on individual partners of a partnership firm under Sections 122(1A) and 122(3) of the CGST Act, 2017, when a penalty has already been imposed on the partnership firm itself, in respect of the same fraudulent transactions.

Facts

- The Petitioners, partners of Maa Renuka Trading Company, along with the partnership firm and 21 other persons/firms (a total of 23 noticees), were investigated by the GST Department for generation of fake invoices and e-way bills without actual supply of goods for FY 2020-21 and 2021-22.
- Acting on specific intelligence, search proceedings under Section 67(2) of the CGST Act were conducted, and statements of various persons were recorded.
- Petitioner No. 2, upon being confronted with e-way bill data and vehicle movement records, admitted that several e-way bills were incorrectly generated, and that invoices from Delhi-based firms were procured purely for passing on ITC.
- Petitioner No. 1, upon forensic examination of his mobile phone, admitted that amounts were transferred to the bank accounts as instructed by Shri Ankur Kanda, who would thereafter return the funds in

⁹ Manoj Ramkishan Agrawal vs. Union of India, TS-458-HC(GUJ)-2026-GST

cash through angadia channels after deducting his commission; a specific instance of Rs. 25 lakhs being routed and Rs. 23 lakhs being returned in cash was recorded.

- The adjudicating authority, in its Order-in-Original dated January 30, 2026, recorded categorical findings establishing that the affairs of the firm were conducted with the full knowledge and consent of both partners, and imposed penalties on the Petitioners under Sections 122(1A) and 122(3) of the CGST Act, 2017.
- The Petitioners challenged the order by way of writ petition, contending that no specific findings were recorded against them individually, that the order violated natural justice, and that no separate penalty could be imposed on partners once a penalty was imposed on the firm. They placed reliance on **Amit Manilal Haria**¹⁰ where in the Bombay High Court held against the retrospective application of Section 122(1A) of the CGST Act. The said section was inserted with effect from January 1, 2021, (to impose penalty on any person who retains the benefit of transactions involving tax evasion or fraudulent availment/passing of ITC as covered under clauses (i), (ii), (vii) and (ix) of Section 122(1) of the CGST Act)
- The Revenue opposed the petition on the ground of the availability of an alternative remedy under Section 107 of the CGST Act and contended that the adjudicating authority had extensively considered the defence of all noticees, that a large-scale fraud involving hawala transactions had been unearthed, and that the partners had admitted their involvement during the investigation.
- When called upon to elect between pursuing a statutory appeal or inviting an order on merits, the Petitioners opted to invite a decision on merits rather than avail of the appellate remedy.

Findings of the Court

- The Court held that the adjudicating authority had specifically analysed the complicity of each partner and recorded categorical findings regarding their knowledge, consent, and active participation in the fraudulent transactions, including the modus

operandi of creating fictitious suppliers, routing invoices through a broker, circular movement of funds through hawala channels, and generation of fake e-way bills.

- Referring to Section 122(1A) of the CGST Act, the Court held that any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or (ix) of Section 122(1) of the CGST Act, and at whose instance such transaction is conducted, is independently liable to a penalty equivalent to the tax evaded or ITC availed/passed on; this is a distinct basis of liability from that imposed on the firm itself.
- The Court found no violation of the principles of natural justice and held that the impugned order was not unreasoned, noting that **Kranti Associates**¹¹ would not apply since the order did contain detailed reasoning based on statements, forensic evidence, and electronic records.
- The Court observed that factual issues, including the retrospective applicability of Section 122(1A) of the CGST Act, could appropriately be examined by the Appellate Authority in an appeal under Section 107, and distinguished **Amit Manilal Haria** on facts, noting the widespread, multi-entity nature of the fraud in the present case.
- The Court remarked that since the Petitioners had insisted on inviting a decision on merits rather than pursuing the statutory appeal, the Court was "constrained to pass" a reasoned order on merits but ultimately found no infirmity warranting interference under Article 226.

Conclusion

- The Gujarat High Court dismissed the writ petition, upholding the penalties imposed on the partners under Sections 122(1A) and 122(3) of the CGST Act, 2017.

Dhruva Comments

This decision confirms that Section 122(1A) of the CGST Act creates an independent and personal basis of liability for any person, including a partner of a firm, who retains the benefit of, and at whose instance, specified fraudulent transactions are conducted,

¹⁰ Amit Manilal Haria vs. The Joint Commissioner of CGST & CE, TS-266-HC(BOM)-2025-GST

¹¹ Kranti Associates (P) Ltd. vs. Masood Ahmed Khan, (2010) 9 SCC 496

separate and distinct from the penalty leviable on the firm itself.

