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India Tax Konnect

September 2025

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Decisions – Domestic tax

Supreme Court quashes prosecution for tax evasion initiated in defiance of CBDT Circular[1]

Facts of the case

The search and seizure proceedings under the Income-tax Act, 1961 (the Act) were initiated in the case of the taxpayer for the financial year (FY) 2016-17. During this search, unaccounted cash was seized, prompting the issuance of a show cause notice by the Revenue for alleged wilful tax evasion[2].

The Principal Director of Income Tax (Investigation) (PDIT) granted sanction to initiate prosecution as per the Act[3], and accordingly, the Deputy Director of Income Tax (DDIT) filed a complaint before the Magistrate[4] alleging wilful attempt by the taxpayer to evade tax.

Subsequently, the taxpayer filed a quashing petition[5] before the High Court and also approached the Settlement Commission[6] (the Commission) by filing an application, disclosing the additional income and seeking immunity from penalty and prosecution.

The Commission granted immunity from penalty. However, it declined immunity from prosecution, noting that a petition was already pending before the High Court.

Subsequently, the High Court dismissed the petition as infructuous taking into consideration the order of the Commission and subsequent developments.

Aggrieved by the High Court order, the taxpayer filed the petition before the Supreme Court.

Relevant provisions

Section 276C(1) provides for prosecution of a taxpayer who wilfully attempts to evade tax, penalty, or interest that is chargeable, imposable, or related to under-reporting of income.

Section 245H gives power to the Commission to grant immunity from prosecution and penalty subject to fulfilment of the prescribed conditions. However, no such immunity can be granted where prosecution proceedings have been instituted against the taxpayer before the date of receipt of settlement application by the Commission[7].

As per the CBDT Circular[8] issued in relation to prosecution criteria/ process in case of tax evasion, the Revenue can proceed to file prosecution/ complaint only in those cases wherein penalty amount exceeds the prescribed threshold, and such concealment of penalty has been confirmed by the Income-tax Appellate Tribunal (the Tribunal).

Supreme Court's decision

The Supreme Court quashed the prosecution proceedings and held that continuation of prosecution, despite penalty immunity granted by the Commission, and in violation of the CBDT Circular, constituted an abuse of the process of law.

The Court also imposed costs of INR 2 lakhs on the Revenue, payable to the taxpayer. Key observations include:

[1] *Vijay Krishnaswami* v. *DDIT (Investigation)* (SLP CRL. Nos. 3618-3620 of 2024)
[2] Section 276C(1)
[3] Section 279(1)
[4] Additional Chief Metropolitan Magistrate, Egmore, Chennai
[5] Under section 482 of Code of Criminal Procedure
[6] Chapter XIX-A of the Act
[7] First proviso to section 245H(1)
[8] Circular dated 24 April 2008 read with Prosecution Manual, 2009

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Interpretation of section 276C(1)

This provision applies where there is a conscious and intentional effort to evade tax liability, distinguishing such conduct from *bona-fide* errors or differences in interpretation.

As per the Commission's order, the taxpayer had disclosed all the facts, material for computation of his additional income without any suppression of account, and immunity from levy of penalty was granted.

Effect of the Commission's order

There was no fraud or misrepresentation noted by the Commission and there was not any *mens rea* or wilful attempt to evade tax which was brought on record against the taxpayer to prove the Revenue's allegations.

Although the first proviso to Section 245H(1) saves prosecution instituted before a settlement application is made to the Commission, the Court emphasised that criminal law principles require prosecution to independently establish wilful intent. If the Commission, after examining facts, granted penalty immunity, prosecution would be futile in absence of evidence of *mens rea*.

Binding nature of CBDT Circulars

Placing reliance on multiple judicial precedent[9], the Court reaffirmed that CBDT Circulars are binding on the Revenue and can tone down the rigour of the statutory provisions of the Act.

Procedural lapse by the Revenue

In the instant case, on the date of lodging the prosecution, the finding of concealment of income was not confirmed by the Tribunal. The act of the Revenue in continuing prosecution is in blatant disregard to their own binding Circular. The Revenue pursued the prosecution without looking into the procedural lapse on their part.

After the grant of penalty immunity by the Commission, it was the duty of the PDIT/ DDIT to look into the facts. In absence of any findings of imposition of penalty, the said prosecution cannot be sustained against the taxpayer.

