SNR & COMPANY
CHARTERED ACCOUNTANTS

GST BULLETIN

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Delhi, Pune, Bangalore

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1. Intermediary Classification Cannot Be Assumed to Deny Zero-Rated Export Refund: Telangana High Court

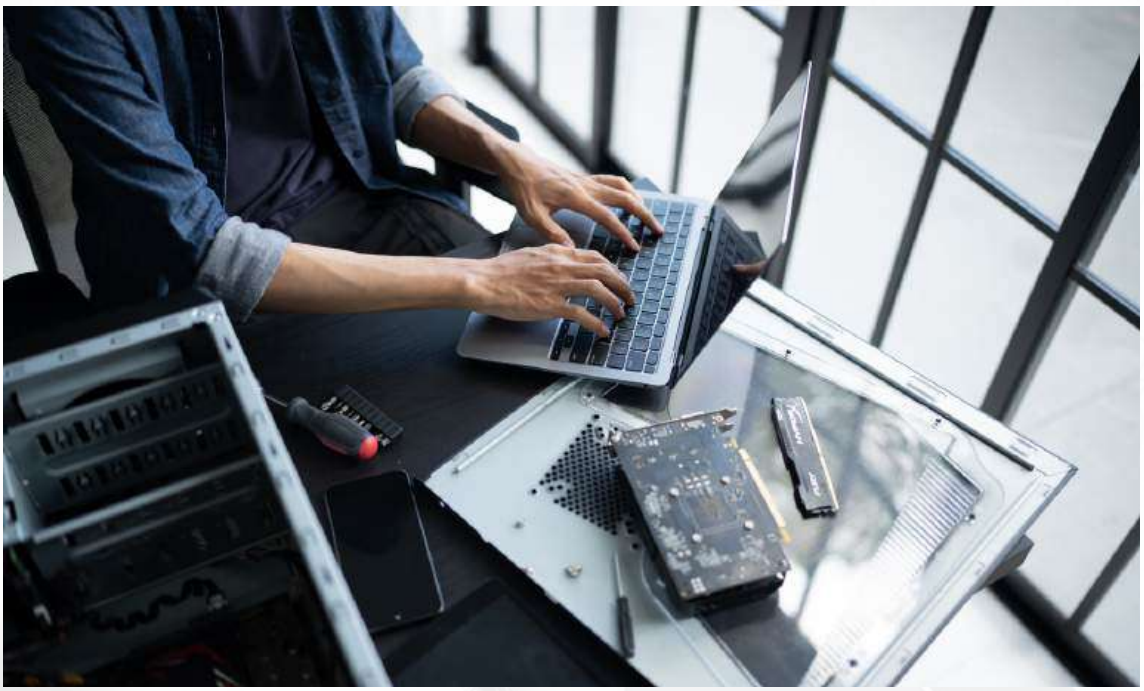
Case of : Virtusa Systems (India) Private Limited
Decision by : Telangana High Court
Date of Ruling : 05th January 2026

Facts:

- The assessee, Virtusa Systems (India) Pvt. Ltd., an Indian IT/ITeS company, provided software and technology services to its overseas group entity in the USA (M/s eTouch System Corporation).
- The services were treated as zero-rated export of services under Section 2(6) of the IGST Act. Accordingly, the assessee claimed refund of unutilised ITC.
- The original refund sanctioning authority, after verifying Inter-company agreements, Invoices, FIRCs/BRCs, GST returns and declarations
- held that all statutory conditions for "export of services" were satisfied and sanctioned the refund.
- However, on appeal by the Revenue, the appellate authority set aside the refund. The appellate authority classified the assessee as an "intermediary" under Section 2(13) of the IGST Act, primarily relying on a contractual clause permitting engagement with third-party customers.

Issue:

- Whether the assessee could be classified as an "intermediary" under Section 2(13) of the IGST Act merely based on a contractual clause suggesting possible third-party engagement — without recording clear findings satisfying the statutory ingredients of intermediary — and thereby deny refund of unutilised ITC on export of services.



