VERENDRA
KALRA & CO LLP
CHARTERED ACCOUNTANTS

# Communiqué

## Indirect Tax

October 2026

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# Notifications and Updates

## Important Clarifications Issued Regarding Refund of Statutory Pre-Deposits

CBIC has clarified the procedure for claiming refund of statutory pre-deposits made under Sections 107 and 112 of the CGST Act.

The Circular provides that refund cannot be withheld merely because the Department intends to file or has filed a further appeal unless a competent authority has granted a stay. It further clarifies that interest on pre-deposit refunds is to be calculated from the date of actual deposit.

***Source : Circular No. 259/05/2026-GST dated 26.10.2026***

## ITC on Demonstration Vehicles Expressly Allowed

CBIC has clarified that authorised automobile dealers are entitled to avail Input Tax Credit on demonstration vehicles used for test drives and product demonstrations.

The Circular withdraws the earlier restrictive interpretation and extends the benefit to both traditional dealership arrangements and dealer-agency models.

***Source : Circular No. 262/08/2026-GST dated 26.10.2026***

## E-Invoicing Extended to Certain RCM Transactions and Import of Services

The scope of e-invoicing has been expanded to cover notified reverse charge transactions involving procurements from unregistered suppliers and import of services where self-invoices are required to be issued.

To facilitate implementation, GSTN has introduced two new supply types namely RCMDOM and RCMIMP.

***Source : Notification No. 04/2026-Central Tax dated 26.10.2026 (Effective from 01.01.2027)***

## Clarification on 50% ITC Restriction for Banks and Financial Institutions

CBIC has clarified the implementation of Section 17(4) of the CGST Act governing the optional 50% Input Tax Credit restriction available to banks and financial institutions.

The Circular explains eligibility conditions, reporting requirements, treatment of intra-PAN transactions and application of the restriction through GST returns.

Significance: The clarification resolves several practical issues regarding availment, reversal and reporting of ITC by banks and financial institutions.

***Source : Circular No. 261/07/2026-GST dated 26.10.2026***

## Registration Exemption Withdrawn for Specified Scrap Suppliers

The Government has withdrawn the registration exemption available under Notification No. 5/2017-Central Tax for suppliers dealing in specified waste and scrap categories including used cooking oil, plastic scrap, tyre scrap, metal scrap and electronic waste.

***Source : Notification No. 06/2026-Central Tax dated 27.10.2026 (Effective from 01.11.2026)***

## Finance Act Amendments on Post-Supply Discounts and Refunds Brought into Force Notification No. 03/2026-Central Tax dated 26.10.2026 (Effective from 01.11.2026)

The Government has notified Sections 153 to 155 of the Finance Act, 2026.

The amendments provide a statutory framework for post-supply discounts through issuance of credit notes and recipient-side ITC reversal. The notification also extends the benefit of provisional refunds to inverted duty structure claims and removes the minimum refund threshold for IGST refunds on exports with payment of tax.

## TDS and Reverse Charge Introduced for Specified Scrap Transactions

The Government has introduced a special compliance framework for specified scrap transactions.

TDS provisions have been extended to purchases of notified scrap categories, while GST under Reverse Charge Mechanism has been imposed on purchases from unregistered suppliers dealing in specified scrap goods.

***Source : Notification No. 07/2026-Central Tax dated 27.10.2026 and Notification No. 04/2026-Central Tax (Rate) dated 27.10.2026***

## CBIC Implements Immediate Trade Facilitation Measures

Pending legislative amendments, CBIC has directed GST field formations not to make further arrests under GST. The Instruction also restricts vehicle interceptions to intelligence-based cases approved by a Joint Commissioner and directs officers not to issue SCNs under Sections 73, 74 and 74A where the aggregate tax demand is below ₹10,000.

The Instruction further provides that transit goods should ordinarily not be subjected to confiscation proceedings under Section 130.

***Source : Instruction No. 02/2026-GST dated 30.10.2026***

## Significant GST Rate and Exemption Changes Effective 1 November 2026

The Government has notified various rate and exemption changes, including:

- 5% GST on qualifying seaweed-based bio-stimulants.
- 5% GST on retreaded tractor tyres.
- Exemption for Psyllium (Isabgol) Seeds.
- Optional 5% GST rate for specified EV passenger transport and rental services.
- Limited same-line ITC for specified restaurant, hotel and outdoor catering services.
- Exemptions for specified helicopter passenger transport, warehousing of seeds, coffee-curing services and certain shipping-related services.

