

# GST CONFERENCE

Insights. Updates. Strategy.  
For a Stronger Tomorrow.



Saturday,  
May 30, 2026



Galaxy Hall,  
**THE PARK, Kolkata**

## KEY TOPICS

- > New Labour Code
- > SCN to GSTAT – Litigation Strategy
- > Recent Judicial Rulings
- > AI in GST
- > Important GST Law Updates
- > Other Important Changes in GST



## CONFERENCE BOOKLET



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# WELCOME NOTE

## SKKA/AKC GST CONFERENCE 2026

*Saturday, 30th May 2026 | 10:30 AM – 1:30 PM | The Park, Kolkata*

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It is with immense pride and great enthusiasm that we welcome you to the SKKA/AKC GST Conference 2026, a half-day conclave dedicated to the evolving landscape of Goods and Services Tax law, practice, and jurisprudence in India.

Organised jointly by S.K. Kanodia & Associates, Chartered Accountants, and Ankit Kanodia & Co., Advocates, this conference brings together thought leaders from varied industries as well as across the legal and accounting fraternity. Our shared objective is to create a platform for substantive dialogue, practical insight, and peer learning in a domain that continues to witness rapid legislative change and judicial activity.

GST, now in its ninth year of implementation, has matured considerably yet the challenges faced by taxpayers, advisors, and litigation professionals remain significant. Show cause notices, adjudication proceedings, appeals before the GST Appellate Tribunal (GSTAT), the growing influence of artificial intelligence in tax administration, and evolving legislative amendments through successive Finance Acts have all created an environment where staying current is not merely an option but a professional imperative.

This booklet accompanies today's sessions and serves as a ready reference for the key topics on the agenda. The sessions have been carefully curated to address both the macro-level changes in GST law and the micro-level practical challenges that professionals encounter in day-to-day advisory and litigation work.

### Guest of Honour

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We are deeply honoured to have Shri Khalid A. Anwar, Commissioner, West Bengal GST State Tax, grace this conference as our Guest of Honour. His presence reflects the spirit of open dialogue between the tax administration and the professional community, a dialogue that is essential for the healthy evolution of GST jurisprudence.

### Session Highlights

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Today's conference covers a rich and diverse agenda:

- New Labour Code — A practical overview of the new labour codes and their intersection with GST compliance obligations, presented by Adv. Ankit Kanodia & Adv. Megha.

- Journey From SCN to GSTAT — A comprehensive walkthrough of the litigation journey from show cause notice to the GST Appellate Tribunal, covering strategy, procedure, and best practices, by CA Akanksha & Adv. Kajal.
- AI in GST — An exploration of how artificial intelligence is being deployed in GST audit, scrutiny, and compliance, and what it means for practitioners, by CA Ayush.
- Recent Judicial Rulings — A curated analysis of landmark and recent court decisions shaping GST law, presented by Adv. Tulika & Kashish.
- Finance Act: Credit Note Updates — Key amendments to Input Tax Credit and credit note provisions under the Finance Act, by Bijay.
- Dispute in GST Portal Setoff Mechanism — Practical issues arising from the GST portal's input tax credit set-off mechanism, presented by Surojit.
- Dealing ITC Fraud / Non-Fraud Cases — Strategies for handling ITC fraud and non-fraud cases under GST, by CA Sita & CA Rakshi.
- Customer Rejection in IMS — Understanding Customer Rejection in the Invoice Management System (IMS) and its practical implications, by CMA Tripti.

## Conference Schedule

Time	Session	Speaker / Note
10:30 AM	<b>Registration &amp; Networking</b>	Check-in and networking
11:00 AM	<b>Opening Remarks</b>	Welcome & Overview
11:15 AM	<b>New Labour Code</b>	Adv. Ankit Kanodia & Adv. Megha Agarwal
11:35 AM	<b>Journey From SCN to GSTAT</b>	CA Akanksha & Adv. Kajal
12:00 PM	<b>AI in GST</b>	CA Ayush
12:10 PM	<b>Recent Judicial Rulings</b>	Adv. Tulika
12:25 PM	<b>Finance Act: Credit Note Updates</b>	Bijay
12:35 PM	<b>Dispute in GST Portal Setoff Mechanism</b>	Surojit
12:45 PM	<b>Dealing ITC Fraud / Non-Fraud Cases</b>	CA Sita & CA Rakshi
01:00 PM	<b>Customer Rejection in IMS</b>	CMA Tripti
01:05 PM	<b>Q&amp;A &amp; Closing Keynote</b>	Wrap-up Discussion
01:30 PM	<b>Lunch</b>	

## A Note from the Organisers

We are grateful to each and every speaker, panellist, and participant who has taken time from their busy schedules to be here today. Your knowledge, experience, and active participation is what makes events like this truly meaningful.

We hope that the discussions today prove to be not only intellectually stimulating but also immediately useful in your professional practice. It is our sincere endeavour to make this

conference an annual fixture in the professional calendar of the GST and indirect tax community.

We also extend our heartfelt gratitude to our team members who worked tirelessly behind the scenes to make this event possible.

*Warm regards,*

**Santosh Kr Kanodia**

**Shyam Kr Kanodia**

**Sita Kejriwal**

S.K. Kanodia & Associates, Chartered Accountants

**Ankit Kanodia**

Ankit Kanodia & Co., Advocates

# ABOUT US

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## **S.K. Kanodia & Associates**

*Chartered Accountants*

S.K. Kanodia & Associates (SKKA) is a well-established and reputed Chartered Accountancy firm founded in 1984 by Mr. Santosh Kumar Kanodia, a Fellow Chartered Accountant with decades of distinguished service to the profession. Since its inception, the firm has grown from strength to strength, evolving into a multifaceted, medium-sized practice widely recognised as one of the leading Indirect Tax and GST firms in Kolkata and Eastern India.

Over four decades, SKKA has built a formidable reputation for integrity, competence, and client-centric service delivery. The firm operates from its Head Office at 13/C, Balak Dutta Lane, College Street Market, Machuabazar, Kolkata – 700007, with a Branch Office at 39A, Jorapukur Square Lane, Kolkata – 700006.

SKKA offers a comprehensive range of professional services spanning Audit & Assurance, Direct and International Tax Consultancy, Cross-Border Practice, Mergers and Amalgamations, Corporate Law advisory, Management Consultancy, and Indirect Taxation Compliance and Litigation Support. The firm's Indirect Tax vertical is particularly recognised for its depth of expertise in GST, Service Tax, Excise, and Customs matters.

The firm's service offerings in the Indirect Tax space include legal drafting of agreements and written opinions, corporate health check-ups in the indirect taxation domain, representation before quasi-judicial authorities, tax planning for corporates and High Net-worth Individuals (HNIs), staff training and implementation support for GST systems, and the provision of specialised technical know-how across all facets of indirect taxation.

## **Mission**

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SKKA's mission is to become one of the leading Chartered Accountancy firms in the country, well known for its integrity and competence, offering value-based auditing, taxation, and advisory services to the industrial, financial, and services sectors across the widest range of economic activities.

## **Vision**

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- Offering highly professional and personalised services to all clients.
- Continuously upgrading the efficiency and capability levels of the team to meet emerging professional needs.

- Expanding and broad-basing the range of services in keeping with legislative and economic developments.
- Enlarging the clientele base and the area of operation for achieving sustained and steady growth.
- Upgrading infrastructural facilities to maintain the highest standards of professional service.
- Offering clients consistent value for money in every service rendered.

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## **Ankit Kanodia & Co.**

### *Advocates*

Ankit Kanodia & Co. is a dynamic and client-focused law firm established and led by Adv. Ankit Kanodia, a practising Advocate with specialisation in indirect taxation, GST litigation, and commercial law. The firm represents clients before departmental authorities, Appellate Authorities, the GST Appellate Tribunal (GSTAT), High Courts, and provides comprehensive advisory support on contentious and non-contentious tax matters.

The firm brings together a team of skilled advocates and legal professionals who are deeply engaged with the rapidly developing field of GST law. With a thorough understanding of both the procedural and substantive aspects of GST litigation from Show Cause Notices and adjudication proceedings to appeals before GSTAT the firm provides end-to-end litigation support designed to achieve the best possible outcomes for its clients.

Adv. Ankit Kanodia is also a qualified CA and CS which enables the firm to offer a distinctive and rare combination of legal and accounting expertise under one roof. This integrated approach allows clients to receive seamless, cross-disciplinary advice on complex indirect tax matters ranging from compliance and audit support to high-stakes litigation strategy.

The firm advises a diverse portfolio of clients including manufacturing companies, service providers, traders, exporters, and importers on matters arising under the GST framework, Customs laws, and allied indirect tax legislation. The firm is committed to staying at the cutting edge of legislative and judicial developments ensuring that clients are not only well-represented but also well-informed.

## Areas of Practice

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- GST Advisory, Compliance & Litigation
- PMLA
- Show Cause Notice Response & Adjudication Proceedings
- Appeals before Commissioner (Appeals), GSTAT, High Courts and Supreme Court
- Input Tax Credit (ITC) Disputes and Fraud Matters
- Customs Law Advisory and Litigation
- Finance Act & Legislative Update Advisory
- Drafting of Legal Opinions, Agreements & Replies
- Labour Law Compliance under the New Labour Codes

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*Together, we are committed to advancing the standard of indirect tax practice in India.*

# **THE FOUR LABOUR CODES OF INDIA**

## **A Comparative Study with the Predecessor Regimes**

*(with Litigation Settled and West Bengal Perspective)*

Prepared by Adv. Ankit Kanodia & Adv. Megha Agarwal

*Calcutta High Court*

## **I. INTRODUCTION AND IMPLEMENTATION TIMELINE**

India's labour law regime has undergone the most significant overhaul since independence. Between 2019 and 2020, Parliament enacted four Labour Codes which consolidate twenty-nine existing Central labour statutes into a single, simplified framework. The codes are:

- **The Code on Wages, 2019** (assented on 08.08.2019) — subsumes 4 Acts;
- **The Industrial Relations Code, 2020** (assented on 28.09.2020) — subsumes 3 Acts;
- **The Code on Social Security, 2020** (assented on 28.09.2020) — subsumes 9 Acts;
- **The Occupational Safety, Health and Working Conditions Code, 2020** (assented on 28.09.2020) — subsumes 13 Acts.

The Ministry of Labour and Employment notified 21 November 2025 as the appointed date for enforcement of all four Codes. Central draft rules were gazetted on 30 December 2025, with final rules and Ministry FAQs (dated 16 March 2026) progressively rolled out. Full operational implementation across all States is targeted from 1 April 2026, subject to finalisation of corresponding State rules.

Labour being a subject in the Concurrent List (Entry 22, 23 and 24 of List III, Schedule VII), the codes require concurrent rule-making by the Central Government and each State Government. As of date, twenty-five States have notified draft rules; West Bengal remained an outlier under the previous Trinamool Congress administration. With the change of government in West Bengal following the 2026 Assembly elections (Shri Suwendu Adhikari having been sworn in as Chief Minister on 09 May 2026), the State's rule-making

posture is expected to undergo a fundamental realignment in line with the Centre, which has direct implications for industry and the Bar in Kolkata.

## II. THE CODE ON WAGES, 2019

### A. Statutes Subsumed

- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Equal Remuneration Act, 1976

### B. Comparative Table: Old vs. New

Parameter	Old Regime (Pre-2025)	Code on Wages, 2019
Coverage of Minimum Wages	Minimum Wages Act applied only to "scheduled employments" listed in the schedule of the Act; vast informal sector excluded.	Universal application across all sectors (organised and unorganised), to all employees including supervisory, managerial, administrative and technical.
Wage ceiling for Payment of Wages	Payment of Wages Act applied only to employees drawing wages up to Rs. 24,000/- per month.	No wage ceiling; the Code applies to every employee regardless of designation or wage level.
Definition of "wages"	Different Acts had different definitions; allowances often treated differently.	Uniform statutory definition. Wages comprise basic pay + DA + retaining allowance. Exclusions (HRA, bonus, OT, employer PF contribution, etc.) capped at 50% of CTC. Any excess over 50% is added back to wages.

Parameter	Old Regime (Pre-2025)	Code on Wages, 2019
National Floor Wage	No statutory floor wage; only non-binding advisory rates.	Section 9 introduces a binding National Floor Wage fixed by the Central Government. State minimum wages cannot be lower than the floor wage.
Equal Remuneration	Equal Remuneration Act 1976 covered only men and women.	Section 3 prohibits discrimination on ground of gender (including transgender) in wages and recruitment for same or similar work.
Bonus Eligibility	Wage threshold of Rs. 21,000/- p.m. for bonus eligibility (Payment of Bonus Act, post 2015 amendment).	Threshold to be notified by appropriate Government. Calculation ceiling continues, but uniform across Codes.
Overtime	Different rates under different Acts.	Uniformly at least twice the ordinary rate of wages (Section 14).
Limitation for Claims	Six months under Minimum Wages Act; one year under Payment of Wages Act.	Three years (Section 45) — substantially longer, beneficial to workers.
Inspector	Inspector with purely enforcement role.	"Inspector-cum-Facilitator" — advisory + enforcement; web-based randomised inspection scheme.

### C. Key Litigations of the Old Regime now Settled

**(i) The "basic wages" controversy under the EPF Act:** The decades-old controversy on what constitutes "basic wages" for PF computation, which finally reached its zenith in *Regional Provident Fund Commissioner (II) West Bengal v. Vivekananda Vidyamandir & Ors.*, AIR 2019 SC 1240 (popularly the

*Surya Roshni* judgment dated 28.02.2019), held that allowances universally, ordinarily and uniformly paid to all employees form part of "basic wages". The judgment caused considerable disquiet across industry on retrospective demands. The Code on Wages, 2019 (and the Code on Social Security, 2020) have now legislatively codified this position through the uniform definition of "wages" with the 50% cap on exclusions. The litigation field on this issue is now substantially narrowed; the universality test stands assimilated into statute. Of note is that this very precedent arose from a West Bengal employer (an unaided school), and was led by the RPF, West Bengal, making it a matter of direct local interest.

