April 2026

Recent rulings by courts and authorities

High Courts

Bombay High Court quashes cash seizure for absence of 'reason to believe'

The Bombay High Court ("**Bombay HC**"), in ***Smruti Waghdhare vs. Joint Director, DGGI, Mumbai***[1], held that the seizure of cash during a Goods and Services Tax ("**GST**") search operations was illegal, arbitrary, and without authority of law.

The petitioner, a GST-registered sole proprietor trading in metals and scrap, was subjected to search proceedings by the Directorate General of GST Intelligence in June 2023 at the petitioner's business premises, in connection with an investigation into an alleged fake Input Tax Credit ("**ITC**") racket involving a third party. During the search, cash aggregating to INR 1,00,00,000 (Indian Rupees one crore) was seized by issuance of orders in Form GST INS-02, despite the absence of any recorded material linking the cash to GST proceedings, leading the petitioner to challenge the seizure under Article 226 of the Constitution of India.

Interpreting Section 67(2) of the Central GST Act, 2017 ("**CGST Act**"), the Bombay HC ruled that cash does not automatically qualify as "goods, documents, books or things" liable to seizure unless it is established that the same is relevant to proceedings under the Act. The Bombay HC also noted that no notice was issued within 6 (six) months as mandated under Section 67(7), further vitiating the seizure. The action of transferring the seized cash to the Income Tax Department was strongly deprecated, as the CGST Act confers no such power on GST authorities.

On the requirement of 'reason to believe', the Bombay HC held that it is the very foundation of lawful search and seizure under Section 67(2) of the CGST Act and must be based on tangible material with a live and rational nexus to the alleged contravention. It cannot be a mere suspicion or post-facto justification and must be expressly recorded before seizure. Drawing from *ITO vs. Lakhmani Mewal Das*[2], the Bombay HC reiterated that 'reason to believe' demands good faith, objective application of mind, and a direct link between the material relied upon and the action taken. As the GST authorities failed to record or demonstrate such belief in relation to the cash seized, the seizure was held to be perverse and was quashed with a direction to return the amount with interest.

[1] (2026) 40 Centax 256 (Bom.) (decided on March 10, 2026)
[2] 1976 TMI 6471 SC

Refund accrued under inverted duty structure cannot be denied by retrospective application of circulars

The Calcutta High Court ("**Calcutta HC**") in ***Adani Wilmar Limited vs. Assistant Commissioner of State Tax***[3] held that a refund claim for accumulated unutilised ITC cannot be denied merely because it was filed after the issuance of a restrictive Circular issued by Central Board of Indirect Taxes and Customs, so long as it falls within the statutory time limit under Section 54(1) of the CGST Act.

The petitioner, a registered supplier of edible oils, accumulated unutilised ITC due to an inverted duty structure for the tax period of May 2021 and filed the statutory return under Section 39 of the CGST Act by the due date of June 20, 2021. A refund application was filed on June 16, 2023, within the 2 (two) year limitation under Section 54(1), but was rejected solely on the basis of restrictive CBIC circular[4] issued subsequently.

The Calcutta HC noted that the 'relevant date' for limitation is the due date for filing the return under Section 39 of the CGST Act, and once the return is filed, the taxpayer's right to claim refund legally accrues. Since the petitioner had applied for refund within 2 (two) years from that 'relevant date', rejection of the claim solely on the basis of a circular was unsustainable.

The Calcutta HC reaffirmed a vital principle of tax jurisprudence *viz.* while limitation provisions may generally operate retrospectively, they cannot extinguish an already accrued cause of action. The right to seek a refund crystallises the moment a taxpayer files the statutory return and continues uninterrupted until the expiry of the limitation period prescribed under the statute. Such a vested right cannot be curtailed midstream.

The Calcutta HC made it clear that executive circulars cannot retrospectively whittle down or override statutory rights once they have accrued. Consequently, refund claims filed within the time allowed by law must be examined on their merits, free from the constraints of subsequent administrative instructions.

E-way bills and weighment slips insufficient to establish actual movement of goods

In the matter of ***Jyoti Tar Products Private Limited and Anr. vs. The Deputy Commissioner, State Tax and Ors.***[5], the Calcutta HC held that existence of e-way bills and weighment slips may not be sufficient to establish genuineness of transactions where the ITC chain is found to be tainted, and upheld the validity of Show Cause Notice ("**SCN**") issued under Section 74 of the CGST Act.

