Latest developments in GST with special reference to landmark case laws (Supreme Court and High Courts)

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Latest Development in GST



Latest Development in GST

S. No	Topic
1	IMS
2	Mandatory ISD Registration from Apr 25
3	Biometric Authentication Now Mandatory for Company Directors
4	Advisory to file pending returns before expiry of three years (July 2022 Returns)

Latest Development in GST

S. No	Topic
5	30-Day Time Limit for E-Invoice Reporting Extended to More Taxpayers with an Annual Aggregate Turnover of Rs 10 crore and above, effective April 1, 2025
6	Functioning of GST Tribunals
7	Reporting of HSN codes in Table 12 and list of documents in table 13 of GSTR-1/1A (B2B as well as B2C)

Decisions of High Court and Supreme Court



PROVISIONAL ATTACHMENT OF BANK ACCOUNTS

 Kesari Nandan Mobile v. Office of Assistant Commissioner of State Tax (2025) 33 Centax 224 (S.C.) - Decided on 14-08-2025

• Brief Facts:

- Provisional attachment orders of assessee's bank accounts were issued in Oct 2023 under Section 83 CGST Act, 2017.
- Assessee filed objections u/s Rule 159(5), CGST Rules, 2017, but objections were not disposed.
- Under Section 83(2), attachments automatically ceased after one year (Oct 2024).
- Department, instead of fresh proceedings, issued —renewal attachment orders in Nov & Dec 2024.
- Gujarat High Court upheld renewal citing fraud (₹18.97 crores ITC misuse).
- Assessee appealed to Supreme Court.

PROVISIONAL ATTACHMENT OF BANK ACCOUNTS

Issue Involved:

Whether renewal/re-issuance of provisional attachment orders after expiry of one year is permissible under Section 83(2) of CGST Act, 2017.

Relevant Section / Provision Discussed:

- Section 83(1) & (2), CGST Act, 2017 Provisional attachment to protect revenue; ceases after 1 year.
- Rule 159, CGST Rules, 2017 Procedure for attachment and objections.
- Comparison with Section 11DDA, Central Excise Act, 1944 & Section 28BA, Customs Act, 1962, which allow extensions (not present in CGST Act).

PROVISIONAL ATTACHMENT OF BANK ACCOUNTS

- Case Law Relied / Cited:
- Radha Krishan Industries v. State of Himachal Pradesh (2021) 48 G.S.T.L. 113 (SC)
- followed.
- Outcome / Ratio Decidendi:
- Supreme Court allowed the appeal. Held that renewal or re-issuance of provisional attachment beyond one year has no statutory backing.
- Section 83(2) expressly limits the life of attachment to one year; permitting renewal would defeat legislative intent. Bank accounts to be de-freezed forthwith.
- Investigation may continue, but attachment cannot be extended/renewed without statutory amendment

PROCEEDINGS STAND CONCLUDED U/s 129(5) WITHOUT AN ORDER

- ASP Traders v. State of Uttar Pradesh Citation: (2025) 32 Centax 446 (S.C.) Date: 24 July 2025
- Brief Facts:
- Appellant, a registered dealer in Red Arecanut, consigned goods to Delhi with proper eway bill.
- Vehicle was detained by Mobile Squad at Jhansi; detention order (MOV-06) and notice under Section 129(3) (MOV-07) issued alleging discrepancies.
- Assessee filed reply denying allegations but, due to business exigencies, paid tax & penalty of ₹7,20,440 through DRC-03 to secure release of goods (MOV-05 issued).
- No final order under Section 129(3) (MOV-09) was passed. Repeated representations for order were ignored. Authorities claimed proceedings concluded under Section
- 129(5). High Court dismissed writ, upholding Revenue's view.

PROCEEDINGS STAND CONCLUDED U/s 129(5) WITHOUT AN ORDER

Issue Involved:

• Whether after payment of tax and penalty (voluntarily or otherwise) under Section 129(1), the proper officer is still **mandatorily required to pass a formal order in Form GST MOV-09** under Section 129(3), or whether proceedings stand concluded under Section 129(5) without such an order.

Relevant Section / Provision Discussed:

- Section 129(1), (3), (4), (5) of the CGST Act, 2017.
- Rule 142(3) & (5) of CGST Rules, 2017.
- CBIC Circular No. 41/15/2018-GST dated 13.04.2018.
- Article 265 of the Constitution of India.

PROCEEDINGS STAND CONCLUDED U/s 129(5) WITHOUT AN ORDER

Outcome / Decision:

- Every SCN must culminate in a **reasoned final order**; adjudication is mandatory once objections are filed.
- Payment under DRC-03 cannot be treated as voluntary since portal has no option to pay under protest.
- Section 129(5) does not dispense with officer's duty to pass a speaking order; deeming fiction cannot take away right of appeal.
- Absence of MOV-09 & DRC-07 deprives taxpayer of statutory appellate remedy.

Telecommunication towers rightly held movable property; ITC admissible as section 17(5)(d) not attracted – Supreme Court



Commissioner, CGST Appeal-1, Delhi V/s Bharti Airtel Ltd. – (2025) 33 Centax 302 (S.C.) - Decided on 08-08-2025

Telecommunication towers for Period 1-7-2017 to 31-3-2024. High Court by impugned order held that Supreme Court in **Bharti Airtel Ltd. v. Commissioner of Central Excise 2025 (391) E.L.T. 3/(2024) 24 Centax 266 (S.C.)**, has conclusively held that telecommunication towers cannot be construed as immovable property. Telecommunication towers would not qualify as immovable property as they neither qualify test of permanency nor can they be said to be attached to earth. Mobile towers can be dismantled and moved and they were never erected with an intent of conferring permanency.