Court Observation

- The appellate authority failed to record any finding regarding the existence of a third party in the actual transaction between the petitioner and its US group entity.
- There was no finding that the petitioner arranged or facilitated a supply between two other parties, which is a fundamental requirement for classification as an "intermediary."
- The authorities did not explain how the supplies were not made:
  - On a principal-to-principal basis, or
  - By the petitioner on its own account.
- The original authority had already verified agreements, invoices, FIRCs/BRCs and GST returns and found that all conditions of "export of services" under Section 2(6) of the IGST Act were satisfied.
- The High Court emphasized the need to satisfy the mandatory elements laid down in the statute and clarified in IGST Act, 2017 and CBIC Circular No. 159/15/2021-GST.
- The appellate authority's reasoning was termed "cryptic" and presumptive, amounting to non-application of mind.
- Without entering into the merits of classification, the Court quashed the impugned order, and Remanded the matter back for fresh adjudication in accordance with law.

Full Judgement: Virtusa Systems (India) Private Limited

SNR's Take

This judgment reinforces a crucial principle in GST jurisprudence: classification as an "intermediary" cannot be mechanical or assumption-based. The mere presence of a contractual clause permitting third-party engagement does not automatically satisfy the statutory ingredients under Section 2(13) of the IGST Act. The decision strengthens procedural fairness and discourages blanket intermediary classification as a tool to deny zero-rating benefits.

2. No Bar on Multi-Year Show Cause Notices Under GST; However, Limitation and Jurisdictional Discipline Must Be Strictly Followed.

Case of : SA Aromatics Pvt Ltd
Decision by : Allahabad High Court
Date of Ruling : 20th January 2026

Facts:

- Multiple writ petitions were filed challenging proceedings initiated under Sections 73 and 74 of the CGST/UPGST Acts.
- In the lead matter, searches were conducted against the petitioner company on different occasions by various GST authorities. Voluntary payments were made under Section 74(5) through DRC-03 in respect of certain financial years.
- Subsequently, a composite Show Cause Notice (SCN) was issued covering multiple tax periods spread across different Financial Years (FYs), and in some cases, issued to more than one noticee.
- Petitioners challenged:
  - o Validity of composite SCNs covering more than one FY;
  - o Alleged violation of Section 6(2)(b) (parallel proceedings by different authorities);
  - o Passing of multiple adjudication orders arising from a single SCN;
  - o Limitation under Sections 73/74;
  - o Certain directions to withhold payments.

Issue:

- Whether a composite SCN under Section 73/74 can be issued for multiple tax periods spanning more than one Financial Year.
- Whether adjudication proceedings must be confined to a single FY as each FY is an independent unit of assessment.
- Whether limitation under Section 73/74 is to be computed FY-wise, and what happens if limitation expires for one of the FYs covered in a composite notice.
- Whether issuance of proceedings by different authorities violates Section 6(2)(b) of the Acts.
- Whether two separate adjudication orders can arise from one SCN.

Court Observation

- The Court held that Sections 73 and 74 do not restrict issuance of a notice to a single financial year. Reading such a restriction into the statute would amount to introducing an artificial limitation not contemplated by the legislature.
- The Court distinguished between: Assessment proceedings (return-based and tax-period specific), and Adjudication proceedings under Sections 73/74 (dispute-based and linked to "specified tax amount").
- Once adjudication begins, the return-based framework becomes secondary; the focus shifts to the disputed tax amount. Sections 73(3)/74(3) and 73(4)/74(4) expressly allow issuance of statements for "other periods," indicating legislative intent to permit wider coverage beyond a single FY.
- Hence, a composite notice across multiple FYs is legally valid in principle.
- If limitation expires for a particular FY, proceedings for that FY lapse. However, if disputes are separable FY-wise, the entire notice does not automatically fail — only the time-barred portion does.
- The Court clarified that a notice issued within six months from expiry of limitation for passing the order is time-barred.
- The Court held that simultaneous proceedings by different authorities for the same subject matter are impermissible. To that extent, petitions succeeded where violation of Section 6(2)(b) was established.
- Passing two separate adjudication orders by different authorities pursuant to a single SCN was held impermissible.
- Audit may extend beyond a single tax period or financial year, provided it relates to completed periods.

