

GSTATION

A Monthly GST Litigation Newsletter



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Rajasthan HC Upholds Section 16(2)(c) of CGST Act

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- P.P. Kharpatil Constructions Pvt. Ltd. vs. Union of India & Ors.
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Where Tax Meets Process, this month's edition of GSTATION explores how GST litigation is increasingly shaped not merely by questions of tax liability, but by the statutory conditions, procedural safeguards, and evidentiary boundaries that determine how that liability is established and enforced.

Our Cover Story, **Supplier-Tax Requirement for GST Input Tax Credit**, examines the Rajasthan High Court's decision in *Sumetco Alloys Private Limited v. Union of India*, where the Court upheld the constitutional validity of Section 16(2)(c) of the CGST Act and treated payment of tax by the supplier as a statutory condition for availing Input Tax Credit. The decision also leaves open the factual question of bona fide transactions for consideration by the appellate authority.

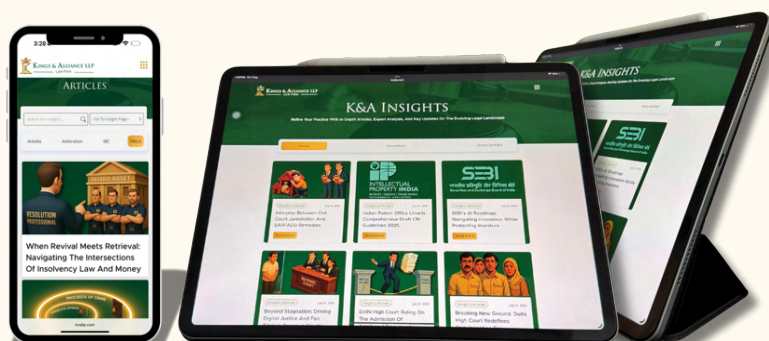
The In-Depth Analysis section turns to four significant developments. The Rajasthan High Court's decision in *Nagaur Mukundgarh Highways* examines the GST treatment of annuity payments received under highway construction agreements. The Calcutta High Court's decision in *Goutam Engineering Concern* considers whether services completed before the introduction of GST can subsequently attract GST merely because approval and billing occurred later. The Delhi High Court's ruling in *Puneet Batra* explores the limits of advocate-client privilege during GST investigations, while *Neha v. Union of India* considers the safeguards required where Aadhaar and PAN details are allegedly misused to obtain fraudulent GST registrations.

The Case Laws section highlights further developments concerning GST document authentication, appellate remedies, portal access, seizure powers, and appeals against rejection of advance ruling applications.

Together, these developments reveal a GST regime where substance and procedure increasingly move hand in hand. Whether the issue is claiming credit, determining taxability, conducting an investigation, or exercising statutory powers, the manner in which GST law is applied can be as significant as the liability itself.

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COVER STORY

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Supplier-Tax Requirement for GST Input Tax Credit: Rajasthan HC Upholds Section 16(2)(c) of CGST Act



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Rajasthan High Court Upholds GST Levy on Annuity Payments for Road Construction Services in Nagaur Mukundgarh Highways Pvt. Ltd. v. CBIC



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COVER STORY

Supplier-Tax Requirement for GST Input Tax Credit:
Rajasthan HC Upholds Section 16(2)(c) of CGST Act

Credit Comes Conditional



The Rajasthan High Court has upheld the constitutional validity of Section 16(2)(c) of the Central Goods and Services Tax Act, 2017, holding that actual payment of tax by the supplier to the Government is a statutory condition for the recipient to avail Input Tax Credit (ITC). In *Sumetco Alloys Private Limited v. Union of India*, the Court also declined to read down the provision to protect bona fide purchasers. However, the Court did not determine whether the petitioner's transactions were in fact bona fide or whether the demand was ultimately sustainable. Those issues were left open for consideration by the statutory appellate authority.

