



# Journey of GST

## “One-Nation, One-Tax”

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GST  
One Nation  
One Tax

Seamless Flow of ITC

No Cascading Effect  
of Taxes

**GST**  
**One Nation**  
**One Tax**

100%

**Blocked Credit**  
**Sec 17**

**Payment**  
**Within 180 days**

**Rule 36(4)**

**Rule 86A**



**Rule 86B**

**Section 16(2)(aa)**

**Alleged**  
**dummy suppliers**

**Petroleum**  
**Products**

70%

## Landmark Case Studies

NIPUN A BHAGAT VS STATE OF GUJARAT (GUJARAT HIGH COURT)	No blockage of Input Tax Credit for recovery of some other person.
MOHIT MINERALS PVT. LTD. V. UNION OF INDIA (GUJARAT HIGH COURT)	<ol style="list-style-type: none"> <li>1. GST cannot be the leviable on ocean freight.</li> <li>2. Incomplete Form notified by the Govt for availment of ITC of cess paid. No coercive action to be taken.</li> </ol>
S S INDUSTRIES VS UNION OF INDIA (GUJARAT HIGH COURT)	Power under Rule 86A to block ITC should not be used as a tool to harass the assessee. It can be used only for fraudulent availment of ITC
GOYAL IRON & STEEL TRADERS VS ASST COMMISSIONER, CT (DELHI HIGH COURT)	Blocking of electronic credit ledger on account of mismatch in GSTR-2A Vs GSTR-3B. Not Allowed.
R R DISTRIBUTORS PVT LTD VS COMMISSIONER OF CT (DELHI HIGH COURT)	Non-filing of correct TRAN-1 Report cannot impair the rights of the petitioner to claim the transitional credit.
SUPER INDIA PAPER PRODUCTS VS UNION OF INDIA (DELHI HIGH COURT)	Govt directed to re-open the online portal for filing TRAN-1 or accept manual return.
SAFARI RETREATS PRIVATE LIMITED V. CHIEF COMMISSIONER OF CGST (ORISSA HIGH COURT)	Assessee allows to use the credit of input tax on goods & services consumed in construction of shopping mall for paying GST on rental received from tenants of the shopping mall.
SRI RANGANATHAR VALVES PVT. LTD. V. ASSTT. COMM. (CT), (MADRAS HIGH COURT)	<ol style="list-style-type: none"> <li>1. Tax not deposited by the seller. Denial of credit not sustainable.</li> <li>2. No reversal on wastages is allowed.</li> </ol>

## Landmark Case Studies

<p>SKH SHEET METALS COMPONENTS VS UNION OF INDIA (DELHI HIGH COURT)</p>	<p>If TRAN-1 could not be filled on account of technical difficulties on the common portal or errors in filing, TRAN-1 Return cannot dis-entitle for availing the transition credit.</p>
<p>M/S DY BEATHEL ENTERPRISES VS STATE TAX OFFICER MADRAS HC 2021 TIOL 890 HC MAD GST</p>	<ul style="list-style-type: none"> <li>• It can be seen therefrom that the assessee must have received the goods and the tax charged in respect of its supply, must have been actually paid to the Government either in cash or through utilization of input tax credit, admissible in respect of the said supply</li> <li>• Therefore, if the tax had not reached the kitty of the Government, then the liability may have to be eventually borne by one party, either the seller or the buyer In the case on hand, the respondent does not appear to have taken any recovery action against the seller Charles and his wife Shanthi, on the present transactions</li> <li>• The learned counsel for the petitioners draws my attention to the order, dated 27 10 2020 finalising the assessment of the seller by excluding the subject transactions alone I am unable to appreciate the approach of the authorities When it has come out that the seller has collected tax from the purchasing dealers, the omission on the part of the seller to remit the tax in question must have been viewed very seriously and strict action ought to have been initiated against him</li> </ul>

