

RECAP OF 2025 INDIRECT TAX DECISIONS

Prepared by Swamy Associates Knowledge Center



Introduction

Every year ends with its share of good, bad and ugly. For GST, last one year has been significant with rate reforms, initiation of Tribunal, selective amnesty scheme and routine GST council meetings followed by notifications and circulars. The role of Judiciary has been more significant in absence of GSTAT, the Supreme Court and High Courts of the country had stepped in ensuring speedy disposal and justice to the tax payer.

The Apex court, this year, addressed significant questions of law in field of GST including the constitutional validity of arrest and summons, GST applicability for residential renting, need to curb the misuse of provisional attachment provisions, laying down limits on search and seizure and protecting the indefeasible right of input tax credit to bonafide purchasers. The year 2025, also witnessed, the Hon'ble Apex Court, endorsing key rulings of different jurisdictional High Courts on matters such as classification of flavoured milk, limits on search and seizure, rectification of errors in GST returns, and clubbing of notices.

The High Courts across the country, on the other hand has been playing a proactive role in laying down the law and mitigating the day to day hardships of taxpayers on recurring issues and also addressed core issues ranging from scope of attachment powers, taxability of development rights under Joint Development Agreements, secondment of employees, and arbitrariness of CBIC restrictions on inverted duty refunds.

Key Judgments of Supreme Court in 2025

Lottery distributors not liable for service tax : In *Future Gaming Solutions Pvt. Ltd. & Another-2025* (2) TMI 483 the Supreme Court struck down service tax on lottery distributors as unconstitutional, affirming that lottery tickets are actionable claims, not taxable services. The Court held that running lotteries is “betting and gambling” a subject reserved exclusively for States under Entry 62 of List II and Parliament’s residuary powers under Entry 97 cannot override this.

Powers of arrest: The Constitution Bench in *Radhika Agarwal-2025* (2) TMI 1162 delivered a decisive ruling on the scope and safeguards surrounding arrest powers under the Customs Act, 1962 and the CGST Act, 2017. The Court upheld the constitutional validity of Sections 69 and 70 of the CGST Act, 2017 and Section 104 of the Customs Act, 1962 affirming Parliament’s competence under Article 246A of the Indian Constitution to legislate on enforcement mechanisms ancillary to tax collection.

Validating need for reasoned orders: In *ASP Traders-2025* (7) TMI 1525, the Apex Court held in context of Section 129 (3) of the CGST Act that the proper officer is mandatorily required to pass a reasoned order, even if the assessee has already paid tax and penalty for release of detained goods.

Investigation vs. Adjudication: In *Armour Security (India) Ltd. -2025 (8) TMI 991*, the Apex Court drew a clear line of distinction between investigation and adjudication under GST. It held that the issuance of summons under Section 70 is merely an investigatory step and does not amount to “initiation of proceedings” and that the proceedings formally begin only with a show cause notice, not at the stage of inquiry, search, or summons. The Apex Court also laid down guidelines to prevent duplication and ensure procedural fairness under GST.

Time limit for provisional attachments: The Supreme Court in *Kesari Nandan Mobile-2025 (8) TMI 992* clarified the limits of provisional attachment under Section 83 of the CGST Act by endorsing that the attachment automatically lapses after one year and cannot be renewed or re-issued once it ceases by operation of law.

ITC without bottleneck for bonafide purchasers : In *Shanti Kiran India (P) Ltd.-2025 (10) TMI 607*, the Apex Court had reinforced the principle that bona fide purchasing dealers cannot be penalized for defaults committed by their sellers while addressing the issue in context of Section 9(2)(g) of the DVAT Act. The Supreme Court held ruled in favour of ITC for recipient since the sellers were registered at the time of transaction and the invoices were genuine. It is interesting to note, wasting no time, the above ratio has been applied by the Kerala High Court in *K.V. Joshy & C.K. Paul -2025 (12) TMI 1438* and held that proceedings against the recipient cannot be initiated without first proceeding against the defaulting suppliers.

Exemption for hostels as residential dwellings: In *Taghar Vasudeva Ambrish & Anr. - 2025 (12) TMI 505*, leasing residential properties to a commercial lessee who in turn sublets them as hostels for students and working professionals was held to be entitled for exemption under Entry 13 of Notification No. 9/2017 - Integrated Tax (Rate) dated 28.06.2017, which exempts “services by way of renting of residential dwelling for use as residence.” The exemption has been interpreted as activity-specific rather than person-specific.