The petitioner, Sumetco Alloys Private Limited, challenged the constitutional validity of Section 16(2)(c), alleging that the provision was arbitrary and violative of Article 14 of the Constitution. The challenge arose in the context of a GST demand of ₹56,44,08,265 for the financial years 2020–21 to 2023–24. The petitioner also sought quashing of the show cause notice dated 26 September 2025 and the Order-in-Original (O-I-O) dated 10 April 2026. The petitioner maintained that its purchases were genuine and that it had maintained records including tax invoices, banking records, e-way bills, transport documents, weighment slips and other supporting material. It contended that ITC should not be denied merely because of a default attributable to suppliers over whom it had no control. The Department, however, had alleged wrongful avilment of ITC in relation to purchases from certain suppliers. The Show Cause Notice (SCN) alleged fake invoices, bogus supplies and...

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Rajasthan High Court Upholds GST Levy on Annuity Payments for Road Construction Services in Nagaur Mukundgarh Highways Pvt. Ltd. v. CBIC

Road to Taxation



The Rajasthan High Court, in *M/s Nagaur Mukundgarh Highways Pvt. Ltd. v. Central Board of Indirect Taxes and Customs*, upheld the levy of Goods and Services Tax (“GST”) on annuity payments received under concession agreements for highway projects. The Division Bench held that the services undertaken under the agreements constituted taxable works contract services and that the exemption under Entry 23A of Notification No. 12/2017-Central Tax (Rate) did not extend to deferred payments made for road construction. The Court also upheld CBIC Circular No. 150/06/2021-GST dated June 17, 2021.

The Petitioner challenged the Circular, a show cause notice dated December 9, 2022 and a recovery order dated July 7, 2023 concerning GST on annuity payments. Under the concession agreement with the National Highways Authority of India (“NHAI”), 50% of the project cost was payable in five equal installments during construction, linked to physical-progress milestones. The remaining 50% was payable in 20 biannual installments during the operation period. These deferred installments were described as “Annuity Payments”, payable over ten years from commencement of operations, along with interest. The dispute concerned whether deferred payments under a highway construction concession could qualify for the specific exemption under Entry 23A. Notification No. 12/2017-Central Tax (Rate), issued under Section 11 of the Central Goods and Services Tax Act, 2017 (“CGST...

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No GST Liability on Pre-GST Services: Calcutta High Court in M/S Goutam Engineering Concern Vs. WBSEDCL



TAX

CANNOT TIME-TRAVEL

A tax dispute before the Calcutta High Court turned on an evidently simple yet tricky question of law: Can a Service completed before the introduction of the GST regime be subject to GST because the work was post facto approved and billed after the introduction of the GST regime?

M/S Goutam Engineering Concern deployed technical personnel for repairs and maintenance of electric feeder lines between January 1, 2015 and December 31, 2015, originating from Belmuri 33/11 KV Sub-Station. The work received post-facto approval on an order dated February 26, 2018. The Petitioner submits that despite completing the work within the allotted time and submitting the bills, the respondents have not released the amount payable. The respondents relied on the argument that the Petitioner has not completed the requisite formalities for GST registration and has withheld ₹19,91,148. The dispute has reached the High Court.

Goutam Engineering Concern was provisionally enlisted as an erection contractor under the Distribution Wing of the West Bengal State Electricity Distribution Company Limited (WBSEDCL), and its work includes deploying technical personnel to repair and maintain electrical lines within its allotted working area in Hooghly. The Petitioner company was entrusted by WBSEDCL from time to time for various works. The Petitioner always executed them without any complaints or adverse remarks. In 2015, the Petitioner company was asked...

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Delhi High Court Clarifies Limits of Advocate-Client Privilege in GST Investigation in Puneet Batra v. Union of India & Ors

PRIVILEGE, NOT IMMUNITY



The Delhi High Court, in *Puneet Batra v. Union of India & Ors.* examined the limits of advocate-client privilege in the context of a GST investigation. The Court upheld a search conducted at the premises of Bass Legal LLP, including the cabin used by advocate Puneet Batra, and the seizure of his computer and documents. At the same time, it reaffirmed that genuinely privileged communications and confidential material of unrelated clients remain entitled to protection.

