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TAXIENT INSIGHTS

Week 3 of January 2026

January 28, 2026

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1. WRIT PETITIONS

1.1. Orders cannot travel beyond the scope of the SCN

The Petitioner filed writ petition against the order of Appellate Authority which has upheld that order of Adjudicating Authority. Adjudicating Authority confirmed the demand on the Petitioner on ground other than the ones taken in SCN. The SCN alleged under-declaration of turnover in its GSTR-3B returns. However, the final order held the Petitioner liable for an entirely different reason that supplies made under the Reverse Charge Mechanism should have been taxed under the Forward Charge Mechanism.

The Court noted that Section 75(7) of the CGST Act, 2017 prohibits confirmation of demand on any ground other than the grounds specified in the SCN. The Court held that it is now very well settled that an order cannot travel beyond the confines of the SCN. Accordingly, the Court set aside both the Adjudication and Appellate orders and remanded to authority for fresh consideration.

[Vedant Road Carriers Pvt. Ltd. v. AC of West Bengal, 2026-VIL-49-CAL]

In another ruling, the Petitioner filed writ petition against the order of Adjudicating Authority which confirmed the demand on the Petitioner on ground other than the ones taken in SCN. The SCN alleged a need for proportional reversal of ITC on account of exempt supplies. The final Adjudication order, however, was based on a completely different finding that the Petitioner's product itself did not qualify as an exempt supply.

The Court noted that the Adjudicating Authority had fundamentally changed the nature of the allegation from a dispute over ITC calculation to a dispute over product classification without issuing a new SCN. Based on this, the Court quashed the order and remanded the matter to the authority for fresh consideration, as it proceeded on an entirely different ground from the one indicated in the SCN, in violation of Section 75(7).

[Duakem Pharma Pvt. Ltd. v. DC of Revenue, 2026-VIL-76-CAL]

Taxient Comments: The Court correctly noted that Section 75(7) of the CGST Act, 2017 is a statutory expression of the well settled legal principle that an adjudication order cannot travel beyond the confines of the SCN that initiated the proceedings. It emphasized that the SCN is not a mere formality but the legal bedrock of any tax proceeding, and any deviation from it renders the resulting order legally unsustainable. These decisions serve as a critical reminder that the grounds upon which a tax demand is initiated must be the same grounds upon which it is ultimately confirmed. Taxpayers are advised that, upon receipt of any adjudication or appellate order, the first step should be to compare it against the original SCN. If there is any discrepancy in the legal grounds or factual basis on which the demand is confirmed, it forms a strong, preliminary basis for an appeal.

1.2. Enhancement of demand by Appellate Authority without fresh SCN held invalid

The Petitioner filed a writ petition against the Appellate Authority's order, in which the Authority suo motu enhanced the tax liability based on an entirely new issue, alleging 'excess zero-rated supply.' This ground was never part of the original SCN or the order under appeal.

The Court set aside the enhancement, finding a clear violation of Section 107(11), as the Petitioner was never given a prior opportunity to address the new ground. Importantly, the Court noted that the Appellate Authority had carelessly picked up a figure from Form GSTR-3B while ignoring the Petitioner's contention that this figure had been formally corrected in the subsequent annual returns (Forms GSTR-9 and GSTR-9C). The matter was remanded for reconsideration.

[Lakshmi Narayan Shah v. The State of West Bengal & Ors, 2026-VIL-47-CAL]

Taxient Comments: Section 107(11) of the CGST Act, 2017 acts as a crucial check on the powers of the Appellate Authority. It mandates that if the authority intends to enhance a tax liability beyond what was determined in the original adjudication order, it must first provide the taxpayer SCN and a reasonable opportunity to be heard on the specific grounds for the proposed enhancement. Notably, these statutory safeguards are not optional, they are mandatory procedural rights. If not followed, then legal proceedings will be invalid to that extent.

2. ADVANCE RULINGS

2.1. ITC eligibility on fire-fighting and public health systems

The Applicant filed appeal against the order of the Authority for Advance Ruling ('AAR') wherein AAR concluded that ITC on fire-fighting and public health systems is ineligible, as it was specifically blocked under Sections 17(5) of the CGST Act, 2017.

The Appellate Authority for Advance Ruling ('AAAR') concluded that the fire-fighting and public health systems installations do not meet the specific definition of 'plant and machinery' under the GST law. The AAAR drew a critical distinction and noted that while these systems are undoubtedly essential for the factory's safe and legal operation, they are not considered to be used for making the outward supply. Instead, they are viewed as ancillary systems that support the overall functioning of the factory. The AAAR also clarified that mandatory installation of these systems in compliance with the Factories Act, 1948 does not automatically confer ITC eligibility. The specific restrictions on ITC for the construction of immovable property, as laid out in Section 17(5) of the GST law, take legal precedence over general business necessities or other statutory obligations. Basis this, The AAAR dismissed the appeal and upheld the AAR's original ruling.