High Court rulings endorsed by Supreme Court in 2025

| Name | Ratio | High Court | Remarks |
|---|---|----------------|--|
| Aberdare Technologies Pvt. Ltd.-2025 (4) TMI 101-SC | Bona fide and inadvertent errors in GST returns can be rectified even beyond the time limit prescribed under Section 39(9) of the CGST Act, where there is no loss of revenue to the State. | Bombay | Substantive justice overrides technical constraints. |
| Super Products -2025 (6) TMI 256 – SC | Rule 86A allows blocking ITC only to extent available. Negative blocking is not permissible. | Delhi | ITC ledger cannot be used as recovery tool. |
| Heritage Foods Limited & Anr. -2025 (7) TMI 1524 – SC | Flavoured milk doesn't lose essential character of milk due to addition of small amount of flavour and is classifiable under Heading 0402. | Andhra Pradesh | Rate rationalization brings a closure to the issue post 17.09.2022. |
| Deepak Khandelwal -2025 (8) TMI 1293 – SC | Seizure under Section 67 seizure to be limited to goods/documents relevant to GST proceedings and liable for confiscation. | Delhi | Currency and valuables cannot be seized under GST unless they serve evidentiary purpose. |

Significant High court ruling of 2025

Lease right is benefit out of land: In *Gujarat Chamber of Commerce & Industry 2025 (1) TMI 516*, the Gujarat High Court held that assignment by sale and transfer of leasehold rights of the plot of land allotted by GIDC to the lessee in favour of third party-assignee for a consideration shall be benefits arising out of "immovable property" by the lessee-assignor in favour of third party-assignee who would become lessee of GIDC in place of original allottee-lessee. Therefore, the same would not be subject to levy of GST.

Statutory functions outside GST : In *Goa University-2025 (4) TMI 1056*, the Bombay High Court held that affiliation fees and other statutory fees collected by Goa University are not liable to GST, as the University performs non-commercial, statutory educational functions under law. The Court ruled that such fees are regulatory/statutory in nature and do not constitute "consideration" for a taxable supply under Sections 7 and 9 of the CGST Act. There is a complete absence of jurisdictional facts to issue the impugned show cause notice.

Note: This decision was followed by Karnataka High Court in *Rani Channamma University- 2025 (12) TMI 314*.

Intermediary services requires three parties: In *IDP Education India Pvt. Ltd. -2025 (5) TMI 729*, the Bombay High Court clarified that services rendered by IDP India to its parent company, IDP Australia, qualify as export of services and not as “intermediary” under Section 2(13) of the IGST Act. It relied on the earlier CESTAT ruling (28.10.2021) and CBIC Circular dated 20.09.2021, which confirmed that the definition of intermediary under GST mirrors the service tax regime and requires the existence of three parties.

Since IDP India provides services directly to IDP Australia under a bi-partite contract, without any arrangement with foreign universities or students, it cannot be treated as an intermediary.

Note: Recently, the 56th GST Council recommended omission of clause (b) of section 13(8) of IGST Act 2017. Accordingly, the place of supply for “intermediary services” will be the location of the recipient of such services as per the default provision under section 13(2) of the IGST Act, 2017.

Provisional attachment powers: In *Skytech Rolling Mill Pvt. Ltd. -2025 (6) TMI 1253*, the Bombay High Court held that cash credit account cannot be provisionally attached under Section 83 of the MGST Act since it does not constitute “property” of the assessee.

Section 122 not subject to Section 74 : In *Patanjali Ayurved Ltd. -2025 (6) TMI 115*, the Allahabad High Court held that Section 122 is an independent charging provision for civil penalties and does not require prior determination of tax liability under Sections 73 or 74. Therefore even when Section 74 proceedings abate, penalty proceedings under Section 122 can sustain.

Note: Subsequently, CBIC issued Circular No. 254/2025-GST, which expressly designated proper officers for adjudication of penalties under Section 122 and laid down monetary limits.

Secondment of employees falls under Schedule III : In *Alstom Transport India Ltd-2025 (7) TMI 1611*, the Karnataka High Court held that secondment of expatriate employees by foreign group entities does not constitute a taxable supply of manpower services under GST where a genuine employer-employee relationship exists with the Indian entity.

The Court distinguished the Supreme Court's ruling in *Northern Operating Systems* as fact-specific and held that where employees are under the control of the Indian entity, paid salaries subject to TDS, and integrated into its organisational structure, the arrangement falls under Schedule III and is outside GST. Even otherwise, applying Para 3.7 of CBIC Circular No.210/4/2024-GST dated 26.06.2024 read with Rule 28, where no invoice is raised and full ITC is available, the taxable value is deemed to be 'Nil'.