**(ii) MGNREGA wages versus statutory minimum wages:** The protracted conflict between MGNREGA notified rates and Minimum Wages Act rates (giving rise to litigation before Andhra Pradesh, Karnataka and Supreme Court) is largely resolved by the binding National Floor Wage mechanism under Section 9.

**(iii) Equal pay disputes:** The narrow "same work or work of similar nature" test under the Equal Remuneration Act, 1976 (litigated *Mackinnon Mackenzie v. Audrey D'Costa*, *Air India v. Nergesh Meerza*) is now broadened by including transgender persons and "conditions of employment" within the prohibition.

### III. THE INDUSTRIAL RELATIONS CODE, 2020

#### A. Statutes Subsumed

- The Trade Unions Act, 1926
- The Industrial Employment (Standing Orders) Act, 1946
- The Industrial Disputes Act, 1947

#### B. Comparative Table: Old vs. New

Parameter	Old Regime (ID Act, 1947)	Industrial Relations Code, 2020
Definition of "workman"/"worker"	"Workman" — supervisory wage threshold of Rs. 10,000/- p.m.; apprentices included.	"Worker" — supervisory threshold raised to Rs. 18,000/- p.m. Working journalists and sales promotion employees expressly included. Apprentices excluded.
Threshold for Standing Orders	100 workers (Industrial Employment (Standing Orders) Act).	300 workers (Section 28).
Govt. Permission for Lay-off / Retrenchment / Closure (Chapter VB equivalent)	100 workers (post-1982 amendment). Several BJP-ruled States had already raised it to 300 by State amendments.	300 workers (Section 77). State Govts. retain power to further raise this threshold.
Fixed-Term Employment (FTE)	No express statutory recognition; FTE was a 2018 Central Rules innovation under IECSO Act, contested in courts.	Statutorily recognised under Section 2(o). FTEs entitled to same wages, benefits and pro-rata gratuity (after 1 year) as permanent workers.
Re-skilling Fund	Absent.	Section 83 — Employer to contribute 15 days' wages of every retrenched worker; disbursed within 45 days for re-skilling.
Strike Notice	14 days' notice only in "public utility services" (Section 22 ID Act).	14 days' notice extended to ALL industrial establishments (Section 62). "Mass casual leave" by more than 50% of workers now deemed a strike.

Parameter	Old Regime (ID Act, 1947)	Industrial Relations Code, 2020
Trade Union Recognition	No central statutory mechanism. Most States lacked recognition framework.	Sections 14–16: "Sole Negotiating Union" if 51% membership; otherwise a "Negotiating Council" with representation proportionate to 20%+ membership.
Grievance Redressal Committee	50 workers threshold; up to 6 members.	20 workers threshold; up to 10 members with adequate women's representation.
Industrial Tribunal	Single-member.	Two-member bench (judicial + administrative) for faster disposal.
Limitation for raising dispute	Three years (Bombay Union of Journalists line).	Two years from date of dismissal/retrenchment/termination (Section 53(7)).

### C. Key Litigations of the Old Regime now Settled

**(i) Definition of "industry" – the Bangalore Water Supply legacy:** The decades-long uncertainty stemming from *Bangalore Water-Supply & Sewerage Board v. A. Rajappa*, (1978) 2 SCC 213 (the seven-Judge Bench laying down the "triple test") and the unenforced 1982 amendment to the ID Act has been substantially addressed by Section 2(p) of the IR Code. The new definition retains the broad triple-test thrust but specifically excludes (a) institutions wholly or substantially engaged in charitable, social or philanthropic service; (b) sovereign functions of Government including atomic energy, space, defence and related activities; and (c) domestic services. Note however that a nine-Judge Constitution Bench (CJI Surya Kant presiding) reserved judgment in March 2026 on a reference reconsidering the *Bangalore Water Supply* ratio; the Bar should track this closely for its interpretive impact on the Code's exceptions.

**(ii) The Chapter V-B threshold controversy:** Litigation since *Excel Wear v. Union of India*, (1978) 4 SCC 224, and *Workmen of Meenakshi Mills v. Meenakshi Mills*, (1992) 3 SCC 336 on constitutionality and scope of Chapter V-B is largely overtaken. The statutory ceiling is now uniform at 300 workers, harmonising what was a patchwork of State amendments.

**(iii) Fixed-term employment legitimacy:** Pre-2018, fixed-term contracts were attacked as a device to defeat the protective scope of Sections 25F to 25N. Litigation in *S.M. Nilajkar v. Telecom District Manager, Karnataka* (2003) 4 SCC 27 and *Haryana State Co-op. Land Development Bank v. Neelam*, (2005) 5 SCC 91 is now superseded by statutory recognition of FTE. Importantly, an FTE's contract expiry is *expressly excluded* from the definition of "retrenchment" (Section 2(zh)(iv)) — a long-standing employer demand now codified.

**(iv) Strike notice extension:** The position in *T.K. Rangarajan v. Government of Tamil Nadu*, (2003) 6 SCC 581 (no fundamental right to strike) and *Mineral Miners' Union v. Kudremukh Iron Ore* is reinforced. The 14-day prior notice now applies universally, decisively ending the public-utility-vs-non-public-utility dichotomy that drove much litigation.

**(v) Trade union recognition:** The vacuum noticed in *Food Corporation of India Staff Union v. Food Corporation of India*, (1995) 1 SCC 116 is filled by the negotiating-union / council framework, modelled on the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

## IV. THE CODE ON SOCIAL SECURITY, 2020

### A. Statutes Subsumed (nine)

- The Employees' Compensation Act, 1923
- The Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952

- The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972
- The Cine Workers Welfare Fund Act, 1981
- The Building and Other Construction Workers' Welfare Cess Act, 1996
- The Unorganised Workers' Social Security Act, 2008

## B. Comparative Table: Old vs. New

Parameter	Old Regime	Code on Social Security, 2020
Gratuity — Eligibility	Five years of continuous service (Payment of Gratuity Act, 1972, S. 4).	Five years retained for regular employees; 1 year (pro-rata) for fixed-term employees (Section 53). Working journalists: 3 years. No 5-year condition in case of death or disability.
Gig & Platform Workers	No statutory recognition; entire universe outside social security net.	Defined under Sections 2(35) and 2(61). Aggregators (digital platforms) statutorily defined. Schedule VII names 9 categories of aggregators. Aggregators to contribute 1–2% of annual turnover (capped at 5% of payments to workers) to the Social Security Fund (Section 114).
EPF Coverage	Schedule I to EPF Act — industry-specific applicability.	Applies to ALL establishments with 20 or more employees, regardless of industry (Section 1(4)).

Parameter	Old Regime	Code on Social Security, 2020
Pre-deposit for EPF Appeal	40% to 75% of awarded amount at Tribunal's discretion.	Fixed at 25% only (significant relief to employers).
Limitation — EPF Determination	No statutory limitation; led to demands for 20+ years.	Outer limit of 5 years (Section 125).
Maternity Benefits	10 or more employees threshold (Maternity Benefit Act).	Same threshold retained; 26 weeks paid leave (post-2017 amendment) continues.
Aadhaar	Linkage debated post-Puttaswamy II.	Section 142 mandates Aadhaar for receipt of benefits/services (constitutional question pending).
BOCW Cess	Cess collected by State BOCW Boards.	Self-assessment of cost of construction by employer (Section 100); easier collection.
Inspection	Inspector-led, manual.	Inspector-cum-Facilitator; web-based randomised allocation.

### C. Key Litigations of the Old Regime now Settled

**(i) PF coverage controversies:** Disputes on Schedule-I applicability (*Royal Talkies v. ESI Corporation*, (1978) 4 SCC 204; *RPFC v. Shibu Metal Works*, (1965) 1 SCR 261) become academic with universal coverage at 20 employees.

**(ii) Limitation under EPF Act:** The line of cases from *RPFC v. K.T. Rolling Mills*, (1995) Supp (1) SCC 668 on absence of limitation in Section 7A inquiries — leading to demands going back to commencement of operations — is now

subject to the 5-year outer limit. This dramatically curtails the scope for 7A litigation; for clients with legacy operations or restructurings, this is a material change.

**(iii) Continuity of service and Gratuity Act:** *Workmen of Bharat Heavy Electricals v. P.O. Industrial Tribunal* line, holding that 4 years and 240 days satisfied the 5-year requirement, has been carried forward (Section 53(2)). The dilution for FTEs (1 year pro-rata) reverses pre-Code positions in *Y.K. Singla v. Punjab National Bank*, (2013) 3 SCC 472.

**(iv) Gig worker classification:** The hotly contested question whether platform workers (Ola/Uber/Zomato/Swiggy drivers and delivery partners) are "workmen" or "employees" — the subject of pending writs including *Indian Federation of App-based Transport Workers v. Union of India* in the Supreme Court — is now legislatively addressed (though not exhaustively). The Code carves out a third statutory category, distinct from "employee", with their own social-security entitlements. The judicial debate now shifts to scheme adequacy rather than threshold classification.

**(v) Aadhaar mandate:** Section 142's Aadhaar mandate may invite a constitutional challenge in light of *K.S. Puttaswamy (II) v. Union of India*, (2019) 1 SCC 1, which limited mandatory Aadhaar to benefits funded out of the Consolidated Fund. Since PF, gratuity and ESI are not so funded, the issue is litigation-worthy.

## V. THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

### A. Statutes Subsumed (thirteen)

- The Factories Act, 1948
- The Plantations Labour Act, 1951
- The Mines Act, 1952

- The Working Journalists and Other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955
- The Working Journalists (Fixation of Rates of Wages) Act, 1958
- The Motor Transport Workers Act, 1961
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
- The Contract Labour (Regulation and Abolition) Act, 1970
- The Sales Promotion Employees (Conditions of Service) Act, 1976
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
- The Dock Workers (Safety, Health and Welfare) Act, 1986
- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996

## B. Comparative Table: Old vs. New

Parameter	Old Regime	OSH Code, 2020
"Factory" threshold	10 workers with power / 20 without (Factories Act, 1948).	20 workers with power / 40 without (Section 2(w)). Smaller establishments excluded.
Contract Labour threshold	20 contract workers (CLRA, 1970).	50 contract workers (Section 2(p) and Chapter XI). Significant relief for SMEs.
Core / Non-core distinction	CLRA permitted contract labour in any activity (Steel Authority of India ratio).	Section 57(1) prohibits engagement of contract labour in "core activity" of an establishment, subject to specified exceptions. This is a fundamental shift.

Parameter	Old Regime	OSH Code, 2020
Inter-State Migrant Workers	Required engagement through contractor; passbook mandate; ISMW Act, 1979.	Self-migration recognised (Section 2(p)(i)). Annual journey allowance to native place by employer. Wage threshold of Rs. 18,000/- p.m. Passbook discontinued.
Working Hours	9 hours/day, 48 hours/week (Factories Act).	8 hours/day. Daily/weekly OT capped (Section 25). Spread-over and breaks prescribed.
Women at Night	Restricted in factories (Section 66 Factories Act).	Section 43 — women may work in all establishments and at night (7 PM–6 AM) with consent and safety conditions.
Appointment Letter	Not statutorily required across-the-board.	Mandatory under Section 6 for every employee. This is a substantial compliance addition.
Annual Leave	Variable: 1 day per 20 days (factory adult); different in other Acts.	Standardised: 1 day per 20 days for every worker who has worked 180 days+; carry-forward up to 30 days (Section 32).
Common Licence	Separate licences for factories, contract labour, beedi & cigar.	Single common licence (Section 6 read with Rules). Major ease-of-doing-business reform.
Penalties	Modest fines under most Acts.	Substantially enhanced — e.g. Section 96: Rs. 2 lakh–3 lakh for general contraventions; up to Rs. 10 lakh for fatal accidents.

### C. Key Litigations of the Old Regime now Settled

**(i) Contract labour absorption controversy:** The seminal *Steel Authority of India Ltd. v. National Union Waterfront Workers*, (2001) 7 SCC 1 (Constitution Bench) held that on abolition of contract labour under Section 10 of CLRA, there is no automatic absorption of contract workers by the principal employer. This was a major shift away from *Air India Statutory Corporation v. United Labour Union*, (1997) 9 SCC 377. The OSH Code now sidesteps this entirely by prohibiting contract labour in core activities altogether (Section 57), thereby reducing the universe of disputes; for non-core activities, contract labour is statutorily permitted. The principal-employer-as-employer debate is, prospectively, less acute.

**(ii) Definition of "Factory" and "manufacturing process":** Litigation flowing from *Workmen of Delhi Electric Supply Undertaking v. Management of DESU*, (1973) 3 SCC 252 and *Ardeshir Bhiwandiwalla v. State of Bombay*, AIR 1962 SC 29 on what constitutes "manufacturing process" continues to be relevant, but the threshold change (20/40 workers) materially shrinks the regulated set.

**(iii) Inter-state migrant workers and self-migration:** The COVID-19 migrant crisis exposed the inadequacy of the ISMW Act, which required engagement through a contractor. The Supreme Court's directions in *Re: Problems and Miseries of Migrant Labourers*, (2020) 8 SCC 463 on registration and welfare are partially codified in the OSH Code. Self-migration is now expressly covered — a critical issue for States like West Bengal which both sends and receives migrant labour.

**(iv) Women's right to work at night:** The progressive view in *Vasantha R. v. Union of India*, (2001) II LLJ 843 (Mad) and *Triveni K.S. v. Union of India*, (2002) Lab IC 1129 (Kar) (striking down restrictions on women in factories during night hours) is now statutorily affirmed for all establishments.

## VI. WEST BENGAL: STATE-SPECIFIC IMPLICATIONS

## **A. Pre-2026 Position: The Outlier State**

West Bengal was, until very recently, among the small set of States (along with Tamil Nadu, Meghalaya and Nagaland) that had not gazetted draft rules under any of the four Codes. The position of the Trinamool Congress Government, articulated repeatedly by then-CM Smt. Mamata Banerjee and the State Labour Minister, was that the Codes were "anti-worker" and "destructive of labour rights". TMC MP Shri Ritabrata Banerjee raised the question on the floor of Parliament in December 2025. The State maintained that as labour is a Concurrent subject, the Codes could not become operative within West Bengal without State rules.