Such a wilful non-compliance of their own directives reflects a serious lapse on the Revenue, and undermines the principles of fairness, consistency, and accountability, which in any manner cannot be treated to be justified or lawful.

Tax rebate allowed against short term capital gains tax in the absence of specific exclusion: Ahmedabad Tribunal[10]

Facts of the case

The taxpayer, a resident individual, filed a revised tax return for the FY 2023-24 under the new tax regime as per the Act[11].

In the tax return, the taxpayer declared short-term capital gain (STCG) on listed equity shares taxable at the rate of 15 percent under the Act[12] and claimed rebate

[9] *Ranadey Micronutrients* v. *CCE* [1996] SCC 10 387*; Paper Products Ltd*. v. *CCE* [2001] 247 ITR 128 (SC); *UCO Bank* v. *CIT* [1999] 237 ITR 889 (SC)

[10] *Jayshreeben Jayantibhai Palsana* v. *ITO* (ITA No.1014/Ahd/2025) – Similar view has been held by the Chennai Bench of the Tribunal in the case of *Venkatachalam Venkatraman* v. *ITO* (ITA No.1431/Chny/2025)

[11] Section 115BAC(1A)

[12] Section 111A

Contd….

under section 87A of the Act against the total tax liability (including STCG tax).

The Central Processing Centre (CPC), Bengaluru, processed the tax return and denied the rebate claimed by the taxpayer[13].

Relevant provisions

The first proviso to section 87A, as inserted by the Finance Act, 2023 with effect from FY 2023-24, granted specific tax rebate to a resident individual who has filed tax return under the new tax regime and whose 'total income' did not exceed the prescribed threshold.

Section 112A(6) specifically provided that rebate under section 87A shall not be allowed in respect of long-term capital gain (LTCG) taxable thereunder. However, no such exclusion was provided in section 111A dealing with taxability of STCG.

However, post the amendment in section 87A by the Finance Act, 2025, tax rebate on all incomes (including STCG) taxable at the prescribed special rates is denied with effect from FY 2025-26.

Section 115BAC(1A), which outlines the new tax regime, begins with a non-obstante clause overriding other provisions of the Act, but is made *"subject to the provisions of this Chapter"* (i.e. Chapter XII), which prescribes special tax rates for certain incomes.

Thus, while determining the amount of tax payable under the new tax regime, incomes chargeable at special rates prescribed under Chapter XII (such as STCG, LTCG, etc.) must be taxed as per the rates prescribed therein, and the remaining income is to be taxed as per the slab rates prescribed under section 115BAC(1A).

The issue before the Tribunal was whether a resident individual who has exercised the option under the new tax regime and whose total income is below the prescribed threshold, is eligible to claim tax rebate under section 87A against the tax payable on STCG (for FY 2023-24).

Tribunal's decision

The Tribunal concluded that the taxpayer was entitled to claim rebate under section 87A for the relevant FY, even though the income included STCG taxed at the special rate prescribed under the Act. Key observations include:

Interplay between section 115BAC(1A) and Chapter XII

The non-obstante clause under section 115BAC(1A) dealing with the new tax regime governs the computation of tax and does not *ipso facto* affect eligibility to rebates or deductions unless such restrictions are explicitly provided within Chapter XII.

Section 87A is not part of Chapter XII; it is an independent rebate provision under Chapter VIII of the Act. Therefore, the overriding clause in section 115BAC(1A) does not derogate or modify section 87A, unless Section 87A itself contains an exclusion—which, in this case, it does not.

Thus, section 87A operates on the total tax computed, whether it includes income taxed at normal slab rates or special rates, provided the taxpayer's 'total income' remains within the prescribed threshold.

[13] Section 143(1)

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No specific exclusion for STCG tax

Where the legislature intended to deny tax rebate in respect of special income (as in case of LTCG tax), it did so explicitly. In contrast, the absence of any specific exclusion in respect of STCG tax, the rebate under section 87A must be extended to STCG.

Prospective amendment by Finance Act, 2025

The Finance Act, 2025, inserted restrictions on availability of tax rebate on income taxed at special rates — including STCG — with effect from FY 2025-26. This clearly implies that no such restriction existed under the law applicable for FY 2023-24.