***Source : Notification Nos. 02/2026 & 03/2026-Central Tax (Rate) and Notification Nos. 06/2026 & 07/2026-Central Tax (Rate) dated 27.10.2026***

## Annual Return Filing Enabled for FY 2025-26

GSTN has enabled filing of Form GSTR-9 and Form GSTR-9C for FY 2025-26 on the GST Portal.

Taxpayers are advised to complete reconciliation of turnover, tax liability and Input Tax Credit before filing the annual return.



# Rulings

## GST Credit Allowed on IPO Costs Tied to Fresh Issue

In the matter of **Sai Silks Kalamandir Ltd [AAR Order No. 10/2026] the Telangana AAR has ruled that GST credit on IPO expenses,** such as merchant banker fees, legal and consultancy charges, registrar fees, underwriting commission, advertising and listing fees, depends on whether the expense relates to a fresh issue or to an Offer for Sale (OFS) by existing shareholders. ITC can be claimed on expenses linked to the fresh issue, provided the net proceeds are used for the business. It cannot be claimed on expenses linked to the OFS, because those proceeds go to the selling shareholders and not to the company. The Authority held that such costs are not part of the company's business, so GST charged on them is not creditable for the company, even if the company arranged the OFS. The applicant, a clothing retailer, planned a combined IPO of a fresh issue and an OFS. It intended to use the funds to set up new stores and warehouses, meet working capital needs, and repay or prepay some of its borrowings. The Authority noted that an IPO can be a fresh issue, an OFS or a combination of both, and placed this case in the third category.

After reviewing Sections 2(17), 7, 16 and 17 of the GST law, the Authority read "furtherance of business" as any activity that supports, promotes or advances the business. It held this to be wider than "in the course of business", which covers activities forming part of normal operations. It found an indirect but substantial link between IPO expenses and the business, and noted that IPO costs are not among the credits blocked under Section 17(5).The Authority also rejected the view that an expense must be directly tied to the goods or services the company sells. It pointed out that Section 16(1) deliberately uses the wider wording and does not require inputs to go into the final supply. In support, it relied on the Supreme Court's decision in Safari Retreats, which treats Section 16(1) as the main provision allowing ITC on goods and services used for business. It also relied on the CESTAT ruling in Kernex Microsystems, which held that CENVAT credit on services such as advertising used to raise capital through an IPO cannot be denied.

## ITC Retained on Commercial Credit Note Despite 180-Day Payment Rule; Interest Payable for Intervening Period

In the case of **Maltown Electricals Private Limited vs Commissioner of Central Tax, Mysore [Appeal No. APL/84/BUR/2026] The Goods and Services Tax Appellate Tribunal (GSTAT), Bengaluru, has partly allowed the Assessee's appeal, setting aside the IGST credit demand and the Section 74 penalty,** but sustaining interest on proportionate ITC for the period the consideration remained unpaid beyond 180 days under the second proviso to Section 16(2), until its waiver through a commercial credit note.

The Assessee, a manufacturer and supplier of electrical apparatus and engine parts, had bought three spot welding machines from M/s Kirpekar Engineering Pvt. Ltd. for Rs. 1.19 crores plus IGST of Rs. 21.45 lakhs, and availed the ITC in March 2018. Citing deficiencies in the machines, it negotiated a price reduction, leading to a waiver of Rs. 15.28 lakhs, which was accounted for as "liability no longer payable" and supported by a commercial credit note dated November 9, 2021. During a GST audit, the Revenue alleged breach of the 180-day requirement and demanded proportionate ITC with interest and penalty. The Tribunal noted that the ledger showed the amount remained unpaid beyond 180 days and that the Assessee had not produced contemporaneous correspondence evidencing the discount within the prescribed period, which initially required reversal of proportionate ITC. However, relying on CBIC Circular No. 92/11/2019-GST dated March 7, 2019 and Circular No. 251/08/2025-GST dated September 12, 2025, it held that financial or commercial credit notes do not reduce the original transaction value or tax liability, and therefore do not alter the ITC availed by the recipient on the original invoice.

