

GST ALERT MARCH, 2026

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ITC-ASSIGNMENT OF LEASEHOLD RIGHTS

Niket Bipinbhai Patel vs Assistant Commissioner (A.E.) CGST [TS-96-HC(GUJ)-2026-GST]-Gujarat High Court (Division Bench)

- Assessee, an NRI, held leasehold rights over a plot of land and was engaged in the business of sub-plotting and transferring the leasehold rights of such sub-plots to various purchasers and was registered under GST solely for discharging GST liability on transfer of leasehold rights.
- ITC was availed in respect of the GST on various charges payable on transfer of leasehold rights such as sub-divisional charges, NU penalty, miscellaneous administrative charges, transfer fees.
- SCN u/s 74 was issued on the ground that the ITC availed by the Assessee was blocked u/s 17(5)(d) of the CGST Act, 2017.
- Assessee contended that:
 - SCN u/s 74 was uncalled for in the absence of allegations of fraud, willful mis-statement or suppression of facts.
 - There was no violation of Section 17(5)(d) of the CGST Act, 2017 and the ITC availed was never utilized and GST liability was wholly discharged in cash.
- The Court held that:
 - Section 17(5)(d) would not apply to the Assessee as the Section bars ITC only on construction related expenditure.
 - Invocation of Section 74 was wrong in the absence of fraud, willful mis-statement or suppression of facts.
- The SCN was set aside.

ISD- DISTRIBUTION OF CREDIT

Reliance Jio Infocomm Ltd vs UOI & ors [TS-137-HC(MAD)-2026-GST]-Madras High Court (Division Bench)

- Section 20 of the CGST Act, 2017 provides the manner of distribution of credit by an Input Service Distributor (ISD).
- Prior to the amendments carried out w.e.f 01.04.2025, Section 20 did not empower the Central Government to prescribe the time limit within which the ISD was required to distribute credit. The power to do so was introduced only w.e.f 01.04.2025 .
- Rule 39(1)(a) required distribution of credit by an ISD in the same month when it becomes available prior to and post 01.04.2025.
- Validity of Rule 39(1)(a) was challenged on the following grounds:
 - Prior to distribution of credit, the ISD must determine to which recipient unit the invoice is attributable to and whether such ITC is eligible or ineligible. This exercise is time consuming and makes compliance with the requirement of same month distribution of ITC by ISD impossible.
 - Distribution of credit by ISD in the same month as the invoice, without determining the eligibility of the ITC, to comply with Rule 39(1)(a) exposes the Assessee to the risk of proceedings under Section 21 for the recovery of credit distributed in excess and also proceedings under Section 73 or 74 or 74A.
 - Prior to the substitution w.e.f 01.04.2025, Section 20 of the CGST Act, 2017 did not provide for time limit for distribution of ITC by ISD ,therefore, the Rule requiring time limit for distribution prior to 01.4.2025 is ultra vires unamended Section 20 of the CGST Act, 2017.

ISD- DISTRIBUTION OF CREDIT (CONTINUED)

- The Court held that:
 - Rule 39(1)(a) of the CGST Rules, 2017 is valid.
 - The expression "*the input tax credit available for distribution in a month*", shall mean ITC available for distribution in a month **upon fulfillment of the conditions set out in Section 16(2) of the CGST Act, 2017.**
 - The show cause notices challenged must be decided in light of Rule 39(1)(a), as interpreted by the Court.

Author's comments

- Section 20 of the CGST Act, 2017 was substituted by the Finance Act, 2024 w.e.f 01.04.2025. Post the substitution, Section 20(2) provides that ISD credit shall be distributed "*in such manner, within such time, and subject to such restrictions and conditions as may be prescribed.*"
- The Telangana High Court, in the case of ***BirlaNu Ltd Vs Union of India [TS-1055-HC(TEL)-2025-GST]***, examined the conditions applicable to the distribution of ISD credit for a period prior to the substitution of Section 20 and struck down Rule 39(1)(a) of the CGST Rules, 2017, to the extent that it mandated the distribution of the available in the same month.
- The validity of the Rule prior to and post the amendments made w.e.f 01.02.2025 was challenged before the Madras HC but a key finding on the correct interpretation of the phrase "*input tax credit available for distribution in a month*" has been given by the Court without making a specific reference to any period.