Private trust with identified individual beneficiaries eligible for section 54F deduction: Delhi Tribunal[14]

Facts of the case[15]

The taxpayer was a private trust set-up for the identified beneficiaries.

In the tax return for the relevant financial year, it claimed deduction under section 54F of the Act in respect of the long-term capital gains arising from the sale of immovable property as the funds from such sale were reinvested into a residential house.

However, the Revenue rejected the claim alleging that section 54F explicitly provides deduction only to individuals and HUFs and as the taxpayer was a trust which was assessed as an Association of Persons (AOP), it was not entitled to the said deduction.

Relevant provisions

Section 54F of the Act provides deduction to individual from long-term capital gains when the proceeds from the sale of a capital asset (other than a residential house) are reinvested in purchasing or constructing a new residential house in India, subject to certain conditions.

Further, as per the Act, any income earned by a trust is taxed in the hands of the trustees as a 'representative assessee' for and on behalf of the beneficiaries of such income[16]. The trustees are taxed in the like manner and to the same extent as if it was the income of the beneficiaries[17].

Tribunal's decision

The Tribunal ruled in favour of the taxpayer and held that the taxpayer was entitled to tax deduction under the Act on long-term capital gains arising from sale of immovable property[18].

The Tribunal reaffirmed that under the Act, the trustees are assessable as 'representative assessee' of the trust in the same manner and to the same extent as the beneficiaries of the trust. Thus, if the beneficiaries are entitled to any tax benefit/ deduction under Act, the same must be made available to the trustee[19].

In the event the taxpayer (i.e. the trust) was not in existence, the same transaction would have been carried out in the name of beneficiaries therein and the tax

[14] *ACIT* v. *Merilina Foundation* (ITA No.1881/Del/2020)
[15] The other ground of appeal relating to validity of tax return is not covered in this note

[16] Section 160(1)(iv)
[17] Section 161
[18] *Balgopal Trust* v. *ACIT* (ITA No. 5661/Mum/2016)
[19] *Mrs. Amy F. Cama* v. *CIT* [1999] 237 ITR 82 (Bombay); *CIT* v. *Deepak Family Trust No. 1* [1995] 211 ITR 575 (Gujarat)

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benefit/ deduction would have been given to those beneficiaries under Act.

Distinguishing between a private trust and a charitable trust, the Tribunal observed that a private trust, with identified beneficiaries, is not a charitable trust and if the income of such a trust is taxable, it is taxed as income of the beneficiaries through the trustees. In contrast, a charitable trust is taxed as an AOP since the beneficiaries of the charitable trust is the public at large - in fact, where the beneficiary of charitable trust is identifiable, the trust loses its character of being charitable.

Unabsorbed depreciation can be set off against income under any head, even without business activity in the relevant year: Ahmedabad Tribunal[20]

Facts of the case

The taxpayer filed its tax return declaring 'Nil' income.

During the assessment proceedings, the Revenue made certain additions, resulting in taxable income. In addition, the Revenue denied the taxpayer's claim to set off brought forward unabsorbed deprecation against the assessed income, citing the absence of any business activity carried out by the taxpayer during the relevant year.

Relevant provisions

Section 72(2) of the Act provides that where in any financial year a person is entitled to set-off both brought forward business loss and unabsorbed depreciation, the business loss should be set off first.

Section 32(2) of the Act provides that if the full effect cannot be given to the depreciation allowance in a particular financial year, the unabsorbed portion should be added to the depreciation allowance of the following year and deemed to be part of that year's depreciation.

Tribunal's decision

The Tribunal ruled in favour of the taxpayer, holding that the brought forward unabsorbed depreciation could be set off against the assessed income, irrespective of whether any business activity was carried out during the year.

Unabsorbed depreciation, once carried forward, becomes part of the current year's depreciation and is eligible to be set off against income under any head[21]. The requirement that business must be carried on during the relevant financial year is not a condition precedent for treating the brought forward unabsorbed depreciation as current year's depreciation, not does the absence of business income restrict such set-off.

Section 72(2) merely lays down the priority of set-off between business loss and depreciation and does not restrict the operation of section 32(2)[22].