The ruling underscores that in cases involving large-scale, multi-entity ITC fraud schemes (including hawala-routed fund flows), adjudicating authorities are expected to record partner-specific findings of knowledge, consent and active participation, and where such findings exist, Courts will be reluctant to interfere under writ jurisdiction, particularly where an efficacious statutory appellate remedy under Section 107 of the CGST Act remains available.

Partners of a firm are personally liable for GST dues of the firm; recovery action against the bank account of the erstwhile partner under Section 79(1)(c) of the CGST Act upheld | Madras High Court | VRAA and Co¹²

Issue for consideration

- Whether a communication issued to a bank for recovery of crystallised GST dues of a partnership firm, by attaching the individual bank account of one of its (erstwhile) partners, is valid when issued under Section 79(1)(c)(i) read with Section 5(3) of the CGST Act by the Assistant Commissioner, as opposed to a provisional attachment under Section 83 of the CGST Act (which the Petitioner contended could only be exercised by the Commissioner).
- Whether partners of a partnership firm are personally liable for the GST dues of the firm, such that recovery proceedings can validly be directed against a partner's individual bank account as a garnishee.

Facts

- The Petitioner, a partnership firm, challenged a communication dated November 21, 2025, issued to ICICI Bank Limited in Form GST DRC-13, attaching the bank account of one of its partners, in relation to recovery proceedings pertaining to FY 2019-20.
- The Petitioner contended that the said partner had resigned from the partnership on June 4, 2020, that prior notice was not issued before attaching the bank account, and that, relying on Section 83 of the CGST

Act, only the Commissioner (and not the Assistant Commissioner) was empowered to order such attachment.

- The Revenue submitted that the writ petition proceeded on a misconceived premise, and that the Assistant Commissioner was duly empowered to issue the impugned communication under Section 79(1)(c)(i) read with Section 5(3) of the CGST Act.

Findings of the Court

- The Court noted that the recovery proceedings pertained to FY 2019-20, and that since the partner had resigned only on June 4, 2020, he was a partner of the firm during the relevant period to which the tax dues related.
- The Court held that the Petitioner had proceeded under a misconception that a provisional attachment had been effected under Section 83 of the CGST Act; on a plain perusal of the impugned communication, it was clear that the same had been issued under Section 79(1)(c)(i) of the CGST Act, pursuant to the crystallisation of the tax liability of the partnership firm, and that this provision empowers GST authorities to initiate recovery action against a garnishee.
- The Court observed that the Petitioner had not challenged the underlying order-in-original raising the tax demand against the firm and held that partners of a partnership firm are personally liable for the dues of the firm.
- Since the notice had been issued in relation to the bank account of a person who was a partner of the firm during the relevant period, the Court found no infirmity in the impugned communication warranting interference under Article 226 of the Constitution.

Conclusion

- The Madras High Court dismissed the writ petition, upholding the attachment of the erstwhile partner's bank account – a garnishee - as a valid exercise of recovery power under Section 79(1)(c)(i) of the CGST Act, and ruled in favour of the Revenue.

Dhruva Comments

¹² VRAA and Co. vs. Assistant Commissioner of GST, TS-471-HC(MAD)-2026-GST

The decision reaffirms as it holds that the partners of a partnership firm are personally and jointly liable for the GST dues of the firm, and that such liability can be enforced through garnishee/recovery proceedings under Section 79 of the CGST Act against the individual assets of a person who was a partner during the period to which the tax demand relates, irrespective of subsequent resignation from the firm. The ruling is instructive in clarifying the distinction between provisional attachment under Section 83 of the CGST Act and recovery action against a garnishee under Section 79(1)(c) of the CGST Act following crystallisation of tax liability, which can be exercised by a proper officer, such as the Assistant Commissioner, by virtue of powers delegated under Section 5(3) of the CGST Act.

Time spent in rectification proceedings is excludible for computing appeal limitation under Section 107 of the CGST Act | Gauhati High Court | Debabrata Bhowmick¹³

Issue for consideration

- Whether the time period spent by the Petitioner in pursuing a Rectification Application under Section 161 of the CGST Act, 2017, is to be excluded, in terms of Section 14 of the Limitation Act, 1963, while computing the period of limitation prescribed under Section 107 of the CGST Act for filing an appeal before the Appellate Authority?