Practically, this created a regulatory limbo for industry within the State: the Central Codes came into force on 21 November 2025, but West Bengal continued to apply the saved Acts. Establishments with pan-India operations were exposed to differential compliance regimes — a position untenable in the medium term.

## **B. Post-2026 Election Realignment**

With the BJP's victory in the 2026 Assembly elections (207 seats in a 294-member House) and Shri Suvendu Adhikari taking oath as the first BJP Chief Minister of West Bengal on 09 May 2026, a complete reorientation of the State's labour policy is imminent. The first Cabinet meeting has already taken decisions on implementing the Ayushman Bharat scheme, and labour code rule-making is expected to follow as a priority item, harmonising the State with the Centre's framework. The Bar in Calcutta should anticipate:

- Rapid notification of State rules under all four Codes — most likely modelled on those of BJP-ruled States (Gujarat, Madhya Pradesh, Uttar Pradesh, Karnataka);
- Repeal or non-notification of West Bengal-specific labour amendments such as the West Bengal Industrial Employment (Standing Orders)

Rules, 1946 and the Bengal Shops and Establishments Act, 1963 (substantively subsumed);

- Transitional disputes on saved Acts, especially where proceedings commenced under old regimes are continued under the savings clauses (Section 67 of CoSS, Section 102 of IR Code etc.);
- Re-examination of the State Government's stance on labour-related writ petitions pending before the Calcutta High Court (notably challenges to the Codes themselves under Article 14 / 19(1)(g)).

### **C. Sector-Specific Impact in West Bengal**

**(i) Jute Industry:** West Bengal hosts ~70% of India's organised jute mills, employing approx. 2.5 lakh workers. The State had unilaterally settled a wage agreement in 2024 raising jute mill workers' daily CTC to Rs. 720, well above national floor wage benchmarks. Under the Code on Wages, the uniform definition of "wages" (basic + DA + retaining) and the 50% rule will affect PF/gratuity computation on this wage. Industry must restructure CTC since current allowance-heavy salary structures will trigger the 50% add-back. The IR Code's strike-notice extension to all industrial establishments will also bear on the historically volatile jute sector.

**(ii) Tea Plantations (Dooars/Terai):** The Plantations Labour Act, 1951, is fully subsumed by the OSH Code. The contentious litigation surrounding the Plantations Labour Act — most recently the representation by Paschim Banga Cha Majoor Samity before the ILO under Article 24 on 01 May 2026 alleging non-payment of statutory minimum wage — will now be examined under the new Code's framework. The National Floor Wage and the Code's broadened ISMW definition (covering tea-tribe workers who migrated from Chotanagpur generations ago and remain in enclave economies) are of direct relevance. Plantations may now voluntarily opt into ESIC coverage (previously excluded), expanding social security access.

**(iii) Engineering & Manufacturing (Howrah/Hooghly belt):** Establishments such as those in the Bamangachhi-Belur-Liluah corridor will benefit from the raised retrenchment threshold (100 to 300) and the formal recognition of fixed-term employment. The Truvolt Engineering / Burnpur / Hooghly engineering cluster will see streamlined dispute resolution under the two-member Industrial Tribunal.

**(iv) Information Technology / Sector V Salt Lake:** IT/ITeS establishments, previously not within the Factories Act, are now squarely covered by the OSH Code threshold of 10 workers for general establishments. Appointment letters become mandatory across the IT workforce. Women's right to night-shift work in IT is statutorily protected.

**(v) Inter-State Migrant Labour:** West Bengal is both a major sender (to Maharashtra, Gujarat, Kerala) and receiver (from Bihar, Jharkhand, Odisha) of migrant labour. The Code's self-migration recognition, annual journey allowance, and portability of BOCW welfare benefits to the destination State are particularly relevant for the State's construction sector and the lakhs of workers in unorganised industrial clusters.

#### **D. Litigation Strategy Considerations -**

- Saving and transitional provisions (Section 69 of Wages Code; Section 100 of IR Code; Section 164 of CoSS; Section 134 of OSH Code) become critical. Proceedings commenced under the saved Acts continue under those Acts — until the State expressly notifies otherwise.
- Pending Section 7A inquiries under the EPF Act (going beyond 5 years) merit a fresh look in light of the new statutory limitation in CoSS — prospective applicability of the limitation will itself be contested.
- Pending writ petitions challenging the Codes (e.g. those filed by central trade unions before the Supreme Court and certain High Courts) should be watched closely; an authoritative ruling on constitutionality will affect all advisory and litigation work in this area.

- The reserved nine-Judge Bench judgment on the Bangalore Water Supply reference will, when delivered, have an immediate impact on the contours of "industry" under the IR Code.
- For employers facing legacy actions under repealed Acts, the strategic question is whether to seek transfer of proceedings to the new tribunals/forums or continue under the saved Acts.

## VII. CONSOLIDATED NOTE — OLD-REGIME LITIGATIONS NOW LARGELY SETTLED

In summary, the following streams of litigation that have occupied the Bar for decades are substantially settled (in some cases superseded, in others codified) by the Labour Codes:

Issue / Old Litigation	Position Now Under Codes
"Basic wages" for PF — Vivekananda Vidyamandir / Surya Roshni (SC, 2019)	Codified through uniform "wages" definition with 50% exclusion cap (Code on Wages & CoSS).
Definition of "industry" — Bangalore Water Supply (SC, 1978)	IR Code, S. 2(p) substantially adopts the triple test with carved-out exceptions. Pending nine-Judge reference reserved March 2026.
Threshold for govt. permission for retrenchment — Chapter VB ID Act litigation	Statutory ceiling uniform at 300 workers; State amendments harmonised.
Contract labour absorption — SAIL v. NUWW (SC, 2001)	OSH Code, S. 57 prohibits contract labour in core activities; principal-employer absorption debate truncated.
Fixed-term employment validity — S.M. Nilajkar line	Statutorily recognised; FTE contract expiry not retrenchment; pro-rata gratuity at 1 year.

Issue / Old Litigation	Position Now Under Codes
Strike in non-public utility services — 14-day notice debate	14-day notice universal; mass casual leave by 50%+ workers deemed a strike.
Trade union recognition gap — FCI Staff Union (SC, 1995)	Negotiating union/council mechanism statutorily prescribed.
Limitation under EPF Act — RPFC v. K.T. Rolling Mills	Outer 5-year limitation introduced under CoSS, S. 125.
Pre-deposit for EPF Tribunal appeal	Reduced and fixed at 25% (significant employer relief).
Maternity Benefit Act coverage and adoption mothers	Carried forward; expanded to commissioning and adopting mothers.
Gig/Platform worker classification — Indian Federation of App-based Transport Workers (pending)	Statutory third category created; aggregators' contributions to Social Security Fund codified.
Women at night work — Vasantha R. (Mad HC), Triveni K.S. (Kar HC)	Statutorily affirmed across all establishments.
ISMW protection for self-migrants — COVID-19 directions (SC, 2020)	Self-migration covered in OSH Code; annual journey allowance and portability.
MGNREGA wages below MW — various HC directions	Resolved via binding National Floor Wage (Code on Wages, S. 9).

## VIII. CAUTIONARY NOTE AND CONCLUSION

While the four Labour Codes mark a structural reset of India's labour regulation, several issues remain unsettled and litigation-prone:

- Constitutional challenges — multiple central trade unions and labour federations have signalled writ challenges, particularly on retrogressive provisions affecting workers' rights and on the rule-making delegation;
- Inter-State variations — despite the unifying intent, States retain rule-making power on key issues including thresholds; this may lead to fresh litigation on delegated legislation overstepping the parent Code (Article 14 challenges);
- Definition of "core activity" — OSH Code's prohibition on contract labour in core activities will generate litigation on what constitutes "core" in any given industry;
- 50% wage cap — the operation of the wage definition's 50% rule will spawn computation disputes across PF, gratuity and bonus;
- Aadhaar mandate under CoSS — vulnerable to Puttaswamy-based challenge;
- Gig worker schemes — design and adequacy of schemes will face Article 14 / 21 challenges; Karnataka, Rajasthan and Maharashtra have parallel State legislation, raising federal coordination questions.

For the industries at WB, the immediate priority is to track the West Bengal Government's expedited rule-making, prepare client establishments for transitional compliance, and identify pending litigation that requires strategic re-positioning under the saved Acts versus the new regime.

## From Show Cause Notice to the GST Appellate Tribunal: A Comprehensive Guide to GST Litigation

Under the GST regime, litigation has emerged as an inescapable dimension of tax administration. What often commences as a routine notice progressively traverses through the stages of adjudication, appellate proceedings, recovery actions and ultimately reaches the GST Appellate Tribunal (GSTAT). In numerous cases, the central issue is not confined to the interpretation of law alone – it equally encompasses procedural fairness, documentation discipline, technological constraints of the GST portal, and the approach adopted by both parties during the course of proceedings. A thorough understanding of the entire litigation cycle – from the foundational stage of the Show Cause Notice to the apex quasi-judicial forum of GSTAT – is therefore not merely advisable but indispensable for every taxpayer navigating the GST landscape.

### The Show Cause Notice – The Cornerstone of Demand Proceedings:

A Show Cause Notice (SCN) constitutes the very foundation of any demand proceeding under the GST framework. It is far more than a procedural formality – it is the juridical basis upon which tax, interest, or penalty is proposed against a registered person. The SCN defines the contours of the proceedings that follow and circumscribes the jurisdiction of the adjudicating authority. Any infirmity in the SCN, whether substantive or procedural, has the potential to vitiate the entire proceedings that flow from it.

#### **Principal Statutory Provisions Governing GST Demand Proceedings**

The CGST Act, 2017 lays down a comprehensive framework governing the initiation, adjudication, and resolution of tax demands. The key provisions in this regard are:

- ✦ **Section 73** – Determination of tax in cases not involving fraud, wilful misstatement, or suppression of facts
- ✦ **Section 74** – Determination of tax in cases involving fraud, wilful misstatement, or suppression of facts
- ✦ **Section 74A** – Unified determination provision applicable to FY 2024-25 and subsequent years
- ✦ **Section 75** – General provisions relating to determination of tax

- ✦ **Section 76** – Recovery of tax collected but not deposited with the Government
- ✦ **Sections 122 onwards** – Penal provisions for various contraventions
- ✦ **Section 107** – First appeal before the Appellate Authority
- ✦ **Section 112** – Appeal before the GST Appellate Tribunal

### Comparative Analysis of Sections 73, 74, and 74A

The primary provisions governing recovery of GST through the adjudication process are Section 73, Section 74, and the newly introduced Section 74A. While these three provisions share the common objective of tax recovery, they differ fundamentally in their scope, applicability, limitation periods, penalty structure, and the nature of default they seek to address.

Section 74A, introduced by the **Finance (No. 2) Act, 2024 with effect from FY 2024-25**, represents a landmark structural reform by consolidating the erstwhile dual-track regime into a single, unified provision applicable to all categories of defaults – fraudulent or otherwise. The legislative intent was to simplify adjudication, reduce litigation arising from contested classification between Sections 73 and 74, and introduce a graduated, pragmatic penalty structure.

#### 1. Nature and Classification of Default:

ASPECT	SECTION 73	SECTION 74	SECTION 74A
TYPE OF CASES	Non-fraud; bona fide errors	Fraud, suppression, wilful misstatement	Unified – both categories
MENS REA REQUIRED	Not required	Mandatory	Graded treatment based on intent
PERIOD OF APPLICABILITY	Up to FY 2023-24	Up to FY 2023-24	FY 2024-25 onwards

#### 2. Limitation Periods

MILESTONE	SECTION 73	SECTION 74	SECTION 74A
SCN TO BE ISSUED	At least 3 months prior to the time limit prescribed for the order.	At least 6 months prior to the time limit prescribed for the order.	42 months from due date of Annual Return.
ORDER TO BE	3 years from due	5 years from due date	12 months from the

PASSED WITHIN | date of annual of annual return. date of notice.  
return.

### 3. Penalty Structure – A Comparative View

STAGE OF PAYMENT	SECTION 73	SECTION 74	SECTION 74A (NON-FRAUD)	SECTION 74A (FRAUD)
BEFORE ISSUANCE OF SCN	Nil	15% of tax	Nil	15% of tax
WITHIN 30 / 60 DAYS OF SCN	Nil	25% of tax	Nil (within 60 days)	25% of tax (within 60 days)
WITHIN 30 / 60 DAYS OF ORDER	10% of tax or ₹10,000 (higher)	50% of tax (within 30 days)	10% of tax or ₹10,000 (within 60 days)	50% of tax (within 60 days)
AFTER ORDER / CONTINUED DEFAULT	10% of tax or ₹10,000 (higher)	100% of tax	10% of tax or ₹10,000	100% of tax

### Grounds for Issuance of a Show Cause Notice

An SCN may be lawfully issued on a variety of grounds, including but not limited to:

- ⚡ Short payment or non-payment of GST
- ⚡ Wrongful availment or utilisation of Input Tax Credit
- ⚡ Mismatch between GSTR-1, GSTR-3B, and GSTR-2A / 2B
- ⚡ Non-filing or erroneous filing of GST returns
- ⚡ Transactions omitted from GST returns
- ⚡ Disputes relating to classification of goods or services or valuation
- ⚡ Disputes concerning the place of supply
- ⚡ Erroneous or excess refunds claimed and received

### Essential Ingredients of a Valid Show Cause Notice

The legal validity of an SCN is not a matter of mere technicality. It is a substantive requirement rooted in principles of natural justice and constitutional law. The following ingredients are essential to render an SCN legally valid and sustainable:

- ✚ The SCN must contain **all material facts and specifically set out the alleged acts or omissions**, enabling the noticee to formulate a meaningful and effective defence.
- ✚ The noticee must be **afforded adequate time and opportunity to respond** and present their case.
- ✚ The SCN must specify **the exact provisions of law** under which proceedings are initiated, including the relevant sections, rules, and notifications relied upon by the department.
- ✚ **All documents, statements, reports, or records** relied upon by the department must either be annexed to the SCN or made available to the noticee.
- ✚ The SCN must be **properly served** in accordance with Section 169 of the CGST Act. Improper service may affect the validity of subsequent proceedings.
- ✚ The notice must not be a vague or pre-determined. It should provide **an opportunity of being heard** to the assessee.
- ✚ The SCN **must be served within the prescribed period of limitation**. An SCN issued beyond the limitation period is void ab initio and confers no jurisdiction upon the adjudicating authority.