Interpreting the provisos to Section 16(2), the Tribunal held that the object of the second proviso is to prevent credit on unpaid supplies, and that this object is met where the supplier accepts a reduced amount in full settlement and bears tax on the undiscounted value. On the waiver, the Assessee became entitled under the third proviso to hold the credit, and Rule 37(4) of the CGST Rules makes the Section 16(4) time limit inapplicable to such re-availment. The waiver, however, does not extinguish the interest liability, so interest on the proportionate ITC was directed to be paid. On Section 74, the Tribunal held that detection of the discrepancy during audit does not by itself establish suppression with intent to evade tax, particularly as the liability was disclosed in the Assessee's books and audited financial statements. Applying Section 75(2), it held that the notice was within limitation under Section 73 and that the interest liability survives, while the penalty is unsustainable.

## Reuse of E-Way Bill Cannot Be Alleged on Mere Date Discrepancies; Corroborative Evidence of Earlier Goods Movement Required

In the case of **Akata Singh vs OM Marketing, Partnership (Appeal No. APL/129/LCK/2029) The Goods and Services Tax Appellate Tribunal Lucknow,** has dismissed the Revenue's appeal and upheld the First Appellate Authority's order setting aside the Section 129 penalty on the allegation of e-way bill reuse, as there was no evidence of intent to evade tax. Reiterating that such an allegation must be established through cogent and positive evidence, and not on presumption or inference, the Tribunal noted that the proper officer had relied solely on the driver's statement that the goods were loaded on July 9, 2024, while the invoices bore earlier dates. This was unsupported by independent evidence of an earlier movement, delivery or unloading of the same goods. Distinguishing reuse from a mere discrepancy in dates, it held that corroborative material connecting the documents to an earlier movement of the same goods would ordinarily be relevant, and that none had been shown. The Tribunal also noted that physical verification revealed no discrepancy in the quantity or description of the goods, and rejected the Revenue's contention that the extension of the e-way bills was a mechanism for reusing them.




## Section 129 Penalty Cannot Be Imposed for Expired E-Way Bill Caused by Clerical Error Absent Intent to Evade Tax

In the case of **T Stanes And Company Limited Vs The Joint Commissioner, Vanijya Terige (Appeal No. APL/12/BUR/2026) The Goods and Services Tax Appellate Tribunal (GSTAT), Bengaluru, has allowed T. Stanes and Company Limited's appeal,** setting aside the Section 129 penalty imposed for transporting goods under an expired e-way bill. It held that procedural lapses and clerical mistakes cannot independently sustain a penalty in the absence of intent to evade tax.

The Assessee's consignment of insecticides, moved under a delivery challan and e-way bill for a purchase return, was intercepted on March 18, 2024, a day after the e-way bill expired. The Assessee explained that an inadvertent error in entering the consignor's PIN code (583102 instead of 580025) caused the system to auto-populate a distance of 100 km instead of the actual 215 km, leading to premature expiry. Physical verification revealed no discrepancy in the quantity or description of the goods, and the transaction involved a non-taxable supply. Examining Section 129, Rule 138 and CBIC Circular No. 64/38/2018-GST dated September 14, 2018, the Tribunal observed that the provision is intended to prevent tax evasion and that mens rea must be read into it despite the absence of an express requirement. It held that the circular, binding on departmental authorities under Section 168, requires a distinction between substantive violations and minor procedural lapses. Relying on BVM Trans Solutions Pvt. Ltd., The Landmark Cars Pvt. Ltd., Rimjhim Ispat Ltd., Auto Industries, T.P. Metals and Roofings, and Creamline Dairy Products Ltd., it noted that non-filling of Part-B or inadvertent errors in e-way bill particulars do not warrant Section 129 proceedings absent intent to evade tax. It distinguished the Revenue's reliance on Gati Kintetsu Express Pvt. Ltd., observing that the Karnataka High Court's later approach in BVM Trans Solutions does not support mechanical invocation of Section 129 for procedural lapses. Noting that the Appellate Authority had not alleged any mens rea and that the explanation for the premature expiry was reasonable.