[20] *Parshwanath Land Organisers LLP* v. *ITO* [2025] 177 taxmann.com 46 (Ahmedabad Tribunal)

[21] *CIT* v. *Virmani Industries (P.) Ltd*. [1995] 216 ITR 607 (SC); *CIT* v. *Jaipuria China ClayMines (P.) Ltd.* [1966] 59 ITR 555 (SC)
[22] *CIT v. SPEL Semi Conductor Ltd. [2012] 27 taxmann.com 242 (Madras)*

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Supreme Court cases

Scope of parallel proceedings under GST clarified[23]

The petitioner, a security services provider, had received a show cause notice (SCN) from the State GST authorities under section 73 of the CGST Act, 2017, alleging under-declaration of tax and excess claims of ITC. Subsequently, even the Central GST authorities conducted a search under section 67(2) of the CGST Act, 2017, seized documents, and issued two summons under section 70 of the CGST Act, 2017 for production of records. The petitioner challenged these summons before the Delhi High Court, arguing that they violated section 6(2)(b) of the CGST Act, 2017, as the State had already initiated proceedings on the same subject matter, namely ITC on invoices issued by suppliers whose registrations were cancelled.

The Delhi High Court dismissed the writ petition, holding that the expression 'any proceeding' in section 6(2)(b) of the CGST Act, 2017 cannot be construed to include a search or investigation. The court observed that a summon or investigation pursuant to a search merely constitutes a precursor to formal proceedings. Aggrieved, the petitioner filed a Special Leave Petition (SLP) before the Supreme Court.

Before the Supreme Court, the petitioner contended that section 6(2)(b) of the CGST Act, 2017 prohibits parallel proceedings by Central and State authorities on the 'same subject matter' and that the summons issued by the Central GST authorities were barred, as the State SCN already covered the issue. The petitioner also emphasized the importance of harmony, a foundational principle of cooperative federalism forming the basis of the GST regime.

The Supreme Court examined whether the issuance of summons by the Central GST authorities amounts to the 'initiation of proceedings' under section 6(2)(b) of the CGST Act, 2017. The court ruled that actions undertaken solely for inquiry or evidence-gathering, such as summon, searches, or seizures, do not constitute 'proceedings'. According to the court, the expression 'initiation of any proceedings' refers only to the formal commencement of adjudicatory proceedings through the issuance of an SCN. At the stage of issuing summon, the authorities retain discretion on whether to initiate proceedings, and a mere possibility of action cannot be equated with formal 'proceedings'.

The court also clarified the test for determining whether the subject matter is the 'same'. First, it must be established whether an authority has already proceeded on an identical liability of tax or alleged offence based on the same facts. Second, it must be determined whether the demand or relief sought is identical. In the present case, the petitioner argued that the proceedings concerned the availability of ITC in respect of cancelled dealers. The court rejected this contention, noting that summon alone cannot reveal the subject matter, which can only be ascertained from the SCN. The court further held that mere overlap of certain aspects of an inquiry with the subject matter of an SCN does not justify halting other investigative actions.

The court disposed of the SLP and issued the following guidelines regarding inquiries or investigations by GST authorities:

- Where both Central and State GST authorities initiate inquiries on the same matter, the assessee must first comply with the summons or notice received.

[23] *Armour Security (India) Ltd* [2025] 33 Centax 222 (SC)

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- If a taxpayer becomes aware of another inquiry or investigation on the same subject matter by a different authority, the taxpayer shall inform the second authority about the ongoing inquiry by the first authority.
- Both authorities must then communicate with each other, verify the claim, and coordinate to avoid duplication. Generally, the authority that initiated the inquiry first will continue, while sharing relevant information with the other authority.
- Any duplicate SCN issued for the same liability shall be quashed.
- Taxpayers are expected to cooperate fully with all inquiries or investigation actions.
- If these guidelines are not followed, taxpayers may approach the High Court through a Writ Petition under Article 226 of the Constitution of India.
- Authorities are also encouraged to improve IT systems and data-sharing mechanisms to ensure better coordination and to prevent undue hardship to taxpayers.