The dispute arose when the petitioner challenged the issuance of the SCN alleging fraudulent availment of ITC through a chain of suppliers whose GST registrations were retrospectively cancelled. The petitioner contended that ITC could not be denied solely on this ground and asserted that it had furnished all requisite supporting documents, including tax invoices, e-way bills, weighbridge slips, bank statements and GSTR-2A records to establish the genuineness of the transactions. During the pendency of the writ petition, the proper officer proceeded to pass an adjudication order confirming the demand, which was also assailed by the petitioner on the ground, *inter alia*, of violation of principles of natural justice.

The petitioner further contended that the SCN was issued with a pre-determined mindset and was therefore liable to be quashed.

The Calcutta HC held that where the genuineness of transactions is questioned on the basis of a suspicious ITC chain, interference by a writ court at the SCN stage would be unwarranted. It observed that documents such as e-way bills and weighment slips are largely self-generated and, by themselves, may not conclusively establish actual movement of goods in every case, their evidentiary value necessarily varying with the facts. The Calcutta HC further noted that the proper officer is empowered to issue a SCN upon forming a 'reason to believe' derived from examination of the ITC

[3] (2026) 40 Centax 142 (Cal.) (decided on February 25, 2026)
[4] Circular bearing no.181/13/2022-GST dated November 10, 2022
[5] WPA 20118 of 2025 With CAN 1 of 2025 (decided on February 27, 2026)

chain, and that under Section 155 of the CGST Act, the burden of establishing eligibility to avail ITC squarely rests on the assessee.

The Calcutta HC also reiterated that writ courts ordinarily do not interfere with SCNs unless there is a clear lack of jurisdiction[6] or patent illegality, which was not established in the present case.

The Calcutta HC set aside the adjudication order on the ground of violation of principles of natural justice and provision of section 75(4) of the CGST Act due to absence of personal hearing and remanded the matter, granting liberty to the petitioner to file a reply within 30 (thirty) days.

Writ petition is not maintainable when the GST Appellate Tribunal possesses inherent powers to grant interim relief

In the matter of *the* ***Hongkong and Shanghai Banking Corporation Limited vs. State of Maharashtra and Ors.***[7]**,** the Bombay HC held that the Goods and Services Tax Appellate Tribunal ("**GSTAT**") possesses inherent powers to grant interim relief, including stay of recovery proceedings, and that writ petitions are not maintainable where effective alternate remedies exist.

The dispute arose when the petitioner challenged recovery proceedings initiated during the pendency of its appeal, contending that GSTAT lacks statutory authority to grant interim relief in absence of an express provision under the CGST Act, and therefore invoked writ jurisdiction.

The petitioner contended that in absence of explicit statutory power, GSTAT could not grant interim stay and hence the High Court should intervene to grant protection.

The Bombay HC observed that a conjoint reading of Sections 111, 112 and 113 of the CGST Act indicates that wide appellate powers have been conferred upon GSTAT. The Bombay HC emphasised that the phrase 'as it thinks fit' under Section 113(1) of the CGST Act includes the power to grant interim relief, which is inherent and incidental to appellate jurisdiction. The Bombay HC further relied on judicial precedent recognising such inherent powers even in absence of express statutory provision and also noted that the GSTAT (Procedure) Rules, 2025 contemplate interlocutory applications.

Accordingly, the Bombay HC held that writ jurisdiction cannot be invoked merely for grant of interim relief when an effective appellate remedy exists before GSTAT and disposed of the writ petition by granting limited interim protection for 2 (two) weeks to enable the Petitioner to approach the Tribunal.

Tribunal

Expat salary reimbursements non-taxable under employer-employee setup and discourages mechanical NOS-judgement application

The Customs, Excise and Service Tax Appellate Tribunal, Hyderabad ("**CESTAT**"), in ***Bharathi Cement Corporation Private Limited vs. Commissioner of Central Tax***[8], set aside the demand of service tax on amounts reimbursed to a foreign group company (VICAT S.A., France) towards salary and statutory contributions of expatriate employees working in India. The CESTAT held that the expatriates were direct employees of the Indian company, working under its control, supervision and direction, with no independent secondment or manpower supply arrangement. Merely routing part of the salary and statutory social security payments through the foreign entity did not amount to receipt of any taxable service. The CESTAT further found that the expatriates were performing core executive and operational roles, far beyond the scope of 'Management Consultancy Service', which is limited to advisory or consultancy functions.