Facts

- The Petitioner was alleged to have availed excess ITC amounting to Rs. 90,948/- during FY 2020-21.
- Pursuant to show cause proceedings under Section 73 of the CGST Act, the Adjudicating Authority passed an Order-in-Original dated January 3, 2025 ('OIO') confirming the demand along with interest and penalty.
- Aggrieved by the OIO, the Petitioner filed a Rectification Application under Section 161 of the

CGST Act on March 8, 2025, within the statutory three-month period, contending that the disallowance of ITC was on account of the supplier's delayed filing of returns.

- The Adjudicating Authority rejected the Rectification Application on April 24, 2025.
- Thereafter, the Petitioner filed an appeal under Section 107 of the CGST Act on May 23, 2025, against the OIO.
- The Appellate Authority rejected the appeal as time-barred, holding that it was presented twenty-one days beyond the maximum condonable period of four months (three months of the normal period plus one month's extended period under Section 107(4) of the CGST Act) from the date of the OIO.
- The Petitioner approached the Gauhati High Court by way of a writ petition under Article 226 of the Constitution, challenging the Order-in-Appeal ('OIA') and contending that the period spent in the rectification proceedings ought to be excluded while computing the limitation for filing the appeal, relying on Section 14 of the Limitation Act.
- Revenue opposed the writ petition, contending that the CGST Act, being a special enactment with its own limitation scheme under Section 107 of the CGST Act, excludes the applicability of the Limitation Act, relying on **Singh Enterprises**¹⁴, **Glaxo Smith Kline Consumer Health Care Limited**¹⁵.

Findings of the High Court

- It was held that while Section 5 of the Limitation Act dealing with the general power to condone delay stands excluded in view of the special limitation scheme prescribed under Section 107 of the CGST Act; whereas the exclusion of time under Section 14 of the Limitation Act is not similarly warranted. This is because Section 14 does not extend the prescribed period of limitation but merely excludes the time spent in a bona fide prior proceeding.
- Relying on the Supreme Court's ruling in **Consolidated Engineering Enterprises**¹⁶ the settled distinction between Section 5 and Section 14 of the

¹³ Debabrata Bhowmick vs. Union of India, TS-479-HC(GAUH)-2026-GST

¹⁴ Singh Enterprises vs. Assistant Commissioner [CT] LTU, (2008) 3 SCC 70

¹⁵ Kakinada vs. Glaxo Smith Kline Consumer Health Care Limited, (2020)19 SCC 681

¹⁶ Consolidated Engineering Enterprises vs. Principal Secretary, Irrigation Department, (2008) 7 SCC 169

Limitation Act was noted, and accordingly it was held that the principle of Section 14 extends to proceedings before quasi-judicial tribunals even though such tribunals are not “courts” in the strict sense.

- Examining the twin requirements of due diligence and good faith embedded in Section 14 of the Limitation Act, it was found that the Petitioner had filed the Rectification Application within the prescribed three-month period and had pursued it on the bona fide ground that ITC ought not to be denied to a bona fide purchaser merely on account of the supplier’s delayed filing of returns.
- Excluding the 48 days between the filing of the rectification application on March 8, 2025, and its rejection on April 24, 2025, it was held that the appeal, though filed beyond the normal three-month period, fell within the extended one-month condonable period prescribed under Section 107(4) of the CGST Act.
- It was further held that where an appeal is filed within the condonable period but without an accompanying application for condonation of delay, the Appellate Authority is obligated to afford the appellant at least one opportunity to explain the delay, rather than summarily rejecting the appeal as time-barred, relying on the Supreme Court’s decision in **Pradeep Kumar**¹⁷ interpreting an analogous provision under Order XLI Rule 3A of the CPC.
- On the threshold issue of maintainability, it was held that since the writ petition was filed within the limitation period prescribed for an appeal under Section 112 of the CGST Act against the OIA, and since the doctrine of merger did not apply as the appeal had been dismissed on limitation grounds without going into the merits, the writ petition was maintainable and an appropriate case for exercise of the Court’s discretion.

Conclusion

- The Gauhati High Court set aside the OIA and remanded the matter to the Appellate Authority,

directing it to put the Petitioner on notice and provide a reasonable opportunity to file an application for condonation of delay; if the explanation is found satisfactory, the appeal is to be disposed of on merits in accordance with law. The writ petition was allowed to this extent, with no order as to costs.

Dhruva Comments

This ruling usefully clarifies that although Section 5 of the Limitation Act stands excluded from application to appeals filed under Section 107 of the CGST Act on account of the special limitation scheme therein, the principle of exclusion of time under Section 14 of the Limitation Act is not similarly ousted and continues to apply to exclude time spent bona fide in rectification proceedings under Section 161 of the CGST Act.