### Prevailing Challenges in GST Proceedings

**(A) Template-Based and Vague Notices:** A large number of SCNs merely reproduce statutory text without articulating the precise allegation, the factual basis of the demand, or the computation methodology adopted.

**(B) Disproportionate Reliance on Portal-Generated Data:** Many cases are initiated solely on the basis of GSTR-2A versus GSTR-3B mismatches or automated red flags. Substantive benefits cannot be denied merely on account of a technical portal mismatch, provided the underlying statutory conditions have been duly fulfilled.

**(C) Recovery-Oriented Approach:** Bank account attachments and coercive recovery action have, in several instances, been initiated even before the conclusion of proper adjudication or before the taxpayer has been afforded a meaningful appellate opportunity – contrary to the spirit of the law.

**(D) Routine Invocation of Fraud and Suppression:** The near-routine use of "fraud", "suppression", or "wilful misstatement" in notices and orders, irrespective of actual facts, is a disconcerting trend. The mere invocation of these expressions is wholly insufficient unless supported by cogent and specific evidence on record.

## Preparing for GST Litigation – A Strategic Framework

Effective preparation for GST litigation must commence well before the receipt of a show cause notice. The following strategic measures are strongly recommended:

**(A) Robust Documentation:** Businesses must maintain complete invoice trails, vendor due diligence records, payment proofs, transportation documentation, contracts, reconciliation statements, and all relevant correspondence.

**(B) Vendor Compliance Monitoring:** A substantial proportion of GST disputes relates to ITC availment. Periodic vendor reconciliation, risk assessment, and ongoing compliance monitoring have become indispensable.

**(C) Professional Reply to the SCN:** The preferred approach is facts first, followed by law, judicial precedents, and a specific prayer. Each allegation must be replied individually and point-wise, supported by indexed annexures, with the objective of creating a well-reasoned litigation record for all subsequent proceedings.

**(D) Diligent Participation in Personal Hearings:** A well-utilised personal hearing can clarify factual misunderstandings, correct adverse presumptions, and redirect the entire course of proceedings in the taxpayer's favour.

## From Adjudication to the Appellate Stage

Upon conclusion of adjudication proceedings, the first statutory remedy available to an aggrieved taxpayer is an appeal under **Section 107** before the Appellate Authority. The following aspects merit careful attention at this stage:

- ✦ An appeal must be filed within **three months** from the date of communication of the adjudication order
- ✦ The **mandatory pre-deposit** requirement must be duly complied with as a condition for admission of the appeal
- ✦ The grounds of appeal must be carefully, specifically, and comprehensively drafted.

A significant number of appeals fail not on merits, but because the grounds of appeal are generic and vague or the legal challenge to the adjudication order is inadequately framed. It must be appreciated that the appellate stage is not a mere repetition or reformulation of the reply to the SCN. It is a structured and targeted legal challenge to the adjudication order, requiring independent preparation and focused legal strategy.

## The GST Appellate Tribunal (GSTAT) – India's Apex Quasi-Judicial Forum for GST Disputes:

In the Indian legal framework, the term 'quasi-judicial' refers to a body or authority that exercises powers akin to those of a court of law but is not itself a part of the formal judiciary. The word 'quasi' is derived from Latin, meaning 'as if' or 'resembling' – thus, a quasi-judicial body functions as if it were a judicial body, though it operates within the executive or administrative sphere of governance.

Classic examples of quasi-judicial bodies in India include the Income Tax Appellate Tribunal (ITAT), the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), the Securities Appellate Tribunal (SAT), and the National Company Law Tribunal (NCLT). The Goods and Services Tax Appellate Tribunal (GSTAT) is the latest and most significant addition to this category in the realm of indirect taxation.

### GSTAT: Background and Establishment

The Goods and Services Tax Appellate Tribunal (GSTAT) is the apex quasi-judicial forum constituted under the GST laws to adjudicate appeals arising from orders passed under Section 107 and Section 108 of the CGST Act, the SGST Act and the IGST Act.

The need for a dedicated appellate tribunal under the GST regime was long felt by the industry, trade, and legal fraternity. Prior to the operationalization of GSTAT, taxpayers aggrieved by first appellate orders had no effective forum below the High Court, which led to an enormous surge in writ petitions filed before various High Courts across India – placing an immense burden on the judicial system and creating inconsistency in GST jurisprudence.

### Statutory Framework

GSTAT derives its authority from **Section 109 of the CGST Act, 2017**, which mandates the Government to establish, on the recommendations of the GST Council, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal. This provision empowers the Government to constitute both a **Principal Bench** (at New Delhi) and **State Benches** across India.

## Composition of the Tribunal

The GSTAT is constituted with a carefully balanced composition of judicial and technical members to ensure informed and impartial adjudication:

- ✚ **Principal Bench (New Delhi):** President (a retired Judge of a High Court), one Judicial Member, one Technical Member (Centre), and one Technical Member (State).
- ✚ **State Benches:** Two Judicial Members, one Technical Member (Centre), and one Technical Member (State).

This blend of judicial expertise and technical knowledge of GST law drawn from both Central and State government officers ensures that the Tribunal can deliver well-rounded, legally sound, and technically informed judgments. The Principal Bench is presided over by the President of GSTAT, who is appointed by the Central Government in consultation with the Chief Justice of India.

## Jurisdiction and Powers of GSTAT

### Who Can File an Appeal?

Section 112(1) of the CGST Act, 2017 empowers **any person aggrieved by an order passed under Section 107 or Section 108 of the CGST Act, the SGST Act, or the UT-GST Act** to prefer an appeal before the GSTAT. The appeal must be filed within three months from the date on which the order is communicated to the appellant, or the date notified by the Government, whichever is later.

This provision ensures that both taxpayers and the tax authorities have a statutory right to seek appellate review, thereby reinforcing principles of natural justice and fairness.

### Condonation of Delay -

Section 112(9) of the CGST Act vests the Tribunal with discretion to condone delay in filing appeals if the appellant demonstrates 'sufficient cause' for the delay. The outer limit for condonable delay is an additional three months beyond the primary limitation period.

### Single Bench vs. Division Bench -

The GSTAT Principal Bench has recently clarified the allocation of appeals between the Single Bench and the Division Bench through Office Order No. 3/GSTAT/PB/2026 dated 14.05.2026. The key aspects are:

- ✚ **Default – Division Bench:** All GST appeals are primarily to be placed before a Division Bench.
- ✚ **Single Bench Jurisdiction:** A Single Bench may hear matters only where the disputed amount is below Rs. 50 lakhs and no substantial question of law arises.
- ✚ **Transfer Provisions:** If during hearing, a question of law or a matter of higher value is identified, the Single Bench may transfer the matter to the Division Bench.
- ✚ **Approval Requirement:** Transfer of appeals from Division Bench to Single Bench requires the approval of the President or Vice-President of GSTAT.

### Appeals Reserved for the Principal Bench -

As per Notification S.O. 4219(E) dated 17.09.2025, the following categories of matters are to be heard exclusively by the Principal Bench of GSTAT:

- ✚ Cases involving any issue relating to Place of Supply.
- ✚ Anti-profiteering matters referred under Section 171(2) of the CGST Act, 2017.
- ✚ Cases involving identical questions of law pending before two or more State Benches.
- ✚ Disputes relating to payments made by OIDAR service providers located in non-taxable territories.
- ✚ Cases where one or more issues involve Input Service Distributors (ISD).

### Key Procedural Aspects

#### Pre-Deposit Requirement -

**Section 112(8) of the CGST Act** makes pre-deposit a mandatory condition for filing an appeal before GSTAT. The appellant must deposit:

- a) **in full**, the admitted amount of tax, interest, fine, fee and penalty; and
- b) an additional sum equal to **10% of the remaining disputed tax amount**, subject to a maximum cap of **Rs. 20 crores** under CGST (totalling Rs. 40 crores including SGST).
- c) In purely penalty-based orders, **10% of the disputed penalty** must be deposited.

#### Filing Fees -

The filing fee is **Rs. 1,000 per lakh of tax or ITC involved**, subject to a **minimum of Rs. 5,000 and a maximum of Rs. 25,000**. Where only interest, penalty or fine is involved (no tax demand), **a flat fee of Rs. 5,000** is applicable. All fees are to be paid electronically through the GSTAT portal and are non-refundable.

### Further Appeal -

Orders passed by GSTAT are appealable before the High Court on substantial questions of law under Section 117 of the CGST Act, and thereafter before the Supreme Court under Section 118. This establishes a structured appellate hierarchy and ensures judicial oversight over the Tribunal's decisions.

### Writ Jurisdiction – When to Approach the High Court

Courts have consistently discouraged the bypassing of statutory remedies where efficacious alternatives are available. Departmental participation remains appropriate when the notice is legally valid, factual clarification is required, or an effective appellate remedy exists.

However, writ jurisdiction under Article 226 of the Constitution may appropriately be invoked:

- ✦ Where principles of natural justice have been violated
- ✦ Where no opportunity of hearing has been granted
- ✦ Where the order has been passed without jurisdiction or in excess of jurisdiction
- ✦ Where the SCN is fundamentally defective, vague, or bereft of necessary particulars
- ✦ Where coercive recovery action has been initiated unlawfully
- ✦ Where the constitutional validity of a provision is challenged
- ✦ Where the alternative statutory remedy is, in the given facts, wholly ineffective or illusory

In such circumstances, resort to writ remedy becomes not merely appropriate but necessary to safeguard fundamental procedural rights.

### A Road Ahead in GST Litigation:

The GST litigation framework, spanning from the Show Cause Notice to the GST Appellate Tribunal, reflects a carefully designed architecture of rights, remedies, and responsibilities. Each stage – from the issuance of an SCN, through first appellate proceedings, and up to the GSTAT – serves a distinct and indispensable purpose in the pursuit of fair and informed tax adjudication.

The GST law provides multiple levels of remedies and appeals to ensure that every dispute gets a fair hearing. With the GST Appellate Tribunal (GSTAT) now operational, taxpayers have access to a specialised forum for resolving GST disputes effectively.

Success in GST litigation, however, does not arrive by accident. It is the product of proper documentation, timely action, well-crafted replies, and well-prepared submissions at every stage of litigation. Businesses and practitioners who invest in understanding the law, respecting timelines, and engaging meaningfully at each stage of the process will find that the system though demanding is fair.

The appellate hierarchy under GST, from the Adjudicating Authority to the GSTAT, and onwards to the High Court and the Supreme Court, ensures that genuine disputes can always be examined and adjudicated through the due process of law.

# When the Taxman Learns to Read

*Artificial Intelligence enters the world of GST*

AN INDUSTRY AWARENESS BULLETIN

## IN THIS ISSUE

What “AI” really means · How the department uses it · Two cases that made headlines  
What the courts have said · Where this leaves your business

**F**or most of its history, tax in India ran on paper. An officer opened your books, asked his questions, and made up his mind. There were only so many hours in his day, so only so much could ever be examined. **Most businesses, most of the time, were simply never looked at.**

GST changed that, not so much by changing the law as by changing the medium. Almost everything now happens digitally: the invoice you raise, the return you file, the e-way bill for the truck, the tax you pay. And **the moment all of this becomes data, a machine can read it**, not a few files of it, but all of it. This bulletin explains, in plain language, what that shift means for an ordinary business.

## 1 · SO WHAT IS THIS THING, REALLY?

The software reads enormous quantities of data and **notices patterns no person would have the patience to find**. It is not clever in any human sense; it does not understand your business or your intentions. It compares. Hand it a mountain of records and it will quietly point at the few that look odd.

### IN PLAIN TERMS

A seasoned officer might get through a few hundred cases in a year. A computer can run its eye over the returns of more than a crore taxpayer in a single night, and tap the shoulder of the dozen that behave unlike the rest. That is the whole trick — not magic, just scale.

Two things are worth remembering. First, the machine deals in **likelihood, not truth**. When it flags you, it is not announcing that you have cheated; it is saying your pattern resembles ones that, in the past, turned out badly. That is a suspicion — a reason to look closer — and nothing more. Second, the newer kind of AI, the sort that writes fluent sentences, has an awkward habit: **it can be confidently, completely wrong**, inventing facts that sound entirely convincing. Keep that in mind — it returns, rather dramatically, later in this issue.

## 2 · HOW THE DEPARTMENT IS USING IT

Over the past few years the tax administration has built and openly named a set of analytics systems — they appear by name in its own circulars to field officers. You may hear of **BIFA**, which scores businesses on how they behave; **ADVAIT**, which sifts through customs and GST data together; and a directorate, **DGARM**, that pulls it all together and decides who gets a closer look. The labels matter less than the single idea behind them all.

What they are really chasing is **disagreement** where one part of your data refuses to match another. You claim heavy credit on purchases but pay almost nothing in cash. You show large sales of goods, yet no vehicle ever carried them. Five registrations share one mobile number, one address, one bank account. A business silent for two years suddenly reports crores in a single month. **None of these, by itself, proves anything** but each is exactly the sort of thing the software is built to notice.

### 3 · TWO CASES THAT MADE HEADLINES

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Explanations fade; stories stay. Two of them, both real and widely reported, say more than another paragraph of theory could.

#### THE FIRMS THAT EXISTED ONLY ON PAPER

Over several years, investigators using data analysis uncovered sprawling networks of companies that issued invoices without ever supplying a thing — pure paperwork, designed to hand tax credit to whoever bought the invoices. The systems caught them by spotting shared details between registrations, and invoices for which no goods had ever moved. The sums ran into tens of thousands of crores, and the affair changed how new registrations are checked to this day.

#### THE CASE THAT BEGAN WITH A PLATE OF BIRYANI

A routine look at some well-known restaurant chains grew into a national examination of a popular billing software. The software, it was reported, let a shop quietly delete a sale after the bill had been handed to the customer — so the figure shown to the tax office was smaller than the money actually taken. Using big-data tools, officials combed through records tied to roughly 1.77 lakh restaurant identities, and by comparing deleted entries against raw-material purchases and declared sales, worked backwards to what the real turnover must have been.