High Court cases

Circular 181/13/2022-GST dated 10 November 2022 is illegal and arbitrary to the extent it confines the inverted duty structure (IDS) refund of input tax filed up to 18 July 2022[24]

The petitioner is engaged in manufacture of edible oil, mustard oil etc. (HSN 1514). Notification No. 09/2022-Central Tax (Rate) dated 13 July 2022 (Notification) was issued restricting IDS refund for various items including items under HSN 1514, which was made effective from a prospective date i.e. 18 July 2022. Central Board of Indirect Taxes and Customs (CBIC) also issued a Circular 181/13/2022-GST dated 10 November 2022 ('circular') which clarified that the restriction on claiming IDS refund would apply to all refund applications filed on or after 18 July 2022. The adjudicating authority, basis this circular, was neither accepting or rejecting the refund application of the petitioner filed after 18 July 2022. Aggrieved by such inaction, the petitioner filed a writ petition before the Rajasthan High Court.

The petitioner contended that since the notification was brought into effect from 18 July 2022, the petitioner is entitled for claiming IDS refund on the goods purchased up to 18 July 2022. Against this, the respondent contended that the petitioner is not eligible for the refund in light of the circular.

The Rajasthan High Court, after analysing the relevant provisions and the Notification, observed that since the Notification is made effective from 18 July 2022, the petitioner cannot be disentitled from claiming IDS refund of the tax, paid up to 18 July 2022. Further, neither section 54 of the CGST Act, 2017 nor the Notification contain any restriction as given in the circular. No assessee can be expected to file claim of refund of the tax for the period paid up to 18 July 2022

[24] *SICPA India (P.) Ltd.* [2025] 178 taxmann.com 200 (Sikkim)

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on 18 July 2022 itself, more particularly when the petitioner can apply for refund of tax within the permissible time limit of two years.

The court accordingly declared the point 2 of the circular as illegal and arbitrary being violative of Article 14 of the Constitution of India and contrary to the notification. The court quashed the circular to the extent of confining the refund of input tax to the application(s) filed prior to 18 July 2022.

The court also directed the respondent to consider and decide upon the petitioner's application without relying upon the circular.

Refund of unutilized ITC lying in electronic credit ledger (ECL) upon closure of business is not permissible[25]

The single member bench of the Sikkim High Court[26] had allowed refund of accumulated input tax credit (ITC) lying in electronic credit ledger of the petitioner upon closure of business. Section 54(3) of the CGST Act, 2017 allows for refund of accumulated ITC only in two situations i.e. on account of zero-rated supplies made without payment of tax and in case of IDS. However, refund was allowed to the petitioner in terms of section 49(6) of the CGST Act, 2017 which provides for refund of any balance in the ECL after payment of tax, interest etc. in accordance with the provisions of section 54 of the CGST Act, 2017.

Against this decision, the Union of India filed an appeal before the Division Bench on the ground that the judgement of the Hon'ble Supreme Court in the case of *VKC Footsteps India (P.) Ltd*[27] was not referred to before the single member bench.

The Division Bench discussed the following observations arising from the judgement in the case of VKC Footsteps India (P.) Ltd *(supra):*

1) Refund is a matter of statutory prescription. Parliament is within its legislative authority in determining whether refund should be allowed of unutilized ITC.

2) While recognizing an entitlement to refund, it is open to the legislature to define the circumstances in which a refund can be claimed.

3) Clauses (i) and (ii) of the first proviso to section 54(3) of the CGST Act, 2017 are the only two situations in which a refund can be granted.

4) The first proviso to section 54(3) of the CGST Act, 2017 is not a condition of eligibility but a restriction which must govern a grant of refund under that section.

5) To interpret section 54(3) of the CGST Act, 2017 in any other manner would involve a judicial re-writing of the provision which is impermissible in law.

Accordingly, the Division Bench further observed that the language used in section 49(6) of the CGST Act, 2017, i.e., 'may be refunded' gives an indication that it may be permissible to be refunded. The words 'in accordance with the provisions of section 54', thereafter, is a clear indication that this permissibility to refund must be in accordance with the provisions of section 54 of the CGST Act, 2017 and in no other manner. Further, section 49 of the CGST Act, 2017 falls under Chapter X dealing with 'Payment of Tax' while section 54 of the CGST Act, 2017 falls under Chapter XI dealing with 'Refunds'. Thus, sections 49 and 54 of

[25] *SICPA India (P.) Ltd.* [2025] 178 taxmann.com 200 (Sikkim)
[26] *SICPA India (P.) Ltd.* [2025] 31 Centax 268 (Sikkim)
[27] [2021] 130 taxmann.com 193

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the CGST Act, 2017 deal with different aspects and therefore an application for refund under section 49(6) of the CGST Act, 2017 must necessarily be processed as per section 54 of the CGST Act, 2017.