Full Judgement: SA Aromatics Pvt Ltd

SNR's Take

This judgment provides significant clarity on the structural distinction between assessment and adjudication under GST law. The Court correctly emphasized that while GST compliance is return-based and period-specific, adjudication under Sections 73/74 is dispute-centric and not inherently restricted to one financial year. The Court balanced this broader interpretation by strictly enforcing limitation provisions and prohibiting parallel proceedings under Section 6(2)(b). Thus, while composite notices are valid in principle, revenue authorities must ensure strict compliance with limitation timelines and jurisdictional discipline.

3. Supplier's Statutory Default Cannot Burden Lessee: Interest on Delayed GST Payable by Lessor.

Case of : M/s Oam Industries India Pvt
Decision by : Bombay High Court
Date of Ruling : 23rd January 2026

Facts:

- The petitioner entered into a lease agreement dated 25 March 2021 with the respondent for industrial land on payment of substantial lease premium.
- The respondent (lessor) did not issue a GST tax invoice at the time of execution of the lease deed in 2021.
- In March 2024, when the petitioner sought transfer of the lease to a third party, the respondent demanded:

  o Outstanding GST on lease premium (Rs. 7.26 crore approx.), and
  o Interest on delayed payment of GST (Rs. 3.94 crore approx.), calculating interest from March 2021 to March 2024.
- The petitioner paid the GST and interest under protest to facilitate transfer of lease.
- Subsequently, the petitioner filed a writ petition seeking refund of the interest amount on the ground that delay was attributable to the respondent's failure to issue tax invoice and discharge GST within prescribed time.

Issue:

- Whether the lessor (service provider), who failed to issue a tax invoice and discharge GST within the prescribed time, can recover interest on delayed payment of GST from the lessee?

Court Observations

- Under Section 39 read with Rule 61 of the CGST Act/Rules, the responsibility to pay GST and file returns lies upon the supplier of service (respondent).
- As per Section 31(2) read with Rules 46 and 47, the supplier is mandatorily required to issue a tax invoice within 30 days from the date of supply of service.
- The respondent failed to issue invoice within the statutory period and raised the invoice only in July 2024. Without issuance of invoice, the petitioner could not have determined and paid GST voluntarily.
- Section 122(1)(i) emphasizes the statutory importance of issuing a tax invoice, and non-issuance attracts penalty. Section 50 provides that interest is payable by the person who is liable to pay tax but fails to pay it within the prescribed time.
- The Court held that the respondent, being the taxable person, was liable to pay interest for delayed discharge of GST and could not shift such statutory liability onto the petitioner.
- Contractual clauses requiring lessee to bear taxes cannot override statutory obligations under the CGST Act. Accordingly, recovery of interest from the petitioner was held illegal and unsustainable in law.
- The Court directed refund of Rs. 3.94 crore within six weeks, failing which interest @18% p.a. would apply.

Full Judgement: Oam Industries India Pvt

SNR's Take

This judgment reinforces the fundamental GST principle that statutory liability to pay tax and interest primarily rests upon the supplier of goods or services. The decision clarifies that interest under Section 50 is compensatory and attaches to the person legally liable to pay tax; it cannot be contractually shifted where delay is attributable to the supplier's own non-compliance.

4. Mere Presence of Service Engineers Does Not Create Fixed Establishment, HO-Controlled AMC Operations Don't Trigger Separate GST Registration.

Case of : M/s Thermo Fisher Scientific India Private Limited
Decision by : Appellate Authority for Advance Ruling Odisha
Date of Judgement : 09th January 2026

Facts:

- The Appellant, Thermo Fisher Scientific India Private Limited, has its HO in Maharashtra and provides post-sale repair and Annual Maintenance Contract (AMC) services for laboratory equipment to customers located in Odisha.
- Such services are rendered through Field Service Engineers (FSEs) deputed in Odisha. The FSEs retain minimal leftover spare parts temporarily at their locations for service convenience, however, no regular stock or warehouse is maintained in Odisha.
- All contracts with customers are executed by the Maharashtra HO. All invoices are issued from the HO, and consideration is received at the HO. Administrative control, inventory management, and business decisions are centralized at the HO.
- The Odisha AAR had earlier held that the activities constituted a "place of business" and a "fixed establishment" in Odisha, requiring separate GST registration. Aggrieved, the Appellant filed an appeal before the AAAR.

