May 2026 edition

Recent rulings by courts and authorities

High Courts

70:30 mechanism mandatory for determining value of supply of solar power generating system even if separate invoices issued for supply of goods and services

In ***Tata Power Renewable Energies Limited vs. Union of India and Ors.***[1], the Hon'ble High Court of Andhra Pradesh ("**AP HC**") set aside an assessment order passed under Section 74 of the Central Goods and Services Tax Act, 2017 ("**CGST Act**"). The order sought to levy Goods and Services Tax ("**GST**") at 18% on the entire supply of Solar Power Generating Systems ("**SGPS**"), on the ground that separate invoices were issued for goods and services instead of a single composite invoice. The AP HC held that the supply of SGPS must be taxed under the 70:30 mechanism prescribed under Entry 234 of Notification No. 1/2017-Central Tax (Rate) dated June 26, 2017 ("**Goods Rate Notification**") read with Entry 38 of Notification No. 11/2017-Central Tax (Rate) dated June 26, 2017 ("**Services Rate Notification**"). Under this mechanism, 70% of the gross consideration is deemed to be the value of goods taxable at 5%, and the remaining 30% is deemed to be the value of services taxable at 18%, resulting in an effective rate of 8.9%. The AP HC held that mere issuance of separate invoices cannot negate the existence of an overall contract or alter the applicable tax rate.

Tata Power Renewable Energies Limited ("**TPREL**") is engaged in the supply of SGPS and solar power-based devices, including services of design, installation, testing, commissioning and maintenance. TPREL had been paying GST at the effective rate of 8.9% by applying the 70:30 mechanism. However, the revenue authorities sought to levy tax at 18% on the gross consideration, on the ground that TPREL had issued separate invoices for goods and services, and therefore the 70:30 mechanism could not be applied. TPREL contended that the supplies were made pursuant to composite contracts and that the notifications created a deeming fiction for valuation, regardless of how invoices were raised.

The AP HC observed that a conjoint reading of Entry 234 of the Goods Rate Notification and Entry 38 of the Services Rate Notification, along with the appended explanations, established a legal fiction under which the consideration for supply of SGPS must be taxed by applying the 70:30 mechanism. Accordingly, any goods supplied as part of an SGPS would attract GST at 5%, even if they fall under different harmonised system of nomenclature (HSN) codes. The AP HC further held that where supplies were made under contracts executed with the purchaser, mere issuance of separate invoices cannot negate the existence of an overall contract or justify taxation at a different rate. The AP HC observed that the impugned order was an attempt to raise revenue without application of mind to the facts and accordingly set aside the assessment order.

[1] Writ Petition No. 10314 of 2025 (decided on April 29, 2026)

Corporate guarantee issued without consideration to group companies is not a taxable supply of service under GST

In ***D P Jain & Co. Infrastructure Private Limited vs. Union of India and Ors.***[2], the Hon'ble High Court of Bombay ("**Bombay HC**") partly allowed the writ petition and quashed the Show Cause Notice ("**SCN**") issued against the petitioner for alleged non-payment of GST on corporate guarantees provided to group companies. The Bombay HC held that the issuance of a corporate guarantee without any consideration does not constitute a taxable supply of service under Section 9 of the CGST Act. The court relied on the judgment of the Hon'ble Supreme Court of India ("**Supreme Court**") in *Commissioner of CGST and Central Excise vs. Edelweiss Financial Services Limited*[3]

The petitioner, engaged in the business of construction of national and State highways, had executed 3 (three) corporate guarantees in favor of the banks to secure term loans sanctioned to its group companies. All 3 (three) corporate guarantee deeds contained specific clauses declaring that the petitioner had not received and will not receive any security, fee, commission or any other consideration from the borrower companies for providing the guarantee.