The Division Bench also observed that agreeing with the decision of the single member bench would involve a judicial re-writing of section 54(3) of the CGST Act, 2017 which is impermissible in law. It would require us to add an additional clause in section 54(3) of the CGST Act, 2017 to enable the refund on closure of business beyond clauses (i) and (ii) thereof. This would lead to recognizing an entitlement to refund beyond what was contemplated by the Parliament.

In light of the above observations, the Division Bench held that that there has been no violation of any Constitutional or statutory right of the petitioner for which a writ could lie. Accordingly, the Division Bench allowed the writ appeal and set aside the impugned judgment.

Circulars

Clarification on various doubts related to treatment of secondary or post-sale discounts under GST[28]

1. Requirement of reversal of input tax credit (ITC) by the recipient in case of post-sale discounts given by the supplier through financial/commercial credit notes: Not required

2. Treatment of post-sale discount offered by a manufacturer to his dealer/ distributor in respect of the dealer's supply of the same goods to the end customer:

Whether agreement exists between the manufacturer and end customer?	Is it to be included in the consideration in relation to the supply by dealer to customer?	Reasoning
No	No	These discounts: ➢ are merely given for competitive pricing to push sales; ➢ merely reduce the sale price of the goods; ➢ are not linked to any independent activity rendered to the manufacturer
Yes	Yes	It is an inducement towards the supply of goods by the dealer to the end customer.

[28] Circular No. 251/08/2025-GST dated 12 September 2025

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3. Treatment of post-sale discount given by manufacturer to dealer requiring the dealer to perform certain activities to promote the sale of the goods:

Scenario	Is it a separate consideration for supply of services by dealer to manufacturer?	Reasoning
Dealer undertakes promotional activities on his own	No	This is in the nature of a discount as it merely reduces the sale price of the goods and is not linked to any independent service rendered by dealer to the manufacturer
Dealer undertakes promotional activities only when such services : a) are explicitly stated in the agreement; b) have a clearly defined consideration payable by the manufacturer to the dealer	Yes	The dealer provides a distinct service to the manufacturer.

Notifications

Notification 13/2025-Central Tax dated 17 September 2025

1) Amendments effective from 22 September 2025

- Rule 31A of the CGST Rules, 2017 (determining the value of supply in respect of lottery) amended to align with the revised GST rate of 40% applicable to such supplies.
- Rule 110 and 111 of the CGST Rules, 2017 amended to:
  a) Introduce a separate form APL-02A for acknowledgement of appeal/application filed before Goods and Service Tax Appellate Tribunal (GSTAT)
  b) Omit provisos relating to manual filing of appeal / cross objection
- Rule 110A of the CGST Rules, 2017 introduced to prescribe procedure for appeals involving tax, ITC, penalty, fine, fees of less than INR 50 lakh and not involving any question of law to be heard by a single member bench of GSTAT. The rule also clarifies that the INR 50 lakh threshold must be determined cumulatively, considering all taxes, ITC, fines, fees, and penalties across all issues and tax periods covered in the appellate order.
- Rule 113(2) of the CGST Rules, 2017 substituted to cast responsibility on the GSTAT to issue a summary order in Form GST APL-04A.

2) Amendment effective from 1 October 2025

- Rule 91(2) of the CGST Rules, 2017 substituted to provide for issuance of provisional refund orders within 7 days based on system-driven risk assessment. Officer may not grant provisional refund only as an exception for reasons recorded in writing.

3) Amendment effective from 1 April 2025

- Rule 39(1A) of the CGST Rules, 2017 amended to include inter-state reverse charge transactions within the scope of Input Service Distributor (ISD).

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Indirect Tax

Notification 14/2025-Central Tax dated 17 September 2025 (applicable from 1 October 2025)

Provides for categories of registered persons who shall not be allowed 90% provisional refund under section 54(6) of the CGST Act, 2017 viz. person who has not undergone Aadhar authentication or is engaged in supply of areca nuts, tobacco and manufactured tobacco substitutes, pan masala and essential oils

Notification 15/2025-Central Tax dated 17 September 2025

Exemption from filing Annual return in Form GSTR-9 by taxpayers having turnover up to of INR 2 crores is now extended to FY 2024-25 and onwards.