## Penalty for Expired E-Way Bill Upheld; Section 68 Violation and Tax Evasion Cited

In the case of **Anand Enterprises vs Ruby Singh, Additional Commissioner, Grade-II Appeals State Tax Agra & Ors (Appeal No. APL/17/AGR/2026) The Goods and Services Tax Appellate Tribunal Agra,** has dismissed the taxpayer's second appeal and upheld the penalty imposed in a case involving an expired e-way bill, finding no legal or factual error in the orders of the lower authorities. The goods, electrical equipment valued at Rs. 11,48,469 dispatched by M/s Havells India Ltd to M/s Anand Enterprises (the Appellant), were intercepted in a vehicle, and the e-way bill produced had already expired on the date of interception. The invoice and e-way bill were issued on July 31, 2022, and were valid only until August 1, 2022, although the distance from Alwar to Agra was shown as 167 km in both the consignment note and the e-way bill. The Tribunal also noted that a vehicle number entirely different from the one actually transporting the goods was mentioned, even in the expired e-way bill. Applying the principles laid down in BM Computers and Dharmendra, the Tribunal held that the department had succeeded in establishing a presumption that the taxpayer violated Section 68 read with Section 129 of the CGST/UPGST Act and Rule 138 of the CGST Rules, 2017, with intent to evade tax. While acknowledging the settled principle that the department must show intention to evade tax before a penalty can be imposed under Section 129, the Tribunal observed that a person's intention is a state of mind for which direct positive evidence cannot ordinarily be produced. It held that mens rea may instead be gathered from the facts and surrounding circumstances of each case.



## Outdoor Playground Equipment Attracts 5% GST, While Outdoor Gym Equipment Attracts 18%

In the matter of Sundek Sports Private Limited (ADVANCE RULING NO. GUJ/GAAR/R/2026/38) The Gujarat Authority for Advance Ruling (AAR) has ruled on the classification and GST rate for outdoor playground and gym equipment supplied by Sundek Sports Private Limited (Applicant), which supplies such equipment for parks, schools, gardens, municipalities and public spaces. The AAR classified outdoor playground equipment and its spare parts under HSN 95069990, and outdoor gym equipment and its spare parts under HSN 95069190. Spare part "bearings" fall under heading 8482, since they are not specifically usable only in outdoor gym equipment and must be classified under their own specific tariff heading. In light of Notification No. 09/2025-Central Tax (Rate), outdoor playground equipment and its spare parts attract 5% GST, while outdoor gym equipment, its spare parts and bearings attract 18%.

The AAR found that the products do not fall within the exclusions in Chapter Notes to Chapter 95 or the HSN notes to Heading 9506. Referring to the HSN notes, it observed that outdoor gym equipment is covered under articles and equipment for general physical exercise, gymnastics or athletics, while outdoor playground equipment falls under equipment of a kind used in children's playgrounds, such as swings, slides, see-saws and giant strides. Relying on the CESTAT (Mumbai) ruling in Arihant Industrial Corpn. Ltd., it held that slides, swings, see-saws, climbers and multi-activity play stations are sports goods for children classifiable under Heading 9506. Accordingly, the AAR concluded that outdoor playground equipment and its spare parts are covered under Entry No. 499 of Schedule I of Notification No. 09/2025, while outdoor gym equipment is covered under Entry No. 619 of Schedule II.

## Manual Filing of Consolidated Refund Application Permitted Where Online Facility Is Unavailable

In the case of PCK Cotton Pvt. Ltd vs UOI & Ors (WRIT PETITION NO. 603 OF 2025) The Bombay High Court has permitted the Assessee, an exporter of cotton bales, to file a consolidated refund application manually, noting that no online facility was available for filing such an application. It directed the Revenue to consider the application on its merits and in accordance with law, after giving the Assessee an opportunity of hearing, including examining the delay in filing and its consequences. The Assessee had filed an application seeking a refund on inputs and later withdrew it in order to file a consolidated refund application for December 2017 to February 2018. However, the GST Portal did not permit the consolidated filing, and the authorities refused to accept a manual application. The Court noted that the withdrawal of the earlier applications was not unconditional and was made for the purpose of filing a consolidated application, and that there was no facility to file it online. Making no observations on the maintainability of the application or on the delay, it disposed of the petition, keeping all contentions open.