The ruling also reinforces the settled principle that Appellate Authorities are obligated to afford taxpayers an opportunity to explain the delay before rejecting appeals as time-barred, even in the absence of a formal condonation application.

Taxpayers facing rejection of appeals on limitation grounds, particularly where a rectification application was pursued in the interim, may find this decision instructive in seeking exclusion of such time and in safeguarding their right to be heard before an appeal is dismissed as time barred.

Centralized procurement hub services provided by a group entity located outside India does not qualify as “intermediary services”; instead constitutes import of services, taxable in India | GSTAT, Delhi | Dow Chemical International Pvt. Ltd.¹⁸

Issue for consideration

- Whether comprehensive procurement services rendered by a foreign entity to its Indian affiliate constitute "intermediary services" as per Section 2(13) of the IGST Act, 2017?

¹⁷ State of Madhya Pradesh vs. Pradeep Kumar, (2000) 7 SCC 372

¹⁸ Dow Chemical International Private Ltd vs. Commissioner of State Tax, TS-414-GSTAT(DEL)-2026

- What would be the place of supply of such services and whether such services would qualify as an import of service as per Section 2(11) of the IGST Act?

Facts

- The Appellant, Dow Chemical International Private Limited ('Dow India'), executed a Procurement Agreement with Dow Europe GmbH ('Dow GmbH'), the Appellant's Swiss group entity functioning as the centralized procurement hub for the global Dow group.
- Under the agreement, Dow GmbH undertook to perform a comprehensive range of activities across the entire procurement lifecycle, including identification, selection and approval of suppliers, negotiation of procurement terms, development of procurement strategy, supplier risk and relationship management, procurement analytics, and facilitation of supply of goods to the Appellant.
- For the period January 2022 to June 2022 ('the relevant period'), the Appellant discharged IGST under the reverse charge mechanism, treating the services as "import of services" under Section 2(11) of the IGST Act.
- The Appellant subsequently took the view that the services were, in substance, "intermediary services" as per Section 2(13) of the IGST Act. As the place of supply of intermediary services is the location of supplier under Section 13(8)(b) of the IGST Act, which in the present case is outside India (Switzerland), the Appellant adopted a "no tax" position of such services. The Appellant accordingly filed applications seeking refund of the GST paid on the services for the relevant period.
- The refund claims were rejected by the Adjudicating Authority, and the rejection was upheld by the First Appellate Authority, which held that the Appellant's characterization of the services as intermediary services was an afterthought.
- The First Appellate Authority observed that as per the Procurement Agreement, Dow GmbH, the supplier of services, was an independent contractor and acted on principal-to-principal basis.

- Further, Dow GmbH did not have an authority to bind the Appellant. On these grounds, the First Appellate Authority held that the supplier was not an intermediary.

Findings of the GSTAT

- The GSTAT held that the threshold requirement in the case of intermediaries is the requirement of a minimum of three parties, which was satisfied in this case.
- However, the GSTAT took note of the second and more decisive prerequisite as clarified by the CBIC in Circular No. 159/15/2021-GST dated September 20, 2021, that the service provider must not supply services on a principal-to-principal basis on its own account. On this, the GSTAT held that the supplier rendered comprehensive, substantive procurement services on its own account as an independent contractor, functioning as the centralized procurement hub for the entire global Dow group, rather than merely arranging or facilitating supplies between two independent parties.
- The GSTAT applied the reasoning of the Karnataka High Court in **Columbia Sportswear**¹⁹ and the Delhi High Court in **Blackberry India**²⁰ and noted that independent contractors without any authority to bind the principal cannot be construed as intermediaries.
- The GSTAT also held that that Advance Rulings pronounced in the case of other parties have no binding effect and are at best persuasive; similarly, CBIC circulars bind only departmental officers and are not binding on the Tribunal, though they may be considered for their persuasive/interpretative value.
- The GSTAT accordingly held that the First Appellate Authority erred in characterising the refund claim as an impermissible afterthought. The GSTAT noted that Section 54 of the CGST Act and Rule 89 of the CGST Rules expressly contemplate refund applications within prescribed timelines, and a bona fide change in characterization following identification of an error in initial tax treatment does not by itself disentitle a taxpayer from seeking refund.

¹⁹ Columbia Sportswear India Sourcing Pvt. Ltd. vs UOI, TS-421-HC(KAR)-2025-GST

²⁰ Pr. Commissioner, Central Excise and CGST vs Blackberry India Private Limited, TS-388-HC-2023(DEL)-ST

Conclusion

- The GSTAT, held that the services received by the Appellant from Dow Europe constitute “import of services”, with the place of supply being in India, and that the services do not fall within the scope of “intermediary services” under Section 2(13) and 13(8)(b) of the IGST Act. The order of the First Appellate Authority rejecting the refund claims were confirmed and the appeals were dismissed.