The second story is the unsettling one. It involved **no fictitious firms at all** — only real, established, much-loved businesses. The lesson many drew from it was uncomfortable: the question is no longer simply whether your own books look tidy, but whether they agree with the digital shadow your business casts everywhere else.

### 4 · WHAT THE COURTS HAVE SAID

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If the story stopped at “the department now has powerful machines,” it would be only half told. The more interesting turn is that **judges have begun to draw lines around how those machines may be used.**

In one matter, an automated system had thrown out a taxpayer’s return and brushed past the explanation filed in reply. The court was unmoved by the convenience of it. An order that decides a person’s rights, it held, must show that **a human mind actually engaged with the facts.** Natural justice and fairness, in a much-quoted line, are **“too valuable to be sacrificed at the altar of AI and automation expediency.”** Speed, in other words, is no excuse for not listening.

The second is almost too neat. A tax order leaned on three earlier judgments to justify itself. Someone checked. **The judgments did not exist.** They had, it appears, been conjured by exactly the kind of fluent, confident AI we met earlier, and dropped into the order without anyone verifying them. The court set the whole thing aside, with a warning worth framing: results from a system **“are not to be blindly relied upon but should be duly cross-verified before using them.”** A caution, one suspects, that applies just as squarely to the rest of us.

### 5 · WHERE THIS LEAVES YOUR BUSINESS

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There are two sides to this new reality. On one hand, the tax department can now catch cheating that used to slip by completely unnoticed. The massive amount of tax they have recovered shows exactly why they built these computer systems.

On the other hand, if these digital tools are used without care, they can automatically send out robotic tax notices that don’t make sense or are based on data errors. For now, the courts are keeping a fair balance: a machine can help find issues, but a human officer must make the final decision.

For an honest business, this changes how you have to work. Your numbers are now constantly matched against your suppliers' filings, bank accounts, and transport bills. Keeping your tax records straight is no longer just a once-a-year job—it is about watching the digital footprint your business leaves behind every single day.

**This leaves businesses facing some big, unanswered questions for the future:**

- How do we ensure your internal data is perfectly clean before the taxman's computer runs its night-time checks?
- How much does your safety depend on your suppliers? If their teams make a data entry error, how do we protect your business from an automatic audit?
- How do we explain a genuine human mistake or a simple clerical typo to a software program that only sees rigid data patterns?
- When an automated notice arrives out of nowhere, do we have the exact records ready to track down and explain a data mismatch instantly?
- Are we looking at our own data as closely as the machine is?

Amendments to the  
**Credit Note Provisions**  
under the Finance Act, 2026

*Sections 15(3)(b) and 34 of the CGST Act, 2017*

AT A GLANCE

The pre-agreement and invoice-linkage condition for post-sale discounts has been removed. A post-sale discount can now reduce the value of supply if it is passed through a GST credit note and the recipient reverses the corresponding ITC.

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## 1. Background and Legislative Journey

The GST law has long struggled with how to treat post-sale discounts — situations where a supplier reduces the price after the supply has already been made and the invoice has been raised. Two provisions of the Central Goods and Services Tax (CGST) Act, 2017 govern this area:

- **Section 15(3)(b)** — sets out the conditions on which a post-supply discount may be excluded from the ‘value of supply’ for GST.
- **Section 34** — governs the issue of credit notes and debit notes to adjust an original tax invoice.

For years, the strict conditions in the original Section 15(3)(b) caused real compliance friction. Industry repeatedly pointed out that commercial discount arrangements rarely fit the pre-agreed, invoice-linked format the law demanded. In practice, a supplier was often forced either to give up the GST benefit of a genuine discount, or to create documentation after the event to fit the rule.

The 56th GST Council meeting, held on 3 September 2025 under the chairpersonship of the Union Finance Minister, Smt. Nirmala Sitharaman, recommended structural changes to both provisions. These recommendations were enacted through the Finance Act, 2026.

### Timeline

1 July 2017	Original CGST Act takes effect; Sections 15 and 34 become operative.
26 June 2024	Circular 212/6/2024-GST issued, introducing the CA / CMA certificate mechanism to evidence ITC reversal.
3 Sept 2025	The 56th GST Council recommends omitting the pre-agreement condition in Section 15(3)(b)(i).
30 March 2026	Finance Act, 2026 (No. 4 of 2026) enacted: Section 15(3)(b) substituted and Section 34 cross-referenced. Circular 212 stands rescinded by Circular 253/10/2025-GST.

## 2. Section 15(3)(b) — Value of Supply: Post-Sale Discounts

### The Old Law

Under the CGST Act as originally enacted, a post-supply discount could be excluded from the taxable value of supply only if both of the following conditions were met at the same time:

- **Condition (i) [Section 15(3)(b)(i)]**: the discount must have been established under an agreement entered into at or before the time of supply, and must have been specifically linked to the relevant invoices.
- **Condition (ii) [Section 15(3)(b)(ii)]**: the recipient must have reversed the input tax credit (ITC) attributable to such discount.

**ORIGINAL STATUTORY LANGUAGE — SECTION 15(3)(B)**

*... discounts given after the supply has been effected, provided that — (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.*

This two-limb structure created real difficulty in practice. Condition (i) — the pre-agreement and invoice-linkage requirement — meant that spontaneous discounts, surprise loyalty rewards, volume incentives decided after the event, annual rebate schemes and any other post-sale price reduction not documented at or before the time of supply were simply ineligible. The supplier had to choose between giving up the GST reduction on a genuine commercial discount, or papering the file after the event.

To ease that documentation burden, the CBIC issued Circular No. 212/6/2024-GST dated 26 June 2024, which let a supplier obtain a CA or CMA certificate from the buyer confirming the ITC reversal. In practice, however, this mechanism nudged some suppliers towards avoiding GST credit notes altogether — the opposite of the policy intent.

**Old Law vs. Amended Law**

BURDENS UNDER THE OLD LAW	POSITION UNDER THE AMENDED LAW
Pre-agreement had to exist at or before the time of supply.	Pre-agreement condition removed entirely.
Discount had to be specifically linked to relevant invoices.	Invoice-linkage requirement removed.
CA / CMA certificate required from the buyer (Circular 212).	CA / CMA certificate requirement withdrawn.
Extra compliance steps under Circular 212/2024.	Circular 212/2024 rescinded by Circular 253/10/2025-GST.
Unannounced or retrospective discounts denied GST reduction.	Post-sale discount allowed if routed through a GST credit note.
Documentation-heavy and prone to litigation.	ITC reversal by the recipient remains the only operative condition.

**The Amended Law**

Section 15(3)(b)(i) has been omitted. The substituted Section 15(3)(b) keeps a single operative test: the discount must be given through a credit note issued under Section 34, and the recipient must have reversed the ITC attributable to that discount.

**AMENDED LANGUAGE — SECTION 15(3)(B), FINANCE ACT, 2026**

*(b) after the supply has been effected, if for such discount, a credit note has been issued by the supplier and input tax credit as is attributable to such discount has been reversed by the recipient of the supply, in accordance with the provisions of section 34.*

In plain terms: the discount no longer needs to be pre-agreed or tied back to a specific invoice. It needs to travel through a GST credit note, and the buyer must give back the matching credit. Nothing else gates the supplier's right to reduce the value of supply.

### 3. Section 34 — Credit Notes: Key Amendments

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#### The Old Law

Under the CGST Act as originally enacted, a registered supplier who had issued a tax invoice could later issue a credit note in these situations:

- where the goods supplied were returned by the recipient;
- where the services were found to be deficient; or
- where the taxable value or the tax charged in the original invoice was found to exceed what was actually payable.

Crucially, the original Section 34 did not refer to Section 15(3)(b) at all. Section 15(3)(b) dealt with the deductibility of a post-sale discount, and Section 34 dealt with the credit note used to make the adjustment — but neither pointed to the other. That missing link created interpretive doubt and led the department and taxpayers to take different positions.

#### The Amendment

The Finance Act, 2026 inserts a reference to Section 15(3)(b) into Section 34. As a result, Section 34 now expressly recognises a post-supply discount given under Section 15(3)(b) as a valid ground for issuing a GST credit note — in addition to the existing grounds of returns, deficiency in service, and tax overcharge.

**AMENDED PROVISION — SECTION 34, FINANCE ACT, 2026**

*Section 34(1) is expanded to expressly include the case 'where a discount referred to in clause (b) of sub-section (3) of section 15 is given' as a ground for issuing a credit note, alongside the existing grounds of goods returned, deficiency in services, and tax charged in excess of the tax payable.*

This cross-reference closes the gap that previously sat between the two provisions. The legislative intent is now clear: post-sale discounts are to be routed through the GST credit note mechanism under Section 34, with the recipient's ITC reversal as the gating condition for the supplier to reduce output tax.

## 4. Practical Impact and Compliance Obligations

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**1****Route post-sale discounts through GST credit notes**

To deduct a post-supply price reduction from the value of supply, the supplier must issue a GST-compliant credit note under Section 34. A purely commercial / financial credit note (with no GST effect) remains available where the supplier does not wish to reduce its tax liability.

**2****Recipient must reverse ITC — the only surviving condition**

The single remaining condition for the supplier to reduce output tax through a credit note is that the recipient reverses the ITC proportionate to the discount. The supplier cannot reduce its GST liability unless that reversal has occurred or is established through reconciliation.

**3****Time limit for credit notes — unchanged**

A credit note must be declared by 30 November following the end of the financial year of the original supply, or the date of filing the annual return (GSTR-9), whichever is earlier. A credit note declared after this deadline does not allow a reduction of output GST for that period.

**4****Circular 212/2024 rescinded — update internal procedures**

Circular No. 212/6/2024-GST, which required CA / CMA certification of the buyer's ITC reversal, has been withdrawn by Circular No. 253/10/2025-GST. Businesses that built SOPs around Circular 212 should retire them and revert to direct credit note issuance under Section 34.

**5****Open questions — await further CBIC clarification**

The term 'discount' is not defined in the amended provision. It is still not settled whether unannounced discounts, surprise schemes, stock-liquidation adjustments or third-party consideration arrangements qualify. Businesses should track CBIC circulars and be cautious in structuring novel discount models until clarity is issued.

**EFFECTIVE DATE — READ BEFORE RELYING ON THIS NOTE**

The Finance Act, 2026 (No. 4 of 2026) received Presidential assent on 30 March 2026. However, the GST amendments to Sections 15 and 34 are to take effect from a date to be notified by the Central Government in the Official Gazette. Until that notification is issued, the original provisions continue to apply. Practitioners should confirm the commencement notification before advising clients to rely on the amended position.

## Customer Rejection in IMS – A New Era of Smart GST Compliance

In today's fast-moving digital tax environment, accuracy is not just important - it is essential. The Invoice Management System (IMS) under GST has emerged as a powerful tool that brings transparency, accountability, and efficiency into the Input Tax Credit (ITC) process.

One of the most powerful and practical features of IMS is **Customer Rejection**. This mechanism gives recipients the authority to reject invoices that contain incorrect or suspicious information. In today's business environment, where thousands of invoices are processed digitally, even a small mismatch can lead to compliance issues, financial loss, or denial of ITC. IMS acts as a safeguard against such risks. Customer rejection may arise due to several reasons, such as:

- Incorrect GSTIN mentioned in the invoice
- Mismatch in invoice number or date
- Wrong taxable value or tax amount
- Duplicate invoices uploaded by suppliers
- Goods or services not actually received
- Incorrect place of supply
- Fake or fraudulent transactions



By allowing businesses to identify and reject such discrepancies at an early stage, IMS significantly improves the accuracy of GST reporting and reconciliation.

This feature also encourages suppliers to maintain better discipline and accuracy while filing GST returns. Since rejected invoices require correction or amendment, suppliers become more cautious in uploading invoice details. As a result, the overall quality of GST compliance improves across the supply chain.

Another major advantage of customer rejection in IMS is the reduction of disputes between suppliers and recipients. Earlier, businesses often faced lengthy reconciliations, communication gaps, and delayed ITC claims. With IMS, discrepancies can be identified instantly, leading to faster rectification and smoother business operations.

Customer rejection also plays a crucial role in:

- Preventing wrongful or fraudulent ITC claims
- Enhancing transparency in business transactions
- Reducing manual reconciliation efforts
- Improving compliance ratings of taxpayers
- Strengthening the government's anti-tax evasion measures
- Building trust and accountability among businesses

Moreover, IMS supports the vision of a fully digital and automated tax administration system. It reduces dependency on paperwork and promotes real-time verification of transactions. This not only saves time and operational costs but also helps businesses focus more on growth and efficiency.

From a broader perspective, the customer rejection mechanism benefits the entire GST ecosystem. Genuine taxpayers receive accurate credits, suppliers improve compliance standards, and tax

authorities gain better visibility into transactions. It creates a win-win situation for all stakeholders involved.

In conclusion, customer rejection in IMS is not just a compliance feature — it is a smart control mechanism that strengthens the foundation of GST. By ensuring accuracy, preventing fraud, and encouraging responsible tax practices, IMS is paving the way for a more transparent, reliable, and efficient taxation environment in India.

# Judicial Trends in GST Law

*A Comprehensive Survey of Standard Rulings*

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## **Abstract**

The Goods and Services Tax, introduced in India on 1 July, 2017, represents the most ambitious restructuring of indirect taxation in the country's legislative history. In its eight years of operation, it has generated a voluminous body of judicial decisions touching upon virtually every dimension of its architecture: the definition and scope of 'supply', the rules governing valuation and classification, the intricate framework of place of supply, the conditions for registration, the mechanism of input tax credit, the law of refunds, the obligations of the e-way bill regime, anti-profiteering provisions, and the procedural law of search, seizure, arrest, and adjudication. This write-up presents the ruling portions of standard decisions of various judicial forums under the CGST Act, 2017. Each ruling is contextualised within the broader doctrinal debate it addresses, and a synthesis of emerging principles concludes each thematic section. This particular write-up is designed as a practitioner's jurisprudential guide and as a platform for informed academic discourse.

