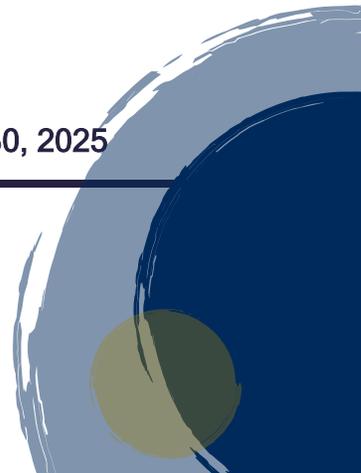




# TAXIENT INSIGHTS

Week 4 - September 2025

September 30, 2025



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## 1. ADVANCE RULINGS

### 1.1. ITC is eligible even if foreign suppliers were paid beyond the 180-day period

The Applicant was a trader of ferrous and non-ferrous metal scrap. It sought an advance ruling on whether the ITC of IGST paid on import of goods remains admissible where payment to the foreign supplier is deferred beyond 180 days from the date of invoice but made within FEMA and RBI guidelines.

The AAR reasoned that the second proviso to Section 16(2) was intended to prevent tax evasion, which is not a concern here as IGST is already paid to the Government upon import. The proviso excludes supplies on reverse charge basis, and IGST on imports is akin to reverse charge with tax discharge to the Government. The proper document for ITC on imports is the Bill of Entry, not the foreign supplier's invoice. The AAR also noted that denying ITC here would treat equals unequally under Article 14 of the Constitution, as payment of IGST to government protects revenue interest. Accordingly, the AAR held that the ITC of IGST paid on import where payment to the foreign supplier is deferred beyond 180 days but made within FEMA and RBI timelines remains admissible and is not required to be reversed.

[Priya Holding Pvt. Limited, 2025-VIL-150-AAR]

**Taxient Comments:** This ruling is a positive and welcome development. It aligns with the principle that revenue is protected once IGST is paid and prevents unfair denial of ITC on technical grounds.

A notable open point is that even if no consideration is paid to the supplier or goods are imported free of cost, IGST is still paid by the importer based on the assessable or notional value, protecting government revenue similarly to the deferred payment case. Therefore, the benefit of this ruling could logically extend to situations of no payment or gifted imports where IGST has already been discharged. However, this aspect merits further legal clarity but aligns with the ruling's principle of protecting revenue through upfront IGST payment.

### 1.2. Demonstration products not treated as free samples under Section 17(5)

The Applicant provided demo samples to specialists for live demonstrations to prospective customers, after which the samples are either scrapped or returned, with applicable GST paid on scrap value. The Applicant sought an advance ruling on whether products issued to product specialists for demonstration purposes should be treated the same as 'Physicians' Samples - Not for Sale' under GST laws and whether any reversal of ITC is required for such demonstration items.

The AAR held that demo products issued to product specialists should not be treated at par with 'Physicians' Samples - Not for Sale' because the key difference lies in the transfer of title.

Physicians' samples involve permanent disposal without consideration, triggering ITC reversal under Section 17(5)(h) of the CGST Act. In contrast, demo products remain the property of the Applicant, are not disposed of at issuance, and merely serve demonstration and marketing purposes. Accordingly, no reversal of ITC is required for such demonstration goods.

[Dynamic Techno Medicals Private Limited, 2025-VIL-152-AAR]

**Taxient Comments:** This ruling provides vital clarity that demonstration products used for business promotion and retained as company assets are distinct from free samples or gifted goods under GST. Businesses can continue claiming ITC on such demo items without any requirement of ITC reversal, provided the goods are accounted as assets in books of account.

### 1.3. ITC balance transfer on merger valid even if businesses are in different States

The Applicant merged its business with two other companies, and subsequent to the merger, the Applicant was the sole resulting entity, with the entire business of the transferee companies transferred to the Applicant. However, the Applicant's attempt to transfer this ITC through the GST portal was disallowed due to a technical restriction stating that the transferor and transferee should belong to the same State. The Applicant sought an advance ruling to determine whether it is legally entitled to transfer the closing ITC balance on account of the merger across different states.

The AAR examined Section 18(3) of the CGST Act, 2017, which provides that where there is a change in the constitution of a registered person due to mergers or transfer of business with specific provisions for transfer of liabilities, the registered person is allowed to transfer the unutilized ITC to the resulting business in the prescribed manner. The AAR clarified that the law does not impose any restriction on interstate transfer of ITC due to merger. Since ITC in question relates only to CGST and IGST (and not SGST, which is state-specific), the Applicant is eligible to transfer the closing ITC balance from the Haryana GSTIN to the Kerala GSTIN. The AAR also stated that the technical issue raised by the GST portal does not override the substantive legal right of the Applicant to transfer ITC on merger, and the Applicant was advised to seek appropriate jurisdictional authority assistance for resolution of the technical restriction.

[Flytxt Mobile Solutions Private Limited, 2025-VIL-153-AAR]

**Taxient Comments:** This ruling confirms an important principle that allows businesses to transfer any unutilized ITC when they merge or their business structure changes, even if the businesses are registered in different states for GST. The principle is based on Section 18(3) of the CGST Act and similar state GST laws, which take priority over technical problems with the GST portal. The Courts have looked closely at this issue, especially in a recent case involving Umicore Autocat India, where it was decided that legal rights to ITC cannot be blocked by system errors. The Bombay High Court asked the GST Council and GST Network to fix the technical issues

and allow such transfers smoothly online. Ongoing legal and administrative updates are expected to make ITC transfers easier and better align with GST laws and business needs.

## 2. OTHER UPDATES

### 2.1. GSTAT Presidential order for filing appeal before GSTAT in staggered manner

The GSTAT has introduced a staggered filing schedule for second appeals to facilitate manageable and orderly processing. The key points on appeal filing timelines are as follows:

- Filing of second appeals before GSTAT is staggered based on the **ARN/CRN date of the initial appeal** filed in Form APL-01/APL-03 or notice in Form RVN-01.
- The GSTAT e-filing system validates the ARN/CRN for eligibility before allowing the appeal filing process to proceed.
- Final deadline for all appeals is June 30, 2026.
- Appeals against orders issued on or after April 1, 2026, must be filed within three months of order communication.
- If ARN/CRN data is unavailable in the GSTN system, the filing window opens from December 31, 2025, to June 30, 2026.
- Appeal filing timeline table is as under:

S. No.	Period of filing of appeal or notice issuance	GSTAT appeal filing window
1.	On or before January 31, 2022	September 24, 2025 - October 31, 2025*
2.	February 1, 2022 to February 28, 2023	November 1, 2025 - November 30, 2025*
3.	March 1, 2023 to January 31, 2024	December 1, 2025 - December 31, 2025*
4.	February 1, 2024 to May 31, 2024	January 1, 2026 - January 31, 2026*
5.	June 1, 2024 to March 31, 2026	February 1, 2026 - June 30, 2026*
*If the designated filing window is missed, the appeal can still be filed subsequently, provided it is submitted on or before the final deadline of June 30, 2026		

- In addition to above, GSTAT website also host extensive guidance through a user manual, FAQs, and user videos to ensure users have a seamless filing experience.

**Taxient Comments:** The staggered filing schedule introduced by the GSTAT represents an important development in managing the vast backlog of appeals efficiently. By allocating specific time windows based on the date of the initial appeal or revisional notice, GSTAT aims to regulate the inflow of cases, prevent portal congestion, and ensure orderly processing. The mandatory e-

filing system, coupled with stringent validation of ARN/CRN numbers, further enhances the appeal process's transparency and accessibility while enabling faster disposals.

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## Thank You!

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