S&S Tax Snippets

44th Ed.



Regulatory Updates

GST:

Changes in Form GST REG-01 for GST Registration

Several changes have been notified in Form GST REG-01 for GST Registration by Notification No. 05/2026-CT dated 26.10.2026. The changes in the portal mainly include:

1. Introduction of 'one person company' as a separate category under constitution of business.
2. A new field for entering the SEZ Entity ID is introduced.
3. A separate section has been introduced for applicants seeking registration as an e-commerce operator liable to pay tax under Section 9(5) of the CGST Act.
4. Existing registrations to file revised form specifically indicating GSTIN, Professional Tax Registration Number and Professional Tax Enrolment Registration Number, among others.
5. List of business activities expanded to include additional categories and disclosures.
6. Online validation of Corporate Identification Number (CIN), Foreign Company Registration Number (FCRN), Limited Liability Partnership Identification Number (LLPIN) and Foreign Limited Liability Partnership Identification Number (FLLPIN) by the system.
7. A new composition scheme category namely, 'Person eligible for composition levy under Section 10(2A)' has been introduced.
8. A new functionality has also been introduced to enable composition taxpayers to change/update their category through Amendment application (REG-14).

GST Advisory dated 01.11.2026

Revised process for approval of registration cancellation application under Form GST REG-18

The self-cancellation process has been revised to incorporate system-based validations. Under the revised process the System will verify the due furnishing of the necessary returns. If any returns are required to be furnished, the application will move to the 'Pending for Return Filing' stage. Subsequently, any pending returns are required to be filed within the prescribed period and the same should be followed by filing of Form GSTR-10 after cancellation by the tax officer.

GST Advisory dated 01.11.2026

TDS registration advisory for dealers in scrap and other Notified Goods

An advisory has been issued indicating the process involved in TDS registration for dealers in used cooking oil, waste and scrap of plastics, tyres and electronics. The said categories of goods were notified under TDS vide Notification No. 07/2026-CT dated 2.10.2026. Accordingly, the taxpayers engaged in the said categories are required to select 'others' under 'Constitution of Business' section in Part B of Form GST REG-07. Upon selecting the said option, a text box would appear for the taxpayer to specify the relevant category.

GST Advisory dated 01.11.2026

Revision in E-Way Bill and Consolidated E-way Bill numbering Formats

In view of the substantial volume of E-Way Bills generated, with effect from 01.01.2027, the existing 12 digit format of E-Way Bill number is proposed to be changed to 14 digits and the existing 10 digits format of Consolidated E-Way Bill number is proposed to be changed to 11 digits format.

GSTN Update dated 04.11.2026

CUSTOMS:

Implementation of the Sea Cargo Manifest and Transhipment Regulations (SCMTR), 2018

The CBIC has noted that while all import and export leg manifest data messages have been deployed under the SCMTR, 2018, export-side filing remains limited as stakeholders are still transitioning to SCMTR-compliant software.

To complete the transition without disrupting trade

operations, the Board has decided to discontinue the erstwhile export manifest data messages in a phased, zone-wise manner, thereby mandating Cargo Information Messages (CIM) under SCMTR.

During this transition phase, stakeholders must adopt SCMTR-compliant formats, while field formations have been directed to conduct trade outreach, resolve system issues with DG Systems, and refrain from taking any penal action.

Circular No. 47/2026 -Customs dated 01.11.2026

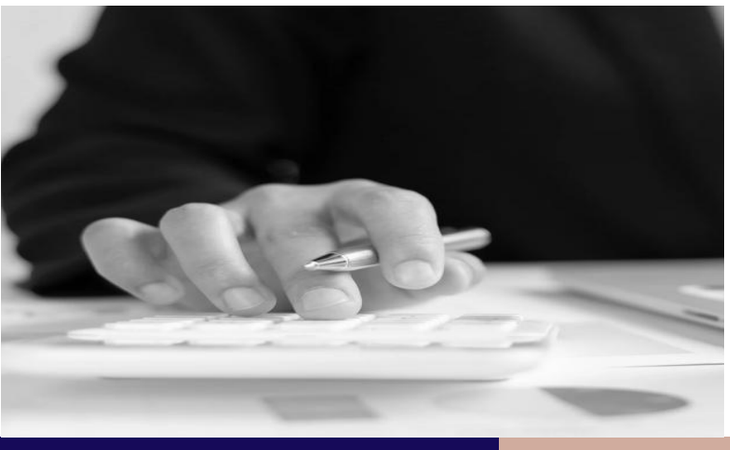
DGFT:

Amendment to Mechanism for Resolution of Quality Complaints and Trade Disputes

The DGFT, has amended Para 8.04(iii) of the Handbook of Procedures (HBP), 2023, concerning the mechanism for resolving quality complaints and trade disputes. Under the earlier provision, Indian Missions abroad were required to take up complaints with the concerned authorities and regularly update their status online. The amended provision expands and formalises this mechanism by requiring Indian Missions abroad to take up complaints either directly filed by applicants or referred by the concerned Foreign Trade (FT) Divisions of the Department of Commerce.

Further, both the Indian Missions abroad and the concerned FT Divisions are now required to periodically update the action taken and status of each complaint on the DGFT portal until its resolution or final disposal. Such updates shall also be accessible to the complainant through the DGFT portal.

Public Notice No. 38/2026-27 dt. 03.11.2026



Courtroom Updates

Supreme Court reaffirms States' competence to levy surcharge on sales tax

The Supreme Court addressed a seven-judge bench reference concerning the legislative competence of State Legislatures to impose a surcharge calculated on the sales tax payable by a dealer, rather than directly on gross turnover. The reference stemmed from a perceived conflict between prior rulings (***S. Kodar and Hoechst***) which upheld such levies, and ***India Cement***, which struck down a cess on royalty. During the pendency of this reference, a nine-judge bench in ***Mineral Area Development Authority (MADA)*** overruled ***India Cement's*** core premise that royalty is a tax, and the GST regime fundamentally replaced the former state sales tax framework.

The assessees contended that a surcharge measured by the quantum of tax already payable constitutes an impermissible "tax on tax" or a tax on a dealer's "income." They argued that such a levy does not fall upon the "sale or purchase of goods" as strictly required under Entry 54 of List II of the Constitution, thereby exceeding the State's legislative competence.

The States argued that the surcharge can be characterised as an increase in the sales tax rate in specific scenarios. Relying on Constitution Bench decision in ***S. Kodar***, they argued that the mathematical mode of computing tax does not alter its essential legal character as a valid tax on sales.

The seven-judge bench disposed of the reference as infructuous. With ***India Cement*** overruled by MADA, no conflict remained. They reaffirmed the decision passed in ***S. Kodar***, holding that a surcharge computed as a percentage of the sales tax payable operates legally as an enhancement of the sales tax rate. It squarely falls within the State's legislative competence under Entry 54 of List II as a tax on the sale of goods, regardless of the calculation metric

Arjun Flour Mills v. State of Odisha, Civil Appeal No. 8764/1994, Supreme Court of India

Service tax proceedings against a deceased proprietor cannot be continued against legal heirs

The Department passed an Order-in-Original dated 04.05.2023 under Section 73 of the Finance Act, 1994, demanding service tax for FY 2015-16 from a sole proprietor who had died on 27.04.2020. The Department subsequently issued a recovery notice to his wife under Section 87 of the Finance Act, 1994, despite being informed of his death and receiving a copy of the death certificate.

The Petitioner argued that the proceedings and the Order-in-Original against a deceased person were void. The Finance Act, 1994 contains no provision permitting service tax proceedings to continue against the legal heirs of a deceased proprietor. The definition of "assessee" under Section 65(7) includes the person liable to pay service tax and his agent, but does not include legal heirs. The petitioner also contended that the demand was based on income-tax returns without establishing that the receipts related to taxable services.

The Department contended that the order was passed because there was no representation on behalf of the assessee. It also argued that the petitioner should pursue the statutory appeal under Section 85 of the Finance Act, 1994.

The High Court, relying on the Supreme Court's decision in ***Shabina Abraham v. Collector of Central Excise and Customs***, held that, in the absence of an express statutory provision, proceedings under Section 73 of the Finance Act, 1994 cannot continue after the death of an individual proprietor. A legal heir cannot be treated as an "assessee" or as the deceased's agent under Section 65(7).

Shaista Parween v, The Asst. Commr., W.P. (C) No. 446/2025, Orissa High Court

SEZ Unit Entitled to Refund of Unutilised ITC Distributed by ISD

The appeals concerned the rejection of refund claims filed by an SEZ unit in respect of unutilised ITC distributed by an ISD. The Department contended that the SEZ unit was not entitled to claim the refund since it was not the supplier of the goods or services. It was further argued that the refund claims were not covered under the categories prescribed in the relevant CBIC Circulars and that the decisions relied upon by the assessee were distinguishable.

