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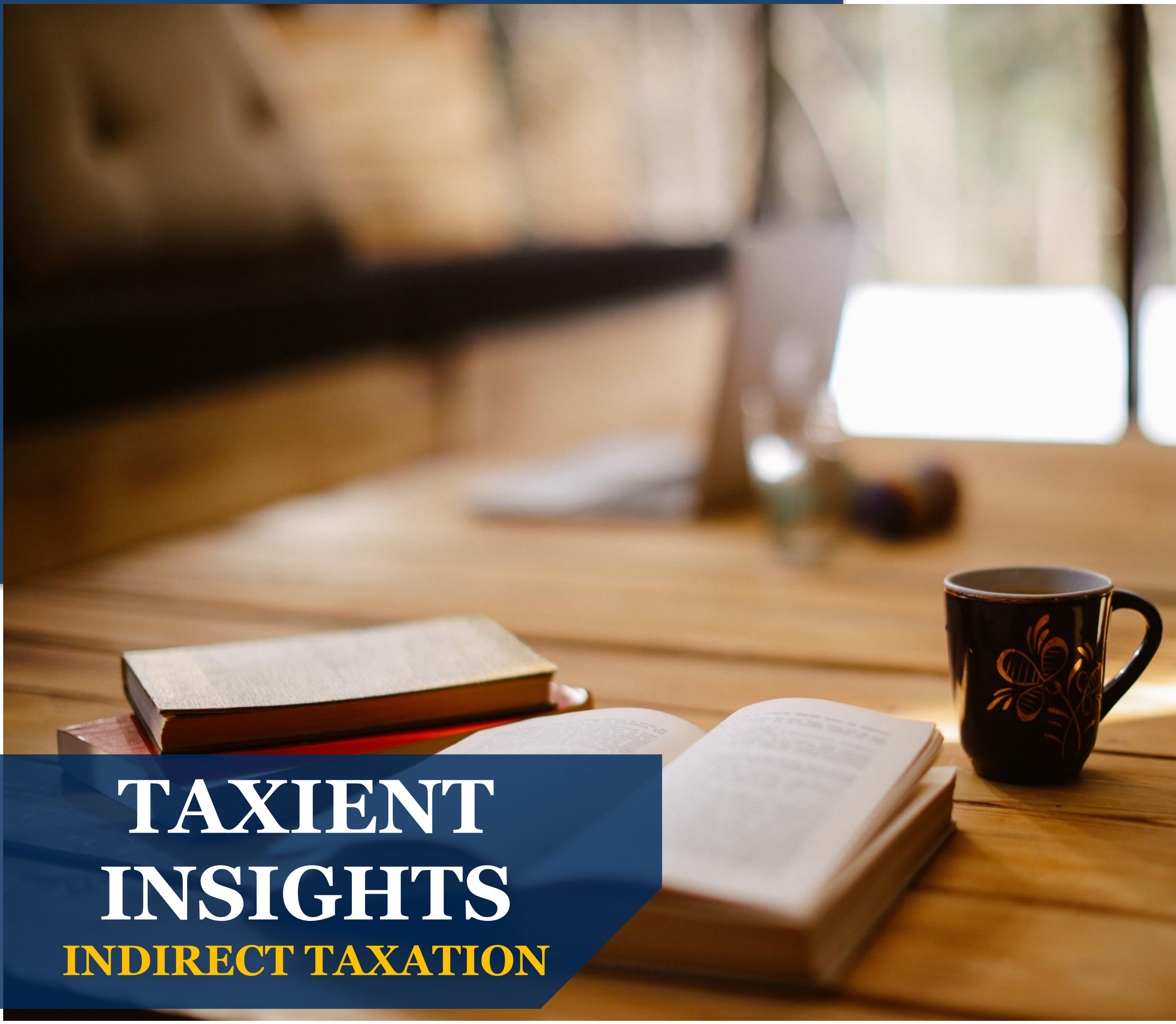