## Retrospective 70:30 Tax Ratio for Solar Power Projects Does Not by Itself Establish Fraud or Suppression

In the matter of Zodiac Energy Ltd. Versus State of Gujarat (R/SPECIAL CIVIL APPLICATION NO. 3617 of 2026) The Gujarat High Court has quashed the Section 74 show cause notice and the DRC-07 order issued against Zodiac Energy Ltd. (Assessee), holding that the retrospective application of the 70:30 goods-services ratio for solar power projects cannot, by itself, establish fraud, wilful misstatement or suppression of facts. The Assessee, engaged in the supply and installation of Solar Power Generating Systems under composite contracts, had discharged GST at 5% during FY 2018-19 in line with the framework then prevailing. The Revenue alleged that the composite supply value should have been apportioned 70% to goods and 30% to services. It relied on the Explanation to Sr. No. 234 of Notification No. 24/2018-Central Tax (Rate), which introduced the 70:30 deeming mechanism w.e.f. January 1, 2019, and Circular No. 163/19/2021-GST, which later clarified that the ratio could also apply from July 1, 2017 to December 31, 2018. The Court noted that Solar Power Generating Systems were covered under Entry No. 234 of Schedule I to Notification No. 01/2017-Central Tax (Rate), attracting 5% GST, and that Notification No. 24/2018 was the first instrument to introduce the statutory 70:30 mechanism. It observed that the show cause notice and the impugned order were premised solely on the alleged non-payment of GST in the 70:30 ratio for FY 2018-19. Holding that no such requirement existed when the Assessee raised its invoices and paid tax, the Court ruled that the ingredients of Section 74 could not be invoked, nor could the extended limitation period of five years, merely because a later clarification applied the ratio retrospectively. It concluded that fraud, suppression or intent to evade tax must be assessed against the regulatory framework in place at the relevant time and cannot be automatically inferred from a subsequent levy with retrospective effect.

## ITC Refund Cannot Be Denied Where Invoices Were Issued During the Relevant Period, even if Goods Were Exported Subsequently

In the matter of Shruti Bansal vs Solitaire Pharmacia Pvt. Ltd. (Appeal No. APL/1/CHD/2026) The Goods and Services Tax Appellate Tribunal (GSTAT) Chandigarh, has dismissed the Revenue's appeal, ruling that an exporter's ITC refund cannot be denied for goods whose invoices were issued during the relevant period, even if the goods were exported after that period. The Revenue had challenged the order of the Additional Commissioner (Appeals), which upheld the refund sanctioned by the Deputy Commissioner. It contended that the eligible refund was Rs. 12,58,188 and that an excess of Rs. 5,69,958 had been sanctioned. The Tribunal held that where invoices for goods cleared for export under bond or letter of undertaking are issued during the relevant period, they form part of the turnover of zero-rated supply, regardless of whether the goods were actually exported in that period. It added that the refund itself can be granted only after the exporter establishes that the goods have actually been exported. Explaining the computation, the Tribunal noted that the refund is the portion of "Net ITC" in the ratio of turnover of zero-rated supply of goods to the Adjusted Total Turnover, with all three figures taken for the same relevant period. Since a taxpayer's turnover for a period is the sum of invoices issued for supplies in that period, and an export supply takes place on removal of the goods and preparation of the tax invoice, the zero-rated turnover must be calculated from tax invoices issued for goods intended for export, even though the goods are treated as exported only when they leave India. Concluding that the amount of inadmissible ITC would not significantly change the maximum refund admissible under Rule 89(4), which was much higher than the amount claimed, the Tribunal dismissed the appeal.

## Fire Protection System Supply, Erection, Testing and Commissioning Qualifies as Works Contract, 12% GST not applicable

In the matter of Samay Project Services Limited (Advance Ruling No. 69/ARA/2026) The Tamil Nadu Authority for Advance Ruling (AAR) has ruled that the supply, erection, testing and commissioning of a fire protection system is a "composite supply" under Section 2(30) of the CGST Act, 2017, and that the contract is a "works contract" under Section 2(119), covered under SAC 9954, but not chargeable at 12% GST. M/s Samay Project Services Limited (Applicant), engaged in the supply, installation, testing and commissioning of fire protection systems and related equipment, sought a ruling on the classification of the supply and the applicability of certain notifications. The AAR found that the supply of goods and the erection, testing and commissioning services are naturally bundled and supplied in conjunction with each other, making them a composite supply. It noted that the components, once installed, provide permanent fire-protection infrastructure that cannot be removed and relocated without substantial dismantling. The completed system therefore assumes the character of immovable property for the purpose of GST. The AAR further held that the composite works contract services supplied to the Central Government, State Government, Union territory or a local authority are not covered under Entry 3(vii) of Notification No. 11/2017-Central Tax (Rate), so the Central GST rate for intra-State supply is not 6%, as the Applicant had sought. It also denied classification of the goods under Clause (vi) of Sl. No. 3 of Notification No. 8/2017-Integrated Tax (Rate), as amended by Notification No. 48/2017-Integrated Tax, and rejected the claim that the system supplied to a government institution such as the BCG Vaccine Laboratory falls under Clause (a) of Sl. No. 3 of Notification No. 47/2017-Integrated Tax (Rate), attracting 5% IGST. On the question of the system supplied to SDSC SHAR, Sriharikota, the AAR observed that Notification No. 47/2017-Integrated Tax (Rate) has been rescinded by Notification No. 11/2022-Integrated Tax (Rate), and that the issue therefore does not call for further analysis.