The Tribunal observed that an ISD distributes ITC and, consequently, there may be no specific supplier who can claim a refund in respect of such credit. Relying on the decisions of the Gujarat High Court in ***IPCA Laboratories and Britannia Industries, Special Civil Application No. 638 of 2021***, as well as the decisions of the Madras High Court, the Tribunal held that an SEZ unit cannot be denied refund merely on the ground that it is not the supplier. It further held that Circular Nos. 17/17/2017-GST and 24/24/2017-GST were issued to prescribe the procedure for manual filing and processing of refund claims in the absence of the refund module on the common portal and did not restrict the substantive right of an SEZ unit to claim refund.

Accordingly, the Tribunal affirmed the orders passed by the First Appellate Authority and dismissed all eight appeals filed by the Revenue.

Commissioner of CGST & Central Excise, Rajkot v. Reliance Industries Ltd., APL/29/2026, GSTAT Rajkot

E-Way Bill for Job Work May Be Generated by Either the Principal or the Registered Job Worker

The Department treated the value of goods covered by 24 e-way bills as the Appellant's taxable turnover on the ground that the corresponding supplies had not been disclosed in GSTR-1 and tax had not been paid. The Appellant contended that it was engaged exclusively in job work activities and that the e-way bills related to goods belonging to principal manufacturers, which were sent to the Appellant for job work and subsequently returned. It was further submitted that the Appellant had raised invoices and discharged GST only on the job work charges.

The Tribunal held that, under Rule 138 of the CGST Rules, 2017, an e-way bill is required to be

generated by a registered person who causes the movement of goods. In the case of inter-State movement of goods for job work, the e-way bill may be generated either by the principal manufacturer or by the registered job worker. The expression "causes movement of goods" provides the necessary flexibility, and there is no requirement that the e-way bill must invariably be generated by the registered job worker. The Tribunal further observed that the Appellant had substantiated the nature of the transactions through a documentary trail comprising the delivery challan issued by the principal manufacturer, e-way bills reflecting movement for job work and return of processed goods, the transporter's consignment note and the invoice raised towards job work charges.

The Tribunal noted that the show cause notice was issued solely on the basis of data reflecting a difference between the value declared in the e-way bills and the statutory returns. There was no investigation or other evidence establishing that the goods covered by the e-way bills had been supplied by the Appellant. Accordingly, it held that, in the absence of evidence establishing a taxable supply or evasion/non-payment of tax, a demand could not be sustained merely on the basis of the value of goods declared in the e-way bills. The demand of tax, interest and penalty was therefore set aside, and the appeal was allowed.

Mittal Cutters & Allied Works (P) Ltd. v. Commissioner of CGST, Chandigarh, APL/93/CHD/2026, GSTAT Chandigarh

IGST credit on SEZ supply inadvertently availed as CGST and SGST cannot be disallowed as wrong availment under Section 73 of the CGST Act

The Department confirmed a demand under Section 73 of the CGST Act on account of mismatch between ITC availed in Form GSTR-3B and Form GSTR-2A/GSTR-9 for the period July 2017 to March 2018. The Appellant had received inter-State supplies from an SEZ unit on which IGST was duly discharged and reflected in Form GSTR-2A but had inadvertently availed the credit equally under CGST and SGST in Form GSTR-3B. The First Appellate Authority upheld the demand solely on the ground that the Appellant failed to produce a Chartered Accountant's certificate as contemplated under Circular No. 183/15/2022-GST dated 27.12.2022.

The Hon'ble GSTAT held that a mismatch between Form GSTR-3B and Form GSTR-2A does not by itself establish non-payment of tax under Section 16(2)(c) where the recipient discharges its burden of proof under Section 155 through valid tax invoices, bank statements showing full payment inclusive of tax, and reconciliation records. Further, certificates prescribed under Circular No. 183/15/2022-GST are merely a means of verification and not an additional statutory condition of eligibility. Where the supplier's IGST payment is already reflected in Form GSTR-2A and the mismatch stems solely from the tax head under which credit was reported, denying ITC for want of such certificates is unsustainable in law.