The Directorate General of GST Intelligence ("**DGGI**") initiated proceedings against the petitioner by issuing summons alleging non-payment of GST on corporate guarantees. The DGGI relied on Circular No. 204/16/2023 dated October 27, 2023, which provided that the activity of providing a corporate guarantee would be treated as a taxable supply of service, even when made without consideration. The petitioner contended that a corporate guarantee is in the nature of an actionable claim, excluded from the scope of supply under Schedule III of the CGST Act, and that no consideration flowed from the borrower to the guarantor. The petitioner also challenged the constitutional validity of Sub-Rule (2) of Rule 28 of the Central Goods and Services Tax Rules, 2017 ("**CGST Rules**"), as inserted by Notification No. 52/2023-Central Tax dated October 26, 2023.

The Bombay HC observed that a corporate guarantee is an in-house guarantee issued to safeguard the financial health of associate enterprises and does not constitute a service supplied in the regular course of business. The Bombay HC noted that a corporate guarantee is a commitment by one corporate entity to assume responsibility for the financial or contractual obligations of the principal debtor to the creditor. Unlike a bank guarantee, which is issued by banks as a regular business activity for a fee, a corporate guarantee is issued without security or consideration. Relying on the Supreme Court's decision in *Edelweiss Financial Services Limited* (supra), the Bombay HC held that the execution of a corporate guarantee is in the nature of a contingent contract, enforceable only at the instance of the bank or financial institution upon default. As there was no flow of consideration, executing a corporate guarantee for a subsidiary does not constitute a supply of service, taxable under Section 9 of the CGST Act. The Bombay HC accordingly quashed the SCN and the summons.

However, with respect to the challenge to the constitutional validity of Sub-Rule (2) of Rule 28 of the CGST Rules, Bombay HC held that there is minimal scope for judicial interference with fiscal legislation and that the prayer for declaring the said rule as *ultra vires* was not sustainable.

Section 16(2)(c) of the CGST Act is constitutionally valid; denial of Input Tax Credit for supplier's default in depositing tax cannot be read down

In ***Maruti Enterprise vs. Union of India and Ors.***[4], the Hon'ble High Court of Gujarat ("**Gujarat HC**") upheld the constitutional validity of Section 16(2)(c) of the CGST Act and declined to either declare it *ultra vires* or read it down. The Gujarat HC held that Input Tax Credit ("**ITC**") is not a constitutional or vested right but a statutory concession, subject to the conditions and restrictions prescribed under the CGST Act. The Gujarat HC held that the provision does not suffer from any constitutional or legal infirmity when read in conjunction with the overall scheme of the GST regime.

[2] Writ Petition No. 2087 of 2025 – Nagpur Bench (decided on May 6, 2026)
[3] TS-136-SC-2023
[4] R/Special Civil Application No. 18080 of 2023 (decided on May 1, 2026)

The group of petitions involved purchasers who were denied ITC solely on the ground that the supplier had failed to deposit the tax collected with the Government. The petitioners contended that Section 16(2)(c) of the CGST Act is arbitrary, *ultra vires* and violative of Articles 14, 19(1)(g), 265 and 300A of the Constitution of India, inasmuch as it penalises bona fide purchasers for defaults of suppliers over which they have no control. In the alternative, it was prayed that the provision be read down to apply only to fraudulent or collusive transactions, relying on the decision of the Delhi High Court ("**Delhi HC**") in *On Quest Merchandising India (P.) Limited vs. Government of NCT of Delhi*[5] and the Supreme Court's approval thereof[6].

The revenue authorities opposed the petitions, contending that ITC is an entitlement, subject to statutory conditions and not a fundamental right. It was submitted that the GST scheme differs materially from the erstwhile VAT regime, particularly on account of the interplay of Sections 41(2), 53 and 155 of the CGST Act read with Rule 37A of the CGST Rules, which provide for reversal and re-availment of credit upon subsequent payment by the supplier and place the burden of proof on the person claiming ITC.