The proceedings arose from an investigation concerning Matkarma Technology Pvt. Ltd. (MTPL), for which Batra had provided professional services relating to taxation and corporate compliances. The GST Department had earlier searched MTPL's premises in September 2024. Batra subsequently received summons and furnished statements concerning his role. On July 24, 2025, the Additional Commissioner, Anti-Evasion, CGST Delhi East Commissionerate, authorised a search under Section 67(2) of the Central Goods and Services Tax Act, 2017. The search was conducted at Bass Legal on July 25, 2025. Documents relating to MTPL were seized and the CPU from Batra's cabin was also taken into custody. Batra challenged the search, contending that the seized electronic material could contain privileged communications concerning MTPL and other clients. He argued that advocate-client confidentiality prevented the Department from accessing such material. The Department, however, maintained that the investigation had generated material indicating that Batra's role potentially extended beyond that of a legal adviser and that he may have...

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PIVOTAL ISSUES

Aadhaar Authentication in GST Registration: Delhi High Court Seeks Stronger Verification Safeguards

No Verification = No GST



One fine day, you decide to start your own business. After months of work and investment, you reach the final step: obtaining a GST registration. However, when you apply, you discover that a GST registration already exists in your name, created using your Aadhaar and PAN details. You never applied for it, yet your identity is now linked to a business you have nothing to do with.

This question was encountered before the Delhi High Court in *Neha Vs. Union of India & Ors.*, The case was initiated on the allegation that someone had obtained a fraudulent GST registration using the Petitioner's Aadhaar and PAN details. What started as an individual grievance became a question that challenged how GST registrations were verified.

GST registration is generally the first step a business takes to enter the GST system. It creates a formal identity for the person or entity registered under the GST law. It was not the first instance that courts have faced similar issues. An earlier petition, *Vikram Kaushal Vs. The Director General of Income Tax (Investigation) & Ors.*, raised a congruent issue. The Court concern developed from two separate petitions, both involving fraudulent GST registrations. On August 21, 2026, the Court, while hearing the matter, noted that the Petitioners alleged that others had used their Aadhaar and PAN details to obtain a fraudulent GST registration. The Courts added that if these allegations are correct, fraudulent registrations can be created in the names of innocent individuals, followed by...

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“A login authenticates access. A signature authenticates content”, Rajasthan HC Invalidates ₹11,76,97,600/- GST Demand over unsigned SCN and OIO.

In *Star Raison Landmarks vs. Chief Commissioner State Tax Commercial Taxes Department & Ors.*, D.B. Civil Writ Petition No. 8893/2024, the Rajasthan High Court, Jaipur Bench scrutinised whether an SCN and an adjudication order that is neither digitally signed nor physically signed, sustains in law.

The Petitioner, a real estate project developer, challenged a Show Cause Notice (SCN) dated September 23, 2023 and Order-in-Original (OIO) dated December 19, 2023, along with the recovery proceedings. The dispute arose from scrutiny proceedings initiated under Form ASMT-10 on November 29, 2022, followed by the Petitioner's reply. The demand on the GST Portal reflected Rs. 11,76,97,600/-, and a recovery notice under Section 79 in Form DRC-13 was issued, pursuant to which the Petitioner's bank account was frozen. The Petitioner initially approached the Rajasthan HC by filing D.B. Civil Writ Petition No. 7722/2024 on May 10, 2024, along with the certified copies of the OIO and Recovery Notice. The earlier petition was withdrawn, leading to this present writ petition. The Petitioner argued that the four documents uploaded on the portal lacked both physical and digital signatures and were therefore non est in law, viz., SCN under Section 73, Form DRC-01 under Rule 142(1)(a) of the CGST Rules, 2017, OIO under Section 73 and Form DFRC-07.