Dhruva Comments

Determining the true nature of the transaction is critical for multinational groups operating centralized procurement, shared services, or sourcing hubs. Commission/success-fee-linked remuneration alone will not be determinative where the supplier entity independently performs substantive, core procurement functions rather than merely connecting two unrelated principals.

This ruling is in line with the Supreme Court ruling in **SNQS International**²¹ rendered in the erstwhile service tax regime.

No ITC on the portion of QIP proceeds invested in subsidiary, ITC allowable on the portion used for repayment of borrowings | Haryana AAAR | RHI Magnesita India Limited²²

Issue for consideration

- Whether Input Tax Credit (‘ITC’) is admissible under Section 16(1) of the CGST Act on inward supply of services (such as lead management, legal, consultancy and other professional services) procured in connection with a Qualified Institutional Placement (‘QIP’) undertaken to raise capital.
- Whether the purpose for which QIP proceeds are deployed would impact the eligibility of such ITC?

Facts

- The Appellant, RHI Magnesita India Limited, engaged in manufacturing and marketing of refractory products, undertook a QIP under the SEBI ICDR

Regulations, 2018 (resulting in the issuance of equity shares to qualified institutional buyers) and procured legal, consultancy and other professional services for the QIP process.

- The Appellant availed ITC of GST paid on procurement of QIP-related services and sought an Advance Ruling on the eligibility of such ITC.
- The Haryana AAR denied the entire ITC, holding that fund-raising through QIP does not constitute an activity in the course or furtherance of business. It held the Appellant was not eligible to claim ITC on tax paid on services availed in connection with the QIP, as raising funds through QIP is not an activity undertaken in connection or furtherance of business within the meaning of Section 16(1) of the CGST Act.
- On appeal, the Appellant contended that the activity is in the course of their business as the definition of “business” as per Section 2(17) of the CGST Act is an inclusive and expansive definition covering activities incidental/ancillary to trade or commerce and relied on pre-GST precedents in the cases of **Steel Strips Wheels**²³ and **Hinduja Global Solutions**²⁴ holding that financial services for raising capital are eligible input services.
- During the appellate hearing, the AAAR directed the Appellant to clarify the use of QIP proceeds, pursuant to which it was mentioned that the proceeds were deployed for repayment/pre-payment of the Appellant's own borrowings, and investment in the equity of Dalmia OCL Limited (‘DOCL’), a 100% wholly owned subsidiary engaged in the same line of refractory business, acquired via a Share Swap Agreement.

Findings of the AAAR

- The AAAR held that ITC eligibility on QIP-related services must be examined separately for each component of fund deployment, having regard to the nexus of each component with the Appellant's own business.
- As regards proceeds used for repayment/pre-payment of the Appellant's borrowings, the AAAR held that such repayment represents discharge of financial

²¹ Commissioner of G.S.T. and Central Excise vs. SNQS International Socks Private Limited (Civil Appeal No. 8343/2024)

²² RHI Magnesita India Limited, TS-444-AAAR(HAR)-2026-GST

²³ Strip Wheels vs CCE, 2016 (42) S.T.R. 72 (Tri. -Del.)

²⁴ Hinduja Global Solutions Ltd. vs The Commissioner of C.C.E., S.T. & Cus., Bangalore, 2016 (42) S.T.R. 932 (Tri. -Bang)

liabilities undertaken in the course of furtherance of the Appellant's business. Reduction of debt obligations improves financial health, reduces interest burden and enhances liquidity. Hence, the services availed for raising funds utilised for repayment of borrowings qualify as services used in the course or furtherance of business under Section 16(1) of the CGST Act.

- The AAAR relied on the principles laid down in the decisions in **Steel Strips Wheels** and **Hinduja Global Solutions** that expenses incurred for raising finance for business operations bear a nexus with business activities, holding that this principle continues to be relevant in the GST regime.
- With regard to the proceeds invested in the equity of DOCL, the AAAR held that although DOCL operates in the same line of business, a holding company and its subsidiary are distinct legal entities, and expenditure incurred by one entity cannot be claimed as ITC in the hands of another, relying on the principle in **Pipellic Energy Software India Pvt. Ltd**²⁵.
- The AAAR observed that the immediate and proximate activity was the acquisition of securities, and the economic benefit of such services accrued to the subsidiary rather than the Appellant. In the absence of a direct and proximate nexus between the input services and the Appellant's own business, ITC on this component was held inadmissible.