The Gujarat HC held that Section 16(2)(c) of the CGST Act cannot be equated with Section 9(2)(g) of the Delhi Value Added Tax Act, 2004, which was read down by the Delhi HC. The GST regime has distinct safeguards, including: (a) Section 41(2) of the CGST providing for reversal and re-availment of ITC; (b) Rule 37A of the CGST Rules offering a grace period; and (c) Section 155 of the CGST Act placing the burden of proof on the person claiming ITC. The Gujarat HC observed that the purchasing dealer is not permanently deprived of ITC, as credit is restored upon payment of tax by the supplier. The underlying intent is that the Government cannot be deprived of revenue on account of illegal or defaulting conduct on the part of the supplier. Unless the tax collected by the supplier is deposited with the Government, the purchasing dealer cannot claim ITC as a matter of right, and the principle of double taxation is not attracted. The Gujarat HC further held that the mere absence of a specific statutory mechanism enabling recovery by the purchasing dealer from the supplier cannot, by itself, render Section 16(2)(c) of the CGST Act *ultra vires*. Accordingly, the Gujarat HC held that a plain reading of Section 16(2)(c) of the CGST Act does not give rise to any constitutional or legal infirmity and the provision is not required to be read down. However, the Gujarat HC recommended that the Government undertake a comprehensive re-evaluation and implement a technology-driven tracking mechanism to insulate bona fide purchasers from the defaults of their suppliers.

JSA Comment: Tripura High Court in *Sahil Enterprise vs. Union of India*[7] and Gauhati High Court in *National Plasto Moulding vs. The State of Assam*[8] have already read down the provisions of Section 16(2)(c) of the CGST Act to be applicable only to cases found to be fraudulent or not bona fide.

Criminal courts cannot order the release of vehicles seized under Customs Act, 1962

In ***Union of India vs. Sayad Ali Laskar***[9], the Hon'ble Gauhati High Court ("**Gauhati HC**") held that criminal courts do not possess jurisdiction to order the release of vehicles seized under the Customs Act, 1962 ("**Customs Act**") as such power is exclusively vested with the 'adjudicating authority' or 'proper officer' under Section 110A of the Customs Act. The Gauhati HC accordingly set aside the order passed by the Additional Sessions Judge ("**ASJ**") which had directed the release of the seized vehicle.

The Directorate of Revenue Intelligence ("**DRI**") had seized a truck allegedly transporting foreign-origin cigarettes without payment of customs duty.

Subsequently, the registered owner of the truck approached the ASJ seeking release of the vehicle. The DRI opposed the application on the ground that the Customs Act constituted a complete code governing seizure, custody and provisional release of goods and conveyances. It was contended that Section 110A specifically empowered only the

[5] 2018 (10) GSTL 182 (Del.)
[6] 2022 (60) GSTL 215 (SC)
[7] WP(C) No. 688 of 2022
[8] WP(C) No. 2863 of 2022
[9] Criminal Petition/1086/2025 (decided on May 8, 2026)

'adjudicating authority' or 'proper officer' to consider provisional release of seized goods and that the criminal court lacked jurisdiction to entertain such an application. However, the ASJ ordered release of the seized truck.

The Gauhati HC observed that the Customs Act is a special enactment equipped with a self-contained mechanism for the release of seized goods and conveyances, including a dedicated appellate remedy. Placing reliance on this court's judgment in *Union of India vs. Chungnunga and Anr.*[10], the court held that the general provisions under the Bharatiya Nagarik Suraksha Sanhita, 2023 cannot override the specific provisions of the Customs Act. The Gauhati HC held that the ASJ had acted beyond jurisdiction in directing the release of the vehicle and consequently set aside the impugned order.

Tax on ocean freight recovered from Indian vessel supplier in Cost, Insurance and Freight imports is impermissible under GST

In ***Midas Tankers Private Limited vs. Union of India and Ors***[11], the Bombay HC quashed the demand raised under the CGST Act on an Indian shipping line in relation to transportation services provided in a Cost, Insurance and Freight ("**CIF**") import transaction. Bombay HC held that once Customs Duty and Integrated Goods and Services Tax ("**IGST**") had already been discharged on the composite value of imported goods, inclusive of freight, the same freight component could not again be subjected to IGST in the hands of the shipping line under the forward charge mechanism.

Midas Tankers Private Limited ("**MTPL**"), engaged in providing vessel services on a hire and freight basis, was subjected to audit proceedings wherein the revenue authorities alleged that the place of supply for transportation services was India and consequently liable to GST under forward charge. Pursuant thereto, an SCN and an adjudication order were issued demanding GST on outward supply of transportation services.