[Shibaura Machine India Private Limited, 2026-VIL-03-AAAR]

Taxient Comments: The AAAR's view that fire-fighting and public health systems are merely ancillary and not 'used for making outward supply' appears narrow and does not fully align with the functional meaning of 'making outward supply' under GST. While these systems may not participate directly in the physical process of production, they are statutorily mandated and form an inseparable part of the infrastructure without which outward supply cannot be lawfully or continuously made. By separating factory safety from the act of making outward supply, the AAAR ignores that under GST only supplies made in compliance with law and capable of being carried out in practice are treated as taxable outward supplies. Assets that are compulsory for obtaining factory licences, occupancy permissions, and insurance directly enable such supply. Further, Section 17(5) restrictions should be applied only where the asset is in the nature of civil construction and not where it qualifies as a functional apparatus embedded in the manufacturing or service providing ecosystem. A purposive interpretation is required to avoid cascading of tax on mandatory safety infrastructure and to uphold the principle of tax neutrality under GST.

2.2. ITC eligibility on food and beverages by event management industry

The Applicant is engaged in event management and tourism services. A key part of its business involves providing comprehensive packages to corporate clients for events like offsite meetings, conferences, and training programs. These packages typically include hotel accommodation, conference facilities, and Food & Beverages ('F&B') services, for which the Applicant receives consolidated invoices from hotel vendors and, in turn, charges its clients a single event management fee. The Applicant sought advance ruling on multiple aspects of ITC eligibility

arising from its event-based business model, particularly in relation to F&B services bundled with other hotel facilities. The key issues raised included whether ITC on F&B services is admissible in light of the restrictions under Section 17(5) of the CGST Act.

The AAR first acknowledged the general prohibition under Section 17(5)(b)(i) of the CGST Act, 2017 which typically disallows ITC on F&B expenses. However, the AAR also noted the critical exception provided by the proviso to that very section. The proviso states that "*the ITC in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;*"

The AAR concluded that the Applicant's services clearly fall within the stated exception. It held that the principal supply in the present case is event management, with accommodation, conference facilities, and F&B forming naturally bundled and integral components of that supply rather than independent offerings. Since the Applicant's outward taxable supply qualifies as a composite supply of event management services, the inward procurement of F&B is treated as an element of a taxable composite supply. Consequently, the procurement of F&B is covered by the proviso to Section 17(5), placing it outside the scope of the restriction and eligible for ITC.

[Citius Holidays Private Limited, 2026-VIL-06-AAAR]

Taxient Comments: This ruling is crucial for the event management sector as it resolves the contentious issue of ITC eligibility on food and beverages. By categorizing event management as a 'composite supply' where food is merely an ancillary component, the AAR established that the blocking provisions of Section 17(5)(b)(i) are overridden by its proviso. This interpretation is commercially vital because it allows businesses to claim ITC on significant input costs that were previously often treated as 'blocked credits'. Additionally, the ruling reduces procedural burdens by confirming that consolidated hotel invoices without separate breakdowns for food are sufficient for claiming ITC, provided the tax rate of the principal supply is applied.

3. OTHER UPDATES

3.1. GSTN advisory on special reporting for RSP-based valuation goods

- Government has notified RSP-based valuation for specified tobacco and tobacco-related products. For these notified goods, GST liability is to be computed on the declared Retail Sale Price ('RSP') printed on the package, irrespective of the actual transaction value or discounts.

- The tax amount and deemed taxable value must be derived from the RSP (tax-inclusive) using the prescribed statutory formula, and not on the commercial sale price.

- Existing E-Invoice, E-Way Bill, and GSTR-1/IFF system validations are transaction-value based and do not permit the taxable value plus tax to exceed the invoice value, creating reporting challenges for RSP-based supplies.

- To resolve this, GSTN has prescribed a special reporting mechanism as a trade facilitation measure:

  - **Report the net sale value (actual commercial consideration) in the taxable value field.**
  - **Compute and report the tax amount strictly as per the RSP-based formula.**
  - Report the total invoice value as **net sale value plus RSP-based tax** amount

- For example, where 1,000 packs of tobacco, each having an RSP of ₹100, are supplied and GST is applicable at 40%:

  - RSP per pack: ₹100; Quantity: 1,000 packs → Total RSP: ₹1,00,000
  - Deemed tax (RSP-based): ₹28,571.43
  - Deemed taxable value (as per formula): ₹71,428.57
  - Actual commercial consideration (after discount): ₹60,000

- Reporting in E-Invoice, E-way Bill and GSTR-1:
  - Taxable value: ₹60,000
  - Tax amount: ₹28,571.43
  - Total invoice value: ₹88,571.43

Thank You!

We sincerely appreciate you taking the time to read our latest update. We hope you found the information both valuable and insightful.

To read our past updates, refer our website.

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Let's Stay Connected

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