Conclusion

- The Haryana AAAR partly upheld the Advance Ruling, modifying it to hold that ITC on QIP-related services is admissible to the extent attributable to proceeds utilised for repayment/pre-payment of the Appellant's borrowings, but, ITC is not admissible to the extent it is attributable to proceeds invested in the equity of its wholly owned subsidiary, DOCL. The appeal was accordingly allowed in part.

Dhruva Comments

This advance ruling rejects the blanket denial of ITC on fundraising activities, and instead adopts a use-based, proportionate approach to determine ITC eligibility on QIP-related services.

While the AAAR has affirmed that financing activities undertaken to support a company's own business operations retain a sufficient nexus with business to qualify for ITC, it also concluded that investments in subsidiaries, even wholly owned ones in the same line of business, benefit a distinct legal entity, and ITC on services attributable to such investment will not be available to the holding company.

The AAAR by employing the "beneficial use" theory took a restrictive interpretation of the expression "in the course or furtherance of business" given under Section 16(1) of the CGST Act. and has adopted Such an approach and interpretation is differential without a basis, questionable, and so, one of curtailment.

Taxpayers will, in line with this ruling, be called upon to furnish details of the funds-raised, especially end-use of such proceeds, and associated documents.

Fee for conversion of wetland to dry land is consideration for a taxable supply by the State Government and is liable to GST under reverse charge| Kerala AAAR |Manappuram Finance Ltd²⁶.

Issue for consideration

- Whether the statutory fee paid to the State Government for conversion of the classification of land from "wetland" to "dryland" under Section 27A of the Kerala Conservation of Paddy Land and Wetland Act, 2008 constitutes "consideration" for a taxable "supply" of service by the State Government, attracting GST under the reverse charge mechanism in terms of Notification No. 13/2017-Central Tax (Rate).
- Whether an application for advance ruling is maintainable/admissible where it is filed after the applicant has already paid the relevant fee and obtained the conversion order, i.e., in respect of a transaction that already stands completed prior to the filing of the application.

²⁵ Pipelic Energy Software India Pvt. Ltd., vs. The Deputy Commissioner, TS-481-HC-2024(TEL)

²⁶ Manappuram Finance Ltd, TS-1110-AAAR(KER)-2025-GST

Facts

- The Appellant owned 0.5 acres of land in Valapad village, Thrissur District, which was classified as "wetland" in the village records.
- The Appellant sought to convert this classification to "dryland" for the construction of an office on the premises.
- For this purpose, the Appellant paid the prescribed statutory fee to the Kerala State Government under Section 27A of the Kerala Conservation of Paddy Land and Wetland Act, 2008, which provides that if an application for change of nature of unnotified land is allowed, the applicant is liable to pay a fee at the prescribed rate.
- The Appellant had already remitted the prescribed fee to the Government prior to filing its application before the AAR, seeking a ruling on whether such payment was liable to GST on a reverse charge basis.
- The AAR, by its order dated April 3, 2023, ruled that the conversion fee would attract GST under reverse charge, holding that the activity of permitting land-use change was not a function entrusted to Panchayats under Article 243G (Eleventh Schedule), and that the fee constituted "consideration" for a taxable supply, not exempt under Notification No. 14/2017-Central Tax (Rate).
- Aggrieved, the Appellant filed the present appeal, contending, inter alia, that:
 - there was no "supply" since there was no agreement between the Appellant and the Government for the provision of any specific service, the fee being a statutory levy under Section 27A of the Kerala Conservation of Paddy Land and Wetland Act, 2008;
 - assuming that there was a supply, the activity fell within "land improvement," a function entrusted to Panchayats under the Eleventh Schedule (which also references land reforms, land consolidation and soil conservation), warranting exemption under Notification No. 14/2017;
 - the AAR's ruling was barred by limitation under Section 98(6) of the CGST Act, having been pronounced beyond the prescribed 90-day period