MTPL contended that in CIF import transactions, customs duty had already been discharged by the importer on the composite value inclusive of freight and insurance, and therefore any further levy on transportation services would amount to double taxation. It was further submitted that such transportation formed part of a composite supply within the meaning of Sections 2(30) and 8 of the CGST Act. Reliance was also placed upon the decision of the Supreme Court in *Union of India vs. Mohit Minerals Private Limited*[12].

The Bombay HC observed that once goods are imported on a CIF basis and customs duty is discharged on the assessable value inclusive of freight, the same amount cannot again be subjected to IGST under the forward charge mechanism. The Bombay HC held that the revenue authorities had wrongly invoked Section 13(9) of the IGST Act, 2017, despite the transaction being squarely covered by the principles laid down in *Mohit Minerals* (supra). Accordingly, the SCN and the adjudication order were quashed.

Tax deposited under protest is adjustable against the statutory pre-deposit requirement

In ***Ncdex E Markets Limited vs. Union of India***[13], the Bombay HC *prima facie* held that the amounts deposited under protest prior to the issuance of the demand order are adjustable toward the mandatory pre-deposit requirement under Section 107(6)(b) of the CGST Act.

The dispute arose in proceedings concerning alleged tax collected at source obligations for a past period. Ncdex E Markets Limited ("**NEML**") contended that it had already deposited certain amounts under protest during the disputed period. NEML submitted that the deposited amount exceeded the statutory ceiling prescribed under Section 107(6)(b) of the CGST Act (i.e., 10% of the disputed tax), and therefore, no further deposit could be insisted upon for maintaining the appeal.

[10] (Criminal Revision Petition no 1/2003)
[11] TS-341-HC(BOM)-2026-GST (decided on April 2, 2026)
[12] (2022) 10 SCC 700
[13] TS-357-HC(BOM)-2026-GST (decided on May 5, 2026)

The revenue authorities opposed the appeal, contending that the GST laws do not provide for payment 'under protest' and that such payments constituted admission of tax liability.

The Bombay HC observed that the factual position regarding payment under protest was not disputed by the revenue authorities. Referring to the decision of the Supreme Court in *VVF (India) Limited vs. State of Maharashtra*[14], the court held that amounts deposited prior to the assessment order cannot be excluded from consideration in the absence of any statutory prohibition. The Bombay HC *prima facie* held that the amount already deposited by NEML satisfied the mandatory pre-deposit requirement under Section 107(6)(b) of the CGST Act.

Authority for Advance Ruling

Core elevator components imported in unassembled form are not classifiable as complete elevators

In ***Hitachi Lift India Private Limited***[15], the Customs Authority for Advance Rulings, Mumbai ("**AAR**") has ruled that imported elevator components in unassembled form do not merit classification as complete elevators. The AAR ruled that the imported goods neither constituted a complete elevator nor possessed the essential character thereof within the meaning of Rule 2(a) of the General Rules for the Interpretation of the Import Tariff ("**GRI**") and are thus classifiable individually under their respective tariff headings.

Hitachi Lift India Private Limited ("**HIPL**"), engaged in the supply, installation and maintenance of elevators, proposed a phased localisation model. Under this model, structural and installation-specific components (guide rails, brackets, fishplates, jamb frames and car enclosures) were to be procured locally, while the remaining operational, mechanical, electrical and safety components were to be imported from its overseas group entity. HIPL contended that the imported systems comprised the operational core of the elevator enabling vertical transportation, and that locally procured items were merely passive structural components. The jurisdictional customs authorities opposed this classification, contending that the imported goods were only parts and sub-assemblies, since essential structural components necessary for operation were being sourced domestically.