No GST on JDA : In *Provident Housing Ltd.-2025 (9) TMI 664*, the petitioner, a real estate developer, challenged the levy of GST on construction services allegedly arising from a JDA dated 13.10.2017. Subsequently, since the landowner had sold the entire land to the petitioner, extinguishing all rights under the JDA, the Bombay High Court held no GST liability had arisen at all. By applying the 2018 notification to a JDA executed in 2017, the Court held that extinguished JDA does not attract tax.

Unlawful boundaries around refund entitlements erased: In *Shree Arihant Oil and General Mills -2025 (9) TMI 968*, the Rajasthan High Court held that ITC refunds under the inverted duty structure cannot be curtailed by CBIC Circular No. 181/13/2022–GST. While Notification No. 09/2022 barred such refunds prospectively from 18 July 2022, the Circular clarified that such restriction would be applicable in respect of all refund applications filed on or after 18.07.2022. The Court quashed Para 2 of the Circular, holding it illegal, arbitrary, and violative of Article 14, as it curtailed the two-year limitation under Section 54 of the CGST Act and imposed a condition not found in the notification.

Service is not equal to communicate: In *Sharp Tanks and Structurals Private Limited- 2025 (9) TMI 1149*, the Madras High Court clarified that limitation under Section 107 of CGST Act, 2017 begins from “communication”, not mere “service”. Uploading an order on the GSTN portal counts as service, yet communication requires the authority to reach out to the assessee. Since taxpayers are not obliged to access the portal, appeal limitation starts only from actual communication. The Court also noted the digital divide faced by small taxpayers and made recommendations to address the issue.

SCN Clubbing - SC Upholds in Fraud cases, Karnataka insists Year-Specific: In *Mathur Polymers-2025 (9) TMI 112*, the petitioner challenged an order-in-original dated 02.02.2025 on the grounds of violation of natural justice and improper issuance of consolidated show cause notices. On the issue of consolidated SCNs, the Court relied on its earlier decision in *Ambika Traders* and emphasized that fraudulent avilment of ITC often spans several years, making consolidated notices both permissible and necessary to establish the pattern of fraud. The statutory language in Sections 73 and 74, which uses the terms “for any period” and “for such periods” was interpreted to allow such consolidation. Consequently, the Court upheld the order, dismissed the writ petition, and imposed costs of ₹50,000 on the petitioner for suppression of facts and the Apex Court later upheld the ruling in *2025 (11) TMI 1184 - SC Order*.

By contrast the Karnataka High Court in *Pramur Homes and Shelters -2025 (12) TMI 1188* struck down a composite show cause notice covering multiple financial years, holding that GST's statutory framework is year-specific. Registration, returns, ITC entitlement, assessment, and limitation all operate independently for each financial year, and clubbing several years into a single SCN collapses this architecture, blurs the distinction between Sections 73 and 74, and violates natural justice.

Drawing lines between RTI and confidentiality: In *Adarsh -2025 (10) TMI 794*, the petitioner sought GST return details of six industries in Udgir, alleging fraud. The Information Officer issued notices to the industries under Section 11 of the RTI Act, inviting objections, which led to rejection of the request. Appeals under Sections 19(1) and 19(3) of RTI Act were also dismissed, prompting the writ petition.

The Bombay High Court upheld the procedure, stressing that third-party consultation under Section 11 of the RTI Act is mandatory whenever personal or confidential information is sought. It further ruled that Section 158 of the CGST Act expressly prohibits disclosure of GST returns, except in limited statutory circumstances. Since the petitioner failed to demonstrate any larger public interest, the Court held that confidential tax information could not be disclosed.

Debt Recovery not service : In *Ushabala Chits Private Limited*, -2025 (12) TMI 868, the Andhra Pradesh High Court held that the interest or penalty recovered by a chit fund foreman from defaulting subscribers on delayed payment of instalments constitutes a debt recovery and not a fee for services. Consequently, such interest or penalty does not fall under the definition of “consideration for service” and is exempt from GST under Entry No.27 of Notification No.12/2017.



Conclusion

As 2025 draws to a close, the tax landscape absorbed both judicial discipline and legislative reforms. Courts across the country reinforced fairness by curbing arbitrary attachments, insisting on speaking orders, protecting bona fide purchasers, fencing arrest powers with safeguards, and striking down overreach in refunds and search powers. Legislatively, GST Reforms 2.0 introduced a two-slab structure with a demerit rate, cheaper essentials, simplified registration, provisional ISD refunds, and the long-awaited GSTAT. Yet, the removal of compensation cess hurt industry due to lapse of huge credit.

Despite repeated judicial pronouncements on portal-based service of notices, statutory corrections remain pending and the issues regarding Section 16 (2) of CGST Act, 2017 violations remains major audit revenue for the GST department.

WE ARE NOW LOCATED IN