Issue:

- Whether the provision of AMC and repair services in Odisha through deputed FSEs, along with temporary retention of spare parts, constitutes:
  - A "Place of Business" under Section 2(85) of the CGST Act, and/or
  - A "Fixed Establishment" under Section 2(50) of the CGST Act,

thereby requiring mandatory GST registration in Odisha under Sections 22 or 24 of the CGST Act.

AAAR Observations

- The three conditions for place of business were not satisfied.
  - o No independent business activity was conducted from Odisha.
  - o All contracts, invoicing, receipt of payment, and control were centralized at the Maharashtra HO.
  - o FSEs were merely employees acting under HO supervision and did not independently conclude contracts or carry on business in Odisha.
- The presence of FSEs in Odisha did not demonstrate sufficient permanence. Temporary retention of leftover spare parts and toolkits did not amount to a fixed establishment.
- No stock was maintained for commercial supply purposes in Odisha. The "permanence" test for fixed establishment was not satisfied.
- FSEs provided services as employees under contracts executed by the HO. They did not enter into agreements independently. If the HO terminated a contract, FSE services would automatically cease.
- Therefore, FSEs could not be treated as "agents" creating a taxable presence.
- All transactions originated from the HO. No separate outward supplies were made from Odisha. Hence, separate GST registration in Odisha was not required under Sections 22 or 24.
- Accordingly, the AAAR set aside the AAR ruling and allowed the appeal in favour of the Appellant.

Full Judgement: SEIL Energy India Ltd

SNR's Take

This ruling clarifies that mere deployment of employees in another State for service execution does not automatically create a "place of business" or "fixed establishment" under GST. The decisive factors are commercial control, contractual authority, permanence, and independent business operations. Where contracts, invoicing, inventory management, and consideration flow remain centralized at the Head Office, and the presence in another State is limited to service execution without business autonomy or permanence, separate GST registration may not be warranted.

5. Mining Lease Royalty Classified as Licensing Service. 18% GST Payable under RCM, Not 5% as Transfer of Right to Use Goods

Case of : Ramandeep Upkarsingh Bindra (Black Rock Crusher)
Decision by : Advance Ruling Maharashtra
Date of Ruling : 28th January 2025

Facts:

- The Applicant, Ramandeep Upkarsingh Bindra (Black Rock Crusher), entered into a mining lease transfer agreement with the State Government for extraction of minerals such as black rock, stones and other minerals.
- The lease granted the Applicant the right to excavate minerals from the leased land against payment of royalty at ₹100 per metric ton. The Applicant contended that royalty paid to the Government constitutes consideration for transfer of the right to use minerals.
- The Applicant argued that such transaction is classifiable under Entry 17(iii) of Notification No. 11/2017–Central Tax (Rate), which prescribes 5% GST for "transfer of the right to use any goods for any purpose."
- The matter was placed before the Authority for Advance Ruling Maharashtra for determination of classification and applicable GST rate.

Issue:

- Whether royalty paid to the Government under a mining lease for the right to extract minerals is:
  - Classifiable under Entry 17(iii) of Notification No. 11/2017–CT (Rate) attracting 5% GST as transfer of right to use goods;

OR

  - Classifiable under Entry 17(viii) under Heading 9973 attracting 18% GST;

And whether GST is payable under the Reverse Charge Mechanism (RCM).

AAR Observations

- The AAR observed that the Applicant was granted the **right to extract minerals,** which is distinct from transfer of right to use pre-existing tangible goods.
- Entry 17(iii) applies only where there is transfer of right to use identifiable and existing goods (such as machinery, vehicles, etc.).
- In the present case, minerals are natural resources yet to be mined and do not qualify as pre-existing goods at the time of grant of lease. The royalty paid is consideration for licensing services granting the right to explore and extract minerals.
- The service falls under Heading 9973 – Leasing or rental services, specifically SAC 997337. Since the service is supplied by the Government to a business entity, GST is payable under Reverse Charge Mechanism in terms of Notification No. 13/2017–CT (Rate).
- Accordingly, the AAR held that the transaction is covered under Entry 17(viii) and attracts 18% GST under RCM. The AAR relied on CBEC FAQs, the Uttarakhand AAR ruling in Pioneer Partners, and the Supreme Court judgment in MADA to conclude that royalty is contractual consideration and not a statutory levy.