The AAR observed that Rule 2(a) of the GRI applies only where imported goods possess the essential character of a complete article. It noted that essential structural and operational components such as guide rails, entrance jamb frames and car enclosures were not being imported, without which the elevator could neither be installed nor function safely. The imported goods were therefore incomplete not only in form but also in functional capability. On a price-segment basis, the locally sourced goods constituted more than half the value of the complete and final product. Reference was made to the explanatory notes to Rule 2(a) and CBEC Circular No. 528/128/97-Cus dated December 5, 1997, which, in the context of motor cars, clarified that if a few components, parts or sub-assemblies are wholly manufactured or purchased locally, it would be difficult to hold that 'essential character' has been attained. Accordingly, it was ruled that the imported goods did not possess the essential character of a complete elevator and are classifiable individually under their respective tariff headings.

Courtroom updates

The Supreme Court grants stay in a Special Leave Petition concerning challenge to adjudication order passed under Section 74 of the CGST Act

In ***Tata Steel Limited vs. Union of India and Ors.***[16], the Supreme Court has stayed further proceedings pursuant to an adjudication order issued under Section 74 of the CGST Act against Tata Steel Limited ("**Tata Steel**"). The High Court of Jharkhand ("**Jharkhand HC**"), *vide* its judgment dated April 23, 2026, had dismissed Tata Steel's writ petition challenging the said order. The Jharkhand HC held that the petitioner had failed to make out a case for bypassing the alternate statutory remedy of appeal. Relying on the Supreme Court's decisions in *Whirlpool Corporation vs. Registrar*

[14] (2022) 13 SCC 644
[15] CAAR/Mum/ARC/17/2026-27 (order dated May 8, 2026)
[16] SLP (C) No. 16859/2026 (order dated May 19, 2026)

of Trade Marks[17] and *State of Maharashtra vs. Greatship (India) Limited*[18], the Jharkhand HC concluded that the impugned order was neither wholly without jurisdiction nor vitiated by any patent breach of principles of natural justice. It further observed that the petitioner's contentions, including that the ingredients of Section 74 of the CGST Act were not fulfilled and that the SCN was based on a disputed audit report, involved adjudication of factual issues more appropriately tested in a statutory appeal.

The Supreme Court has issued notice in the Special Leave Petition ("**SLP**") filed by Tata Steel against the decision of the Jharkhand HC and ordered that further proceedings will remain stayed till the next date of hearing. The Supreme Court noted that an identical issue concerning the availability of an alternative remedy against orders arising out of Section 74 of the CGST Act is already pending consideration in *GR Infra Projects Limited Ratlam vs. State of Madhya Pradesh and Ors.*,[19] wherein stay has been granted on the operation of an order bereft of material particulars. The Supreme Court directed that the present matter be listed along with the said connected SLP.

Supreme Court refuses to interfere with the Bombay HC decision holding transfer of leasehold rights to be outside the scope of GST

In ***Assistant Commissioner (Anti Evasion) & Anr. vs. Aerocom Cushions Private Limited***[20], the Supreme Court has dismissed the Revenue's appeal against the decision of the Bombay HC in *Aerocom Cushions Private Limited vs. Assistant Commissioner (Anti-Evasion), CGST & CE, Nagpur*[21]. The Bombay HC had held that a transaction involving assignment of leasehold rights of land constitutes an assignment, sale or transfer of benefits arising out of immovable property and does not amount to a supply of service under the CGST Act. The Bombay HC had further observed that the exclusive transfer of benefits arising out of immovable property has no nexus with the business of the petitioner, thereby making the essential element of 'supply of service in the course or in furtherance of business' completely absent.

The Supreme Court refused to interfere with the said decision of Bombay HC and has dismissed the SLP against the same.

Stay granted on recovery of GST levied on compensation received for losses caused by defective aircraft engines

In ***Interglobe Aviation Limited vs. Additional Commissioner CGST, South Commissionerate & Ors.***[22], the Delhi HC has granted stay on recovery of demand raised on account of compensation received for non-performance by foreign aircraft engine suppliers, which resulted in business losses to the petitioner. The Delhi HC made a *prima facie* observation that, in terms of Clause 7 and 7.1 of Circular No. 178/10/2022-GST dated August 8, 2022, and having regard to the definition of 'service' under Section 7 of the CGST Act, the compensation received by the petitioner cannot be termed as 'supply'. The Delhi HC issued notice, granted interim stay on recovery proceedings and listed the matter for hearing in August 2026.