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## **Introduction: The Architecture of GST and the Role of the Courts**

GST is, at its core, a destination-based, multi-stage consumption tax. Its genius lies in the mechanism of input tax credit which, in theory, eliminates cascading and taxes only the value added at each stage of the supply chain. In practice, however, the statute is dense, the delegated legislation is elaborate, and the interplay between the Central and State levies creates structural complexity that has repeatedly invited judicial intervention.

As a dynamic and evolving tax framework, GST has generated significant litigation concerning issues such as input tax credit, assessment procedures, detention and confiscation of goods, jurisdictional limits of authorities, and compliance mechanisms under the Act. Recent judicial pronouncements have played a crucial role in clarifying ambiguities in the statutory scheme, reinforcing procedural safeguards, and balancing revenue interests with taxpayer rights. This write-up examines selective contemporary judgments under GST law, highlighting the emerging legal principles and their impact on the administration and implementation of the tax regime.

**1. Rashtriya Chemicals and Fertilizers Ltd. v. Commissioner of Central Excise and Service Tax (LTU).  
(2026) 40 Centax 293 (S.C.) dated 24-03-2026 | Supreme Court**

*Issue: Whether excise duty exemption on “Naphtha” procured for manufacture of fertilizers can be denied on account of its incidental diversion to mixed steam generation due to integrated plant operations?*

**R U L I N G**

The Supreme Court set aside the excise duty demand of approximately ₹28.56 crore against Rashtriya Chemicals and Fertilizers Limited, holding that the “intended use” of a raw material is the primary test for availing exemption benefits. The Court held that once Naphtha was procured for fertilizer manufacture, the concessional duty benefit could not be denied merely because a small portion was used for electricity generation due to technical compulsions in an integrated plant, particularly when such electricity was largely used in fertilizer production. It also noted that precise segregation of Naphtha usage was impractical and that the demand was based largely on estimated apportionment rather than concrete evidence of diversion.

The Court further held that the extended limitation period under Section 11A of the Central Excise Act, 1944 could not be invoked in the absence of fraud, suppression, or intent to evade duty, especially since the assessee had disclosed all material particulars to the excise authorities and the dispute involved interpretation of exemption notifications. Observing that the case was revenue neutral, the Court also held that the invocation of extended limitation and penalty under Section 11AC was wholly unwarranted.

**2. Surya Business Private Limited v. The State of Assam  
WP(C) 6322 OF 2023 dated 05.03.2026 | Gauhati High Court**

*Issue: Whether the GST authorities can invoke Section 73 to initiate proceedings for the same tax period and subject matter that has already been conclusively examined and closed under a completed audit under Section 65 of the CGST Act?*

**R U L I N G**

The Gauhati High Court held that once a conclusive audit under Section 65 had been completed and the taxpayer had discharged all liabilities identified in the final audit report, fresh proceedings on the same issues could not be initiated in the absence of any new discrepancies arising from the audit itself. Interpreting “audit” under Section 2(13) as a comprehensive examination of records and tax compliance, the Court held that concluded audit findings cannot ordinarily be reopened through parallel proceedings. Since the audit authorities had already examined the reconciliation of turnover and ITC, accepted the petitioner’s explanations, and the admitted dues had been paid, no basis existed for initiating proceedings under Section 73. The Court further observed that repeated proceedings through subsequent automated notices would defeat the statutory audit scheme and offend the principles of fairness and non-arbitrariness under Article 14 of the Indian Constitution. Rejecting the State’s objection on maintainability, the Court held that a writ

petition is maintainable where the SCN itself is challenged on jurisdictional grounds.

### 3. **Scorp Industries & Anr. v. Assistant Commissioner, State Tax, Alipore Charge** **WPA 7971 OF 2026 dated 27.04.2026 | Calcutta High Court**

**Issue:** *Whether rejection of an application for revocation of cancellation of GST registration without supplying the field visit/inspection report and other relied-upon materials to the assessee violates the principles of natural justice and renders the order legally unsustainable?*

#### **R U L I N G**

The Calcutta High Court held that rejection of an application for revocation of cancellation of GST registration without furnishing the materials relied upon by the Department, particularly the field visit report, violates the principles of natural justice. The Court observed that once the assessee invokes the statutory remedy for revocation, the Proper Officer is under an obligation to disclose all documents forming the basis of the proposed adverse decision and provide a meaningful opportunity to respond.

The Court found that the petitioner had not been supplied with the field inspection report despite the same being relied upon while rejecting the revocation application. Holding that such non-disclosure deprived the petitioner of an effective opportunity of defence, the Court set aside the impugned rejection order. The Revenue authorities were directed to furnish the field visit report to the petitioner and were granted liberty to conduct a fresh inspection, if considered necessary. The Court further directed the authorities to reconsider the revocation application afresh and pass a reasoned order after granting adequate opportunity of hearing to the petitioner, within the prescribed timeline.

### 4. **Kirti Deora v. State of West Bengal** **(2026) 40 Centax 288 (Cal.) dated 13.02.2026 | Calcutta High Court**

**Issue:** *Whether a police officer can direct a debit freeze of a bank account merely under Section 94 of the BNSS, 2023 without any order of the jurisdictional Magistrate?*

#### **R U L I N G**

The Calcutta High Court held that the debit freezing of a bank account cannot be effected by a police officer merely on the basis of a notice issued under Section 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), as a bare reading of Section 94 reveals that it only empowers a police officer or court to summon production of documents or things and does not confer any power to debit freeze a bank account; that the power of seizure under Section 106 of the BNSS is exercisable by a police officer but is dependent upon reporting to the jurisdictional Magistrate; and that attachment under Section 107 of the BNSS can only be effected upon an order passed by the jurisdictional Magistrate on an application made by the investigating police officer. Since there was nothing on record to show that the investigating officer had approached the jurisdictional Magistrate or that any order of seizure or attachment had been passed, and since a debit freeze of a bank account cannot be continued indefinitely without an appropriate order of the jurisdictional Magistrate, the notice directing the debit freeze was held to be not in accordance with law and was

accordingly quashed, thereby directing the bank to permit the petitioner to operate the account freely.

**5. Mcleod Russel India Ltd. v. Union of India  
(2025) 37 Centax 294 (Gau.) dated 09.12.2025 | Gauhati High Court**

**Issue:** *Whether denial of Input Tax Credit to a bona fide purchaser solely due to the supplier's failure to upload invoice details in GSTR-1 under Section 16(2)(aa) of the CGST Act is arbitrary and unconstitutional?*

**R U L I N G**

The Gauhati High Court disposed of the writ petition challenging the constitutional validity of Section 16(2)(aa) of the CGST Act, 2017 which conditions Input Tax Credit (ITC) on the supplier furnishing invoice details in Form GSTR-1 and their communication to the recipient under Section 37. The Court declined to strike down the provision but read it down to protect bona fide purchasers.

The Court reiterated that GST is ultimately a tax on the buyer, with the seller acting as a collecting agent, and that while conditions can validly be imposed for claiming exemptions or concessions, the impugned restriction is "quite iniquitous" as it makes ITC dependent on supplier compliance beyond the purchaser's control, defeating the Act's objective of preventing cascading tax. The Court held that ITC cannot be denied solely because an invoice is not reflected in GSTR-2B due to the supplier's default, where the purchaser is otherwise bona fide. While upholding the provision's intent to curb fraud and ensure compliance, the Court read it down to require that bona fide purchasers be given an opportunity to prove their claim through tax invoices and supporting documents when the supplier fails to furnish details in GSTR-1.

**6. Carbon Resources Private Limited v. The Deputy Commissioner, Regional GST Audit and Enforcement Office  
Writ Petition No. 22512 of 2023 dated 08.12.2025 | Andhra Pradesh High Court**

**Issue:** *Whether a composite show cause notice under the GST Acts covering multiple assessment years is legally sustainable and whether the officer conducting audit can also adjudicate?*

**R U L I N G**

The Andhra Pradesh High Court, in view of the judgment of ***SJ Constructions***, held that the show cause notice is liable to be set aside as it is a composite show cause notice covering multiple assessment years. It also ruled that consequently, once such show cause notice is set aside and a fresh show cause notice has been issued, the instructions issued by the Chief Commissioner concerning the issue that the officer, who has conducted the audit, cannot conduct assessment, would govern the proceedings.

**7. Speedways Logistics Pvt. Ltd. v. Union of India  
(2026) 39 Centax 178 (Bom.) dated 06.02.2026 | Bombay High Court**

*Issue: Whether issuance of composite show cause notices and orders under Section 74 of the CGST Act, 2017, covering multiple financial years or tax periods violates the statutory scheme governing determination and adjudication of tax liability period-wise?*

**R U L I N G**

The Bombay High Court held that consolidation of multiple financial years/tax periods in a single SCN under Section 74 of the CGST Act is impermissible, following the coordinate Bench decisions in *M/s. Milroc Good Earth Developers v. Union of India (WP No. 2203/2025, decided 09.10.2025)* and *Rite Water Solutions (India) Ltd. v. Joint Commissioner, CGST (WP No. 466/2025, decided 28.11.2025)*. The Court reasoned that the GST scheme is structured around distinct annual tax periods, each with its own limitation period running separately under Sections 73(10) and 74(10) of the CGST Act and that a single SCN aggregating multiple financial years with different due dates and different limitation periods violates this explicit year-wise statutory structure and prejudices the taxpayer's ability to respond year by year. The Court, therefore, quashed the composite show cause notices.

**8. Flemingo Dutyfree Shop Pvt. Ltd. v. The Deputy Commissioner of Revenue, Salt Lake Charge  
MAT 1739 OF 2024 dated 10.09.2024 | Calcutta High Court**

*Issue: Whether, in GST adjudication proceedings, the revenue can take a contrary view for a subsequent assessment year on an identical factual matrix after having dropped proceedings for an earlier year and allowing that decision to attain finality?*

**R U L I N G**

The Calcutta High Court, applying the principle laid down by the Supreme Court in *M/s. Radhasoami Satsang, Saomi Bagh, Agra v. Commissioner of Income Tax (1992) 1 SCC 659*, held that while res judicata does not strictly apply to tax proceedings since each assessment year is an independent unit, where a fundamental aspect permeating through different assessment years has been found one way or the other and the parties have allowed that position to attain finality by not challenging the order, it would not be appropriate to permit a departure from that position in a subsequent year. Applying this principle, the Court held that consistency demands that the appellants be granted one more opportunity to appear before the adjudicating authority and establish that their case for the tax period 2018-19 rests on the same factual footing as the one for 2017-18, in addition to any other grounds they may be entitled to canvass.

9. **Vodafone Idea Ltd. (Formerly known as Vodafone Mobile Services Ltd.) vs Union of India**  
[TS-311-HC(BOM)-2026-GST] dated 29.04.2026 | Bombay High Court

**Issue:** *Whether GST proceedings under Section 74 of the CGST Act, 2017 can be validly initiated or continued against an entity that has ceased to exist pursuant to an approved scheme of amalgamation?*

**R U L I N G**

The Bombay High Court quashed GST proceedings initiated against Vodafone Mobile Services Ltd. after its amalgamation with Idea Cellular Ltd. and Vodafone India Ltd. pursuant to an NCLT-approved merger scheme, holding that once the amalgamating entity ceased to exist in law, any show cause notice or adjudication proceedings issued in its name were void ab initio and without jurisdiction. The dispute arose from a show cause notice issued under Section 74 of the CGST Act in relation to the transfer of the telecom tower business as a going concern; however, despite the merger having been approved and duly intimated to the GST authorities, both the notice and adjudication order were issued in the name of the erstwhile entity. Rejecting the Revenue's reliance on Section 87 of the CGST Act, the Court held that the provision merely governs tax treatment for the intervening period between the effective date of amalgamation and the date of the merger order and does not authorize proceedings against a non-existent entity. Relying on the principle laid down in **Maruti Suzuki India Ltd.** case, the Court reiterated that issuance of a notice to a non-existent entity is a jurisdictional defect and not a curable procedural irregularity and accordingly set aside the impugned adjudication order as unsustainable in law.

10. **Truvolt Engineering Company Pvt. Ltd. v. The Joint Commissioner of State Tax, Directorate of Revenue Intelligence & Enforcement.**  
WPA 21285 of 2024 dated 12.03.2026 | Calcutta High Court

**Issue:** *Whether the principles of natural justice under the GST regime require that an assessee be granted an opportunity to cross-examine third-party suppliers whose statements constitute the basis of the Revenue's allegations before the department proceeds to pass any order?*

**R U L I N G**

The Calcutta High Court disposed of the writ petition challenging the Show Cause Notice alleging utilisation of ineligible Input Tax Credit, on the basis of a concession made by the Department. The petitioner's core apprehension was that the adjudicating authority intended to rely upon the statements of two suppliers recorded during investigation in support of the allegations in the SCN, without affording the petitioner an opportunity to cross-examine those suppliers, thereby violating the principles of natural justice. The Department's counsel conceded before the Court that if the adjudicating authority seeks to rely upon the statement of any person, the petitioner shall be afforded an opportunity to **cross-examine** such person. The Court, on being satisfied with this concession, found no justification to keep the writ petition pending and directed the Department to complete the adjudication proceedings in light of the order and in accordance with law.

**11. Golden Traders vs The Deputy Assistant Commissioner of State Tax  
[TS-205-HC(AP)-2026-GST] dated 01.03.2026 | Andhra Pradesh High Court**

*Issue: Whether detention and confiscation of goods in transit under Sections 129 and 130 of the CGST/APGST Acts can be justified on grounds relating to tax assessment issues in inter-State transactions even when the same falls outside the jurisdiction of the detaining State GST Authorities?*

**R U L I N G**

The Andhra Pradesh High Court allowed a batch of writ petitions challenging detention and confiscation proceedings initiated under Sections 129 and 130 of the CGST/APGST Acts against goods in transit during inter-State movement. The proceedings had been initiated by Andhra Pradesh GST authorities on allegations including undervaluation, mismatch in description, excess quantity, and defects in documentation.

The Court held that issues relating to valuation and determination of tax liability cannot be examined at the stage of interception of goods in transit and must instead be adjudicated by the appropriate assessing authority. It further held that State GST authorities of a transit State lack jurisdiction to detain or confiscate goods involved in inter-State transactions that neither originate nor terminate within that State, particularly where such transactions are governed by the IGST framework. Observing that powers under Sections 129 and 130 are limited in scope and cannot be exercised to undertake assessment proceedings during transit, the Court set aside the impugned detention and confiscation proceedings and directed release of the goods and conveyances.