In favour of Assessee

Telecommunication towers rightly held movable property; ITC admissible as section 17(5)(d) not attracted – Supreme Court



Commissioner, CGST Appeal-1, Delhi V/s Bharti Airtel Ltd. – (2025) 33 Centax 302 (S.C.) - Decided on 08-08-2025

Their placement on concrete bases was only to enable those towers to overcome vagaries of nature. Mere specific exclusion of telecommunication towers from scope of phrase 'plant and machinery' would not lead one to conclude that statute contemplates or envisages telecommunication towers to be immovable property. Application of generic principles to concept of immovable property would, in explicit terms, conclude that telecommunication towers are liable to be treated as movable. Telecommunication towers would not fall within ambit of section 17(5)(d). Thus, denial of input tax credit, consequently, would not sustain.

HELD: Instant Court was not satisfied that these are fit cases to exercise discretion under Article 136 of Constitution of India. Instant petitions were to be dismissed [Sec 17 of CGST Act, 2017]

Writ dismissed due to factual dispute; assessee allowed to pursue appellate remedy against order – Delhi High Court



Gurbani Exports V/s Principal Comm. of CGST, Delhi North – (2025) 33 Centax 95 (Del.) - Decided on 22-07-2025

Assessee was accused of availing input tax credit without any supply of goods or services through various firms floated by him and his family members. Impugned order was passed demanding tax, interest and penalty. Assessee filed instant petition against impugned order

HELD: Writ petition could not be entertained in matter relating fraudulent availment of ITC, however liberty was to be granted to assessee to avail appellate remedy under section 107. Appeal could be filed by assessee along with relevant pre-deposit [Sec 16, r/w Sec 107, of CGST Act, 2017]

Understanding ITC Fraud Modus Operandi



Model 1

Seller 3.1

- New Registration
- · Files only GSTR 1
- Does not file GSTR 3B
- 3-6 months pattern

Seller 3.2

- Newly Registration
- Files only GSTR 1
- Does not file GSTR 3B
- 3-6 months pattern

Seller 3.3

- Newly Registration
- Files only GSTR 1
- Does not file GSTR 3B
- 3-6 months pattern

Seller 2

- New Registration
- Takes ITC by manually entering in GSTR 3B

Buyer ABC

- Receipt of Material
- Takes ITC based on GSTR 2A (Supplier filing GSTR 1 & 3B)
- Does not have
 visibility beyond Seller
 2

Recycler (Manufacturer)

 Takes ITC since Buyer ABC is fully compliant entity

Note -

- 1. In this model, the seller obtains GST Registration for multiple sub-sellers in the chain below him.
- 2. Sub-sellers only file GSTR 1 but do not file GSTR 3B or pay any tax, since they do not have any Input Tax Credit. They file GSTR 1 for 3-6 months and pass on non existing ITC.
- 3. Seller avails ITC based on credit populated in GSTR 1. Seller passes on ITC to Buyer ABC by filing GSTR 1 and 3B.
- 4. Buyer ABC does not have any visibility of supply chain below Seller 2 and hence do not know if ITC passed is admissible or inadmissible as per GST Laws.
- 5. This model is not feasible now since one cannot file GSTR 1 for next period unless GSTR 3B of previous period is filed
- 6. In the entire chain, No tax is paid in Cash prior to Buyer ABC.

Model 2

Seller 5

- Scrap from Open Market in cash
- Avails ITC passed by retailer (no physical purchase)

Seller 4

 Passes on ITC and Material in chain

Seller 3

 Passes on ITC and Material in chain

Unrelated Seller

 Passes on ITC of Unrelated products

Note -

- 1. In this model, Input for unrelated business/ product (mostly FMCG or B2C entities) is passed through the seller deeper in supply chain.
- 2. The same ITC is passed on in the chain
- Seller buys scrap from open market in cash and uses the ITC passed by seller availing ITC of FMCG product/ Unrelated items.
- 4. Buyer ABC does not have any visibility of supply chain below Seller 2 and hence do not know if ITC passed is admissible or inadmissible as per GST Laws.
- 5. Manufacturer avails valid ITC since Buyer ABC has sold Scrap along with proper ITC.
- 6. In the entire chain, No tax is paid in Cash prior to Buyer ABC.

Seller 2

 Passes on ITC and Material in chain

Buyer ABC

 Fully compliant entity (does not know the unrelated ITC passed in the chain)

Manufacturer

 Manufactures finished goods and sells in upward chain

Model 3

Seller 5

- Scrap from Open Market in cash
- Avails ITC passed by retailer (no physical purchase)

Seller 4

 Passes on ITC and Material in chain

Seller 3

 Passes on ITC and Material in chain

Unregistered Buyers

Only supplies finished goods

Retailer

 Only supplies material and passes
 ITC to Seller 5

Note -

- In this model, the Input is passed through the entire chain.
 Right from seller to manufacturer and back to seller again.
- Since Retailer or Whole-seller sells the material without Bills (mostly to end customer who cannot avail ITC or are Unregistered). They pass the ITC only to Sellers.
- Seller buys scrap from open market in cash and uses the ITC passed by Retailer or Wholeseller.
- 4. Buyer ABC does not have any visibility of supply chain below Seller 2 and hence do not know if ITC passed is admissible or inadmissible as per GST Laws.
- 5. Manufacturer avails valid ITC since Buyer ABC has sold Scrap along with proper ITC.
- 6. In the entire chain, No tax is paid in Cash prior to Buyer ABC.

Seller 2

 Passes on ITC and Material in chain

Buyer ABC

 Fully compliant entity (does not know the ITC chain)

Wholeseller

Buys from
 Manufacturer with
 Valid Invoice

Manufacturer

 Manufactures finished goods and sells in upward chain

Thank you

Thanks for your Patience and Time