# TAXIENT INSIGHTS

## INDIRECT TAXATION

Week 2 of June 2026

June 19, 2026

# TABLE OF CONTENTS

# 1. HIGH COURT RULINGS

## 1.1. ITC cannot be disallowed merely for missing lorry receipts and weighment slips

The Petitioner approached the High Court challenging an order that confirmed a tax demand for wrongful availment of ITC for FY 2018-2019. The tax authority had disallowed the ITC on the ground that lorry receipts and weighment slips were not filed. The Petitioner argued that the supplier was registered at the time of delivery, the tax invoices contained details of the vehicles used for transportation, and the supplier had filed returns and paid taxes on the supplies. The main legal issue was whether ITC can be disallowed merely because ancillary documents such as lorry receipts and weighment slips are missing.

The High Court held that where the supplier is registered, issues valid tax invoices containing material details (including vehicle numbers), and pays the applicable taxes, the tax authority must examine the genuineness of the supply before confirming a tax demand. While Section 155 places the statutory burden of proof on the person availing the ITC, this burden must be discharged considering all available evidence. The Court ruled that the tax authority cannot reject ITC merely on the absence of certain ancillary documents without conducting a holistic examination of the transaction. Accordingly, the impugned order was set aside and the matter was remanded for reconsideration, allowing the Petitioner to submit additional documents.

**[Akal Trade Links v. AC, 2026-VIL-579-MAD]**

**Taxient Comments:** This ruling will provide support to taxpayers against the rigid and hyper-technical approach that Revenue has adopted in ITC disputes. It clarifies that the burden of proof under Section 155 must be discharged in the context of all available evidence and that ITC cannot be denied merely because ancillary documents like lorry receipts or weighment slips are missing, if the core conditions are satisfied. The key takeaway for taxpayers is that Revenue must conduct a comprehensive factual inquiry into the transaction. If the supplier is registered, issues valid tax invoices containing vehicle details and has paid the applicable taxes, the absence of certain transport documents alone cannot be a ground for rejecting ITC.

Taxpayers should also keep in mind the Supreme Court's decision in **Ecom Gill**, which held that the burden of proving ITC eligibility lies on the taxpayer and that the genuineness of the transaction and actual physical movement of goods are essential requirements. **Ecom Gill** gave examples of details such as the seller's details, vehicle information, freight payment proof, and delivery acknowledgement, but these should be read as illustrative, not as a rigid checklist. What matters is that the taxpayer can prove the transaction holistically. If the core conditions are met and the overall evidence establishes genuineness, Revenue cannot deny ITC solely on the absence of one or two ancillary documents. On the other hand, where there is doubt about the transaction or movement of goods, the taxpayer must provide cogent, transaction-specific evidence to discharge the burden under **Ecom Gill**.

### 1.2. ISD registration not mandatory prior to the 2024 amendment, cross-charge is valid

The Petitioner challenged a tax demand and penalty issued under Section 74 of the CGST Act. The Revenue's case was that the Petitioner had wrongly availed ITC on services provided by its foreign parent company because the original invoice was issued to the Delhi Corporate Office while the ITC was availed by the Kerala unit. Additionally, the Revenue contended that the Petitioner had illegally distributed this ITC to other units without obtaining the mandatory Input Service Distributor ('ISD') registration through cross charge. The Petitioner argued that its Kerala unit had paid the consideration, discharged the tax under the RCM via a self-invoice and was therefore the rightful recipient.

The High Court quashed the demand and ruled in favor of the Petitioner. The Court held that the definition of 'recipient' under Section 2(93) of the CGST Act refers to the person liable to pay the consideration. Since the Kerala unit paid for the services and discharged the tax liability, it was the qualified recipient entitled to the ITC.

Regarding the ISD registration, the Court observed that prior to the amendments made by the Finance Act, 2024, Section 20 was merely an enabling provision that did not mandate ISD registration for the distribution of ITC. The Court emphasized that because the tax had been paid and no loss was caused to the Government, the transaction was revenue neutral, and denying credit on purely technical grounds would be against the spirit of the Act

**[Intertek India Pvt. Ltd. v. ACCT, 2026-VIL-573-KER]**

**Taxient Comments:** This ruling is a landmark victory for multi-state entities that manage global service contracts through a central office. By focusing on who actually paid the consideration, the Court has prioritized the commercial reality of the transaction over the administrative detail of whose name appeared on the vendor's invoice.