Notification 16/2025-Central Tax dated 17 September 2025

The notification specifies 1 October 2025 as the effective date for following amendments to the CGST Act, 2017 which were introduced in Union Budget 2025:

a) Insertion of explanation in section 2(69) to define the meaning of 'local fund' and 'municipal fund' in the definition of 'local authority';

b) Insertion of section 2(116A) defining 'unique identification marking';

c) Omission of sections 12(4) and 13(4) on time of supply for vouchers;

d) Substitution of the words 'plant or machinery' with 'plant and machinery' in section 17(5)(d) and insertion of explanation 2 thereunder made effective retrospectively from 01 July 2017;

e) Substitution of proviso to section 34 restricting reduction in outward tax liability where the ITC on the said supply is not reversed by the recipient or incidence of such tax has been passed on to any other person;

f) Amendment to section 38(1) to substitute the words 'an auto generated statement' with 'a statement' and insert a new clause (c) in the said sub-section to provide for an enabling clause to prescribe other details to be made available in statement of ITC;

g) Amendment to section 39(1) to provide for an enabling clause to prescribe conditions and restriction for filing of GSTR-3B;

h) Amendment to section 107(6) to reduce the amount of pre-deposit from 25% to 10% in case of appeal to Appellate Authority against orders involving the demand of penalties with no demand of tax;

i) Insertion of proviso in section 112(8) setting a 10% pre-deposit requirement for appeals before Appellate Tribunal against orders involving the demand of penalties with no demand of tax;

j) Insertion of new section 122B to levy penalty for contraventions of provisions related to the Track and Trace Mechanism provided under section 148A of the CGST Act, 2017;

k) Insertion of new section 148A to provide for an enabling mechanism for Track and Trace Mechanism for specified commodities;

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Indirect Tax

l) Insertion of entry 8(aa) in Schedule III with retrospective effect from 1 July 2017 to cover the supply of goods warehoused within a Special Economic Zone (SEZ) and Free Trade Warehousing Zone (FTWZ) to any person before clearance for export or to the Domestic Tariff Area (DTA) as neither supply of goods nor services;

m) No refund shall be granted, for the past periods, of tax which has been collected on supply of goods warehoused within an SEZ and FTWZs to any person before clearance for export or to the DTA.

Notification S.O. 4219(E) dated 17 September 2025 – Cases before Principal Bench of GSTAT

- Is issued pursuant to third proviso to section 109(5) of the CGST Act, 2017 and prescribes below cases to be heard only by the principal bench of GSTAT:

  a) pending before two or more State Benches where the President is satisfied that an identical question of law is involved

  b) where one or more of the issues involved relate to:

    - Payment of tax by a supplier of online information database and access retrieval (OIDAR) services [section 14 of IGST Act, 2017] (or)
    - Payment of tax by a supplier of online money gaming located outside the taxable territory [section 14A of the IGST Act, 2017]

  c) where one or more issues involved pertain to distribution of credit by ISD [section 20 of the CGST Act, 2017]

Notification S.O. 4220(E) dated 17 September 2025 – Appeals to Appellate Tribunal

- Section 112(1) of the CGST Act, 2017 provides that appeals to the Appellate Tribunal must be filed within three months from the date of the order being appealed against or by the date notified by the Government, whichever is later.
- This notification issued under section 112(1) of the CGST Act, 2017 prescribes 30 June 2026 as the last date for filing appeals against orders communicated before 1 April 2026.
- Appeals against orders communicated on or after 1 April 2026 must be filed within three months.