### **Executive instructions cannot override the statutory provisions.**

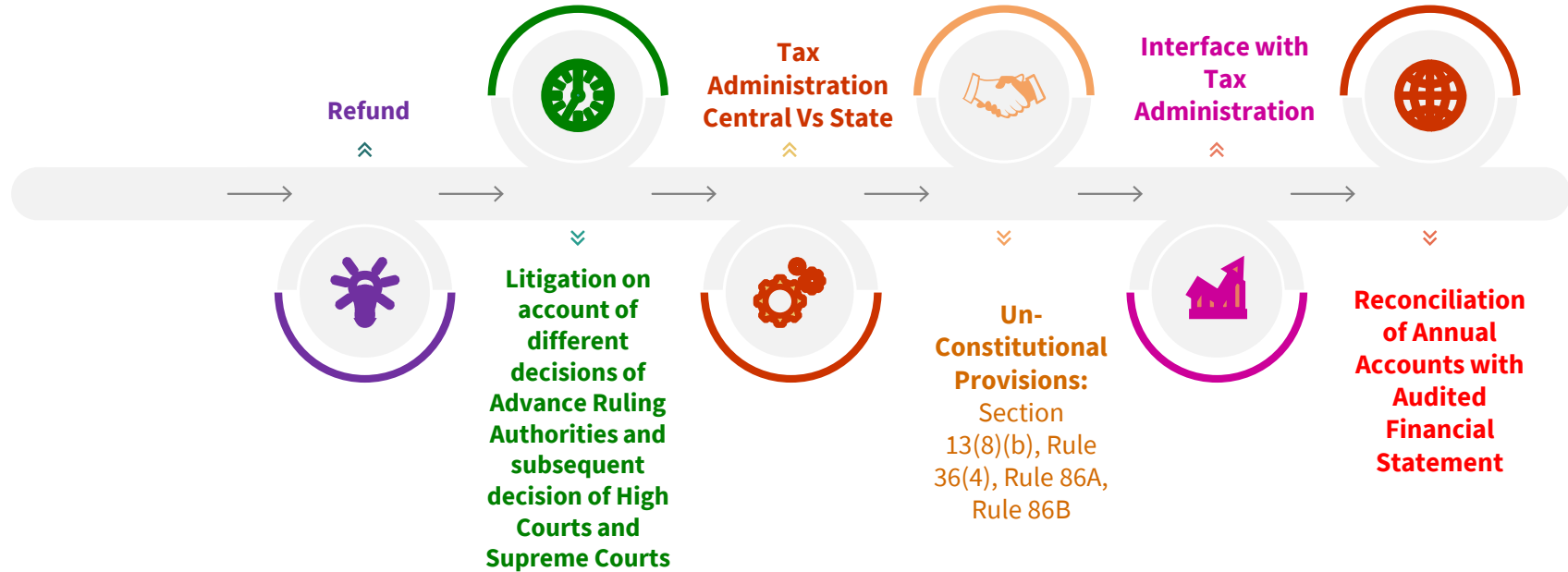
- a) B.N. Nargajan Vs. State of Mysore, AIR 1966 SC 1942;
- b) Sant Ram Sharma Vs. State of Rajasthan &ors., AIR 1967 SC 1910;
- c) Union of India &ors. Vs. MajjiJangammyya&ors., AIR 1977 SC 757;
- d) B.N. Nagarajan & ors. Vs. State of Karnataka & ors., AIR 1979 SC 1676;
- e) P.D. Agrawal & ors. Vs. State of U.P. & ors., (1987) 3 SCC 622; M/s. Beopar
- f) Sahayak (P) Ltd. & ors. Vs. VishwaNath&ors., AIR 1987 SC 2111;
- g) State of Maharastra Vs. Jagannath Achyut Karandikar, AIR 1989 SC 1133;
- h) Paluru Ramkrishananiah&ors. Vs. Union of India & ors., AIR 1990 SC 166;
- i) Comptroller & Auditor General of India & ors. Vs. Mohan Lal Mehrotra & ors., AIR 1991 SC

## Landmark Case Studies

**Ratios will be applicable against Rule 36(4) :** Whether Rule 36(4) is ultra vires the Statute There has to be a Rule Making Power and a Enabling Section in the Statute for the purpose of making the Rule

ACADEMY OF NUTRITION IMPROVEMENT ... VS UNION OF INDIA	No one other than the legislature can rewrite, recast or reframe the legislation because others have no power to do so No words can be added to a statute or read words which are not there in it Even if there is a defect or an omission in the statute, the court cannot correct the defect or supply the omission .
GENERAL OFFICER ... VS SUBHASH CHANDRA YADAV & ANR	before a rule can have the effect of a statutory provision, two conditions must be fulfilled, namely, 1 it must conform to the provisions of the statute under which it is framed and 2 it must also come within the scope and purview of the rule making power of the authority framing the rule If either of these two conditions is not fulfilled, the rule so framed would be void.
SUKHDEV SINGH & ORS VS BAGATRAM SARDAR SINGH	“Statutory bodies cannot use the power to make rules and regulations to enlarge the powers beyond the scope intended by the legislature Rules and regulations made by reason of the specific power conferred by the stature to make rules and regulations establish the pattern of conduct to be followed

# Other Issues







# Thank You..

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