

Indirect Tax Newsletter

July 2025

CBIC clarifies Review and Appeal Process for CAA orders under CGST Act: Circular

The Central Board of Indirect Taxes and Customs (CBIC) has issued a circular to clarify that in cases adjudicated by a Common Adjudicating Authority (CAA), the Principal Commissioner or Commissioner of Central Tax under whose jurisdiction the CAA is posted shall act as the Reviewing Authority under Section 107 and the Revisional Authority under Section 108 of the CGST Act, 2017. This was clarified in Circular No. 250/07/2025-GST, dated 24-06-2025.

About the Update

The Central Board of Indirect Taxes and Customs (CBIC) has issued a circular to clarify the authorities responsible for review, revision, and appeal of Orders-in-Original (O-I-Os) passed by Common Adjudicating Authorities (CAAs) in cases arising from show cause notices issued by the Directorate General of GST Intelligence (DGGI). It has been specified that the Principal Commissioner or Commissioner of Central Tax, under whose jurisdiction the CAA (Additional/Joint Commissioner) is posted, shall function as the Reviewing Authority under Section 107 and the Revisional Authority under Section 108 of the CGST Act, 2017. Appeals against such orders shall lie before the Commissioner (Appeals) having jurisdiction over the Commissionerate in which the CAA is posted, as per Table III of Notification No. 02/2017-Central Tax, dated 19-06-2017. The same Commissionerate will also be responsible for representing the department in the related appeal proceedings.

Non-editable GSTR-3B liability- effective from July 2025 tax period.

GST Portal provides a pre-filled GSTR-3B, where the tax liability gets auto-populated based on the outward supplies declared in GSTR-1/ GSTR-1A/ IFF. As of now taxpayers can edit such auto populated values in form GSTR 3B itself. With introduction of form GSTR 1A, taxpayer now has a facility to amend their incorrectly declared outward supplies in GSTR-1/IFF through GSTR-1A, allowing them an opportunity to correct their liabilities before filing their GSTR-3B in the same return period.

In view of the same, from July,2025 tax period for which form GSTR 3B will be furnished in August,2025 such auto populated liability will become non editable. Thus, taxpayers will be allowed to amend their auto populated liability by making amendments through form GSTR 1A which can be filed for the same tax period before filing of GSTR 3B.



Intermediary Services Under GST: A Critical Analysis of Judicial Precedents

Introduction

The concept of “intermediary services” under the Goods and Services Tax (GST) regime has emerged as one of the most contentious areas of tax litigation in India. The distinction between direct service provision and intermediary services carries significant implications for tax liability, place of supply determination, and eligibility for input tax credit refunds. This article examines the evolving jurisprudence surrounding intermediary services through an analysis of key judicial pronouncements that have shaped the current understanding of this complex provision.

Legal Framework and Constitutional Challenges

The foundational case of *Material Recycling Association of India v. Union of India* decided by the Gujarat High Court in 2020 established crucial precedents regarding the constitutional validity of intermediary service provisions. The Court upheld Section 13(8)(b) of the Central Goods and Services Tax Act, 2017, ruling that the provision is neither ultra vires nor unconstitutional. The judgment clarified that for intermediary services, the place of supply is determined by where the service is actually supplied, not where the recipient is located. However, the Court’s observations regarding the “artificial distinction” created by treating intermediary services differently when the final recipient is outside India merit attention. This distinction potentially undermines GST’s fundamental principle as a destination-based consumption tax, creating anomalies in the tax structure that may require legislative intervention.

The Principal-Agent Distinction: A Critical Test

The jurisprudence has consistently emphasized the importance of distinguishing between entities acting as principals versus those functioning as intermediaries or agents. The *Ernst & Young Ltd. v. Union of India* case, decided by the Delhi High Court in 2023, exemplifies this principle. The Court held that where an assessee directly provides professional services rather than facilitating or arranging such services between an overseas entity and a third party, the services do not constitute intermediary services. This distinction is crucial because it determines not only the tax treatment but also the eligibility for various benefits under the GST regime. The Court’s analysis focused on the substance of the transaction rather than its form, examining whether the entity was genuinely facilitating a transaction between two other parties or was itself the principal service provider.



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Cloud-Based Services and Modern Business Models

The *Boks Business Services Pvt. Ltd. v. Assistant Commissioner* case before the Delhi High Court in 2023 addressed the application of intermediary service provisions to modern, technology-enabled business models. The assessee, engaged in bookkeeping, payroll maintenance, and accounting services through cloud technology, successfully argued that it acted as a principal service provider to its UK-incorporated affiliated entity. The Court’s decision to allow the refund claim for unutilized input tax credit in respect of zero-rated supplies demonstrates the judiciary’s recognition that technological advancement in service delivery does not automatically transform a principal-agent relationship into an intermediary arrangement. The judgment reinforces that the legal character of the relationship, not the technological means of service delivery, determines the tax treatment.