Findings of the AAAR

- On admissibility, the AAAR held that the advance ruling mechanism under Sections 95(a) and 97(2) of the CGST Act is intended to provide clarity and certainty to taxpayers before undertaking a transaction and is available only in respect of a proposed or an ongoing supply; it is not intended to regularize or legitimize past, completed transactions undertaken without payment of GST.
- The AAAR found, based on the Appellant's own averments in its Statement of Facts, that the Appellant had already remitted the prescribed fee to the Government and obtained the conversion order before filing the advance ruling application, rendering the transaction a concluded one, falling outside the scope of Sections 95(a) and 97 of the CGST Act.
- The AAAR observed that approaching the AAR after executing a transaction without discharging GST, and then seeking a ruling on its applicability, defeats the preventive and clarificatory purpose of the AAR system, and that such applications "may be liable to be rejected at the threshold for being non-admissible under law."
- Without prejudice to this finding, the AAAR also examined the merits and held that the permission granted under Section 27A, though statutory, involves a specific regulatory act performed by the Government, conferring a measurable, exclusive private benefit on the applicant, enabling commercial/residential use of the converted land.
- The AAAR distinguished "land improvement" (which enhances the quality, productivity or usability of existing land without changing its classification, e.g., levelling, irrigation, soil conservation, bunding) from "land conversion" (which changes the legal classification of land, e.g., wetland to dryland, for non-agricultural purposes such as housing, industry or commerce).
- Only the former (namely, land improvement) is listed in the Eleventh Schedule and applying the principle of *expressio unius est exclusio alterius*, meaning "the express mention of one thing is the exclusion of another."
- By enumerating only "land improvement" in the Eleventh Schedule, the law excludes other land-use

changes (like wetland conversion) from the scope of functions entrusted to Panchayats under Article 243G.

- The AAAR accordingly held that since land conversion is not constitutionally entrusted to a local authority, it falls outside Notification No. 14/2017-Central Tax (Rate), and since the fee is consideration for a taxable supply of a regulatory/permission-granting service by the State Government to a "business entity" (the Appellant), it squarely falls within Entry 5 of Notification No. 13/2017-Central Tax (Rate), attracting GST under reverse charge.
- The AAAR also noted that the burden of proving entitlement to an exemption lies on the taxpayer claiming it, and that the Appellant had failed to discharge this burden.

Conclusion

- The Kerala AAAR upheld the ruling of the Authority for Advance Ruling dated April 3, 2023, holding that:
 - the advance ruling application was not admissible as it pertained to a completed transaction; and
 - without prejudice, on merits, the conversion fee constitutes consideration for a taxable supply by the State Government, liable to GST under reverse charge under Notification No. 13/2017-Central Tax (Rate), with no exemption available under Notification No. 14/2017-Central Tax (Rate). The appeal was accordingly dismissed.

Dhruva Comments

This ruling is significant on two distinct fronts. First, it reinforces strict timing discipline for advance ruling applications that taxpayers must approach the AAR before executing the underlying transaction.

Second, on merits, the ruling draws a sharp and practical distinction between "land improvement" (a Panchayat function under the Eleventh Schedule, and "land conversion" (a regulatory, permission-granting activity conferring an individualised private benefit).

The background features a complex geometric pattern of overlapping triangles in various shades of blue and red. The blue triangles are more numerous and form the primary background, while the red triangles are interspersed, particularly on the right side. The overall effect is a modern, abstract design.

Regulatory Updates

GSTN Advisory²⁷ | Deferral of Mandatory "Ship-To GSTIN" and Voluntary E-Way Bill Closure Functionality

- In the GSTN Advisory dated May 20, 2026, it was announced that the mandatory capture of "Ship To GSTIN" in Bill-To/Ship-To transactions and the Voluntary Closure of E-Way Bill functionality would be implemented with effect from June 15, 2026.
- GSTN received representations from trade and industry seeking extension of the implementation timeline, citing requirements of system changes, testing, API/ERP readiness, and master data update across the taxpayer ecosystem.
- Accordingly, both functionalities have been deferred and shall now be implemented with effect from August 1, 2026.

GSTN Advisory²⁸ | API-Level Changes to e-Invoice and e-Way Bill Systems for Ship-To GSTIN and Voluntary E-Way Bill Closure

- GSTN issued a comprehensive advisory announcing changes to the e-Invoice API and E-Way Bill ecosystem.
- In Bill-To/Ship-To transactions, the Bill-to party and Ship-to party must be distinct entities, and identical GSTINs will not be permitted.
- For export-related e-Way Bills, shipping details furnished during IRN generation may be replaced while generating the e-Way Bill using IRN, whereas for B2B and SEZ transactions, Ship-to details provided during IRN generation cannot be altered during e-Way Bill generation through IRN.
- Where the consignee is unregistered, or GSTIN is not applicable, taxpayers may use the value "URP" (Unregistered Person). An optional field "TrdNm" (Trade Name) has also been introduced for capturing the trade name of the consignee.