The Respondents contended that the documents were authenticated through the GST Portal, and the Petitioners had bypassed the appeal remedy given under Section 107 of the CGST Act, 2017, which allows an appeal within 3 months, extendable by one month. The Court emphasised and relied on Rule 26(3) of the CGST Rules, 2017, and held that the Rule mandates authentication, does not recognise a “Deemed Signature”, and admits no exceptions. The Court quashed the SCN & OIO, set aside the recovery and bank account attachment, while allowing fresh proceedings under Rule 26(3).



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An Unavailable GST Order Cannot Impede the Right to Appeal: Bombay High Court in P.P. Kharpatil Constructions Pvt. Ltd. v. Union of India & Ors.

In P.P. Kharpatil Constructions Pvt. Ltd. vs. Union of India & Ors., Writ Petition No. 3149 of 2026, the Bombay High Court decided whether a taxpayer can appeal when the order is not uploaded on the GST portal.

The Petitioner, P.P. Kharpatil Constructions Pvt. Ltd., intended to challenge a rectification order before the appellate authority. However, the order had not been uploaded to the GST portal, due to which the Petitioner could not file the appeal electronically. The Petitioner approached the Bombay High Court seeking legal recourse to challenge the order.

The Respondents drew upon the CGST (Central Goods and Services Tax) (Second Amendment) Rules 2023, issued through Notification No. 38/2023- Central Tax dated August 4, 2023. Under the amended Rule 108(1) of the CGST Rules, appeals are generally required to be filed electronically. On the other hand, the proviso to this rule permits a manual appeal to be filed in Form GST APL-01 when the appeal cannot be filed electronically because the order being challenged is not available on the GST portal. The Respondent further submitted that the Petitioner may file the appeal manually, along with the relevant documentation, if the electronic mode of appeal is unavailable on the common GST portal. The Petitioner contended that this option had not been communicated to him, despite several attempts and multiple representations. The Petitioner requested permission to file the appeal within four weeks.

The Court allowed the Petitioner to file an appeal and also directed that no objection to limitations should be raised if the appeal was filed within the prescribed four weeks. The Court clarified that the absence of an order on the GST portal does not leave the taxpayer without a remedy.



[VIEW JUDGEMENT](#)





GST Portal to be Restored if Taxpayer is found Bona Fide: Calcutta High Court in Chandan Kumar Giri v. The State of West Bengal & Ors.

In Chandan Kumar Giri vs. The State of West Bengal & Ors., WPA 23778 of 2026, the Calcutta High Court dealt with the issue of whether a taxpayer whose GST portal access has been blocked amid the proceedings for cancellation of registration could seek a remedy regarding restoration of the portal to furnish Form GSTR-1 under Section 37 of the CGST/WBGST Act, 2017.

The Petitioner, registered under the trade name Goswami Enterprise, was engaged in the trading of coal and challenged the freezing of his GST portal access, which prevented him from furnishing Form GSTR-1 and adversely affected his daily business activities. A Show-Cause Notice (SCN) dated July 8, 2026, was issued for cancellation of GST registration under Rule 21(a) and Rule 21(b) of the WBGST Rules, 2017, alleging non-operation from the declared place of business and issuing fake invoices. The Petitioner replied and was called for a hearing, followed by a Rule 56(18) notice under the WBGST Rules, 2017.

The GST department opposed the petition and submitted that a field inspection was conducted under Section 71 of the WBGST Act, 2017, under the direction of the Additional Commissioner of Revenue and the Charge Officer, Barasat Charge. The department found anomalies and noted the Petitioner's admission that he had no coal stock point or godown at the registered place of business. Thus, it concluded that the registration was illegal. The Court directed the Petitioner to submit a representation in response to the July 31, 2026, notice within two weeks. The authority was directed to consider it, provide a personal hearing, and pass a reasoned order within four weeks.