CASH SEIZURE & TRANSFER TO IT DEPARTMENT

Smurti Waghdhare Vs Joint Director & Ors [TS-150-HC(BOM)-2026-GST] –Bombay High Court (Division Bench)

- Search was conducted at various business and residential premises related to the Assessee and cash of Rs.1 crore was seized by GST Authorities based on the statement of the Assessee's friend who was arrested in a case involving fake invoices and was out on bail.
- The seized cash was handed over to the Income Tax Department, which issued notices under the Income-tax Act, 1961.
- Assessee challenged the seizure by contending that :
 - Cash did not fall within the ambit of goods, documents, books or things mentioned under Section 67(2) of the CGST Act,2017.
 - Section 67(2) of the CGST Act,2017 permits seizure only of material useful or relevant to any proceedings and secreted at any place.
 - The seizure order did not refer to any incriminating documents or record any "reasons to believe."
- The Court held that:
 - Proper officer not below the rank of Joint Commissioner having "reason to believe" that goods, documents, books or things, which may be useful or relevant to any proceedings and have been secreted at any place forms the bedrock to initiate proceedings under Section 67(2) of the CGST Act,2017.
 - The seizure of cash was completely illegal and not justified as the provisions of Section 67(2) of the CGST Act were not fulfilled.
 - The Court expressed the view that they were unable to understand the source of power that allowed the GST Authorities to hand over the cash to the Income Tax Department for further proceedings.
- The Court set aside the seizure Orders and directed return of the cash along with interest within 2 weeks and clarified that its Order will not have any impact on any Income Tax proceedings against the Assessee.

REFUND OF TAX PAID TWICE BY MISTAKE-LIMITATION

Rajendra Narayan Mohanty Vs Joint Commissioner of State Tax [TS-95-HC(ORI)-2026-GST]–Orissa High Court (Division Bench)

- Tax was paid twice by mistake by the Assessee in 2021 and 2022.
- The Assessee noticed such payment of tax twice only in 2025 and filed an application seeking refund of such tax paid.
- The refund application was rejected on the ground that the application was filed beyond the period of 2 years stipulated under Section 54 of the CGST Act,2017 for filing refund applications.
- The Court held that:
 - Refund of tax paid twice by mistake falls within the fold of Article 265 of the Constitution of India and the time limit prescribed under Section 54 of the CGST Act,2017 will not apply to such cases.
 - Liberty was granted to the Assessee to file a fresh refund application within a fortnight.
 - The Department was directed to dispose off the refund application within 7 days, failing which the amount of refund shall carry interest at the rate of 6% per annum till the date of actual payment calculated from the date of application for refund originally made.

FIRST APPELLATE AUTHORITY CANNOT REMAND MATTERS

Anand and Anand (Law Firm) Vs The Principal Commissioner Central Goods & Services Tax [TS-146-HC(ALL)-2026-GST]–Allahabad High Court (Single Judge)

- Assessee's refund applications pertaining to export of legal services without payment of tax were rejected.
- Appeals were filed against the rejection of refund applications.
- The First Appellate Authority (FAA), despite recording findings in favour of the Assessee, remanded the matter to the Adjudicating Authority(AA) for reconsideration.
- The Assessee contended that there was no provision empowering the FAA to remand matters.
- The Court held that:
 - The portions of the Order of the FAA that remanded the matter to the AA for reconsideration are set aside.
 - FAA to decide the Appeal on merits within 2 months.

GSTAT-INHERENT POWERS

The Hongkong and Shanghai Banking Corporation Ltd v. State of Maharashtra & Ors.[TS-122-HC(BOM)-2026-GST]-
Bombay High Court (Division Bench)

- Assessee had preferred an Appeal to the GSTAT and had paid the required pre-deposit. While the Appeal was pending, recovery notices were issued to the Assessee.
- Assessee approached the HC and relied upon Section 112(g) of the CGST Act,2017.
- The Court held that:
 - The power to grant interim relief, including protection against recovery pending the Appeal, is inherent and incidental to the appellate jurisdiction of the GSTAT.
 - GSTAT (Procedure) Rules,2025 discusses the inherent powers of the GSTAT and the procedure for filing of and disposal of interlocutory applications.
 - The Supreme Court in the case of *ITO, Cannanore Vs. M. K. Mohammed Kunhi* examined the powers of the ITAT to grant interim relief and held that when wide appellate powers are granted to the Tribunal to pass such orders “as it thinks fit,” it impliedly grants all powers necessary to make the exercise of such appellate jurisdiction effective.
- Limited interim protection was granted to the Assessee to allow time to move an appropriate manual interim application before the GSTAT as the portal was not accepting online application.

OTHER CHANGES

GSTN Advisory dated 14.03.2026 on the Payment of pre-deposit while filing of appeal before First Appellate authority

Scenario	Consideration towards Pre-deposit
Voluntary payment at the time of investigation, using Form GST DRC-03, before issuance of demand Order	Payment must be linked to demand Order once it is issued using Form GST DRC-03A for the amount to be recognised towards pre-deposit.
Payment using Form GST DRC-03 after issuance of demand Order	Payment must be linked to demand Order using Form GST DRC-03A for the amount to be recognised towards pre-deposit.
Payment made against demand ID after issuance of demand Order using the " <i>Payment towards Demand</i> " functionality on the portal	<ul style="list-style-type: none">• Portal will automatically consider the amount towards pre-deposit and will only require the payment of balance, if any, towards pre-deposit.• If amount in excess of pre-deposit has been paid, Portal will permit Appeal filing without any further payment.