Relying on the decision of the Hon'ble Kerala High Court in Rejimon Padickapparambil Alex v. Union of India, the Hon'ble GSTAT observed that availing IGST credit under the heads of CGST and SGST is an inadvertent and technical reporting error rather than a substantive wrong availment of ineligible credit under Section 73 of the CGST Act. The Hon'ble GSTAT also noted that Section 77 of the CGST Act and Section 19 of the IGST Act apply to a supplier paying tax under a wrong head, and do not govern credit availment by a recipient. Accordingly, the demand was set aside, and the appeal was allowed with consequential relief including refund of pre-deposit with statutory interest under Section 115 of the CGST Act.

Innominds Software Private Limited v. The Commissioner of State Tax, Hyderabad & Ors., APL/51/HYD/2026, GSTAT Hyderabad

ITC reversal under Section 17(2) of the CGST Act arises only on common inputs, not on exempt traded goods procured at Nil rate

The Department raised a demand against the Appellant, a cooperative society, for proportionate reversal of ITC under Section 17(2) of the CGST Act read with Rules 42 and 43 of the CGST Rules based on exempt turnover declared in Form GSTR-9 without any reversal, alongside a differential tax demand arising from a mismatch between Form GSTR-1 and Form GSTR-9. The Appellant contended that its exempt turnover pertained to trading in cattle feed procured at a Nil rate without availing any ITC, and that the GSTR-1 v GSTR-9 variance resulted from clerical errors rectified in the annual return.

The Hon'ble GSTAT held that ITC reversal under Section 17(2) of the CGST Act is required only where goods or services on which credit is taken are used partly for effecting taxable supplies and partly for exempt supplies. Where no ITC is availed on the purchase of wholly exempt traded goods, no reversal is warranted unless credit is availed on common input services used partly for effecting exempt supplies, and only to that extent. Further, noting that a taxpayer has the right to rectify monthly or quarterly return figures in Form GSTR-9 filed under Section 44 of the CGST Act, the Hon'ble GSTAT quashed the impugned order and remanded the matter for fresh adjudication.

The Dhanaula Co-Op Agri. Service Society Ltd. v. The State Tax Officer-cum-Proper Officer & Ors., APL/181/CHD/2026, GSTAT Chandigarh

Recovery of refund cannot be based on a subsequent Circular contrary to a binding Advance Ruling

The assessee, engaged in mineral extraction, paid 18% GST on licensing services provided by a state agency. The Advance Ruling Authority (AAR) subsequently held that the applicable tax rate for the period between July 2017 and December 2018 was 5%. The Revenue did not appeal this ruling. The assessee then successfully claimed a refund for the excess tax paid, reversing the corresponding ITC. Subsequently, relying on CBIC Circular No. 164/20/2021-GST dated 06.10.2021, which noted divergent advance rulings and clarified that the applicable rate for such mining licensing services was 18%, the Revenue issued a notice under Section 73 of the CGST Act to recover the sanctioned refund. The First Appellate Authority set aside the demand, leading to the Revenue's appeal to the Tribunal.

The Revenue contended that the AAR was void ab-initio because it ruled on completed past transactions rather than proposed supplies. They argued Circular 164 constituted a change in law, nullifying the AAR's binding nature. Furthermore, the Department argued that a Section 73 recovery proceeding is legally permissible even if the initial refund sanction order was never appealed.

The assessee argued that the unappealed AAR legally binds the jurisdictional officer under Section 103(1). An executive circular cannot constitute a "change in law" under Section 103(2) to invalidate a quasi-judicial order, nor can it operate retrospectively to create a tax liability. Additionally, the assessee bore the tax incidence and properly reversed the credit, satisfying all refund conditions.

The Tribunal dismissed the Revenue's appeals. It held that statutory tax rates must be notified under Section 9 and cannot be dictated by administrative circulars. Because the Revenue never appealed the AAR, it attained finality and remained fully binding. Therefore, a refund sanctioned in compliance with a valid, unappealed AAR cannot be classified or recovered as "erroneous."

Krishnakanth Pandey v. Kuldeep Butola, APL/1/DHR/2026, GSTAT Dehradun

THANK YOU

For further queries/information please get in touch with us

SHIVADASS & SHIVADASS®
LAW CHAMBERS

Level 3,
No. 4/2, Millers Road,
Bangalore – 560052
admin@sdlaw.co.in | +91 80437 79955