Evidentiary Standards and Administrative Challenges

The BlackRock Services India Pvt. Ltd. case decided by the CESTAT Chandigarh in 2022 highlights the evidentiary challenges inherent in intermediary service determinations. The adjudicating authority initially rejected the appellant's refund claim, arguing that IT support services constituted "intermediary service" with the place of supply in India. However, the Tribunal found no evidence supporting the conclusion that the appellant acted as an intermediary between the overseas entity and its clients.

This case underscores the importance of proper documentation and evidence in establishing the true nature of service relationships. The Tribunal's decision to classify the services as export services, qualifying for input tax credit refunds, demonstrates that administrative authorities must base their determinations on concrete evidence rather than presumptions about the nature of services.

The Analog Devices India Pvt. Ltd. case decided by the CESTAT Bangalore in 2019 addressed the specific context of subsidiary-holding company relationships. The Tribunal held that consulting engineering services and business auxiliary services provided by an Indian subsidiary to its Netherlands-based holding company did not constitute intermediary services.

This decision is particularly significant for multinational corporations operating through subsidiary structures. The judgment clarifies that the mere existence of a subsidiary-holding company relationship does not automatically create an intermediary service arrangement, provided the subsidiary acts as the principal service provider.



Challenges and Future Considerations

Despite the clarity provided by these judicial precedents, several challenges remain. The artificial distinction identified in the Material Recycling Association case continues to create compliance complexities for businesses with international operations. The determination of whether a service constitutes an intermediary service often involves complex factual analysis that may vary between cases with similar fact patterns.

Furthermore, the rapid evolution of digital business models continues to test the boundaries of existing legal frameworks. As businesses increasingly adopt hybrid models that combine elements of principal service provision with facilitative functions, the traditional binary classification may prove inadequate.

Conclusion

The judicial treatment of intermediary services under GST reflects a mature understanding of the complex commercial relationships that characterize modern business operations. The courts have consistently prioritized substance over form while maintaining respect for genuine business arrangements. However, the identified policy inconsistencies and the challenges posed by evolving business models suggest that legislative clarification may be necessary to ensure the long-term coherence of the GST framework.

For tax practitioners, these precedents provide valuable guidance on structuring client relationships and maintaining appropriate documentation. The emphasis on evidentiary standards and the substance-over-form approach requires careful attention to the operational realities of service delivery arrangements. As the jurisprudence continues to evolve, practitioners must remain vigilant to new developments while ensuring compliance with established principles.

The intermediary services provisions represent a microcosm of the broader challenges facing the GST regime in balancing administrative efficiency with commercial reality. The judicial response to these challenges provides a foundation for future development while highlighting areas where legislative intervention may be necessary to achieve the full potential of India's destination-based consumption tax system.

GST Return Late Fee: Penalties, Calculation & Impact

In the India the Goods and Services Tax (GST) system, a unified taxation system for the supply of goods and services or both, it aimed to streamline the indirect tax structure, enhance compliance, and boost revenue collection. However, to ensure timely compliance, the GST law imposes penalties for delays also a kind of punishment to taxpayers, commonly known as late fee deals U/s 47 of the CGST Act-2017 compute on daily basis. The concept of the late fee under GST plays a crucial role in encouraging taxpayers to file their returns on time and maintain discipline in the tax administration system.

Bare Act

Under Section 47 of CGST Act-2017, headed under Levy of late fee, says –

(1) Any registered person who fails to furnish the details of outward or supplies required under section 37 or returns required under section 39 or section 45 or section 52 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory

Analysis

In the accordance of Section 47 of CGST Act-2017 the following GST returns attracted late fee when they filled after due date as;

GSTR-1 (Sec-37): Monthly or quarterly return for outward supplies.

GSTR-3B (Sec-39): Summary return of inward and outward supplies and payment of tax.

GSTR-4 (Section 44): Return for composition taxpayers.

GSTR-8 (Sec-45): Return for e-commerce operators.

GSTR-9 & 9C (Sec 44) : Annual return and reconciliation statement.

GSTR-10 (Sec-45): Final return on cancellation of registration.

The late fee is automatically calculated by the GST portal at the time of filing delayed returns it must be paid in cash from the electronic cash ledger and cannot be adjusted using input tax credit also it impact on input tax credit of taxpayer, the proper officer can exercise proceedings to block ITC, although in Indian law system prescribe one punishment for one offence because late fee is a type of economic punishment and same block ITC, also it has following other effects;

Filing of subsequent returns may be blocked if outstanding late fees from previous periods remain unpaid.

Continuous delay in filing returns can lead to significant financial liability.

Delays can prevent filing future returns due to portal restrictions.

Non-compliance may affect a taxpayer's reputation and business standing.

Persistent default may invite scrutiny, show-cause notices, and penalties.