OTHER CHANGES

GSTN Advisory dated 21.02.2026 on facility for withdrawal from Rule 14A Registration

- Rule 14A of the CGST Rules, 2017 provided for an option to taxpayers having monthly output tax liability below Rs.2.5 lakhs to obtain registration electronically within 3 days of application.
- An Online facility to apply for withdrawal from the option availed under Rule 14A of the CGST Rules, upon breach of the threshold, by filing Form GST REG-32 is now made available on the GST portal.
- Filing of Form GST REG-32 will not be permitted unless:
 - Returns for a period of minimum three months, if Form GST REG-32 is filed before 1st April, 2026;
 - Returns for a period of minimum one tax period, if Form GST REG-32 is filed on or after 1st April, 2026; and
 - All the returns due for the period from the effective date of registration till the date of filing of Form GST REG-32.
- ARN will be generated only after successful Aadhaar authentication.
- While Form GST REG-32 is pending, filing of Core amendment, non-core amendment and self-cancellation application shall not be permitted.
- On receiving Order allowing withdrawal from Rule 14A in Form GST REG-33, Taxpayers shall be able to furnish the details of output tax liability exceeding Rs.2.5 lakhs, from the first day of succeeding month in which the said Order has been issued.

CUSTOMS

CIRCULAR NO.09/2026-CUSTOMS

- Procedure for handling export cargo returning to Indian Ports due to closure of Strait of Hormuz has been prescribed in exercise of powers under Section 143AA of the Customs Act,1962.The relaxations will be effective for 15 days from 08.03.2026:

Scenario	Procedure
Cargo loaded on vessel and vessel is within Indian territorial waters and EGM or SDM not filed	<ul style="list-style-type: none"> • Master/Captain of the vessel to submit undertaking that the vessel has not crossed territorial waters of India. • Vessels may be permitted to berth at the Indian port from which it departed without filing Sea Arrival Manifest (SAM) and containers maybe offloaded at the port terminal without filing a Bill of Entry, subject to verification of shipping documents and integrity of container seals • Proper Officer shall cancel Shipping Bills and Let Export Orders • Proper Officer may permit Back to Town facility on request.
Cargo loaded on vessel and vessel is within Indian territorial waters and EGM or SDM filed	<ul style="list-style-type: none"> • Master/Captain of the vessel to submit undertaking that the vessel has not crossed territorial waters of India. • Vessels may be permitted to berth at the Indian port from which it departed without filing Sea Arrival Manifest (SAM) and containers maybe offloaded at the port terminal without filing a Bill of Entry, subject to verification of shipping documents and integrity of container seals.
Vessel is in International waters and returning without calling any foreign ports	<ul style="list-style-type: none"> • A new option will be provided by DG System to cancel such Shipping Bills post EGM in ICES system which will also ensure that export incentives are not disbursed in cases where such benefits have not yet been granted. • Details of such cancelled Shipping Bills shall be shared with RBI,DGFT and other concerned agencies by ICEGATE.
Vessel is in International waters and returning to India after calling any foreign port without discharge of any container.	<ul style="list-style-type: none"> • Shall be treated as Exported out of India. • SAM should be filed by the Shipping line or the authorised representative. • Containers maybe offloaded at the port terminal without filing a Bill of Entry, subject to verification of shipping documents and integrity of container seals. • A new option will be provided by DG System to cancel such Shipping Bills post EGM in ICES system which will also ensure that export incentives are not disbursed in cases where such benefits have not yet been granted. • Details of such cancelled Shipping Bills shall be shared with RBI,DGFT and other concerned agencies by ICEGATE.

CIRCULAR NO.10/2026-CUSTOMS- WAIVER OF FEE

- Conditions and procedure to avail waiver of fee for amendment or cancellation of export documents in cases of withdrawal of export consignments caused by the disruption of maritime routes due to the closure of Strait of Hormuz has been prescribed in exercise of powers under Section 143AA of the Customs Act,1962:
 - Cancellation or amendment must arise solely due to exceptional circumstances or other force majeure events such as cancellation or rescheduling of vessels or flights, suspension of cargo services by carriers or operational disruptions in ports or airports.
 - Cancellation or amendment must not arise due to any lapse on the part of the Exporter or the Customs Broker.
 - Exporters or authorised Customs Broker shall submit requests to the Jurisdictional Deputy/Assistant Commissioner of Customs along with evidence such as airline/shipping line communications, port/airport notices, or other relevant documents.
 - Waiver of fee prescribed under the Levy of Fees(Customs Documents)Regulations, 1970, as amended shall be granted subject to the satisfaction of the Officer.
- Relaxations to be effective for 15 days from 10.03.2026.



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