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Indirect Tax

Rate notifications

CGST Rate Notification	IGST Rate Notification	Subject
Notification No. 9/2025-Central Tax (Rate)	Notification No. 9/2025-Integrated Tax (Rate)	Prescribes the rate of tax on goods; supersedes Notification No. 1/2017
Notification No. 10/2025-Central Tax (Rate)	Notification No. 10/2025-Integrated Tax (Rate)	Prescribes exemption on supply of goods; supersedes Notification No. 2/2017
Notification No. 11/2025-Central Tax (Rate)	Notification No. 11/2025-Integrated Tax (Rate)	Amends rate of tax on goods for petroleum operations; supersedes Notification No. 3/2017
Notification No. 12/2025-Central Tax (Rate)	Notification No. 12/2025-Integrated Tax (Rate)	Amends reference of Schedule IV to 'Schedule II or III' in new notifications
Notification No. 13/2025-Central Tax (Rate)	Notification No. 13/2025-Integrated Tax (Rate)	Exempts certain specified handicraft items from tax in excess of specified rate; supersedes Notification No. 21/2018
Notification No. 14/2025-Central Tax (Rate)	Notification No. 14/2025-Integrated Tax (Rate)	Notifies CGST/IGST rate on Bricks and tiles (6% for CGST, 12% for IGST)
Notification No. 15/2025-Central Tax (Rate)	Notification No. 15/2025-Integrated Tax (Rate)	Notifies rate of GST on services; supersedes Notification No. 11/2017 (CGST) / 8/2017 (IGST)
Notification No. 16/2025-Central Tax (Rate)	Notification No. 16/2025-Integrated Tax (Rate)	Exempts certain services; supersedes Notification No. 12/2017 (CGST) / 9/2017 (IGST)
Notification No. 17/2025-Central Tax (Rate)	Notification No. 17/2025-Integrated Tax (Rate)	Includes local delivery services *via* e-commerce operator in reverse charge list, with exceptions; supersedes Notification No. 17/2017 (CGST) / 14/2017 (IGST)

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Companies Act, 2013

MCA expands the scope for fast-track mergers and demergers

The Ministry of Corporate Affairs (MCA) has notified amendments to the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (CAA Rules), expanding the scope for mergers and demergers under the fast-track approval route and making certain procedural refinements. The amendments have come into force from 4 September 2025[29].

Key amendments to Rule 25 of CAA Rules

List of companies eligible for merger under fast-track approval route expanded

The existing provisions under the Companies Act, 2013 (CA 2013)[30], read with Rule 25 of CAA Rules, permitted merger between (a) start-up companies; (b) start-up company(ies) with small company(ies); and (c) a holding company and its wholly owned subsidiary company; through the fast-track approval route. Post the amendment, the scope for fast-track merger will cover the following transactions as well[31]:

- Merger between unlisted companies[32] where each company involved in the merger has aggregate outstanding loans, debentures and deposits of the companies not exceeding INR 200 crore and has not defaulted in repayment of such borrowings, subject to filing of an auditor's certificate in the prescribed format[33].
- Merger between holding company and its subsidiary(ies), provided the transferor company(ies) are not listed.
- Merger between one or more subsidiaries of the same holding company, provided the transferor company(ies) are not listed.
- Cross-border merger, i.e. merger of a foreign holding company (transferor) with its wholly owned subsidiary incorporated in India (transferee)[34].

Fast-track approval process extended to demergers

The provisions of existing Rule 25 will apply *mutatis mutandis* in respect to a scheme of division or transfer of undertaking of company[35].

Notice of the scheme to sectoral regulators

The notice of the proposed scheme of merger/amalgamation or division/ transfer of undertaking to invite objections or suggestions in the prescribed form[36] is required to be sent not only to the Registrar and the Official Liquidator but also to the relevant sectoral regulators such as such as Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), Insurance Regulatory and Development Authority of India (IRDA) or Pension Fund Regulatory and Development Authority (PFRDA) in case of regulated entities and additionally to the concerned stock exchanges, in case of listed companies.

[29] Date of publication in the Official Gazette
[30] Section 233
[31] Additional clauses inserted in sub-rule (1A) to Rule 25
[32] Not being company referred to in section 8 of CA 2013
[33] Form No. CAA.10A
[34] As referred to in sub-rule 5 of Rule 25A - *Merger or amalgamation of a foreign company with a Company and vice versa*
[35] Sub-rule 9 to Rule 25 inserted
[36] Form No. CAA.9

Contd….

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Other procedural amendments

- Timeline for filing the scheme with the Central Government, the Registrar and the Official Liquidator post conclusion of the meeting of the members or creditors has been increased from seven days to 15 days.
- Filing of the report of the registered valuer, along with the scheme, is now a mandatory requirement.
- Revised forms to be filed with the various authorities in relation to the proposed merger/ demerger have been notified.

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