The judgment provides two critical defenses for past disputes:

- **Recipiency Test:** Taxpayers can successfully argue they are the 'recipient' of a service if they can prove they were liable for and paid the consideration, regardless of the address on the invoice.

- **Optional ISD Mechanism:** For periods prior to the 2024 amendment (effective April 1, 2025), this ruling confirms that ISD registration was not the only legal method to distribute ITC among distinct persons. ITC could also be distributed through the cross-charge mechanism.

While this provides significant relief for pending litigation and past audits, taxpayers must remain mindful that ISD registration has now been made mandatory for future periods under the amended Section 20.

### 1.3. GST registration can be denied in one State for non-compliance in another

The Petitioner filed a Writ Petition challenging the denial of its GST registration application in the State of Rajasthan. The registration was refused by the authorities on the grounds that the company had failed to file its GST returns in Tamil Nadu, where it was previously registered. The Petitioner argued that non-compliance in one State (Tamil Nadu) should not serve as a legal basis to deny a fresh registration in another State (Rajasthan).

The High Court dismissed the petition and upheld the denial of registration. The Court observed that the CGST Act, 2017, operates as a unified framework that is simultaneously State-centric and Central-centric. It held that a company cannot be permitted to circumvent its statutory obligations by simply shifting its operations to a different State and seeking a fresh registration while remaining a 'defaulter' in another jurisdiction. The Court emphasized that if a company's registration in one State is cancelled or put in abeyance due to non-filing of returns, the entity must comply with the provisions of the Act in that original State rather than moving to a new State to start over. Consequently, the Petitioner was deemed ineligible for registration in Rajasthan until its previous defaults were addressed.

**[Leighton India Contractors Private Limited v. UOI, 2026-VIL-556-RAJ]**

**Taxient Comments:** The High Court's decision appears correct on the facts. The Petitioner sought a fresh registration in Rajasthan even though it had not filed returns in Tamil Nadu and its GSTIN there was cancelled. However, the decision carries a high risk. The Revenue may use it to trouble taxpayers with multi-state operations. Authorities may now deny or delay registrations in one State because of old defaults in another State. This could happen even in bona fide cases of restructuring or genuine operational shifts.

### 1.4. Limitation excludes communication date & error apparent on record opens rectification

The Petitioner challenged an order passed by the Appellate Authority ('AA') that rejected its GST appeal as time barred. The Revenue's case was that the Petitioner had filed its appeal beyond the statutory limit of three months plus the one-month condonable period prescribed under Section 107 of the CGST Act. The AA calculated a delay of 31 days beyond the initial three-month window and concluded it had no power to condone such a delay. The Petitioner argued that the authority had erred in its mathematical computation by failing to correctly interpret the term 'month'.

The High Court held that for the purpose of Section 107, the term 'month' means a calendar month reckoned according to the British (Gregorian) calendar, rather than a fixed period of 30 days. Furthermore, the Court clarified that under Section 9 of the General Clauses Act, the first day on which the order is communicated must be excluded when calculating the limitation period. Applying these principles, the Court found that since the adjudication order was communicated on October 15, 2025, the three-month limitation period commenced on October 16, 2025, and expired on January 15, 2026. The one-month condonable period extended this limit to February

15, 2026. Since the appeal was filed on February 13, 2026, the actual delay was only 29 days, which fell squarely within the authority's power to condone. Accordingly, the Court set aside the rejection order and remitted the matter for reconsideration.

**[Mahesh Value Products v. Chief Commissioner, 2026-VIL-563-ORI]**

**Taxient Comments:** This ruling reiterates a settled principle of limitation law. While computing a 'month,' the law refers to a calendar month, not a rigid 30-day period. By applying Section 9 of the General Clauses Act and excluding the date of communication, the Court corrected an approach that was inconsistent with well-established principles governing limitation.