[6] *Union of India & Another vs. Kunisetty Satyanarayana* (2006) 12 SCC 28
[7] (2026) 40 Centax 54 (Bom.) (decided on February 20, 2026)
[8] Order dated November 10, 2025 passed in Service Tax Appeal No. 30525 of 2018 (decided on March 9, 2026)

The CESTAT distinguished the Supreme Court ruling in the *Northern Operating Systems Private Limited*[9] case, holding that it cannot be mechanically applied to all expatriate arrangements. In the absence of a secondment agreement and where the employer–employee relationship is clearly established, no service tax is attracted on reimbursement of salary costs. The CESTAT also relied on settled law that reimbursable expenses cannot be included in the taxable value in the absence of statutory backing. Accordingly, it concluded that no service tax was payable either before or after July 1, 2012, allowed the appeal on merits, and set aside the demand in full, without examining the issue of limitation.

Advance ruling authority

Beverage preparations classified basis composition; non-alcoholic beverages taxed at 40% while tea-based products attract 5% GST

In the matter of ***Sage Organics Private Limited vs. West Bengal Authority for Advance Ruling***[10], the West Bengal Authority for Advance Ruling ("**WBAAR**") examined the classification and applicable GST rates on various non-alcoholic beverage preparations including iced tea, syrups, beverage concentrates, and tea extracts.

The applicant, engaged in manufacture of low-calorie and sugar-free beverage preparations, sought clarity on appropriate Harmonised System of Nomenclature ("**HSN**") classification, applicable GST rate under GST 2.0, and whether the products fall under Schedule I, II or III of the rate notifications. The applicant contended that the products under question are processed food/beverage items intended for human consumption and do not fall under the category of luxury or sin goods.

While the applicant contended that the products are health-oriented food preparations taxable at moderate rates (12%/18%), the revenue argued for higher taxation, particularly classifying certain products as non-alcoholic beverages liable to 40% GST.

The WBAAR observed the following:

1. classification depends on composition and tariff structure, not marketing or intended use;
2. non-alcoholic beverages (without fruit juice/pulp) fall under HSN 22029990 and are covered under Schedule III;
3. iced tea and tea extracts are classifiable under HSN 2101, being tea-based preparations, and fall under Schedule I;
4. syrups and beverage concentrates are classifiable under HSN 21069019 as food preparations and fall under Schedule I; and
5. incorrect HSN proposed by the applicant was rejected.

The WBAAR held that non-alcoholic beverages manufactured by the applicant are classifiable under HSN 2202 9990 and would fall under Schedule III, attracting GST at 40%. In contrast, iced tea preparations as well as extracts, essences and concentrates of tea are classifiable under HSN 210120 and would fall under Schedule I, attracting GST at 5%. Further, syrups and beverage concentrates are classifiable under HSN 21069019 and would also fall under Schedule I, attracting GST at 5%

[9] [2022 (5) TMI 967 (SC)]
[10] 2026 (3) TMI 189

Notification and circular

Concessional customs duty framework introduced for Special Economic Zone to Domestic Tariff Area clearances to promote domestic supply

The Central Government has introduced a one-time concessional customs duty scheme for Special Economic Zone ("**SEZ**") manufacturing units *vide* notification[11] dated March 31 2026. Under this scheme, SEZ units are allowed to sell goods manufactured in the SEZ to the Domestic Tariff Area ("**DTA**") at reduced customs duty rates, instead of paying full import-equivalent duties. The objective is to help the SEZ manufacturers access the domestic market while preserving the export-oriented character of the SEZs. The scheme is available only for financial year 2026-27, i.e., from April 1, 2026 to March 31, 2027.

The benefit is available only to existing SEZ manufacturing units that commenced production on or before March 31, 2025 and achieve a minimum value addition of 20% within the SEZ. The DTA sales under the scheme are restricted to 30% of the highest annual free on board export value achieved in any of the previous 3 (three) financial years. The goods must be manufactured in the SEZ (trading is excluded) and no export benefits such as duty drawback can be claimed on inputs. The concessional duty rates are prescribed through product-wise schedules, resulting in lower effective basic customs duty and, for specified goods, reduced agriculture infrastructure and development cess. The SEZ units must comply with procedural requirements such as filing bills of entry through Indian customs electronic gateway and furnishing certification from the Development Commissioner. Any breach of conditions leads to withdrawal of the concession and recovery of full customs duty.

[11] Notification No. 11/2026-Customs

Tax Practice

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