When GST returns filed late, taxpayer want waiver or reduction of late fee scheme and in this regard the government on the recommendation GST Council may, by notification, waive or reduce the late fee in certain circumstances to provide relief to taxpayers. For instance, during the COVID-19 pandemic, late fees were waived or reduced for delayed returns to ease the compliance burden during lockdowns and disruptions.



Conclusion

The late fee under GST serves as a deterrent against non-compliance and promotes timely filing of returns. While it is essential for enforcing discipline in the tax system, it should be balanced with reasonable relief provisions for genuine hardships. The government's proactive approach in waiving or reducing late fees in special circumstances reflects an understanding of practical challenges faced by taxpayers. As GST evolves, the compliance structure, including the imposition of late fees, must remain robust yet taxpayer-friendly



CASE LAW UPDATE

Service of Notice by Making It Available on GST Portal Is Sufficient | HC

Case Name: T.K Navas Versus Commissioner Of Goods and Service Tax

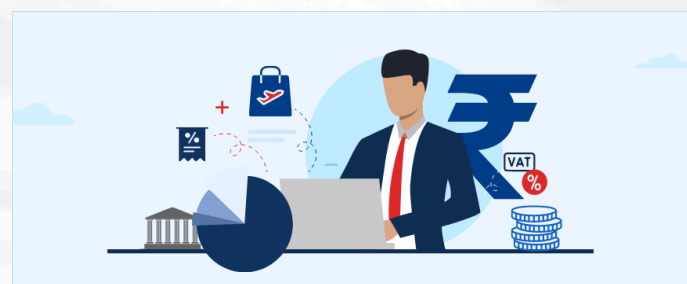
Case number: WP(C) No. 20976 Of 2025

Date of Judgement/Order: 09.06.2025

Facts: The petitioner challenging an order passed under Section 73 of the CGST/SGST Act, 2017. The petitioner contended that the impugned order was issued without proper service of notice. Although the notice was uploaded on the GST portal, the petitioner argued that it was not served through any of the methods specified under clauses (a), (b), or (c) of Section 169(1) of the Act. Based on this, the petitioner alleged that there was a violation of the principles of natural justice, and that the order was liable to be set aside.

Held: The High Court observed that Section 169(1)(d) of the CGST/SGST Act clearly provides that making a notice available on the common portal constitutes valid service. The Court further relied on a precedent—where a Division Bench had held that service of notice through the portal is sufficient for the purposes of initiating or continuing proceedings under the Act.

Therefore, the Court held that there was no violation of principles of natural justice and that the service of notice in the present case was legally sufficient. Accordingly, the writ petition was dismissed, though the Court clarified that this would not prejudice the petitioner's right to pursue any other statutory remedy available under the law.



Karnataka GST Dept issues GST notices to traders based on UPI transaction data

The Karnataka Commercial Tax Department has clarified recent media reports concerning notices issued to small traders regarding Goods and Services Tax (GST) compliance. The department initiated this action by collecting Unified Payments Interface (UPI) transaction data from various service providers for the financial years 2021-22 to 2024-25. These notices target traders whose UPI receipts alone exceeded Rs 40 lakh, indicating a potentially higher overall annual turnover when factoring in cash and other transaction modes.

Under Section 22 of the GST Act, which came into effect on July 1, 2017, GST registration is mandatory for suppliers of goods with an aggregate annual turnover exceeding Rs 40 lakh, or for service suppliers exceeding Rs 20 lakh. This aggregate turnover includes both exempted and taxable goods and services, though tax liability only applies to the latter. For instance, while bread sales are exempt, snacks may incur a 5% tax. The department's notices require recipients to provide details of their sold goods and services to ensure correct tax payment. Traders who receive such notices and meet the turnover thresholds are required to register immediately. The department also highlighted that small traders with an annual turnover below Rs 1.5 crore have the option to choose a compromise tax scheme, allowing them to pay a reduced 1% tax going forward.

Many TV and print media outlets in Karnataka have reported on the notices issued by the Commercial Tax Department to small traders. The Commercial Tax Department has provided the following information regarding this.

The Goods and Services Tax Act has come into force across the country from July 1, 2017. Under Section 22 of the Act, if the aggregate turnover of a supplier of goods exceeds Rs 40 lakh in a financial year or if the aggregate turnover of a supplier of services exceeds Rs 20 lakh in a financial year, it is mandatory to get GST registration. This aggregate turnover includes exempted & Taxable goods and services. But the tax liability is applicable only to Taxable goods & services. The tax liability is determined according to the goods sold.

The Commercial Taxes Department has collected the details of the money received by traders through Unified Payments (UPI) from various UPI service providers from 2021-22 to 2024-25. Traders receive money not only through UPI but also in cash and other modes. Therefore, the annual turnover of traders who have received money more than Rs 40 lakh through UPI is still significantly higher. After verifying the said information, notices have been issued to traders who have received money more than Rs 40 lakh and have not registered and paid tax under the Goods and Services Tax Act – 2017. In response to these notices, the traders have to provide details of the goods and services they have sold and pay the correct tax.