Equally significant is the Court's observation on 'error apparent on record.' The decision acknowledges that where replies or submissions filed by taxpayers are ignored or not considered while passing orders, such lapses can constitute an error apparent on record. This has practical relevance because taxpayers often face situations where despite filing replies to SCNs or notices, authorities issue repeated reminders alleging non-filing and ultimately record the same in the order.

Based on this ruling, taxpayers have a clearer pathway to seek correction of such errors. Before exhausting the appellate mechanism, they can file a rectification application to bring the ignoring of their submissions to the authority's notice and seek correction of the order. If the rectification application is rejected or not granted, the next step is to file an appeal, keeping in mind the limitation period for filing the appeal. This approach can save time, avoid unnecessary litigation, and ensure that genuine cases are not lost on technical grounds arising from administrative oversights.

### 1.5. Section 122(1A) penalty extends to partners of the firm

The Petitioners, who were partners of the firm M/s Quantum Infratech, challenged the imposition of penalties under Section 122(1A) of the CGST Act. The Revenue's case was that the partnership firm had evaded GST through suppressed turnover and ineligible ITC, and that these transactions were conducted at the instance of the partners who retained the benefits. The Petitioners argued that such penalties can only be imposed on the 'taxable person' (i.e. partnership firm) and not on individual partners. They further contended that Section 122(1A) could not be applied retrospectively for periods prior to its enactment on January 1, 2021.

The High Court dismissed the Writ Petitions and upheld the penalties. The Court held that the legislature deliberately used the term 'any person' in Section 122(1A), distinguishing it from the 'taxable person' mentioned in Section 122(1). The Court observed that since a juridical person like a partnership firm cannot act without natural persons, the provision is specifically designed to fix responsibility on the individuals responsible for the violations. Explicitly disagreeing with a contrary view held by the Bombay High Court in **Amit Manilal Haria, TS-105-HC(BOM)-2026-GST,** the Court affirmed the penalty on the partners.

The Court also ruled that Section 122(1A) can be applied to transactions occurring prior to January 1, 2021. It reasoned that the Section does not create a new independent violation but merely identifies the person behind existing violations already defined since the Act's inception. Therefore, as long as the SCN is issued after the provision came into force, it can cover previous periods.

**[Mayank Bansal v. UOI, 2026-VIL-569-GAU]**

**Taxient Comments:** The decision is consistent with the position we expressed in our earlier edition **(Taxient Insights I Week 3 & 4 of February 2026)** while analyzing **Amit Manilal Haria (Supra)**. In that analysis, we had highlighted that Section 122(1A) expressly expands the net of personal liability to include any person who is instrumental in or benefits from the contravention, and that the corporate or firm structure cannot be used as a shield to escape penal consequences. The Gauhati High Court in this ruling rightly distinguished the legislative use of the expressions 'taxable person' under Section 122(1) and 'any person' under Section 122(1A), observing that violations by firms and other juridical entities necessarily involve natural persons, and therefore personal exposure cannot be avoided behind the corporate veil.

On retrospective application, the Court held that Section 122(1A) does not create a new offence or independent violation but merely identifies the beneficiary behind violations already contemplated under Section 122(1). Distinguishing civil penalties from criminal offences, the Court held that Article 20(1) of the Constitution would not bar such application merely because the underlying transactions pre-date the introduction of Section 122(1A), provided the provision was in force when proceedings were initiated.

### 1.6. Section 128A: Waiver timeline is directory, not mandatory

The Petitioner challenged the rejection of its application for the waiver of interest and penalty under Section 128A of the CGST Act. Following an audit, the Petitioner paid a common ITC reversal amount of approximately ₹62.46 lakhs but had not paid the associated interest. When the GST Council recommended a waiver of interest and penalty for demands relating to the financial years 2017-18, 2018-19, and 2019-20, the Petitioner filed a waiver application on July 18, 2025. The Revenue rejected the application solely on the grounds that it was filed beyond the three-month period from the notified date of March 31, 2025.

