THE INDIRECT EDGE

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Fortnightly Newsletter

BANSI S. MEHTA & CO.

I. JUDICIAL PRONOUNCEMENTS

GOODS AND SERVICES TAX

GST exemption upheld for leasing of residential premises for hostels

The Apex Court in **State of Karnataka v. Taghar Vasudeva Ambrish & Anr.**[1] has held that leasing of a property for the purpose of providing hostel accommodation qualifies as "renting of residential dwelling for use as a residence" and is therefore exempt from GST.

The Court clarified that the determinative test is the nature and end-use of the property, and not the identity of the lessee. The exemption under GST is activity-based rather than person-based, and the residential character of the premises is not lost merely because the accommodation is operated as a hostel.

It was further held that where the property is used for residential purposes, such as long-term stay by students or working professionals, the exemption cannot be denied solely on the ground that the premises are run as a hostel.

The Court also ruled that the 2022 amendment withdrawing the exemption for renting of residential dwellings to registered persons operates prospectively. Accordingly, for the period 2019 to 2022, the taxpayer was entitled to claim the GST exemption.

Section 16(2)(aa) of the CGST Act read down by Gauhati HC

The question before the Gauhati HC in **M/s. McLeod Russel India Ltd. v. UoI & Ors.**[2] was whether section 16(2)(aa) of the CGST Act, which makes a recipient's ITC contingent upon the supplier uploading invoice details in their GSTR-1, is unconstitutional.

While examining this issue, the Court observed that the law is well settled that a person who claims exemption or concession, must establish that the exemption or concession is available.

Further, the Court held that since the object of said provision is to prevent fraudulent ITC claims and to promote supplier compliance, section 16(2)(aa) serves a cannot be held unconstitutional. However, the Court agreed to read down the said provision to the extent that ITC cannot be denied to a bona fide purchaser without first giving them an opportunity to establish the authenticity of the transaction by producing tax invoices and other supporting documents.

Thus, the Court upheld the said provision, however, its application was moderated to safeguard the rights of bona fide recipients till CBIC issues a practical compliance mechanism to address the difficulty faced by recipients.

[1] 2025 (12) TMI 505 – SC.

[2] 2025 (12) TMI 756- Gauhati HC.

Central Sales Tax

Situs of intangible asset follows the situs of owner.

The issue before the Bombay HC in **The Duphar Interfran Ltd. v. State of Maharashtra**[3] was whether the assignment of the trademark "Crocin" by the Indian company to a UK-based company constituted a local sale liable to 4% sales tax in Maharashtra, or whether it qualified as a sale during export u/s. 5(1) of the CST Act.

The Court held that a trademark, being an intangible property, follows the situs of its owner after applying the well-established principle *mobilia sequuntur personam* i.e., movables follow the person. Further, relying on its earlier rulings, the Court observed that intangible assets do not have a physical location; therefore, their situs is determined by the location of the owner. Since the assignee company was located in the UK, the situs of the trademark "Crocin" shifted outside India upon assignment, amounting to an export of goods under Section 5(1) of the CST Act.

The Court also rejected the argument that the place of registration of the trademark determines its situs, noting that registration neither creates nor alters the underlying right, and assignment is legally complete even prior to recording it with the Registrar. Accordingly, the assignment of the trademark constituted a sale in the course of export and could not be taxed as a local sale within Maharashtra.

II. CIRCULARS

GOODS AND SERVICES TAX

GST Advisory: Auto-population of Table 3.2 in GSTR-3B from November 2025

The GST Portal has issued an advisory stating that from the November 2025 return period onwards, values reported in Table 3.2 of GSTR-3B (inter-State supplies to unregistered persons, composition taxpayers and UIN holders) will be system-generated and non-editable. These figures will be auto-populated from GSTR-1, GSTR-1A and the IFF.

Any corrections to Table 3.2 must be made only through GSTR-1A for the same tax period, following which the revised values will automatically reflect in GSTR-3B. As GSTR-3B will fully rely on auto-populated data, taxpayers are advised to ensure accurate and timely reporting in GSTR-1/GSTR-1A/IFF to avoid discrepancies.

[3] 2025 (11) TMI 1432 - Bombay HC.

III. NEWS UPDATES

Delay likely in December rollout of state GSTAT benches

The rollout of state benches of the GSTAT is expected to miss its planned December 2025 start due to delays in staffing and infrastructure readiness. Although the principal bench in New Delhi is ready, but most states have yet to appoint their technical members, with only a few (such as Uttar Pradesh and Gujarat) having done so far. As a result, the tribunal is not yet operational, leaving around 600,000 GST-related appeals pending, which experts say is hurting taxpayer confidence in the dispute resolution system.

Centre acknowledges flaws in e-way bill mechanism

The Centre has acknowledged gaps in the GST e-way bill system flagged by the CAG, including generation of multiple e-way bills for the same invoice, use of cancelled GSTINs, and e-way bills being generated by non-filers of returns. In response, the Government stated that system-level validations and restrictions have been implemented to address these issues, with the aim of strengthening compliance and preventing misuse of the e-way bill mechanism.

Abbreviations	Term
CAG	Comptroller and Auditor General
CBIC	Central Board of Indirect Taxes and Customs
CGST Act	Central Goods & Service Tax, 2017
CGST Rules	Central Goods & Service Rules, 2017
CST Act	Central Sales Tax Act, 1956.
dt.	Dated
GST	Goods & Service Tax
GSTAT	Goods & Services Tax Appellate Tribunal
GSTIN	Goods & Services Tax Identification Number
GSTR	Goods and Services Tax Return
HC	High Court

Abbreviations	Term
IGST	Integrated Goods & Service Tax
IFF	Invoice Furnishing Facility
ITC	Input Tax Credit
SC	Supreme Court
UIN	Unique Identification Number
UK	United Kingdom
u/s.	Under section
UoI	Union of India

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