## Printing of Pre and Post-Exam Items for Educational Institutions Is a Supply of Services and Exempt from GST




In the matter of **Associated Printers (Madras) Pvt. Ltd. (Advance Ruling No. 60/ARA/2026) The Tamil Nadu Authority for Advance Ruling (AAR) has held that printing and supplying of examination-related items** for educational institutions is a "supply of services", and that both pre- and post-examination printing services are exempt under Serial No. 66 of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017, as amended. M/s Associated Printers (Madras) Pvt. Ltd. (Applicant), engaged in printing and supplying exam-related items, had been charging 18% GST on services provided to various universities. The Applicant merely prints content supplied by the educational institution, including the design, logo and barcode information, and returns it to the institution. The AAR noted that ownership of the content remains with the institution throughout, and that the supply of goods and services occurs concurrently, making it a composite supply. Since the usage rights of the content lie with the institution while the physical inputs belong to the Applicant, it held that printing is the principal supply, and the entire supply is classifiable under heading 9989 as a service. It ruled that printing of pre-examination items such as hall tickets, question papers, OMR sheets and answer booklets, and post-examination items such as mark sheets, degree certificates, grade sheets, rank sheets and rank cards, qualifies as exempt supply, as these are services provided to educational institutions. It concluded that processing and scanning of results and printing of mark sheets and certificates are essential to completing a qualification recognised by law.

## Service of GST Notice Only on Portal to Registrant Whose Registration Is Cancelled Violates Natural Justice

In the case of **Anupam Industries Versus State Of Up & Anr. (WRIT TAX No. - 2778 of 2026) The Allahabad High Court has set aside an adjudication order passed under Section 74 of the CGST Act, 2017,** holding that non-service of a physical show cause notice on an Assessee whose GST registration stood cancelled substantially violated the principles of natural justice. The Court observed that, once registration is cancelled, the Assessee can no longer access the common portal and is relieved of the obligation to check it. Relying on the Revenue's own position in Bambino Agro Industries Ltd., it held that adjudication notices in such cases ought to be served physically in terms of Section 169(1)(a) and (b) of the U.P. GST Act. It noted that the failure to serve a physical notice may have prevented the Assessee from filing objections, particularly as the right to a hearing is statutorily protected under Section 75(4). Accordingly, the Court remitted the matter for fresh adjudication. It directed the Revenue to issue a physical notice along with the relied-upon documents (RUDs) within ten days, and granted the Assessee two weeks thereafter to file a written reply.

## GST Refund Cannot Be Rejected, Wholly or Partly, Without Issuing RFD-08 Notice and Granting Personal Hearing

In the case of **Vikram Inderjit Kapur vs Rajesh Chandrakant Vishe, Deputy Commissioner of State Tax (Appeal No. APL/33/THN/2026) The Goods and Services Tax Appellate Tribunal (GSTAT) Thane, held that an Adjudicating Authority has no jurisdiction or discretion to reject a refund claim,** wholly or partially, under Rule 92(3) without first issuing a notice in FORM GST RFD-08 and affording the applicant a personal hearing. In the present case, the Adjudicating Authority directly issued the refund sanction/rejection order in FORM GST RFD-06, without issuing RFD-08 or giving the Appellant any opportunity of being heard. The Tribunal rejected the Revenue's contention that the hearing granted by the Appellate Authority cured this defect. It emphasised that the right to a show cause notice and hearing before an adverse civil consequence is a fundamental statutory right rooted in the principle of audi alteram partem, and that a post-decisional hearing at the appellate stage cannot substitute for a pre-decisional statutory notice. By not issuing RFD-08, the Adjudicating Authority deprived the Appellant of the right to know the precise grounds for the "mismatch of ITC" and to furnish a specific, document-backed reply in FORM GST RFD-09.Stressing that quasi-judicial authorities must act fairly, follow prescribed procedures and pass reasoned orders, as established by precedents including the Supreme Court's decision in Kranti Associates Pvt. Ltd., the Tribunal ruled that an order passed in complete defiance of a mandatory statutory procedure is void ab initio. The batch of 39 appeals challenged orders of the Joint Commissioner of State Tax confirming partial rejection of refund claims for tax periods from June 2019 to September 2022. The Tribunal opined that the Appellate Authority, having noted the violation of Rule 92(3), ought to have remanded the matter instead of calling for documents and deciding on merits. Without examining the merits of the ITC mismatch or the applicability of the COVID-19 relief circulars, it remanded all 39 appeals to the Adjudicating Authority to restore procedural integrity.