The High Court quashed the rejection order and directed the Revenue to consider the waiver application. The Court held that the relevant notification uses the word ‘may’ rather than the mandatory ‘shall’ when describing the three-month period for filing the application. The Court observed that ‘may’ indicates the provision is enabling and directory in nature. Consequently, the tax authorities erred by interpreting this discretionary provision as a strict, non-extendable deadline. The Court concluded that rigidly adhering to the timeline to reject an application was unreasonable and a misinterpretation of the legal nature of the provision.

**[Sri Laxmi Borewell Agencies v. ACCT Tax, 2026-VIL-561-KAR]**

**Taxient Comments:** This ruling adopts a taxpayer friendly approach toward the GST amnesty framework under Section 128A. It discourages denial of substantive relief solely because of a procedural delay in filing the waiver application and emphasizes a liberal interpretation of beneficial provisions.

However, on merits, the reasoning is open to debate. Rule 164(6) states that a person who wishes to file an application **'may do so within a period of three months.'** The word 'may' arguably qualifies the option to file the application, rather than making the three-month timeline itself optional. Given that Section 128A is a special amnesty provision with defined eligibility conditions and cut-off dates, the time limit appears to be a mandatory condition for availing the concession, not a directory procedural requirement. The ruling therefore offers immediate relief to taxpayers, but it may not be the final word on how timelines under the amnesty scheme should be interpreted.

# 2. ADVANCE RULINGS

## 2.1. Previously reversed ITC cannot be re-claimed under Section 16(5)

The Applicant sought an Advance Ruling on whether it could reclaim ITC for the period of January 2020 to March 2020. The Applicant had originally reversed this ITC pursuant to an earlier Advance Ruling because its supplier had filed returns belatedly in November 2020, violating the restrictions under Rule 36(4). Following the retrospective insertion of Section 16(5) via the Finance Act 2024 which allows ITC claims for specified financial years in returns filed up to November 30, 2021 the Applicant argued it was now legally entitled to reclaim the reversed ITC since the supplier's belated filing fell within this extended deadline.

The AAR held that the Applicant is not entitled to reclaim the previously reversed ITC. The AAR ruled that while Section 16(5) overrides the time limits of Section 16(4), it does not negate the substantive conditions of Section 16(2), including the 10 percent restriction under Rule 36(4) applicable during that period. More importantly, the AAR held that under Section 150 of the Finance Act 2024, no refund shall be made of ITC that has already been reversed. The AAR further rejected the Applicant's narrow interpretation that **‘reclaiming’** ITC is different from a **‘refund’** under Section 54. It held that the legislative intent was clear. Any attempt to recover ITC that was previously ineligible and subsequently reversed is practically synonymous with a refund, and such reclaims are expressly excluded by the new amendment.

**[Eastern Coalfields Ltd., 2026-VIL-120-AAR]**

**Taxient Comments:** The AAR decision appears to be influenced by a broad interpretation of the Section 16(5) amendments, driven primarily by the legislative intent behind the amendment and what it sought to achieve. The overarching objective of inserting Section 16(5) retrospectively was to curtail disputes and provide relief to taxpayers who had lost ITC due to procedural and systemic delays in the initial years of GST.

However, this interpretation may be open to challenge. A literal reading of Section 150 of the Finance Act, 2024 suggests that the restriction applies specifically to the ‘refund’ of reversed ITC, not to the re-availment of ITC that was previously reversed. Re-availment of ITC through returns is distinct from a refund claim under Section 54, and equating the two may enlarge the scope of the restriction beyond what the legislature expressly provided.

# 3. OTHER UPDATES

## 3.1. GSTN defers implementation of new E-way Bill functionalities

GSTN had earlier issued an advisory making it mandatory to capture the 'Ship To GSTIN' in 'Bill-To/Ship-To' transactions and introducing the voluntary closure of E-way Bill functionality in the E-way Bill system from June 15, 2026. In response to representations from trade and industry stakeholders, the implementation has now been deferred till July 31, 2026. The primary concerns raised were the time required for system changes, API and ERP testing, and updating master data across the taxpayer ecosystem.

**[GSTN Advisory** dated **June 9, 2026]**

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## Thank You!

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

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