Notifications, circulars and instructions

Goods and Service Tax Network advisory on e-Way Bill portal enhancements

The Goods and Service Tax Network ("**GSTN**") has issued an advisory on May 20, 2026, announcing functional enhancements to the e-Way Bill ("**EWB**") system aimed at strengthening data integrity, improving traceability of goods movement, and enabling system-driven closure of transactions. The key changes are summarised below:

[17] (1998) 8 SCC 1
[18] (2022) 17 SCC 332
[19] SLP (C) No. 33594 of 2025
[20] SLP (C) Diary No. 26041/ 2026 (order dated May 22, 2026)
[21] TS-10-HC(BOM)-2026-GST
[22] W.P.(C) No. 7271 of 2026 (order dated May 22, 2026)

1. **Mandatory capture of 'Ship To GSTIN' in bill-to/ ship-to transactions**: In bill-to/ship-to scenarios, the 'Ship To GSTIN' field is now mandatory during EWB generation. Where the consignee is unregistered, the value 'URP' must be entered in this field.
2. **Introduction of voluntary EWB closure facility**: A new voluntary EWB closure facility has been introduced which enables closure of EWB upon completion of delivery. Closure may be performed by the supplier, recipient, transporter, driver or authorised person (whose mobile number has been provided for closure), either EWB wise or date wise. Closure must be completed on the day of delivery or the immediately succeeding day.

The advisory instructs stakeholders to familiarise themselves with the revised data entry requirements and closure workflow, update their enterprise resource planning (ERP) systems accordingly, conduct internal testing and user awareness sessions, and ensure compliance with the above requirements from the proposed date of implementation, i.e., June 15, 2026.

Tax Practice

JSA offers a broad range of tax services, both direct and indirect, in which it combines insight and innovation with industry knowledge to help businesses remain compliant as well as competitive. The Tax practice offers the entire range of services to multinationals, domestic corporations, and individuals in designing, implementing and defending their overall tax strategy. Indirect Tax services include services such as (a) advisory services under the Goods and Services Tax laws and other indirect taxes laws (VAT/ CST/ Excise duty etc.), and includes review of the business model and supply chain, providing tax implications on various transactions, determination of tax benefits/exemptions, analysis of applicability of schemes under the Foreign Trade Policy (b) transaction support such as tax diligence (c) assistance in tax proceedings and investigations and (d) litigation and representation support before the concerned authorities, the Appellate Tribunals, various High Courts and Supreme Court of India. The team has the experience in handling multitude of assignments in the manufacturing, pharma, FMCG, e-commerce, banking, construction & engineering, and various other sectors and have dealt with issues pertaining to valuation, GST implementation, technology, processes and related functions, litigation, GST, DRI investigations etc. for large corporates. Direct Tax services include (a) structuring of foreign investment in India, grant of stock options to employees, structuring of domestic and cross-border transactions, advising on off-shore structures for India focused funds and advise on contentious tax issues under domestic tax laws such as succession planning for individuals and family settlements, (b) review of transfer pricing issues in intra-group services and various agreements, risk assessment and mitigation of exposure in existing structures and compliances and review of Advance Pricing Agreements and (c) litigation and representation support before the concerned authorities and before the Income Tax Appellate Tribunal, various High Courts and Supreme Court of India.

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19 Practices and
40 Ranked Lawyers

8 Ranked Practices,
22 Ranked Lawyers

15 Practices and
20 Ranked Lawyers

13 Practices and
49 Ranked Lawyers

20 Practices and
24 Ranked Lawyers

8 Practices and
15 Ranked Lawyers
Highly Recommended in 5 Cities

2026

Regional Legal Expertise Awards (APAC) of the Year
Energy Firm Competition/
Antitrust Firm

Among Best Overall
Law Firms in India and
14 Ranked Practices
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9 winning Deals in
IBLJ Deals of the Year
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15 A List Lawyers in
IBLJ A-List – 2026

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