## Payment Under Wrong Head of CGST/SGST Instead of IGST Is Not Short Payment of IGST; Set-Off Allowed

In case of **Sunil Steels Vs The Commissioner of Keralam SGST, Thiruvananthapuram (Appeal No. Appeal No: APL/14/TVP/2026) The Goods and Services Tax Appellate Tribunal (GSTAT) Thiruvananthapuram, held that payment of tax under CGST/SGST instead of IGST** due to a clerical error does not constitute non-payment or short payment of tax actionable under Section 73. It set aside the Order-in-Appeal, allowed the set-off and directed recovery of any residual amount with applicable interest. The case arose from a demand of Rs. 5,57,957 for alleged short payment of IGST, detected by comparing GSTR-1 with GSTR-3B. The demand was confirmed by the adjudicating authority and upheld by the First Appellate Authority. The Tribunal observed that the show cause notice alleged short payment due to non-correction of return discrepancies under Section 37(3), whereas the adjudicating authority confirmed the demand under Section 16(2)(a), a provision not invoked in the notice, without addressing the Assessee's explanation. Relying on the Kerala High Court's ruling in Rejimon Padickapparambil Alex and other precedents, the Tribunal held that excess CGST/SGST payments arising from the clerical error are eligible for set-off against the IGST shortfall through the electronic credit ledger. However, it noted that the Revenue had established an unreconciled difference of Rs. 15,049 between the IGST shortfall of Rs. 5,57,957.03 and the excess CGST/SGST payments of Rs. 5,42,907.92, which the Assessee failed to dispute despite opportunities. It clarified that this residual amount is recoverable with applicable interest.



## Cancelled GST Registration Cannot Be Revoked Where Application Was Filed After Delay

In the case of Danusri Builders Vs The Deputy Commissioner (Appeal No. W.P.(MD) No.28574 of 2026) The Madras High Court has declined to direct revocation of a GST registration cancelled on March 17, 2024 for non-commencement of business within six months of registration, observing that the Assessee sought revocation beyond the time limit prescribed under the applicable GST statutes. The Assessee had submitted a representation dated August 1, 2026 seeking revocation of the cancellation and approached the High Court for a mandamus directing restoration of the registration. The Court held that the direction could not be granted, as the application for revocation was filed long after the statutory limitation period expired. Accordingly, it disposed of the writ petition, leaving it open to the Assessee to challenge the cancellation of registration in accordance with law, without costs.

## Belated Payment of Tax Does Not Save Assessee from Penalty for Failure to Pay Within SCN Timeline

In case of Aparnaa Fashions Fabrics vs Deputy Commissioner of Revenue (Appeal No. APL/69/KLK/2026) The Goods and Services Tax Appellate Tribunal (GSTAT) Kolkata, dismissed the Assessee's appeal, upholding interest on the delayed payment of short-paid GST and the penalty under Section 73(9). The Tribunal held that belated payment of tax does not absolve the Assessee of interest liability, and that, having failed to pay the tax along with interest within 30 days of issuance of the show cause notice (SCN), the Assessee was liable to penalty. It rejected the Assessee's contention that the penalty was arbitrary and illegal once the tax had been paid through the appropriate return, and that mere delay does not warrant a penalty absent conscious disregard of statutory obligations. The Assessee had relied on the Supreme Court's decision in Hindustan Steel Ltd., which the Tribunal distinguished, clarifying that the penalty in that case arose from the dealer's failure to register under the Orissa Sales Tax Act, and that the Supreme Court's observations were made in that distinct factual context. Accordingly, the Tribunal observed that there was no wrong in the imposition of penalty under Section 73(9) of the CGST Act.



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