Full Judgement: Ramandeep Upkarsingh Bindra (Black Rock Crusher)

SNR's Take

This ruling clarifies that mining lease royalty payments are not equivalent to transfer of right to use goods but are in the nature of licensing services for extraction of natural resources. The ruling provides important guidance for mining operators and confirms the consistent approach adopted by authorities in treating royalty as consideration for licensing services rather than transfer of right to use goods.

Circulars/ Notifications:

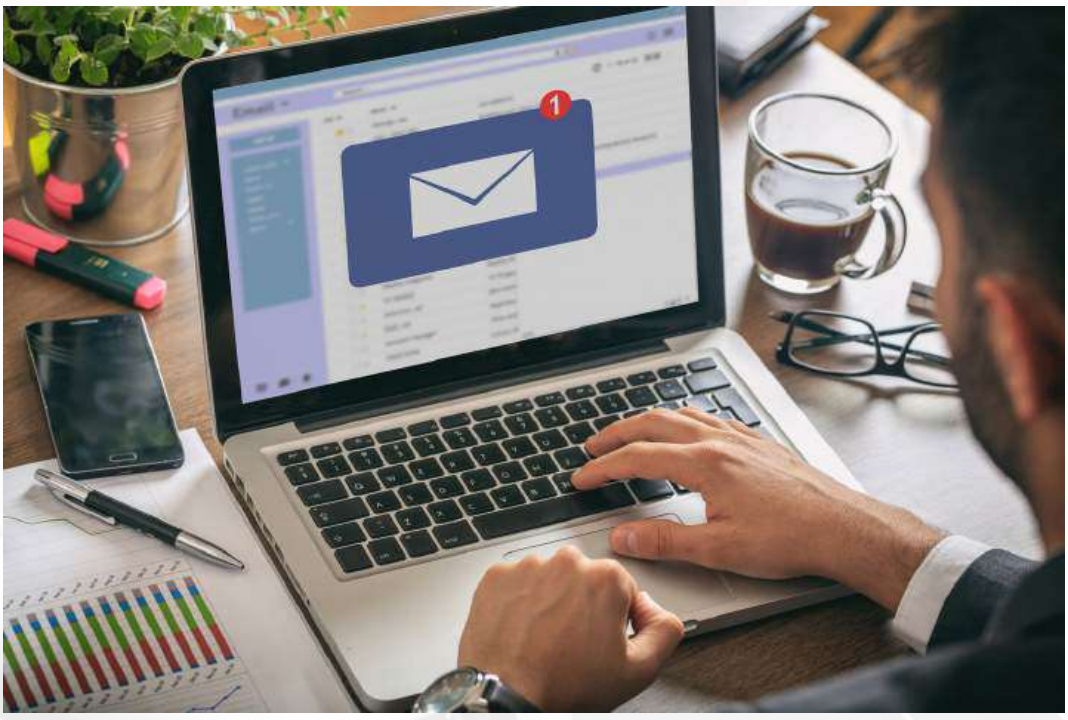
1) Circular No. 01/2026-Customs dt 15/01/26 - Extension of Export Benefits for Postal Exports through Electronic Processing System

Central Board of Indirect Taxes and Customs has amended Circular No. 25/2022-Customs to enable exporters using the postal route to electronically claim export incentives such as Drawback, RoDTEP and RoSCTL. With integration of the DNK portal of the Department of Posts with ICES, export benefits can now be processed seamlessly, subject to registration on ICEGATE and compliance with prescribed procedures.

Advisory on Interest Collection and Enhancements in GSTR-3B (Effective from January 2026)

Goods and Services Tax Network has issued an advisory introducing the following key changes from the January 2026 tax period:

- **Revised Interest Computation:** Interest in Table 5.1 of GSTR-3B will be auto-computed considering the minimum cash balance available in the Electronic Cash Ledger from due date till date of payment. The auto-populated interest will be non-editable downward.
- **Auto-Populated Tax Liability Breakup:** The tax liability breakup table will now be auto-filled based on supplies of previous periods reported in GSTR-1/IFF but paid in the current period.
- **Flexible ITC Cross-Utilization:** After full utilization of IGST ITC, taxpayers can use CGST and SGST ITC in any sequence for payment of IGST liability.
- **Interest in GSTR-10:** In case of cancelled registrations, interest on delayed filing of the last GSTR-3B will be collected through GSTR-10.



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