The Court further directed that, if the authority found that the Petitioner was entitled to be treated as a bona fide registered proprietor, the GST portal was to be activated within 48 hours, thereby enabling him to furnish Form GSTR-1. The petition was disposed of without entering into the merits.



[VIEW JUDGEMENT](#)





₹11 Lakh Seized During GST Search: Gauhati High Court rules Seizure Illegal in Ankit Choudhary v. The Union of India & Ors.

In *Ankit Choudhary v. The Union of India & Ors.*, WP(C)/2513/2026, the Gauhati High Court examined whether cash, as a non-physical good, falls within the scope of items that can be seized under Section 67(2) of the CGST Act, 2017.

The Petitioner, the owner of M/S Ankit Enterprises, challenged the order regarding the articles seized during a search conducted on June 5, 2025. Rs. 11,00,000/- in cash, two mobile phones, three pen drives and an ICICI Bank card were seized from the Petitioner. The Petitioner contended that since cash does not fall within the purview of the words goods or things, as envisaged in Section 67(2) of the CGST Act, it cannot be seized under the said section.

The Court referred to the judgments in *Deepak Khandelwal v. Commissioner of CGST, Delhi West* (2023) 116 GSTR 278 (Delhi) and *B. Kusuma Poonacha v. Senior Intelligence Officer, DGCI* (2024) SCC Online Kar 76, and held that cash is not an article that can be seized under Section 67(2) of the CGST Act.

The Court therefore held the seizure of Rs. 11 lakh illegal. As the authorities refunded the amount on August 19, 2026, the Court directed the authorities to compute the interest and pay it to the Petitioner within six weeks. The Court observed that a show-cause notice had already been issued. The Investigating Officer was, hence, directed to hand over the articles to the Petitioner immediately upon handing over a certified copy of this order with the necessary acknowledgement. The writ petition was disposed of.



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Tamil Nadu AAAR Holds Appeal Inadmissible Against AAR Rejection Under Section 98(2) of the CGST Act, 2017 in M/s. Aditya Birla Global Trading (India) Private Limited v. Authority for Advance Ruling, Tamil Nadu

In M/s. Aditya Birla Global Trading (India) Private Limited v. Authority for Advance Ruling, Tamil Nadu, A.R. Appeal No. 3/2026/AAAR, Order No. AAAR/07/2026 (AR), the Tamil Nadu State Appellate Authority for Advance Ruling (AAAR) considered whether an appeal could be filed against an AAR order rejecting an application under Section 98(2) of the CGST Act, 2017.

The Appellant was involved in the import and trade of merchandise, as well as cargo-handling services, each with its own Sales and Service Agreement and invoices for each submission. The Appellant requested a ruling on whether the delivery of merchandise and cargo-handling services could be considered two independent services, and, if so, how those services would be classified. The Advance Ruling Authority in Tamil Nadu denied the application based on the first proviso in Section 98(2) of the CGST Act, 2017, because the matter had already been decided previously by the relevant Additional Commissioner in CGST Kutch in its Order-in-Original (O-I-O).

Before the AAAR, the Appellant contended that the earlier proceedings concerned different contractual arrangements and a Show Cause Notice (SCN) alleging that cargo-handling services had not actually been provided. It argued that the present application concerned a prospective determination based on materially revised contractual terms, including changes relating to title, storage, security, insurance, bailment and cargo movement. The Appellant therefore submitted that the two proceedings involved different factual and legal issues.

The AAAR, however, examined the maintainability of the appeal under Section 100(1) of the CGST Act, 2017. It held that an appeal before the Appellate Authority for Advance Ruling lies only against a ruling pronounced under Section 98(4) of the CGST Act, 2017. Since the AAR had rejected the application under the first proviso to Section 98(2) of the CGST Act, 2017, the AAAR held that the appeal was not admissible and dismissed it on that ground. The AAAR accordingly declined to examine the Appellant's arguments on the contractual structure or classification.

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TRAINING AND EVENTS

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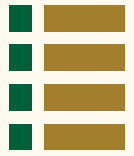
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