**12. Icon Ply vs Commissioner of State Tax  
[TS-290-HC(KER)-2026-GST] dated 01.04.2026 | Kerala High Court**

*Issue: Whether “negative blocking” of Input Tax Credit in the electronic credit ledger, without adjudication under Sections 73 or 74 of the CGST/KSGST Act, is permissible under the GST law?*

**R U L I N G**

The Kerala High Court while directing the unblocking of electronic credit ledgers (ECrL), held that the proceedings under Rule 86A of the CGST Rules, 2017 cannot be a substitute for the proceedings contemplated under Sections 73 and 74 of the CGST Act, 2017; It emphasized that the purpose of Rule 86A is not to recover any tax, but only to ensure that no ineligible ITC is claimed by any person. The Court examined the scope of the statutory provisions governing electronic credit ledger and the circumstances in which ITC can be restricted and reiterated that credit cannot be permanently or substantively denied through administrative or technical blocking mechanisms without following due process of adjudication under Sections 73 or 74 of the CGST/KSGST Acts. It held that any action resulting in deprivation of Input Tax Credit must be supported by authority of law and cannot bypass the adjudicatory framework.

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## **Conclusion**

The above recent judicial pronouncements under GST law have significantly shaped the interpretation and application of the statutory framework by addressing procedural irregularities and reinforcing the limits of administrative action. These decisions underscore the judiciary's role in ensuring that GST provisions are implemented in line with due process while maintaining the legislative intent of preventing tax evasion and protecting revenue. Collectively, they continue to refine GST jurisprudence and enhance legal clarity in its evolving regime.

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## *Dealing ITC Fraud/ Non-Fraud Cases*

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### Introduction

The framework of Input Tax Credit (ITC) forms the backbone of the Goods and Services Tax Regime, ensuring seamless flow of credit and minimizing the cascading effect of taxes. However, with the evolving GST landscape and increasing compliance requirements, several practical and legal challenges relating to availment, utilization, reversal, and restriction of ITC have emerged as significant areas of concern for businesses.

In recent years, denial and restriction of Input Tax Credit (“ITC”) has emerged as one of the most contentious and heavily litigated areas under the GST regime. While the seamless flow of credit remains one of the foundational objectives of GST, the department has increasingly initiated proceedings to deny or restrict ITC on multiple grounds in order to curb revenue leakage and fraudulent transactions. However, such actions have also resulted in significant practical and legal challenges for genuine taxpayers.

Broadly, disputes relating to ITC may be classified into two categories:

1. **Fraud Cases under Section 74 of the CGST Act, 2017** — involving allegations of fake invoices, fictitious suppliers, circular trading, sham transactions, or fraudulent availment of credit; and
2. **Non-Fraud Cases under Section 73 of the CGST Act, 2017** — involving denial or reversal of ITC arising from procedural lapses, supplier defaults, technical mismatches, delayed payments, or portal-related discrepancies without any allegation of fraud or suppression.

The distinction between these two categories is fundamental. Fraud cases involve deliberate evasion and invite stringent consequences including penalty, blocking of credit, and prosecution. Non-fraud cases, on the other hand, concern genuine commercial transactions where denial of credit often arises due to circumstances beyond the recipient’s control. Judicial authorities across the country have consistently emphasized that these two categories cannot be treated identically.

**Some of the most frequently disputed issues in this context include:**

- ✚ Denial of ITC due to cancellation of supplier registration;
- ✚ Denial of ITC on account of supplier non-filing of GSTR-3B or non-payment of tax;
- ✚ Reversal of ITC for non-payment to suppliers within 180 days; and
- ✚ Blocking of Electronic Credit Ledger under Rule 86A of the CGST Rules, 2017.

These issues have generated extensive litigation before various High Courts, particularly on the larger question of balancing revenue protection with the rights of bona fide taxpayers. The evolving judicial approach indicates a clear attempt to ensure that honest taxpayers are

not penalized merely because of defaults committed by suppliers or procedural irregularities not attributable to them.

Against this backdrop, the following discussion examines the legal framework governing these disputes, the distinction between fraud and non-fraud cases, the prevailing judicial principles, and the practical safeguards that businesses must adopt in order to mitigate ITC-related litigation under the GST regime.

## Denial of ITC due to default of Suppliers

One of the most contentious areas under GST relates to denial of ITC to recipients on account of defaults committed by suppliers. These disputes generally arise in two situations:

- ✚ cancellation of supplier registration; and
- ✚ non-filing of GSTR-3B or non-payment of tax by the supplier.

In both situations, the central controversy remains the same — whether a bona fide purchaser can be denied ITC merely because of non-compliance on the part of the supplier despite the recipient having acted diligently and in good faith

### **Part A: Supplier's GST Registration Was Cancelled**

#### The Core Issue-

Under GST Law, a registered taxpayer is entitled to claim credit on inward supplies used in the course or furtherance of business, subject to fulfilment of statutory conditions prescribed under section 16 of the CGST Act'2017. . However, tax authorities have increasingly adopted the view that where the supplier's GST registration stands cancelled, the recipient becomes disentitled from claiming ITC on invoices issued by such supplier during the relevant period.

Based on this view, GST authorities are issuing Show Cause Notices (SCNs) to businesses demanding:

- ✚ Reversal of ITC already claimed on purchases from the cancelled supplier
- ✚ Payment of the tax amount along with interest and penalties
- ✚ Justification of why the ITC should not be denied

The implications of cancellation vary depending upon the nature and timing of cancellation. Broadly, cancellation cases fall into the following categories:

- A. **Cancellation with Retrospective Effect** : Where the registration of the supplier is cancelled with retrospective effect i.e., cancellation is made operative from a date prior to the transaction, the department argues that the supplier was never validly registered during the relevant period and hence the invoices issued by them are invalid, making ITC ineligible.
- B. **Cancellation Prospective / Post-Transaction**: Where the supplier's registration was valid and subsisting at the time of the transaction but was subsequently cancelled.

- C. **Suo Motu Cancellation:** Where the GST department itself cancels registrations suo motu on account of non-filing of returns, non-response to notices, or other portal-related non-compliance.

### What does the law say-

While the department takes a strict view, the law and judicial precedents offer significant protection to honest, bona fide taxpayers. Here is what has been laid:

**A. Good Faith Purchases are protected-**

ITC cannot be denied where the recipient has genuinely purchased goods/services, paid tax, and had no knowledge of the supplier's default. A bona fide purchaser cannot be penalised for the supplier's failure.

**B. Retrospective Cancellation cannot affect past genuine transactions-**

Retrospective cancellation of a supplier's registration does not automatically invalidate ITC validly claimed on genuine transactions made prior to such cancellation.

**C. ITC cannot be denied mechanically without investigating the supplier-**

The GST department must investigate whether the transaction was real before denying credit. They cannot simply deny it mechanically.

### Landmark judgments in favor of Recipients-

#### Sanchita Kundu v. Assistant Commissioner of State Tax

**Citation:** W.P.A. 7231 of 2022 with W.P.A. 7232 of 2022, Calcutta High Court, decided on 5 May 2022.

**Facts:** The department denied credit to the buyer because the supplier's registration had been cancelled with retrospective effect, covering the period of the purchases. It also demanded interest and penalty. The buyer argued that the purchases were genuine and supported by valid invoices, proof of receipt of goods, payment to the supplier, and transport records — and that the supplier's registration was shown as active on the portal at the time of the transactions.

**Held:** Credit cannot be denied automatically just because the supplier's registration was later cancelled. The department must first examine whether the transaction was genuine and give the buyer a fair hearing. The orders were set aside, and the matter was sent back for a fresh, reasoned decision.

#### Gargo Traders Vs. Joint Commissioner of Commercial Taxes (State Tax)

**Citation:** W.P.A. 1009 of 2022, Calcutta High Court, decided on 12 June 2023.

**Facts:** The petitioner had availed ITC on purchases made from a supplier whose GST registration was subsequently cancelled retrospectively on allegations of being fake and non-existent. The department denied ITC alleging failure on the part of the petitioner to verify the genuineness of the supplier. However, the petitioner produced invoices, e-way bills, transport documents, and bank payment proofs to establish genuineness of transactions.

**Held:** The Calcutta High Court held that mere retrospective cancellation of supplier's registration cannot automatically result in denial of ITC to the purchaser. The Court observed that the supplier was reflected as an active registered person on the GST portal at the time of transaction and payments were made through banking channels. Accordingly, the matter was remanded for fresh consideration after examining the supporting documents produced by the petitioner.

**These rulings reaffirmed that absence of collusion or fraudulent conduct on the part of the recipient is a significant factor while determining ITC eligibility.**

## **Part B: Supplier Did Not File GSTR-3B or Deposit Tax**

### The Core Issue-

Under Section 16(2)(c) of the CGST Act, 2017, ITC can be availed by a recipient only if the tax charged on the supply has actually been paid to the government either by the supplier .

The GST Department has been adopting the position that when a supplier fails to file their GSTR-3B (monthly return) and thereby fails to deposit the tax collected, the recipient loses the right to ITC, even though the recipient has done everything correctly. On this basis, authorities are issuing:

- ✚ Show Cause Notices (SCNs) to recipients demanding reversal of ITC
- ✚ Demand orders for the tax amount along with interest at 18% per annum
- ✚ Penalty proceedings of up to 100% of the ITC claimed
- ✚ Blocking of Electronic Credit Ledger under Rule 86A in serious cases

### What does the law say-

Section 16 of the CGST Act, 2017 lays down the conditions for the availment of ITC. One of the conditions is that the tax should have been deposited by the supplier to the government. Section 16 (2)(c) states that *"the tax charged in respect of supply should have been actually paid to the government either in cash or through utilization of input tax credit admissible in respect of the said supply."* But when a taxpayer already paid tax to the supplier once, why should the taxpayer be denied the ITC just due to some default of the Supplier. While the department relies on the provision of Section 16, courts across India have consistently upheld the rights of genuine, honest buyers.

### Landmark judgments in favor of Recipients-

**Diya Agencies Vs. State Tax Officer (2023) [10 Centax 266 (Ker.)]**

**Citation:** W.P. (C) No. 29769 of 2023, Kerala High Court decided on 12 September 2023.

**Facts:** The petitioner, Diya Agencies, claimed Input Tax Credit (ITC) of approximately ₹44.51 lakh for FY 2017-18 which was later restricted by the department solely because the corresponding tax details were not reflected in Form GSTR-2A. The assessee contended that it had fulfilled all conditions under Section 16(2) of the CGST/KSGST Act, including payment of tax to suppliers and possession of valid tax invoices and the non-reflection in GSTR-2A was beyond its control and ITC could not be denied merely due to supplier default.

**Held:** The Kerala High Court held that ITC cannot be denied merely because the tax amount is not reflected in Form GSTR-2A. The Court observed that if the supplier failed to remit tax after receiving it from the purchaser, the purchaser cannot automatically be penalized. However, the burden lies on the purchasing dealer to prove the genuineness of the transaction with supporting evidence such as invoices, transport details, delivery proof, payment records, etc. The assessment order denying ITC was set aside and the matter was remanded back to the Assessing Officer for fresh examination after giving the assessee an opportunity to produce evidence.

**The judgment reiterates that denial of ITC must be based on substantive evidence of non-genuine transactions and not merely upon technical mismatch or supplier default.**

## **How to Handle Both Situations — Cancelled Supplier & GSTR-3B Default**

As the most popular saying lays “Prevention is better than cure”. Similarly, Prevention of litigation by being vigilant is always better than litigation. Here are some of the proactive steps every business should take:

### **Before making purchases:**

- ✓ Verify your supplier’s GST registration on the GSTN portal ([www.gst.gov.in](http://www.gst.gov.in)) and confirm it is active on the portal before every major transaction.
- ✓ Download and save the supplier verification screenshot as evidence of due diligence.
- ✓ Ensure the supplier’s GSTIN and other details matches the invoice details exactly.
- ✓ Check whether the supplier has been filing GST returns (GSTR-1 and GSTR-3B). A supplier who is not regularly filing returns is a risk for both cancellation and non-deposit of tax.
- ✓ Do basis vendor due diligence such as keep the supplier’s PAN, address proof, and agreement or work order.

### **While making the purchases:**

- ✓ Match every invoice with GSTR-2B (auto-populated ITC statement) before claiming credit
- ✓ Claim ITC only for invoices appearing and matched in your GSTR-2B
- ✓ Maintain proper records: tax invoices, e-way bills, payment proofs, and delivery challans
- ✓ Make payments to suppliers through banking channels (avoid cash payments)

### **After Receiving an SCN:**

- ✓ Compile all documentary evidence of the genuineness of the transaction — invoices, payment records, delivery proof, transport documents, and GSTIN verification screenshots.
- ✓ If the supplier's registration was cancelled retrospectively, specifically highlight in your reply that the supplier was shown as active on the portal at the time of your transaction.

- ✓ If the issue is non-filing of GSTR-3B by the supplier, show that you fulfilled all conditions under Section 16(2) and that the default was entirely on the supplier's side.
- ✓ Highlight absence of collusion or fraudulent intent.

## Non-Payment to the supplier within 180 Days

The journey of the Goods and Services Tax (GST) has always been a delicate balancing act between administrative safeguards and the promise of seamless credit flow. As GST approaches the end of the decade, several provisions drafted with protective intent have begun to show signs of friction. Among these, the 180-day payment rule for ITC reversal stands out as a condition that appears simple on paper but has grown into a structural concern for businesses across sectors.

The rule was introduced with two legitimate objectives. First, it seeks to discourage the proliferation of fake or accommodation invoices under which recipients claim ITC without any genuine underlying supply or payment. Second, it aims to impose financial discipline by ensuring that the flow of credit through the GST chain is backed by actual commercial transactions settled in a timely manner.

However, as subsequent experience has demonstrated, the drafting of the provision is both blunt and over-inclusive. It operates identically on fraudulent transactions and perfectly genuine commercial arrangements where payment is deferred for entirely bona fide reasons

This chapter examines the law, its implications, the critical distinction between fraud and bona fide delay, the evolving judicial challenge, and the compliance architecture businesses must adopt.