CGST Circular²⁹ | Clarification on Jurisdiction in Cases Involving Migration/Transfer of Taxable Persons

- CBIC clarified that where any action or proceeding has been validly undertaken by the transferor jurisdictional authority before migration or transfer of a taxpayer, the transferee jurisdictional authority shall act upon and proceed based on such earlier valid action, as if it had itself initiated the same, and shall take over and conclude proceedings from the stage at which they stood at the time of migration/transfer.
- The transferor jurisdictional authority shall not initiate or take any fresh action against the taxable person after he has migrated/transferred to another jurisdiction.

Central Tax Notification³⁰ | Extension of Deadline for Filing Appeals Before GSTAT

- The Ministry of Finance, on June 30, 2026, extended the last date for filing appeals before the GST Appellate Tribunal (GSTAT) to July 31, 2026, under Section 112(1) read with Section 112(3) of the CGST Act, 2017.
- The extended deadline of July 31, 2026, applies to all taxpayers' appeals where the order being challenged was communicated to the appellant before May 1, 2026.
- For orders communicated on or after May 1, 2026, the normal statutory timeline of three months from the date of communication of the order shall apply.

²⁷ GSTN Advisory dated June 9, 2026

²⁸ GSTN Advisory No. 664 dated June 17, 2026

²⁹ CGST Circular No. 255/2026 dated June 25, 2026

³⁰ F.No. A-50/7/2025-GSTAT-DoR] dated June 30, 2026



ADDRESSES

Mumbai

Dhruva Advisors India Pvt. Ltd.
1101, One World Centre,
11th Floor, Tower 2B,
841, Senapati Bapat Marg,
Elphinstone Road (West),
Mumbai – 400 013
Tel: +91 22 6108 1000 / 1900

Ahmedabad

Dhruva Advisors India Pvt. Ltd.
402, 4th Floor, Venus Atlantis,
100 Feet Road, Prahlad Nagar,
Ahmedabad – 380 015
Tel: +91 79 6134 3434

Bengaluru

Dhruva Advisors India Pvt. Ltd.
67/1B, Lavelle Road,
4th Cross, Bengaluru,
Karnataka – 560001
Tel: +91 90510 48715

Delhi / NCR

Dhruva Advisors India Pvt. Ltd.
305-307, Emaar Capital Tower-1,
MG Road, Sector 26, Gurugram
Haryana – 122 002
Tel: +91 124 668 7000

New Delhi

Dhruva Advisors India Pvt. Ltd.
1007-1008, 10th Floor,
Kailash Building, KG Marg,
Connaught Place,
New Delhi – 110001
Tel: +91 11 4471 9513

GIFT City

Dhruva Advisor IFSC LLP
510, 5th Floor, Pragya II,
Zone-1, GIFT SEZ, GIFT City,
Gandhinagar – 382050, Gujarat.
Tel: +91 79 6512 3604

Pune

Dhruva Advisors India Pvt. Ltd.
406, 4th Floor, Godrej
Millennium,
Koregaon Park,
Pune - 411001,
Tel: +91 20 6730 1000

Kolkata

Dhruva Advisors India Pvt. Ltd.
4th Floor, Camac Square,
Unit No. 403 & 404B,
Camac Street,
Kolkata - 700016, West Bengal
Tel: +91-33-66371000

Singapore

Dhruva Advisors Pte. Ltd.
#16-04, 20 Collyer Quay,
Singapore – 049 319
Tel: +65 9144 6415

Abu Dhabi

Dhruva Consultants
1905 Addax Tower,
City of Lights, Al Reem Island,
Abu Dhabi, UAE
Tel: +971 2 678 0054

Dubai

Dhruva Consultants
Emaar Square Building 4,
2nd Floor, Office 207,
Downtown,
Dubai, UAE
Tel: +971 4 240 8477

Saudi Arabia

Dhruva Consultants
308, 7775 King Fahd Rd,
Al Olaya, 2970,
Riyadh 12212, Saudi Arabia

KEY CONTACTS

Dinesh Kanabar

Chairman & CEO
dinesh.kanabar@dhruvaadvisors.com

Ranjeet Mahtani

Partner
ranjeet.mahtani@dhruvaadvisors.com

Jignesh Ghelani

Partner
jignesh.ghelani@dhruvaadvisors.com

Kulraj Ashpnnani

Partner
kulraj.ashpnnani@dhruvaadvisors.com

Disclaimer:

The information contained herein is in summary form and is therefore intended for general guidance only. This publication is not intended to address the circumstances of any particular individual or entity. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. This publication is not a substitute for detailed research and professional opinions. Before acting on any matters contained herein, reference should be made to subject matter experts, and professional judgment needs to be exercised. Dhruva Advisors India Pvt. Ltd. cannot accept any responsibility for loss occasioned to any person acting or refraining from acting as a result of any material contained in this publication.