### The Core Issue-

Section 16(2) of the CGST Act read with Rule 37 of the CGST Rules provides that where a recipient fails to make payment towards the value of supply along with tax to the supplier within 180 days from the date of invoice, the Input Tax Credit ("ITC") availed in respect of such supply is required to be reversed along with applicable interest. Although the provision seeks to ensure timely payment to suppliers and prevent undue retention of credit, it has become a significant area of practical and compliance-related concern for businesses.

In several cases, delays in payment may arise due to commercial disputes, financial constraints, retention arrangements, instalment-based transactions, or ongoing reconciliation between parties. However, tax authorities often invoke the provision on a strict technical basis, resulting in demand of reversal along with interest liability and penalty. Consequently, the provision has led to substantial compliance burden and operational challenges, particularly for businesses dealing with high-volume transactions and extended credit arrangements.

### What does the law say-

Under Section 16(2)(b) of the CGST Act, 2017, a registered taxpayer can claim Input Tax Credit (ITC) on a purchase only if the payment for the invoice is made to the supplier within

180 days from the date of the invoice. If payment is not made within this 180-day window, the following consequences follow:

- ✚ **ITC Reversal:** The entire ITC claimed on that invoice must be reversed in Form GSTR-3B
- ✚ **Interest @ 18% p.a.:** Interest is payable on the reversed ITC amount from the date of claim to the date of reversal.

However, the taxpayers may re-avail the credit reversed earlier in the returns for the period in which payment is made. But, the interest already paid is a cost that cannot be recovered.

## How to Protect Yourself

This compliance requirement and the probable litigation from this issue is entirely manageable with proper systems. If the GST Department identifies unpaid invoices during scrutiny and finds that ITC has not been reversed, they will issue an SCN demanding the ITC amount, interest at 18% p.a., and a penalty of up to 100% of the tax involved. Proactively reversing ITC keeps your record clean and avoids this escalation. Here is what we can do:

### **Accounts Payable Controls:**

- ✓ Maintain an invoice-wise tracker capturing invoice date, amount, ITC claimed, and payment due date (Day 180).
- ✓ Set calendar alerts at Day 150 to review and prioritise payment of pending GST invoices.
- ✓ Never delay payment beyond 180 days without being aware of the ITC reversal consequence.
- ✓ Reconcile your purchase register with payment ledger at least monthly.

### **GST Return Compliance:**

- ✓ At the end of each month, check your accounts payable ageing for invoices approaching 180 days.
- ✓ Proactively reverse ITC in Table 4(B)(2) of GSTR-3B for invoices crossing 180 days, do not wait for a notice.
- ✓ Compute and pay applicable interest along with the reversal to avoid further penal exposure.
- ✓ Record the reversal and re-claim entries carefully to avoid ITC mismatches.
- ✓ Preserve proof of payment such as bank statements, RTGS/NEFT receipts linked to each invoice.

### **After Receiving an SCN:**

- ✓ Check whether the impugned invoices were actually paid within 180 days and payment proof was overlooked by the Department.
- ✓ If genuinely unpaid, assess whether payment can be made now before the adjudication, this strengthens your case significantly.
- ✓ Calculate the exact interest liability and deposit it proactively through DRC-03.
- ✓ File a detailed reply citing your compliance track record, payment history, and the curative nature of the provision.

- ✓ Argue for waiver of penalty where reversal has been done voluntarily or payment has now been made.

## Negative Blocking of Electronic Credit Ledger

### What is Negative Blocking of the Credit Ledger-

Every registered GST taxpayer has an Electronic Credit Ledger (ECL) maintained on the GST portal. This ledger reflects the Input Tax Credit (ITC) accumulated by the taxpayer on purchases made in the course of business. Normally, this ITC is used to offset the GST liability payable on outward supplies, thereby reducing the cash outflow of the business.

'Negative blocking' or 'credit blocking' refers to the action of the GST Department under Rule 86A of the CGST Rules, 2017, whereby the Commissioner or an authorised officer restricts or disallows the use of ITC available in the Electronic Credit Ledger. In effect, the ledger balance is frozen and cannot be used to pay GST dues.

### The Core Issue-

With the rapid rise in fraudulent ITC claims through fake or non-existent suppliers and bogus invoices, the government introduced Rule 86A of the CGST Rules, 2017 in December 2019. This rule empowers specified GST authorities to block the utilization of ITC in the Electronic Credit Ledger when there are credible reasons to believe that such credit has been fraudulently availed or is otherwise ineligible. The tax authorities now a days are blocking the credit ledger as an action to prevent use of ITC fraudulently accumulated, thereby creating a hazard for innocent taxpayers.

When your credit ledger is blocked, you cannot use accumulated ITC to pay your monthly GST dues. You are compelled to pay the full GST liability in cash causing a serious cash flow disruption.

### What does the law say-

Rule 86A authorises the Commissioner or an officer not below the rank of Assistant Commissioner to restrict debit from the ECL in the following circumstances:

- ✚ The ITC was availed on the basis of invoices issued by a non-existent or fictitious supplier.
- ✚ The supplier has not paid the tax collected from the recipient to the government.
- ✚ The registered person availing credit has not received the goods or services.
- ✚ The ITC was availed through fraud, wilful misstatement or suppression of facts.

The provision operates as a temporary restriction on utilization of ITC under Section 49(4) of the CGST Act and not as a mechanism for determination or recovery of tax liability. Rule 86A(2) provides that the restriction shall be lifted once the officer is satisfied that the conditions no longer exist.

### How does blocking happen in practice-

In practical world, the following are the typical scenarios where the credit ledger of the registered taxpayer is blocked by the GST department-

- ⚡ **Supplier Found to Be Fake / Non-Existent-** The Department identifies that one of your suppliers does not exist at the registered address or has never conducted actual business. All ITC traced to that supplier is blocked in your ledger.
- ⚡ **Supplier Did Not File Returns / Deposit Tax-** Your supplier collected GST from you but failed to file GSTR-3B and deposit the tax. The Department blocks your ITC on the ground that Section 16(2)(c) is not satisfied.
- ⚡ **Supplier's Registration Cancelled Retrospectively-** A supplier's GST registration is cancelled with retrospective effect. ITC claimed during the cancelled period is flagged and the ledger is blocked.
- ⚡ **Circular Trading / Fake Invoice Networks-** The Department traces a chain of transactions involving entities suspected of circular trading or invoice fraud. Even genuine buyers at the end of the chain may find their ITC blocked.

### The Law is on the side of the Taxpayers -

As the blocking of ECL is a drastic measure, the power given to the officers comes with significant legal constraints in order to protect innocent taxpayers. To invoke Rule 86A, there are certain mandatory conditions which need to be fulfilled. All of the following conditions must be cumulatively satisfied to invoke Powers of blocking under Rule 86A:

- ✓ **Reasons to believe-** The most critical jurisdictional requirement under Rule 86A is the existence of valid "reasons to believe.". The expression "reasons to believe" cannot mean mere suspicion, assumptions, or borrowed satisfaction. The authority must independently analyze material available on record and form a bona fide opinion based on objective evidence.
- ✓ **Post Decisional hearing must be provided-** Since Rule 86A operates ex parte i.e. the taxpayer is not heard before the block is imposed, courts have read in a mandatory requirement of a prompt post-decisional opportunity to be heard. Any unreasonable delay in affording a hearing after blocking renders the restriction unsustainable.
- ✓ **Negative Blocking is impermissible-** Rule 86A can only restrict credit that actually exists in the ECL on the date of the order. It cannot be used to create a 'negative balance' by blocking future credit or credit not yet reflected in the ledger. The existence of available credit is a condition precedent to invoking Rule 86A, if the ECL balance is nil or negligible, the power simply cannot be exercised.
- ✓ **One Year Limit is absolute-** Rule 86A(3) provides a non-negotiable sunset of one year. Courts have held this limit to be absolute, and the restriction must be lifted on expiry, even if show cause notice proceedings or adjudication remain pending. Rule 86A is a temporary protective tool, not a substitute for adjudication.
- ✓ **Blocking can be upheld only when evidence is sufficient-** The department can only uphold blocking of credit ledger when there is concrete evidence such as investigations revealing non-existent suppliers, missing tax payments, or fraudulent transactions.
- ✓ **Blocking cannot become a recovery mechanism-** Blocking of ECL under Rule 86A cannot be used as a mechanism of indirect tax recovery.

## Landmark judgments in favor of Recipients-

- ✚ **New Nalbandh Traders v. State of Gujarat [2022 (66) GSTL 334 (Gujarat HC)]** — Blocking order quashed for lack of recorded 'reason to believe'.
- ✚ **Samay Alloys India Pvt. Ltd. v. State of Gujarat [2022 (61) G.S.T.L 421 (Guj)]** — Availability of ITC in the ECL is a condition precedent. Rule 86A cannot be invoked where no credit exists.
- ✚ **Seya Industries Ltd. v. State of Maharashtra [(2024) 20 Centax 466 (Bombay HC)]** — Restriction under Rule 86A cannot continue beyond one year and must be lifted irrespective of pending proceedings.
- ✚ **Best Crop Science Pvt. Ltd. v. Principal Commissioner [(2024) 22 Centax 531(Del.)]**— Hon'ble Delhi High Court distinguished preventive blocking under Rule 86A and adjudicatory recovery under Sections 73/74 and Sections 78/79. It was held that Rule 86A does not determine tax liability, blocked ITC cannot automatically become recoverable tax and adjudication proceedings are mandatory before recovery.

## What to do when your ECL has been blocked-

- ✓ **Step 1:** Confirm the Blocking- Log into the GST portal and check your Electronic Credit Ledger balance. If the usable balance is less than what is reflected, or if you receive an error when attempting to use ITC, the ledger may be blocked.
- ✓ **Step 2:** Identify the blocking order- File a complaint or application with the GST Department to obtain a copy of the blocking order under Rule 86A. You are entitled to know the reasons for blocking.
- ✓ **Step 3:** Check the basis of Blocking- Examine which suppliers or invoices have triggered the block. Gather all documentation for those transactions: invoices, payment proofs, GRNs, e-way bills, and supplier GSTIN verification records.
- ✓ **Step 4:** File a Representation- File a written representation before the blocking officer and the Commissioner requesting lifting of the block. Attach all evidence demonstrating the genuineness of transactions and your bona fide conduct.
- ✓ **Step 5:** Engage your GST Advisor- Engage a qualified GST professional urgently. The response strategy whether representation, appeal, or writ depends on the facts.

## How to prevent Credit Ledger Blocking-

While you cannot fully control your suppliers' actions, you can significantly reduce the risk of ITC blocking through strong compliance practices:

### **Supplier Due Diligence:**

- ✓ Verify supplier GSTIN on the GST portal before every transaction confirm active status and business address
- ✓ Check supplier's return filing history (GSTR-1 and GSTR-3B) for the past 6 to 12 months before onboarding
- ✓ For large or new suppliers, conduct a physical or documentary verification of their business operations
- ✓ Avoid suppliers who demand cash payments or who are unable to provide verifiable business credentials

### **Invoice and Transaction Controls:**

- ✓ Insist on proper tax invoices with all mandatory fields such as GSTIN, HSN/SAC, separate tax amounts, invoice number and date
- ✓ Ensure all payments are made through banking channels (RTGS/NEFT/cheque) in order to maintain payment-to-invoice linkage
- ✓ Verify goods or services have actually been received before ITC is claimed and maintain GRNs and delivery challans
- ✓ Do not claim ITC on advances or proforma invoices, wait for the actual tax invoice

#### **Monthly GSTR-2B Reconciliation:**

- ✓ Before filing GSTR-3B, always reconcile your purchase register with GSTR-2B
- ✓ Claim ITC only for invoices reflected in GSTR-2B; for others, follow up with the supplier first
- ✓ Flag and monitor suppliers whose invoices repeatedly fail to appear in GSTR-2B, consider replacing such vendors
- ✓ Maintain month-wise reconciliation statements as evidence of due diligence.

### Conclusion

The jurisprudence surrounding Input Tax Credit under the GST regime clearly reflects the ongoing tension between revenue protection and the fundamental objective of seamless credit flow. While the Government is fully justified in taking stringent action against fraudulent avilment of ITC through fake invoices, non-existent suppliers, circular trading, and sham transactions, the same rigid approach cannot be mechanically extended to genuine taxpayers who have acted bona fide and complied with all obligations within their control. The four major areas discussed collectively demonstrate a recurring pattern where the burden of supplier non-compliance is often shifted onto the recipient. This has resulted in significant litigation and judicial intervention across High Courts.

Courts have consistently emphasized certain foundational principles:

- ✚ A bona fide purchaser cannot ordinarily be penalized for the independent default of the supplier.
- ✚ Retrospective cancellation of registration does not automatically invalidate genuine past transactions.
- ✚ ITC cannot be denied or blocked mechanically without proper investigation and objective material.
- ✚ Rule 86A is only a temporary preventive measure and cannot substitute adjudication.
- ✚ Procedural lapses and commercial delays must be distinguished from fraudulent conduct involving revenue evasion.

At the same time, judicial protection is not unconditional. Taxpayers are expected to demonstrate commercial prudence, maintain complete documentary evidence, conduct supplier due diligence, reconcile returns regularly, and ensure strong internal compliance systems. The modern GST environment increasingly places a proactive compliance responsibility upon businesses.

Therefore, the key distinction in all ITC disputes lies between fraud and non-fraud cases. In fraud cases involving fake transactions or collusion, the law permits stringent recovery,

penalty, blocking of credit, and even prosecution. However, in non-fraud cases involving genuine transactions, supplier default, procedural lapses, or commercial payment delays, courts have repeatedly leaned in favour of protecting honest taxpayers from disproportionate consequences.

Ultimately, the future of GST compliance lies not merely in aggressive enforcement, but in balancing tax administration with fairness, commercial reality, and the constitutional principle that legitimate business transactions should not be disrupted without cogent evidence and due process. Strong documentation, vigilant vendor management, timely reconciliations, and informed legal strategy remain the most effective safeguards for businesses navigating the evolving landscape of ITC litigation under GST.